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**Report submitted by the Republic of Montenegro
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of the Framework Convention
for the Protection of National Minorities**

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Republic of Montenegro
GOVERNMENT OF THE REPUBLIC OF MONTENEGRO
Ministry for Human and Minority Rights Protection

FIRST REPORT
OF
THE REPUBLIC OF MONTENEGRO
PURSUANT TO ARTICLE 25 PARAGRAPH 1 OF THE
FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL
MINORITIES

Podgorica, June 2007

FIRST REPORT OF THE REPUBLIC OF MONTENEGRO

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I INTRODUCTORY NOTES

Following the renewal of its independence, Republic of Montenegro announced by virtue of the letter of the Minister of Foreign Affairs that it accepted the obligations of the Council of Europe conventions and treaties that had been adopted or ratified by the former State Union of Serbia and Montenegro. In the pre-accession period, the CE Committee of Ministers acknowledged Montenegrin membership in the conventions and protocols open for accession of non-member states, giving to Montenegro the observer status as well as the status of succession in certain number of so called closed conventions, including the Framework Convention for the Protection of National Minorities (hereinafter: the *Framework Convention*).

Republic of Montenegro became a fully-fledged member of the Council of Europe on May 11, 2007, whereas its Framework Convention membership was recognized as of June 6, 2006 (the date of its announcement of succession status to the CE conventions and protocols, the signatory or party to which had been the State Union of Serbia and Montenegro).

Pursuant to provision from Article 25 paragraph 1 of the Framework Convention, within a year of its coming into force, the signatory parties shall submit complete information on legislative and other measures taken so as to meet the principles of the Framework Convention to the Council of Europe Secretary General. As to Montenegro, such Report (hereinafter: the *Report*) is to be submitted on June 6, 2007, i.e. a year following its entry into force with regard to Montenegro.

The Report shall therefore be submitted within a specific time period, and shall have the aim to point out to the legislative and other measures that the Republic of Montenegro has been taking to meet its Framework Convention obligations.

Following the directions of the Council of Europe Committee of Ministers, the Report follows the answer form to certain questions, as far as it has been possible. Nevertheless, so as to ensure as much information as possible and make the wording coherent, repetitive contents could not have been avoided, whereas references have also been used to the information already given in processing other Articles of the Framework Convention. In addition, it should be pointed out that various terminology has been used to capture the notion of a *national minority* (used in the Framework Convention). Such a diversity has arisen out of the fact that the words “national and ethnic groups” have been used in the Constitution of the Republic of Montenegro, while the word “minorities” has been used in the Law on minority rights and freedoms. Therefore, Constitutional terminology has been used where the Constitution has been quoted or used, whereas law terminology has been used in quoting or using the corresponding law.

The Report contains brief data on basic historical, economic and demographic indicators, review of institutions closest to the problematic of minority rights, as well as the explanatory notes for the ongoing Constitutional reform.

The Report has been made by a working group represented by the members of the relevant ministries that the Framework Convention relates to:

- Ministry for Human and Minority Rights Protection
- Ministry of Education and Science
- Ministry of Health, Labour and Social Welfare
- Ministry of Foreign Affairs
- Ministry of Culture, Sports and Media
- National Coordinator for implementation of the Action Plan “Roma Inclusion Decade”

Two non-governmental sector representatives have also been engaged within the Working Group, whose contribution has been exceptionally valuable, primarily because of their communication with the non-governmental sector, forwarding and incorporation of attitudes of the non-governmental sector into the Report.

1. BRIEF HISTORICAL REVIEW

Statehood of the Republic of Montenegro dates far back in the past, its roots being older than the present state and people denomination. Over the course of its historic existence, it has undergone several periods of development and numerous forms of government. Historically, Montenegro has been developing on the boundary of two worlds, in the periphery and influenced by grand Empires and churches: Roman Catholic, Orthodox and Islamic. Culturally, it has been the area where the East, West, Mediterranean and hinterland met, which has caused the different civilization layers to shape a complex and versatile heritage which modern Montenegro is based on. Similar to the State, it has endured numerous difficulties and four times renewed its statehood in a thousand year long history.

Though the Seal of Archont Petar, the first ruler of Doclean Slavs mentioned in the written inscriptions can symbolically be considered the beginning of the statehood of Montenegro, it is Duke Stefan Voislav (1016-1043) who is considered by historians to have been the founder of the state and to have managed to win the state independence and establish it against Byzantine rule and become a founder of the Vojislavljevićs dynasty. His son Mihailo received the royal insignia with which the state got recognized as a kingdom 1077 and acquired international recognition, as well. The Balsics were the second dynasty of rulers, whereas the third were the Crnojevićs, and fourth and most important – the Petrovićs.

Montenegro gains its independence and international recognition by the decisions of the *Congress of Berlin in 1878*, along with significant territorial expansion. Major characteristics of Montenegro following the Congress of Berlin were its general advances in state development, international reputation, and increased attention devoted to the minorities' and religious rights followed by internal antagonisms.

After the Balkan Wars, the First World War, and territory defining by the decisions of "Podgorica Assembly" in 1918, King Nicholas was dethroned, his dynasty expelled from the country by which absolute annexation of Montenegro to Serbia was declared. Integrated and nameless it enters the new state form – the Kingdom of Serbs, Croats and Slovenes. In the later Kingdom of Yugoslavia, Montenegro becomes an administrative district (Zeta Banovina, i.e. governorship).

After April 1941 Breakdown and disintegration of Yugoslavia by the occupator, Montenegro became Italian Protectorate. Being fully contributive to the antifascist struggle and liberation from occupation, Montenegro renewed its statehood and became an equal Republic in FNRJ (later SFRJ).

Following the disintegration of Yugoslavia, Montenegro resumed its statehood in SR of Yugoslavia, later named the State Union of Serbia and Montenegro. Over the period 1992-2007, Montenegro was facing numerous political, economic and other difficulties such as: wars in the region, International Community sanctions, NATO

intervention 1999, internal political turmoils, Belgrade regime's pressure, etc which considerably influenced the position of Montenegro, minority communities in particular.

Violation of fundamental human rights, especially minorities' rights marked the period 1992-1997. This period produced severe violation of human rights and crimes, the hardest of which were: Abduction of Muslims in Strpci, ethnical cleaning in Bukovica, Deportation of Bosnian Refugees from Montenegro, Political trials to the leadership of Party of Democratic Action, expelling Roma from Danilovgrad, as well as many cases of dismissal from work based on national belonging.¹

Radical drift from nationalist policy of the then state created basic assumptions for democratization of the society and the resolving of the minority communities position issue.

On May 21, 2006 the Referendum was held in Montenegro in which of total 86% of registered voters, 55% voted for independence of Montenegro followed by the membership of the State of Montenegro in the United Nations, OSCE, and other international associations. Montenegro became fully – fledged member of the Council of Europe on May 11, 2007.

2. BASIC DEMOGRAPHIC DATA

In respect of its demographic features, Montenegro is considerably characterized by the variety of ethnic communities living in a relatively small territory. This has been primarily caused by the historical events such as emigrations and continuous wars along with the frequent changes of state borders.

The last Census of People, Households and Housing was taken in the period November 01-15, 2003. As opposed to the previous censuses according to which the permanent population included Montenegrin citizens temporarily working abroad with their family members (regardless of the stay period), the 2003 Census included in permanent citizens only those Montenegrin citizens who stayed less than a year abroad, pursuant to International recommendations and the Law on Census.

Data on national structure of the population have been collected according to the free self-declaration of the citizens. It should be kept in mind that the Census was conducted in the period of grown political tensions, while the results reflected the corresponding political situation, i.e. political self-declaration. This was clearly expressed in the comparative analyses results of the 1991 and 2003 Census. Few more facts influenced the results of the Census:

¹ Abduction in Strpci had court epilogue in which one person was sentenced to 15 years imprisonment; no proceedings were initiated for Bukovica ethnical cleaning; proceedings of court have been commenced for the case of deportation of Bosnian refugees from Montenegro; PDA leadership was abolished in 1994, the state paid for the damages of the Roma from Danilovgrad; all individual court proceedings were finished.

- The census – takers’ structure did not reflect the national structure of the population;
- There were no Romani population members included in the census-takers;
- Census Education of the citizens was very poor;
- Double - declared citizens were classified by the first term specified (e.g. Bosniak/Muslim, Serbian/Montenegrin, Montenegrin /Muslim);

The table below shows final results of the Census of population by their national structure:

Population structure according to national belonging ²

No.	National belonging	1991 ³		2003 ⁴	
		Number of members	Percent share	Number of members	Percent share
1.	Montenegrin	380.467	61,86%	267.669	43,16%
2.	Serbian	57.453	9,34%	198.414	31,99%
3.	Yugoslav	26.159	4,24%	1.860	0,30%
4.	Albanian	40.415	6,57%	31.163	5,03%
5.	Bosniak’s	-	-	48.184	7,77%
6.	Egyptian	-	-	225	0,04%
7.	Italian	58	0,01%	127	0,02%
8.	Macedonian	1.072	0,17%	819	0,13%
9.	Hungarian	205	0,04%	362	0,06%
10.	Muslim	89.614	14,57%	24.625	3,97%
11.	German	124	0,02%	118	0,02%
12.	Romani	3.282	0,53%	2.601	0,42%
13.	Russian	118	0,02%	240	0,04%
14.	Slovenian	369	0,06%	415	0,07%
15.	Croatian	6.244	1,02%	6.811	1,10%
16.	Other	1.001	0,16%	2.180	0,35%
17.	Not declared	943	0,15%	26.906	4,34%
18.	Regional belonging	998	0,16%	1.258	0,20%
19.	Unknown	6.076	0,99%	6.168	0,99%
TOTAL		315.035	100%	620.145	100%

Likewise important data related to the implementation of the Framework Convention are the data on religious structure of Montenegrin population, as well as the structure according to the native language.

² Data of the Institute of Statistics - MONSTAT

³ 1991 Census, old methodology

⁴ 2003 Census, new methodology

*Population structure according to confession*⁵

No.	Confession	Number of members	Percent share
1.	Islamic	110.034	17,74%
2.	Judaic	12	0,002%
3.	Catholic	21.972	3,54%
4.	Orthodox	460.383	74,28%
5.	Protestant	383	0,06%
6.	Pro-oriental cults	58	0,009%
7.	Other confessions	2.424	0,39%
8.	Not declared	13.867	2,24%
9.	Atheist	6.003	0,97%
10.	Unknown	5.009	0,81%
TOTAL		620.145	100%

*Population structure according to mother tongue*⁶

No.	Mother tongue	Number of speakers	Percent share
1.	Serbian	393.740	63,49%
2.	Montenegrin	136.208	21,96%
3.	Albanian	32.603	5,26%
4.	Bosnian	14.172	2,28%
5.	Bosniak	19.906	3,21%
6.	Hungarian	255	0,04%
7.	Macedonian	507	0,08%
8.	German	126	0,02%
9.	Romani	2.602	0,42%
10.	Slovenian	232	0,04%
11.	Croatian	2.791	0,45%
12.	Other	3.101	0,50%
13.	Not declared/unknown	13.902	2,24%
TOTAL		620.145	100%

Given the local level of implementation of some parts of Framework Convention, the table below shows the population national belonging by municipalities in Montenegro:

⁵ Census of People, Households and Housing, 2003, MONSTAT data

⁶ Census of People, Households and Housing, 2003, MONSTAT data

Number of members and percent share by municipalities ⁷

No.	Municipality	Bosniaks		Albanians		Muslims		Croats		The Roma	
		Members	%	Members	%	Members	%	Members	%	Members	%
1.	Andrijeвица	0	0	0	0	8	0,14	2	0,003	0	0
2.	Bar	919	2,30	3046	7,61	2575	6,43	259	0,65	56	0,14
3.	Berane	5662	16,15	36	0,10	2301	6,56	46	0,13	119	0,34
4.	Bijelo Polje	11377	22,63	31	0,06	7936	15,78	45	0,09	133	0,26
5.	Budva	24	0,15	55	0,35	204	1,28	178	1,12	39	0,25
6.	Danilovgrad	1	0,01	7	0,04	58	0,35	46	0,28	5	0,03
7.	Zabljak	0	0	0	0	1	0,02	2	0,05	0	0
8.	Kolasin	1	0,01	1	0,01	32	0,32	11	0,11	0	0
9.	Kotor	16	0,07	76	0,33	106	0,46	1762	7,68	48	0,21
10.	Mojkovac	9	0,09	2	0,02	14	0,14	4	0,04	0	0
11.	Nikšić	148	0,20	28	0,04	695	0,92	132	0,18	335	0,44
12.	Plav	6809	49,32	2719	19,70	788	5,71	4	0,03	0	0
13.	Pluzine	0	0	0	0	1	0,02	1	0,02	0	0
14.	Pljevlja	1865	5,21	8	0,02	2913	8,14	16	0,04	0	0
15.	Podgorica	2307	1,36	9296	5,50	4399	2,60	709	0,42	1389	0,82
16.	Rozaje	18628	82,09	1008	4,44	1510	6,65	4	0,02	15	0,07
17.	Tivat	37	0,27	144	1,06	156	1,14	2663	19,54	20	0,15
18.	Ulcinj	297	1,46	14638	72,14	681	3,36	77	0,38	115	0,57
19.	Herceg Novi	79	0,24	25	0,08	220	0,67	798	2,42	198	0,60
20.	Cetinje	5	0,03	43	0,23	22	0,12	49	0,27	129	0,70
21.	Savnik	0	0	0	0	5	0,17	3	0,10	0	0

Due to numerous wars in ex Yugoslavia and their reflection to Montenegro, several demographic changes ensued. Significant number of Montenegrin citizens, regardless of their national belonging, abandoned Montenegro to seek their living space mostly in Western Europe developed countries. This was particularly related to minorities. War in Croatia directly influenced the Croats in Montenegro whose members were abandoning the territory of Montenegro for safety, political and economic reasons. Due to the same reasons, Bosniaks and Muslims in Montenegro were doing likewise when war in Bosnia happened. Albanian population daily migrated over the period of clashes in Kosovo.

Each war in the region took its toll on Montenegro. Vast influx of refugees from the war-struck areas was an immense challenge and as much a problem. At a particular moment of NATO intervention 1999, the population of refugees and displaced persons numbered 130.000, which was more than 20% of the total population. There are 8.474 refugees in Montenegro from former Yugoslav Republics ⁸ and 16.136 internally displaced persons from Kosovo. ⁹ Total number of refugees is **24.610**, which is **4,2% of the total population**.

The Strategy of the Government for Resolving the Issues of Refugees and Internally Displaced Persons – durable solution (adopted on March 1, 2005) is an act which stated Governmental commitment to finding the most advantageous durable and sustainable solutions for such categories of people. It provides three solutions, in accordance with the

⁷ Census of People, Households and Housing, 2003, MONSTAT data

⁸ Source: Ministry of Interior Affairs and Public Administration

⁹ Source: Institute for refugees

international standards: repatriation, local integration and resettlement. These issues make a considerable problem for Montenegro with regard to its economic power and demographic changes. Over the previous years, socio-economic integration of displaced population has been happening in Montenegro. This population has been included in regular formal education system from the start and has been provided health protection. From 1999 up to now, 1.200 persons have returned to Kosovo, of which 880 have been members of Roma population. Mostly they returned to the region of Pec, Djakovica, Klina, Lipljan, Istok. Resettlement has already been used as a solution.

Following its Independence regaining on June 20, 2006, Government of Montenegro brought a Decision on Maintaining the Status and Rights of Refugees and IDPs in Montenegro to define temporary maintaining of the status of such persons in Montenegro, pursuant to the Laws that regulate issues of asylum and aliens, and to the Strategy for Resolving the Issues of Refugees and Internally Displaced Persons - durable solution and the regional documents on resolving the issues of refugees and displaced persons.

As to the demographic features, significant are also internal migrations in Montenegro. Due to the disbalance of the regional development (undeveloped north and relatively developed central and south region), very frequent, almost daily are migrations from undeveloped areas to the developed ones.

Comparative overview charts of the 1991 and 2003 Census¹⁰

No.	Municipality	1991	2003
1.	Andrijevisa	6561	5785
2.	Berane	37759	35068
3.	Bijelo Polje	54590	50284
4.	Zabljak	4900	4204
5.	Kolasin	11046	9949
6.	Mojkovac	10743	10066
7.	Plav	15998	13805
8.	Pluzine	5221	4272
9.	Pljevlja	39405	35806
10.	Rozaje	22474	22693
11.	Savnik	3680	2947
TOTAL - NORTH		212377	194879
12.	Danilovgrad	14585	16523
13.	Niksic	73983	75282
14.	Podgorica	146121	169132
15.	Cetinje	20171	18482
TOTAL- CENTRE		254860	279419
16.	Bar	34463	40037
17.	Budva	11547	15909
18.	Kotor	22137	22947

¹⁰ Source: MONSTAT

19.	Tivat	11186	13630
20.	Ulcinj	19861	20290
21.	Herceg Novi	27073	33034
	TOTAL-SOUTH	126267	145847
	TOTAL MONTENEGRO	593504	620145

It could be seen from the chart above that number of citizens in 2003 increased as contrasted to 1991. Nevertheless, number of people living in the North was reduced for 17498, while the number of those living in the Central and South region increased for 44139.

