



T-ES(2014)GEN-ME

## **LANZAROTE CONVENTION**

Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse

**Replies to the general overview questionnaire**

### **MONTENEGRO**

Replies registered by the Secretariat on 14 February 2014



## INTRODUCTION

A number of ministries took part in the preparation of the Report of Montenegro on the implementation of the Lanzarote Convention, as follows: the Ministry of Labour and Social Welfare, Ministry of Justice, Ministry of Education, Ministry of Health, Ministry of Interior, Ministry for Human and Minority Rights, Ministry of Sustainable Development and Tourism, Ministry of Culture, Supreme Public Prosecutor's Office of Montenegro, Office for the Fight against Trafficking in Human Beings, Parliament of Montenegro (Parliamentary Committee for Human Rights), Protector of Human Rights and Freedoms, as well as the NGO "Centre for the Rights of the Child", which is engaged in the protection of children's rights. The Ministry of Labour and Social Welfare coordinated the activities on the preparation of the Report of Montenegro on the implementation of the Lanzarote Convention.

## GENERAL FRAMEWORK

### Question 1: Definition of "child"

**1a.** Does the notion of "child" under your internal law correspond to that set out in Article 3, letter (a), i.e. "any person under the age of 18 years"?

#### Answer:

The Law on Social and Child Protection defines the notion of a child as a person under the age of 18 (Article 19, item 6).

The Family Law (Article 13, paragraph 1) provides that the age of majority is gained by reaching the age of 18, so a child is a person who did not reach the age of 18.

Article 142, paragraph 7 of the Criminal Code stipulates that a child is a person who has not reached fourteen years of age; paragraphs 8 and 9 of the same Article provide that a juvenile is deemed to be a person who have reached the age of fourteen, but not the age of eighteen, while underage persons are deemed to be persons who have not reached the age of eighteen.

From the point of view of criminal liability of children, or juveniles, according to the Law on the Treatment of Juveniles in Criminal Proceedings: a juvenile is a person who at the time of commission of the criminal offence reached the age of 14 but not the age of 18 (Article 3, paragraph 1); a younger juvenile is a person who at the time of commission of the criminal offence reached the age of 14 but not the age of 16 (Article 3, paragraph 1); while older juvenile is a person who at the time of commission of the criminal offence reached the age of 16 but not the age of 18 (Article 3, paragraph 3). A young adult is a person who at the time of commission of the criminal offence reached the age of 18 but not the age of 21 (Article 3, paragraph 4).

This terminological division in the system of criminal justice is done on the basis of criminal liability and sanctions that may be imposed on persons under the age of majority. However, following the adoption of the Law on the Treatment of Juveniles in Criminal Proceedings, the system of juvenile judiciary of restorative justice came to be used, which treats persons under the

age of 18, or children, in a special way.

**1b.** What legislative or other measures have been taken to ensure that when the age of a victim is uncertain and there are reasons to believe that the victim is a child, the protection and assistance provided for children are accorded to him or her in accordance with Article 11, para. 2?

**Answer:**

The age of the child is determined on the basis of personal documents. If in the process it is impossible to determine the age, or there is no such document, a statement of the child is taken as proof of age.

**1c.** Please state whether the age for legal sexual activities is below 18 years of age and if so, please specify the age set out in internal law.

**Answer:**

In terms of the criminal legislation, anyone who performs sexual intercourse with a child under the age of 14 shall be subject to criminal liability, except when no larger difference between the offender and the child in respect to their mental and physical development exists (Article 206 of the Criminal Code). The relations between an adult and a child in which the adult has a special position of responsibility, trust and power in relation to the child (parents, guardians, foster parents, teachers, educators, health and other public staff) also do not allow sexual activity with a minor older than 14 years of age, regardless of the fact that there is an understanding and agreement for the activity by the child (Article 207 of the Criminal Code).

Article 24 of the Family Law stipulates that persons under the age of 18 cannot marry. Exceptionally, the court may permit a minor older than the age of 16 to get married.

## **Question 2: Non-discrimination**

Is discrimination, on grounds such as the ones mentioned in the indicative list in Article 2, prohibited in the implementation of the Convention, in particular in the enjoyment of the rights guaranteed by it? If so, please specify. If not, please justify.

**Answer:**

The Constitution of Montenegro prohibits any direct or indirect discrimination on any grounds. The same provision of the Constitution stipulates the principle of affirmative action aimed at creating conditions for national, gender and overall equality and protection of persons who are in an unequal position on any grounds. In addition, Article 17 of the Constitution guarantees equality before the law, regardless of any particularity or personal property, while persons belonging to national / ethnic minorities are guaranteed the right to education in their own language and the right to have their history and culture included in the curriculum.

Discrimination is prohibited in the implementation of the Convention, especially with regard to the enjoyment of the rights guaranteed by it. Discrimination is any unjustified legal or actual,

direct or indirect differentiation or unequal treatment, or the omission to treat a person or group of persons in relation to other people, as well as exclusion, restriction or preference to any person in relation to other persons that is based on race, skin colour, national affiliation, social or ethnic origin, the affiliation with a minority or minority ethnic community, language, religion or belief, political or other opinion, sex, gender identity, sexual orientation, health condition, disability, age, financial status, marital or family status, group membership or assumed membership in a group, political party or other organisation, as well as other personal characteristics.

These Constitutional principles are elaborated through the national regulations. The laws dealing specifically with these issues are the following:

- ***Law on Prohibition of Discrimination***<sup>1</sup>, which prohibits any direct or indirect discrimination on any grounds, including race, colour, sex, national affiliation, social origin, birth or similar status, religion, political or other opinion, financial status, culture, language, age or mental or physical disability.
- ***Law on Gender Equality***<sup>2</sup>, providing for equal participation of women and men in all spheres of public and private sector, equal status and equal opportunity to exercise all rights and freedoms and the use of personal knowledge and skills for the development of society, as well as exercising equal benefits from the work results.
- ***Law on the Prohibition of Discrimination against Persons with Disabilities***<sup>3</sup>, specifically regulating the area related to the category of persons with disabilities and establishing an explicit prohibition of discrimination against these persons (persons who have long-term physical, mental, intellectual or sensory impairments, which in correlation with various barriers may hinder the full and effective participation of these people in society on an equal basis with others).

Also, all laws contain provisions relating to discrimination in the area for which they have been passed, for example:

- **Criminal Code** prohibits the violation of fundamental human rights and freedoms on the basis of differences in race, skin colour, nationality, ethnic origin or any other personal characteristic. It also provides for punitive sanctions in case of persecution of organisations and individuals over their commitment to the equality of people, as well as in case of the dissemination of ideas of superiority of one race over another or promoting racial hatred or incitement to racial discrimination.

- **General Law on Education** (Official Gazette of the Republic of Montenegro 64/02 and Official Gazette of Montenegro 49/07, 45/10, 40/11, 45/11 and 36/13) provides that “physical, psychological and social violence, as well as abuse and neglect of children and pupils, corporal punishment and insults, and sexual abuse of children and pupils or employees, or any other form of discrimination under the law (referring to the Law on Prohibition of Discrimination), shall be prohibited within the institution”.

---

<sup>1</sup> *Law on Prohibition of Discrimination*, Official Gazette of Montenegro 46/10.

<sup>2</sup> *Law on Gender Equality*, Official Gazette of Montenegro 46/07.

<sup>3</sup> *Law on the Prohibition of Discrimination against Persons with Disabilities*, Official Gazette of Montenegro 39/11.

- **Law on Social and Child Protection** stipulates, through Article 7, paragraph 1, item 2, that discrimination of beneficiaries on the basis of race, sex, age, national affiliation, social origin, sexual orientation, religion, political, trade union or other affiliation, financial status, culture, language, disability, nature of social exclusion, membership in a particular social group, or other personal characteristics, shall be prohibited.

### **Question 3: Overview of the implementation**

Please indicate (without entering into details):

**3a.** The main legislative or other measures to ensure that children are protected against sexual exploitation and sexual abuse in accordance with the Convention;

#### **Answer:**

Article 9 of the Constitution of Montenegro stipulates that ratified and published international treaties and generally accepted rules of international law shall make an integral part of the internal legal order and shall have supremacy over national legislation and shall be directly applicable when they regulate the relations differently from the national legislation. In accordance with the Constitution, human life is inviolable. Guarantees are also provided for the dignity and security of a person and all forms of trafficking in adult human beings and children are prohibited.

According to Article 74, paragraph 2 of the Constitution of Montenegro, children shall be guaranteed special protection from psychological, physical, economic and any other exploitation or abuse.

Criminal offences governing the protection of children from sexual abuse and sexual exploitation are prescribed in Chapter XVIII of the Criminal Code of Montenegro, which includes a group of criminal offences against sexual freedom, and Chapter XXXV, which includes crimes against humanity and other goods protected by the international law. The Law on Amendments to the Criminal Code from 2011 brings important novelties related to the criminal offence of displaying pornographic material to children and the production and possession of child pornography. Article 211 provides for a new criminal offence of soliciting a minor to attend the commitment of criminal offences against sexual freedom.

The Criminal Code also provides for criminal offences of trafficking in human beings, a severe form of which is trafficking in children.

The provisions of the Criminal Code have been brought into line with the Optional Protocol to the Convention on the Rights of the Child, Child Prostitution and Pornography and the Council of Europe Convention on sexual exploitation and sexual abuse of children.

The observance of priorities in combating the phenomenon of trafficking in human beings have, among other things, been ensured through the adoption of a set of laws: Law on the Treatment of Juveniles in Criminal Proceedings (Official Gazette of Montenegro 64/2011), Criminal Procedure Code (Official Gazette of Montenegro 57/09 and 49/10), Law on Witness Protection (Official Gazette of the Republic of Montenegro 65/2004), Law on Free Legal Aid (Official Gazette of

Montenegro 20/11), Law on the Liability of Legal Entities for Criminal Offences (Official Gazette of the Republic of Montenegro 2/2007, 13/2007 and 30/2012), Law on International Legal Assistance in Criminal Matters (Official Gazette of Montenegro 4/2008 and 36/13), Law on Foreigners (Official Gazette of Montenegro 80/2008, 72/2009, 32/2011, 53/2011), Law on Personal Data Protection (Official Gazette of Montenegro 79/2008 and 70/2009).

In addition to the above regulations, the Family Law, the Law on Protection from Domestic Violence, and the Law on Social and Child Protection regulate issues of prevention, assistance and protection of child victims of sexual exploitation. In accordance with these regulations, professionals are obliged to notify the competent authority of all the cases of suspected violence against children, including sexual abuse.

**3b.** Whether your country has adopted a national strategy and/or Action Plan to combat sexual exploitation and sexual abuse of children. If so, please specify the main fields of action and the body/bodies responsible for its/their implementation;

**Answer:**

The National Plan of Action for Children 2013-2017 (NPAC) was adopted in June 2013 and is a strategic document of the Government of Montenegro, which defines the general policy of the state towards the children in the period from 2013 to 2017. This document identifies the main problems in exercising, protecting and promoting the rights of children in our country, as well as the main directions for their solution.

The document is compliant with all international documents relevant to the rights and social status of children, as well as with the national strategic documents and programmes aimed at children or supporting the quality of life of children and the national legislative framework relevant to children.

The NPAC 2013-2017 structure is in accordance with the Recommendation to Montenegro by the UN Committee on the Rights of the Child (2010), so the document has seven key thematic areas. Within each of them, a strategic and a number of specific objectives are defined. Report on the implementation of NPAD will be prepared on an annual basis and will be publicly available on the website of the Ministry of Labour and Social Welfare.

One of the specific objectives of the National Plan of Action for Children is to improve the protection of children from sexual exploitation, sexual abuse and child pornography, as well as the enforcement of criminal sanctions against perpetrators.

NPAC provides for the implementation of campaigns to raise awareness on combating the sexual exploitation and abuse of children and the need to report such occurrences with a strong gender component, for different target groups: children, their families, general public, as well as for the implementation of appropriate policies and targeted prevention programmes, recovery and social reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment, adopted at the World Congress against Sexual Exploitation of Children. There are also plans to develop mechanisms for prevention of sexual violence against children and the protection of child victims of sexual violence, as well as to develop the system of

monitoring and prevention of Internet child pornography, as well as to raise awareness of children, parents, and professionals who work with children on sexual harassment through mobile phones and other modern means of communication as a form of violation of child rights.

The specific objective is also to provide information and support to children in respect of all the matters covered by the Convention on the Rights of the Child and the Optional Protocols.

The intention is also to provide, by the end of 2014 and in cooperation with the civil sector, for the establishment of a free 24/7 helpline for children, for reporting violence (six-digit harmonised European number), with the possibility of receiving calls from all operators, and informing children about its existence. Also, the establishment of a helpline for providing support and assistance to children is planned. Using counselling and helplines to help children aims at strengthening the mechanisms of prevention, early prevention and early intervention in different cases of violation of child rights.

Another plan is to develop a system of monitoring and preventing Internet child pornography, as well as to develop systematic cooperation with the specialized agencies in other countries in the monitoring and prevention of child Internet pornography (bilateral and multilateral protocols, information exchange, etc.), and to raise awareness of children, parents, and professionals working with children about sexual harassment through mobile phones and other modern means of communication as a form of violation of child rights. Until 2017, at least two campaigns will be implemented through the educational system, on sexual harassment through mobile phones and other means of modern communication.

The implementation of the National Plan of Action for Children 2013-2017 will be monitored by the **Council for Rights of the Child**, whose members are representatives of state authorities, institutions and NGOs. An equal member of the Council is also a child, representing children.

In 2012, the Government of Montenegro adopted a new Strategy for the Fight against Trafficking in Human Beings for the period of 2012-2018. The new strategic document defines the objectives, principles and directions in the fight against trafficking in human beings and establishes measures for improving the efficiency of the established system to combat trafficking in human beings in the public, private and civil sectors. It focuses on the six key areas: 1. Prevention and education; 2. Identification of victims of trafficking in human beings; 3. Assistance, protection and reintegration of victims; 4. Effective criminal prosecution; 5. International cooperation; 6. Coordination and partnership.

In the area of prevention and education, the Strategy defines objectives aimed at strengthening preventive and educational activities focused on young people, particularly groups at-risk such as children without parental care, children with special needs and disabilities, i.e. persons with disabilities, children with behavioural disorders, children and adults abusing alcohol, drugs or other intoxicants, as well as children and adults under risk of becoming or being victims of abuse, neglect, domestic violence, and exploitation, workers engaged in periodical and temporary work with a view to eliminate the possibility of becoming a victim of some form of trafficking in human beings / children. It also states the need for continued work aimed at strengthening the professional capacities of all target groups to combat all forms of trafficking in human beings /



children.

Identification of victims of trafficking in human beings / children presents an extremely complex and demanding task, which is why it is a separate chapter in the Strategy. Since proactive identification of victims and potential victims cannot be attributed solely to the activities of the police, the Strategy defines objectives focusing on the development and improvement of professional skills of the representatives of the institutions that, in accordance with the description of the work they do, come into contact with potential victims of trafficking in human beings / children. Also, the measures related to the formation of mobile teams and the development of specific indicators that will improve work in the field are defined.

Assistance, protection and reintegration of victims as a chapter of the Strategy defines the measures that need to be taken at the institutional and non-institutional level with a view to improving the quality of protection of potential victims of trafficking in human beings / children, strengthening and development of new, higher-quality programmes for the integration, reintegration, re-socialisation and repatriation of victims and potential victims of trafficking in human beings.

In the field of effective criminal prosecution, the Strategy focuses on the stronger implementation of existing legislation and the harmonisation of the legislative framework with international standards and assumed international obligations. It also defines the improvement of the existing system of collecting, monitoring, analyzing and reporting on trafficking in human beings and prosecuting cases.

International cooperation as a section in the Strategy relies on the strategic orientation of Montenegro with regard to action-taking at the bilateral and multilateral level in the fight against trafficking in human beings and active participation in the work of all international organisations and initiatives aimed at combating this type of crime.

The Strategy separately singles out the objectives and measures related to the improvement of coordination and partnership, by defining the manner of cooperation of institutions at the state and local level, as well as intensive cooperation between state institutions and civil society organisations, including non-governmental organisations active in the fight against trafficking in human beings in initiatives creating / improving policies and methodology of combating trafficking in human beings / children at the national and international level.

When it comes to monitoring the implementation of the Strategy, this task is assumed by the Working Group for monitoring the implementation of the Strategy for the Fight against Trafficking in Human Beings and individual Action Plans. The Working Group is chaired by the Head of the Office / National Coordinator for Combating Trafficking in Human Beings, and is composed of representatives of line ministries at the level of Directors General, representatives of the Police Administration, Supreme Public Prosecutor's Office, Supreme Court and the Ombudsman, General Secretariat of the Government, as well as international organisations, IOM, OSCE, UNICEF and the U.S. Embassy in Montenegro, as an observer. The procedure for the inclusion of civil society representatives in the Working Group for monitoring the implementation of the Strategy for the Fight against Trafficking in Human Beings is underway.

The Working Group is also tasked with monitoring and promoting the activities of the relevant institutions in the implementation of the Strategy for the Fight against Trafficking in Human Beings; preparing semi-annual Reports on the implementation of the measures from the Action Plan for the Fight against Trafficking in Human Beings; setting priorities, timeframes and deadlines for implementation, and evaluating the results achieved in the implementation of the Strategy for the Fight against Trafficking in human Beings; preparing, when necessary, individual Action Plans for the Fight against Trafficking in Human Beings and ensuring their implementation. The Working Group reports on its work to the Government of Montenegro.

Montenegro has also adopted an Action Plan for the Fight against Sexual Exploitation and Sexual Abuse of Children through the implementation of the action plan of the Council of Europe campaign “One in Five” for Montenegro.

<http://www.gov.me/en/News/111538/Montenegro-joins-Council-of-Europe-campaign-to-stop-sexual-violence-against-children.html>

<http://www.gov.me/en/News/112301/Montenegro-initiates-preparations-for-participation-in-CoE-campaign-One-in-five.html>

The national Action Plan for campaign “One of Five” for Montenegro was adopted on 11 April 2012.

<http://www.gov.me/en/News/113207/Montenegro-national-team-for-CoE-One-in-Five-campaign-adoptsactivities-for-April-November-2012.html>

The actions of the Council of Europe campaign “One in Five” for Montenegro related to the following areas: health, education, educational and social institutions, public and local government, prosecution offices, judiciary, police, government agencies, private and public sector, as well as the information society and telecommunications.

The campaign “One in Five” for Montenegro has been conducted under the auspices of the Government of Montenegro, while the National team for the implementation of the campaign included a broad structure of social factors, according to the proposal by the Council of Europe: starting from the Parliament of Montenegro, through the relevant Government departments, prosecution offices and the judiciary, the Police Administration, the Union of Municipalities, The Protector of Human Rights and Freedoms of Montenegro, representatives of national and foreign partners, the Office for the Fight against Trafficking in Human Beings, the Interpol representatives in Montenegro, the Old Royal Capital of Cetinje, UNICEF, NGO “Children First” and NGO “Centre for the Rights of the Child in Montenegro”, the Media Self-Regulatory Body, as well as friends: Ministry of Culture and hotel “Maestral”.

<http://www.gov.me/en/News/112301/Montenegro-initiates-preparations-forparticipation-in-CoE-campaign-One-in-five.html>

At its fourth session held on 6 February 2013, the Committee for Human Rights and Freedoms of the Parliament of Montenegro considered the Report on sexual exploitation of children in Montenegro, filed by the Protector of Human Rights and Freedoms of Montenegro, that was

drawn up within the framework of the regional Project “Improvement of the status of the child with a view to protection against all forms of exploitation”, which has been implemented by the institution of the Protector of Human Rights and Freedoms in cooperation with the Ombudsmen for children in the region from the CRONSEE Network, with the support of Save the Children. Within the project, a survey was conducted to collect data on the phenomenon of sexual exploitation of children, looking at the current situation, the key social phenomena and processes influencing this phenomenon and its scope, in the period from 1 January 2008 to 30 June 2011. The results of the survey are presented in the Report.

The Committee unanimously adopted the Report on sexual exploitation of children in Montenegro, supporting Recommendations by the Protector of Human Rights and Freedoms included in the Report on sexual exploitation of children in Montenegro, and submitting its conclusion to the Ministry of Justice, Ministry of Interior, Ministry of Labour and Social Welfare, Ministry of Health, Ministry of Education, Ministry of Tourism and Sustainable Development, as well as the head of the Montenegrin delegation to the Parliamentary Assembly of the Council of Europe and UNICEF.

At its 19<sup>th</sup> Session held on 11 November 2013, in order to meet the International Day of Children’s Rights, the Committee for Human Rights and Freedoms considered the Report on the results of surveys conducted on the protection of children from exploitation, completing a number of activities for the protection of children’s rights that it dealt with in 2011-2013 as part of the regional project “Preventing Exploitation of Children in South East Europe”, which was implemented by Save the Children in cooperation with members of the CRONSEE network and the ombudsmen of the region, and in which the Committee participated by considering:

- Report on child begging in Montenegro,
- Report on the sexual exploitation of children in Montenegro,
- Report on child abuse over the Internet.

The Committee adopted the Report on the results of surveys conducted on the protection of children from exploitation, reaching the decision to organise, in accordance with the Action Plan for 2013, and in cooperation with the Protector of Human Rights and Freedoms and the Delegation of the Parliament of Montenegro in the Parliamentary Assembly of the Council of Europe, and with the support of UNICEF, the Second regional meeting of the parliamentary bodies in charge of human rights and children’s rights with ombudsmen for children of the countries in the region on the topic of: “Rights of the child - improving the status of children with a view to protection against all forms of exploitation”.

The Second regional meeting of the parliamentary bodies in charge of human rights and children’s rights with ombudsmen for children of the countries in the region was held on 21 and 22 January 2014 in the Regional School of Public Administration in Danilovgrad.

The aim of the meeting was to exchange views and best practices in the protection of children’s rights, in order to determine the goals and directions of further inter-parliamentary cooperation and national institutions for the protection of human rights and children’s rights. The meeting was organised as a continuation of the meetings of the parliamentary bodies of the countries in the region, initiated on 29 and 30 October 2013 in the National Assembly of the Republic of Serbia,

bearing in mind that the Joint Statement adopted after this meeting emphasized that protection of children's rights, especially protection against child pornography and cybercrime, should be among the priority areas in the future period.

The Second regional meeting was attended by representatives of parliamentary working bodies responsible for human rights and the rights of the child from Croatia, Serbia and Montenegro, as well as the representatives of the ombudsmen institutions from Croatia, Serbia, Slovenia, the Republic of Srpska, and Montenegro, as well as representatives of Save the Children and international organisations based in Montenegro dealing with these problems (UNICEF, OSCE and the Delegation of the European Union to Montenegro).

The Second regional meeting of the parliamentary bodies in charge of human rights and children's rights with ombudsmen for children of the countries in the region was finished by the adoption of the Joint Statement.

<http://www.skupstina.me/index.php/me/odbor-za-ljudska-prava-i-slobode/aktuelnosti/item/1842-u-danilovgradu-odrzan-drugi-regionalni-sastanak-parlamentarnih-radnih-tijela-nadleznih-za-ljudska-prava-i-prava-djeteta-sa-ombudsmanima-za-djecu-zemalja-regiona>

**3c.** Whether your country has any guidelines to ensure a child-friendly implementation of the laws, measures and strategies referred to in letters (a) and (b) above. If so, please specify. With regard to judicial proceedings, please specify whether the Council of Europe Guidelines on Child-friendly Justice were taken as inspiration for your guidelines.

**Answer:**

The Law on the Treatment of Juveniles in Criminal Proceedings has been aligned with the Council of Europe Recommendations (Recommendation CM/Rec(2003)20 of the Council of Europe Committee of Ministers concerning new ways of dealing with juvenile delinquency and Recommendation CM/Rec(2008)11 of the Council of Europe Committee of Ministers on the European Rules for juvenile offenders subject to sanctions or measures). The basic principles of the Law on the Treatment of Juveniles in Criminal Proceedings are that trial in absence is prohibited, and that the parties to the proceedings are obliged to act with caution in taking actions before a juvenile, especially during his / her hearing, taking into account the maturity and other personal characteristics and protection of privacy, so that the criminal proceedings and actions taken in the proceedings would not adversely affect his / her development. In addition, actions in the proceedings are taken by people who have acquired special knowledge in the field of children's rights and the rules of dealing with juvenile perpetrators of criminal offences and juveniles as participants in criminal proceedings.

