MONTENEGRO

PROTECTOR OF HUMAN RIGHTS AND FREEDOMS

**ALTERNATIVE REPORT**

**OF PROTECTOR OF HUMAN RIGHTS AND FREEDOMS OF MONTENEGRO**

**CONCERNING**

**THE SECOND AND THIRD PERIODIC REPORTS OF MONTENEGRO**

**ON**

**IMPLEMENTATION OF THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD**

Podgorica, June 2017

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**INTRODUCTION**

Protector of Human Rights and Freedoms of Montenegro (hereinafter referred to as the Ombudsman) is an independent and autonomous institution, established in 2003, which performs tasks related to the ***protection and promotion of children's rights***, among others.

In the period from 01/01/2010 until 01/01/2017 the Ombudsman was working on 684 cases in the field of children's rights (formed by complaints and at its own initiative - ex officio). Observed by years, there is a clear growth trend, which has been more pronounced in recent years, as a consequence of the increasing visibility and role of the Ombudsman in protecting the rights of the child as well as due to challenges in the realization of children’s rights. During the reporting period the Ombudsman gave opinions on proposed laws and initiated amendments to the existing statutory provisions.

Activities conducted also include visits to educational, health care institutions, institutions for care and placement of children and day care centres, checking the conditions of work with children and the conditions of their stay, as well as the quality of implementation of programs and the treatment of children. Educational and promotional workshops in educational institutions and residential institutions for children are regularly conducted.

A significant part of our work was related to continuous and intensive direct work with children, by carrying out activities defined within the campaigns *Address the Ombudsman* and *Children Write to the Ombudsman*, as well as the through the activities of the Golden Advisers’ Network. In order to approach the children and have direct communication with them, the Ombudsman has a special section on its website dedicated to children, as well as a blog through which the children directly address him, file complaints, ask questions, point to problems and give suggestions. In addition to that, a group called *Children Write to the Ombudsman* was opened on Facebook, which enhanced regular and direct communication with children. Also, a section was established within the official website called *Courageous Mailbox*, which is another option for children to address us.

This is the second report submitted by the Ombudsman to the UN Committee on the Rights of the Child, concerning the respect for children's rights in Montenegro, implementation of the Convention and its Protocols and implementation of recommendations of the Committee given to Montenegro in 2010. The report was made based on our knowledge of the status of children's rights, complaints received from children and parents, contacts with children and their opinions, contacts with experts, practitioners and civil society organisations.

This report follows the structure of the State party’s report, which was submitted to the Committee in October 2015. We agree with many statements from State party’s report, and our objections relate to those parts that are not consistent with the knowledge and views of the Ombudsman.

Generally speaking, one can conclude that certain progress has been made in the field of children's rights in Montenegro, as well as in the fulfilment of the recommendations of the Committee, but there are still weaknesses and north-south, village-town differences in the realization of children’s rights: especially the rights of vulnerable categories of children. To that end, the Ombudsman, as an independent and autonomous institution, submits this report regarding the status of children’s rights in Montenegro, with recommendations.

With this report we enclose the report that was developed by children acting as Ombudsman’s golden advisers, and which was created in the consultative process with the support of Save the Children.

Acts of the Ombudsman mentioned in the report (opinions, initiatives, research, annual and special reports) can be found on the website of the institution [www.ombudsman.co.me](http://www.ombudsman.co.me). The terms used in this report in the masculine gender include the same terms in the feminine gender.

**I GENERAL MEASURESOFIMPLEMENTATION**

**(Articles 4, 42 and 44, para. 6 of the Convention)**

**1.1. Legislation**

**(Recommendation of the Committee, para. 6, 2010, State party’s report, paras. 5-7)**

Significant progress has been achieved in the reporting period in terms of harmonization of national legislation with the Convention on the Rights of the Child, but implementation of laws is not satisfactory.

Some uncertainties were also noticed in the implementation of regulations regarding competences and obligations between the national and local levels.

It often happens that laws and bylaws regarding children and their rights create doubts and uncertainties among the practitioners who actually apply them because they are mutually opposed and not harmonised to the extent necessary.

The practice of adopting laws and regulations which include a statement that funds for their implementation are not necessary causes some concern, as it prevents their consistent implementation in practice.

In accordance with competences, the Ombudsman issued its view on the proposed Law Amending the Family Law (2015), view on the Draft Law on Protection of Population from Infectious Diseases (2016) and submitted the initiative to amend the Law on Education of Children with Special Needs (2016).

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| **The Ombudsman recommends:**1. Ensure consistent implementation of adopted laws relating to children, with special emphasis on the provision of sufficient human, technical and financial resources;
2. Conduct an analysis of laws in terms of a clear definition of competences of the national and local levels to ensure their consistent implementation;
3. Ensure that the process of developing laws and regulations includes an assessment of their impact on the realization of children’s rights;
4. Ensure that the process of developing laws and bylaws involves a complete analysis of the necessary human, technical and financial resources, in view of an adequate implementation of statutory provisions;
5. Establish a mechanism for implementation of the Third Optional Protocol to the CRC on a Communications Procedure.
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**1.2. Coordination**

**(Recommendation of the Committee, para. 8, 2010, State party’s report, para. 58)**

According to the Decision of the Government No.06-486/2 of 14 March 2013, the position of advisory bodies has been changed so that instead of being established by the government they are established by the line ministries. Thus the importance and role of the Council for Children's Rights have been reduced. To explain, the decision that the Council as a body is to be established by the minister of labour and social welfare, not by the Montenegrin government, essentially changes the position which this body should have. Inconsistency in the work of the Council is also noticeable.

Also, it can be seen that the structure of the Council provides for the participation of only one child as its member, which does not secure quality participation of children and expression of their views regarding matters that concern them. The model of choosing the child to participate in the work of the Council is also unclear. There is no model of consultations with children on matters that the Council deals with.

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| **The Ombudsman recommends:**1. Reinstate the Council for Children's Rights to its previous position, so as to be an expert advisory body of the Government of MNE, whose views will be taken into consideration and that will actively participate in policy-making related to children as well as in monitoring the implementation of strategic documents in the field of children's rights;
2. Ensure greater participation of children in the work of the Council for the Rights of the Child;
3. Ensure a mechanism that will provide an active and efficient participation of children in the work of the Council;
4. Ensure sufficient human, technical and financial resources so that the Council can carry out its mandate.
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**1.3. National Plan of Action for Children**

**(Recommendation of the Committee, para. 10, 2010, State party’s report, para. 9)**

In June 2013, the Government of Montenegro adopted the 2013-2017 National Plan of Action for Children (NPAC), which governs the country's general policy towards children by identifying the main problems and mechanisms identified to achieve the objectives set in the following areas: civil rights and freedoms, social protection, education, health care, special measures of protection and others.

An efficient and effective mechanism for proper implementation and monitoring of achievements that would serve as a good basis for planning and prioritization of future activities has not been provided.

A number of strategic documents were adopted in the reporting period, related to children to a greater or lesser extent. The mechanism of harmonization of new strategic documents with the priorities set in the NPAC is also unclear.

The biggest issue in the implementation of the adopted NPAC and other strategic documents related to children is insufficient understanding of their essence by the state administration, as well as insufficient matching with the actual funds necessary for their implementation.