3. MAJOR ECONOMIC INDICATORS

Montenegro has been undergoing overall economic reforms. Economy transformation is being conducted through privatization processes (mass voucher privatization and privatization) while significantly reducing participation of the state capital, thus creating a favourable environment. To reflect economic situation in Montenegro the best way possible, some major indicators have been given for the two previous years and the first quarter of this year.

Steady growth of Gross Domestic Product, low inflation rate and low unemployment rate, which is below 14% for the first time in the last decade, as well as the constant increase of salaries and pensions have been continuously characterizing Montenegrin economy. The State reduces its consumption, there is greater profit than the one planned in the state budget which all lead to a significant surplus of the state, that creates the environment for pre-time repayment of both domestic and foreign debt of the Republic. If such trend prevails, it would be normal to expect the fiscal priorities set out in mid-term plan to be realized. These are: reducing state consumption to the level of 35%, reducing public debt to the level below 30% of BDP, and

And providing additional tax cuts in Montenegro by 2011. One of the most competitive in the region and utterly privatized financial sector is the main protagonist of economic reforms in Montenegro. Banking sector shows deposit and credit increase and interest rate fall, which creates the environment of more favourable financing of economy and its activities. There have been three-figure number growth rates in the stock exchange indices, whereas more and more foreign investors decide to invest precisely in the capital market. Foreign direct investments still hold their increased level, regardless of the fact that almost 90% of economy has already got privatized and they still show considerable growth. Last year Foreign Direct Investments made more than 30% of GDP, which made Montenegro one of the leading countries in Europe.

According to Monstat official data, GDP was 1.932 million euros in 2006 with real growth rate of 6,5% as compared to 2005 when it was 1785,3 million euros. According to assessments conducted in cooperation with IMF, GDP is estimated to grow by an average rate of 6% by 2009.

According to the data of the Secretariat for Development of the Republic of Montenegro, gross domestic product was 433.9 million euros in the first quarter of 2007, which means that it increased by 6,6% as compared to the same period last year.

Annual inflation measured by Retail Prices Index in 2006, was 2,0% which is 0,2% more than in 2005, when it was 1,8%. With an insignificant increase, inflation still keeps the pace with the European Union countries.

In the first quarter of this year, prices in Montenegro, measured by Cost-of-Living Index in March grew by 0,6% as compared to the end of the previous year, whereas the prices of goods increased by 0,7% and of services by 0,5%. At the yearly level, the prices were higher in March by 2,4%, which is still within the European Union inflation rates.

At the end of 2006, inflation rate was 14,73%, which is 3,87% less than in the same period last year. On May 21, 2007, unemployment rate is 13,70%, which is 4,1% less than in the same period last year. Compared to July 2000, when the highest unemployment rate was registered (32,7%), it can easily be deduced that the facts are indicative of increasingly positive labour market trends happening as a consequence of economic activities' growth which brought forth the new posts.

The trend of average net earnings growth was continued in 2006, when it was 282 euros, which is a significant growth as compared to 2005, when average net earning was 213 euros. Average net earning in the first quarter of 2007 was 315 euros, which is 15,8% more than in the same period last year, when average net earning was 272 euros.

Average pensions have also tended to grow in the previous year. Thus, an average pension in 2006 was 139,7 euros, which is 9% more as compared to the previous year. 148 euros was an average pension in the first quarter of 2007, i.e. it was 6% higher as compared to 2006.

In 2006, consolidated public consumption, which includes consolidated state budget consumption with extra-budgetary funds and municipalities' consumption, was 45,78% of GDP, when it was slightly higher than in the previous year (44,82% of GDP in 2005). This increase came as a consequence of miscalculation of local-administrative units consumption for 2-3%. Public consumption regarded without the self-administrative units' consumption is below 40% of GDP. Public sector consolidated deficit for 2006 was planned to be 31,54 million euros or 1,63% of GDP, but the situation resulted in a surplus at the level of 58,31 million euros or 3% of GDP.

Consolidated public sector consumption in the first quarter of 2007 was 212.98 million euros, i.e. 11.02% of GDP. Public sector consolidated deficit for the first three months of 2007 was planned to be 42,81 million euros or 2,2% of GDP, but the surplus came of 16.22 million euros or 0,83% of GDP.

Montenegro had public debt of 700.4 million euros at the end of 2005, which is 39,2% of GDP of 2005. On December 31, 2006, public debt was 701.1 million euros, which

is 36,3% of GDP for 2006. Mid-term goal for the period 2007-2009 is maintenance of total public debt at the level of 35% of GDP with planned average annual repayment of foreign debt of 30 million euros, in order to reduce the level of public debt below 30% of GDP (including the restitution debt) by 2011.

Foreign Direct Investments amounted to 644.3million euros or 33,34% of GDP, of which 377.9 million euros goes to non-residents' investments into enterprises and banks, whereas 45.1 million euros refers to foreign direct investments as an intercompany debt. In 2006, Montenegro had highest level of foreign direct investments in Europe.

Shortly after the renewal of its independence, Montenegro became member of the major international financial institutions (International Monetary Fund, World Bank, European Bank for Reconstruction and Development) and established more intensive cooperation with these and other institutions.

MACROECONOMIC INDICATORS¹¹

	<i>2005</i>	<i>2006</i>	<i>2007</i>
GDP	1.785,3	1,970,0	433,9 ¹²
Real growth rate	4,0	8,3	6,6
GDP(per capita)	2.864,0	3.154,0	-
Inflation	1,8	2,0	1,3
The employed	145.479	155.062	153.140
The unemployed	48.845	38.876	38.714 ¹³
Unemployment rate		14,7	14,6
Industry	-1,9	1,0	-2,8

We also find useful to include in economic indicators related to the Framework Convention the following table with major economic indicators by municipalities¹⁴:

No.	Municipality	The employed	Gross earnings (in EUR)	Natural increase	Social product per capita¹⁵
1.	Andrijevica	540	267,96	-27	509.1
2.	Bar	11105	299,76	76	2929.6
3.	Berane	5218	277,23	111	663.3
4.	Bijelo Polje	7316	261,93	130	676.7
5.	Budva	9306	396,78	61	2683.1
6.	Danilovgrad	2546	300,77	-7	873.1
7.	Zabljak	805	256,69	-23	1149.6
8.	Kolasin	1410	306,08	-50	918.8

¹¹ Source: Secretariat for Development and MONSTAT

¹² Source: Secretariat for Development assessment for the first quarter of 2007

¹³ Source: Employment Agency of Montenegro

¹⁴ Source: MONSTAT, 2006 data

¹⁵ Source: MONSTAT, 2002 data

9.	Kotor	5547	383,59	-49	1397.1
10.	Mojkovac	1415	260,40	-13	657.6
11.	Niksic	17616	431,37	103	1363.4
12.	Plav	1470	225,21	58	616.6
13.	Pluzine	909	359,74	-25	2831.3
14.	Pljevlja	7235	403,79	-70	1840.1
15.	Podgorica	53107	452,24	1023	2557.3
16.	Rozaje	3292	218,53	275	450.8
17.	Tivat	2940	369,39	10	1062.7
18.	Ulcinj	3994	266,28	27	964.4
19.	Herceg Novi	10130	320,12	-19	1352.3
20.	Cetinje	4545	248,60	-86	674.2
21.	Savnik	279	341,95	-19	1003.4

4. INSTITUTIONAL MINORITY PROTECTION

Several institutions and bodies of crucial importance are in charge of the protection and enhancement of minorities' status in Montenegro. There is a body established by the Constitution – *the Republic Council for Protection of Rights of National and Ethnic Groups* – the task of which is to preserve and protect the national, ethnic, cultural, language and religious identity of the minorities. This body is chaired by the President of the Republic. Its members are political representatives, as well as religious heads and independent minorities' intellectuals. Nevertheless, this body has not justified its existence and function by now, considering that its members have rarely met and have had a poor influence on enhancement and protection of minorities' rights¹⁶.

There is a permanent body in the Parliament of the Republic of Montenegro – *Council for Human Rights and Freedoms*. The Council analyses the corresponding issues, especially normative proposals focused on human and minority rights, and presents its viewpoint to the Parliament.

As an offspring of democratic stride and basic tendencies contained in the "Agreement on Minimum Principles for Democratic Infrastructure Development in Montenegro¹⁷" 1997, *Ministry for Protection of Rights of National and Ethnic Groups* was established the next year. New organization structure of the Government of Montenegro in 2006 changed the name of this *Ministry into the Ministry for Human and Minority Rights Protection* which obtained the authority to protect and preserve such human rights which were out of the competencies of other departments. This department was aimed at examining and protecting minorities' rights in accordance with the Constitution of the Republic of

¹⁶ With regard to the Constitutional Reform of Montenegro and the new perspectives for minority organizing and their communication with the Government provided by the Law on Minority Rights and Freedoms, non-governmental sector is asked to examine this institution and propose the manner of its more efficient organization of work

¹⁷ Agreement signed by the then Government and opposition;

Montenegro and corresponding international acts, as well as with the democratic trends that Montenegro pursues.

Bearing in mind the program orientation of the Ministry for Human and Minority Rights Protection, the Ministry has been addressing its major strategic projections. The basis of such strategy is full integration of minority population into social life while preserving their national and cultural specificities, as well as improving their legal rights and freedoms. To accomplish this, the Ministry is to maintain constant communication with members of all minorities, political entities, non-governmental organizations, various institutions and cooperative relations with the relevant international organizations and institutions in charge of human and minority rights protection.

Montenegro has a series of particularly active and respectable non-governmental organizations and associations that tackle the issue of minority rights protection and improvement of the status of minority communities within society.

The Protector of Human Rights and Freedoms in the Republic of Montenegro is an independent institution that protects human rights and freedoms guaranteed by the Constitution, Law, ratified international agreements on human rights and generally accepted international law regulations, in case of their violation by an act, action or inactivity of the State bodies, local self-administrative bodies and public services and other holders of public authorizations.

It is a State body that citizens can easily address to ask for prompt and efficient intervention, without being dearly charged and exposed to numerous technicalities. The body also takes its own initiative. The Proceedings before the Protector are confidential and anyone who submits a complaint or is in any way connected with the proceedings of the Protector, cannot be held responsible or be brought into an unfavourable position.

The body introduces its viewpoints, standpoints and opinions to the Parliament and wider public and thus contributes to transparency of the public administration and other public services and bodies to the Parliament, Government, the public and the citizens.

In accordance with actual regulatory decisions, the Protector has two deputies, one being in charge of minorities rights protection.

5. CONSTITUTIONAL REFORM

At the time of writing this Report, Montenegro had a grand task and challenge ahead of it. Drafting and adopting the Constitution is an ongoing process, it having the highest legal force in the state, so that its future regulatory provisions shall considerably define a series of minorities rights.

Law on the Procedure for Drafting and Adopting the new Constitution of the Republic of Montenegro, adopted on October 31, 2006 regulates the procedure for drafting the Constitution body, public discussion, establish the proposal for the Constitution and the

procedure of its adoption and promulgation. The Parliament formed Constitutional Board on November 20, 2006 to have 17 members distributed in accordance with their representation in the Parliament. The Constitutional Board made the generally accepted draft of the Constitution and presented it to the Parliament on March 22, 2007. The Draft Constitution also included alternative decisions of other Parliamentary clubs that other members of Constitutional Board insisted on.

The Parliament established the Constitution Draft on March 28, 2007, which was forwarded to 60-days public discussion and therefore finished on May 28, 2007. The Board was presented with over 500 pages of suggested material and opinions. For the time of public discussion, numerous round tables were organized, with the participation of state bodies, professional associations, non-governmental sector and others. Print and electronic media also gave its attention to the Constitution adoption, as well as the international organizations in Montenegro such as: the Council of Europe, OSCE, NDI and other. The Venice Commission submitted its comments on the Constitution Draft proposed.

Pursuant to the Law, the adoption procedure is as follows: Once the public debate is finished, Constitutional Board shall reconsider the given proposals, opinions and suggestions for the Constitution, and take a stand on each of them, which is followed by establishment of the ***Draft Proposal for the Constitution*** to be presented to the Parliament. These activities shall take place within 15 days once the public debate is finished. Amendments to the Draft Proposal for the Constitution can be submitted by the Representatives Clubs, President of the Republic and the Government. The Parliament shall decide on the Draft Proposal by majority of votes of the total number of representatives and shall bring a decision for announcing the referendum to submit for approval the new Constitution. Referendum shall be held within 10 -20 days as of the date of its announcement. The Constitution shall be deemed approved by the Referendum if it gets supported by the majority of total number of valid votes. The Law also provides the possibility not to hold the referendum, if its bill gets adopted in the Parliament by the two-thirds majority of the total number of representatives, i.e. if the wider consensus is reached. Afterwards the adoption of the Constitution by the two-thirds of majority of representatives in the Parliament, or after it gets verified in the referendum, the Parliament shall bring the decision on its promulgation by the majority of representatives' votes.

The Bill is designed as a modern, constitutive, major legal act of Montenegro, containing principles that reflect Montenegrin fundamental constitutional and legal orientation as an independent, sovereign, democratic, social and ecological state. The basic principles are: the rule of law, distribution of power, respect for and protection of human rights and freedoms, parliamentarism, freedom of market and entrepreneurship, and devotion to international legal order and the primacy of international legislative over domestic. The Bill contains the total of 146 Articles, whereby 17 of them were given the alternatives.

While drafting the Constitution, particular attention was given to respect the European standards. The Council of Europe has delivered to the Parliament the Proposal of Minimum Principles to be incorporated into the Constitution of Montenegro. Highest officials of representatives groups in the Constitutional Assembly signed on February 8, 2007

the Declaration on Accepting the Minimum Principles to be incorporated into the Constitution in order to enable accession of the country to the Council of Europe.

Minority organizations representatives find that the previous Constitutions, as well as the Bill of the Constitution currently under public discussion did not reach the already acquired level of minority rights, which must not be the case in the process of Constitution adoption. Besides such suggestions, the Constitutional Board was also suggested to reflect the real population composition and socio-historical facts.

III FRAMEWORK CONVENTION IMPLEMENTATION

Article 1.

The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.

Following the **Decision on Proclamation of Independence of the Republic of Montenegro**, Ministry of Foreign Affairs of Montenegro has started the activities to determine the manner of assumption of international multilateral conventions, treaties and protocols, to which the State Union of Serbia and Montenegro acceded, and which are of interest for Montenegro, after its independence renewal.

In phase one, the Ministry started the procedure of acceding to the relevant multilateral documents (which mostly are the precondition for membership in the corresponding organization) after the initiative taken by the relevant Ministry or the consultations with several organizations in charge (e.g. World Health Organization, International Labour Organization, International Organization for Migration, etc).

In phase two, the procedure was started to join the relevant multilateral conventions deposited with UN Secretary General, whose signatory had also been the State Union of Serbia and Montenegro, i.e. former SRY.

In phase three, the procedure was started to accede to the relevant multilateral conventions whose depositary countries were separate countries. The respond is expected to come from the Ministries of Foreign Affairs of most of depositary countries (the USA, Canada, France, Switzerland, the Netherlands, Sweden, Denmark¹⁸, Austria, Germany¹⁹, Italy, China, Portugal, Spain and Japan), pursuant to whose lists the MFA shall start the procedure of acceding to the Conventions whose signatory had been SaM, after the

¹⁸ Denmark informed the MFA of Montenegro that it was not depositary of any multilateral treaty the signatory of which had been SaM

¹⁹ Germany informed the MFA of Montenegro that it was not depositary of any multilateral treaty the signatory of which had been SaM

consultations with relevant ministries. The procedure of joining the multilateral conventions deposited with the UK and Russia has been finished up to the moment.

The United Nations

Series of UN Conventions whose depositary is UN Secretary General – an instrument for accession to these Conventions – was forwarded to Montenegrin Mission to New York, to be deposited with UN Secretary General. The instrument was submitted on 23 October, 2006. It is a series of UN Conventions from various fields: diplomatic and consular relations, protection of human rights, refugees' rights and the rights of stateless persons, fight against drugs and psychotic substances, trade in humans, health, international trade and development, transport, education, sea rights, commercial arbitration, telecommunications, disarmament, environmental protection, etc.

Republic of Montenegro carried out the most important international cooperation in the domain of national minorities protection with the relevant international organizations - the Council of Europe and OSCE.

The Council of Europe

A new dimension of cooperation between Montenegro and Council of Europe was given by the fully-fledged membership of Montenegro in this Pan-European organization. Particularly intensive cooperation with the Council of Europe was established in the domain of minorities' rights and their protection. The cooperation included:

- Council of Europe experts' assistance in drafting the Law on Minority Rights and Freedoms,
- Visits of Montenegrin experts to the Council of Europe,
- Organizing numerous seminars and gatherings whose major topic was protection of fundamental human rights and freedoms, with particular regard to rights and freedoms of minorities.