The Project "Justice for Children" is implemented by the Ministry of Justice of Montenegro in cooperation with the Ministry of Labour and Social Welfare of Montenegro and UNICEF Office in Montenegro, with the financial support of the EU Delegation to Montenegro. Among other things, one of the goals of the Project is to improve the status of child victims of criminal offences, including sexual exploitation.

#### **Question 4: Child participation**

**4a.** Please indicate what steps have been taken to encourage the participation of children, according to their evolving capacity, in the development and the implementation of state policies, programmes or other initiatives concerning the fight against sexual exploitation and sexual abuse of children (Article 9, para. 1);

#### **Answer:**

The Project “Justice for Children” is implemented by the Ministry of Justice of Montenegro in cooperation with the Ministry of Labour and Social Welfare of Montenegro and UNICEF Office in Montenegro, with the financial support of the EU Delegation to Montenegro. The overall objective of the Project is to contribute, through the application of international norms and standards, to the status and respect for the rights of children in conflict with the law, child victims and witnesses of criminal offences when they come into contact with the judicial or other authorities where judicial, administrative or non-judicial decisions are taken. The first individual objective is to improve the treatment of children in conflict with the law and to enable that the procedure for the hearing of children in the role of victim and witness is child-friendly. The second individual objective is to promote the implementation of prevention programmes, alternative procedures and measures based on children’s rights and restorative justice, as well as the programmes of rehabilitation and reintegration.

The principle of participation and the opportunity to hear the views of the child is represented in the laws governing the field of family relations, social and child welfare, and criminal-legal protection. At the level of constitutional principles, this right is granted to all persons within the jurisdiction of Montenegro without any distinctions based on age. However, although, for example, the principle of respect for the opinions of the child is involved in the **Family Law** (among other things, the Law provides that the guardianship authority shall, before determining the family placement, allow the child to freely express his / her opinion regarding the family placement, and that it shall take into account this opinion in accordance with the age and maturity of the child; the child has the right to timely obtain all the information needed to form an opinion; the child who has reached 10 years of age can freely and directly express his / her views in all procedures in which decisions are made about his / her rights, i.e. he / she can, alone or through any other person or institution, address the court or the administrative authority and ask for help in exercising this right of his / hers), in accordance with regulations in the field of education, there are also pupils’ parliaments in all schools, as well as local children’s parliaments. In this way, the participation of children in the preparation and implementation of public policies that are related to their social status is ensured, and so is their visibility in the Council for Rights of the Child, as well as creating a social environment suitable for all children to express their opinion, which is treated equally with the opinion of adults.

The Ombudsman institution also involves children in its work, so group “Children, write to the Ombudsman” has been active for some time already. Within it, children are directly contacting with representatives of the Ombudsman, expressing their opinions and suggestions. The views and opinions of children are included in acts of the Ombudsman, recommendations, legislative initiatives and opinions. The group currently has about 1,000 members - children.

In Montenegro, numerous strategies and operational plans were adopted that are aimed at exercising and protecting the rights of the child (Strategy for the Development of Social and Child Welfare System from 2013 to 2017, Strategy of Fostering Development in Montenegro 2012-2016, Strategy for the Integration of Persons with Disabilities in Montenegro 2008-2016, Strategy for Protection against Domestic Violence, Strategy for Inclusive Education in Montenegro, Strategy of Early and Pre-School Education 2010-2015, Strategy for the Development of Primary Education with Action Plan 2011-2017, Strategy for Improving the Position of Roma and Egyptians 2012-2016, National Plan of Activities for Children 2013-2017, etc.).

NGO Centre for the Rights of the Child holds it that the implementation of some of these strategic documents has just begun, and reports on their implementation are in the preparation stage, so at this point it is not possible to clearly define the current state, i.e. the level and type of changes achieved through their previous implementation. However, it is important to point out that civil society representatives have been participating in the drafting and adoption of strategic documents for many years now, which is an important quality in the work and conduct of the state authorities, and which largely facilitates the process of taking into account the children's opinion during the preparation of these documents.

From the perspective of implementation of the principles of participation, the monitoring of the National Action Plan for Children 2013-2017 will be of paramount importance, and so will the provision of on-going consultation of children and members of the Council for the Rights of the Child, which is particularly insisted upon by the civil sector.

At the 56<sup>th</sup> session of the Committee for Human Rights and Freedoms of the Parliament of Montenegro, held on 9 December 2011, children from Children's Home Mladost – Bijela and the Centre for Education and Training "1 June" were allowed to attend the session of the Committee, which is how the right from Article 12 of the Convention on the Rights of the Child was exercised. Thus, the children, among whom there were also children with disabilities, were asking questions to representatives of relevant ministries and members of the Committee about the problems that are part of their daily lives.

To mark the International Day of Children's Rights, the Parliament of Montenegro continuously organises sessions of the Children's Parliament, where representatives of the Government of Montenegro answer questions asked by the children from all Montenegrin municipalities. The objective is to contribute to the development of awareness and the promotion of models of children's participation in social processes, and to enable children to participate and make decisions on issues that affect them.

Also, since October 2012, the Parliament of Montenegro has been implementing a programme of Democracy Workshops in which about seven thousand children from various schools from all parts of Montenegro participated so far. During the workshops, a total of 231 children's newspapers and 49 radio broadcasts were prepared, and members of the Parliament of Montenegro are often able to talk to the children in order to present them the work of the Parliament and to get familiarized with the problems that children face.

**4b.** In particular, please indicate whether, and if so, how child victim's views, needs and concerns have been taken into account in determining the legislative or other measures to assist victims (Article 14, para. 1)?

**Answer:**

In 2011, the Institution of Ombudsman carried out the survey on sexual exploitation of children in Montenegro, primarily with a view to determine the level of understanding of the concept of sexual exploitation of children by the competent services and bodies, as well as understanding trends in this area. In order to obtain comprehensive results and build a clear picture of the true state of affairs in this area, the Ombudsman also asked for information from the children themselves, ensuring their participation in this manner. The methodology anticipated interviews with both child victims and the other children, in order to obtain information about the extent of their information, and their level of awareness of the problem.

Information about the problem of sexual exploitation of children was not claimed by means of a questionnaire from educational institutions or from health care facilities. The Ombudsman opted to collect information from these institutions through the implementation of focus groups and direct interviews, guided by the observance of the right to privacy of the victims of this form of exploitation and the fact that schools, as the primary indicators of problems in the family, do not have the necessary information when it comes to this phenomenon.

Individual interviews with children (six of them) who are victims of sexual exploitation and abuse were conducted by expert and sensitized persons who are familiar with this problem and already involved in direct work with child victims. The professionals hired conducted the interviews with children according to a pre-prepared questionnaire and established guidelines, taking into account, primarily, the best interests of the child in each case. The interviews were conducted with prior consent of the child and his / her guardian. The goal of these interviews was to examine the problem from the perspective of a child – victim, as well as to determine the types of assistance, support and protection that the authorities provided in specific cases.

Interviews with the primary school and secondary school children were conducted in the form of workshops and focus groups on the subject of abuse and misuse in general, with the focus placed on the area of sexual abuse of children. In this way, information concerning the level of information of children of different age was obtained, as well as the information on the notion itself, its forms, as well as the risks of sexual abuse and misuse. In addition, their knowledge about the mechanisms of protection against potential abuse, harassment or misuse was checked.

The views of children were taken into account when giving recommendations and opinions, which the Ombudsman submitted to competent authorities in order to improve the work of state authorities, institutions and services that deal with issues of prevention, protection and assistance to child victims of sexual abuse.

## **Question 5: Specialised bodies/mechanisms**

**5a.** Please indicate the independent institution(s) (national or local) in charge of promoting and protecting the rights of the child. Please specify its/their responsibilities and indicate how resources are secured for it/them (**Article 10, para. 2, letter (a)**);

### **Answer:**

The Constitution of Montenegro establishes the Institution of the Protector of Human Rights and Freedoms (Ombudsman), as an independent one; with the mandate to protect human rights and freedoms when they are violated through an act, action or inaction of state authorities; to promote human rights and to take measures to improve human rights. Within the Institution, there is a special department for the protection and promotion of children's rights. Annual Report of the Ombudsman, which is reviewed and approved by the Parliament of Montenegro, contains a special section that relates to the rights of the child. Through this Report, in addition to the Parliament, the citizens and the general public, including NGOs, become familiar with the situation in the field of children's rights, and the measures proposed by the Ombudsman in order to improve the position of children in Montenegro. The Ombudsman also submits reports on the exercise of human rights to international bodies. In accordance with the reporting requirements, the Institution of the Protector of Human Rights and Freedoms submitted special reports on the implementation of the Convention on the Rights of the Child and the Optional Protocols to the Convention, as well as the UPR report, to the Committee on the Rights of the Child.

The mandate of the Deputy Protector of Human Rights and Freedoms for the rights and freedoms of the child is explicitly defined in the Act on job descriptions, following his / her appointment by the Parliament. Since the appointment, in addition to the regular work on the complaints filed, the Deputy Protector of Human Rights and Freedoms is active in various fields, such as the implementation of promotional activities, workshops on the rights of the child, various projects, campaigns, publications. Children and their parents are informed of the availability of filing complaints to the Protector of Human Rights and Freedoms through workshops held in schools, presentation of children's blog on the official website of the Protector of Human Rights and Freedoms and on the Facebook page.

Currently, within the Institution of the Protector of Human Rights and Freedoms, in addition to the Deputy Protector of Human Rights and Freedoms for the rights and freedoms of the child, there are two advisers working exclusively with children's rights, and an intern. The procedure for capacity expansion in the department of children's rights is underway. The Institution, in accordance with the law, hires specialized experts in certain areas as needed.

The continued strengthening of the role of Deputy Protector of Human Rights and Freedoms in monitoring and reporting on compliance with the rights of the child in Montenegro is of great importance to the strengthening of the system of independent monitoring.

The Institution of the Protector of Human Rights and Freedoms is financed from the state budget. The civil society also monitors the implementation of the rights of the child within the limits of their capabilities.



**5b.** Which legislative or other measures have been taken to set up or designate mechanisms for data collection or focal points, at the national or local levels and in collaboration with civil society, for the purpose of observing and evaluating the phenomenon of sexual exploitation and sexual abuse of children, with due respect for the requirements of personal data protection? (**Article 10, para. 2, letter (b)**);

**Answer:**

All the competent authorities have their own internal records.

In the field of social and child welfare, as a part of the Project “Social Card”, the plan is to collect, among other things, the data related to sexual exploitation and sexual abuse of children, as well as the measures and actions taken in particular cases by the competent authorities. In this way, a unique database of child victims of sexual violence will be established and the flow of information between authorities will be ensured.

In the network of parliamentarians for the fight against violence against children, Montenegro designated a contact person, who is also the contact person for the implementation of the campaign “One in Five”, and this is Dr Zoran Vukčević, Head of Delegation of the Parliament of Montenegro in the Parliamentary Assembly of the Council of Europe.

At the initiative of the Office for the Fight against Trafficking in Human Beings, a Tripartite Commission was formed, that is composed of representatives of the Supreme Public Prosecutor’s Office, the Supreme Court and the Police Administration. Each of these institutions has a designated contact person who is required to monitor the statistics about trafficking in human beings / children within his / her institution and to submit the data, on a monthly basis, to the Office for the Fight against Trafficking in Human Beings, which, as a coordinating body, consolidates the data and creates uniform statistics on trafficking in human beings / children in Montenegro. Statistics include information about both the perpetrators and the victims of this criminal offence, as well as the complete description of the criminal process. The above detailed statistical data are public and are available 24/7 on the website of the Office ([www.antitrafficking.gov.me](http://www.antitrafficking.gov.me)). The Office for the Fight against Trafficking also receives information from representatives of NGOs on all protégés staying in their shelters, and who are believed to be potential victims of trafficking in human beings / children. On the basis of the data obtained, an observation and evaluation of all forms of trafficking in human beings / children in our country is carried out.

**5c.** Which legislative or other measures have been taken to organise the collection and storage of data relating to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with this Convention? What is the national authority in charge of the collection and storage of such data? (**Article 37, para. 1**).

**Answer:**

The collection and storage of data relating to the identity and genetic profile (DNA) of persons convicted of criminal offences established in accordance with this Convention is organised in

accordance with the Law on DNA Register.

The national body responsible for the collection and storage of such data is the Forensic Center. However, a separate database of perpetrators of sexual offences has not yet been established.

#### **Question 6: National or local coordination, cooperation and partnerships**

**6a.** Please describe how coordination on a national or local level is ensured between the different agencies in charge of the protection from, the prevention of and the fight against sexual exploitation and sexual abuse of children. In particular, please provide information on existing or planned coordination between the education sector, the health sector, the social services and the law enforcement and judicial authorities (**Article 10, para. 1**);

#### **Answer:**

In order to improve the practice and delivery of quality services to children who are victims of violence, the Ministry of Labour and Social Welfare, in partnership with UNICEF and UNHCR, started the implementation of a Programme to protect children from abuse and neglect in 2002. Multidisciplinary teams were formed in the social welfare centres.

Operational Multidisciplinary teams are composed of: a lawyer, a psychologist, educationist and social worker (social welfare), a psychiatrist and a paediatrician (health care), inspector (police), prosecutor, judge, educationist (education), representative of the NGO Helpline for Women and Children victims of violence. The coordinator of all activities is the Social Welfare Centre, which accommodates the seat of the team as well.

This model has proven to be very successful, which is confirmed by an evaluation of the project made by UNICEF. It is in line with the practice of child protection within the framework of social and child protection in Montenegro.

Within the project, a large number of seminars for education of professionals of all sectors working within the multi-sector model of protecting children from abuse and neglect were organised. Approximately 350 professionals were educated.

The involvement of professionals from other systems is increasing the level of knowledge and professional competence not only in the social welfare centres but also in institutions of other systems. UNICEF and UNHCR provided financial support to this project until the end of 2008.

The Law on Protection from Domestic Violence legally completed the procedure of protecting victims of violence and providing them with better protection. The **Law on Protection from Domestic Violence**, the first specialized law regulating domestic violence came into force in August 2010. This law defines domestic violence as “any act or omission of a family member which endangers the physical, psychological, sexual or financial integrity, mental health and peace of another family member, regardless of the place in which it occurs”.

The Law governs the protection of victims of violence in the misdemeanour proceedings and provides for five types of protective measures as misdemeanour sanctions: removal from the apartment, the restraining order, prohibition of harassment and stalking, the obligatory treatment of addiction and obligatory psychosocial treatment.

In addition, the principle of urgency is envisaged in proceedings relating to protection from violence. Article 4 stipulates that domestic violence victims have the right to psychosocial and legal assistance, as well as to social and medical care. Also, Article 5 stipulates the obligation of the police, misdemeanour bodies, the public prosecutor's office, the social welfare centre or other social and child protection institution, health institutions as well as other bodies and institutions involved in the protection, to provide complete and coordinated protection to victims of domestic violence. Furthermore, in the procedures relating to the protection, bodies and institutions are obliged to act urgently, bearing in mind that the interests and welfare of the victim, especially if the victim is a child, elderly person, person with a disability and a person who is not capable of taking care of himself / herself, are the priority in these proceedings.

Article 11 stipulates that the social welfare centre shall set up an expert team consisting of representatives of this institution, bodies and agencies of local government, police, non-governmental organisations and experts dealing with the family issues, with a view to establish victim assistance plan and to coordinate activities in the process of helping victims, according to their needs and choices.

According to this Law, multidisciplinary teams have been formed within 10 social welfare centres, whose jurisdiction was extended to include all victims of domestic violence, not just children. The teams provide a complete and coordinated protection of victims of domestic violence. When it comes to social protection, the Law stipulates that social protection for victims includes tangible and intangible assistance, housing and social services, in accordance with the law governing social and child protection, as well as free legal aid, exercised in accordance with the Law on Free Legal Aid.

In accordance with the Law on Protection from Domestic Violence, the **Strategy for Protection from Domestic Violence** was passed, which includes the assessment of the situation and identifying key issues in social and other protection, as well as the targets and measures for the improvement of social and other protection. The Strategy was adopted by the Government, in July 2011.

In November 2011, the **Protocol on procedures in domestic violence cases** was signed. Signatories to the Protocol are: The Supreme Court, Ministry of Justice, Supreme Public Prosecutor's Office, Ministry of Education, Ministry of Health, Ministry of Labour and Social Welfare, Police Administration and the Misdemeanour Council. The objective of the Protocol is to establish and foster the establishment of multi-disciplinary cooperation with clearly defined procedures for each system.

The protocol has been prepared in such a manner to respect the fundamental principles arising from all conventions and laws referred to in the Strategy for Protection from Domestic Violence, encompassing the comprehensive protection of the family from violence. The Protocol regulates the joint work of all systems in the implementation of laws and conventions, and provides the

obligation to take the necessary measures to ensure organisation, equipment and education of a sufficient number of specialized professionals dealing with domestic violence.

The Law on Protection from Domestic Violence also provides for the drafting of the **Rulebook regulating the manner of implementation of the protective measure of obligatory psychosocial treatment of violence perpetrators**. Soon, with the support of UNDP, training of professionals who will conduct the psychosocial treatment will be carried out.

The Office for the Fight against Trafficking in Human Beings is an umbrella institution when it comes to the fight against trafficking in human beings in Montenegro. The primary role of the Office is reflected in the coordination of the activities of governmental, non-governmental and international institutions and organisations involved in the fight against trafficking in human beings / children by consolidating all positive forces involved in addressing this phenomenon. In addition, through the activities of the Working Group for Monitoring the Implementation of the National Strategy for the Fight against Trafficking in Human Beings, monitoring and improvement of activities of the relevant institutions in the implementation of the Strategy for the Fight against Trafficking in Human Beings is conducted. In the future period, the intention is to form a coordination body that will be responsible for monitoring and evaluating the implementation of the Agreement on Cooperation, with a view to better cooperation in the fight against trafficking in human beings in practice, through prevention, education, criminal prosecution of perpetrators and protection of victims and potential victims of trafficking in human beings, especially women and children.

The fact that representatives of the National Team of the campaign “One in Five” for Montenegro included all segments of the society grouped in a multidisciplinary team, as stated in the answer to question 3b, ensures that coordination is provided in a straightforward manner, and that it stems from the structure and the manner of work of the National Team. Each of these institutions was represented in the National Team. A Team member represented, organised and implemented the campaign activities on behalf of the institution he / she represented. Activities were designed so that as many members of the Team participate in the implementation of a specific activity, as an organiser and co-organiser. This fostered teamwork, cooperation and coordination of social factors with a view to more efficient fight against sexual violence against children. The Team members were invited to attend all campaign activities. The text below lists the implemented activities of the National Team of the campaign “One in Five” for Montenegro. They serve as evidence of effective coordination and cooperation between social actors at national and local level, and between the various agencies responsible for the protection, prevention and the fight against sexual exploitation and sexual abuse of children.

In order to protect children from sexual abuse, the Government of Montenegro joined the Council of Europe Campaign “One in Five” and formed a National Team for the implementation of the campaign. The National Team for participation of Montenegro in the campaign includes a broad structure of social factors, in accordance with the proposal of the Council of Europe: starting from the Parliament of Montenegro, through the relevant Government departments, prosecution offices and the judiciary, NGOs, to foreign and national partners. In accordance with the campaign, several surveys were conducted by the Institution of the Ombudsman, Ministry for Information Society and Telecommunications and NGO sector. The campaign “One in Five” aims to conduct surveys on this topic. ([www.ombudsmandjeca.co.me](http://www.ombudsmandjeca.co.me))

The activities include, among other things, roundtables, panels, workshops with adults and children and lectures as forms of education in the fight against child abuse, coordinated efforts of relevant departments in the field, the study of this problem in Montenegro, distributing informational materials and a media campaign on this problem. The Team will also make an informative website on the Montenegrin participation and conduct promotion via electronic and print media.

**6b.** Is cooperation with a view to better preventing and combating sexual exploitation and sexual abuse of children encouraged between the competent state authorities, civil societies and the private sector (**Article 10, para. 3**)? If so, please specify how.

**Answer:**

The new Law on Non-Governmental Organisations, adopted in 2011, significantly enhanced the normative and legal framework for the development and operation of non-governmental sector in terms of further alignment with the provisions of international instruments and jurisprudence of the European Court in the exercise of the right to freedom of association. The Law regulates the conditions for the establishment of NGOs and the manner of keeping a registry of organisations in electronic form; establishes a unique manner of public funding and policy criteria for the allocation of funds to non-governmental organisations and the financing of projects and programmes. In addition, the Decree on the manner and procedure for exercising cooperation between state authorities and non-governmental organisations and the Decree on the manner and procedure for conducting public discussions in the preparation of laws were adopted. This is the first time in Montenegro that this area is regulated through legislation, and through the process, the cooperation between the Government and NGOs in the consultative process of preparing legislation is regulated in a clear, open and democratic manner.

Also, the procedure for selection and appointment of representatives from the NGO sector at the ministerial level is identical to that carried out at the national level. Procedures for membership at the ministerial level include issuing public calls for proposals and the list of candidates for the selection of representatives. In this manner, a greater degree of transparency of the whole procedure is ensured.

In the previous period, there has been a significantly increased participation of civil society organisations in a systematic dialogue with the Government, through regular presentations and exchange of important documents and information, while the number of initiatives in different areas aimed at improving sectoral policies also increased.

NGO representatives were members of a significant number of working groups for the preparation of laws and by-laws, consultative and advisory bodies, such as: the Council for Cooperation between the Government of Montenegro and Non-Governmental Organisations, the Council for Protection from Discrimination, the Council for Children's Rights, the Commission for Allocation of Revenues from Games of Chance, the Commission for Monitoring the Results in the Fight against Organised Crime and Corruption, the National Council for Sustainable Development and others.

In the previous period, in cooperation with the OSCE Mission and the Office for the Fight against Trafficking in Human Beings, the Ministry of Sustainable Development and Tourism held several roundtables and trainings. In addition, the Code of Conduct for the Protection of Children against Sexual Violence in Travel and Tourism was signed. The Code of Conduct was signed by 200 representatives of hotels, travel agencies and transport companies.

The Project of “Cooperation between the Public and Private Sector in the Prevention of Trafficking and Sexual Exploitation of Children in Travel and Tourism”, was presented at the roundtable in 2005, and referred to the introduction of a Code of Conduct for the protection of children from violence.

The roundtables were aimed at instructing staff of the relevant tourism and hospitality industry companies how to identify the victims of violence and how to respond appropriately. Every hotel, travel agency, nominated one or two people who have continued to inform the staff on the topic within their company, i.e. to ensure that the principles of the Code are implemented.

In terms of prevention, the Project aimed to raise awareness of the public, especially tourists and travellers through Montenegro, with a view to the prevention of sexual exploitation of children in tourism by obliging tourism operators to comply with the Code.

The readiness of the institutions of Montenegro to cooperate with a view to effective fight against trafficking in human beings was confirmed through the signing of an Agreement on Cooperation between State Institutions (the Supreme Public Prosecutor’s Office, Supreme Court, Ministry of Education, Ministry of Labour and Social Welfare, Ministry of Health, Ministry of Interior - Police Administration, Office for the Fight against Trafficking in Human Beings, Center for Child and Family Support Bijelo Polje, the Red Cross and six non-governmental organisations, “Montenegrin Women’s Lobby”, “Women’s Safe House”, “Helpline for Women and Children Victims of Violence – Nikšić”, “Helpline for Women and Children Victims of Violence – Podgorica”, “House of Hope”, “Institute for Social Inclusion”). The purpose of this Agreement is the cooperation on: prevention, identification, training, reporting and criminal prosecution of perpetrators and protection of potential victims of trafficking in human beings, with full respect for their human rights, with a view to securing the physical, psychological, medical, social and child protection and to facilitate their integration into new society, or reintegration in the case of voluntary return to their country of origin. The Agreement makes concrete the legally defined obligations of the institutions through operating procedure that signatories to the Agreement implement in addressing the specific case of trafficking in human beings. At the same time, special emphasis is placed on actions in relation to women and children victims of trafficking in human beings.