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| **The Ombudsman recommends:**1. Provide a mechanism that will allow the adoption of new strategic documents to be aligned with the objectives and priorities defined in the NPAC;
2. Establish a mechanism for regular monitoring and reporting on progress in NPAC’s implementation, which will include a quality analysis and guidelines for improvement;
3. Ensure that progress reports are promoted to make them accessible to the public and generate the interests of various stakeholders with a view to improving the implementation of NPAC and realization of children’s rights in a broad sense;
4. Enhance coordination of activities of relevant entities in the field of planning and monitoring the effects of NPAC’s programme and strategic objectives.
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**1.4. Independent monitoring**

**(Recommendation of the Committee, para. 12, 2010, State party’s report, paras. 10-13)**

The Protector of Human Rights and Freedoms of Montenegro is an independent and autonomous institution which takes, based on the principles of justice and fairness, measures to protect human rights and freedoms guaranteed by the Constitution, law, ratified international treaties on human rights and generally accepted rules of international law when those have been breached by an act, action or inaction of state authorities, state administration bodies, local authorities and local government, public services and other holders of public powers, as well as measures to prevent torture and other forms of inhuman or degrading treatment and punishment and measures for protection against discrimination. The Ombudsman has four deputies. A deputy performs the activities within the competence of the Ombudsman in accordance with the internal distribution of tasks. Specialisation is insured, particularly for: protecting the rights of persons deprived of their liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment, protecting the rights of minorities and other minority national communities, ***protecting and promoting children's rights***, protecting the rights of persons with disabilities, gender equality and protection against discrimination.

The activity is performed in accordance with the Constitution and the Law on the Protector of Human Rights and Freedoms (Official Gazette of Montenegro 42/11, 32/14 and 21/17). Pursuant to the Law, the 2014 Rules of Procedure of the Protector of Human Rights and Freedoms (Official Gazette of Montenegro 32/14) and the Rulebook on the internal organization and job descriptions of the Protector of Human Rights and Freedoms of Montenegro, the Ombudsman has four specialized departments of which one is in charge of ***children's rights, the rights of youth and social welfare***. This department is managed by the Deputy Ombudsman appointed by the Parliament of Montenegro, at the proposal of the Ombudsman, for a period of six years. Activities related to children's rights, the rights of youth and social welfare, in addition to the Deputy Ombudsman, are performed by an additional 4 employees.

The institution adopts the annual work plan for the field of children's rights, rights of youth and social welfare which includes: protection of individual rights and interests of children, comprehensive protection of the rights and interests of children, examination of the manner of providing care of children placed outside their home, promotion of children's rights, inter-institutional and international cooperation. The status of children's rights and concrete results are reported in the annual Report of the Protector of Human Rights and Freedoms of Montenegro (special chapter), which is examined and discussed by the Parliament of Montenegro. Special reports were also drawn up: ***Special report on child begging - "Let's teach them something else" (2011); Report on the sexual exploitation of children (2011); Special report on the status of human rights of mentally ill persons placed in institutions (2011); Abuse of children via the Internet (2013); Report on the results of research on the protection of children from exploitation (2013); and Police treatment of children (2014);*** which were examined and discussed in the Parliament.

The Golden Advisers’ Network was established in 2014 in order to achieve the participation of children in Ombudsman’s work. Children who would act as golden advisers were selected based on a public call. The goal of the Golden Advisers’ Network is to bring together interested children of Montenegro, who will participate in Ombudsman’s work by communicating directly with representatives of the institution and sharing their ideas, proposals, suggestions and views, thus participating in the protection and promotion of children's rights. The network consists of 12 members from different towns aged 11-17. The Golden Advisers’ Network has been active during the year in Ombudsman’s work through regular meetings, intensive work on the internal electronic forum and occasional creative and educational workshops. Topics covered so far by the Ombudsman and Golden Advisers’ Network were related to: health care in Montenegro, activism of children and youth, children's participation and inclusive education, violence against children and among children and the like.

A Facebook group called ***Children Write to the Ombudsman*** was opened and a **blog** was started in order to communicate directly with children. ***Courageous Mailbox***, through which children can also address the Ombudsman anonymously, was opened on the website of the institution.

Ombudsman’s accreditation process with the Global Alliance of National Human Rights Institutions (GANHRI) for the protection of human rights was completed in 2016 – with a status "B" rating.

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| **The Ombudsman recommends:**1. Enable increase in the number of personnel so that the Ombudsman can adequately respond to the challenges in the realization of children’s rights;
2. Increase the budget of the Ombudsman - provide the necessary technical and financial resources in order to conduct the activities laid down in its mandate and plan, with particular emphasis on activities that involve a process of consultation and participation of children in Ombudsman’s work;
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**1.5. Appropriation of funds**

**(Recommendation of the Committee, para. 14, 2010, State party’s report, para. 14)**

Seeing that uniformity in the manner of presenting information about the specific appropriations for children at national and local level has still not been ensured, there are no precise data on the funds allocated for the realization of children’s rights.

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| **The Ombudsman recommends:**1. Align the objectives and measures provided in strategic documents in various areas (health care, social welfare, education, etc.) with the annual plans of the Government, local governments and other direct and indirect budget users, which would be directly reflected in budget planning as well;
2. When budgeting at all levels, ensure adequate funds for the realization of children’s rights and activities planned in strategic documents;
3. When preparing and adopting the budget at all levels ensure consistent implementation of General comment No. 19 on public budgeting for the realization of children’s rights, given by the Committee on the Rights of the Child;
4. When planning funds for the salaries of employees in the public sector, ensure that there is a necessary number of employees in public institutions providing services to children.
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**1.6. Data collection**

**(Recommendation of the Committee, para. 16, 2010, State party’s report, paras. 15-20)**

The competent national authorities were working on establishing individual methodologies of the collection system and databases related to the realization of specific rights of children. There is still no single, harmonized system for comprehensive data collection that would allow their analysis and assessment of the impact of different policies and programs in all areas covered by the Convention and Protocols.

The Statistical Office of Montenegro - MONSTAT, the body responsible for the production of official statistics, does not publish data on the number of children under 18. Instead, it does so only by sex and five-year age groups (0-4, 5-9, 10-14, and 15-19).

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| **The Ombudsman recommends:**1. Improve data collection system in order to ensure comprehensive and coordinated data collection on children, with special emphasis on vulnerable groups of children;
2. When publishing the estimated population data, MONSTAT needs to publish the estimated number of children up to 18 years of age in Montenegro.
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**1.7. Informing and awareness raising**

**(Recommendations of the Committee, para. 18, 2010, State party’s report, paras. 21-24)**

A series of measures and activities were implemented in order to inform and raise public awareness on children's rights by state institutions, NGOs and international organizations. There is no clear coordination between these actors to ensure greater coverage and continuity in the promotion of children's rights. It is noted that it is necessary to systematically define and continuously carry out planned activities on children's rights aimed at children, professional and general public, including special involvement of the media.

In order to inform and raise public awareness the Ombudsman conducts regular activities related to the promotion of children's rights. Thematic conferences, round tables, panel discussions, educational and promotional workshops were organized. During numerous media appearances and public statements we tried to point out to the violation of the rights of children, and we provided guidelines for promotion of children's rights.