In July 2006, Montenegro forwarded the statement of succession of the state in respect of the CE Conventions whose signatory had been the State Union of Serbia and Montenegro. The statement was accepted in respect of the Conventions open to non-member states. With the membership in the Council of Europe, other succession statements were also accepted for the Conventions open for members only, which are to come into effect on June 6, 2006. It is only the Council of Europe Statute that should have come into force on May 11, 2007.

Treaties open for member states, signed and ratified, to come into force on June 6, 2006

001 *Statute of the Council of Europe* – coming into force on May 11, 2007, when Montenegro gained membership to the Council of Europe

005 *Convention for the Protection of Human Rights and Fundamental Freedoms*

009 *Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms*

018 *European Cultural Convention*

024 *European Convention on Extradition*

030 *European Convention n Mutual Assistance in Criminal Matters*

041 *Convention on the Liability of Hotel-Keepers concerning the Property of their Guests*

044 *Protocol No.2 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Conferring upon the European Court of Human Rights Competence to Give Advisory Opinions*

045 *Protocol No.3 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Amending Articles 29, 30 and 34 of the Convention*

046 *Protocol No.4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the First protocol thereto*

050 *Convention on the Elaboration of European Pharmacopoeia*

051 *European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders*

055 *Protocol No.5 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Amending Articles 22 and 40 of the Convention*

062 *European Convention on Information on Foreign Law*

069 *European Agreement on Continued Payment of Scholarships to Students Studying Abroad*

073 *European Convention on the Transfer of Proceedings in Criminal Matters*

086 *Additional protocol to the European Convention on Extradition*

087 *European Convention for the Protection of Animals kept for Farming Purposes*

088 *European Convention on the International Effects of Deprivation of the Right to Drive a Motor Vehicle*

090 *European Convention on the Suppression of Terrorism*

092 *European Agreement on the Transmission of Applications for Legal Aid*

097 *Additional protocol to the European Convention on Information on Foreign Law*

098 *Second Additional Protocol to the European Convention on Extradition*

099 *Additional Protocol to European Convention on Mutual Assistance in Criminal Matters*

102 *European Convention for the Protection of Animals for Slaughter*

105 *European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children*

108 *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data*

112 *Convention on the Transfer of Sentenced Persons*

114 *Protocol No.6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of Death Penalty*

117 *Protocol No.7 to the Convention for the Protection of Human Rights and Fundamental Freedoms*

118 *Protocol No.8 to the Convention for the Protection of Human Rights and Fundamental Freedoms*

120 *European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches*

121 *Convention for the Protection of the Architectural Heritage of Europe*
126 *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*
134 *Protocol to the Convention on the Elaboration of European Pharmacopoeia*
135 *Anti-Doping Convention*
141 *Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime*
147 *European Convention on Cinematographic Co-Production*
148 *European Charter for Regional and Minority Languages*
151 *Protocol No.1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*
152 *Protocol No.2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*
155 *Protocol No.11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby*
157 *Framework Convention for the Protection of National Minorities*
165 *Convention on the Recognition of Qualifications concerning Higher Education in the European Region*
167 *Additional Protocol to the Convention on the Transfer of Sentenced Persons*
173 *The Criminal Law Convention on Corruption*
177 *Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms*
187 *Protocol No. 13 to the Convention for the Prevention of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances*
194 *Protocol No.14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the Control System of the Convention*

OSCE

The cooperation of OSCE with relevant bodies of the Republic of Montenegro included:

- Cooperation with the High Commissioner and his Team on drafting the Law on Minority Rights and Freedoms,
- Cooperation on Minority Education Reform,
- Cooperation with OSCE Office Democratic Institutions and Human Rights concerning electoral legislation,
- Cooperation with OSCE representatives on prevention of discrimination and intolerance
- Development of the leadership potential of Roma, strengthening of capacities of organizations in charge of the status of Roma and establishing the Roma Scholarship Foundation as a key service providing support to the Roma attending high school education and Universities.

Article 2

The provisions of this framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.

Fostering the spirit of understanding and tolerance and developing international relations in conformity principles of good neighbourliness, friendly relations and co-operation between states is certainly a guideline of Montenegrin foreign policy in relation to minorities rights, as well. Pursuant to these provisions, Montenegro has been establishing its communication with all states, in particular with its neighbour states. Following the wars in its neighbourhood, and change of the political situation and course after 1997, Montenegro has been establishing good neighbourly relations with Croatia, Bosnia and Herzegovina, and other former Yugoslav Republics, which are all independent states now. At the time of existence of the State Union of Serbia and Montenegro, Montenegro had the Ministry of Foreign Affairs functioning separately from the State Union and had its missions to Croatia and Bosnia and Herzegovina.

With the renewal of its independence and in efforts to develop its diplomatic-consular network, Montenegro established its diplomatic-consular offices in Sarajevo, Zagreb, Belgrade, Skopje, Ljubljana, besides the priority offices in Brussels, Washington, London, New York-UN, OSCE, etc).

Minorities in Montenegro have made greatly important factor in establishing and strengthening the relations with the neighbour states. Besides the state bodies, the contribution to good neighbourly relations was given by the minority non-governmental organizations and distinguished individuals- minority members. Their contribution has also been significant in opening the boundaries and improving the relations with neighbour states. Montenegrin minorities gave its valuable contribution to the restoration of relations between Montenegro and Albania, Montenegro and Bosnia and Herzegovina, and Montenegro and Croatia, which had been greatly spoiled following the disintegration of former common state.

Article 3

1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.

2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.

Paragraph 1

Article 34 Paragraph 2 of the Constitution of the Republic of Montenegro guarantees freedom of self-declaration and freedom of confession, national belonging, cultural freedom and freedom to use one's own language and script. In paragraph 3 of the same Article, it is provided that no person shall be obliged to publicly declare its opinions, confession or national belonging. This provision is crucial for minority protection in a democratic society. In addition, the Constitution guarantees freedom and equality regardless of any specificity or personal feature and guarantees equality before the Law (Article 15), which guarantees that the citizens shall not get in an unfavourable position for reasons of their national belonging or for using the rights related to such belonging. The Law on Minority Rights and Freedoms also highlights the equality of members of minorities and other citizens, as well as the same level of their legal protection.

According to the definition provided by the Law on Minority Rights and Freedoms, minority is **every** group of citizens of the Republic constituting a numerical minority endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, historically connected with the Republic, and motivated by a concern to preserve its national, ethnic, cultural, linguistic and religious identity. The notion "minority" in the Law stands for autochthonous numerically inferior people to the rest of the population, national minorities and ethnic minorities. Such definition and the scope of its meaning is the first regulatory determination of minorities in Montenegro. The notion "national and ethnic groups" has been used in the Constitution of the Republic of Montenegro, which has not been defined in more detail. By such solution contained in the Law on Minority Rights and Freedoms, it is permitted to define practically every interested community, i.e. their members as minority, and to be guaranteed the corresponding rights determined by the Law. In addition, this definition unifies the related terminology, which has been diverse until the enactment of this Law, so that all acts and documents written after this Law have used such unified terminology.

Constitution of Montenegro and the corresponding laws guarantee the protection of personal data. Every citizen is entitled to right to be provided the reasons for collection of data related to him, and the data related to his national belonging, and the right to ask for a court protection if such data are misused.

According to the methodology instructions for preparing, organizing and conducting the Census of Population, Households and Housing made by the Republican Statistics Bureau (MONSTAT), empty fields were filled with, inter alia, the data on national belonging, confession and language. The Census-takers were obliged to write down the answers given by the persons in the Census, whereby these persons were entitled to the right not to answer to the question.

It has never occurred in the practice of the Ministry that a person suffered any consequences due to his declaring or non declaring on his national belonging.

Paragraph 2

A separate part of the Constitution of Montenegro (part 5) provides specific rights of the members of national and ethnic groups. From some of the guaranteed rights that have already been specified, it could be deduced that they are used with other members of a community. Among these are: the right to use their own language and script, to get educated and informed in their own language, to use and display their national symbols, to establish educational, cultural and religious associations, to include their history and culture in the syllabi and curricula, to be proportionally represented in public services, state bodies and local self-administrations, to establish contacts with the citizens abroad, etc.

Article 3 of the Law on Minority Rights and Freedoms decidedly defines the possibility for minority members to equally enjoy individual rights and freedoms and collective rights and freedoms with other members. Minorities are –collectively and individually – entitled to all collective rights recognized by the Law on Minority Rights and freedoms. There is no doubt that the Law on Minority Rights and Freedoms acknowledges, besides the individual, the collective rights of minorities, as well.

Significant moves have been made to ensure minorities' rights as a collectivity since the beginning of the procedure, which will be explained further on. For the moment it is enough to point out the freedom of association, and great number of cultural, artistic, and other kinds of associations and organizations, national political parties which actively participate in the political life of Montenegro, publish or broadcast the programming in the minorities' languages, schools teaching at all levels in the minorities' languages, etc. Nevertheless, apparent is the lack of capacities with both majority and minority in the society, which would ensure better knowledge and understanding of human and minority rights, particularly in affirming and using primarily individual rights of every person.

Article 4

- 1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.**
- 2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.**
- 3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.**

Paragraph 1

Equality before the law and equal protection of the law are crucial for the protection of minorities. Equality and prohibition of discrimination has also been proclaimed by the Constitution of Montenegro and its legislation. Articles 15, 16, 17 and 18 of the part “Freedoms and Rights” of the Constitution reads that “all citizens are free and equal regardless of their of any particularities and/or other personal attributes”(Article 15); “Everyone is entitled to an equal protection of his freedoms and rights in the procedure prescribed by law” (Article 17); i.e. “Everyone shall have the right to legal assistance” (Article 18). Article 16 of the Constitution provides that these rights and freedoms are inviolable.

Republican Council for Protection of Rights of National and Ethnic Groups has been established chaired by the President of the Republic. The Council is a mechanism for affirmation of equality and non-discrimination, promoting tolerance and monitoring of constitutionally determined minority rights, by means of adopting conclusions and recommendations. Its very existence directly corresponds with some major European directives and recommendations related to establishment of the bodies by which the principle of equal treatment shall be promoted.

Special law on prohibition of discrimination does not exist in the legal system of the Republic of Montenegro. Its drafting and adoption are planned for next year. In the legal order of Montenegro, discrimination is prohibited by various laws related to human and minority rights protection, and it is incriminated under the Criminal laws.

Law on Minority Rights and Freedoms guarantees equality with other citizens of the Republic to the members of the minorities, as well as equal legal protection. In addition, every indirect and direct kind of discrimination is prohibited by this Law in any form which includes also discrimination against race, colour, gender, national belonging, social origin, birth or any status related to it, creed, political or any other persuasion, state of account, culture, language, age or psychical and physical disability.

Law on Employment provides that that the unemployed are equal in their rights to get employed regardless of their national belonging, race, gender, language, creed, political or other persuasion, education, social origin, state of account and other personal attributes.

Labour Law provides that the employed are equal in their labour-related rights regardless of their national belonging, race, gender, language, creed, political or other persuasion, state of account and other personal attributes.

Law on Health Care provides that in their right to obtain health protection, the citizens are equal regardless of their national belonging, race, gender, age, language, creed, education, social origin, state of account, and other personal attributes.

Provisions of the series of media and education-related laws also show non-discriminative approach in exercising these rights. Closer explanations of these domains are given in explanation of implementation of Articles 5, 6, 9, 12 and 14 of the Framework Convention.

In September 2005, a group of non-governmental organizations submitted to the Parliament of the Republic of Montenegro Equality Bill, asking urgent procedure for its adoption. The Parliament has never included this Bill in its agenda.

In the legal system of Montenegro, discrimination is incriminated by the criminal laws. The Criminal Code of the Republic of Montenegro was adopted in November 2003. It contains several provisions by which it is incriminated to disseminate the ideas based on racial superiority or hatred, as well as inciting racial discrimination and acts of violence motivated by racism.

Chapter XV of the Criminal Code – Criminal Offences against Freedoms and Rights of Man and the Citizen provides punishment for the following:

- Infringement of the right to free use of language and alphabet– Article 158; A sentence to a fine or imprisonment not exceeding one year is provided.
- Infringement of equality of citizens – Article 159; Provided is a sentence to imprisonment not exceeding three years. Should the act be committed by a person acting in an official capacity while performing his/her duties, s/he shall be sentenced to three months to five years of imprisonment.
- Infringement of the right to expression of national or ethnic affiliation or culture – Article 160; A sentence to a fine or imprisonment not exceeding one year is provided. Should the act be committed by a person acting in an official capacity during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.
- Infringement of freedom of confession of religion and performance of religious rites – Article 161; A sentence to a fine or imprisonment not exceeding two years is provided. A person acting in an official capacity who commits this act shall be sentenced to imprisonment not exceeding three years.

Chapter XVII of the Criminal Code – Criminal Acts against Honour and Reputation - Article 199 provides punishment by a fine in the amount of € 3.000 to 10.000 for anyone who publicly exposes a nation, national or ethnic group living in Montenegro to mockery.

Chapter XXIX of the Criminal Code - Criminal Acts against the Constitutional Order and Security of Montenegro, Article 360 provides imprisonment of three to fifteen years for anyone who by force or threats to use force attempts to change the constitutional order of Montenegro.

Paragraph 2

Efficient equality in various social life domains is hard to envisage and ensure beforehand. Therefore, without prejudice to equality of rights and freedoms determined by the Constitution, it is possible to provide measures for exercising the same rights and freedoms determined by the Constitution by the secondary legislation. To that effect, a series

of laws and byelaws have been adopted which provided measures to promote equality as their basic objective.

Besides the series of human and citizens' rights in general, Law on Minority Rights and Freedoms guarantees for minorities particular rights and freedoms, as well, all aimed at establishing real equality of these groups with the majority of population. Entire Law and the reasons for its adoption are aimed at establishing actual equality of minorities in Montenegrin society, implementing Affirmative Action Principles in some of the fields relevant for preservation of identity of the minorities.

The Government of Montenegro adopted in 2005 a document called "***Regional Development Strategy of Montenegro***". The starting point of the conception are basic commitments of Development Strategy of Montenegro, elaborated in more detail and by fields. It starts from the fact that the major regional inequalities and particularly undeveloped northern region, come from development perspectives over a longer period of time. Main conceptual approach of the Strategy is to realize in overall development of the country a policy of a relatively equable level of development of the regions and some functionally-planned zones, taking into account their natural environment, available resources, economic funds and infrastructure development pace. Realization of the projected goals, i.e. harmonized development of Montenegro will create economic conditions for development of the regions traditionally inhabited by the minority populations.

"Development and Poverty Reduction Strategy" was also adopted in 2003, a document with a systematic and universal approach to the analysis of poverty-struck profiles in Montenegro. This document developed the strategic directions towards fighting the poverty for all endangered categories of the society. Particularly important fact is that the poverty profile of Montenegro integrated the level of poverty of the Roma (this poverty line was at the level of 52,3%, whereas the poverty line of the total population was at the level of 12,2%). At that moment, there were estimated to be 10.200 members of the Roma population. A whole range of necessary sector strategies was defined on the basis of Development and Poverty Reduction Strategy.

One of the major goals of the ***"Employment Strategy 2007-2010"*** is development of special programs and specialized training providers to work with marginalized groups. Particularly important for promotion of full and efficient equality in economic life of the Romani population is creating and implementing specialized programs and projects of employment. The project "Roma presence at the labour market" was aimed at reaching the results on educational status of the Roma, their interest in applying for employment with employment agencies, motivation and potential for inclusion in policies of active employment, and collecting the data on their personal identification documents, which was organized as a public action. The executive partner was the Roma Scholarship Foundation, which cooperated with the local Romani organizations, members of the NGO Coalition "Romani Circle". In cooperation with Employment Agency, the Foundation, as an employer, engaged 27 interview takers, of which 25 were members of the Roma population, trained for taking the interviews. The project lasted 2 months and was expected to increase the level of

information on active employment policy of at least 3000 members of the Roma population. The funds allocated for this purpose were ca.17.000 EUR.

“The Second Chance” Project encompasses the two most important problems which members of Romani population meet with: education and employment. The project is a result of mutual efforts of the Government of the Republic of Montenegro and international organization DVV International, Roma Scholarship Foundation, Montenegro Employment Centre and Montenegro Employment Agency, funded by the EU and managed by EAR. Project goals are functional literacy and vocational skills development. Certificates provided for the attendants correspond to fourth grade of elementary school and II level of vocational qualification, according to the national regulations. The Employment Agency has developed its capacities for work with sensitive groups: there was a training program organized in Podgorica and Bar for waste recycling that included 25 members of Roma population; a training program for electrowelders and hairdressers (20 attendants); training programs for chimney sweepers (10 attendants) and computer repair specialists (6 specialists) were organized in Rozaje. In Bar, a training was organized for 3 attendants, specialty – painter, and there was a training program in Niksic for a waiter assistant. Funds allocated by the Agency were over 35.000 EUR. At the moment a training is in hand for 14 attendants in Podgorica for specialty – ready-made clothing specialist, and 10 attendants for waste recyclers in Niksic.

In addition, the Government adopted the *Byelaw On Decrease of Tax Burden for Employing Certain Categories of the Unemployed*, by which tax burden decrease was determined for legal entities and entrepreneurs who employ certain categories of the hard-to-employ.

