

Country session: Montenegro
Date of session: 18th and 19th of May 2018

Background information

[OHCHR press release](#)

Webcast: [first part](#) and [second part](#)

Audio file (pending)

Reporting

Reporting methodology

Regular reporting procedure

Simplified reporting procedure

Concluding Observations with urgent measures

State report:

| Common core document | |
|------------------------------------|------------------|
| Initial submission | 04 March 2010 |
| Updated document | 30 November 2016 |
| Annexes | 30 November 2016 |

| | CRC | OPAC | OPSC |
|---------------|-------------------------------------|---------------|-------------|
| No. of report | 2 nd and 3 rd | No. of report | - |
| Due date | 01 Oct 2015 | Due date | - |
| Submission | 30 Nov 2016 | Submission | - |

| Written replies | |
|---------------------------------|--------------------|
| Submission | <u>16 Feb 2018</u> |
| Due date | |

| Alternative reports | |
|-------------------------------------|--|
| NGOs | <ul style="list-style-type: none"> • Centre for Children's Right • Child Helpline International • Global Initiative to End All Corporal Punishment of Children • The Global Partnership to end violence against children |
| NHRIs | <ul style="list-style-type: none"> • Network of golden advisors |



- Protector of Human Rights and Freedom of Montenegro

State delegation

The delegation was composed by high level staff, headed by Kemal Purisic, Minister of Labour and Social Welfare accompanied by members of the Permanent Mission in Geneva, Ministry of Human Rights and Minority groups and Ministry of Defence.

Committee's Task Force members

| Name & Last Name | Country |
|--------------------------------------|-------------------|
| Bernard Gastaud (Coordinator) | Montenegro |
| Gehad Madi | Egypt |
| Clarence Nelson | Samoa |
| Olga Khazova | Russia |

Dialogue description

i. Character of the dialogue

The atmosphere of the dialogue was overall cooperative and constructive. As for the discussion it was in depth and very focused.

ii. General assessment made by the Committee

The Committee hoped that the comprehensive law on the rights of the child would be adopted very soon, as well as the law on non-governmental organizations. There was a need to focus on the two Optional Protocols and their previous concluding observations. Montenegro, since the dialogue in 2010, had done a lot, and the Committee would like it to do more

iii. Main issues discussed:

- **Non-discrimination:** The Committee welcomed the improvement in discrimination of vulnerable groups. However, they were worried that children of minority groups still face discrimination on accessing services, questioned about the existence of child-friendly information. improvement in still existing discrimination of vulnerable groups. Concern on free legal aid law.
- **Best interest of the child:** The Committee welcomed the prescription of the best interest of the child in the Constitution of Montenegro, however they have noticed discrepancy in interpreting this principle in practice, where judges would reflect their own visions on what would be the best interest of the child in each case. The delegation replied that they aim to incorporate guidelines on the topic soon.
- The children are informed in school about their rights, as they are part of the school curriculum of civic education, also forming teachers about their rights. They have children parliaments in the schools. In each class of primary education elections are organized. The children of disabilities have the space to say which kind of work they want
- **Right to Participate:** The Committee was concerned that the application of the principle remains on paper, having the impression that neither authorities nor teachers and parents take this principle seriously, which requires a change of mindset. The Committee also made critics to the schools and child parliaments, mentioning that they are restricted only to formality, not stimulating children to express their views or being taken seriously, especially children with disabilities. Finally, the Committee was worried that in the context of the family in judicial and administrative procedures the principle remains absent. The delegation said that in each judicial case they provide “protectors of the child”, which is a mediator to help children to better express their views in a safe environment. They also highlighted the desire of the government to create a system to monitor and evaluate the strategic actions to be taken on the topic.
- **Freedom of association:** the Committee asked the delegation to provide the measures to ensure that children parliament equipped to hear the voices of children.
- **Enactment of policies and laws:** The Committee commended the creation of the *Protector of the Human Rights*, but commented that its mandate is still not explicit. The delegation has replied that the Protector is an ombudsman with 4 assistants, one of them directly mandated to protect children, counting with a communications mechanism where children can directly denounce and ask questions, including when they are from minority groups.
- **Violence against children:** The Committee highlighted with concern that child abuse and domestic violence is still entrenched in cultural life of the Montenegrin society asking the delegation if they could provide details on how to tackle the problem. The Committee was also alarmed to hear about cases of children being returned to their abusers or being put into juvenile facilities. Finally, the Committee was worried with the low numbers of conviction of perpetrators, where they have received information that tribunals faces a backlog of cases of child abuse and sexual violence. The delegation replied by saying that the government intend to do a free helpline for children, financed by the government, supported by a CSO. This will be composed by a space where children can denounce and talk about their concerns. On the topic of corporal punishment, the delegation replied that national law already prohibits the practice and highlighted that they are currently working in a joint campaign with UNICEF so children can understand their rights.