In order to strengthen the cooperation with the private sector and generally improve the standards built in protection and assistance to child victims of sexual exploitation, the Office for the Fight against Trafficking in Human Beings, together with the Ministry of Tourism, with the support of the OSCE Mission to Montenegro, implements the Project “Code of Conduct for Protection of Minors from Sexual Exploitation in Travel and Tourism”. In terms of prevention, the Project is aimed at raising awareness of the public, especially tourists and travellers through Montenegro, with a view to the prevention of sexual exploitation of children in tourism. The parties to this Agreement are committed to comply with the Code, which implies:

- Adoption of common ethical principles in the fight against commercialisation of sexual exploitation of children;
- Training of staff in the countries of origin and travel destinations;
- The introduction of a clause in contracts with suppliers, which includes a common renunciation of sexual exploitation of children;
- Providing information to travellers through catalogues, brochures, movies, travel maps, web-pages, as well as to local “key persons” at the place of destination.

Shelters for victims of domestic violence and victims of trafficking in human beings have been established in several municipalities by the NGO sector, but a part of their activities is financed from the budget.

**6c.** Are partnerships or other forms of cooperation between the competent authorities promoted with particular regard to the recipients of intervention programmes and measures for persons subject to criminal proceedings or convicted of any of the offences established in accordance with the Lanzarote Convention (**Article 15, para. 2 and Article 16**)?

**Answer:**

Partnership is still not established, nor is the adequate cooperation between the competent authorities to implement the intervention programmes and measures for persons in criminal proceedings or convicted of any of the criminal offences established in accordance with the Lanzarote Convention.

### **Question 7: International cooperation**

Has your country integrated prevention and the fight against sexual exploitation and sexual abuse of children in assistance programmes for development provided for the benefit of third states (**Article 38, para. 4**)? Please give examples.

**Answer:**

For the time being, Montenegro has prepared a Draft Protocol on cooperation in the fight against trafficking in human beings in order to improve the identification, notification and referral, cooperation in criminal matters, and voluntary return of potential victims and victims of trafficking in human beings between the Government of Montenegro and the Government of Kosovo. The Protocol, among other things, treats the prevention and combating sexual exploitation and sexual abuse of children. It is expected to be signed in 2014, immediately after the signing of the Agreement on Police Cooperation between the Government of Montenegro and the Government of Kosovo. In the future period, we are planning to sign the Protocol on cooperation in the fight against trafficking in human beings with Serbia and Albania.

The very participation of the Parliamentary Delegation of Montenegro to the Parliamentary Assembly of the Council of Europe in Campaign “One in Five” for Montenegro gives it an international dimension. At the April’s session of the Parliamentary Assembly of the Council of Europe in 2012, the official website of the Council of Europe Campaign “One in Five”, in

Bulletin No. 5, information on activities of the Campaign in Montenegro was published, promoting its international dimension:

[http://www.coe.int/t/dg3/children/1in5/Source/Assembly/Newsletter\\_en.pdf](http://www.coe.int/t/dg3/children/1in5/Source/Assembly/Newsletter_en.pdf)

NGO “Child Helpline International” from the Netherlands has established a network of counselling lines in the world and is currently supporting the work of 162 lines worldwide. Having met all the required standards for operation of a counselling line, NGO “Children First” became a full member of the “Child Helpline International”.

As a contribution to Council of Europe Campaign “One in Five”, the delegation of the Parliament of Montenegro in the PACE and UNICEF Mission in Montenegro implemented a survey “Violence against children in Montenegro - a survey of knowledge, attitudes and behaviour, 2013”, the results of which were presented at a press conference in the Parliament on 26 September 2013.

According to the World Health Organization data, 150 million girls and 73 million boys were subjected to sexual violence, and 1.3 million children are victims of global trafficking today. It is only the functional, educational, social and health system that can protect children from violence, while it is likewise necessary to constantly work to enhance public awareness of the need to combat this problem. It was concluded that this survey should be the starting basis for taking action by the relevant state authorities of Montenegro and all other entities, in order to reduce the level of violence against children and to implement measures aimed at protecting children.

The Committee for Human Rights and Freedoms has implemented a number of activities dedicated to children’s rights:

1. Public discussion of the Committee for Human Rights and Freedoms on the topic: “The rights of the child – Implementation of the Law on Pre-School Education and the Law on Protection from Domestic Violence”, held on 28 February 2011 in public preschool institution “Zagorka Ivanović” in Cetinje, within the framework of the project “Capacity Building of the Parliament of Montenegro”, in cooperation with the OSCE Mission to Montenegro.

The Committee for Human Rights and Freedoms joined, at the public discussion in Cetinje, the second phase of the campaign “It’s about ability”. With a view to promoting the campaign “It’s about ability”, the inclusion of children with disabilities, and contributing to the realisation and protection of children’s rights, the Committee displayed the promotional billboards of the campaign “It’s about ability” in all of its sessions.

2. Meeting of the Committee for Human Rights and Freedoms with representatives of the Association of Parents of Children and Youth with Disabilities “Our initiative”, held on 21 April 2011.

This was the third meeting of the Committee with the Association of Parents of Children and Youth with Disabilities “Our initiative”, which was attended by the Protector of Human Rights and Freedoms of Montenegro and the representative of the Ministry of Labour and Social Welfare, and in which views were exchanged on issues of children with disabilities, while



consideration was given to the possibilities for improving their position in Montenegrin society.

3. Continuation of the 36<sup>th</sup> session of the Committee for Human Rights and Freedoms, held on 21 April 2011.

During the continuation of the 36<sup>th</sup> session of the Committee for Human Rights and Freedoms, held on 21 April 2011, the Committee considered a Special report on the human rights of mentally ill persons placed in institutions, which was submitted to the Parliament of Montenegro by the Protector of Human Rights and Freedoms, and submitted a Report to the Parliament on the review of the Special report on the human rights of mentally ill persons placed in institutions, with proposed conclusions. On 5 July 2011, following the consideration of the Special report of the Protector of Human Rights and Freedoms of Montenegro on the human rights and freedoms of mentally ill persons placed in institutions, the 24<sup>th</sup> Parliament of Montenegro at the 9<sup>th</sup> sitting of the first (spring) session in 2011 adopted the Conclusion published in the Official Gazette of Montenegro 36/11 of 27 July 2011, after which two control hearings were held, of the Minister of Labour and Social Affairs, on the implementation of the Conclusion of the Parliament of Montenegro.

4. Meeting in which the Convention on the Rights of Persons with Disabilities was presented in Braille, audio and sign language, held on 8 June 2011, in the Government House in Cetinje.

A member of the Committee for Human Rights and Freedoms, Šefkija Murić, attended the above meeting, at the invitation of UNICEF. At the meeting, within the campaign “It’s about ability”, the United Nations Convention on the Rights of Persons with Disabilities was presented in Braille, audio and sign language. On this occasion, children with disabilities were given the first copies of the Convention, which made Montenegro the first Balkan country that has made this important step.

5. Roundtable in which publication “A Guide for Children with Special Educational Needs” was presented. The roundtable was held on 29 September 2011 in Podgorica, and was organised by the Institution of the Protector of Human Rights and Freedoms of Montenegro.

The institution of the Protector of Human Rights and Freedoms is implementing a project “Teaching Assistant”, with financial and technical support of Save the Children from Norway. On this occasion, a roundtable was organised to promote the publication “A Guide for Children with Special Educational Needs”, as well as the recommendations of the Protector of Human Rights and Freedoms for further course of action in order to improve the rights of children with special educational needs.

The roundtable considered the situation of children with special educational needs, as well as the role of teaching assistants and the measures to be taken in order to promote educational inclusion in Montenegro, and was attended, at the invitation of the Protector of Human Rights and Freedoms, by the Chairman of the Committee for Human Rights and Freedoms and Secretary of the Board, Slava Burić.

6. Public discussion of the Committee for Human Rights and Freedoms on the topic of “Children’s rights – Implementation of the Law on Education of Children with Special Educational Needs”, held on 30 September 2011 in the Office for Education and Rehabilitation of Persons with Hearing and Speech disorders in Kotor.

Participants in the public discussion agreed that all subjects should, in the field of their competence and ability, join forces and activities in order to contribute to improving the inclusion of children with special educational needs, not only in education but in society in general.

7. Visit by the Committee for Human Rights and Freedoms and the Ombudsman to the Office for Education and Vocational Rehabilitation of Disabled Children and Youth in Podgorica, on 10 October 2011.

The visit was organised as part of the Project “Address the Protector”, and to mark the week dedicated to children’s rights, as well as with a view to continuous monitoring of the Committee over the human rights of persons placed in institutions, and the establishment of direct communication between members of the Committee and citizens and target groups. Visit to the Office represents the realisation of 7<sup>th</sup> item of the Conclusion that the Parliament of Montenegro adopted regarding the consideration of the Special report on human rights of mentally ill persons placed in institutions (Official Gazette of Montenegro 36/11 of 27 July 2011), which provided that a delegation of the Committee for Human Rights and Freedoms will, at least once a year and more often if necessary, visit institutions of this type.

8. Public discussion of the Committee for Human Rights and Freedoms on the topic of “Implementation of the Law on Prohibition of Discrimination”, held in Berane on 28 October 2011.

The first part of the public discussion was held in the primary school “Vuk Karadžić”, in which children with special educational needs have been educated alongside other children for the past 35 years. So far, over 90 pupils have completed this primary school under the educational program that is tailored to children with special needs.

9. The 54<sup>th</sup> session of the Committee for Human Rights and Freedoms held on 23 November 2011.

The Committee for Human Rights and Freedoms considered the Special report on child begging in Montenegro, which was submitted to the Committee by the Office of the Protector of Human Rights and Freedoms of Montenegro and which was considered to the level of the Committee.

The Committee unanimously adopted the Special report on child begging in Montenegro, with the conclusions of the Ombudsman, and decided to present the recommendations to the competent authorities of the executive branch of power: the Ministry of Interior, Ministry of Labour and Social Welfare, Ministry of Education, and Ministry of Justice. It was also decided that the activities in this area are monitored in the future period.

10. Participation of the President of the Committee for Human Rights and Freedoms in the meeting organised on the occasion of the presentation of Campaign “Let’s teach them something else”, and the Special report on child begging in Montenegro, organised by the Institution of the Protector of Human Rights and Freedoms of Montenegro on 24 November 2011 in hotel “Podgorica”.

11. The Committee for Human Rights and Freedoms got involved in the second phase of the Campaign “Let’s teach them something else”.

At its 53<sup>rd</sup> session held on 14 November 2011, the Committee for Human Rights and Freedoms of the Parliament of Montenegro accepted the invitation of the Institution of the Protector of Human Rights and Freedoms of Montenegro and got involved in the second phase of the Campaign “Let’s teach them something else”, that began on 15 November 2011.

Through the Committee for Human Rights and Freedoms and with the understanding of the Secretary General of the Parliament, the Parliament of Montenegro financially supported the installation of a billboard with a view to raising awareness of professional and general public, especially children, on the harmful effects of begging, in order to protect themselves against the risk of becoming victims of trafficking in human beings and economic and social exploitation.

12. The 56<sup>th</sup> session of the Committee for Human Rights and Freedoms was held on 9 December 2011. In this session, on the occasion of 10 December – International Human Rights Day, numerous participants of the session of the Committee and the media present had the opportunity to take note, for the first time, of the participation of children in the work of a parliamentary working body, on the basis of rights guaranteed by international instruments. At the aforementioned session of the Committee, for the first time, children from Children’s Home “Mladost” – Bijela and those from the Centre for Education and Training “1 jun”, were enabled to attend the session of the Committee, which is how the right arising from Article 12 of the Convention on the Rights of the Child was exercised. Article 12 of the UN Convention on the Rights of the Child stipulates that “States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child”. Thus, the children, among whom there were children with disabilities, asked representatives of relevant ministries and members of the Committee questions about the problems that are part of their everyday life.

13. On the occasion of the successful implementation of activities defined by the Plan of the Committee for Human Rights and Freedoms in the past year, made on the basis of the Analytical Report and Opinion of the European Commission and the Action Plans of the Parliament and Government and the adoption of the Report on Work for 2011, in its 21<sup>st</sup> session held on 21 December 2011, the Committee for Human Rights and Freedoms organised an exhibition of art works of pupils of the Center for Education and Training “1 jun”, with the slogan “I also exist”.

During 2012, the Committee for Human Rights and Freedoms, as part of the Committee sessions, and participation in roundtables and conferences, paid considerable attention to children, especially children with disabilities.

\*\*\*

Adopting the Plan of activities of the Committee for Human Rights and Freedoms for 2013, starting from the findings in the Progress Report of the European Commission for Montenegro for 2012, the Committee concluded that special attention, through a number of planned activities, will be paid to the rights of the child. This is because in October 2010, Montenegro received binding recommendations of the UN Committee on the Rights of the Child, which were related to the different areas of action to improve the position of children and to raise the level of respect for children's rights in Montenegro. It was then concluded that the abovementioned activities will be implemented in cooperation with the Protector of Human Rights and Freedoms, as well as our international friends: Council of Europe (key areas of action from 2012 to 2015 identified in the Draft Strategy for Children), UNICEF, Save the Children, and non-governmental organisations recognizable in the field, through the following fields of activity, established by the Council of Europe by 2015:

- Family;

- Developing the service of social services and social care for children;

- Education and participation of children and

- Protection from sexual abuse and exploitation of children, child pornography and child prostitution, which stems from the obligations set out for Montenegro, given in the Progress Report for Montenegro for 2012.

During 2013, at its 4<sup>th</sup> session held on 6 February 2013, the Committee for Human Rights and Freedoms considered the Report on sexual exploitation of children in Montenegro, prepared in the second phase of the regional project "Improvement of the status of children with a view to protection against all forms of exploitation". The Committee adopted the Report, passed the Conclusion supporting the Recommendations of the Protector of Human Rights and Freedoms and submitted it to the Ministry of Justice, Ministry of Interior, Ministry of Labour and Social Welfare, Ministry of Health, Ministry of Education, Ministry of Tourism and Sustainable Development, as well as the Head of the Delegation of Montenegro in the Parliamentary Assembly of the Council of Europe, which is running the campaign "One in Five", in which Montenegro participates.

At its 12<sup>th</sup> session held on 6 June 2013, the Committee for Human Rights and Freedoms considered, in accordance with the Plan of activities for 2013, the Report on child abuse through the Internet in Montenegro.

At its 19<sup>th</sup> session, scheduled for 8 November 2013, to meet the International Child Rights Day – 20 November, the Committee for Human Rights and Freedoms considered the Report on the results of surveys conducted on the protection of children from exploitation, completing in this manner a number of activities for the protection of children's rights that it dealt with from 2011 to 2013, as part of the Regional project "Preventing Exploitation of Children in South East Europe", which is implemented by Save the Children in cooperation with members of the CRONSEE network and the ombudsmen of the region, in which the Committee participated through considerations of:

- The Report on child begging in Montenegro,
- The Report on the sexual exploitation of children in Montenegro, and
- The Report on the abuse of children through the Internet,

and adopting the Conclusions, which have been, together with Recommendations made, submitted to the line ministries for further action.

At its 19<sup>th</sup> session, the Committee for Human Rights and Freedoms decided to organise, in cooperation with the Delegation of the Parliament of Montenegro in PACE and the Protector of Human Rights and Freedoms of Montenegro, with the support of UNICEF mission to Montenegro, the Second regional meeting of the parliamentary bodies in charge of human rights and the rights of the child with the ombudsmen for children of the countries in the region on the topic of “Rights of the Child – improving the status of children with a view to protection against all forms of exploitation”.

The Second regional meeting of the parliamentary bodies in charge of human rights and children’s rights with ombudsmen for children of the countries in the region was held on 21 and 22 January 2014 in the Regional School of Public Administration in Danilovgrad.

The aim of the meeting was to exchange views and best practices in the protection of children’s rights, in order to determine the goals and directions of further inter-parliamentary cooperation and national institutions for the protection of human rights and children’s rights. The meeting was organised as a continuation of the meetings of the parliamentary bodies of the countries in the region, initiated on 29 and 30 October 2013 in the National Assembly of the Republic of Serbia, bearing in mind that the Joint Statement adopted after this meeting emphasized that protection of children’s rights, especially protection against child pornography and cybercrime, should be among the priority areas in the future period.

The Second regional meeting was attended by representatives of parliamentary working bodies responsible for human rights and the rights of the child from Croatia, Serbia and Montenegro, as well as the representatives of the ombudsmen institutions from Croatia, Serbia, Slovenia, the Republic of Srpska, and Montenegro, as well as representatives of Save the Children and international organisations based in Montenegro dealing with these problems (UNICEF, OSCE and the Delegation of the European Union to Montenegro).

The Second regional meeting of the parliamentary bodies in charge of human rights and children’s rights with ombudsmen for children of the countries in the region was finished by the adoption of the Joint Statement.

<http://www.skupstina.me/index.php/me/odbor-za-ljudska-prava-i-slobode/aktuelnosti/item/1842-u-danilovgradu-odrzan-drugi-regionalni-sastanak-parlamentarnih-radnih-tijela-nadleznih-za-ljudska-prava-i-prava-djeteta-sa-ombudsmanima-za-djecu-zemalja-regiona>

The participation of the Head of UNICEF in Montenegro and UNICEF representatives at the sessions of the Committee for Human Rights and Freedoms in the 25<sup>th</sup> Parliament of Montenegro

The participation of the Head of UNICEF in Montenegro, Benjamin Perks, at:

- The fourth session of the Committee for Human Rights and Freedoms, held on 6 February 2013, at which the following were considered:

1. A Report on the sexual exploitation of children in Montenegro, which was submitted by the Protector of Human Rights and Freedoms of Montenegro (up to the Committee level), with a reflection on:

- Report – Study on child poverty in Montenegro, which was done by UNICEF in partnership with the Ministry of Labour and Social Welfare of Montenegro;

- A Report with recommendations from the Conference “Together to the better quality social and child protection of persons with disabilities”, held in Podgorica on 3 December 2012, on the occasion of International Day of Persons with Disabilities, and

- Results of the Campaign “One in Five”, launched by the Council of Europe and conducted by the Government of Montenegro as of February 2012;

- The sixth session of the Committee for Human Rights and Freedoms, held on 6 March 2013, at which the Proposal for the Plan of activities of the Committee for Human Rights and Freedoms for 2013 was considered;

- The seventh session of the Committee for Human Rights and Freedoms, held on 25 March 2013, in which the recommendations contained in Resolution 1890 (2012) PACE “Compliance with obligations and commitments by Montenegro”, adopted on 27 June 2012 in PACE were considered;

- The eighth session of the Committee for Human Rights and Freedoms, held on 29 March 2013, at which the following were considered:

a) The National report on human rights in Montenegro within the second cycle of the Universal Periodic Review of the United Nations (2008-2012), presented at the meeting of the Human Rights Council in Geneva on 28 January 2013;

b) The Report on Human Rights by the Protector of Human Rights and Freedoms for needs of the Universal Periodic Review of the United Nations;

c) The Report on the protection of the rights of the child which was prepared by ten non-governmental organisations for the purpose of drafting the National report on human rights in Montenegro within the second cycle of the Universal Periodic Review of the United Nations (2008-2012).

- The continuation of the ninth session of the Committee for Human Rights and Freedoms, held on 17 May 2013, in which the control hearing was held of the ECRI National Coordinator for Montenegro, Deputy Minister for Human and Minority Rights, Blanka Radošević-Marović, on “Compliance with the obligations of Montenegro with regard to recommendations made in ECRI report on Montenegro of February 2012”

- The eleventh session of the Committee for Human Rights and Freedoms, held on 24 May 2013, attended by Ana Zec, in which the following were considered:

1. The Report on the work of the Protector of Human Rights and Freedoms of Montenegro for 2012;

## 2. The Report on the state of personal data protection in Montenegro for 2012.

- The twelfth session of the Committee for Human Rights and Freedoms, held on 6 June 2013, attended by Ana Zec and Nela Krnić, in which the following were considered:

The Report of the Protector of Human Rights and Freedoms of Montenegro as the National Preventive Mechanism (NPM), on the situation in the Remand Prison Podgorica (up to the Committee level),

The Report of the Protector of Human Rights and Freedoms of Montenegro on the abuse of children through the Internet (up to the Committee level);

- The fourteenth session of the Committee for Human Rights and Freedoms, held on 17 July 2013, in which the following were considered:

Communication on the implementation of the Strategy for Improving the Position of RAE Population in Montenegro 2012-2016, implementation of the Recommendations of the Ombudsman in terms of education (provision of textbooks, Roma assistants);

- With a reflection on the Study of barriers to education in Montenegro - Roma and Egyptian children, made by the UNICEF office in Montenegro, in cooperation with the Delegation of the Parliament of Montenegro in the Parliamentary Assembly of the Council of Europe (survey carried out by IPSOS Agency);

- The fifteenth session of the Committee for Human Rights and Freedoms, held on 25 September 2013, at which the control hearing of the Coordinator of the Coordination Committee for monitoring the implementation of the Strategy for Permanent Resolution of the Issue of Displaced and Internally Displaced Persons, with particular emphasis on the camp Konik I and II, Minister of Labour and Social Welfare, Mr. Predrag Bošković, on the topic of the "Implementation of the Strategy for Permanent Resolution of the Issue of Displaced and Internally Displaced Persons, with particular emphasis on the camp Konik I and II" in which Slobodan Živković, the Coordinator for Economic and Social Policy from UNICEF in Montenegro participated.

- The sixteenth session of the Committee for Human Rights and Freedoms, held on 25 September 2013, in which the following were considered:

A Report on the development and protection of the rights of minorities and other minority ethnic groups in 2012;

Communication on the implementation of the Action Plan for improving the prison system with a reflection on the Communication on the actions of the Police Administration on the recommendations of the Protector of Human Rights and Freedoms of Montenegro given in a special report on the state of the premises of the Police Administration for keeping persons deprived of liberty from 2011, which the Police Administration submitted to the Committee for Human Rights and Freedoms, in accordance with the Conclusion adopted by the Committee at its fourth session, held on 6 February 2013;

Communication on the implementation of the Law on the Prohibition of Discrimination;

Decision-making about the control hearing of the Minister of Labour and Social Welfare, Mr Predrag Bošković, on the topic of "Implementation of Conclusions of the Parliament of Montenegro (Official Gazette 36/11), issued following the consideration of the Special Report of the Protector of Human Rights and Freedoms of Montenegro on the human rights of mentally ill persons placed in institutions, in which Nela Krnić, Programme Coordinator for Child Protection

of UNICEF in Montenegro took part;

- The eighteenth session of the Committee for Human Rights and Freedoms, held on 22 October 2013, at which the control hearing of the Minister of Labour and Social Welfare, Mr Predrag Bošković, on the Implementation of the Conclusions of the Parliament of Montenegro (Official Gazette of Montenegro 36/11), issued following the consideration of the Special Report of the Protector of Human Rights and Freedoms of Montenegro on the human rights of mentally ill persons placed in institutions, in the context of the report of the CPT (an advisory body of the Council of Europe) after a visit by the mission of the CPT to Montenegro in February 2013, in which Ida Ferdinandi from the UNICEF Mission to Montenegro took part.

- On 14 October 2013, a thematic session of the Committee for Human Rights and Freedoms, Committee for Health, Labour and Social Welfare, Committee for Gender Equality, and the Committee for Education, Science, Culture and Sport was held with UNICEF, dedicated to the campaign “Every child needs a family”, which was initiated by the Government of Montenegro, with the assistance of UNICEF, to promote children’s rights to life in the carefree family environment.

### PUBLIC DISCUSSIONS

Previously, during the 24<sup>th</sup> Parliament of Montenegro, the Committee for Human Rights and Freedoms had an intense and very good cooperation with the UNICEF Mission to Montenegro. UNICEF representatives took part, in accordance with Article 67 paragraph 2 of the Rules of Procedure of the Parliament of Montenegro, in the sessions of the Committee. In addition, UNICEF representatives participated in public discussions organised by the Committee for Human Rights and Freedoms in order to create a direct contact with the public, for the purpose of learning about the laws relating to human rights and freedoms and their implementation.