Pursuant to current Montenegrin legislation, majority voting system is being applied in Montenegro, by which the whole territory of Montenegro is a single constituency. Out of the total number of representatives, five representatives (determined by the Parliament Decision) is elected at polling places, with the majority of Albanian citizens. According to these regulations, only Albanian minority is provided preferential treatment in elections. Therefore in the last elections, five representatives was also elected from these special polling places. By the Decision on Determining the Polling Stations for the Election of Five Representatives in the Parliament of the Republic of Montenegro, 69 polling stations was determined from which members of Albanian nationality can vote for their representatives: Podgorica Municipality 23 polling stations, Ulcinj Municipality 31 polling station, Bar Municipality 11 polling stations, Plav Municipality 3 polling stations and Rozaje Municipality 1 polling station. These five representatives of Albanian nationality belong to several political parties, of which two belong to DPS-SDP coalition, whereas Democratic Union of Albanians, Albanian Alternative and Democratic League of Albanians in Montenegro have one representative each.

In the sphere of education, culture and information, series of measures have been implemented to enhance efficient equality through normative formulation and concrete programs and projects²⁰.

²⁰ More information given in notes on Articles 5,6,9,12 and 14 of the Framework Convention

Paragraph 3.

Regulations, separate legal acts and measures and activities which have been adopted to ensure full and efficient equality of minority members are not considered discriminative acts. The spirit of the Constitution, some of the laws and measures taken in certain areas significant for protection and enhancement of minority rights have all been lead by an affirmative action principle.

From the legal aspect, a dilemma²¹ is caused by the interpretation of provisions of Article 159 of the Criminal Code that provides a sentence for “anyone who, due to national affiliation or affiliation to an ethnic group, race or confession, or due to absence of such an affiliation or due to differences in political or other beliefs, sex, language, education, social status, social origin, property or other personal status denies or restricts the rights of man and the citizen prescribed by the Constitution, laws or other regulations or general enactments or recognized by international treaties or, on the grounds of such differences, grants privileges or exemptions...” By such a formulation, all kinds of protectionism have been tried to be suppressed, but on the ground of these provisions of the Criminal Code, there has been no record of sentencing a person for exercising an affirmative action in practice.

Article 5

- 1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.**
- 2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.**

Paragraph 1.

Pursuant to the provisions of the Constitution of the Republic of Montenegro (Special Rights of National and Ethnic Groups, Articles 67 through 76), the protection of the national, ethnic, cultural, linguistic and religious identity of the members of national and ethnic groups is guaranteed. Protection of rights of members of national and ethnic groups is exercised in accordance with the international protection of human and civic rights.

²¹ The dilemma apostrophized by a member of non-government organization

For more than a decade, Montenegro has been working on implementation of international and development of its own mechanisms of the protection of minorities, in compliance with objective political, social and economic capacities, particularly insisting on civic and multicultural concept of the state policy in the field of culture. It has been an orientation of both former and actual Government set up. In addition, it is a uniform commitment of all relevant social subjects to consider the process of defining national cultural policy outright only with true participation of minorities in it and the responsible consideration in this regard.

There is a wide interest in Montenegro to begin innovation and drafting of the documents having national significance in the sphere of cultural policy of the state over wide cultural dialogue, as well as to create the positive atmosphere and support to planning and implementation of the state policy with due attention given to legitimate interests of minority members.

As to the culture and arts, there is no particular treatment of minorities rights by the laws on culture and art (Law on Publishing, Law on Cinematography, Law on Theatre Activities, Law on Copyright and Related Rights). The reason for this is to be found in the fact that art, especially fine art and music, i.e. an art work as a cultural product, is a creation of human spirit which “speaks” the universal language of art and is related to general value criteria, which means that it blurs national or ethnic barriers.

Nevertheless, through its internal regulations and criteria and along with provision of funds for promotion and development of culture and art, Ministry of Culture, Sports and Media also provides financial support to the potential of national and minority groups and their members, thus inciting the presentation and development of their cultural identity, tradition and heritage. Thus the Ministry assists the following national and ethnic groups program activities to be realized and promoted:

- Magazine and book publishing
- Translation of works of literature and history
- Presentation programmes of folklore heritage, tradition and practices
- Cooperation programmes with corresponding institutions in their motherland

Civil society, human rights investigators and minority representatives believe that considerations on national cultural policy should increase the concern about providing the necessary preconditions for quality and dynamic cultural co-existence. They also believe that the concern of the state itself for minorities should be greater, when it comes to culture. This is particularly important in adaptation, maintenance and construction of sacral and other facilities relevant for national minorities and the society in general, cultural autonomy development, assisting the provision of professional cultural personnel and minorities participation in bodies in charge of allocation of funds for culture, etc. The need has also been recognized and the efforts made to direct further cultural development towards cultural life and institutions decentralization and deconcentration. In that respect, more intensive communication between the local and national level is essential. The suggestions also came from the local level, expert circles and civil society to strengthen the cooperation between the relevant State Ministry and local cultural practitioners in terms of exchange of information, experience and opinions. Establishing Montenegrin Culture Collegium has been initiated, to serve as a permanent and coordinative body to consist of the Minister of Culture and local community secretaries in charge of culture.

The Government of the Republic of Montenegro adopted in 2001 the Decree on Establishing the Centre for Preservation and Development of Culture of National and Ethnic Groups. Due to some legal impediments and lack of funds, this important institution for preservation and development of culture of national and ethnic groups has not started to fully work yet²². National Minority Councils should also have their term in office in the sphere of culture, particularly through establishing their own culture centres to foster theatre, music, fine art and literature programmes.

The legal basis for protection of cultural monuments and their landscape is to be found in the very Constitution of the Republic of Montenegro (Article 64) which provides that the state shall protect scientific, cultural, artistic and historical values. Law on Protection of Cultural Monuments defines a system of protection and use of cultural monuments, rights and obligations of natural and legal persons related to protection of cultural monuments, organization of institutes in charge of the protection of cultural monuments, provision of funds for those institutes and measures of protection.

As to protection and valorization of cultural heritage, other laws are also in effect: Law on the Museum Activities (1977, 1989), Law on Library Activity (1977, 1989), Law on Archives Activity (1991, 1994), Law on Reconstruction and Revitalization of Old Cities Damaged by the Earthquake on 15 April, 1979 (1984 and 1986), Law on Renewal of Monuments Holdings of Kotor (1991), Law on Monuments, Memorial sites, Historic Events and Persons (1971, 1972, 1988, 1989, 1991, 1992, 1994).

²² The Government adopted the Decree amendments on May 17, 2007, thus removing the legal impediments to establishment of the Centre for Preservation and Development of Culture of National and Ethnic Groups. In addition, Ministry for Human and Minority Rights Protection applied for the funding on several occasions, to create the means for the Centre to operate, but received no positive answer.

These laws do not pay particular attention to national minorities rights, since the cultural heritage of Montenegro is multicultural and manifold by itself, and therefore equally treated as a common heritage of all its citizens. Cultural expanse of Montenegro is characterized by multiculturalism in the widest sense of the word, whereas the variety of its registered and law protected monuments reflects the history of this territory and serves as material proof of its multiculturalism.

Cultural monuments are being uniformly protected in Montenegro, through the legislation mentioned and institutional framework. Most important cultural segment of cultural heritage of Montenegro is its sacral architecture consisting of monasterial complexes, churches and mosques belonging to all nationalities representatives. This section of cultural heritage comprises 205 monument units of the three confessions (Orthodox Christian, Catholic Christian and Islamic).

In the Republic Institute for Protection of Cultural Monuments in Cetinje, there is no official data on ethnic structure of the employed. Nevertheless, according to independent surveys, there is a negligible number of minority members among the employed. Within the regular activities of the Institute, cultural heritage of the minorities is uniformly taken care of, considering the same treatment given to overall cultural heritage of Montenegro. Non-governmental organizations have not managed to get the answer to the question of proportion of the number of protected cultural monuments and the corresponding confession or minority for the last three years.

Within the State Archives regular activities, no particular attention is paid to minority members heritage, nor is Albanian language used in work of this institution.

Reconstruction activities on cultural monuments are particularly important when carried out through investment activities of the Republic into cultural monuments, and are managed through Directorate for Public Works, Ministry of Culture, Sports and Media, state institutions and municipal self-administrations. In addition to its investments in preservation and presentation of cultural monuments, Ministry of Culture, Sports and Media also assisted the activities to establish and equip Ethnographic Museum of Malesia, which has been established as a non-government organization in Tuzi, near Podgorica.

Government of the Republic of Montenegro has also provided funds for construction and partial equipment of Rozaje facility “Ganica kula” (The Tower of the Ganici), for the purpose of the Regional Museum of Rozaje. Ministry of Culture, Sports and Media provided logistic assistance within its own competencies to the activities of establishment of Regional Collection of Plav in the facility “Kula Rezdepagica” (The Tower of Redzepagics).

Importance of library as a public institution for provision of free access to information and ideas significant for cultivation and preservation of minority population identity is certified by the Council of Europe Guidelines on Library Legislation and Policy in Europe. Particularly highlighted in them is protection of library heritage the objectives of which should be aimed at:” the accumulation of a national collection in order to preserve, develop and transmit the national culture to future generations”. Political bodies of the member states are strongly advised to “ensure the legal and financial conditions,

guaranteeing unhindered access of citizens to cultural, scientific, educational and social information through libraries...” Council of Europe Guidelines emphasize the importance of library services “as a necessary force in sustaining and developing democracy”, and in defining the principles for collection development, they read: “Minorities should be provided with material in their own language, relating to their own culture, reflecting the culture of the wider community to them in their own language. Furthermore, library collections should represent the cultures of minorities to the wider community.” Library services should be provided to citizens without regard to race, nationality, religion, culture, politics, age, physical or learning impairment, gender, or sexual orientation. Libraries should also seek to provide the best quality possible in the very institutions.

Central National Library of Montenegro “Djuradj Crnojevic” in Cetinje has a status of the Central Public State Library. There are 3% of minority members among its personnel. The National Library has also been collecting books in Albanian language. Civil society members have been examining such situation and have come to the information that the library management has never denied the need for Albanian-speaking personnel, as well as to information on lack of funds and clear instructions from the Government regarding the issue.

Beginning from the basic assumptions that interculturalism and discrepancies are social values that shall be cultivated and developed, Ministry for Human and Minority Rights Protection has organized “**Cultural Days of Montenegrin Minorities**” in the previous years. This cultural event introduces a wide range of discrepancies in terms of origin, language, history, confession, tradition and overall material and spiritual achievements. The event includes fine art exhibitions, literature evenings, publishing activities presentations, concerts of national songs and dances, round tables, etc. This event has been organized four times by now in Podgorica, Tivat, Ulcinj and Rozaje.

Local public libraries located in the areas of considerable participation of minorities are not adequately equipped and due to the lack of funds, are not regularly up-to-dated with books in both official and minority language. Local assessments are that the Government must provide additional support.

Culture festivals and seasonal programs (mostly summer programs) are developed in some municipalities, the further development and existence of which has been increasingly taken into question, due to the lack of funds and insufficiently developed capacities.

Minorities participation in local cultural life is satisfactory, though. Several local administrations have made significant advances in this respect.

Paragraph 2

Constitutional and legal norms which guarantee protection of national, ethnic, language, religious, cultural and other minorities’ identity are directed towards the protection of minorities from assimilation. Prevention from assimilation is provided by the regulations and practice that has been implemented in Montenegro in education, culture, information,

language and script, freedom of association and action, prohibition of change of demographic structure of the population, etc.

Montenegro has appreciated the recommendation to develop the mechanisms to ensure reconsidering of minority interests within the relevant ministries. An example might be given with the Ministry of Education and Science where the officials in charge of minority issues work.

There are neither direct nor other measures taken in Montenegro that would lead towards disappearance of minority identity. In the previous period, the Education System Reform has made significant advances at all levels of education system, in terms of presentation and familiarization with minority cultures and their cultural heritage.

Article 6

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.

2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

Paragraph 1

Education

Policy of Education of Montenegro is based on democracy principles of respect of human and citizens rights and ensuring equal opportunities for all. Imperative of Education System Reform is to achieve high level of quality of education for all.

In accordance with current socio-economic changes and tendency of globalization and abolishing of boundaries, school should be a preparatory step for life in multicultural Europe and democratic society. Reformed Education System in Montenegro has therefore based its starting points on main relevant international documents of the United Nations, Council of Europe, Organization for Security and Cooperation in Europe and the European Union.

Constitution of the Republic of Montenegro guarantees freedom of all citizens regardless of their particularities and personal attributes and equality before the law (Article 15). By the Constitution, everyone is equally entitled to education: “Everyone shall be entitled to education under equitable conditions. Primary education shall be mandatory and free of tuition fees (Article 62 of the Constitution). In addition, the Constitution of the Republic of Montenegro guarantees that “members of national and ethnic groups shall have the right to free use of their mother tongue and alphabet, the right to education and the right to information in their mother tongue”(Article 68 of the Constitution).

Montenegro published THE BOOK OF CHANGES OF THE EDUCATION SYSTEM IN MONTENEGRO”, a basic document containing objectives and guidelines that education system reform is based on.

Afterwards, a series of laws in education were passed:

- General Law on Education
- Law on Preschool education
- Law on Elementary Education
- Law on Gymnasium
- Law on Secondary Vocational Education
- Law on Adult Education
- Law on Higher Education
- Law on Education of Children with Special Needs
- Law on School Inspection
- Law on Scientific and Research Activities

Ongoing is the drafting of the Law on Validation of the Certificates Acquired Abroad²³ that will particularly improve the practice of solving the problems of minorities in particular, who acquired their higher education certificates in some of the neighbouring countries. This Law is expected to finally resolve the issue of validation of acquired foreign certificates. Montenegrin citizens who graduated from Universities of neighbour states (in particular the Republic of Albania and Bosnia and Herzegovina) showed discontent with the dynamics and quality of process of certificate validation. They pointed out the procedure of qualification assessment, i.e. access to Montenegrin Higher Education system takes rather long time, and cannot be started unless the certificate holder produces the original certificate, which is a long procedure. In addition, applying with a certificate of higher education at the labour market is possible only after the certificate validation, which further defers inclusion of these young people in professional life.

General Law on Education provides all the citizens with available and equal education. The locations of the institutions within the territory of the Republic enables citizens the equal access in acquiring education (Article 8). Regardless of the national affiliation, race, gender, language, religion, and social background and of other personal characteristics, all citizens of Republic shall be equal in the exercising of the right of education (Article 9).

²³ By the 2007 Government Program, adoption of the Draft is planned for the first quarter of 2007

In addition, the abovementioned law and other education laws provide, inter alia, the education is aimed to: develop the awareness, the need and the capabilities for the maintenance and the improvement of human rights, legal state, of natural and social environment, of multiethnic and diversity; develop the awareness on national affiliation, culture, history and tradition; provide elementary education to all citizens; ensure respect for the national cultural and historical values, as well as the appreciation of cultural and other specificities of members of other populations; develop democratic attitudes, tolerance and cooperation (in and out of school), and respect of the rights of other people; develop mutual tolerance, respect of diversities and cooperation, and respect of human rights and fundamental freedoms, as well as developing skills for life in democratic society.

Article 7 of the Law on Higher Education provides that in exercising the right to higher education no discrimination is allowed on any grounds such as sex, race, marital status, colour of skin, language, religion, political or other beliefs, national, ethnic or other origin, belonging to a national community, material status, disability, birth or similar grounds, position or circumstances. Article 6 Paragraph 2 of the Regulations on the content and form of diploma and diploma supplement, keeping register of students and records of diplomas issued by the University and other Higher Education Institutions stipulates that, when education is performed in a minority language, i.e. a foreign language, diploma shall be published in that language, as well.

Article 23 guarantees to the academic staff the freedom of thought, ideas, testing of knowledge acquired, i.e. ensures freedom of organization and association and the protection of academic staff from discrimination on any grounds.

As to minority groups education in Montenegro, it can be undoubtedly stated that Montenegro has made significant advances in the previous years in both adoption of the new legislative to regulate this field, and the approach to the issue.

School inspection of the Ministry of Education and Science is in charge of control of implementation of provisions of education-related laws, which includes control of eventual violation of provisions of these laws related to national minorities rights.

Culture, tolerance and intercultural dialogue

Law on local Self-Government provides networking of interested municipalities in associations, so as to improve their cooperation and address their different economic, cultural and other interests.

History curricula and books for elementary and secondary education institutions have been considerably improved in the last three years. Most of remarks delivered by the relevant structures have been successfully addressed. In the process of drafting the new curricula and books, increased attention to minorities should be the major contribution to strengthening of civic and multicultural concept of Montenegro.

In cooperation with home and foreign international organizations, the Government has been involved in several important campaigns (Save the Children, FOSI ROM and Roma Scholarship Foundation) in order to promote the spirit of tolerance and inclusion of Roma into education system, cultural life, and overall society, with particular regard to reduction and elimination of stereotypes, prejudice and gap towards this ethnic group (campaigns “May I”, “Book for a Friend”, “All to School”).