Special attention has been paid to informing and awareness raising of children about their rights. The following was done to that end: invitation placed on the institution’s website: ***CHILDREN, if someone violates your rights or the rights of your friends, if you know of injustice or violence against children WRITE TO THE OMBUDSMAN*** (developed and distributed to children in cooperation with NGOs and international donors). A ***comic strip Troubles with Rocky*** on the rights of the child, was also made. It is used as an auxiliary teaching tool for elementary school pupils. Educational and promotional workshops are regularly organised in educational and children’s residential institutions.

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| **The Ombudsman recommends:**1. Create a special action plan with a view to implement objective 1.5 from NPAC: enhance awareness of children, parents, practitioners and the broad community on the rights of the child;
2. Establish a mechanism for coordination of all the actors who are working to promote children's rights in order to provide greater coverage and continuity in the promotion of children's rights;
3. Enhance the program of teacher training for the promotion of children's rights through curricular and extracurricular activities.
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**1.8. Training**

**(Recommendations of the Committee, para. 20, 2010, State party’s report, paras. 25-30)**

Despite the efforts invested by different actors in organising training courses of practitioners, there is still a need to organise general training courses in the field of children's rights as well as specialized training courses for certain professions that work for and with children.

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| **The Ombudsman recommends:**1. Establish a system of accreditation of training programs for practitioners in the field of children's rights, which includes a license to work for and with children;
2. Continuously conduct training courses of practitioners working for and with children.
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**1.9. Cooperation with civil society**

**(Recommendation of the Committee, para. 22, 2010, State party’s report, para. 31)**

Progress is noticeable in cooperation of state institutions and the NGO sector relating to participation in the drafting of laws and strategic documents. Although the method of funding projects implemented by NGOs is governed by law, practice has shown that NGO representatives are not satisfied with the current state of affairs.

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| **The Ombudsman recommends:**1. Further improve cooperation between state authorities and the NGO sector based on the principles of partnership;
2. Conduct an analysis of the previous manner of funding projects and on the basis of indicators received, in consultation with representatives of the NGO sector, revise the current funding model;
3. Establish a quality model for monitoring the implementation of projects and achieved results that receive public funds.
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**II DEFINITION OF THE CHILD**

**(Article 1 of the Convention)**

**(Recommendation of the Committee, para. 24, 2010, State party’s report, para. 32)**

Within the legal system of Montenegro only the Law on Social and Child Protection (Official Gazette of Montenegro 1/17) and the Law on Amendments to the Family Law (Official Gazette of Montenegro 053/16) explicitly define the notion of a child as a person below the age of 18. The Criminal Code of Montenegro (Official Gazette of Montenegro 58/15), Criminal Procedure Code (Official Gazette of Montenegro 2/15), and the Law on the Treatment of Juveniles in Criminal Proceedings (Official Gazette of Montenegro 64/11) contain terms based on differentiation between a number of categories of juveniles and there is a division into those that are held criminally responsible and those who are not held criminally responsible. In fact, a child is deemed to be a person below the age of 14 and who is not criminally responsible. A juvenile is deemed to be a person who has turned 14 and is under 18 years of age, and who is criminally responsible (junior juvenile is a person who is over 14, but under 16 years of age; senior juvenile is a person who has turned the age of 16 but is below 18).

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| **The Ombudsman recommends:**1. Define the concept of a child in laws governing criminal responsibility and procedure in accordance with the Convention.
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**III GENERAL PRINCIPLES**

**(Art. 2, 3, 6 and 12 of the Convention)**

**3.1. Non-discrimination**

**(Recommendation of the Committee, paras. 26 and 27, 2010, State party’s report, paras. 33-43)**

Despite numerous documents adopted prohibiting all direct or indirect discrimination on any basis, and conducted education and public campaigns to combat negative attitudes and discrimination against children, it is still needed to carry out continuous activities.

In cooperation with the NGO sector and with the support of international donors, the Ombudsman made a comic strip on the rights of the child ***Troubles with Rocky and other stories***. In its decision No. 16-6932 of 26/12/2013, the National Council for Education approved the comic strip’s use in primary schools and it is used as an auxiliary teaching tool in elementary schools during civic education classes. The comic strip consists of five episodes designed based on the most common topics about which children from Montenegro wrote to the Ombudsman: discrimination on grounds of disability, social and financial status, peer violence, teacher violence against children and insufficient participation of children. Promotion of non-discrimination is one of Ombudsman’s regular activities.

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| **The Ombudsman recommends:**1. Continue activities to raise public awareness about the specific needs of vulnerable groups of children in order to ensure their full inclusion in society;
2. Develop and implement continuous preventive programs aimed at teaching children about tolerance, non-discrimination and the acceptance of diversity;
3. Implement educational programs for parents and practitioners who work with children in order to prevent discrimination on any grounds.
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**3.2. The best interests of the child**

**(Recommendation of the Committee, para. 29, 2010, State party’s report, para. 44)**

It is evident that progress has been achieved in integrating the concept of the best interests of the child into domestic legislation, but it is noticeable that there is a need to improve the implementation of this principle by bodies and institutions.

Amendments to the Family Law (Official Gazette of Montenegro 053/16) provide that when rendering decisions concerning a child courts shall take into account all the circumstances, and the legitimate interests of all parties, and make sure that the decision rendered contributes to the maximum extent to achieving the best interests of the child. It also stipulates that if the court's decision differs from the view of the child, the reasoning of the decision must include the reasons due to which the child's view was not respected, as well as the reasons due to which the court considers that the child's best interest was of primary importance.

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| **The Ombudsman recommends:**1. Formulate guidelines and elements for establishing the principle of the best interests of the child in individual areas;
2. Continue educating practitioners who take part in proceedings relating to children on the implementation of the principle of the best interests of the child;
3. Conduct continuous training of practitioners on the developmental needs of children which have an impact on the definition of the child's best interests;
4. Develop a program for training judges on the implementation of the principle of the best interests of the child in accordance with the new provisions of the Family Law.
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**3.3. Respect for the views of the child**

**(Recommendation of the Committee, para. 31, 2010, State party’s report, paras. 45-47)**

The principle of respect for the child's views is not implemented sufficiently and adults usually accept it as just a statement. Misuses of this principle are clear.

Amendments to the Family Law (Official Gazette of Montenegro 053/16), stipulate that the court is obliged to allow the child to express his/her view if the child wants to do so. The court will not determine what the child's view is only if expressly justifiable grounds exist not do so, which must be explained in the decision. It also stipulates that the child's view may be presented to the court by a support person or a guardianship authority. Discussing the effects of this standard would be premature at this point in time.

Although the principle of for the views of the child has been incorporated into laws governing education, we are often confronted with the fact that children do not participate in the making of decisions that affect them, and the role of pupils' parliaments is reduced to meeting the obligations of schools.

Inadequate implementation of that principle is of particular concern in after-divorce proceedings deciding which parent the child would live with and how to organise contacts with the parent with whom the child does not live.

There are certain positive examples of inclusion of children in the decision-making process at the local level - local pupils' parliaments which are functioning with the support of the NGO sector, but these examples have not been translated into practice as a rule.