The Committee has organised a number of PUBLIC DISCUSSIONS in different cities on different topics:

1. Public discussion on: “The Proposal for a Law on the Protector of Human Rights and Freedoms and the implementation of the Law on the Prohibition of Discrimination”, held in Bar on 27 September 2010;

2. Public discussion on: “The work of the Committee for Human Rights and Freedoms, with an emphasis on the upcoming adoption of the Law on Protection from Discrimination and the Law on Prevention of Domestic Violence”, held in April 2010;

3. Public discussion on: “Children’s rights – Implementation of the Law on Pre-School Education and the Law on Protection from Domestic Violence”, held on 28 February 2011 in Cetinje;

4. Public discussion on: “Children’s rights – Implementation of the Law on Education of Children with Special Educational Needs”, held on 30 September 2011 in Kotor;

5. Public discussion on: “Implementation of the Law on the Prohibition of Discrimination”, held on 28 October 2011 in Berane;

6. Public discussion on: “Implementation of the Law on the Prohibition of Discrimination”, held on 30 March 2012 in Podgorica; and

7. Public discussion on: “Implementation of the Law on the Prohibition of Discrimination



of Persons with Disabilities”, held on 1 June 2012 in Nikšić.

## CAMPAIGNS

During 2011, at the public discussion held in Cetinje in February 2011, with the consent of all the members of the Committee, the Committee got involved in the second phase of the campaign “It’s about ability”, implemented by UNICEF and the Government of Montenegro. On its 53<sup>rd</sup> session held on 14 November 2011, the Committee accepted the invitation of the Protector of Human Rights and Freedoms of Montenegro and got involved in the second part of the campaign “Let’s teach them something else”, conducted by the Institution of Ombudsman in cooperation with the ombudsmen from the region, with the support of Save the Children from Norway, in order to protect children from all forms of economic exploitation, especially begging on the streets.

## **PREVENTION OF SEXUAL EXPLOITATION AND SEXUAL ABUSE**

### **Question 8: Education, awareness raising and training**

**8a.** Which legislative or other measures have been taken to:

- ensure that children, during primary and secondary education receive information on the risks of sexual exploitation and sexual abuse, as well as on the means to protect themselves, adapted to their evolving capacities? (**Article 6, Explanatory Report, paras. 59-62**). Please also specify whether this information includes the risks of the use of new information and communication technologies (**Article 6, Explanatory Report, para. 63**);

### **Answer:**

Under the reformed nine-year primary school curriculum, elective courses are envisaged, one of which is “Healthy Lifestyles” for eighth and ninth grade pupils. For the purpose of this course, the Office for Textbooks and Teaching Aids of Montenegro prepared “Healthy Lifestyles, a Textbook for Eighth and Ninth Grade”. Previously, a guide was prepared for teachers and associates (pedagogues and psychologists), who will be implementing this programme. In secondary schools, an elective course “Healthy Lifestyles” was introduced. The textbook for the course was prepared. Among other things, the course analyzes issues related to sexual behaviour and violence. In cooperation with NGO “Children First”, the Ministry of Education organised a seminar “Protecting children from sexual abuse and exploitation”, primarily for members of the expert services of preschool educational institutions and primary schools in Podgorica. The seminar on the same topic was also organised for representatives of social and child protection system, health care, and education (Ministry of Education, Education Office, principals of preschool educational institutions and primary schools), police and judiciary. The seminars were organised within the Council of Europe campaign “One in Five” and the Parliament of Montenegro, and were aimed at preventing and combating all forms of sexual violence against children.

As of 2005 / 2006, in cooperation with UNICEF, the Ministry of Education is implementing the project “School without Violence – Safe School Environment”, with a view to prevent all forms of violence. Attention is paid to the occurrence of sexual violence as part of the violence in general, through an approach that takes into account the developmental characteristics of children. Topics are not covered explicitly, but in a way understandable to children (body touching that is not pleasant, causing discomfort, anxiety, etc.). The project “School without Violence – Safe School Environment” includes training aimed at increasing the knowledge and awareness of parents, teachers and other school staff about the problems of school bullying. To this end, a manual was prepared for schools, as well as brochures for parents and a questionnaire for schools.

In cooperation with the NGO “Children First”, the Ministry of Education conducted a survey on the experiences of children in using the Internet, mobile phones and other modern technologies (April 2011). The survey was conducted on a sample of 1,003 primary and secondary school pupils. Some of the data showed the following: contents with explicit depictions of the bodies of men and women were seen by 69.3%, intercourse by 64%, sexual activities with violent behaviour by 60.4%, while 83.4% of the interviewees were exposed to unpleasant comments and insults over the Internet. Furthermore, two-fifths of the interviewees (38.3%) stated that they came across a website containing photos showing sexual intercourse, without wishing to do so. One in ten respondents (11.4%) received a message via the Internet that offered pornographic websites while showing sexual content or containing links to such pages. Almost one third of respondents (31.1%) knew that a page was of pornographic nature, prior to entering the website. This is a piece of data that indicates that children already know which website they are going to visit and what awaits them there. An interesting fact is that the children used a computer at home (82.4% of them) when they received an e-mail or opened a website with disturbing / sexual content. At the end of the project, labels with content that show children the risks of using the Internet were prepared, providing information on the helpline that they can use to report the cases of possible violence. The Ministry of Education has recommended to all schools to use the labels in their computer labs, placing them next to each computer, so that instructions for behaviour in the case of the so-called cyber violence are made available to children.

The Ministry of Education has signed the Protocol on the procedures, prevention and protection from domestic violence: procedures and institutional cooperation related to domestic violence and violence against women. In relation to the institutions of preschool, primary school and secondary school education, and the resource centres, procedures and professional measures are envisaged in accordance with the rules of ethics and profession.

In partnership with UNDP, the Education Office launched an elective course “Healthy Lifestyles”, studied in the eighth or ninth grade of primary schools and the first or second grade of secondary schools, within two classes a week. Healthy lifestyles are likewise taught in vocational secondary schools as a cross-curricular area, i.e. certain topics from the field are studied in the framework of the existing curriculum, in the following subjects: psychology, sociology, physical education, biology and chemistry. Within the topics related to *Reproductive health with sex education and prevention of sexually transmitted diseases*, the objectives are implemented that are related to understanding forms of sexual violence and the ways in which they can be prevented and suppressed. The above elective course in primary schools is one of the subjects that most students choose. Approximately 60% of eighth and ninth grade pupils have

opted to attend these classes. The situation is similar in gymnasia and mixed schools. As for vocational secondary schools, the topics in this area are taught within the framework of regular subjects.

As part of the implementation of the elective course of “Healthy Lifestyles”, the Education Office trained 187 teachers from 95 primary schools in Montenegro, for the realisation of the set objectives, including the thematic area of *Reproductive health with sex education and prevention of sexually transmitted diseases*. Through the training, teachers were familiarized with forms and manifestations of sexual exploitation and sexual abuse. In this manner, teachers were prepared to teach in this area. At the same time, the awareness of what is sexual violence and abuse, and what are its types and how to recognise it in the behaviour and appearance of children was raised.

In cooperation with the NGO “Forum of Educationists of Montenegro”, the Education Office implemented four seminars with educationists from primary and secondary schools on the subject of *child neglect and abuse*. During the implementation of the seminar, special emphasis was put on the sexual exploitation and abuse of children, sexual violence through the use of modern technology, and the risks resulting from uncontrolled use of the Internet and social networks. Seminars have included over 80% of educationists in primary schools and a large number of secondary schools educationists. The aim of the seminar was to raise awareness of violence against children, as well as on the procedures aimed at protection against violence in schools and institutions of social protection, as their partners in the process. Raising the level of knowledge and awareness in primary and secondary schools about what violence is, what are its types and how to recognise it in the behaviour and appearance of the children, together with the proposed organisational and procedural activities, aimed to assist the schools in dealing with violence against children and to ensure a more reliable and more consistent implementation of activities to help children – victims of neglect and abuse. Planned education enables both, schools as the system, and individuals within the system, to achieve safer conditions for safe children’s development. Through a multi-sectoral approach to protecting children from abuse and neglect, the school achieves more successful partnerships with institutions that deal with this issue. The seminar paid special attention to child abuse and neglect, risk factors and indicators of recognition of violence in schools, as well as the role of schools in identifying violence. A very interesting area that has been among the topics of training is violence as a result of using modern technology. It has been pointed to the importance of the role of educationists in the prevention of violence in schools.

In order to protect children from all forms of violence and abuse and neglect, and consequently of sexual exploitation and sexual abuse, schools can take certain measures of protection and can establish cooperation with relevant institutions. One of the most important measures is the Protocol on the treatment of child victims of abuse and neglect. In this sense, there are schools that can apply the Protocol on the treatment of child victims of abuse and neglect in correlation between schools and a multidisciplinary operational team within the social welfare centres. This Protocol is dedicated to the care of the child victim within the school and in correlation between the school and a multidisciplinary operational team, with regard to any degree and type of abuse or neglect. A separate part of the Protocol is relating to the sexual abuse and exploitation.

In schools, letterboxes of confidence have been set and marked in a special place in which students can put their complaints against any kind of violence. On the basis of such complaints, the Protocol on the treatment of child victims of all forms of violence, abuse and neglect is activated. The box is opened by associates at school, and they are the first link in addressing all forms of violence in educational institutions.

A survey on the safety of children on the Internet was conducted in accordance with the Action Plan for 2012, for the implementation of the Strategy for Information Society Development 2012-2016, through which it is planned that the Ministry for Information Society and Telecommunications will conduct a survey on the safety of children on the Internet. A survey was conducted among parents of children of this age on their perceptions of Internet use by children. The project "Survey on the safety of children on the Internet" included two target groups – primary school pupils and their parents, and it is therefore the first survey of its kind in Montenegro, which at the same time includes two target groups of respondents in the context of examining safety on the Internet. Two questionnaires were prepared for the survey, to which answers were provided by 1,073 students and 965 parents, while the methodology used on this occasion contains some of the key indicators for monitoring the safety of children on the Internet used in the 27 EU countries, included in the project EU Kids Online. The survey included pupils from the third to the ninth grade of primary schools, with attention being paid to the equal representation of the number of classes in schools and municipalities, as well as the gender equality of pupils. The survey was conducted in the period from April to May 2012, in three regions, nine Montenegrin municipalities and thirty primary schools. The survey in the southern region included the municipalities of Kotor, Tivat and Bar which makes 23.3% of the total sample. On the other hand, the central region included the municipalities of Podgorica and Nikšić, which represents 39.9% of the sample, while the northern region consisted of Bijelo Polje, Berane, Pljevlja and Rožaje, which makes 36.8% of the sample. The survey among pupils was carried out by the E3 Consulting team and under the supervision of the Ministry of Education and form teachers of classes encompassed by the survey.

Together with "Microsoft", the process of installing Microsoft Live Family Safety on computers in school classrooms was initiated. Installation of this programme will ensure that no inappropriate content for children may be displayed on school computers on the Internet. The programme is also used to control and limit access to websites that distract children during classes. Microsoft Live Family Safety programme allows teachers and parents to monitor the behaviour of pupils and children on the Internet.

In cooperation with the Ministry of Education, Telenor LLC has been implementing the project "Connecting Generations", on the topic of safe Internet, with a view to educate pupils about safe Internet use. The project was continued under the name of "Get Internet, Surf Smart".

The pilot phase of the project "Connecting Generations" lasted from February to September 2012, and it aimed to test the activity and reactions, primarily among children, and then parents and teachers, on the concept of peer education in the field of child safety on the Internet. This phase also provided for the possibility to identify problems and needs directly from the target groups, which was later confirmed by another survey undertaken by the Ministry for Information Society and Telecommunications.

The Ministry of Education and Ministry for Information Society and Telecommunications continued to work with Telenor at the following stage as well, while the new partner on the project “Get Internet, Surf Smart” was an NGO “Parents” and the Institution of the Protector of Human Rights and Freedoms. Cooperation with 25 primary schools in 12 Montenegrin cities with which the activities are implemented has enabled us to properly start building real value system of behaviour in the digital world. Sixty safe Internet ambassadors conducted about 200 peer education workshops. The workshops on the safe Internet were attended by approximately 4000 pupils of the sixth and seventh grade, as well as some classes of eighth and ninth grade of primary schools.

Within the project, a brochure was published containing tips for parents and children and instructions on how they can report various negative and disturbing contents on the Internet. The brochure was printed in 5000 copies and distributed to the primary school children through the activities of the Institution. The website of the Ombudsman contains a “Courage mailbox”, where children can report abuse on the Internet.

NGO Prima from Podgorica is implementing a project relating to the prevention of violence on the Internet among young people through workshops with primary and secondary school pupils in Montenegro and the movie “Tagged”, which is displayed to them.

The Institution of the Protector of Human Rights and Freedoms has also conducted surveys on the sexual exploitation of children and child abuse on the Internet. The aim of these surveys was to examine the extent of this problem, as well as the causes that affect the distribution of the phenomenon, but also to review the shortcomings and failures of state authorities in the system of prevention and protection of child victims. On the basis of these surveys, special reports with recommendations were prepared, which were considered and adopted by the Parliament of Montenegro, so that the recommendations made in these reports have become mandatory for state authorities. The Parliamentary Committee for Human Rights and Freedoms has held several sessions and control hearings of line Ministers, in order to obtain information on the degree of implementation of the recommendations of the Ombudsman.

In addition, within its line of work, the Institution of the Protector of Human Rights and Freedoms continuously carries out the training of primary school children and children placed in institutions of system on the Rights of the Child – how to recognise the violation of rights, about the institutions where they can turn for help, as well as on the risks that can lead to sexual abuse.

In social welfare institutions, the Ombudsman placed letterboxes in which children can put their complaints, reporting any violation of their rights. Letterboxes are opened each month, and children’s notes are subject to further consideration of the employees in this institution.

In addition, the website of the Ombudsman contains a “Courage mailbox”, where children can report their complaints that are related to the violation of their rights to the Ombudsman.

Similarly, the Institution of the Ombudsman printed brochures and leaflets, which were distributed to children in primary schools, containing advice and guidance on the actions to be taken in case of doubt or the existence of sexual abuse of children.

- **encourage** awareness of the protection and rights of children among persons who have regular contacts with children in the education, health, social protection, judicial and law-enforcement sectors and in areas relating to sport, culture and leisure activities? (**Article 5, para. 1**);

**Answer:**

At its 12<sup>th</sup> session held on 6 June 2013, the Committee for Human Rights and Freedoms considered, in accordance with the Plan of activities for 2013, the Report on child abuse through the Internet in Montenegro.

The Committee adopted the Report on child abuse through the Internet, with the Conclusion through which it supported the Recommendations of the Protector of Human Rights and Freedoms of Montenegro, which was submitted to the relevant state authorities (Ministry of Justice, Ministry of Labour and Social Welfare, Ministry of Interior, Ministry for Information Society and Telecommunications, and the Ministry of Education), with a view to taking action in order to create a safer virtual environment in the best interest of the child. The information on the above was also submitted to the Board of the Speaker of the Parliament and the Parliament Delegation in the Parliamentary Assembly of the Council of Europe.

At the 19<sup>th</sup> session of the Committee, held on 11 November 2013, representatives of the ministries responsible for the implementation of the Recommendations of the Protector of Human Rights and Freedoms of Montenegro and the Conclusions of the Committee for Human Rights and Freedoms informed the Committee about acting upon the Recommendations and Conclusions of the Committee. The Committee members assessed that the relevant ministries are making efforts and substantially contributing to the implementation of the Recommendations through their activities.

In order to protect children from sexual abuse, the Government of Montenegro joined the Council of Europe Campaign “One in Five” and formed a National Team for the implementation of the campaign. The National Team for participation of Montenegro in the campaign includes a broad structure of social factors, in accordance with the proposal of the Council of Europe: starting from the Parliament of Montenegro, through the relevant Government departments, prosecution offices and the judiciary, NGOs, to foreign and national partners. In accordance with the campaign, several surveys were conducted by the Institution of the Ombudsman, Ministry for Information Society and Telecommunications and NGO sector. The campaign “One in Five” aims to conduct surveys on this topic. ([www.ombudsmandjeca.co.me](http://www.ombudsmandjeca.co.me))

The activities include, among other things, roundtables, panels, workshops with adults and children and lectures as forms of education in the fight against child abuse, coordinated efforts of relevant departments in the field, the study of this problem in Montenegro, distributing informational materials and a media campaign on this problem. The Team will also make an informative website on the Montenegrin participation and conduct promotion via electronic and print media.

- **ensure** that persons, referred to while replying to the bullet point above, have an adequate knowledge of sexual exploitation and sexual abuse of children, of the means to identify them and of the possibility of reporting suspicions of a child being the victim of such acts? (**Article 5,**

**para. 2).**

**Answer:**

As a member of the National Team for the implementation of the campaign “One in Five” for Montenegro, the Ministry for Information Society and Telecommunications participated in all phases of the campaign in order to promote it, display promotional materials of educational character, as well as to inform the public, especially children, parents and educational staff about the risks of using new information and communication technologies, i.e. safety on the Internet. Activities of the Ministry on these topics are integrated into the Action Plan for campaign “One in Five” for Montenegro. In this regard, in June 2012, as part of the project “Get Internet, Surf Smart”, a blog “Surf Smart” was established, which brings useful information, tips and interesting things on the topic of the Internet and is designed for parents and children. After successful peer education workshops, training on safe Internet has continued through online education, by launching the first Montenegrin web blog on this topic within the web-portal Roditelji.me located at: <http://surfujpametno.roditelji.me/>.

The rules of conduct on the Internet, protection of personal data and use of chat and social networks are among the topics that were in the focus of peer education workshops, and in this regard this blog is established. Extremely important support to the project was given by 25 primary schools in 10 Montenegrin cities participating in the project. The project “Get Internet, Surf Smart” is presented as an example of good practice in the Report of the Protector of Human Rights and Freedoms of Montenegro. The Report “The abuse of children through the Internet” was published and presented to the public at a press conference, and so was the publication that brings together the results of surveys on the topic and analyzes the legislative framework in this area.

<http://www.gov.me/pretraga/127673/SurfujPametno-edukacija-na-WEB-u.html>

The Second National Forum on the Safe Internet and an interscholastic competition “I Genius” were held on 15 June 2012, within the “Get Internet, Surf Smart” project, implemented by Telenor since February last year. The “Get Internet, Surf Smart” project, which Telenor is implementing with the support of the Ministry for Information Society and Telecommunications and the Ministry of Education, in cooperation with the “Parents” Association, was created to educate and provide skills to Montenegrin children, their parents and teachers, with a view to make the Internet a positive experience for them, while reinforcing a sense of safety in the digital environment.

<http://www.gov.me/pretraga/128960/Odrzani-Surfuj-Pametno-Forum-i-I-Genius-takmicenje.html>

Activities of the “One in Five” campaign for Montenegro were dedicated to fostering awareness on protecting children and their rights, among persons who have regular contact with children in the areas of education, health, social welfare, law enforcement, and sectors in areas related to sport, culture and leisure activities.

**In the field of health:** A roundtable dedicated to the health of the child was held, on the topic of “Identifying child victims of sexual violence and their medical and psychological treatment”. The target groups were health professionals (paediatricians, child psychiatrists, psychologists, nurses, etc.), and the aim was to further sensitize the issue of sexual violence against children and the possibilities of its prevention and the development of skills and competencies of professionals working with sexually abused children and their families.

<http://www.gov.me/en/search/113568/Round-table-on-childrenhealth-entitled-Recognising-children-victims-of-sexual-violence-and-its-medical-psychologicaltreatment.html>

**In the field of education:** A lecture on the topic of “Sexual abuse of children in tourist centres” was held. A lecture was also held by the regional expert **Gordana Flander**, a psychologist and psychotherapist, professor at Zagreb University and director of the Child Protection Center of Zagreb. “Sexual abuse of children – what we’ve learned” was aimed at sharing experiences and raising awareness of the problem among the representatives of the police, tourism workers and staff in schools, to identify and respond to cases of child sexual abuse.

<http://www.gov.me/en/News/113993/CoE-One-in-Five-campaign-in-Montenegro-Lecture-on-child-abuse-in-tourist-centres.html>

**In the field of social welfare, police and tourism:** In Rožaje, a panel discussion was held on the following topic: “Sexual violence against children in the context of prevention of trafficking in human beings in border areas and tourist centres”. The target groups were: tourism staff, police, local self-government leaders, representatives of social welfare centres, and to goal was to reduce the risk of repeated criminal offences through the exchange of information with Interpol Office in Montenegro on the arrival of the registered perpetrators of sexual violence against children, in cooperation with tourist facilities in which they stay, in order to collect operational data on their movements and stay in Montenegro.

<http://www.gov.me/en/News/114109/Panel-discussion-titled-Sexualabuse-of-children-in-the-context-of-preventing-trafficking-in-border-areas-and-tourist-centres.html>

**In the field of school education and social protection:** The Ministry of Education held a one-day seminar on the topic of “Protecting children from sexual abuse and exploitation”. Pedagogues, psychologists, special education teachers / speech therapists participated in the seminar and had a chance to share their experiences, learn to recognise the signs of sexual violence, as well as to familiarize themselves with the procedures in case of detection of this phenomenon. The lecturer at the seminar was Professor Gordana Buljan Flander, a psychologist and psychotherapist, director of the Child Protection Center of Zagreb. Members of the professional services of preschool educational institutions and primary schools were trained.

<http://www.mps.gov.me/vijesti/114829/Saopstenje-Odrzan-seminar-na-temu-Zastita-dece-od-seksualnog-zlostavljanja-i-iskoriscavanja.html>

**In the field of education:** The Ministry of Education held a seminar for representatives of social and child protection, health care, education (Ministry of Education, Education Office, principals of preschool institutions and primary schools), police, judiciary, private specialist s. The aim of



the seminar was to exchange experiences and to define the position, the place and role of individual sectors in order to fulfil children's rights and protect their interests, as well as to establish continuous professional development of teachers, in order to prevent sexual violence against children.

<http://www.mps.gov.me/vijesti/114862/Nastavak-aktivnosti-u-okviru-Kampanje-Savjeta-Evrope-1-od-5.html>

**In the field of social protection, media and education:** A roundtable was held in the Children's Home "Mladost" in Bijela, on the topic of "Implementation of the code of ethics of journalists in informing about the cases of sexual violence against children". The target group included representatives of the media (editors), representatives of institutions for the care of children.

Pursuant to the above, the persons concerned have adequate knowledge about sexual exploitation and sexual abuse of children. Health care and social workers, as well as education and police personnel, passed a number of trainings, conducted, among others, by Professor Gordana Buljan Flander, a psychologist and psychotherapist, director of the Child Protection Center of Zagreb.

Recognizing the importance of the systematic education of pupils on the trafficking in human beings phenomenon, the Office for the Fight against Trafficking in Human Beings accredited a teacher training programme, licensing it with the Education Office, to implement it in all primary and secondary schools. A group of teachers were trained, receiving certificates of trainers, and transferring their knowledge about this phenomenon in the later stages of the project implementation to their colleagues. A manual for teachers was also prepared, containing the best methods of transferring knowledge about trafficking in human beings to children in primary and secondary schools. In the coming period, it is expected that the topic of "Trafficking in human beings / children" is introduced as a separate teaching unit within the subject of Civic Education, which will make the education of children about the phenomenon mandatory and thus systematically addressed.

In the previous period, a number of trainings were implemented in Montenegro, which were aimed at strengthening the professional capacities of health, educational, and social workers, representatives of the police, prosecution offices, judiciary, inspection services, and others involved in the fight against trafficking in human beings / children, in which the emphasis was placed on identifying and providing appropriate assistance and protection. In order to strengthen the system of identification, a list of indicators for early identification of victims / potential victims of trafficking in human beings / children was developed in July 2013. The list is printed in the form of cards and distributed to all of those who, under their job descriptions, can come in direct contact with victims / potential victims of trafficking in human beings / children. A special list of indicators was developed for providers of medical services.