Two years ago, a mandatory subject “Civic education” was introduced into elementary school education. Therefore, the Ministry relevant has made considerable efforts in cooperation with OSCE, civil society and the media, towards the assertion and popularization of this subject, as well as the strengthening of the capacities of subject teachers. Due to this subject introduction, children are being provided with democratic principles through education techniques, and are being developed skills of a future active citizen in modern and democratically based society, from their early phases of socialization. In means of content, the curricula and the book pay particular attention to minorities, tolerance, solidarity and gender equality issues.

There have been several alternative and very efficient programmes developed in the civil society on tolerance, dialogue and human rights. Particularly important have been: Human Rights and Minority Rights School, Democracy School, European Integration School, School of Social Change realized by non-government organizations with active participation of the State institutions: the Government, The Protector of Human Rights and Freedoms, and international organizations representatives.

On “Tolerance” Network initiative, lead by the non-government organizations “Bonum” from Pljevlja and Centre for Civic Education from Podgorica, several local Assemblies from the districts with mixed population structure adopted the Declaration of Understanding and Tolerance which promotes the respect for human rights, tolerance, dialogue cooperation and multiculturalism as fundamental values of local communities.

Media

A crucial role of the media has been recognized in Montenegro in development of tolerance and understanding between different ethnic communities.

Laws on Media (**Law on Media, Law on Broadcasting and Law on the Public Broadcasting Services “Radio of Montenegro” and “Television of Montenegro”**) introduce particular provisions on informing the minority and ethnic groups members in their own languages, which will be further commented on in the note on Article 9 of the Framework Convention.

Law on the Public Broadcasting Services “Radio of Montenegro” and “Television of Montenegro” (Article 7 and 8), pursuant to the Law on Broadcasting, establishes obligations of the public broadcasting services to broadcast various programming (informative, cultural, artistic, educational, scientific, entertaining, sports, programmes for

children, etc) to prevent undue media concentration, with an obligation to meet public interests at the national and local level. Editorial independence and programme autonomy of RTCG is guaranteed by this Law, in terms of time, manner and contents of its broadcasts. Radio and Television of Montenegro, the two broadcasting services within RTCG have an obligation to respect professional ethic codes and standards and programme guidelines adopted by the Council of RTCG, and similar to all other media in the country, they have an obligation to truly, completely, timely and objectively inform the public on actual events of public interest happening within the country and abroad; contribute to respect and promotion of elementary human rights and freedoms, democratic values and institutions, pluralism of ideas, enhancement of culture of public dialogue and respect of language standards, as well as the privacy and dignity of the citizens.

In addition, pursuant to this Law, authorized entities for appointment of the members of the Council of RTCG are, inter alia “non-government organizations in charge of promotion of minority and ethnic group rights” (Article 16). The actual Council is composed of several minority members by which full diversity pluralism in Montenegro is ensured. Council of RTCG appoints and dismisses the members of the Committee for programme contents in Albanian language and other national and ethnic groups languages, which consists of all minority groups representatives in Montenegro.

It is necessary to resume the measures taken which imply education and additional training of the employed in the media, so as to ensure accomplishment of their mission of tolerance and understanding development. The umbrella non-governmental organization – Montenegro Media Institute – is primarily focused on that.

Journalists’ self-regulatory body activities further contribute to the spirit of tolerance and follows the Codex of Montenegrin Journalists.

Application of some provisions of the media law related to minority rights at the local level has not been ensured to the full extent.

Participation of Roma in journalists and media workers structures is unsatisfactory. Roma Scholarship Foundation has supported the project of vocational training of a group of Romani and Egyptian journalists, but the mentioned have not found permanent employment yet, despite considerable efforts of the Foundation and OSCE.

Paragraph 2

Besides the fact that minorities and their representatives are guaranteed the right to preserve, develop and express their ethnic, cultural, language, confessional and other specificities, Montenegrin legal system anticipates measures for preventing discrimination, i.e. threats, animosities or violence directed against a person or a group of people because of their national or other belonging. Appropriate protection measures against discrimination are defined in a set of relevant laws that determine offence, criminal or disciplinary responsibility of organizations or persons that discriminate or instigate discrimination based on national or any other belonging.

General rate given by the Protector of Human Rights and Freedoms that he submitted in the Reports for 2005 and 2006 was that the Ombudsman was “called upon by citizens of all nationalities and confessions, for the rights` protection, but it can be stated that there was not a significant number of complaints in which the representatives of minorities pointed out violation of their rights due to their minorities` belonging.

Violation of human rights is not a systematically pronounced happening. In comparison with a previous period, especially with the one that overlapped with the Reporting period of the Inception Report on Framework Convention applying in the State Union of Serbia and Montenegro, the violation of human rights has been decreased. That is confirmed by NGOs that in their reports registered considerably less number of violations of rights and discrimination.

Public surveys (Center for Democracy and Human Rights) show that in comparison with the earlier period, the ethnic distance towards all minorities has been inconsiderably increased, particularly towards Albanian and Roma population.

The Committee for Civil Control of Police Work, as the state body established in accordance with the Law on Police, registered few cases of torturing and discrimination of Roma by police officers. These cases were successfully processed in Police Directorate, made publicly visible and sanctioned by conducting appropriate disciplinary procedures. With this Committee engagement, the three Roma persons that finished secondary school were received on a probation work in Montenegrin police.

A group of Albanians, which are apprehended in a police operation “Eagle’s flight” and were accused for terrorist networking, said through their attorneys, international (Amnesty International) and domestic organizations for human rights protection that because of their national belonging they had been heavily tortured. The State Committee for Civil Control of Police Work confirmed in its report exceeding of competencies, with the rate that there were serious issues related to inhuman behavior. The report is submitted to the Supreme State Prosecutor that initiated an adequate investigation that is now on-going.

Article 7

The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.

Corpus of rights encompassed in this Article of the Framework Convention belongs to a set of elementary human rights and freedoms that are guaranteed for all the citizens of Montenegro, and so also for representatives of minorities.

The Constitution guarantees the freedom of assembly and other kind of peaceful gathering, without necessary approval, though any kind of gathering needs to be previously reported at the relevant state authority. There is a restrictive measure in having freedom of gathering and those are temporary limitations in cases of prevention of jeopardizing health people moral or because of their personal safety and property protection.

The Constitution (Article 40) guarantees the freedom of political, syndicate or other type of association and performance, without necessary approval. Pursuant to positively legal regulative it is necessary to register all these associations at the Ministry of Justice, it being the relevant state authority. If estimated that there is a public benefit, the state provides assistance to political, syndicate or other associations. Financing of political parties is regulated in a special Law on Financing Political Parties and non-governmental and sports organizations are financed from the budget of the Republic of Montenegro, the budget of local self-governances, from foreign donors and other sources of financing.

In accordance with the Constitution and other Laws the freedom of speech and public expression is guaranteed. Citizens are given right to publicly express their thought and publish their attitudes through media. Also the press censorship is prohibited as well as of all the other types of public information. Freedom of speech is limited and sanctioned only if, among other things, it expresses national, race or religious hatred or animosity.

In the legislative the freedom of conscience and religion is guaranteed. Article 34, paragraph 2 of the Constitution guarantees the freedom of thought and of public expression of opinion, the freedom of confession, i.e. public or private creed.

One of the rights exercised by minorities is the right to establish and maintain contacts with the citizens out of Montenegro with whom they have common national and ethnic origin, cultural and historical heritage, as well as common religion or belief (relations with states of origin and compatriots). The minorities' representatives have the right to participate in regional and international non-governmental organizations, as well as to make an appeal to international institutions for the protection of their rights and freedoms.

Law on Minorities Rights and Freedoms defined that minorities and their representatives have the right to establish institutions, clubs, associations and non-governmental organizations in all the fields of social life, all with aim to preserved and further develop their

national and ethnic identities. In accordance with material resources on disposal, the state is obliged to finance these organizations.

Especially given to minorities and defined by Law on Minorities Rights and Freedoms is the possibility to establish minorities' council, as a kind of minorities' self governance, all with aim to improve minorities' freedoms and rights. One minority may have only one council, and a council consists of members according to their functions, those who want to be members and of members elected on electoral assembly. Council's members according to the function may be Members of the Parliament from the minorities' list, Government's members proposed by the representatives of the minorities' list, presidents of municipalities where a minority constitutes a majority of the population, presidents of parliamentary minorities' parties as well as chairmen of parties' clubs of minorities' parties. Basic responsibilities, defined by the Law, are the following: the council represents and advocate a minority, submits proposals to state authorities, local authorities and public services for enhancing and development of minorities' rights; submits the initiative to the President of the Republic not announce the Law that violate the minorities' rights, participates in planning and establishments of education institutions, expresses the opinion on subjects' curriculums that talk about specificities of minorities, proposes the registration of a certain number of students into University of Montenegro, initiate amendments to legal acts that arrange minorities' rights. In order to build mutual trust on issues that are discussed by the state authorities and public services and related to minorities' rights, it is necessary to create build cooperation with minorities' councils. Resources needed for the councils' work are financed from the budget of the Republic of Montenegro.

Parliament of the Republic of Montenegro adopted the Law on Amendment to the Law on Minorities Rights and Freedoms on 12th May, 2007. It was related to the number of council's members since that was an obstacle in formation of this institution. Ministry for Human and Minorities Rights Protection, as the relevant state body, prepared the Regulations and Guidelines for the First Council Election, so that legal assumptions are made for this important institution to link better with the state and to start functioning in Montenegro.

Those who belong to minorities exercise their constitutional and legal rights to free associations based on national principle. The examples of obstructions or obstacles were not recorded, as well as forbidding the minorities' representatives to exercise the right to free associations.

- a) People belonging to Bosniak minority are organized in NGOs and in political parties. Political organizations of Bosniaks, as it is the case with all the other minorities in Montenegro, are various. This minority's representatives are turned to both national political parties (Bosniaks' Party and Bosniaks' Block) and to civil parties, mainly political structures in power.
- b) A political pluralism is very well developed with Albanian minority in Montenegro. They are organized in few national political parties: Democratic League in Montenegro, Democratic Union of Albanians, Albanian Alternative, Forca, and Party of Democratic Prosperity. Besides nationalist parties, Albanian voters also support parties with civil orientation, mainly the ruling ones, DPS and SDP. Certain NGOs

from these places are recognized for their serious approach and a good quality of work, on a national and a wider level.

- c) Muslims in Montenegro are organized in parties with civil orientation, as well as in non-governmental organizations among which the best known is “Matica muslimanska Crne Gore”/Muslim Mother in Montenegro.
- d) People belonging to Croatian minority are organized both on a political and on a non-governmental level, mainly in Boka area, where there are most Croats. Croats are organized in civil parties – “Croatian Civil Initiative” as well as in a nationalist party, the only one with nationalist orientation.
- e) Roma population in Montenegro is not organized in national political parties, though there were certain announcements. Although they vote for civil parties on elections, they are not sufficiently involved in any civil party’s life. Roma NGO sector is well developed and on a national level it functions as a coalition of associations called “Roma Circle”.

Legal framework for establishing and functioning of NGOs is very favorable. According to rates given by the international and national public the Law on NGOs is among the most liberal in Europe. The Law makes it possible to establish two types of NGOs – association and foundation, in an easy and short procedure. It is not possible to form organizations that instigate racial, religious or national hatred or animosity. Ministry of Justice, in its practice, refused to register those associations which statutes contain discriminatory provisions related to minorities.

There are about 4000 NGOs registered in Montenegro, mainly local ones. Representatives of each minority are intensively involved in civil sector’s activities.

Public tenders for financing the work of NGOs are developed on national and local levels, which makes donor’s base much more versatile in Montenegro. However, decision making about tenders has not still been freed from political influence so that quality and goal of a project are not the only criteria for its acceptance. Nevertheless, organizational capacities within NGOs that compete for state and local tenders have not been sufficiently built yet.

In the previous period a significant attention was paid to building capacities of those who work with Roma population. It is very rare an example to have Roma initiative supported on public tenders.

Official authorities and NGOs don’t have data about violation of the right to freedom of peaceful gathering, association, freedom of opinion and expression, belief and creed.

Article 8

The Parties undertake to recognize that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organizations and associations.

Every citizen, as well as the one who expresses his belonging to a minority, is legally guaranteed the right to manifest his or her religion. Also, everyone is made possible not to necessarily pronounce on his/her religion and/or belief. Constitution and the Laws guarantee to minorities the protection, among other things, of their religious identity. With material assistance provided by the state, minorities have the right to establish religious associations. State assistance to religious communities consists of participation in contributions for pension, social and health insurance of pastors (50% of the costs) and in investments in sacred facilities that are protected by the state as monuments with cultural heritage. The state also helps spiritual manifestations and cultural activities in religious communities.

Religion is separated from the state, Montenegro being a secular state. Therefore there is no “official” or “national” religion or church. The Constitution in its Article 11 recognizes Orthodox Church, Islam Religious Community, Catholic Church and other religions. All religions are equal and free execution of their rituals. They all have the same rights and the same legal status. The state is not involved in internal organization and organizations of religious rituals, but all these are under competencies of religious communities and their sole responsibility. The only limitation is to have the internal organization and organizing rituals in accordance with the juridical system.

Free expression of religious beliefs is made possible with legal solutions that allow believers to be absent from work during greatest religious holidays. Law on Religious Holidays anticipates the right to a paid absence during holidays. Members of Orthodox confession are allowed the paid absence on the following days: Pre – Christmas Day (2 days), Christmas (2 days), Great Friday, Easter Day (the second day) and Patron Saint Day; members of Catholic confession are allowed the paid absence on the following days: Pre – Christmas Day (1 day), Christmas (2 days), Great Friday, Easter Day (the second day) and All Saints Day; Muslims are allowed the paid absence on the following days: Ramadan Bajram (three days) and Curban Bajram (three days); Jews are allowed the paid absence on the following days: Pasha (two days) and Jom Kippur (two days). This law determines offending responsibility that shall be fined for a responsible person in a firm, institution, other legal entity, state body or an entrepreneur that does not provide the paid absence for an employee during the period of religious holidays.

Pursuant to the Law on Legal Status of Religious Communities, establishments of religious institutions and organizations, i.e. religious communities are free, with the obligation of reporting the establishment or cease of functioning to a relevant authority responsible for internal affairs at a municipal territory, where the newly founded or disestablished religious community’s seat is. The Law explicitly forbids misuse of religious communities and their institutions as well as religious activities, i.e. use of religious feelings into political purposes.

Also the Law forbids hindering or disturbing religious rituals and religious affairs, i.e. expression of religious feelings. For disrespect of these provisions of the Law, as well as of others, the punishment measures are anticipated. Given the guaranteed freedom of religion it is forbidden to make somebody a member of a confession forcedly, as well as to make somebody participate in rituals in the same manner.

Persons placed in health and social care institutions have the right to manifest her/his religion, within the limits of institutions' order. At their personal request, these persons may be visited by a clergyman for performing religious rituals.

Persons serving sentences have the right to lead religious life. Representatives of national minorities are rarely said about these rights due non –existing atmosphere of support and tolerance. In the earlier period NGOs and researchers in violation of human rights recorded examples of prisons' authorities not taking care about requests coming from the representatives of national minorities related to e.g. food, justifying such behavior with a small number of those belonging to national minorities and with reasons of “technical and objective character”.

In the scope of their work, religious communities have the right to establish religious schools and dormitories for attendees of these schools. These schools are out educational system of the Republic of Montenegro, because they are directly managed by the religious communities. They define the curriculum and teaching plan, as well as election of teaching personnel. Every religious community uses this right and possibility and they organize teaching about religion in their facilities. Also, religious communities are left with a possibility to publish and distribute religious papers within the scope of their activities. Religious communities use this right, so there are internal publications from all the religious communities in Montenegro.

Members of Islam Confession, in certain places, have the problem of burial of their belated. Local communal companies that manage cemeteries do not respect religious differences and customs for burials, so that members of Islam Confession are forced to bury their belated out of their permanent settlements. Some places do not offer adequate conditions for religious life. Local authorities ignore request for construction or opening of Islamic religious facility or premises where religion may be practiced.

Institutional lack of organized communication and cooperation with religious communities is obvious. Earlier Department for Religions within the Government of the republic of Montenegro ceased to work and the work of the existing Government Commission for the relations with religious communities is not efficient.

Article 9

- 1. The Parties undertake to recognize that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems that persons belonging to a national minority are not discriminated against in their access to the media.**
- 2. Paragraph 1 shall not prevent Parties from requiring licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.**
- 3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provision of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.**
- 4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.**

Paragraph 1

Freedom of expression and information is basic element of the protection of true democracy and human rights respect, guaranteed by international acts and contained in the Constitution of the Republic of Montenegro. Article 35 of the Constitution of the Republic of Montenegro guarantees the freedom of press and types of public information. Citizens have the right to express and hold their opinions in public media. Newspapers and other types of media are accessible to all, without approval, of course with registering with a relevant authority.