In cooperation with the golden advisers, the Ombudsman organized a conference in 2015 called ***Let Our Voice Be Also Heard***, which was dedicated to the right of the child to participate. On that occasion, children presented the manner in which children's rights are respected in various areas of Montenegro.

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| **The Ombudsman recommends:**1. Provide as an obligation of competent authorities and public institutions in children affecting decision making processes, to ensure the process of consultation with children tailored to the age and maturity of the child;
2. Ensure a consistent implementation of new provisions prescribed in amendments to the Family Law (Official Gazette of Montenegro 053/​16);
3. Actively encourage the work of pupils’ parliaments and ensure control of compliance with conditions for their work, and promote good practice examples;
4. Ensure mechanisms for the participation of children and youth in the local community through further strengthening and linking the existing legal concepts - pupils' parliaments, local children's parliaments and youth offices;
5. Establish clear mechanisms that would allow the children to express their views in proceedings relating to deciding which parent the child would live with after divorce and to the manner of organising contacts with the parent with whom he does not live, through the strengthening of professional support services in courts and better links with social welfare centres.
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**VI CIVIL RIGHTS AND FREEDOMS**

**(Arts. 7, 8, 13-17 and 37(a) of the Convention)**

**4.1. Birth registration**

**(Recommendation of the Committee, para 33, 2010, State party’s report, paras. 48-51)**

Evidently, there is still a number of displaced and internally displaced people from former Yugoslav republics living in Montenegro (around 900 of them) who have not acquired status of a foreigner with permanent residence because of the lack of identity documentation from their country of origin.

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| **The Ombudsman recommends:**1. Continue implementation of activities to ensure that children are registered in birth registries, so as to prevent statelessness.
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**4.2. Torture or other cruel, inhuman or degrading treatment or punishment**

**(Recommendation of the Committee, para 35, 2010, State party’s report, paras. 52-56)**

The Law on Ombudsman (Official Gazette of Montenegro 42/11, 32/14 and 21/17) sets out that the Ombudsman also constitutes national mechanism for the prevention of torture and other forms of inhuman and degrading treatment and punishment (National Prevention Mechanism – NPM). In that capacity, regular visits are made to the institutions accommodating children who have violated the law and other institutions accommodating children covered by this surveillance mechanism (e.g. psychiatric institutions etc.). Annual NPM reports also include reports on visits made to the juvenile prison, as well as to the correctional homes and community-based correctional facilities in which situation is analysed and recommendations are given to the competent authorities so that they could make improvements.

Juvenile imprisonment sentence and the sanction involving referral to the correctional institution are executed at the Institute for Enforcement of Criminal Sanctions (IECS) in which special units have been set up.

Public Institution: Centre “Ljubović” is the only community-based correctional facility for social and child protection in Montenegro which provides institutionalised care for the children who have violated with law. The Centre cares for, educates and trains children and youth who have violated the law, as well as the children and youth with behavioural disorders of both sexes, nationals of Montenegro and foreign nationals. During regular visits, the NPM team stated that accommodation conditions are at an enviable level. Recommendations were given to draw up the rules of conduct and provide a time-out room – for short therapeutic isolation of minors, so as to ensure that the minor does not hurt himself/herself or others when in the state of uncontrolled emotion or in the state of intense agitation.

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| **The Ombudsman recommends:**1. Strengthen staff potential in the institutions dealing with these issues, by organising continuous educational activities for them;
2. Continue improvement of the conditions in places accommodating minors who have violated the law.
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**4.3. Corporal punishment**

**(Recommendation of the Committee, paras. 37 and 38, 2010, State party’s report, paras. 57-62)**

The Law amending Family Law (Official Gazette of Montenegro 053/​16) explicitly sets out that a child must not be subjected to corporal punishment nor to any other cruel, inhuman or degrading treatment. The prohibition applies to parents, guardians and any other persons taking care of the child or being in contact with him/her. The Law does not specify sanctions that could be enforced in the cases of corporal punishment.

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| **The Ombudsman recommends:**1. Ensure consistent application of the provisions of the Law which set out prohibition of corporal punishment;
2. Draw up strategy for the promotion of positive parenting, as well as support programmes for parents, guardians and any other persons taking care of the child or being in contact with him/her, and for children as well;
3. Undertake campaigns for active involvement of children and media, placing strong emphasis on negative effects of corporal punishment of children.
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**V FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

**(Arts. 5, 9–11, 18, paras. 1 and 2, 20, 21, 25 and 27, para 4 of the Convention)**

**5.1. Family environment**

**(Recommendation of the Committee, para 40, 2010, State party’s report, para 63)**

Even though the Law on Social and Child Protection (Official Gazette of Montenegro 001/17) brings new solutions for the development of services, the system of licensing service providers has not been established yet, which is why we can say this area is still insufficiently developed.

There is still a lack of services that would provide counselling and support to the parents and children regarding issues such as parental care, relations within the family and difficulties faced by parents and children in upbringing. It is worthwhile noting that, in parallel with development of services, it is also necessary to establish the system of professional supervision of service providers so as to ensure that interests of the children are protected.

The notion of joint custody has not been promoted by professionals to the satisfactory extent. There are evident problems related to the stay of the child with the parent he/she does not live with after the family community dissolved. A significant number of children is exposed to manipulative forms of parent behaviour, which result in alienation of the child from the parents and development of a number of emotional difficulties in the child, which is a reason for concern.

Amendments to the Family Law (Official Gazette of Montenegro 053/​16) introduced the concept entitled – support giver, whom the court may assign for the child if it deems it necessary due to intensity of conflict between the child and the parent, or between the parents, as follows: to the child below 14 years of age without his/her consent, to the child older than 14 years of age with his/her consent. It is still too early to discuss the effects of this concept.

The number of professionals at the Social Welfare Centres is not satisfactory and their competences should be continuously strengthened so that they could properly respond to the increasingly complex demands and apply new solutions introduced by the law. For that reason, it is necessary to develop and ensure consistent supervision and professional oversight.

The Law on Social and Child Protection also prescribes financial support for socially disadvantaged families – family allowance which currently amounts to: for an individual EUR 65.86; for two-member family EUR 79.09; for three-member family EUR 94.92; for four-member family EUR 112.07; for families with five or more members EUR 125.20; for a person who was the child without parental care EUR 125.20.Beneficiaries of the family allowance may also exercise the right to children’ s allowance which amounts to: for the child of the beneficiary of financial support EUR 19.74; for the child of the beneficiary of the care and assistance allowance EUR 26.56; for the child of the beneficiary of personal disability allowance EUR 32.98; for the child without parental care EUR 32.98; for the child whose parent, adoptive parent, custodian, foster parent or person to whom the child is entrusted with for the purpose of care, upbringing and education has become employed based on the agreement on active overcoming of unfavourable social status EUR 19.74. Beneficiaries of social protection entitlements can also receive other entitlements in accordance with the Law.