- **Early marriage:** The Committee was worried with recurrent cases of forced marriage especially among certain ethnical groups. The delegation replied saying that the law only allows marriage of girls over 18 years old, acknowledging that there are exceptions where girls can marry at the age of 16, but it must be approved by the court.
- **Institutionalization of children:** The Committee commended the progress of the country in reducing the institutionalizations on children, including the goal of not having child below the age of 3 in orphanages. However, they were worried about the budgeting, support and monitoring mechanisms of foster families after adoption. The delegation mentioned that the process of adoption passes through the center of social work, which assist them after the process is completed.
- **Children with disabilities** The Committee was worried about the rights of children with disabilities to participate. They questioned the delegation if they had disaggregated data on children with disabilities and measures to ensure they live a normal life and to protect and rehabilitate children with disabilities that suffered violence. Finally, the Committee asked about how the country is including children with disabilities in school. The delegation mentioned that children with disabilities receive assistance in kindergarten from a special team of professional to organize a friendly environment in the school. The government is working on guide to participation of persons with disabilities and right to participate in the social life. The Montenegrin law prohibits the discrimination of children with disabilities in school, including participating in all activities.
- **Education:** the committee questioned the delegation about the results of the government's measures to tackle discrimination of Egyptians and Romans in school including whether it existed any complaints mechanisms in schools. **The delegation replied by mentioning** a strategy plan for children in Roman areas, structured to integrate the Roman children, which includes assistance in preschool education and language translation.

Recommendations of the Committee

Coordination: the Committee urges the State party to: Strengthen the role of the Council as the principal institutional coordinating mechanism at the interministerial level; Provide the Council with a clear mandate and sufficient authority to coordinate all activities relating to the implementation of the Convention at cross-sectoral, national, regional and local levels; Provide the Council with the necessary human, technical and financial resources for its effective operation.

Allocation of Resources: Committee urges the State party to strengthen the role of the Council as the principal institutional coordinating mechanism at the interministerial level; Provide the Council with a clear mandate and sufficient authority to coordinate all activities relating to the implementation of the Convention at cross-sectoral, national, regional and local levels and the necessary human, technical and financial resources for its effective operation.

Children with disabilities: the Committee urges the State party to fully assume its primary responsibility to ensure the rights of all children with disabilities, apply a human rights-based approach to disability, and effectively implement legislation providing protection for children with disabilities and undertake awareness-raising campaigns aimed at government officials, the public and families to combat the stigmatization of and prejudice against children with disabilities; Support and facilitate family-based care for children with disabilities, accelerate the deinstitutionalization process and encourage foster care for children who cannot stay with their families; Give priority to inclusive education over the placement of children in specialized institutions and classes, and train and assign specialized teachers and professionals in inclusive classes to provide individual support and all due attention to children with disabilities; Ensure that the mandate of day-care centres is limited to providing community-based care exclusively to children.

Children in street situation: the Committee urges the State party to assess the number of children in street situations, and update studies on the root causes of their situations; Develop a comprehensive strategy to address the root causes of the large number of street children, with the aim of reducing and preventing this phenomenon, including by implementing the recommendations outlined in the *Special Report on Child Begging in Montenegro* prepared by the Protector for Human Rights and Freedom, with the active involvement of children in street situations; Ensure that



support, particularly reintegration with family or placement in alternative care, are provided with full respect for the child's best interests and giving due weight to their autonomous views in accordance with their age and maturity.

Children victims or witness of crime: Committee urges the State party to expeditiously take all measures necessary to implement those recommendations, and in particular to: Provide in domestic legislation an explicit definition of the crime of the sale of children and ensure that it is incorporated into relevant legislation in accordance with articles 2 and 3 of the Optional Protocol; Investigate and prosecute all offences covered by the Optional Protocol; Establish and exercise extraterritorial jurisdiction over all crimes prohibited under the Optional Protocol without applying the criteria of double criminality; Establish mechanisms and procedures to protect the rights of child victims, including Roma, Ashkali and Egyptian children and asylum-seeking and refugee children, and ensure that child victims are treated as victims rather than offenders by the law enforcement and judicial authorities; Develop and implement programmes aimed at the protection, physical and psychological rehabilitation and social integration of child victims, including through legal and psychological training of professionals who work with victims.

Sustainable Development Goals

- 16.2, on ending, inter alia, all forms of violence against children

Next State report

| CRC | |
|---------------|-------------------------------------|
| No. of report | 4 th and 5 th |
| Due date | 30 Nov 2026 |

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