Constitution of the Republic of Montenegro in chapter 5 defines specific rights for persons belonging to national and ethnic minorities, and Article 68 determines that “persons belonging to national and ethnic groups have the right to use their languages and scripts, right to education and right to receive information on their languages”. Article 37 of the Constitution hinders the censorship’s use in printed media and other media types. Preventing distribution of printed media and other types of media can be allowed only if a court brings a decision with which it is shown that they invite on violent destruction of the constitution.

A series of law on medias (Law on Media, Law on Broadcasting and Law on Public Broadcasting Services “Radio Montenegro” and “Television of Montenegro”) regulates the field of informing in accordance with the Constitution and according to the standards contained in international act on human rights and freedoms (OUN, OSCE, Council of Europe, EU). A set of these Laws is adjusted to international standards and in Montenegro in

the scope of basic human right to information it emphasizes the needs of persons belonging to national and ethnic minorities for receiving and imparting information on their languages.

Article 3 of the Law on Media defines that the Republic shall ensure a part of financial resources for exercising the right to information, without discrimination, guaranteed by the Constitution. In order to have citizens exercising these rights, the Republic directs financial resources for program contents in Albanian and languages of other national and ethnic groups.

Law on Broadcasting anticipates that “emitters of public broadcasting services should produce and emit programs applicable for the segments of the society as children and youngsters, national and ethnic minorities...produce and emit the programs that express cultural identity of national and ethnic groups, produce and emit programs on mother tongue of national and ethnic groups on the territories where they live...”(article 95, paragraphs 3, 5 and 6).

Law on Public Broadcasting services Radio Montenegro and Television Montenegro is regulating the status of republic public broadcasting services which basic activities are production and emitting radio and TV programs that are of significance for citizens of the Republic, respecting professional standards and program rules adopted by the MRT Council.

MRT Council, in the scope of its competencies, appoints and acquits Commission for Program Contents in Albanian and in Languages of Other National and Ethnic Groups. Commission is responsible for the respect of program principles and creation of programs` contents beneficial for national and ethnic groups and it provides approval for the contract between MRTC and the administration authority responsible for public information affairs for allocation of resources from the budget of the Republic for the production of program contents (Article 15, paragraph 8, 13).

Units in local authorities have legal obligation in regards to ensuring resources for exercising the rights to receiving information on languages of minorities in local public broadcasting services (Article 100 of the Law on Broadcasting). Programs` curriculums devoted to minorities are not sufficiently developed with local services. Remarks given by civil sector representatives and by some Government`s bodies show the necessity of revision of criteria for resources` allocation from radio and TV subscription (out of which a complete private and public medias in Montenegro are partly financed) and in that way stimulate emitters to produce program especially devoted to persons belonging to minorities and promote gender equality.

It should be pointed out that with adopting the Law on Minorities Rights and Freedoms, media which founder is the Republic, have the obligation to broadcast informative, cultural, educational, scientific and other programs on languages of minorities for an appropriate number of hours, as well as to broadcast shows related to way of life, tradition and culture of minorities. It will additionally improve not only representation in percentage in overall radio and television production, but it will provide versatility in content and genre.

Certain parts of Montenegro have possibility to access to radio and television broadcasting from the surrounding countries. Also, printed media are accessible. More than 65 daily newspapers from Serbia, more than 15 daily newspapers from Bosnia and Herzegovina and 2 magazines from Croatia are accessible on free market in Montenegro. Satellite providers offer at least 2 broadcasting services' programs from Croatia, 2 from Bosnia and Herzegovina, 4 from Serbia and 1 for each Slovenia and Macedonia.

Paragraph 2

The Law on Broadcasting defines the field of broadcasting based on the following principles: freedom, professionalism and independence of electronic media and their balanced development; prohibition of any kind of censorship or illegal interventions in electronic media work; balanced development of public and commercial broadcasting services; rational and efficient use of telecommunication infrastructure for broadcasting needs; strengthening of competitiveness and pluralism in broadcasting field; applying international standards and principles related to broadcasting field; objectivity; non-discrimination and transparency of procedure of issuing licenses for broadcasting services.

Procedure of license's issuance is defined in Article 37 of the Law on Broadcasting. Pursuant to this Article, Broadcasting Agency issues a license for broadcasting and emission of broadcasting signals based on public tender that, among all other things, need to contain a fulfillment of the condition of "non-discriminatory, objective and measurable decision criteria (curriculum structure, percentage of population in a targeted zone where a good quality transmission of broadcasting needs to be ensured, representation of curriculum contents on languages of minorities etc). There is no case of unjustifiable refusal of a request for getting broadcasting frequency or any kind of pressure on the work of broadcasting and other media in Montenegro.

Paragraph 3

a) Printed Media

In Montenegro, in the scope of informing persons belonging to national minorities through printed media, a biggest number of printed media is published in Albanian language, but there are also other languages represented - Croatian language ("Hrvatski glasnik"), Romany language ("Informativni centar) and Bosniak language ('Bosniak novine). Publishing of printed media is often conditioned by economic state so that dynamic of printed media edition is variable though they are assisted in a certain degree by the state. "Koha javore" is a printed media in Albanian language published by "Pobjeda" once a month on 10000 copies, and is regularly co- financed by the Ministry of Culture, Sport and Media. The magazine addresses issues in areas of culture, education and science. It has the internet edition and so it is accessible to Albanians in Diaspora. Other printed media in Albanian language are published mainly by NGOs, with different dynamics of editions (Kronika, Lemba, Dija, Malesija, Gjon Don Bjuzuku...).

b) Radio

Radio of Montenegro, pursuant to the Law, according to routine scheme, is broadcasting programming in Albanian language. Those are exclusively informative broadcasts prepared and realized by the ²⁴Editorial Office in Albanian language. Two daily programming are broadcasted daily: morning brief news in Albanian language (Monday till Friday) lasting 10 to 15 minutes and one daily news in Albanian language in the afternoon. Every Saturday, the informative-music show named “Na kraju nedelje” is being broadcasted, too. Broadcasts address actual daily information about events from the country and from the world, as well as from the areas in Montenegro where Albanians live and from the surrounding areas.

Pursuant to the Law, local public services are obliged to broadcast information in Albanian language and in languages of other national and ethnic minorities. Currently, only Radio Bar has such broadcasts.

Radio Ulcinj has not been transformed into public service yet, but it is broadcasting programming in two languages.

As a contribution to informing in Albanian language, there are in Montenegro private, commercial radio stations that are broadcasting in Albanian also, like radio stations: “Mir” in Tuzi, “Elita” in Ulcinj and “Glas Plava” in Plav.

Every year, Ministry of Culture, Sport and Media announces a tender for co-financing programs and projects in the area of media in order to stimulate production and publishing of contents that are, above all, related to promotion and affirmation of tolerance and culture of dialogue, culture and art, exercising the right to information etc. The project of Radio “Elita” from Ulcinj has been co-financed for two years. Ministry also financially assisted Radio “Elita” in organizing Radio Festival “Multi-culture and diversity”.

Informing Roma population in Montenegro has been realized through broadcasts produced in the republic public broadcasting service. Radio Montenegro is broadcasting 24 shows a year intended for Roma population, lasting 20 minutes and in two languages. Those broadcasts are devoted to integration of Roma in Montenegro. They are prepared by persons of Roma belonging that finished school for journalist in the Institute for Media. Until recently three Roma journalists were employed and currently one journalist of Roma national belonging is employed on an honorary basis.

²⁴ Radio program in Albanian language is prepared by the Editorial Staff consisting of 8 employees: 7 journalists, 2 correspondents and an announcer. All have university education, except one with high education.

It is very difficult to find journalists in Roma population with university degree, and according to internal criteria that is one of the conditions. As a contribution to improvement in informing in Romany language, Radio Antena M is broadcasting a regular weekly show named “Romi govore – O Roma vakeren”. This broadcast is prepared and realized by the NGO Democratic Roma Centre, with a support of the Ministry of Culture, Sport and Media and international organizations.

c) television broadcasts

On the 1st channel , regularly on working days Television Montenegro, according to its consistent scheme, in the scope of the Editorial Office in Albanian language²⁵, prepares and broadcasts informative programming Lajmet (News) lasting 15 minutes. The broadcast gives actual daily information on events in the country and in the world, as well as from the area where Albanians live, in the country and in the surroundings.

Also on the same channel, every Saturday, one hour info-music programming “Mozaiku 60” is being broadcasted, even through satellite. Given that television Montenegro does not have special programming in Albanian, “Mozaiku 60” is a type of collage broadcast where there are different stories from different areas being broadcasted: education, culture, tourism, agriculture, ecology and also music videos that make this programming complete. Contribution to providing information by TV is also given by private television companies – TV Teuta from Ulcinj and TV Boin from Tuzi – which projects have been co- financed by the Ministry, this year too.

Providing information for Roma population through the public service Television Montenegro is realized through documentary called “The Voice of Roma”, lasting 45 minutes. In 2006 there were 14 such documentaries broadcasted lasting 30 minutes each. Satellite channel takes over this documentary. In 2007 two programming for Roma population have been broadcasted, and they are edited by two journalists. They last 30 minutes each.

Taking into account that the Government of Montenegro has adopted the Action Plan for implementation of “ The Decade for Roma Integration 2005-2015” and given the significance of duly informing the public and especially Roma population with the overall project and its concrete activities, the Ministry of Culture, Sports and Media is responsible for media presentation.

General remark given by the NGO sector was that the journalists belonging to national minorities were excluded from preparation of other types of programming (educational, documentary etc.) and so that their editorial offices were isolated. Also, it was indicate that there was no translation-titles in broadcasts in Albanian language.

25. Realization of the TV program in Albanian is under care of the Editorial Office where there are 8 permanently employed, out of who 6 are journalists and a program editor. There are part time employees, a journalist, a speaker, an organizer and a dactylographer. Also associates journalists from Ostros, Plav, Rozaje, Pristina and Skopje are engaged.

Paragraph 4

Taking in to account that media can provide a positive contribution in the fight against intolerance, especially when cherishing the culture of understanding among different ethic, cultural and religious groups in a society aiming to prevent the hatred speech and to strengthen tolerance and understanding, in media “it is forbidden to give information or

opinion that instigate discrimination, hatred or violence against persons or a group of persons because of their belonging or not-belonging to certain race, nation, ethnic group, gender or sexual choice” (Article 23 of the Law on Media) ²⁶. Media also have an important role in promoting pluralism of idea and opinions that is emphasized in remarks in previous paragraphs of this Article.

Article 10

1. The Parties undertake to recognize that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavor to ensure, as far as possible, the conditions which would make it possible to use minority language in relations between those persons and administrative authorities.
3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of and interpreter.

With ratification of European Charter on Regional and/or Minority Languages, Montenegro has accepted, Albanian and Romany as minority languages. Requests submitted by the Ministry for Human and Minorities Rights Protection as well as by certain NGOs were that Croatian and Bosniak languages should be regarded the minority languages, too. With the explanation that those were similar languages (almost identical) this request was refused.

Paragraph 2

In local authorities` units where representatives of minority constitute a majority or a significant part of the overall population, according to the last census, their language is officially used, too. Official use of a language implies use of language in administrative and court procedures, when issuing public documents and in official records, on a ballot or in some other election material as well as in the work of the representative bodies.

Last year the proceeding was sued against a journalist of a daily newspaper because of the article where racial and national hatred and impatience were provoked.

In the Republic of Montenegro there are clear and visible indicators of exercising the right of representatives of Albanian minority to use their language and script officially. In the administrative procedure that is conducted in the official language, representative of Albanian minority are allowed to follow the administrative procedure with the assistance of an interpreter and if wanted, to get the settlement translated in Albanian language, in the municipalities where the Albanians are majority or they make a significant part of a population. This is related to the following municipalities: Ulcinj, Podgorica, Plav and

capital's municipality Tuzi. Besides that, representatives of Albanian minority are allowed to submit the documentation connected with the administrative procedure to relevant local authorities on their language, but they haven't exercised that right yet. Issuing of documents in aforementioned municipalities is done in Albanian also if parties ask for that.

In local communities' assemblies, on the occasion of discussing law acts and other documents, it is allowed to use Albanian just like in the case of the Parliament's working committees. Drafts of the law acts adopted by the Parliament are published in Albanian, while publishing of general acts is done in the Capital's Municipality Tuzi and partly in the Municipality of Ulcinj.

Article 15 of the Law on General Administrative Procedure defines the following:

1. The authority conducting a procedure is conducting it in language defined as the official language in the Republic of Montenegro, and the script in Cyrillic or in Latin is equal in their use. In the municipalities where minorities constitute a majority or a significant part of the overall population, their language and script are also in official use, according to the Constitution and a special Law.
2. If the procedure is not conducted in a language of a party i.e., other participants in the proceeding that are citizens of the Republic of Montenegro and Republic of Serbia, they will be provided with an interpreter's assistance during the proceeding, and they will be submitted the invitations and other documents translated in their language.
3. Parties and other participants in a proceeding that are not citizens of Republic of Montenegro and the Republic of Serbia, have the right to use an interpreter's assistance and to use his/her language in the proceeding.

Article 15 of the Statute of the Capital defines that in the Capital's assembly and that in the assembly of the Capital's municipality, apart from official language use, a councilor belonging to a national minority will be allowed to use his/her language as the official, pursuant to the Law. Article 16 of the Statute defines that administrative bodies of the Capital are obliged to allow to a person belonging to a national minority use of his/her language and script in an administrative procedure, when issuing public documents and in public records' maintenance, pursuant to the Law and that the Capital's municipality Tuzi the official language is also the Albanian language. Further on, Article 17 defines that drafts of the acts are given to public on public discussions in official and in language of a minority and in accordance to the Law above mentioned public discussion to be held in language of a minority. Further on Article 18 of the Statute defines that the general acts adopted by the local self-governance authorities in the Capital and in the Capital's municipality should be written and published in the official and in the language of the minority, pursuant to the Law.

Article 9 with its statutory decision brought by the Capital's municipality Tuzi, defines that in local authorities of the Capital's municipality Tuzi the official language is also Albanian language. Local authorities of the Capital's municipality Tuzi are obliged to ensure use of Albanian language and script, when issuing public documents and in public records' maintenance, pursuant to the Law (Article 10); that on the sessions of the assembly of the Capital's municipality Tuzi Albanian language should be used ad that drafts of the acts

should be given on public discussion in the official as well as in Albanian and conduct the discussion in Albanian language, too (Article 11). Article 12 defines the general acts adopted by the local units in the Capital's municipality are written and published in the official and in Albanian languages.

Rules of Procedures of the Capital's municipality Tuzi in Article 3 defines the following: on the session of the assembly, Albanian language is used, too; the Capital administration is obliged to ensure an interpreter for both languages and to ensure that every councilor has the right to speak his/her language and to use his/her script. Article 4 defines the right to have general law acts adopted by the assembly, to be written and published in the official and in Albanian.

Paragraph 2, article 9 of the Statute of the Municipality of Ulcinj defines the right of representatives of peoples, national and ethnic groups to use their language and script, to go to school and to get information in their language as well as to accent their symbols and national flags, the symbols in their language and accenting the symbols and national flag being something with which they express their national, ethnic and cultural belonging. Further on, Article 10 of the Statute defines that languages and scripts of all people, national and ethnic groups in the Republic of Montenegro are equal. In the Municipality of Ulcinj Serbian language of "ieakavian" dialect and Albanian language are officially used. Cyrillic and Latin in Serbian are equal and the equality of Serbian and Albanian languages and scripts are ensured in public life, i.e. procedures before state bodies, in public institutions, schools, companies and in all facilities with public obligations and in all types of public life like : community meetings, meetings, labels, firms, advertisements etc.²⁷

27. Paragraph, Article 18 of the Draft of the Statute of the Ulcinj Municipality guarantees the right and freedom of use the language and the script to representative of peoples, national and ethnic groups living in the Municipality. Article 19 defines Montenegrin as the official language in the Municipality, i.e. Serbian of "iekavian" dialect with its Latin and Cyrillic script and Albanian language and script and that Montenegrin i.e. Serbian and Albanian languages are equal in their use. Official use of languages of persons belonging to national minorities especially implies use of a language in administrative and court procedures, when issuing public and personal documents, in maintenance of public records, on a ballot and other material for elections as well as in the work of representative bodies. Names of state bodies, and of public services, name of the local self-governance unit and administration bodies, names of settlements, squares, streets, institutions, companies, and businesses are written in Montenegrin, Serbian and Albanian languages. Equality of Montenegrin, Serbian and Albanian languages and scripts in public life are ensured in procedures in public institutions, schools, enterprises and in all public services and services impacting public life.

Article 155 of the Rules of procedures of the Ulcinj Municipality's Assembly defines that the assembly, its organs and working bodies use the language pursuant to the Statute; that every councilor has the right to speak the language of a nation he/she belongs to, at sessions of the assembly as well as on meetings of the working groups; that every councilor in the assembly has the right to submit to the assembly and its working bodies written proposals, amendments and other documents in the language and in the script of a nation he/she belongs to; to have all the documents written in languages of other nations, except Serbian and Albanian, translated into Serbian and Albanian and that every councilor has the right to receive invitations, minutes and any material in Albanian language.