**8b.** Which policies or strategies have been implemented to promote or conduct awareness-raising campaigns targeted at the general public where the focus is directed especially towards the risks and realities of sexual exploitation and sexual abuse of children? Please describe the material used for the campaign/programme and its dissemination. If possible, please provide an assessment of the impact of the campaign/programme. If there are currently plans for launching a (new) campaign or programme, please provide details (**Article 8, para. 1**);

**Answer:**

The material used in the campaign “One in Five” for Montenegro was only the official material of the Council of Europe for the implementation of the campaign, like “Kiko” video spot, promotional materials, picture books for children, Handbook for Parliamentarians, Lanzarote Convention in paperback:

[http://www.coe.int/t/dg3/children/1in5/OurCampaign/material\\_fr.asp](http://www.coe.int/t/dg3/children/1in5/OurCampaign/material_fr.asp)

In addition, a dedicated material for roundtables, panel discussions (agendas, notebooks, folders, etc.) was prepared, containing, among other things, the official logo of the campaign “One in Five”. The National Team obtained the approval of the Council of Europe for using the campaign materials and official logo. The said materials are aimed to promote the campaign and were shared during activities provided by the action plan. It should also be noted that after the roundtable “Existing legal provisions and practices related to the protection of children and minors, victims of sexual abuse”, held in Cetinje on 26 April 2012, a bulletin of all presentations was published. Among those addressing the meeting were: President of the Supreme Court of Montenegro Vesna Medenica, Supreme Public Prosecutor Ranka Čarapić, Mayor of Cetinje Aleksandar Bogdanović, an MP and the National Coordinator of the Campaign Valentina Radulović - Šćepanović, Professor Velimir Rakočević from the Faculty of Law, who spoke on the topic of “Sexual exploitation of children and adolescents - etiological, phenomenological and victimological aspects”, Deputy High Public Prosecutor in Podgorica Veljko Rutović, who spoke on the topic of “Criminal legal aspects and practical experience related to protection of children and minors, victims of sexual abuse”, Judge of the High Court in Podgorica Dragica Vuković, who spoke on the topic of “Criminal legal aspect and practical experience related to protection of children and minors, victims of sexual abuse”, and lawyer Daliborka Knežević who spoke on the topic of “Problems in practice from the perspective of victims of sexual abuse”.

<http://www.gov.me/en/News/113573/Montenegro-continues-activities.html>

In order to promote and raise public awareness, the Education Office implemented the following activities in the previous period (2009-2013):

In order to promote Healthy Lifestyles, attempting to attract as many pupils and schools to opt to study this elective course, the Office accepted the offer by Montimprex to record a TV spot in the duration of 30 seconds. Representatives of the Education Office and UNDP took part in finalizing the TV spot.

In cooperation and with support of the Broadcasting Agency, which acted as the mediator with TV broadcasters, the TV spot was shown in the period from April to May, promoting the elective course of *Healthy Lifestyles*. Local TV stations broadcasted the TV spot for free, and so did PINK, MBC, Elmag, and MONTENA, while TV IN and RTCG aired the spot under favourable conditions during April 2009 and 2010. TV IN broadcasted the TV spot in prime-time, giving up to 30% of the total number of broadcasts for free.

Due to the limited budget, the Office was unable to pay the commercial price for broadcasting TV spots to TV stations. Because of the social importance of this topic, ARD (Broadcasting Agency) invested maximum efforts to ensure favourable conditions for the said TV spot to be broadcast on TV stations. In particular, it played a major role in animating the local TV stations, where the TV spot aired in more terms and continuously throughout the whole calendar year, with a focus on the period of April and possibly May, elective courses are chosen in schools, and which was completely successful.

Ten-minute shows from this series have been featured in prime-time family schedule, every Saturday around 17.30 (reruns on Sunday around 8.30). The aim of the series was to motivate parents and pupils to choose *Healthy Lifestyles* as an elective course in the eighth and ninth grade.

TV Pink M, according to the relevant surveys at the time (2009 and 2010), was among the most popular TV stations in Montenegro, while the majority of its viewers were women 30 to 55 years of age. The United Nations Development Programme (UNDP) Office in Montenegro has cooperated with this TV for several years. Until then, the cooperation referred to the series of shows entitled “Have the courage to ask”, whose goal was to motivate and encourage the citizens of Montenegro to overcome prejudices in regard to HIV / AIDS, to behave responsibly and to test for HIV. The idea that each show of the series “Healthy Lifestyles” is dedicated to a particular section of the textbook came to realisation, in the same order in which the chapters are laid out in the book. The show would begin with a mini-survey conducted among citizens and school children on the topic, and then experts would speak on the subject, with the mandatory conclusion in the form of short messages with a particular point. Finally, a TV spot would ensue, for the purpose of popularisation of healthy lifestyles as an elective course. One of the topics was related to the issue of sexual exploitation and sexual abuse of children.

On several occasions, the elective course of “Healthy Lifestyles” was promoted in the morning show of TVCG, as well as in “Colours of the morning” on TV Vijesti, “90 Minutes” on TV IN, in footage shown within the news on RTVCG, TV IN, TV Vijesti, etc. As regards the print media, the project was presented in dailies Vijesti, Dan, and Pobjeda. The weekly Monitor also presented the project of Healthy Lifestyles. *Prosvjetni rad* was an indispensable assistant in all aspects of media promotion. Journal *Vaspitanje i obrazovanje* presented the results of the “Pilot use of the manuals for teachers in primary schools”. Namely, twelve trained teachers implemented the piloting in six primary schools.

In cooperation with the Office for Textbooks and Teaching Aids, the Education Office organised promotion of the project. The event was, in addition to representatives of the Education Office and the Office for Textbooks and Teaching Aids, attended by representatives of UNDP, the Ministry of Education and Ministry of Health (Deputy Ministers), UNICEF, the Examination Center, the Center for Vocational Education, and the Broadcasting Agency (directors of these institutions), and the principals of 20 primary schools and five directors of gymnasia. All the print media attended the event, and so did the journalists of RTVCG, TV IN, TV PINK M and TV MONTENA.

In cooperation with the NGO “Forum of Educationists of Montenegro”, the Education Office organised the promotion and coverage of the seminar “Neglect and Abuse of Children”. All the print media attended the event, and so did the journalists of RTVCG, TV IN, TV PINK M and TV MONTENA. Montimprex created a poster and printed it in 300 copies for the Office. The poster was distributed to all primary schools in Montenegro. The significance of the poster is great, because it provided the necessary information on the subject, and is designed in a modern style, being very attractive from the point of view of interest and perception of children from 13 to 14 years of age.

Based on the analysis and factual presentation of the media representation of the project, we can proudly conclude that the abovementioned topics and the Education Office as its protagonist were very present in the media scene of Montenegro. Good cooperation with the media, the manner of communication and timeliness, objectivity and credibility of the information provided by the Office to the public is particularly confirmed by a large number of pupils who have chosen the elective course of Healthy Lifestyles, all of which justifies such social and educational initiatives and zeal.

By implementing the Strategy for the Fight against Trafficking in Human Beings, which refers to *raising the awareness of the general public about the phenomenon of trafficking in human beings / children, with a view to better understanding the problems, increasing confidence in state authorities, informing the public on the manner of reporting acts while keeping the identity of citizens*, in cooperation with the Office for the Fight against Trafficking in Human Beings, the Ministry of Education submitted flyers intended for pupils to secondary schools in Podgorica. The activity was conducted in 2012, to meet the organisation of excursions for pupils attending final secondary school grades, primarily as a preventive activity and in order to create as strong a message aimed at young people in relation to trafficking in human beings as a social problem. The Office for the Fight against Trafficking in Human Beings prepared flyers as promotional material that contains useful information intended for the young population about the risks and dangers of trafficking in human beings, prevention strategies and services that are engaged in the fight against this form of crime.

Every year, activities are conducted to mark the *EU Anti-Trafficking Day* on 18 October. In certain classes of civic education in primary and secondary schools, debates and workshops are organised on the prevention of trafficking in human beings. Teachers of civic education were trained for the realisation of the objectives related to the prevention of trafficking in human beings in classes.

In recent years, the use of information technology in the education system of Montenegro has significantly increased, especially with children attending primary and secondary schools. All secondary and most primary schools have good computer equipment and broadband Internet access.

Primary and secondary school pupils are studying Computer Science as a compulsory or elective subject, and have the opportunity to gain knowledge in this field.

At the same time, digital technology, interactivity and increased communication possibilities, present an increasing risk for all users, especially children and youth. Teachers, parents and guardians in this case very often cannot be a source of high quality information. Aware of the existence of these problems and challenges faced by children and young people, in cooperation with NGOs, such as “Children First”, the Ministry of Education supported the project activities on the safe use of the Internet, as well as the project of Telenor and the Ministry for Information Society and Telecommunications, “Connecting Generations”, and other activities aimed at the use of information technology in a safe way.

Since 2012, as a socially responsible company, Telenor implements a project which aims to provide education and skills to Montenegrin children, their parents and teachers, with a view to make the Internet a positive experience for them, while reinforcing a sense of safety in the digital environment.

In the first stage, ten “safe Internet ambassadors” – pupils from five Montenegrin schools were trained, and peer education of pupils of sixth and seventh grades was conducted. In the second stage of the project, after two successful preparatory trainings, sixty safe Internet ambassadors conducted about 200 peer education workshops in 25 primary schools in 12 Montenegrin cities. The workshops on the safe Internet were attended by approximately 4000 pupils of the sixth and seventh grade, as well as some classes of eighth and ninth grade of primary schools.

The rules of conduct on the Internet, protection of personal data and use of chat and social networks are among the topics that were in the focus of lectures. Communication on both sides and a large commitment of participants who shared ideas and experiences on how to be safer on the Internet have resulted in mastering the skills of safe work on the computer. Telenor has successfully implemented both phases of the project in cooperation with Government institutions and non-governmental organisations.

Together with Microsoft Montenegro, the Ministry of Education, i.e. the Division of ICT technology undertakes activities to protect computers in schools to ensure that children cannot visit websites with inappropriate content using school computers. Microsoft Montenegro donated the software, the instructions were provided and coordinators in schools trained to use this programme.

The education of children, parents, guardians and teachers on how to protect children and provide them with a safe and secure use of new technologies of the 21<sup>st</sup> century should be our common concern, but in doing so, they should not be denied the important sources of information that are brought by the same technology. Workshops on this topic are carried out in schools and at the system level, and one such workshop was organised by the Ministry for Information Society and Telecommunications for school principals and teachers. On this occasion, experts in this field were speaking about the safe use of modern digital technologies.

The goal is to adequately respond to this problem of modern times, because the latest research shows that children and young people, aside from the benefits that modern technology offers, are also exposed to many negative influences, the consequences of which can be fatal. Pupils are provided the necessary knowledge in IT through regular curriculum, as well as through elective subjects and through all kinds of extracurricular activities, which include many non-

governmental organisations and large companies, such as, for example, socially responsible company Telenor.

In cooperation with the Institution of the Protector of Human Rights and Freedoms of Montenegro, project “Children, write to the Protector” has been implemented in primary schools. The project is implemented by the Institution of the Protector of Human Rights and Freedoms with the support of Action for Human Rights in Montenegro. The respect for children’s rights and improving the status of children in Montenegro is one of the fundamental principles of the educational system in Montenegro. In cooperation with schools, the Ministry of Education is an important factor in the implementation of the activities envisaged through the project. This kind of cooperation is an important precondition for encouraging children to participate in the processes that directly affect them.

In Rožaje, the Ministry of Sustainable Development and Tourism held a panel discussion in May 2011, on the following topic: “Sexual violence against children” in the context of prevention of trafficking in human beings in border areas and tourist centres. The activity was a part of the campaign “One in Five”, while the co-organisers of the activity were the Ministry of Labour and Social Welfare, Union of Municipalities, Interpol Office in Montenegro, Police Administration and local tourism organisation.

The objective of this activity was that tourism workers, police officers and heads of local self-government attempt to reduce the risk of repeated criminal offences through the exchange of information with Interpol Office about the arrival of previously recorded perpetrators of sexual violence against children, in cooperation with tourist facilities in which they stay.

The Government’s Office for the Fight against Trafficking in Human Beings continuously implements designed and targeted campaigns, primarily aimed at raising awareness of the general public about the phenomenon of trafficking in human beings / children, which, at the same time, represents one of the goals of the Strategy for the Fight against Trafficking in Human Beings, which defines the national policy on the fight against trafficking in human beings. In this regard, a significant number of activities were implemented in the previous period:

- Campaign “Stop Trafficking in Human Beings” is continuously implemented throughout the territory of Montenegro, and it implies the broadcasting of a TV spot “Stop Trafficking in Human Beings”, which also promotes the Government’s anti-trafficking helpline (11 66 66). In the course of this campaign, posters were placed and flyers distributed (printed in Montenegrin, English, Russian and Albanian) at the busiest places throughout Montenegro.
- Government’s helpline for victims of trafficking in human beings is available 24/7 and free, both for potential victims of trafficking in human beings / children, and for all those who want to be informed about this phenomenon or report a suspicion of the existence of this criminal offence in their neighbourhood.
- The Office for the Fight against Trafficking in Human Beings organised lectures for primary and secondary school pupils on trafficking in human beings for a longer period of time in all the regions of Montenegro. Aiming to ensure a regular and mandatory lecture on the trafficking in human beings in all the schools in Montenegro, the Office for the Fight against Trafficking in

Human Beings accredited a teacher training programme, licensing it with the Education Office, entitled “Strengthening awareness of trafficking in human beings through the education system”. In the coming period, it is expected that the topic of “Trafficking in human beings / children” is introduced as a separate teaching unit within the subject of Civic Education.

- In addition, the Office for the Fight against Trafficking in Human Beings prepared and distributed, through the Ministry of Education, leaflets intended for younger population, containing useful information about the risks and dangers of trafficking in human beings, prevention strategies and services that are engaged in the fight against this form of crime.

- In order to achieve continuity in the implementation of activities to raise public awareness of the phenomenon of human trafficking, as well as to mark 18 October, the European Anti-Trafficking Day, the previous Action Plan for the Implementation of the National Strategy for the Fight against Trafficking in Human Beings declared the month of October a month of the fight against trafficking in human beings in Montenegro. This implies that every year in October, regular activities in the fight against trafficking in human beings are intensified and that additional campaigns are implemented that are aimed at familiarizing the general public in Montenegro with all the details of the phenomenon of trafficking in human beings.

- In cooperation with the NGO “Montenegrin Women’s Lobby”, a project called “I understand and I will help you” has been implemented. The project is related to examining the cause-and-effect relationship between trafficking in human beings and abuse of drugs. In the course of the project, activities to raise the awareness of parents and children in five primary schools in Montenegro were carried out.

- The Office for the Fight against Trafficking in Human Beings, in cooperation with the Ministry of Interior and NGO “Women’s Safe House”, prepared and printed a brochure entitled “Guide for the safe travel”, and the card with the necessary information on the prevention of trafficking in human beings. The Guides with contact information and useful tips for safe travel of our nationals to foreign countries were distributed alongside the passports issued in the Ministry of Interior, while the card as an informant about the difference between the concepts of smuggling and trafficking in human beings, as well as on the indicators of trafficking in human beings, was distributed to Border Police officers.

- Bearing in mind that Montenegro presents an attractive tourist destination, in cooperation of the Office for the Fight against Trafficking in Human Beings with the OSCE mission in the framework of a joint project, representatives of the tourist industry in Montenegro signed the “Code of conduct for the protection of children from sexual exploitation in travel and tourism”, which aims to increase and ensure the commitment of companies operating in the tourism industry of Montenegro to join efforts to combat child trafficking and child abuse for the purpose of trafficking in human beings. Within this project, the employees in the tourism industry have been trained to identify potential victims of this criminal offence and to inform police officers thereof. In the context of prevention, the project aims to raise awareness of the public, especially tourists and travellers through Montenegro, with a view to the prevention of sexual exploitation of children in tourism, by obliging tourism operators to comply with the Code.

- In cooperation with the Railways of Montenegro and Montenegro Airlines, an informative card by the Office for the Fight against Trafficking in Human Beings and the Red Cross is distributed together with train / airline tickets purchased. The card contains information on this problem of modern society, with the helpline for victims of trafficking in human beings.
- As the conflict and post-conflict areas are recognised as fertile ground for the development of organised crime, especially trafficking in human beings as its specific form, the Office for the Fight against Trafficking in Human Beings agreed with the Ministry of Defence of Montenegro, in early February 2011, that members of the Armed Forces of Montenegro, sent on peacekeeping missions abroad, will, as part of their regular training, attend lectures that treat the specifics of this issue, focusing on the identification of trafficking in human beings, and the treatment of victims of trafficking in human beings.
- In cooperation with the Office of the Ombudsman, the Office for the Fight against Trafficking in Human Beings conducted a survey that encompassed interviews with representatives of relevant institutions, as well as interviews with children, in order to assess the degree of resilience of children on the street caught in begging and vagrancy in relation to the phenomenon of trafficking in human beings, and to design an adequate manner of action-taking in the context of results of the survey.

**8c.** Which legislative or other measures have been taken to prevent or prohibit the dissemination of materials advertising the offences established in accordance with this Convention? If so, please provide details (**Article 8, para. 2, Explanatory Report, para. 66**).

Article 49 of the Constitution guarantees freedom of the press and other forms of public information. Article 50 of the Constitution provides that there shall be no censorship in Montenegro, and that the competent court may prevent the dissemination of information through the mass media only if this is necessary to prevent invitation to forcible destruction of the order defined by the Constitution; to preserve the territorial integrity of Montenegro; to prevent propagating war or incitement to violence or performance of criminal offences; to prevent propagating racial, national and religious hatred or discrimination.

A special section of the Criminal Code contains provisions on liability for criminal offences committed through the media, i.e. these provisions prescribe the liability of editors, publishers, type-setters and manufacturers for criminal offences committed through the media, non-periodical printed publication, compact disc, vinyl records, magnetic tapes and other audio means, film for public or private display, slides, videos or other similar means of communication intended for wider audience (it is provided that these persons will be liable only if those persons may not be deemed offenders under the general provisions of the Code). Separately, Article 210 of the Criminal Code prescribes the sanction of imprisonment of one to ten years for a person who instigates or incites a juvenile to participate in prostitution or participates in handing over a juvenile to another person in view of prostitution or who by means of media and other similar means promotes or advertises prostitution.



## **Question 9: Recruitment and screening**

**9a.** Which legislative or other measures have been taken to ensure that the conditions for accessing those professions whose exercise implies regular contact with children, ensure that the candidates to these professions have not been convicted of acts of sexual exploitation or sexual abuse of children? (**Article 5, para. 3**). Please specify to which professions such measures apply. Please also indicate for how long the criminal record of a person who was convicted for such crimes is kept in your country;

### **Answer:**

Article 225 of the Criminal Procedure Code provides that criminal records are kept by the ministry in charge of judiciary affairs. Based on this, the Decree of the Government of Montenegro (Official Gazette of Montenegro 51/11 of 28 October 2011) defines the methods and manner of erasing criminal records, as well as the date of taking over the records between the Ministry of Justice and the Police Administration. Due to technical and administrative reasons, the takeover was not done. Instead, the Decree on Amendments to the Decree on the Manner of Keeping Criminal Records prolonged the action-taking of the Police Administration in this area to 31 March 2014. In this regard, under Article 119 of the Criminal Code, the Police Administration is in charge of the legal rehabilitation of the criminal offences for which the sentence of imprisonment of more than one year is stipulated, which includes the criminal offences referred to in the question 9 of the General Overview Questionnaire on the implementation of the Lanzarote Convention.

As regards the police officers, including those who have regular contact with children in their work, in addition to the general requirements for employment, they must meet certain specific requirements. One of the specific requirements is the worthiness for performing police affairs, which implies that the person was not finally convicted for, among other criminal offences, the criminal offence out of dishonest motives, as well as for offences involving violence (Article 85 of the Law on Internal Affairs).

The Law on Civil Servants and State Employees prescribes the general requirements for employment in public administration bodies, so that the employment may be established if a person is medically fit to perform the job, has not been convicted of a crime that renders him / her unfit to work in public administration, and if no criminal proceedings have been instituted against the person for a criminal offence that is prosecuted *ex officio*.

In addition to the general conditions and other conditions stipulated in this law, the special law, other regulation or act on internal organisation and job descriptions, other requirements for employment may also be prescribed.

The legislation provides for the issuance of a medical certificate of fitness to work in accordance with the requirements of the competition for employment, but does not require an explicit confirmation of whether the person has been convicted for acts of sexual exploitation and sexual abuse of children, if the work involves regular contact with children.

Medical fitness to perform the job is proven by a certificate issued by the authorized health care institution in accordance with the law.

**9b.** Does the screening of candidates apply to voluntary activities (**Explanatory Report, para. 57**)?

As regards the requirements for volunteers, the answer is the same as in 9a above.

#### **Question 10: Preventive intervention programmes or measures**

**10a.** Which legislative or other measures have been taken to ensure that persons who fear that they may commit any of the offences established in accordance with the Convention, have access to effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed? Please specify under which conditions, if required (**Article 7, Explanatory Report, para. 64**);

##### **Answer:**

There are still no legislative measures, or programmes or measures of effective interventions to assess and prevent the risk of committing the criminal offence of this type. However, within the network of health care institutions there are counselling centres staffed by highly specialized experts, who provide adequate psychosocial treatments to people, including those persons who fear that they may commit any of the offences established in accordance with the Convention.

**10b.** Which legislative or other measures have been taken to ensure that persons subject to criminal proceedings or convicted for any of the offences established in accordance with the Convention, may have access to effective intervention programmes or measures? Please specify under which conditions, if required (**Articles 15 to 17**). Please indicate in particular:

- who has access to these programmes and measures (convicts, persons subject to criminal proceedings, recidivists, young offenders, persons who have not committed a crime yet?);
- how the appropriate programme or measure is determined for each person;
- whether there are specific programmes for young offenders;
- whether persons have a right to refuse the proposed programme/measures?

##### **Answer:**

Our legal system provides a variety of security measures, including measures of compulsory psychiatric treatment and referral to specialized psychiatric institutions, imposed by the court in criminal and misdemeanour proceedings to the persons against whom proceedings are instituted, or to those already convicted.

The Law on Protection from Domestic Violence provides for the implementation of psychosocial treatment of perpetrators of domestic violence. There is also a by-law that regulates in detail the implementation of the treatment. The implementation of treatments will begin in the near future, given that the training of experts who will carry out the treatment is planned.

Health care facilities have been recognised as institutions that provide services of psychosocial treatment, involving psychologists, paediatricians, psychiatrists and social workers. The conditions have been created for the health system to be able to implement psychosocial treatment services, provide additional training, and subsequently accept the implementation of internationally recognised and licensed programmes of psychosocial treatment.

In accordance with the answer to question 10, those health care institutions that were not founded by the state may also be involved in providing the services of psychosocial treatment, provided that they have the required licenses and permits, as well as a contract with the Health Insurance Fund of Montenegro.

### **Question 11: Participation of the private sector, the media and civil society**

What steps have been taken to encourage:

**11a.** The private sector (in particular the information and communication technology sector, the tourism and travel industry, the banking and finance sectors) to participate in the elaboration and implementation of policies, programmes or other initiatives to prevent sexual exploitation and sexual abuse of children? Please indicate which private sectors are concerned and explain how participation takes place. Please also provide information concerning any relevant code of conduct or enterprise charter aimed at protecting children from sexual exploitation and sexual abuse (**Article 9, para. 2, Explanatory Report, paras. 68-73**);

#### **Answer:**

With a view to strengthening the cooperation with the private sector and the general improvement of the built standards of protection and assistance to child victims of sexual exploitation, the Government's Office for the Fight against Trafficking in Human Beings, together with the Ministry of Tourism and with the support of the OSCE Mission to Montenegro, implements the "Code of conduct for protection of minors from sexual exploitation in travel and tourism". At the official signing ceremony in 2006, the Code was signed by 58 hotels, 28 travel agencies and 5 transport companies, but soon that number increased to more than 200 signatories who have expressed their willingness to get involved and contribute to the fight against sexual exploitation of children by signing the Code. Every hotel and travel agency nominated one or two persons, who have, in their companies, continued to inform staff on the fight against the sexual exploitation of children in tourism, and who are ensuring that the principles of the Code are implemented and observed in their respective hotels or agencies. The seminars were usually attended by employees who are, through their work, usually able to perceive some kind of atypical behaviour that could signal trafficking or sexual exploitation of juveniles.

The Office for the Fight against Trafficking in Human Beings, in cooperation with the OSCE Mission to Montenegro, periodically visits the tourist centres, in order to learn the ways in which the Code is implemented and to remind of the obligation to respect the principles that were set out.

Private sector representatives who were also members of the National Team for implementation of the campaign “One in Five” for Montenegro (Ministry for Information Society and Telecommunications, as well as hotel “Maestral”, a friend and sponsor of the campaign, which hosted the round table “Sexual abuse of children in tourist centres”) have actively participated in campaign activities, as event organisers and promoters. The majority of companies signed the Code of conduct for the protection of children from sexual exploitation in travel and tourism, committing themselves to take concrete measures to protect children.