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| **The Ombudsman recommends:**1. Set up the system of licencing services and service providers in the areas of social and child protection;
2. Set up clear mechanisms for financing services which provide support to the children and families at the national and local levels;
3. Establish support services at the local level intended for vulnerable categories of children, as well as for general population;
4. Ensure higher quality assistance to the families at risk, as a prevention of children being taken away from their families;
5. Provide continuous education to the professionals at the social welfare centres, ensure there are supervision and mechanisms for monitoring quality of their work;
6. Improve implementation of the already existing measures for family legal protection and expedite judicial proceedings;
7. Adjust social benefits to the specific needs of children coming from the most vulnerable families.
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**5.2. Children deprived of a family environment**

**(Recommendation of the Committee, para 42, 2010, State party’s report, paras. 64-73)**

It has been observed that the number of children in institutions has been reduced considerably and that activities are implemented to promote foster care.

The Ombudsman regularly monitors work done by the Public Institution “Mladost” in Bijela which accommodates children without parental care. In June 2017, a total of 87 children were accommodated in this institution (F – 35 and M- 52).

A small group home was set up in Bijelo Polje to accommodate children with disabilities who are also without parental care and need professional assistance 24 hours a day.

Implementation of the activities set out in the **Strategy for Development of Foster Care in Montenegro 2012-2016** produced results in terms of increased number of non-relative foster families, but further efforts are needed to strengthen this form of child protection.

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| **The Ombudsman recommends:**1. Improve mechanisms for supervision of the work of the institutions accommodating children;
2. Adopt new Strategy for the Development of Foster Care in Montenegro;
3. Continue promotion of foster care as an alternative form of care for the children without parental care, and promote professionalization of foster care.
4. Revise mechanism for financing the service – small group home, so as to ensure its sustainability;
5. Develop family support programmes for the purpose of preventing children been taken away from their families.
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**5.3. Adoption**

**(Recommendation of the Committee, para 44, 2010, State party’s report, para 74)**

Adoption is regulated under the Family Law (Official Gazette of the Republic of Montenegro 1/07) as a special form of family-legal protection of children without parents or a form of an appropriate parental care, by which parental or kinship relationship is established. Amendments to the Family Law (Official Gazette of Montenegro 53/16), which have been applied since 19 May 2017, set out that a child may be adopted by the time he/she turns 18 years of age and that adoption can only be full. Assessment of the potential adoptive parents, i.e. of their suitability for adoption is conducted by the team of professionals of the guardianship authority, on the basis of a holistic, multidisciplinary approach. In addition, the team of experts also prepares future adoptive parents for adoption. International adoption (adoption between a foreign national as an adoptive parent and domestic national as an adoptee) may take place only under certain conditions, i.e. subject to consent granted by the Ministry of Labour and Social Welfare. Such consent is granted on the basis of an opinion given by expert committee which is comprised of 5 members who have professional experience in working with children. The Law introduces a novelty by which a child, subject to the consent granted by the minister of labour and social welfare, may in exceptional cases be adopted by the person living alone if there are justified reasons for it and if that serves best interest of the child.

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| **The Ombudsman recommends:**1. Develop campaigns to raise public awareness about adoption of children with disabilities and Roma children;
2. Ensure proper long-term support to the adoptee and adoptive parents;
3. Put in place a mechanism for monitoring relationship after adoption, so as to ensure and protect best interest of the child.
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**5.4. Abuse and neglect**

**(Recommendation of the Committee, para 46, 2010, State party’s report, paras. 75-90)**

In early 2017, the Government of Montenegro adopted new Strategy for the Prevention and Protection of Children from Violence 2017-2021 which applies to all the children aged 0-18 years, regardless of their sex, nationality, level of functional abilities or sexual orientation. The Strategy includes majority population, as well as ethnic minorities and immigrants. The Strategy outlines measures for intensifying activities involving protection and other forms of support to the children and adolescents who have been exposed to violence or sexual abuse.

Despite a series of laws, by-laws and strategic documents that have been adopted and implemented in the previous period, which set out multisectoral approach as a response to violence, there is a problem with insufficient and untimely multisectoral cooperation in practice at both, national and local levels. Work of the existing operational multidisciplinary teams should be redirected and reorganised, while other forms of multidisciplinary work should be recognised and valued as well.

There is a lack of professional capacities for proper response to the cases involving violence against children, particularly in the areas of detection, protection and support.

The most diverse forms and types of violence are still present in schools. Despite adoption of the guidelines “Division of responsibilities and actions taken for the purpose of prevention and in the cases of violence occurrence”, which is binding on educational institutions, there are various practices in these cases.

A comprehensive system of psychosocial support and social reintegration and prevention of stigma of child victims has not been established yet.

In cooperation with Golden Advisors, the Ombudsman organised a conference ***Say No to Violence*** in 2016 in which children spoke about peer violence and its forms, and about the ways in which they can be eliminated.

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| **The Ombudsman recommends:**1. Consistently implement Strategy for the Prevention and Protection of Children from Violence 2017-2021, and ensure mechanisms for regular assessment of the progress achieved;
2. Develop guidelines for multisectoral cooperation at the national and local levels;
3. Provide mechanisms which stimulate development of the services for psychosocial support and social reintegration;
4. Continuously educate professionals working for and with children about appropriate action to be taken in the event of suspicion of abuse and neglect of children, at all levels;
5. Conduct continuous campaigns at the national and local levels to raise public awareness about the need to protect children from abuse and neglect;
6. Improve Guideline for schools regarding actions taken for the purpose of prevention in the event of violence occurrence among children and youth and continuously educate teaching and professional staff about how they should apply it;
7. Continuously improve conditions in institutions accommodating children, particularly in the institution accommodating children with behavioural disorders, while ensuring that there is a sufficient number of educated professionals.
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**VI ELEMENTARY EDUCATION AND WELFARE**

**(Article 6; 18, para 3; 23; 24; 26; 27, and paras. 1-3 of the Convention)**

**6.1. Children with disabilities and developmental disorders**

**(Recommendation of the Committee, para 48, 2010, State party’s report, paras. 91-102)**

In the reporting period, a lot was done to improve position of children with disabilities, but what has been done is not yet at the desired, nor possible levels. The campaigns that were undertaken contributed to raising public awareness about needs of the children with disabilities and suppression of negative attitudes towards these children, but there is still room for continuous actions in this direction. Seeking to provide space for work of the Public Institution “Day Care Centre for Children with Disabilities”, the local government in Herceg-Novi faced difficulties in obtaining consent from the citizens for this kind of institution to be located in their immediate vicinity.

Despite creation of different sectoral databases in the previous period which have also included children with disabilities, a single database still does not exist. Some reports highlight there is a number of children with disabilities who have not yet been registered in any of the records, as a result of the lack of readiness of their families to come to terms with this fact.

Even though efforts have been made towards deinstitutionalisation, it has been observed that proper services have not yet been established at the local level. Lack of clarity in terms of financing these services contributes to this condition. Efforts have been made to establish day care centres for children with disabilities, but such day care centres still do not exist in all local communities.

Evidently, an increasing number of children attend educational institutions (pre-school, elementary schools). However, there are problems connected with architectural barriers, insufficient involvement of parents in creation of individual plans, lack of adjusted textbooks. There is also a lack of professional staff (speech therapists, special education teachers, typhlopedagogues, oligophrenologists etc.) who would be able to properly respond to the needs of children with disabilities in health care institutions, educational institutions, as well as in social and child protection institutions. The issue of teaching assistants has not yet been properly addressed. In fact, up to now legal provisions prescribed the possibility of hiring teaching assistants as a form of technical assistance with the aim of ensuring access to education and educational achievement, while decisions on that were made by the Guidance Commission. As a rule, assistant provided technical assistance on a voluntary basis. There were problems with hiring assistants in practice, which reflected on achievements of the children, which is why the Ombudsman submitted initiative for amendment to be made to the Law on Education and Upbringing of Children with Special Educational Needs (Official Gazette of the Republic of Montenegro 80/04, Official Gazette of Montenegro 45/10) in the sense that hiring assistants should be mandatory for the children who need such assistance.