Article 7 of the Statute of the municipality of Plav defines that in local authorities the official languages are also Albanian and Bosnian (Bosniak) languages and scripts and that councilors belonging to a national minority, in the municipality assembly, are allowed to speak their language as well as to write in their language pursuant to the Law. Local authorities in the Plav municipality have as official languages Albanian and Bosnian languages too. They are obliged to ensure use of Albanian and Bosnian languages and scripts in administrative procedures, when issuing public documents and in public records' maintenance, in all the documents related to election right, expression, maintenance, cherishing, developing and public expression of national, ethnic, cultural and religious specificities, pursuant to the Law. Names of a municipality, settlement, squares, streets, public institutions and places are written in Bosnian and Albanian scripts. On the sessions of the assembly of the Plav municipality, Albanian and Bosnian languages should be used and drafts of the acts should be given on public discussion in the official as well as in Albanian and Bosnian languages and discussions to be conducted in Albanian and Bosnian languages, too (Article 9). The general acts adopted by local bodies in the municipality are written and published in the official and in Albanian and Bosnian languages.

Rules of Procedure of the Assembly of the Municipality of Plav defines the rights of every councilor to speak his/her language at the assembly's session and to have his/her speech translated into Serbian (Article 139); a councilor has the right to submit written proposals, amendments and other documents in a language of a nation he/she belongs to (Article 140) and to have the documents received that are in Serbian, translated into the language of national belonging i.e. Albanian at his/her request (Article 141).

Paragraph 3

The Constitution of the Republic of Montenegro contains the provision according to which a person apprehended, has to be informed immediately in his/her language or in language he/she understands about reasons of the duress.

The right of a person belonging to a national minority to be informed about reasons of duress, reasons for the case against him/her as well as the right to defend him/her in the proceeding, in the language he/she understands is more closely defined in the Law on Criminal Procedure. Article 7 of the Law defines use of a language and a script in

criminal proceeding. Paragraph 2 of the above mentioned Article defines official use of minorities' languages and scripts on courts that are located in territories where a majority or a significant part of the population are the national minority representatives. Article 8 of the Law defines the right to use their languages in the proceeding by all the parties, witnesses or others and if the proceeding is not conducted in the language then the interpretation has to be ensured of everything said as well as the translation of everything written (proofs in written form). Right to have the interpretation is to be familiar to all persons participating in the proceeding. In the minutes it is necessary to write a note that the information was given. During the proceeding, foreign citizens have the right to convey their material to the court in their languages, pursuant to Article 9.

When the costs are concerned, interpretations in a language that is not officially used, and they ensue from this Law applying then they are not paid by a person who is obliged to pay the costs of criminal proceeding according to this Law, but are paid by a court and from court's resources, pursuant to Article 199 of the Law.

If the attorney of the defendant or a damaged side in a criminal proceeding is not allowed to use his/her own language, the brought court's decision is based on an absolutely important violation of the Law and shall be the reason for verdict's abolition.

Article 7 of the Law on Civil Procedure defines the use of a language in official use with same conditions as they are set out in the Law on Criminal Proceeding, regarding national minorities' representatives, other sides or other participants that do not understand a language in the official use on the court and they have the right to use their own languages or languages they understand, whether directly before the court or in addressing a court in written form. In accordance with Article 99 of the Law, a court is obliged to provide interpretation if the procedure is conducted in a language that is not in the official use for those who do not speak or understand the official language, at their request, whether directly before the court or in addressing a court in written form. Paragraph 2 of the same article defines the obligation on informing those on their right to follow the proceeding on their languages with the interpretations provided, before the court. The given information is noted down in a court's minute.

When the interpretation costs for national minorities' representatives are concerned they shall be paid by the court, pursuant to Article 102 of the Law and in accordance with the Constitution and this Law provisions' applying.

It should be pointed out, that when the proceedings involve representative of Roma population, then those persons are more then often of such material status that they are not able to pay costs of a proceeding so that provisions of the Law on Civil Procedure from Article 166 to Article 171 regarding discharge for proceeding costs' payment, are applied to them.

The Law on Criminal Procedure, the Law on Civil Procedure and the Law on Administrative Procedure do not question validity of legal documents just for writing them in a regional or a minority language, but their validity is estimated in a way anticipated in aforementioned Laws. The outcome of this is that the Charter's provisions

are completely respected. Therefore, there is no legal provision that questions the validity of a document only because of a language use for its writing. On the contrary, the document will be taken as a proof in court or administrative procedure disregarding the language used for its writing, and its validity can be put into questions only for other reasons, i.e. the reasons that are taken into account for documents written in an official language, too.

Article 11

- 1. The Parties undertake to recognize that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.**
- 2. The Parties undertake to recognize that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.**
- 3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavor, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, too display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.**

Paragraph 1

Besides Constitutional provisions that guarantee a free use of language and script to national minorities, Paragraph 3, Article 2 of the Law on Personal Name defines that members of national and ethnic groups can write in their name in a script of their language. Also, the Law on Minority Rights and Freedoms (Article 10) allows to representatives of national minorities the right to freely choose and use their names and surnames and the names of their children, as well as the right to write in those names into master registers and personal documents in their languages and scripts. Apart from this right given to individuals, the Law ensures the right to label and to write in labels in languages and scripts of minorities, minority organizations, associations, institutions and clubs.

Guidelines on maintaining master registers did not allow the possibility of bilingual forms (excerpt about birth from the master register, about deaths, about marriages, citizenship confirmations etc) and that created an obstacle for minorities to adequately use this Law provision. However, a new Proposal of the Law on ID, Article 8, paragraph 2 (that is in the procedure of adoption) defines that data about citizens belonging to other nations or ethnic groups shall be written in to IDs in a language that is officially used, in Latin and in a language of minority that a citizen belongs to, according to special Law or the International Agreement. Proposal on Master Register also anticipates bilingual forms that will then respect the provision from the Law on Personal Name.

In 2005, by his own initiative, the Protector of Human Rights and Freedoms started research on violations of members of Albanian minority rights in Montenegro regarding writing in personal names in master registers and other public documents in their language and script. After conducting the research, the Ombudsman found out that the members of Albanian minority were not allowed to write in their personal names in master registers and in other public documents in their language and script, which was in compliance with national legislative and international law. The Ombudsman also noticed that in Montenegro the right for members of Albanian minority to use their name and surname was not questionable, neither were they forbidden to write them in and their children's name in to master registers or in other public documents in their language and script. It was noticed that when entering names in Albanian language, mistakes are made or incorrect spelling of certain names due to specificities of Albanian language and script. More precisely, when electronically entering Albanian names, there are certain technical problems due to lack of punctuation points and certain letter, which are characteristic for Albanian language. The Ombudsman has created relevant recommendations and submitted them to state and local authorities with aim to allow respect of Law in an adequate manner.

Civil sector remarks are related to the need of creating more favorable opportunities by the Government so that every person, asking that, may regain their original surname and name in public registers and documents, in an easy and in procedure free of charge.

Paragraph 2

In the legal system of Montenegro there are no limitations that forbid the right to members of minorities to display labels on places visible for public or any other information of private character in their language. That right ensues from the Constitutional provisions, with which freedom to use own language and script is guaranteed.

This right is allowed to every citizen, with general limitation that those labels do not contain anti - Constitutional references. Until now there have not been obstacles in exercising this right.

Paragraph 3

Paragraph 4, Article 11 of the Law on Minority Rights and Freedoms anticipates the writing in of the names of public services, local authorities units, settlements, squares, streets, institutions, companies and businesses as well as topographic indication in the language of a minority on territories where that language is in official use.

This legal rights is being exercised in the Municipality of Ulcinj, in the two settlements of the Plav Municipality where a majority are Albanians (Vusanje and Martinici), as well as in the Capital's Municipality Tuzi.

Article 12

- 1. The Parties, shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.**
- 2. In this context the Parties shall *inter alia* provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.**
- 3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.**

These indications from the Framework Convention are contained in a high degree in the Constitution of the Republic of Montenegro that decidedly highlights that the teaching curriculums in the educational institutions (meaning - at all levels of education) should encompass history and culture of national minorities.

Ministry of Education and Science of the Republic of Montenegro has tendencies to establish new reformed system of education that will ensure a better quality education for a bigger number of children. In that context it is of special significance to provide learning mother tongue, history and culture and to guarantee an equal access and right to education for every individual, regardless of gender, social and cultural origin, religion and national belonging.

Curriculums of civil education that are being realized, develop better communication among children and adults, contribute to better understanding and respect of diversities and promote equal rights for everybody.

In new educational curriculums that are done in the scope of the reform of education, in the area of mother tongue, knowledge in society, history, music and art, the contents that represent language, history, music and art of national minorities in Montenegro are built in and integrated in it.

For the realization of educational curriculums in Albanian language that are implemented at primary, secondary and high education level, almost all textbooks for the subjects in mother Albanian language are provided. For the subjects that are done in Albanian because of small circulation, the relevant Council accepted the recommendation given by the Commission for Education of National and Ethnic Groups and approved use of textbooks from the region (Kosovo, Albania).

Respecting multi-cultural principles and ethnic tolerance in Montenegro, new reformed educational curriculums contain significant novelty and that is openness. These amendments allow schools and local communities to propose and arrange 15% to 20% of the teaching curriculum in accordance with their specificities and needs.

Education of other minorities, Bosniaks, Muslims and Croats in Montenegro, is an integral part of the single educational system, and is being realized through the concept of common

curriculums, since the language spoken by all of them is the part of a single language system. Besides integrated curriculums within regular ones, minority communities have additional possibility to propose and arrange about 20% of the overall curriculum, if those are important for their education and they may be separately learnt according to their needs and interests.

Learning mother tongue and other languages, i.e. reading national literature and literature of other nations make possible development of cultural identity of a learner and the feeling of respect and tolerance towards other nations and their cultures. The main motif of learning mother tongue is: INTEGRATION WITHOUT ASSIMILATION!

Significant novelties in the reform of education are also educational curriculums for primary and secondary schools. These curriculums respect historical facts and all the contents containing insulting elements or some national extreme elements are removed.

From the aspect of difference of mother tongues within national minorities in Montenegro, two languages differ: Albanian and Romany.

Education in Albanian Mother Language:

When organized teaching in Albanian is concerned, it can be stated that Montenegro has respected and fulfilled domestic and international standards in regards to organization and conducting teaching in Albanian mother tongue.

In Montenegro, according to the Constitution and the Law, school teaching in Albanian makes a part of the single school system. In places where significant part of population is Albanian national minority Teaching in mother language is organized at the following levels:

- preprimary education
- primary education
- secondary education

Also, in the University of Montenegro studies for teachers in Albanina language are organized. Studies are established according to National Framework Qualification in high education.

- As for preprimary institutions – teaching in Albanian language is organized in the municipalities of Ulcinj and Plav.
- As for primary schools, teaching in Albanian language is organized in five municipalities: Ulcinj, Bar, Podgorica, Plav and Rozaje. During school year 2003/ 04 the teaching classes were attended by 3.458 students or 4.7% of overall students' population in primary schools of Montenegro.
- As for secondary schools, teaching in Albanian language is organized in three municipalities: Ulcinj, Podgorica and Plav. During school year 2003/ 04 the teaching classes were attended by 1.062 students or 3.34% of overall students' population in secondary schools of Montenegro.

It can be stated that education in Albanian mother language was paid adequate attention to and that it represents the part of a single school system.

Education of Roma

Ministry of Education and Science in the scope of its reform of education pays a lot of attention to integration of Roma into formal education system, aiming to ensure a good quality primary education for this population and that way assist their integrations into Montenegrin society.

Regarding Roma national minority and learning Romany mother tongue it can be stated that there are important problems in integration of this population into formal educational system.

Problems in education of Roma are reflected in the following:

- lack of teaching personnel
- Romany language is not standardized and Roma in Montenegro speak very different dialects
- There are no textbooks for conducting teaching in Romany language

According to conducted researches in Montenegro and wider, Roma are the poorest part of the population, and as one of the main reasons for their extreme poverty, according to the research, is high percentage of illiterate people among them (above 50%), which is much more than in domicile population in Montenegro (2.35% of the illiterate, according to the Census from 2003).

In the scope of wider support to education of Roma and moderating poverty in overall population, Ministry of Education and Science has taken a set of necessary measures to increase an number of Roma children in formal educational system and those are:

- in the last two years it allocated textbooks free of charge and writing utensils for all Roma pupils that registered into first grade of the primary school
- with the aim to widely support integration of Roma children into society, in primary schools, the Ministry organized a wide media campaign called “ALL TOGETHER IN SCHOOLS”
- with the aim to ensure material support to Roma children, in all primary schools where there are Roma children, gathering of textbooks, clothes and shoes for Roma pupils was organized. The action was named “ A book and clothes for my friend”
- on the Niksic Faculty, in order to ensure teaching personnel, 6 Roma students were registered for teachers’ studies.
- in primary schools and in kindergartens (Podgorica, Niksic and Berane Municipalities that were part of the project Roma Educational Initiative –REI) Roma assistants were introduced in to teaching process.
- the Ministry established a special data base and monitors a number of students and achievements made by Roma students
- in a number of secondary schools in Montenegro, Roma students were registered according to the principle of affirmative action.

The Ministry of Education and Science, in coordination with the Institute for Education, has trained teaching personnel for school institutions (kindergartens and primary schools) that are now ready to create a favorable environment and conditions for integration and socialization of Roma children. Integration of these children is especially paid attention to by the administrative bodies in school institutions, pedagogic-psychology services as well as services within the Ministry and the Agency.

A significant number of teaching personnel, employed in school institutions where there are Roma attendees, passed the seminars in the scope of the project “FOR PEACE AND TOLERANCE” and “Stet by Step”, which contributed to better understanding of needs of Roma children.

In recent years, thanks to measures taken by the Ministry as well as to assistance provided by international donors, there has come to an increased number of Roma pupils in primary schools in Montenegro. In the last 3 years the number of Roma pupils in primary schools increased annually for about 20% growth rate.

Number of Roma pupils in primary schools:

School year	2001/02	2002/03	2003/04	2004/05	2005/06
No. of Roma pupils	536	826	1006	1169	1236

In January 2004, the Ministry together with the Fund for Open Society and UNICEF, started the project “ROMA EDUCATIONAL INITIATIVE” – RE, which goal is the building of a good and sustainable model for education of Roma children in formal educational system in Montenegro.

A special quality of the project relates to introducing Roma assistants in schools, who cooperate with children’s parents and teaching personnel in order to have Roma children fulfilling their obligations in a good quality way.

In the scope of REI project that has achieved good results in the settlements where it is implemented (Podgorica, Niksic, Berane), there has come to decrease of absence of Roma children and the success achieved at the end of school year is better then before. Number of Roma children in primary schools, in Bar and Niksic Municipalities has increased for bout 40% in the on-going school year.

The goal of REI project is building good and sustainable educational model of Roma children in formal education system.

Problems in education of Roma

- A big number of Roma are refugees from Kosovo and they don’t understand the official language

- (about 5000 Roma are displaced persons)
- lack of adequate clothes and adequate accommodation in Roma families
- weak economic power of the family
- traditional – nomad way of life
- disinterestedness of family for education of their children etc

Planned activities in education of Roma

- Continuation of the media campaign “ All together in school” with the aim to further increase the number of Roma pupils in formal education system
- Allocation of textbooks, clothes and shoes free of charge for Roma pupils
- Continuation of the REI project
- Systematic monitoring of successes of Roma children in schools
- Involvement into activities related to the Action Plan : “Decade of Integration of Roma 2005-2015”
- Realization of the projects related to “Roma Education Fund”

Ministry has been actively involved in the project “Decade of Integration of Roma 2005-2015”. In order to implement the Action Plan of “Decade of Integration of Roma 2005-2015”, the Ministry worked on necessary objectives and indicators that will ensure monitoring of results and measuring of success of Roma integration in to formal education system.

During 2004, Ministry of Education and Science actively participated in development of National Strategy for Solving a Permanent Status of Refugees and Displaced Persons in Montenegro. Development of special project has been planned that will compete for necessary resources that will be provided for the support to the “Decade of Integration of Roma 2005-2015” in the scope of established Roma “Education Fund”. At the beginning of 2007, the Ministry supported the program of scholarships for Roma pupils in secondary schools, as well as for Roma students in the University with financial resources amounting 14,000.00 EUR from the Fund for scholarships for Roma. However this very important program is over dependent upon foreign donations.

Certain affirmative measures for the persons belonging to national minorities exist on the state University. Senate of Universities adopted the Recommendations and invited all the faculties to access affirmative actions when registering students, as far as possible. These measures have been used by the members of Albanian minority and of Roma ethnic community so far.

Article 13

- 1. Within the framework of their education systems, the Parties shall recognize that persons belonging to a national minority have the right to set up and manage their own private educational and training establishments.**
- 2. The exercise of this right shall not entail any financial obligation for the Parties.**

Paragraph 1

Paragraph 1, Article 17 of the Law on Minorities Rights and Freedoms, defines the right for the minorities to have their educational and training establishments.

In school year 2006/07 in Ulcinj the first gymnasium “Drita” with teaching in Albanian language is established and has started working. The gymnasium “Drita” got license from the Ministry of Education and Science and it conducts publicly valid educational curriculum adopted by the relevant General Education Council.