The campaign “One in Five” for Montenegro encompassed the tourism sector as a particularly sensitive sector when it comes to protecting children from sexual abuse.

There is constant communication of the Ministry of Sustainable Development and Tourism and cooperation with the Montenegrin Tourist Association, the Association of Small Hotels and Caterers Association, with a view to providing instructions on how to identify victims of trafficking and how to respond appropriately, as well as informing the staff on combating the sexual exploitation of children in travel and tourism and taking care of implementation and compliance with the principles of the Code of conduct.

“**Microsoft**” initiated the process of installing Microsoft Live Family Safety on computers in school classrooms. Installation of this programme will ensure that no inappropriate content for children may be displayed on school computers on the Internet. The programme is also used to control and limit access to websites that distract children during classes. Microsoft Live Family Safety programme allows teachers and parents to monitor the behaviour of pupils and children on the Internet.

In cooperation with the Ministry of Education, **Telenor LLC** has been implementing the project “Connecting Generations”, on the topic of safe Internet, with a view to educate pupils about safe Internet use. The project was continued under the name of “Get Internet, Surf Smart”.

The pilot phase of the project “Connecting Generations” lasted from February to September 2012, and it aimed to test the activity and reactions, primarily among children, and then parents and teachers, on the concept of peer education in the field of child safety on the Internet. This phase also provided for the possibility to identify problems and needs directly from the target groups, which was later confirmed by another survey undertaken by the Ministry for Information Society and Telecommunications.

**11b.** The media to provide appropriate information concerning all aspects of sexual exploitation and sexual abuse of children (**Article 9, para. 3, Explanatory Report, para. 74**);

**Answer:**

**The Media Law** stipulates that the media is free to publish information and opinions on the occurrences, events and personalities while respecting the Constitution, laws and ethical rules of the profession, as well as the obligation to protect the integrity of juveniles in the media, so each media program that may endanger the health, moral, intellectual, emotional and social development of the child must be clearly and visibly marked as such, and distributed in a way that it is unlikely to be used by the child.

**The Law on Electronic Media** contains a number of provisions which provide for the protection of juveniles from program contents in the electronic media, especially when it comes to AVM services on demand, among other things, in cases where the provision of services may compromise the protection of juveniles.

It also prohibits broadcasting of programs outside the watershed, as well as the programs that contain pornography or whose contents support criminal behaviour. On the basis of the Law on Electronic Media, by-laws have been passed, which regulate the issues of protection of minors in the electronic media in more details.

**The Rulebook on program standards in the electronic media** prescribes program standards in the electronic media according to which the electronic media are prohibited from broadcasting pornography in unencrypted channels, and that programs intended for adults and programs that can have detrimental effects on juveniles can be broadcast only within the watershed. The electronic media are obliged to provide prior acoustic and visual identification of the programs that could impair the physical condition, health, moral, mental, intellectual, emotional and social development of minors (Article 22). The graphical sign 16 identifies the content not suitable for the minors under the age of 16, which includes programs containing nudity and sexuality, without the explicit portrayal of a sexual intercourse, which are justified by context (Article 24, paragraph b). The graphical sign 18 indicates that the contents are not suitable for minors under the age of 18, which includes detailed portrayal of sexual activities and explicit sex (Article 25, paragraph b).

**The Rulebook on audiovisual commercial communication** states that the provision of the audiovisual commercial services is based on the principle of the prohibition of violation of human dignity, prohibition of discrimination, protection of minors' rights, as well as that pornography shall not be advertised in electronic media programs and that juveniles shall not be connected with the sexuality (Article 22). It is also stipulated that advertising of "hot lines", text (SMS) chats, and other contents shall not be broadcast outside the watershed, as it is established by the Rulebook on program standards that such contents can be broadcast only within the watershed.

The Agency for Electronic Media that supervises the implementation of the obligations of the AVM service provider, in line with the law, found no violations of the law in the context of protection of children from sexual exploitation and sexual abuse.

In addition to the legal provisions governing the issue of the protection of juveniles, the **Code of Journalists of Montenegro** provides, inter alia, the principle that a journalist is obliged to protect the integrity of juveniles, and of different and disabled persons. The Guidelines for the implementation of the Code emphasize, when it comes to protecting juveniles, that the media are obliged to show special consideration when interviewing, photographing or filming juveniles.

In Montenegro, there are four journalistic self-regulatory bodies that monitor the method of reporting of electronic and print media, and whose task, inter alia, is to point to possible violations of the journalistic code, especially when it comes to the way of reporting on juveniles. For example, during the analysis of the report of the Media Self-Regulation Council, which gathers about twenty media, in the period between March 2012 and September 2013, there were

no cases of violations of the code when it comes to contents relating to juveniles, in the context of the protection of children from sexual exploitation and sexual abuse.

It should be noted that all the activities of the campaign “One in Five” for Montenegro were available to the public and the media with a view to promote the campaign, raise awareness on and prevent sexual exploitation and sexual abuse of children, which is evidenced by published statements on the website of the Government of Montenegro, where the media were invited to attend activities.

Also, as part of the activities of the campaign, a roundtable discussion on “Implementation of the journalistic code of ethics in informing about the cases of sexual violence against children” was intended to include media in the campaign and to highlight their important role in the fight against child sexual abuse. Accordingly, after the roundtable, the following conclusions were brought:

1. Information concerning children shall not be published if they can harm the child in any way.
2. When reporting on children, it is necessary to respect the rights of children and the code of ethics of journalists, especially in sensitive cases such as sexual violence against children.
3. The current reporting on the cases of abuse and sexual violence against children was totally unacceptable in certain media, with a gross violation of the code of ethics.
4. When reporting in sensitive cases such as sexual violence against children, it is essential that journalists get all relevant information from the relevant institutions, while in the case of disclosure of information they have to be from reliable sources whereas the identity and rights of the child must be protected.
5. Increasing public awareness of the problems and the need to protect children from abuse and neglect is the obligation of everyone, especially the media, but in a way that respects and protects the best interests of the child.
6. In order to effectively prevent sexual exploitation and sexual abuse of children, further coordinated action by all relevant departments is necessary, with the full co-operation with non-governmental organisations that provide assistance to victims, and above all, it should be insisted on preventive measures, which are primary and important to avoid unintended consequences.
7. The fact that not all of the media had their editors attend the meeting, although it was on a very important and sensitive subject, to which the editors should pay the most attention, in order to encourage positive role models, objective and ethical reporting, was assessed as negative.

Montenegrin media legislation (Media Law, Official Gazette of the Republic of Montenegro 51/02 and 60/02, Law on Electronic Media, Official Gazette of Montenegro 46/10, 40/11, 53/11, and the Law on Public Broadcasting Services of Montenegro Official Gazette of Montenegro 79/08) regulates the right to freedom of expression in more details.

**11c.** The financing, including, where appropriate by the creation of funds, of the projects and programmes carried out by civil society aimed at preventing and protecting children from sexual exploitation and sexual abuse (**Article 9, para. 4, Explanatory Report, para. 75**). May the

proceeds of crime be used to finance the above mentioned projects and programmes? Please provide details (**Article 27, para. 5, Explanatory Report, para. 193**).

**Answer:**

In Montenegro, there are no organisations that deal exclusively with the prevention and protection of children from sexual exploitation. There are shelters for victims of violence and victims of trafficking. Part of the activities of these organisations is financed from the state budget. The proceeds of crime are still not used to fund projects and programmes implemented by civil society in order to prevent and protect children from sexual exploitation and sexual abuse.

**Question 12: Effectiveness of preventive measures and programmes**

**12a.** Please specify whether an assessment of the effectiveness and impact of the preventive measures and programmes described in replies to questions 4, 10 and 11 is regularly carried out;

**Answer:**

Efforts are made to assess the effectiveness of preventive measures and programmes through the monitoring that is done by the Government, by supervising the implementation of the following documents: NPAD, Strategy for the Protection against Domestic Violence, Strategy of Development of Social and Child Protection, and through the evaluation of projects implemented by the Government, international organisations and NGOs, that are aimed at improving the position of children in Montenegro.

**12b.** Please provide examples of the good practices in preventing sexual exploitation and sexual abuse of children.

It is the multi-disciplinary approach, i.e. the existence of operational teams in the social welfare centres that enables the monitoring to be carried out in families where there is a suspicion that a family member may be exposed to violence, including sexual abuse. Regular visits and working with families who are at risk reduce the danger of sexual abuse of children, i.e. allow timely measures to be taken to protect the child. Thus, during 2012, the social welfare centres in Montenegro acted in 345 cases of violence against children. Out of this number, there were eight registered cases of sexual abuse of children.

An example of good practice is the project that is being implemented for two years by the Government of Montenegro (Ministry for Information Society and Ministry of Education), the Institution of the Protector of Human Rights and Freedoms and Telenor (private company), which focuses on the prevention of various forms of abuse through the Internet, especially child pornography and prostitution.

Another example of good practice is project “Confidential Telephone”, implemented by the NGO “Children First”, presenting a helpline where children can report all kinds of violence and abuse and obtain professional help from specialized and sensible persons.

There are examples of good practice in the avoidance and prevention of sexual exploitation and sexual abuse of children, recorded through the work of the Office of Emergency Medical Assistance and Emergency Center of the Clinical Center of Montenegro.

## **PROTECTION AND PROMOTION OF THE RIGHTS OF CHILDREN VICTIMS OF SEXUAL EXPLOITATION AND SEXUAL ABUSE**

### **Question 13: Reporting suspicion of sexual exploitation or sexual abuse**

#### **Answer:**

There is legislation that makes reporting suspicions and acts of sexual exploitation and abuse obligatory. The above issues are addressed in the following laws: the Law on Protection from Domestic Violence, Family Law, Criminal Code, Law on Health Protection, Law on the Protection of Patients' Rights, as well as in the Protocols on the treatment, prevention, and protection from domestic violence.

**13a.** Are professionals working in contact with children bound by confidentiality rules? Do these rules constitute an obstacle for reporting to the services responsible for child protection any situation where they have reasonable ground for believing that a child is a victim of sexual exploitation or sexual abuse? Please indicate the criteria or guidelines which allow for the waiving of confidentiality rules (**Article 12, para. 1, Explanatory report, para. 89**);

#### **Answer:**

In the abovementioned laws, the obligations and rules for professionals who work with children have been defined, and do not present obstacles in reporting when there are reasonable grounds to suspect that a child is a victim of sexual exploitation and sexual abuse.

As part of the Law on Health Care, Law on Protection from Domestic Violence, Law on the Protector of Human Rights and Freedoms, as well as other laws, the procedures protecting the privacy of victims are defined, and do not represent an obstacle for taking measures to protect the child and identify the perpetrator.

#### **Criminal Code, Amendments from 2010:**

**Article 386 of the Criminal Code stipulates that:** Anyone who knows that a person has committed a criminal offence punishable under law by an imprisonment sentence of forty years or who knows that such a criminal offence has been committed but fails to report it before such a criminal offence and offender are detected, shall be punished by an imprisonment not exceeding two years. The sentence referred to in paragraph 1 of this Article shall also be imposed on an official or responsible person who knowingly fails to report the crime s/he has been informed about in the performance of his/her official duty, if it is a criminal offence punishable under law by imprisonment of five years or more.



### **Article 416 – Abuse of an official position**

(1) A person in official capacity who obtains for him/herself or another person any benefit, causes damage to another or gravely violates the rights of another by unlawfully using his/her official position or authorisations, overstepping the limits of his/her official authorisation or omitting to perform his/her official duty, shall be punished by an imprisonment sentence for a term of six months to five years.

### **Article 417 – Unconscientious performance of office**

(1) An official who by violation of law or other regulations or general acts, by failure to do supervision or in some other manner obviously unconscientiously acts in the performance of his/her office, although he was aware or was obliged to and had to be aware that such acts may cause serious violation of rights of another or damage to property of another, when such a violation or damage exceeding the amount of three thousand euro actually takes place, shall be punished by a fine or imprisonment not exceeding three years.

One of the basic principles of the Law on the Treatment of Juveniles in Criminal Proceedings is the right to respect for privacy of a juvenile at all stages of the proceedings. The public prosecutor for juveniles, the judge for juveniles, and the council of judges for juveniles and other persons involved in the process must be careful that there is no violation of the privacy rights of a juvenile.

**13b.** Are there any rules encouraging any person who knows about or suspects, in good faith, sexual exploitation and sexual abuse of children to report the facts to the competent authorities? If so, please specify under which conditions and to which authorities (**Article 12, para. 2, Explanatory Report, para. 91**). Please provide examples of good practice.

#### **Answer:**

The laws establish the obligation of every citizen who is in knowledge that there is a reasonable suspicion that a criminal offence was committed to report it to the competent authorities. Also, the procedure and manner of reporting is governed by numerous regulations, and so is the protection of persons involved in these procedures.

### **Question 14: Helplines**

Which legislative or other measures have been taken to encourage and support the setting up of information services, such as telephone or Internet helplines, to provide advice to callers, even confidentially or with due regard for their anonymity? (**Article 13, Explanatory Report, para. 92**).

#### **Answer:**

The Office for the Fight against Trafficking in Human Beings is funding the helpline for victims of trafficking in human beings 11 66 66, through which all the necessary tips and information of educational type on the phenomenon of trafficking in human beings / children may be obtained

anonymously and for free, and through which one can report any suspicion of the commission of this criminal offence.

Since 2003, NGO “Children First” from Podgorica realizes intervention, development and prevention programmes relating to children and families. One of the social services that is implemented now is the advisory children’s helpline “Confidential Telephone”, which was supported by the European Commission until July 2012. During this time, it became a full member of the global network of helplines for children “Child Helpline International”, which means it has met the high standards of the global network of helplines for children. Yet, after completion of the project and the support of the EC, they are not able to provide funds for the operation of the helpline, so it is now functioning on a voluntary basis.

Advisory children’s helpline “Confidential Telephone” is implementing the training of advisers in partnership with NGO “Brave Telephone” (Zagreb, Croatia) and the Serbian National Children’s Helpline (Belgrade), and so is the case with relevant surveys as well.

As regards a relatively small number of calls and letters by children so far, NGO “Children First” states that the helpline “Confidential Telephone” (080 081 550), is free to the caller, but is available only for landline telephones, comparing this to the period when the helpline was created (January 2011/July 2012), and our culture and the position of the child in our culture – the general capabilities of the child to give an opinion, and that the child’s opinion is heard and respected, and that the child is able to seek and obtain relevant information. Also, it is aware that the “Confidential Telephone” is a new service for children in our country and that it needs takes efforts and time to enhance public awareness of the promotion of children’s rights, and to empower children to report such cases and gain confidence in this type of support.

In addition, the Institution of the Protector of Human Rights and Freedoms provides for the possibility to report any violation of the rights of the child via phone or via the Internet.

#### **Question 15: Assistance to victims**

**15a.** Please indicate which types of assistance described in **Article 14** are provided to victims of sexual exploitation and sexual abuse of children. (**Explanatory Report paras. 93-100**) Please specify:

#### **Answer:**

In accordance with the Law on Protection from Domestic Violence, multidisciplinary teams have been formed within all ten social welfare centres, whose jurisdiction was extended to include all victims of domestic violence, not just children. The teams provide a complete and coordinated protection of victims of domestic violence. When it comes to social protection, the Law stipulates that social protection for victims includes tangible and intangible assistance, housing and social services, in accordance with the law governing social and child protection, as well as free legal aid, exercised in accordance with the Law on Free Legal Aid.

In accordance with the Law on Protection from Domestic Violence, the **Strategy for Protection from Domestic Violence** was passed.

In November 2011, the **Protocol on procedures in domestic violence cases** was signed. Signatories to the Protocol are: The Supreme Court, Ministry of Justice, Supreme Public Prosecutor's Office, Ministry of Education, Ministry of Health, Ministry of Labour and Social Welfare, Police Administration and the Misdemeanour Council.

The objective of the Protocol is to establish and foster the establishment of multi-disciplinary cooperation with clearly defined procedures for each system. The protocol has been prepared in such a manner to respect the fundamental principles arising from all conventions and laws referred to in the Strategy for Protection from Domestic Violence, encompassing the comprehensive protection of the family from violence.

The Protocol regulates the joint work of all systems in the implementation of laws and conventions, and provides the obligation to take the necessary measures to ensure organisation, equipment and education of a sufficient number of specialized professionals dealing with domestic violence. The Protocol stipulates that professionals of social welfare centres shall immediately report to the police any knowledge or suspicion that violence was committed, regardless of how and from whom they were informed of this in their work.

A memorandum on cooperation that was signed with the aim of better cooperation in the fight against trafficking in human beings in practice through prevention, training, criminal prosecution of perpetrators and protection and potential victims and victims of trafficking, especially women and children makes concrete the legally defined obligations of the signatory institutions through standard operative procedures that signatories to the Agreement assume in addressing the specific case of trafficking in human beings. In this regard:

Through the Annex to the Agreement on mutual cooperation in the areas of prevention, criminal prosecution and protection of potential victims of trafficking in human beings, the **Supreme Court** committed to:

- Cooperate, within the legal powers, with the signatories to Agreement, with a view to protect potential victims by providing instructions for taking specific actions in order to provide potential victims as witnesses in a possible criminal proceeding;
- Point to the need to obtain and provide medical and other documentation, as well as appropriate accommodation and treatment of victims in the shelter, in order to obtain their confidence, with a view to a successful conduct of criminal proceedings and sanctioning the perpetrators of the criminal offence;
- When hearing a case, in accordance with the law, give priority to solving the case with the elements of the criminal offence of trafficking in human beings;
- Allow activists of non-governmental organisation that provides assistance to potential victims at the shelter to attend the trial as a potential victim accompaniment, in the event that a potential victim requests so.

Through the Annex to the Agreement on mutual cooperation in the field of criminal prosecutions, the **Supreme Public Prosecutor's Office** committed that public prosecutors will:

- Cooperate, within the legal powers, with the signatories to Agreement, with a view to protect potential victims by providing instructions for taking specific actions in order to provide potential victims as witnesses in a possible criminal proceeding;
- Point to the need to obtain and provide medical and other documentation, as well as appropriate

accommodation and treatment of victims in the shelter, in order to obtain their confidence, with a view to a successful conduct of criminal proceedings and sanctioning the perpetrators of the criminal offence of trafficking in human beings;

Through the Annex to the Agreement on mutual cooperation in the areas of prevention, criminal prosecution and protection of potential victims and potential victims of trafficking in human beings, it is stipulated that the **Ministry of Interior – Police Administration** will:

- Provide assistance, within its jurisdiction, to victims and potential victims of trafficking in human beings from the moment of identification throughout all phases of the investigation until the completion of the procedure of reintegration in their countries of origin, transit and final destination;
- Establish mechanisms by which police officers will be available 24/7 to provide support to the other signatories to the Agreement.

If the Ministry of Interior – Police Administration is notified of the presence of potential victims of trafficking or where it identifies such victims, it will provide, in accordance with the law and this Agreement, the implementation of the following measures and actions:

- Potential victims will be provided the opportunity of going into the Government's shelter for victims of trafficking in human beings, or in cases of emergency in other shelters. If the victim chooses to go to one of these shelters, MoI / PA shall immediately inform the shelter staff and escort the victim there, providing security protection;
- Notification to the competent social welfare centre will be provided, in the event that a potential victim is a minor;
- Persons who are presumed to be potential victims of trafficking in human beings will be provided full information on support services for victims, in a language understandable to the potential victim, to enable him / her to reach a decision that is in his / her best interest, regardless of whether the person is ready to testify or not;
- Respect for the privacy and identity of potential victims of trafficking in human beings will be provided;
- Potential victims of trafficking in human beings will be provided professional treatment based on respect for the human rights of victims;
- Care will be taken with a view to creation of optimal conditions under which the potential victim can give evidence with a maximum reduction of trauma;
- Within its jurisdiction, MoI / PA shall ensure appropriate measures of administrative, legal and security protection to potential victims and victims of trafficking in human beings, their families and staff at the shelter, through all stages of the investigation and the criminal proceedings from the moment of identification, to the process of reintegration.

The Ministry of Interior – Police Administration will mutually cooperate with other state authorities in the field of immigration, through information exchange aimed at securing legal residence to potential victims and victims of trafficking in human beings in accordance with Article 51 of the Law on Foreigners (Official Gazette 82/2008 of 31 December 2008), which prescribes the manner of regulation of temporary residence of foreign nationals – victims and potential victims of trafficking in human beings for humanitarian reasons.

The Ministry of Interior – Police Administration will, in accordance with its statutory powers, act according to the requirements of the signatories to the Agreement, which were submitted to the Ministry of Interior – Police Administration through the Office for the Fight against Trafficking in Human Beings or directly from applicants. After the checks are carried out under the abovementioned applications, the Office for the Fight against Trafficking in Human Beings will be informed of the results of the checks, and the Office will then inform the applicant thereof.

Through the Annex to the Agreement on mutual cooperation in the field of health care, the **Ministry of Health** committed to:

- Ensure proper health care in public health facilities in the provision of health care to potential victims of trafficking in human beings, taking into account the principles of urgency and priority.

Mechanisms of support and help that are provided in public health care facilities include:

- a) Assessment of the health status of potential victims of trafficking in human beings, as well as appropriate diagnostic tests and therapeutic services, and suggestions for further treatment with detailed medical records of all findings;
- b) Identification of potential victims and notifying appropriate services in the system of protection of victims identified by the Agreement.

Health care services shall, in all cases of suspicion that the person is a potential victim of trafficking in human beings apply only the necessary standards of identification in order to respect:

- a) The right to privacy of potential victims, especially for issues of personal nature and traumatic issues that are not necessary to provide health care;
- b) The right of potential victims to all information relating to his/ her health condition, the degree of health hazard, methods of treatment and medical interventions;
- c) The provision of health care services must not be made conditional on the grounds of the lack of identification documents.

The costs of health care services in urgent medical assistance to potential victims of trafficking in human beings who are not insured in accordance with the Law on Health Insurance of Montenegro shall be provided from the budget, through the Health Insurance Fund of Montenegro. In the event that a potential victim of trafficking is a citizen of a country with which Montenegro has signed a bilateral Agreement on Social Security, the costs will be covered in accordance with this Agreement. In all other cases, health care costs will be borne by the Office for the Fight against Trafficking in Human Beings.

Through the Annex to the Agreement on mutual cooperation in the field of social, child and family protection, the Ministry of Labour and Social Welfare committed to:

- Provide appropriate social, child, and family protection in the provision of social, child, and family protection to potential victims of trafficking in human beings, to Montenegrin citizens and foreign nationals, through the social welfare centres, with priority over other cases;

- Social welfare centres will provide prompt and efficient assistance in the territory of the whole country to victims / potential victims of trafficking in human beings.

Social and child protection to foreign victims / potential victims of trafficking in human beings includes the right to one-time financial assistance and the right to be appointed a guardian.

Social and child protection of the citizens of Montenegro shall be provided in accordance with the law. Social and child protection and protection in the area of family relationships that is provided through this Annex is provided to potential victims during their stay in the territory of the state, regardless of their accommodation location.

Assistance mechanisms include:

- a) An assessment of the socio-economic status, as a basis for the allocation of one-time financial assistance and other forms of protection in accordance with the law;
- b) Establishing the legal basis for setting up a guardian;
- c) The development of individual plans of protection for potential victims of trafficking in human beings, in cooperation with other signatories to the Agreement.

In all cases of suspicion that the person is a victim of trafficking in human beings, social welfare centres will apply the standards of identification in order to respect:

- a) The right to privacy of potential victims, especially for issues of personal nature and traumatic issues, if not for the purpose of collecting the necessary data;
- b) The rights of potential victims to all the information in the fields of social and child protection and family relationships, as well as in other possible actions to be taken in order to protect the victims.

Through the Annex to the Agreement on cooperation in the field of education, **the Ministry of Education** has committed to the following: potential victims or victims of trafficking in human beings, particularly children who are legally staying in the territory of Montenegro, will be provided suitable accommodation, or the inclusion into education system in public educational institutions, with priority in relation to other cases, in accordance with the regulations governing the appropriate field of education, while respecting the right to privacy, in accordance with the rules and ethics of the profession.

The Ministry of Education, as well as professional services in public educational institutions will provide for fast and effective involvement of children, potential victims and victims of trafficking in human beings in the educational system in Montenegro.