The system of early intervention and support to the children with disabilities has not been established yet, while the most frequent age in which developmental disorders are detected is the pre-school age.

Intersectoral cooperation is not adequate in respect of recording and forwarding information and accepting responsibility for problems, while there are administrative barriers to using services developed within various systems and in different local governments.

In September 2016, the Government of Montenegro adopted new Strategy for Integration of Persons with Disability 2016-2020.

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| **The Ombudsman recommends:**1. Continuously undertake campaigns to raise public awareness about suppression of negative attitudes of society towards children with disabilities;
2. Set up a single database of children with disabilities which would serve as the basis for defining strategic priorities and services so as to respond to the needs of these children in the best possible way;
3. Revise the existing concept of guidance into curricula so as to ensure early identification and develop support programmes with the aim of ensuring early development and full inclusion;
4. Continue establishment of the necessary services intended for children with disabilities, including support groups for parents, while clearly defining the way these will be financed;
5. Remove physical barriers in all public institutions which provide services for children in all sectors and at all levels;
6. Continue activities involving adjustment of educational institutions to the needs of children with disabilities, while providing necessary textbooks and other didactical aids, and ensure there is a sufficient number of teaching assistants;
7. Ensure continuous involvement of parents and children in creation and implementation of individual plans;
8. Provide permanent support to the teaching staff in implementation of individual plans, while continuously monitoring the results achieved;
9. Hire the missing professional staff (speech therapists, special education teachers, typhlopedagogues, oligophrenologists etc.), and continue permanent education of the existing staff;
10. Set up clear mechanisms for intersectoral cooperation so as to enable early intervention and provide proper support to children with disabilities;
11. Ensure consistent implementation of the Strategy for Integration of Persons with Disabilities 2016-2020, and ensure there are mechanisms for regular assessment of the progress achieved.
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**6.2. Health and health services**

**(Recommendation of the Committee, para 50, 2010, State party’s report, paras. 103-117)**

In the reporting period, the state made evident efforts to ensure absolutely accessible and available, integrated and quality health care, development and strengthening of human resources in health sector, citizen-oriented health care system and sustainability of financing. Efforts have been observed in terms of creating minimum standards for the health care of children, but the system needs further improvements.

The Ombudsman has observed that health care services are not equally accessible to all children, that there is still a shortage of certain professionals who would be working with children and that the number of professionals is insufficient to meet the needs, that there are problems connected with treatments abroad including accommodation costs, that certain buildings are not accessible to children with disabilities, that there is no adequate protection of mental health of children and that the problem connected with dental care for children with disabilities still exists.

Despite efforts to improve condition in maternity wards, it is necessary to further raise quality of care for mothers and new-borns. In the majority of hospitals, there are no individual preparatory nor delivery rooms, some hospital rooms are narrow and overcrowded which makes it difficult to maintain personal hygiene and constitutes an obstacle to joint accommodation of mothers and babies and breastfeeding “at request”, while procedures are still not in place for how to act in certain situations and how to keep various types of records which could lead to significant improvements.

Despite legal bans, children and youth buy and consummate alcoholic drinks and tobacco products.

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| **The Ombudsman recommends:**1. Continue activities involving establishment of accessible health care for all children in the entire territory of Montenegro;
2. Continue activities involving improvement of equipment, maintenance of hygiene and safety in all parts of health care institutions, particular at maternity wards;
3. Ensure accessibility of all health care institutions to children with disabilities;
4. Ensure there is a sufficient number of professionals who provide health care to children;
5. Ensure adequate care for mental health of children and adolescents, including promotion of mental health, outpatient and inpatient services for children and adolescents at risk, and support programmes for the families of children and adolescents at risk;
6. Ensure consistent sanctioning of the sale of alcoholic drinks and tobacco products to children;
7. Continue educational campaigns about harm caused by the use of psychoactive substances, alcohol and tobacco.
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**6.3. Breastfeeding**

**(Recommendation of the Committee, para 52, 2010, State party’s report, para 118)**

In the reporting period, activities were undertaken to promote the importance of breastfeeding, but the planned increase in the breastfeeding rate has not been achieved yet. In fact, one of the problems that has been recognised is insufficient promotion of early and exclusive breastfeeding. Bottle feeding is still a widespread practice.

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| **The Ombudsman recommends:**1. Continuously raise awareness about the importance of breastfeeding;
2. Provide continuous training to nurses and midwives, paediatricians and visiting nurses in order for the advice they give to the breastfeeding mothers to be in line with WHO recommendations;
3. Empower counselling centres and breastfeeding support groups.
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**6.4. Adolescent health**

**(Recommendation of the Committee, para 54, 2010, State party’s report, paras. 119-123)**

Despite activities undertaken by the state to improve health care of adolescents, further improvements are still needed. In fact, necessary attention is not devoted to the mental health of children and youth, which is an important component of the overall health condition – there is an insufficient number of psychiatrists and psychologists specialised to work with children and youth, and there are no capacities for treatment of mental conditions of children and youth.

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| **The Ombudsman recommends:**1. Increase efforts aimed towards provision of adequate health care for the mental health of adolescents;
2. Intensify implementation of educational programmes related to reproductive health, placing strong emphasis on educational institutions;
3. Develop support programmes for teenage mothers and their children;
4. Consistently implement strategies for the prevention of harmful consumption of alcohol and prevention of substance abuse;
5. Promote healthy living styles at all levels.
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**6.5. Hiv/Aids**

**(Recommendation of the Committee, para 56, 2010, State party’s report, paras. 124 and 125)**

Montenegro is the country with low prevalence (current incidence rate of infection is 0,017%). To maintain this condition, trends in the region are constantly monitored and preventive actions are taken among key target groups so as to ensure successful response at an early stage and avoid consequences in medical, social and economic terms.

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| **The Ombudsman recommends:**1. Consistently implement activities set out in the strategic document National Strategy for Fight against HIV/AIDS 2015-2020;
2. Provide funding for the prevention programmes implemented by NGOs;
3. Implement educational programmes regarding sexually transmitted infections, including HIV/AIDS, particularly at schools.
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**6.6. Standard of living**

**(Recommendation of the Committee, para 58, 2010, State party’s report, paras. 126-128)**

The state undertakes continuous activities to improve social and economic position of citizens, particularly those who need services and support in the area of social and child protection. Evidently, the system of licencing the services and their providers mentioned above has not been set up yet. Social welfare system, predominantly funded from the budget of Montenegro, and by local governments as much as they can, provides support to the socially disadvantaged people.

No precise data exist on the extent of poverty in Montenegro, on the basis of which assessments could be made of the number of socially vulnerable population. In fact, implementation of new provisions of the Law on Social and Child Protection has led to a decline in the number of beneficiaries of family allowance, which does not reflect the actual condition.