Paragraph 2

Paragraph 2, article 17 of the Law on Minorities Rights and Freedoms defines financing of such an educational establishment as the obligation of its founder. Also, Article 32 of the Law on Minorities Rights and Freedoms allows material and financial assistance from domestic and international organizations, foundations and private entities. If the assistance is provided for minorities associations, institutions, clubs or non-governmental organizations by some international donor that the state may ensure adequate tax, customs and other relieves.

Article 14

- 1. The parties undertake to recognize that every person belonging to a national minority has the right to learn his or her minority language.**
- 2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavor to ensure, as far as possible and within the framework of their education systems, that persons belonging to these national minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.**
- 3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching of this language.**

According to the General Law on Education the teaching and learning in mother tongue for persons belonging to national minorities is provided; “In municipalities inhabited by persons belonging to national minorities traditionally or in substantial numbers the teaching and learning is being conducted in their minorities’ languages.” When teaching and learning is conducted in minorities’ languages it is obligatory to also learn the official language. A school is obliged to offer a student that follow classes in a language that is not his or her

mother tongue adequate assistance in teaching a language in which the teaching process is conducted in that school” (Article 11 of the Law).

Also, Article 13 of the Law on Minorities Rights and Freedoms anticipates the right, for persons belonging to national minorities, to education in their languages and to adequate representation of their languages in generic and vocational education, depending upon the number of students and financial resources in the Republic. These rights are being exercised in special schools and special classes in regular schools, at all educational levels.

Article 14 of the Law on Minorities Rights and Freedoms defines that a class in which a teaching process will be conducted in a language and script of a minority can be formed for less number of students than the number planned to be in an institution, and it can not be less than 50% of the number of students anticipated with regulations in education areas.

According to Paragraph 2, Article 114 of the General Law on Education, in school where teaching process is conducted in a language of a national and ethnic group, pedagogic records are also maintained and printed in a language of a national minority apart from the official language.

According to Paragraph 3, Article 115 of the General Law on Education, in school where teaching process is conducted in a language of a national and ethnic group, public documents are printed and issued in a language of a national minority apart from the official language

According to the Constitutions and the laws of the Republic of Montenegro persons belonging to these national minorities exercise their right to being taught the minority language. This right has not been exercised by persons belonging to Roma population minority in Montenegro, who according to last Census has 2601 representatives that makes 0.5% of the whole population of Montenegro. This right is not possible to ensure for Roma because in Montenegro there are no professional personnel for conducting teaching process in Romany language. Also, Romany language is not standardized and there are no adequate textbooks in this language.

Croatian minority in Montenegro mainly inhabits Boka Kotorska and it got approval from the Ministry of Education and Science for organizing additional classes in Croatian mother language that is being realized. With financial assistance provided by the Croatian “Matica hrvatska” the professor of Croatian language has been found and he delivers courses to students from Tivat and Kotor. Primary school from Tivat provided a classroom for this purpose. This course is not a part of formal education system.

Article 15

The parties shall create conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and public affairs, in particular those affecting them.

Effective participation of persons belonging to national minorities in cultural, social and economic life and public affairs in Montenegro is based on Constitutional and other legal provisions that define Montenegro as democratic, social and ecological state where sovereignty belongs to its citizens, and is based on the rule of law. Article 73 of the Constitution of the Republic of Montenegro clearly guarantees to national minorities the right to be equally represented in public services, state authorities and local authorities units. Similar provisions are contained in the Law on Minority Rights and Freedoms that say that relevant bodies responsible for human resources issues are also responsible for equal representation of minorities in aforementioned spheres, in cooperation with minorities' councils. Provisions of many laws and practical measures taken are instruments for these provisions to be applied in practice. A very important provision is contained in the Law on State Administration that puts the obligation on a person delegating people for jobs of civil servants to take into account an equal representation of minorities in administrative state bodies.

Minorities and persons belonging to national minorities are given the right to participation in decision making processes and decision proposals of state bodies that are of interest for them in exercising minorities rights. This participation consists of the following activities: consultations, public surveys, dialogues and special procedures related to decision directly affecting them. In municipalities inhabited by persons belonging to national minorities or in substantial numbers, local authorities are obliged, in the framework of their plans and programs for active participation of local population in public affairs or in adopting special plans and programs, to create conditions for participation of minorities, in cooperation with their councils, in adopting programs related to development of a municipality, spatial and urban plans, budget and general acts that define rights and obligations of citizens, as well as to arrange the way and procedures of participation of minorities in public affairs and to define the department that will conduct public discussions on those issues and similar.

Given the educational level to be one of the prerequisites for participation of minorities in public life, Montenegro develops international educational, scientific, cultural and technological cooperation with the aim to allow to persons belonging to national minorities studying abroad in their mother tongue. Such acquired diplomas are recognized, according to the Law. Also within the framework of high education system it is possible to ensure cathedra, faculties and institutes functioning to educate teachers and professors in the language of a minority. University of Montenegro, on the proposal of the Minorities Council, can register a certain number of students belonging to national minorities, every year, in accordance with the University Act. The Government of Montenegro with its decision brought on 28th September, 2001 allowed to a certain number of students belonging to national minorities, who fulfills conditions for registering but are not on the list of students to

be registered, to be registered for the studies. This way in recent period many students have been registered.

As one of the most important institutions in the overall system and which according to the Law on Minorities Rights and Freedoms, has the main impact on active participation of persons belonging to national minorities in public life, are minorities councils. During this report's writing legal assumptions are made for these councils' establishments, so that soon their constitutions are to be expected.

Participation of persons belonging to national minorities in political life is guaranteed by the Constitution and other laws provisions about voting right, freedom to association and in election process. Members of minorities older than 18 and that are residents of Montenegro at least 24 months before the Election Day; as do Montenegrins, have active and passive voting rights. Members of national minorities exercise the right to forming political parties. There is only one limitation in the Constitutional provision defining freedom to associations, and that is forbidding the work of political organizations which acting is directed towards violent destruction of the Constitutional order and territorial wholeness of the state, violation of guaranteed human rights and freedoms or instigating racial, national, religious or other type of hatred and animosity. Up to date no political party has been forbidden its work, and it should be mentioned that there was a court proceeding against the Heads of the Party of Democratic Action (the then national Muslim party) but were abolished from further proceedings in 1994.

Law on Minority Rights and Freedoms (Article 24) defined that the election legislative, applying the affirmative action principle, will provide additional number of mandates for Members of the Parliament for national minorities. And that to minorities that make 1% to 5% of the whole population – one mandate for the representative chosen from the election list; and three guaranteed mandates for those minorities that make more than 5% of the whole population. Also Article 24 defines that in local assemblies there should be a representative of a minority that makes 15% of the local population. After People's Party's initiative, this Article was declared non-constitutional, and it is not effective. While adopting the new Constitution, the Ministry for Human and Minority Rights Protection will start up a new initiative for the amendment in the Law on Minority Rights and Freedoms, so to make this Article effective again.

The obligation of the Government of Montenegro, ensuing from Article 7 provisions of the Law on Minority Rights and Freedoms, is to adopt the *Minority Policies Strategy*. The strategy has to define measures for improving living conditions for minorities, as for instance measures for effective participation in cultural, social and economic life and public affairs. In aim to ensure exercising the rights and cherishing national and ethnic specificities of minorities, the Law obliges state authorities to take appropriate and defined measures, in accordance with Minority Policies Strategy. Work on this very important document is on-going, during writing of this Report. The working group responsible for preparation of the document consists of representatives of the Ministry for Human and Minority Rights Protection, representatives of NGOs and eminent experts in this field as well as University professors.

Given a bad situation regarding Roma population integration into Montenegro, the text Roma National Strategy in Montenegro is adjusted to attitudes of Roma NGOs and international organization acting in this field in Montenegro. The process of receiving necessary opinions from Government's units is on going so that the adoption of the Strategy is expected to be soon. In the context of Roma exclusion from the society, the Strategy is the a set of concrete measures and activities for a four year period, and that of legal, political, economic, social, urban-communal, educational, cultural, informative, health and of every other character. Also there are in the Strategy, entities responsible, timescales and financial amount needed, above all from the Government of the Republic of Montenegro, all with the aim to improve the state of Roma population and their better integration in to social life of Montenegro. Although the responsibility of the Government is now primary and deciding, the implementation of the Strategy requires coordinated, joint and synchronized efforts and activities, on financial and every other plan, so that international community, above all CoE, OEBS and EU, together with organized civil sector in Montenegro i.e. different NGOs which mission is human and minorities' rights protection are also expected to be involved. This Strategy aims at above all removing of historical injustices and consequences and inadequate treatment that this population was exposed to, not only in Montenegro but in wider Europe. In that sense adoption of the Strategy represents the first step towards accepting and carrying out of an essentially new policy for Roma in the country of Montenegro and the society as a whole, which should result in qualitative improvement of the state of this group of people and its integrations in current social life.

Ministry for Human and Minority Rights Protection tried twice (1999 and 2003) to gather information on number of employees that belong to national minorities in the state bodies, local bodies as well as in judiciary with aim to show the real picture on applying the aforementioned provision from the Constitution. Both times a main obstacle in getting relevant data was that the ones surveyed had the possibility not define their national belonging. Also, no state or local body keeps the records of employees according to national structure.

Apart from poor and incomplete data, gotten from the answers it could have been seen that the structure of employees in state and local authorities as well as in judiciary, does not suit the national structure of the overall population. Also it was visible that representation of persons belonging to national minorities in many units was reflected through lower educational structure (couriers, security, drivers etc) i.e. they were on less influential positions, while there was a small number of educated people that held some managing positions. In certain state units and organizations, as well as in institutions on local level, which are of great significance for preserving cultural, religious and national identities of minorities, minorities were not represented at all or were represented in an inadequate number.

It could have been noticed, then as it can be noticed now, that the structure of the most important organs in the state – Parliament and Government is relatively satisfactory. In the Parliament of the Republic of Montenegro there 81 MPs. 5 are Albanians (6.17%), 8 are Bosniaks (9.88%), 2 are Croats (2.47%) and 1 is a Muslim (1.23%). Out of five Albanians three are representatives of national parties while the two are members of the coalition DPS-

SDP. Out of eight Bosniaks, 2 are from the national part while six are members of the coalition DPS-SDP. Both MPs from Croatian minority are won their mandates from the DPS-SDP list, but with pre-election agreement that 1 MP should be the representative Croatian Civil Initiative – national party of Croats. MP that is a Muslim won his mandate from the DPS-SDP list. It should be mentioned that the Vice Chairman belongs to Bosniak minority. Within the Government, out of 17 members of the Government, two ministers belong to minorities while 1 is the Montenegrin of Islam confession.

Article 16

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present Convention.

Paragraph 1, article 39 of the law on Minority Rights and Freedoms strictly forbids measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the legal rights and freedoms. It might be said that this provision of the Law presents a step forward than the Convention's one, since while the Framework Conventions gives the word "refrain" in regard to measures and activities which alter the proportions of the population, the Law strictly "forbids" the aforementioned measures and activities.

True, both Framework Convention and the Law analyze proportion of the population in a certain area from the aspect of restricting the rights and freedoms. In legal system of Montenegro there are minorities' rights which exercise is conditioned by the number of persons belonging to national minorities in a certain area (be it the whole territory of Montenegro or be it municipality territory). Such rights are related to the official use of language and script, education/formation of classes with teaching process on language and script of a minority, many refugees, low living standards and unbalanced development of regions in Montenegro.

Article 17

1. **The parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.**
2. **The parties undertake not to interfere with the right of persons belonging to national minorities to participate in the activities of non-governmental organizations, both at the national and international levels.**

Paragraph 1

The spirit of this Article of the Convention is contained in the Article 74, paragraph 1 of the Constitution of the Republic of Montenegro and it gives the right to minorities to “establish and maintain contacts with the citizens out of Montenegro with whom they share common national and ethnic origin, religious identity, but with no damage for Montenegro”. Similar provision is contained in the Law on Minority Rights and Freedoms that guarantees the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with citizens of their mother state and with those whose legal residence is in other states, particularly with those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage. The Law is strictly defining limitations in use of this right only in cases if the right is exercised opposite to the interests of Montenegro. The law has stepped forward than the Framework Convention since while the Convention states to ensure free and peaceful contacts with **persons** in other states, the Law provides the opportunities and contacts with the **states** themselves (since for some minorities surrounding states are their mother states).

Cooperation between persons belonging to national minorities with the surrounding states in Montenegro is being relayed intensively. The interests of Montenegro are good neighboring relations, in particular with the surrounding countries, and Montenegro has dynamic relations with its neighbors. This dynamics is reflected in very good communication on economic, as well as on cultural, scientific and sports plans. After declaration of independence and establishments of diplomatic missions, the cooperation has been even more intensified. Apart from the cooperation on state levels, good connections and relations are established between minorities associations and the state, i.e. people from mother states with the surroundings.

Paragraph 2

Freedom of association and participation in the work of NGOs are guaranteed in positive-legal decrees of Montenegro (see explanations along with Article 7). It should be pointed out that according to Constitutional provisions from Article 44 - every citizen of Montenegro is allowed to participate in regional and international NGOs. The same right is especially emphasized for persons belonging to national minorities (Article 74,

paragraph 2 of the Constitution). This very important provision in regards to minorities has been recognized in the Law on Minority Rights and Freedoms that guarantees to persons belonging to national minorities the right to associate, pursuant to the Law and principles of international law on freedom to association. Paragraph 3, Article 22 of the Law defines the possibility for minorities and their representatives to cooperate with **governmental** and **non-governmental** organizations in the **country** and **abroad**, in order to realize common interests.

Article 18

- 1. The Parties shall endeavor to conclude, where necessary, bilateral and multilateral agreements with other states, in particular neighboring states, in order to ensure the protection of persons belonging to national minorities concerned.**
- 2. Where relevant, the Parties shall take measures to encourage transfrontier cooperation**

Paragraph 1

Republic of Montenegro shall enter negotiations and conclusions of bilateral and multilateral agreements with other states, in particular with the neighboring ones in order to ensure a more complete system of protection of national minorities. After ceasing to exist of the State Union of Serbia and Montenegro, a legal successor of previous agreements became the Republic of Serbia, and Montenegro shall, as soon as possible – and in accordance with its declared priorities related to foreign policies- endeavor to realize a more complete protection of members of national minorities, together with neighboring states and so on its plan for wider integrations into European and Euro-Atlantic structures.

Montenegro has become a member or is in process of becoming a member of many interregional programs and initiatives among which there are: CEI, MARRI, SEECF, JI, BSEC, SECI and ICPDR.

Paragraph 2

In foreign policies plans Montenegro has expressed and shall express its good will for transfrontier cooperation. In all contacts of state authorities and institutions of Montenegro with neighboring countries the significance and interest of mutual cooperation has been emphasized. In earlier period, and especially after regaining its independence, Montenegro has established cooperation with neighboring countries, which is reflected mainly on cultural, sports, science, economic plan etc.

Thanks to activities implemented by the Government, local authorities and especially by the civil sector, persons belonging to national minorities are intensively involved. Intensive

transfrontier contacts are developed in every area. The awareness is raised especially related to efforts on the sustainable development field, environment protection and cultural heritage protection (border area with Albania and Skadar Lake basin).

Cultural transfrontier contacts are provided and the Government stimulates them by taking different measures. (books` fairs, cultural festivals).

Significant support to development of transfrontiers contacts among Montenegro, Croatia and Bosnia and Herzegovina was provided by the East West Institute. In the scope of their multiyear programs, local authorities, the youth, national minorities, entrepreneurs, universities and media are connected and especial attention was paid to facing with the past and overcoming negative inheritances from the past.

Article 19

The Parties undertake to respect and implement the principles enshrined in the present framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular the Convention for the Protection of Human Right and Fundamental Freedoms, in so far as they are relevant to the rights and freedoms flowing from the said principles.

In the legal system of Montenegro there are limitations of human rights and freedoms and those limitations and derogation of certain rights are in accordance with relevant international legal documents. A general basis for limitation off human rights and freedoms is respect of freedoms and rights of others (Article 16, paragrapg2 of the Constitution) and restriction in misuse of the rights and freedoms (Article 16, paragraph 3 of the Constitution). National legislative recognizes other limitations such as: forbidding political organizing in state bodies, forbidding professional employees in the police, judges, judges in Constitutional court and the State Prosecutor to be member of political parties, forbidding of acting of political, syndicate and other organizations if their acting is directed towards violent destruction of Constitutional order or territorial wholeness of Montenegro, violation of guaranteed rights and freedoms or instigation of national, racial, religious or other kind of hatred or animosity, forbidding of community meeting and other peaceful gathering in order to prevent jeopardizing health and morale of people or in order to secure people and their property, restrictions of private property and freedom for doing of business in the emergency periods, immediate war danger or in war times, forbidding of strike for employees in state bodies and for professional employees in police etc. As f or minorities there is a limitation for member of national minorities to establish and maintain contacts with persons out of Montenegro with whom they share the same origin, identity etc, if those contacts are not in the interest of Montenegro and make damage for Montenegro.