Mechanisms of support and assistance that will be provided to children who are potential victims or victims of trafficking in human beings will be based on:

- a) Special pedagogical and psychological procedures in the relevant departments of educational institutions and the actual functioning and the child's current level of

achievement, referral to additional professional treatment, in accordance with the regulations governing this area;

- b) Monitoring the behaviour and learning success of the child and notifying appropriate services in the system of child protection established by the Agreement.

In the field of prevention and protection of victims of trafficking in human beings, **the Center for Child and Family Support** committed to provide help and support to children who are victims of trafficking in human beings or who are abused for the purpose of forced labour, begging and criminal activities. Children who are victims of trafficking in human beings shall be urgently ensured a shelter in the Reception Unit of the Center, as well as the satisfaction of basic living needs during their stay, i.e. accommodation, food, and hygiene, until the final provision of care by the competent institutions. In cooperation with the social, health care and educational institutions, the Center will provide assistance to child victims of trafficking in human beings in accessing the right to health care and recreational programmes during their stay in the shelter.

In the field of educational and preventive activities, psychosocial and humanitarian assistance, **the Red Cross** committed to:

- Work to educate the volunteers of the Red Cross, under the principle of peer education, to sensitize target groups, and within educational institutions. Part of the educational and prevention activities is implemented with youth RAE population members, in collective centres in Konik;
- Work on organizing specialized trainings of volunteers, in order to raise awareness regarding the potential victims and victims of trafficking in human beings, with the use of good practices and experiences of members of the International Red Cross and Red Crescent Societies;
- Raise awareness of the importance of the fight against trafficking in human beings, organise campaigns, produce and distribute educational materials, according to its capabilities;
- Provide, in accordance with its capabilities, humanitarian aid to potential victims / victims of trafficking in human beings.

In the field of activities aimed at prevention and protection of potential victims of trafficking in human beings, **NGOs** have agreed that / to:

- Respect the principle of accessibility and non-discrimination, which means providing support to all persons regardless of their gender, age, ethnicity, nationality, religion, sexual orientation or any other difference, except in the case where the founding objectives and internal acts of the organisation, competences of the organisation related to gender and age, are otherwise specified;
- Respect the principle of anonymity, which means that people do not have to leave their personal details, i.e. that potential victims and victims of trafficking in human beings, their families and the people who seek help must agree that personal data are forwarded to the outside associates or competent authorities;
- Provide psycho-social and legal assistance to potential victims or victims, as well as mediation and representation of their interests through institutions;
- Have the right to accompany the victim during the entire proceedings, as a “trusted person”;
- Promptly inform the Police Administration and the Office for the Fight against Trafficking in Human Beings of their knowledge with regard to new potential victims and the need for their physical protection, and the protection of employees in the shelter.

- NGOs having a shelter for victims of domestic violence may, under the principle of urgency, accommodate the victim until its final accommodation in the Government's shelter for victims of trafficking in human beings;
  - Cooperate with social welfare centres towards the realisation of rights of potential victims in the area of social, child and family protection;
  - Assist in the integration and reintegration of potential victims and in the case of voluntary return to the country of origin. NGOs assist in connecting potential victims with families and in maintaining contact during their stay and after leaving the shelter. In the field of prevention of trafficking in human beings, NGOs cooperate with the competent authorities and institutions. NGOs are engaged in research, informing, campaigning and other activities through the mass media, social and economic initiatives, all with a view to prevent trafficking;
  - Maintain a database and statistics, prepare reports on their activities and submit them to the signatories to the Agreement.
- how the assistance is adapted to the victims' age and maturity;

Each victim is approached individually and experts make decisions on the form of protection in accordance with the victim's best interests, taking into account the age, needs and opinions of the victim.

Views of the child must be given due weight in all matters affecting the child and in all proceedings in which decisions are made about his / her rights, in accordance with the age and maturity of the child. A child who has reached ten years of age can freely and directly express his / her views in all proceedings in which decisions are made about his / her rights.

A child who has reached ten years of age may independently, or through another person or institution, address the court or administrative authority and request assistance in exercising his / her right to free expression of opinion.

The competent authority shall establish the child's opinion in an informal conversation that takes place in an appropriate place, in cooperation with the school psychologist or guardianship body, family counselling body or other institution specialized in family relationships, and in the presence of persons selected by the child.

- how due account is taken of the child's views, needs and concerns;

The principle of participation and the opportunity to hear the views of the child is represented in the laws governing the field of family relationships, social and child welfare, and criminal-law protection. At the level of constitutional principle, this right is granted to all persons within the jurisdiction of Montenegro without any distinctions based on age. However, although for example, the principle of respect for the opinion of the child is included in **the Family Law** (inter alia, the law provides that the guardianship authority shall, before determining the family placement, allow the child to freely express his / her opinion regarding the family placement and shall take into account this opinion in accordance with the age and maturity child; the child has the right to timely obtain all the information needed to form an opinion; child who has reached ten years of age can freely and directly express his / her views in all proceedings in which



decisions are made about his / her rights, and can address the court or the administrative authority and ask for help in the realisation of this right either independently or through another person or institution), and there are also pupils' parliaments in all schools, and local children's parliaments.

In Montenegro, numerous strategies and operational plans were adopted that are aimed at exercising and protecting the rights of the child (Strategy for the Development of Social and Child Welfare System from 2013 to 2017, Strategy of Fostering Development in Montenegro 2012-2016, Strategy for the Integration of Persons with Disabilities in Montenegro 2008-2016, Strategy for Protection against Domestic Violence, Strategy for Inclusive Education in Montenegro, Strategy of Early and Pre-School Education 2010-2015, Strategy for the Development of Primary Education with Action Plan 2011-2017, Strategy for Improving the Position of Roma and Egyptians 2012-2016, National Plan of Activities for Children 2013-2017, etc.).

- if the assistance (in particular emergency psychological care) is also provided to the victims' close relatives and persons responsible for their care.

**Answer:**

According to the Law on Health Care and the Law on Protection against Domestic Violence, assistance to the victims within the health system is provided in the framework of emergency medical services, emergency medical centres, service centres of primary health care, and through the functioning of the multi-disciplinary teams, all of which are separately trained for working with victims of violence, as well as for work with the families.

**15b.** Please specify if and to what extent internal law provides for the possibility of removing (**Article 14, para. 3, Explanatory Report, para. 99**):

- the alleged perpetrator, when the parent or persons caring for the child are involved in his or her sexual exploitation or sexual abuse;

- the victim from his or her family environment when parents or persons caring for the child are involved in his or her sexual exploitation or sexual abuse.

**Answer:**

Pursuant to the provisions of the Family Law, everyone is obliged to act in the best interest of the child in all activities concerning children. This law also provides that a parent who abuses parental rights or grossly neglects parental responsibilities is deprived of parental rights, where the abuse, inter alia, includes physical, sexual or emotional abuse of the child by the parent. The procedure for deprivation of parental rights may be initiated by the other parent, the guardianship authority or the public prosecutor.

In addition, the guardianship authority is obliged to initiate proceedings for deprivation of parental rights if it in any way finds out that there are reasons for that provided for in the law and to, if it finds that there is a risk of abuse of parental rights or risk of serious neglect of parental duty, take urgent measures towards the protection of rights of personality, rights and interests of

the child.

The Law on Social and Child Protection provides a wide register of interventions in the family: from the control and provision of professional assistance to parents, to undertaking legal and repressive measures against the parents, or initiating court proceedings for the protection of children's rights and representation of the child's interests in these proceedings.

Services in the field of social and child protection are the following: assessment and planning; support for community living, counselling, therapy and social and educational services; accommodation, immediate interventions, and other services.

Social welfare centres provide the service of evaluation and planning, and accordingly determine further forms of child protection. Through assessment and planning, the following is carried out: assessment of the situation, i.e. needs, strengths and risk to the beneficiary and other people important to the beneficiary; assessment of guardians, foster parents, adoptive parents, and the person to whom the child was entrusted for care, upbringing and education; preparation of an individual plan of service delivery and other assessments and plans.

Counselling, therapy and social and educational services encompass: counselling, therapy, mediation, helpline and other services provided with a view to overcome the crisis situations and to promote family relations.

Accommodation is a service which implies the stay of the beneficiary: with another family – foster care, with another family, in institutions, in the reception facility – shelter and other types of accommodation. Accommodation can be temporary, periodical and long-term, depending on the assessment of needs of the beneficiary.

Accommodation of the child in an institution shall be provided when the social welfare centre finds that the child's stay in the family cannot be provided, through the provision of family support, or that no stay with a family – foster care can be provided, or when this is not in the best interest of the child.

The social welfare centre reviews the placement of the child in an institution at least once in a six-month period. Children under three years of age are not placed in institutions.

Placement in an institution is provided to the beneficiary in such a manner to provide preparation for his / her return to the biological family, going to another family, or preparing the beneficiary to live independently.

Accommodation of a beneficiary in an institution cannot expire before the social welfare centre provides the conditions for placement in another facility, family accommodation or other forms of social and child protection.

The services of immediate intervention are provided in order to ensure the safety in situations that are threatening the life, health and development of the beneficiaries, and are provided 24/7.

The services of immediate intervention are provided by the social welfare centre, with mandatory cooperation with other competent state authorities and services.

### **The Law on Protection from Domestic Violence:**

#### **Article 28 – Order**

In order to eliminate risk to victim's physical integrity, police officer may order the abuser to leave residence or other premises or prohibit his return to residence or other premises. The order is issued for maximum three days.

#### **Article 21 – Removal from residence**

Removal from residence is ordered to the violence perpetrator living with the victim and is ordered for a minimum of thirty days and a maximum of six months.

#### **Article 22 – Restraining order**

Restraining order is issued for minimum thirty days and maximum one year.

Article 77a of the Criminal Code provides that the perpetrator of a criminal offence against sexual freedom may be pronounced a security measure of restraining order in relation to the victim or any other person or group of persons or particular place, where there is a risk that the offender could commit the same or similar criminal offence against such persons or in this place. This security measure may be imposed only when the offender was sentenced to imprisonment or a fine.

**15c.** If internal law does provide for this:

- are the conditions and duration of such removal to be determined in accordance with the best interests of the child?

#### **Answer:**

The conditions and duration of removal of the child from the family is always in accordance with the best interests of the child, which is the duty of all bodies involved in child protection.

- are social programmes and multidisciplinary structures in place to provide the necessary support for victims, their close relatives and for any person responsible for their care? (**Article 11, Explanatory Report, paras. 87-88**).

#### **Answer:**

Multidisciplinary teams provide a complete and coordinated protection of victims of domestic violence. When it comes to social protection, the social protection for victims includes tangible and intangible assistance, housing and social services, in accordance with the law governing social and child protection, as well as free legal aid, exercised in accordance with the Law on Free Legal Aid.

**The Strategy for Protection from Domestic Violence** has been adopted in July 2011, while the **Protocol on procedures in domestic violence cases** was signed in November 2011. Signatories to the Protocol are: The Supreme Court, Ministry of Justice, Supreme Public Prosecutor's Office, Ministry of Education, Ministry of Health, Ministry of Labour and Social Welfare, Police Administration and the Misdemeanour Council.

**The objective of the Protocol** is to establish and foster the establishment of multi-disciplinary cooperation with clearly defined procedures for each system. The protocol has been prepared in such a manner to respect the fundamental principles arising from all conventions and laws referred to in the Strategy for Protection from Domestic Violence, encompassing the comprehensive protection of the family from violence.

The Protocol regulates the joint work of all systems in the implementation of laws and conventions, and provides the obligation to take the necessary measures to ensure organisation, equipment and education of a sufficient number of specialized professionals dealing with domestic violence.

Through the reform of the social welfare system, efforts are made to raise standards in the protection of children and to introduce different service providers, as well as to provide internal and external supervision of the work of the services.

The new Law on Social and Child Protection, which was adopted in June 2013, complies with international standards and obligations undertaken by the ratification of international agreements, mainly those relating to the guarantee of human rights and freedoms and the rights of the child. Inter alia, the Law is complied with the UN Convention on the Rights of the Child. The Law prescribes the rights of social and child protection, and performance of activities in the area.

Through the adoption of the new Law, the commitment is implemented, implying, inter alia, promoting the development of various and introducing new services of social and child welfare in community and inclusion into the sphere of an increasing number of service providers. The Law extends and details the services: assessment and planning; support for community living; counselling, therapy and social and educational services; accommodation; and immediate interventions.

The law stipulates minimum standards for the provision of social and child welfare services. Minimum standards enable that the services on the territory of Montenegro are provided and developed in a uniform way. This means that the service in all the places where it is provided must meet the same minimum standards.

The aim of the development of social and child welfare is to establish minimum standards in Montenegro, as well as to ensure that the minimum standards will be observed in the provision of services, whereas the goal and the task of social welfare services is to raise these standards. Standards are the basis for the introduction of licensing providers. Standards also give impetus to improving the supply and quality of service for the beneficiaries.

**15d.** Which legislative or other measures have been taken to ensure that victims of an offence established in accordance with the Convention in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their state of residence? (**Article 38, para. 2, Explanatory Report, paras. 258-259**).

This possibility is not explicitly defined in the criminal legislation. However, Article 9 states that ratified and published international treaties and generally accepted rules of international law are an integral part of the internal legal order, having primacy over national legislation and directly applicable when they regulate the relations differently from the internal legislation. Regarding the international cooperation, in 2008, Montenegro adopted the Law on Mutual Legal Assistance in Criminal Matters, harmonised with Council of Europe standards.

## **PROSECUTION OF PERPETRATORS OF SEXUAL EXPLOITATION AND SEXUAL ABUSE OF CHILDREN**

### **Question 16: Criminal law offences**

**16a.** Please indicate whether the intentional conducts in the box below are considered criminal offences in internal law;

**Answer:**

Title Eighteen of the Criminal Code – Criminal Offences against Sexual Freedom, comprehensively regulates the conduct in the field above, through the criminal offences of Rape, Article 204, Sexual Intercourse with a Helpless Person, Article 205, Sexual Intercourse with a Child, Article 206, Sexual Intercourse by Abuse of Position, Article 207, Prohibited Sexual Acts, Article 208, Pimping and Enabling having a Sexual Intercourse, Article 209, Mediation in Prostitution, Article 210, and Displaying Pornographic Material to Children and Production and Possession of Child Pornography, Article 211. Through the Amendments to the Criminal Code, which are underway, it was proposed that Article 211 above is amended so as to be entitled Child Pornography. This Article would encompass criminalised actions in a more extensive manner, and would stipulate harsher sanctions for the offenders. Also, the introduction of a new Article is proposed, which would be entitled Alluring the Child in Order to Commit a Criminal Offence against Sexual Freedom, Article 211b.

**16b.** Wherever the intentional conduct which is criminalised differs from the Lanzarote Convention benchmark, please justify;

Criminal offences prescribed by the Criminal Code have been fully aligned with the present Convention through the latest amendments.

**16c.** Please highlight whether there are any other offences not included in the box below incriminating sexual exploitation and sexual abuse of children in your country? Please provide their definitions and specify in which act these are included;

Law on Protection from Domestic Violence prescribes misdemeanour liability of the person who sexually harasses another member of the family.

**16d.** Please also specify whether the age of a child plays a role in determining the gravity of the offence.

**Answer:**

Age of the child plays a very important role when it comes to the criminal offences related to the sexual abuse of children and in these cases these are severe forms of criminal offences. Also, when it comes to sentencing the perpetrator of these criminal offences, the court, pursuant to the rules of sentencing, takes into account all the circumstances which affect the length of the sentence, and in particular the motives for the offence, against whom the offence was committed, treatment of the victim, etc.

**Sexual Abuse (*Article 18*)**

1. Engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;
2. Engaging in sexual activities with a child where
  - use is made of coercion, force or threats;
  - abuse is made of a recognised position of trust, authority or influence over the child, including within the family;
  - abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.

**Child Prostitution (*Article 19*)**

1. Recruiting a child into prostitution or causing a child to participate in prostitution;
2. Coercing a child into prostitution or profiting from or otherwise exploiting a child for such purposes;
3. Having recourse to child prostitution.

**Child Pornography (*Article 20*)**

1. Producing child pornography;
2. Offering or making available child pornography;
3. Distributing or transmitting child pornography;
4. Procuring child pornography for oneself or for another person;
5. Possessing child pornography;
6. Knowingly obtaining access, through information and communication technologies, to child pornography.

**Participation of a Child in Pornographic Performances (*Article 21*)**

1. Recruiting a child into participating in pornographic performances or causing a child to participate in such performances
2. Coercing a child into participating in pornographic performances or profiting from or otherwise exploiting a child for such purposes
3. Knowingly attending pornographic performances involving the participation of children.

**Corruption of Children (Article 22)**

The intentional causing, for sexual purposes, of a child who has not reached the internal legal age for sexual activities, to witness sexual abuse or sexual activities, even without having to participate.

**Solicitation of Children for Sexual Purposes (“grooming”) (Article 23)**

The intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age for sexual activities as established by internal law, for the purpose of committing sexual abuse or producing child pornography, where this proposal has been followed by material acts leading to such a meeting.

**Aiding or abetting and attempt (Article 24)**

1. Intentionally aiding or abetting the commission of any of the above offences.
2. The attempt to commit any of the above offences.

**Question 17: Corporate liability**

Does your system provide that a legal person may be held liable for an offence established in accordance with **Article 26**? Please specify under which conditions.

**Answer:**

Liability of legal entities for criminal offences is regulated by the Law on Liability of Legal Entities for Criminal Offences. This Law sets several conditions which must be cumulatively met in order for the liability of legal entities to exist: 1. it is necessary that the criminal offence was committed by a natural person; 2. That person must have the position of the person responsible in the legal entity; 3. The person responsible acted on behalf of the legal entity; 4. The person responsible acted within his / her powers; and 5. The liability of legal entities exists only where there was certain intention of the person responsible, i.e. intention to provide some benefit for the legal entity. In addition to the above requirements, the liability of the legal entity also exists when the actions of the person responsible was contrary to the business policy or instructions of the legal entity. Liability of a legal entity does not exclude criminal liability of the person responsible for the committed criminal offence. The Law on the Liability of Legal Entities for Criminal Offences provides for three types of sanctions against legal entities: 1) penalty; 2) a suspended sentence; and 3) security measures. The penalty can be a fine and termination of the legal entity status.

Article 9 of the Law on Protection from Domestic Violence (2010) prescribes that a state administration agency, other agency, a health, education or other institution have the duty to report to police the incidence of violence that they learn of in the discharge of affairs within their authority or in conduct of their activities. Under the duty to report violence to the police is the head of the agency or institution from para. 1 of this article, as well as a health and social care worker, teacher, pre-school teacher and other person who learns of violence in the discharge of his affairs. A misdemeanour body and the police are under the duty to notify the social welfare centre of the violence reported. Article 39 of the same Law prescribes that a fine in the amount from EUR 100 to EUR 500 shall be imposed on a person responsible in the state authority, other

authority, health care, educational, or other institution, health and social worker, teacher, educationist and other persons if they fail to report the violence that they learned of in the performance of their duties to the police.

### **Question 18: Sanctions and measures**

**18a.** Please indicate which sanctions internal law provides for the criminal offences established in accordance with the Convention with regard to both natural and legal persons. Please specify whether the sanctions are criminal, civil and/or administrative sanctions (**Article 27, Explanatory Report, paras. 182-193**);

#### **Answer:**

The Criminal Code of Montenegro prescribes sanctions or penalties for criminal offences established in accordance with the Convention. The Criminal Code provides for the sanction of imprisonment for all criminal offences governing the protection of children from sexual abuse and sexual exploitation in accordance with the Convention.

**18b.** Which legislative or other measures have been taken to provide for the possibility of taking into account final sentences passed by another Party in relation to the offences established in accordance with the Convention? Please provide details and describe any good practice resulting from the taking of these measures (**Article 29, Explanatory Report, paras. 203-208**).

The Criminal Code prescribes general rules for fixing a sentence. The court shall fix a sentence for an offender within the limits envisaged by law for the criminal offence in question, having in mind the purpose of sentence and taking into account all circumstances that have bearing on magnitude of the sentence (mitigating and aggravating circumstances), and particularly the following: degree of culpability, motives out of which the offence was committed, intensity of danger or injury to the protected asset, circumstances under which the offence was committed, previous history of the offender, his / her personal situation, his/her behaviour after the commission of the criminal offence, particularly his / her attitude towards the victim of the criminal offence and other circumstances related to the personality of the offender (Article 42). Also, according to Article 43 of the Criminal Code, when fixing a sentence to an offender for a criminal offence which he / she has committed after sentence served, sentence forgiven or barred by the statute of limitations or remission of penalty after the deadline for revocation of parole or after judicial admonition has been imposed, the court can take this circumstance as aggravating one and it shall especially assess the seriousness of a previously committed criminal offence, whether the former offence is of the same kind as the latest one, whether both offences were committed out of the same motives, circumstances under which the offences were committed and how much time has passed from the earlier conviction or sentence imposed, forgiven or barred by the statute of limitations, from remission of penalty, from expiry of the deadline for revocation of earlier suspended sentence or from imposed judicial admonition.

According to Article 42 of the Law on International Legal Assistance in Criminal Matters, one of the forms of international legal assistance is the dissemination of criminal records data about the sentence. Montenegro has ratified the European Convention on Mutual Assistance in Criminal Matters.



### **Question 19: Jurisdiction**

With regard to the offences referred to in question 16, please indicate which jurisdiction rules apply. Please specify under which conditions, if required (**Article 25, Explanatory Report, paras. 165-176**).

#### **Answer:**

Court jurisdiction is determined by the Criminal Procedure Code, which prescribes that the court having territorial jurisdiction shall be the one within whose territory criminal offence was committed or attempted. A personal action at law may also be lodged with the court within the territory of which the accused has permanent or temporary residence.

If the place of the commission of a criminal offence is unknown or if that place is outside of Montenegro, the court of appropriate jurisdiction shall be the one within whose territory the accused has temporary or permanent residence.

If the procedure is already pending before the court of the defendant's temporary or permanent residence, when the place of the commission has been determined, this court shall retain its jurisdiction.

If neither the place of the commission of the criminal offence nor the temporary or permanent residence of the accused is known, or if both are outside the territory of Montenegro, the court of appropriate jurisdiction shall be the one within whose territory the accused is placed under arrest or turned himself / herself in. If it is not possible to ascertain which court has territorial jurisdiction, the Supreme Court of Montenegro shall designate one of the courts of subject-matter jurisdiction to conduct the proceedings.

### **Question 20: Aggravating Circumstances**

Please indicate which of the circumstances referred to in **Article 28**, in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration in your legal system as aggravating circumstances in the determination of the sanctions in relation to the offences established in accordance with this Convention (**Explanatory Report, paras. 194-202**).

#### **Answer:**

The Criminal Code lays down the general rules for fixing a sentence, according to which the court will fix a sentence against the offender within the limits prescribed by the law for that offence, bearing in mind the purpose of punishment and taking into account any mitigating or aggravating circumstances.

When it comes to aggravating circumstances in accordance with Article 28 of the Convention, most of the above circumstances are an integral part of the criminal offence, and in accordance with the rules for fixing a sentence, the court will particularly take into account: the degree of

culpability, the motives for the crime that was committed, the degree of jeopardizing or severity of injury of the victim, the circumstances under which the offence was committed, the attitude of the perpetrator towards the victim, his / her prior convictions, etc. The new Amendments to the Criminal Code introduced a special circumstance for fixing a sentence, for a criminal offence motivated by hatred.

### **Question 21: Measures of protection for the child victim**

**21a.** Please describe the measures taken to inform child victims of their rights, the services at their disposal, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role as well as the outcome of their cases (**Article 31, para. 1, letter (a) and para. 2**). Please also indicate what is done to provide all relevant information in a manner adapted to the child's age and maturity and in a language that he/she may understand;

#### **Answer:**

In procedures concerning the protection of the rights of the child, the child is represented by his / her legal representative, and if it is determined that the child is not represented in an appropriate manner, the court will appoint a temporary representative. If there are opposite interests between the child and his or her parents or legal representative, the court may, through the guardianship body, appoint a collision guardian who is obliged to make sure that the child timely receives all necessary information and explanations concerning the possible consequences of acts he / she undertakes. The collision guardian is required to convey the opinion of the child to the court.

Regarding the criminal procedure involving a juvenile, one of the basic principles is the comprehensibility of language and the use of technology adapted to the age and level of development of a juvenile.