According to the MONSTAT data, the average salary in Montenegro in April 2017 amounted to EUR 512. Minimum consumer basket for a four-member household in December 2015 reached EUR 806.80, and more recent data are not available since the methodology for calculation of the minimum consumer basket is currently revised.

There is a noticeable problem with unemployment, and the fact that an increasing number of youth with university degree are unemployed raises concern. According to the statistical data of the Employment Office of Montenegro, the unemployment rate in Montenegro reached 22.39% (51,955 people) in May 2017.

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| **The Ombudsman recommends:** 1. Lay down the obligation to carry out surveys and publish data on poverty, which would serve as the basis for quality planning of support programmes for the families with children who find themselves in the zone of poverty;
2. Set up the system of licencing services and service providers in the areas of social and child protection;
3. Consistently apply the Law on Social Housing, in order to make it possible for socially disadvantaged population to resolve this existential issue;
4. Permanently work on opening new jobs, particularly for the youth.
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**VII EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

**(Art. 28,29 and 31 of the Convention)**

**7.1. Education, including vocational training and guidance**

**(Recommendation of the Committee, para 60, 2010, State party’s report, paras. 129-136)**

The state undertakes continuous activities to improve the field of education. However, there is still room for improvement.

There is a problem with the lack of capacities in pre-school institutions. There is also an evident problem with the lack of capacities for the stay of children under 3 years of age in day-nursery groups. Likewise, the average rate of preschool attendance of children aged 4-6 years is 40%. The Government of Montenegro adopted the new ***Strategy for Early and Pre-school Upbringing and Education 2016-2020*** which sets out strategic goals for improvement of the condition in this area: increase coverage by pre-school education to include all children, particularly those aged from 3 years to the age they start school, improve quality of services of pre-school education and introduce innovative, optimal and sustainable financing model.

There is an evident problem with the number of elementary schools compared to the number of inhabitants, particularly in Podgorica. Despite continuous efforts to improve conditions in educational institutions, some educational institutions still need reconstruction in order to ensure safety of children spending time in them.

Despite the fact that elementary education is free of charge, hidden costs still exist – resulting from the purchase of textbooks and school accessories, and these are not negligible costs for family budget. Moreover, pupil transportation is still not completely free of charge and available to all children who need it.

In addition, not all of the school buildings are adapted to the children with reduced mobility. The Ombudsman submitted initiative for amendment to be made to the Law on Pre-school Upbringing and Education of Children with Special Educational Needs (Official Gazette of Montenegro 040/16 of 30 June 2016) in order to provide children with disabilities with a teaching assistant, who should serve as a technical assistance.

As for the draft Law on the Protection of Population from Infectious Diseases (Official Gazette of Montenegro 030/12 of 08 June 2012) which restricts stay of children in pre-school and elementary schools, the Ombudsman issued an opinion stating that the stay of children cannot be conditioned upon previous vaccination.

It has been observed that there is a huge number of playgrounds and other areas intended for the stay and play of children which are not properly regulated by law.

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| **The Ombudsman recommends:**1. Continue activities involving increase of capacities of pre-schools and elementary schools;
2. Make continuous efforts to increase quality and safety of educational institutions, while placing strong emphasis on introducing interactive teaching methods, better equipment of schools, increasing the the teacher/pupil ratio, teacher training and greater involvement of teachers in reform processes;
3. Ensure that elementary education is free of charge for all pupils;
4. Provide funding for extracurricular activities at schools, particularly in rural areas and small towns;
5. Ensure that children are not denied access to education on any grounds;
6. Strengthen efforts to improve access to quality education (pre-school, elementary and high schools) in rural areas and small towns, including pupil transportation;
7. Create preconditions for further improvements to inclusive education for children with disabilities, placing strong emphasis on establishment of sustainable mechanisms for hiring teaching assistants;
8. Continue implementation of the programmes which contribute to the inclusion of Roma children in education at all levels, placing strong emphasis on the programmes which contribute to the reduction of the school drop-out rate;
9. Strengthen capacity of psychological-pedagogical services in educational institutions which would provide necessary support to children, parents and teaching staff in overcoming various problems faced by children and youth on a daily basis, with strong emphasis on addressing peer violence;
10. Adopt a single piece of legislation which would set out requirements for operation and supervision of playgrounds and other areas in which children spend time.
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**VII Special protection measures**

**(Arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d), and 38–40 of the Convention)**

**8.1. Asylum-seeking and refugee/displaced children**

**(Recommendation of the Committee, para 62, 2010, State party’ s report, paras 137-142)**

The Law on International and Temporary Protection of Foreigners (Official Gazette of Montenegro 2/17), the implementation of which will begin on 01 January 2018, sets out principles, requirements and procedure for granting international and temporary protection to foreigners seeking international protection, rights and obligations of foreigners seeking international protection, asylum seekers, foreigners under subsidiary protection, foreigners under temporary protection, as well as requirements and procedure for annulment and termination of asylum, subsidiary and temporary protection.

In February 2017, the Government adopted new Strategy for Permanent Resolution of the Issue of Displaced Persons and Refugees in Montenegro, with Special Emphasis on Konik Area 2017-2019. There is still a number of displaced and internally displaced persons who have not acquired status of foreigner in Montenegro. According to the UNHCR data, the number of unresolved applications in April 2017 was 952, of which 605 were applications for long-term residence and 347 were applications for temporary residence. Out of this number, 245 persons are younger than 18 years (197 applications for long-term residence and 48 for temporary residence).

Unaccompanied children are staying in inadequate facilities. Unaccompanied children are placed in the institution which also accommodates children with behavioural disorders.

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| **The Ombudsman recommends:**1. Ensure consistent application of the law and strategic documents, particularly in the part related to the children, with strong emphasis on individual needs;
2. Continue activities involving resolution of the status of displaced and internally displaced persons, particularly in respect of obtaining personal identification documents;
3. Provide specialised accommodation adjusted to individual needs of children.
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**8.2. Economic exploitation including child labour and children in street situations**

**(Recommendation of the Committee, paras 64 and 66, 2010, State party’ s report, paras 143-146)**

Despite progress made in legislation in respect of the prohibition of child labour and economic exploitation and campaigns and actions aimed at prevention and suppression of these phenomena, continuous activities are still needed in order to prevent child labour and economic exploitation, particularly during tourist season.

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| **The Ombudsman recommends:**1. Continuously conduct inspections of employers so as to ensure consistent implementation of the law.
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**8.3. Children in street situations**

**(Recommendation of the Committee, para 66, 2010, State party’ s report, paras 147 - 151)**

There is an evident lack of services which would accommodate and provide adequate support to the children and mothers with minors who are on the streets and are involved in begging. A good model could be establishment of the support centre for children and family in Podgorica by the NGO Centre for the Rights of the Child, with support from Save the Children.

There is still a widespread notion that begging is a “living style” of certain social groups, and state institutions often do not intervene as they believe all activities are in vain, while at times they do not treat children as victims of abuse and neglect, but instead treat them as children with behavioural disorders.

At the end od 2011, the Ombudsman drew up a ***Special Report on Child Begging in Montenegro*** in order to analyse current situation and give recommendations to the competent authorities so that they could improve their engagement. There is also the practice of seeing young unaccompanied children late at night on the streets.

In order to ensure safety of children, their well-being and best interest, the Ombudsman proposed amendments to the Family Law with a view to introducing obligation for the parents to properly supervise their children when they socialise with other persons depending on their age and maturity, and to restrict late nights out for the children below 16 years of age who are not accompanied by a parent or by a person whom parents trust.

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| **The Ombudsman recommends:**1. Lay down obligations of the parents to properly supervise their children when they socialise with other persons depending on their age and maturity, and restrict late nights out for the children below 16 years of age who are not accompanied by a parent or by a person whom parents trust;
2. Undertake campaigns to raise public awareness about harmfulness of begging and ensure availability of information, primarily to children in street situations, so as to protect them from the risk of becoming victims of human trafficking and economic and social exploitation;
3. Implement continuous programmes for prevention and support to the families whose children are on the streets, which also includes prevention of leaving the family and prevention of school drop-out;
4. Develop support services in which children in street situations and mother with underage children could receive proper several-days protection, including accommodation;
5. Adopt protocol on actions to be taken, which would clearly set out competences, actions and cooperation in the cases when children are found begging.
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**8.4. Sexual exploitation and abuse**

**(Recommendation of the Committee, para 68, 2010, State party’ s report, paras 152 - 162)**

Despite a number of strategic documents addressing this issue, there is still an evident lack of experts and institutions for the treatment of sexually abused children.

As part of the regional project ***Improvement of the Status of the Children in order to Protect them from All Forms of Exploitation***,the Ombudsman conducted a survey in 2012 entitled: ***Reaction to Sexual Abuse of Children? SILENCE***,which addressed the phenomenon involving sexual exploitation of children, and he also issued recommendations to the competent authorities so that they could improve their engagement. Moreover, a survey entitled ***Online Child Abuse*** was conducted in 2013 with a view to establishing the level of understanding of this notion and of the way of abusing children by means of information and communication technology, and he also issued recommendations on actions to be taken by state authorities so as to create safer virtual environment for children.

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| **The Ombudsman recommends:**1. Continue permanent campaigns to raise public awareness about this problem;
2. Provide continuous education to the professionals working with child victims;
3. Take actions and measures to design efficient policies and ensure concerted effort with a view to supressing and preventing various kinds of online child abuse.
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**8.5. Sale, trafficking and abduction**

**(Recommendation of the Committee, para 70, 2010, State party’ s report, paras 163 - 166)**

Traditional arranged marriages still exist as one of the forms of child exploitation, particularly in Roma community. According to the data specified in Strategy for Prevention and Protection of Children from Violence 2017-2021, 18% of girls belonging to Roma and Egyptian community enter into marriage at the age below 15 years, while such figure for the girls belonging to general population amounts to 0.5%.

Campaigns have been undertaken in the previous period to raise public awareness about this problem.

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| **The Ombudsman recommends:**1. Consistently sanction arranged marriages entered into by minors;
2. Educate parents about harmfulness of arranged marriages;
3. Develop support programmes for the children who are in child marriage, as well as in the cases of marriage “divorce”.
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**8.6. Helpline**

**(Recommendation of the Committee, para 72, 2010, State party’ s report, paras 169-171)**

Even though space has been provided at the Public Institution Children’ s Home “Mladost” for the start of operation of the national helpline intended for children and youth, together with the counselling centre, this service has not become operational yet.

There are helplines run by NGO which children and parents may call to obtain answers in respect of various topics.

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| **The Ombudsman recommends:**1. Set up national, free of charge helpline for children and youth.
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**8.7. Administration of juvenile justice**

**(Recommendation of the Committee, para 74, 2010, State party’ s report, paras 172-175)**

Even though legal prerequisites are created for special treatment of children who have violated the law, the conditions for implementation in practice are still not in place.

With the exception of the Police Station in Podgorica, other police stations and divisions of the Police Directorate do not have special premises for police custody (of up to 72 hours). Special premises for placement of minors exist in the pre-trial detention facilities, but conditions are not satisfactory.

There is a special pavilion (pavilion F) at the Institute for the Enforcement of Criminal Sanctions (IECS) in which conditions are in place for the stay of juvenile offenders; it is separated from other pavilions in the closed part of the prison, but adult convicts who pose security threat also stay there. Moreover, the sanction involving referral to the correctional facility is also enforced at the IECS.

Adequate professional treatment does not exist. The NPM team established that, generally speaking, special forms of treatment are not applied when dealing with minors even though specific psychological and psychosocial characteristics of juvenile delinquents make minors extremely sensitive to deprivation at the institution and result in the need to apply special form of treatment. None of the inmates serving juvenile imprisonment sentence continued education upon arrival to the prison, nor were they informed about how they could do that.

There is no specialised institution which would enforce correctional institutional measure, intended for minors with mental disability or mental condition who have committed a criminal offence.

Alternative measures have not yet been fully enforced in the entire territory of the state.

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| **The Ombudsman recommends:**1. Ensure consistent implementation of the legislation which regulates this matter;
2. When imposing detention, separate children from adults;
3. Ensure that there are no adults in the pavilion intended for the stay of juvenile offenders;
4. Ensure that the sanction involving referral to the correctional facility is enforced in the space intended for that purpose, and not in the juvenile prison;
5. Ensure that alternative sanctions are enforced;
6. Ensure that adequate professional treatment is provided to the minors in all phases of the proceedings;
7. Ensure continuation of education, if they wish;
8. Provide programmes intended for integration and resocialisation of minors;
9. Strengthen technical services with additional staff and deliver continuous education to the professionals working with minors in all stages of the proceedings.
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**IX Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and pornography**

Legislation of Montenegro regulates prohibition of the sale of children, child prostitution and pornography.

Strategic documents related to the exercise of the rights of the children in Montenegro also include the system of prevention and protection of children who are victims of acts prohibited by the Protocol. Moreover, public campaigns were also undertaken to raise public awareness about these problems. The Ombudsman, as part of his regular mandate, also promotes Convention on the Rights of the Child and Protocols thereto.

In all its recommendations related to the exercise of the rights of the child, the Ombudsman stresses importance and necessity of application of the Convention. Civil sector also made significant contribution to the promotion of the Convention on the Rights of the Child and Protocols thereto.

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| **The Ombudsman recommends:**1. Take measures to inform general public, and children in particular, about the problem involving trafficking in children and their exploitation in pornography and prostitution;
2. Continuously implement activities in cooperation with tourism sector so as to promote responsible tourism and prevent child sex tourism;
3. Continue strengthening regional and international cooperation so as to improve the system of monitoring IP addresses, web hosting and websites of offenders and panders thus fighting against child pornography;
4. Set up information system for the collection of data on child trafficking and exploitation of children in pornography and prostitution;
5. Take measures to set up and strengthen institutions and services which would provide protection to the child victims of prostitution, pornography and human trafficking;
6. Provide support to the families of child victims of sexual exploitation;
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**X Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict**

Preparation of the new Law on Army is underway and it explicitly sets out a prohibition to enlist children below 18 years of age to serve in the army. We expect that this legal provision to be adopted. Under the Activity Programme of the Government of Montenegro, its adoption is envisaged for the fourth quarter of 2017.