**21b.** Please also indicate which measures have been taken to enable the child victim to be heard, to supply evidence and to choose the means of having his/her views, needs and concerns presented, directly or through an intermediary, and considered (**Article 31, para. 1, letter (c)**);

#### **Answer:**

The Law on the Treatment of Juveniles in Criminal Proceedings provides that as a rule, actions in criminal proceedings in which the participant is a juvenile injured by the criminal offence or where the juvenile is questioned as a witness, are taken by people who have acquired special knowledge in the field of children's rights and about the rules of treatment of juvenile offenders and juveniles as participants in criminal proceedings, taking into account the age, personal characteristics, education and living circumstances of the juvenile. A separate Article of this Law prescribes the manner of interrogating a juvenile:

## Article 93

Hearing of a juvenile is, as a rule, performed by the public prosecutor and a judge of the same sex as the juvenile, in a separate room equipped with technical devices for audio-visual recording. Exceptionally, the juvenile can be heard again if there are justifiable reasons.

The hearing referred to in paragraph 1 of this Article shall be conducted in the presence of a legal representative of the juvenile, and, as a rule, with the help of professionals, if this is not contrary to the interests of the proceedings or juvenile.

Notwithstanding paragraph 2 of this Article, the juvenile who is under 14 years of age (child), shall be heard as the injured party or witness in the proceedings only with the help of a professional person.

The parties and defence counsel question the juvenile over the judge, or public prosecutor. If the juvenile is heard with the help of audio-visual recording equipment, the recording shall be sealed and attached to the minutes.

Exceptionally, if there are justified reasons, juveniles can be heard as witnesses or injured parties in their apartment or another room, or the office or institution in which they reside, regardless of the technical equipment thereof.

**21c.** What kind of support services are provided to child victims and their families so that their rights and interests are duly presented and taken into account? (**Article 31, para. 1, letter (d)**);

### **Answer:**

Child victims and their families are provided comprehensive support and protection through a multi-disciplinary approach.

In accordance with the Law on Protection from Domestic Violence, the **Strategy for Protection from Domestic Violence** was passed in July 2011. In November 2011, the **Protocol on procedures in domestic violence cases** was signed. Signatories to the Protocol are: The Supreme Court, Ministry of Justice, Supreme Public Prosecutor's Office, Ministry of Education, Ministry of Health, Ministry of Labour and Social Welfare, Police Administration and the Misdemeanour Council.

The objective of the Protocol is to establish and foster the establishment of multi-disciplinary cooperation with clearly defined procedures for each system. The protocol has been prepared in such a manner to respect the fundamental principles arising from all conventions and laws referred to in the Strategy for Protection from Domestic Violence, encompassing the comprehensive protection of the family from violence.

The Protocol regulates the joint work of all systems in the implementation of laws and conventions, and provides the obligation to take the necessary measures to ensure organisation, equipment and education of a sufficient number of specialized professionals dealing with domestic violence.

Actions taken by the social welfare centres when children are involved in domestic violence cases are:

In the case of knowledge / suspicion of the committed domestic violence in which the child is a victim (direct or indirect), the professional worker of the social welfare centre urgently / immediately reports the case to the police; urgently determines the plan of assistance and measures for the protection of child victim of domestic violence – while being guided by the principle of the best interests of the child in each specific case; appoints a guardian for the child if the parents are not able to perform this role, or if there is a conflict of interest between parents and child (special guardian); makes a decision on the removal of the child from the family only in exceptional cases, i.e. when it is impossible to find another safe place for the child victims of domestic violence; considers appropriate accommodation in a foster home if this is established as necessary and the only good solution for the child victim; continuously monitors the case and at least once a month visits the family in which the child victim of violence is staying; establishes and continuously maintains contact with experts in the health and educational institutions (preschool, primary and secondary schools) in the event that a child is a victim of domestic violence (either directly or indirectly); initiates civil proceedings before a competent court.

The social welfare centre also initiates and forms, together with representatives of state and non-governmental sectors, a professional team, tasked to: determine the plan of assistance and measures to protect the child victim of domestic violence and to coordinate the activities in the process of protection.

The coordinator of the professional team is selected from among the employees of the social welfare centre.

The professional team: obtains relevant information about the case; assesses the level of risk (using a risk assessment matrix); launches procedures important for protection of the child; provides implementation of procedures for protection of the child; provides professional assistance to the child victim of domestic violence as well as assistance to the entire family, especially if a family has more children; prevents the possibility of secondary victimisation of the child during the implementation of protective measures. (in order to reduce secondary victimisation of the child: the number of interviews with the child is limited to two, and whenever possible, modern technical aids are used for taking the testimony – two-way mirrors and audio and video equipment to record the testimony of the child and use the recording in court, to avoid exposing the child to new traumatic experiences); keep records of all activities implementing the protection measures; establishes electronic databases.

**21d.** Please describe the measures taken to protect the privacy, the identity and the image of child victims (**Article 31, para. 1, letter (e)**);

**Answer:**

The Law on the Treatment of Juveniles in Criminal Proceedings provides the respect for the rights to privacy of the juvenile in all stages of the proceedings as one of the basic principles. The Law additionally provides for the exclusion of the public from the main hearing, ban on the

publishing of case files and the course of the proceedings, as well as the information about the identity of the juvenile or his / her legal representative. The Media Law places ban on publishing the identity of juveniles involved in criminal offences, either as victims or as accused.

**21e.** Please describe the measures taken to provide the safety of the child victims and witnesses and their families from intimidation, retaliation and repeat victimisation (**Article 31, para. 1, letter (f)**);

**Answer:**

The Law on Witness Protection regulates the conditions and procedures for providing protection and assistance to a witness outside the court, when there is a reasonable fear that testifying in order to prove the criminal offence would expose him / her to real and serious danger to life, health, physical integrity, freedom or property of large scale, and where other protection measures are not sufficient. Protection and assistance can also be provided to people who are close to the witness, or victim. Protection of witnesses, or people close to him / her, is ensured through the witness protection programme. Witness protection programmes can be applied to a juvenile only with the consent of a parent or guardian.

**21f.** Please specify whether the victim and his/her family are informed when the person prosecuted or convicted is released temporarily or definitely from detention or custody. Please indicate who delivers this information and how (**Article 31, para. 1, letter (b)**);

There are no legal provisions regulating this obligation.

**21g.** Please also indicate what measures have been taken to ensure that contact between victims and perpetrators, within court and law enforcement agency premises, is avoided. Please specify under which conditions the competent authorities may authorise such contact in the best interests of the child or when the investigations or proceedings require such contact (**Article 31, para. 1, letter (g)**);

**Answer:**

A juvenile under 14 years of age (child) who is injured by the criminal offence or is testifying as a witness cannot confront the defendant. If a juvenile above the age of 14 is heard as the injured party or witness, who, due to the nature of the criminal offence, consequences or other circumstances, is at a particularly difficult psychological condition, that person cannot be confronted with the defendant. The competent authorities taking action in a proceeding in which a juvenile is participating shall undertake the necessary measures to ensure that, in their official premises, juvenile and the defendant will not meet.

Hearing of a juvenile is, as a rule, performed by the public prosecutor and a judge of the same sex as the juvenile, in a separate room equipped with technical devices for audio-visual recording. The hearing is conducted in the presence of a legal representative of the juvenile, and, as a rule, with the help of professionals, if this is not contrary to the interests of the proceedings or juvenile, while the juvenile who is under 14 years of age (child), shall be heard as the injured party or witness in the proceedings only with the help of a professional person. The parties and defence

counsel question the juvenile over the judge, or public prosecutor. If the juvenile is heard with the help of audio-visual recording equipment, the recording shall be sealed and attached to the minutes. Exceptionally, if there are justified reasons, juveniles can be heard as witnesses or injured parties in their apartment or another room, or the office or institution in which they reside, regardless of the technical equipment thereof.

**21h.** Please specify under which conditions child victims of the offences established according to the Convention have access to legal aid provided free of charge (**Article 31, para. 3**).

**Answer:**

In accordance with the Law on Free Legal Aid, those children who are victims of the criminal offence of violence in a family or family community and trafficking in human beings have the right to free legal aid. Thus, those children who are victims of sexual abuse and sexual harassment by family members, or persons living in the same household, regardless of kinship ties, are entitled to free legal aid. Also, children who are victims of the criminal offence of trafficking in human beings, i.e. children who were recruited, sold, etc., with a view to their sexual exploitation, prostitution or pornography have the same right.

Article 95 of the Law on the Treatment of Juveniles in Criminal Proceedings stipulates that a legal counsel from among the lawyers who have, as a rule, gained special knowledge in the field of children's rights and procedures with juveniles in criminal proceedings, shall be appointed to the juvenile by the judge or the presiding judge, following the motion of the public prosecutor, guardianship body or ex officio, in line with the equity requirements, if he / she finds that this is in the best interest of the protection of the juvenile's personality (the counsel is appointed at the expense of budget funds of the court). Article 50 stipulates that a juvenile who is in conflict with the law must have a defence counsel - attorney during the first hearing and the whole proceedings (and ex officio assistance).

Measures implemented by the Court during the hearing: hearing of the child in the presence of his / her parents, social welfare centre, psychologists, while the most frequent measures used by the prosecution office are: hearing in the presence of social workers and psychologists.

## **Question 22: Investigations and criminal measures to protect the child victim**

**22a.** What protective approach towards victims has been adopted to ensure that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate? (**Article 30, para. 2, Explanatory Report, paras. 211-215**);

**Answer:**

In order to provide full protection of the child victim during the investigation and the criminal proceedings, the Law on the Treatment of Juveniles in Criminal Proceedings devoted special attention to this issue in Title IV. The fundamental principles such as the respect of the best interests of the child, prohibition of discrimination on any grounds, comprehensibility of language, the use of technology adapted to the age and stage of development of juvenile persons,

respect for privacy rights at all stages of the proceedings and the free expression of opinion, are completely observed. Article 91 stipulates that any information that could indicate the identity of the juvenile who is injured by the criminal offence cannot be published. Article 92 provides that in criminal proceedings in which the participant is a juvenile injured by the criminal offence or where the juvenile is questioned as a witness, actions are taken, as a rule, by people who have acquired special knowledge in the field of children's rights and about the rules of treatment of juveniles, taking into account the age, personal characteristics, education and living circumstances of the juvenile. Article 93 prescribes that hearing of a juvenile is, as a rule, performed by the public prosecutor and a judge of the same sex as the juvenile, in a separate room equipped with technical devices for audio-visual recording. Exceptionally, the juvenile can be heard again if there are justifiable reasons. The juvenile who is under 14 years of age shall be heard only with the help of a professional person – psychologist, educationist, social worker or other professional person who has acquired special knowledge and skills. Article 94 prescribes that a juvenile under 14 years of age (child) who is injured by the criminal offence cannot confront the defendant.

As of September 2011, all prosecution offices in Montenegro are equipped with a room in which audio-visual hearing can be conducted, and these premises were used for the purposes of hearing juvenile victims of criminal offences. In early November 2013, as part of the “Justice for Children” project, conducted by UNICEF in cooperation with the Ministry of Justice and the Ministry of Labour and Social Welfare, the equipment for audio visual hearing was provided to nine offices of basic and higher prosecution offices in Montenegro, which are used exclusively and only for the purpose of hearing juveniles, whether as victims, witnesses or perpetrators of the criminal offence. In this way, the child victim is maximally protected from further traumatising, because the hearing is conducted by a single person (psychologist or psychiatrist), while the prosecutor is in another room monitoring the hearing through the above equipment, using a microphone to ask psychologist questions (the psychologist is using headsets to communicate with the prosecutor). Where necessary, the psychologist rephrases the question in a way that is understandable for a child, but taking care to obtain the desired information. This manner of operation prevents the child from seeing and hearing anyone else but the qualified person who may be a psychologist, psychiatrist, educationist or social worker during the hearing. The profession of the qualified person depends on the trauma and the child's condition and needs of the procedure. Thus, the testimony of the child victim is recorded in audio and visual formats and is used as evidence in criminal proceedings, to prevent the re-hearing of the victim, or the confrontation between the suspect and the victim.

The prosecutor managing these proceedings has passed specialized training for working with children and is a member of the local multidisciplinary team (MOT), which meets at least once a month (and in emergencies immediately after learning thereof), considering all cases in which some forms of child abuse are occurring, in order to provide efficient protection to the child. The team was formed within the social welfare centres, and is composed of professionals from different fields: the judiciary, social and child protection, health care, NGOs, local self-government and other related fields when necessary. Considering the issue, each of the team members proposes actions from his / her line of work. Thus, if the abuse occurred within the family by both parents, a decision may be made that the child is removed from the family and placed in kinship, or other family. Institutional placement is avoided, except in situations where it is the only solution. If one parent is the abuser, and the other one is evaluated as a safe base, the

child remains with this parent, but they are provided accommodation, material assistance, psychological empowerment, and only when the child is fully protected from any further abuse, the prosecutor takes actions within his / her jurisdiction. This is regulated by the Law on Protection from Domestic Violence, Article 11, which refers to the plan of helping the victim.

**22b.** Which legislative or other measures have been taken to ensure that investigations or prosecutions of offences established in accordance with the Convention shall not be dependent upon the report or accusation made by a victim and that the proceedings may continue even if the victim has withdrawn his or her statement? (**Article 32, Explanatory Report, para. 230**);

**Answer:**

Pursuant to Article 44 of the Criminal Procedure Code, the public prosecutor is competent to prosecute perpetrators of all criminal offences that are prosecuted ex officio regardless of the position of the victim and whether the victim withdrew the application. The police are obliged to inform the prosecutor of the criminal offence committed, and then the prosecutor determines whether it is a criminal offence that is prosecuted ex officio. If the collected evidence suggests that there are grounds for suspicion that a criminal offence was committed, regardless of the circumstances of whether the injured party withdrew the application or pleaded not interested in prosecution, the prosecutor continues to lead the proceedings ex officio. Also, if the prosecutor has any knowledge that a criminal offence was committed, he / she shall carry out checks and take actions within his / her jurisdiction.

**22c.** Which legislative or other measures have been taken to ensure that the statute of limitation for initiating proceedings with regard to the offences established in accordance with **Articles 18, 19, paragraph 1.a and b, and 21, paragraph 1.a and b**, shall continue for a period of time sufficient to allow the efficient starting of proceedings after the victim has reached the age of majority and which is commensurate with the gravity of the crime in question? (**Article 33, Explanatory Report, paras. 231-232**);

**Answer:**

Article 125 of the Criminal Procedure Code provides that the statute of limitations for the criminal prosecution of perpetrators of criminal offences committed against the juvenile shall be suspended until that person reaches the age of 18. This ensures the efficient initiation of proceedings in cases where the child victim became of age. Also, although the victim turned 18, as an adult he / she has the right to be heard separately with the help of audio-visual techniques, without confronting the defendant, if it is decided that this is in its interest of the person to preserve the physical and mental health and personal integrity (Article 113, paragraph 5 of the Criminal procedure Code – injured party who is a victim has the right to testify in a separate room).

**22d.** Please clarify whether your judicial authorities may appoint a special representative for the victim who may be party, where the holders of parental responsibility are precluded from representing the child in proceedings related to sexual exploitation or sexual abuse of children as a result of a conflict of interest between them and the victim. Please specify who may be appointed as a representative and what are his/her tasks (**Article 31, para. 4**). Please also



describe under which conditions it is possible;

**Answer:**

The judicial authorities can appoint a special representative for the victim, which may be a party to the proceedings. In cases where the injured part (victim) is a child, and his / her legal representative (parent, adoptive parent or guardian) is precluded from representing the child, the guardianship body (social welfare centre) sets a temporary guardian for the child, who may be a person of exceptional trust, indicated by the child as such, or a person from the ranks of professionals who has special expertise in working with children. This right is regulated by the Law on Protection from Domestic Violence, Article 16 – trusted person may be a family member, a person from an authority, institution, non-governmental organisation or other legal entity, or other person trusted by the victim. Perpetrator of the violence cannot be the trusted person. The victim can choose a trusted person before or during the proceedings and taking actions on protection. The competent authorities are obliged to allow the presence of a trusted person in all proceedings and actions in which the victim is included, and which are related to family relationships.

Article 54 of the Law on the Treatment of Juveniles in Criminal Proceedings provides that the guardianship authority has the right to become familiar with the course of the proceedings during the proceedings involving a juvenile, as well as to file motions during the proceedings and to point out the facts and evidence that are important for making the right decision. It is also prescribed that the public prosecutor for juveniles shall inform the guardianship body of any proceedings against a juvenile, (in Montenegro the guardianship body is the social welfare centre).

Article 95 of the same Law stipulates that a legal counsel from among the lawyers who have, as a rule, gained special knowledge in the field of children's rights and procedures with juveniles in criminal proceedings, shall be appointed to the juvenile by the judge or the presiding judge, following the motion of the public prosecutor, guardianship body or ex officio, in line with the equity requirements, if he / she finds that this is in the best interest of the protection of the juvenile's personality.

Article 67 of the Family Law provides that the child capable of forming his / her own opinion shall have the right to freely express this opinion. Child who has reached ten years of age can address the court or the administrative authority and ask for help in the realisation of this right either independently or through another person or institution. The competent authority shall establish the child's opinion in an informal conversation that takes place in an appropriate place, in cooperation with the school psychologist or guardianship body, family counselling body or other institution specialized in family relationships, and in the presence of persons selected by the child.

Article 246 of the same Law stipulates that for a minor whose parents exercise their parental rights in relation to him/her a special guardian shall be appointed for the purposes of a dispute conducted between him/her and his/her parents, for the purposes of making certain business arrangements between them, as well as in other cases when their interests are conflicting.

Article 356 of the same Law prescribes that, where there are conflicting interests between the child and his/her legal representative, the child shall be represented by a “guardian in case of conflict of interests” (collision guardian). Article 357 of the same Law prescribes that, if the court estimates that in the dispute related to protection of a child’s rights and in the dispute related to exercising parental rights the child as a party is not represented in an appropriate manner, the court shall be obliged to appoint a temporary representative for the child. If the court establishes that in the dispute related to protection of a child’s rights and in the dispute related to exercising parental rights the party is a child capable of forming an opinion, the court shall be obliged to take the statement of the opinion of the child in the manner and on the place which is in line with the child’s age and maturity, unless that would be obviously in conflict with the best interest of the child. Article 358 of the same Law prescribes that, if the collision guardian or temporary representative establishes that in the dispute related to protection of a child’s rights and in the dispute related to exercising parental rights i.e. deprivation of parental rights he/she is representing a child who is capable of forming an opinion, he/she shall be obliged to provide that the child timely obtains all the information that he/she might need; to provide explanation to the child related to the possible consequences of the actions he/she is undertaking; to convey to the court the opinion of the child, if the child did not directly express the opinion at the court, unless that would obviously be in conflict with the best interest of the child.

Provisions of the Articles 356-358 of this Law (on collision guardian and temporary representative) shall also apply in other court proceedings related to family relations if these proceedings also refer to the rights of a child. Bodies conducting other proceedings shall also be obliged to apply provisions of the Articles 356-358 of this Law if these proceedings also refer to the rights of a child.

**22e.** Please describe how your internal law allows for groups, foundations, associations or governmental or non-governmental organisations assisting and/or supporting victims to participate in legal proceedings (for example, as third parties) (**Article 31, para. 5**). Please specify under which conditions, if so required;

**Answer:**

During 2013, three Professional Services were established, two within the High Courts (one in Podgorica, responsible for central and southern part of Montenegro, the second in Bijelo Polje, in charge of the northern part of Montenegro), and one within the Supreme Public Prosecutor’s Office (responsible for the whole of Montenegro). The Services were created to assist the courts and public prosecution offices in juvenile proceedings, and they are composed of experts of various specialized professions (social workers, psychologists, educationists, etc.).

Article 46, paragraph 3 of the Law on the Treatment of Juveniles in the Criminal Proceedings provides that the Professional Service can provide expertise, information and other assistance in the treatment of juveniles as participants in criminal proceedings.

In cases where the Professional Service determines that the proceedings and support to the child require the presence of a third party (for example, a psychologist of NGO “Women’s Safe House”, with whom the child has already achieved a relationship of trust or a school educationist, a person close to the child, etc.), it proposes the presence of this person to the prosecutor or

judge, in order for the child to be completely protected, and to feel safe and secure, which facilitates the proceedings. Among other things, the task of the Professional Service is to mediate in providing any kind of assistance and support to the family and child – victim, ranging from accommodation, financial assistance, health care, psychosocial support and other forms of protection. To achieve this, Professional Services work closely with all the available resources of the local community.

**22f.** Please describe under which circumstances the use of covert operations is allowed in relation to the investigation of the offences established in accordance with the Convention (**Article 30, para. 5**);

**Answer:**

Article 157 and 158 of the Criminal Procedure Code provide for secret surveillance measures to be used if grounds for suspicion exist that a person has individually or in complicity with others committed, is committing or is preparing to commit criminal offences, including criminal offence of displaying pornographic material, mediation in prostitution, as well as all offences that are punishable by imprisonment of 10 years and more, where evidence could not be obtained in another manner or their obtaining would request a disproportional risk or endangering the lives of people. Measures of secret surveillance may be ordered against those persons: secret surveillance and technical recording of telephone conversations i.e. other communication carried out through means for distance technical communication as well as private conversations held in private or public premises or at open, then secretly photographing and video recording in private premises, as well as secret surveillance and technical recording of individuals and objects.

**22g.** Please also describe what techniques have been developed for examining material containing pornographic images of children (**Article 30, para. 5**).

**Answer:**

In Montenegro, there is a Forensic Centre based in Danilovgrad, which is capable of performing expert analysis of pornographic content in a way that it can determine the IP address from which the pornographic content or video was sent, as well as the website from which such content is downloaded. In cases where such material is confiscated, in the form of found photographs, videos, CDs and the like, in addition to sending the evidence to the Forensic Centre, other experts may also be engaged to determine the authenticity of the evidence, in order to exclude the possibility of photomontage and other forms of counterfeiting. Also, within the prosecution office there are operators for the audio-visual recording who provide technical assistance to prosecutors for juveniles by examining videos and who can suggest to prosecutors the best manner of conducting professional expertise with a view to obtaining the most reliable data.

### **Question 23: Child friendly interviewing and proceedings**

**23a.** Please describe how interviews (**Article 35**) with child victims are carried out, indicating in particular whether:

- they take place without unjustified delay after the facts have been reported to the competent authorities;

**Answer:**

Immediately upon learning that a criminal offence in which the victim of sexual abuse and exploitation is a child, urgent measures are taken in order to ensure the hearing of the child. If the child is in a state of intense post-traumatic stress, in cooperation with the guardianship authority the risk is assessed and, according to this assessment, the guardianship authority takes action within its jurisdiction – care, material assistance, appointment of guardians, psychological empowerment and the like. As soon as the conditions are met, a hearing before a juvenile prosecutor in cooperation with the professional service is conducted, without delay. Professional services are based within the prosecution offices, and are composed of social workers and psychologists, while their role is to provide assistance to the officers of the judiciary, as well as to mediate between social services and judiciary.

- they take place, where necessary, in premises designed or adapted for this purpose;

**Answer:**

Hearing is held in premises that are specially technically equipped for this purpose, by means of audio-visual recording, and exceptionally, as prescribed by Article 93, paragraph 6 of the Law on the Treatment of Juveniles in Criminal Proceedings, if there are justified reasons, juveniles or children can be heard as victims in their apartment or another room, or the office or institution in which they reside, regardless of the technical equipment thereof.

- they are carried out by professionals trained for this purpose;

**Answer:**

Hearing of a juvenile is, as prescribed by Article 93 of the Law on the Treatment of Juveniles in Criminal Proceedings, performed by the public prosecutor and a judge of the same sex as the juvenile, in a separate room equipped with technical devices for audio-visual recording, with the help of professionals, if this is not contrary to the interests of the proceedings or juvenile. Notwithstanding, the juvenile who is under 14 years of age (child) shall be heard as the injured party or witness in the proceedings only with the help of a professional person. For this type of hearing, two rooms are used. The child and the professional conducting the interview are in one, and in the second one is the prosecutor, or judge, depending on the stage of the proceedings, who use a microphone to communicate with the professional who uses a headset, obtaining the required data. In criminal proceedings in which the participant is a juvenile injured by the criminal offence or where the juvenile is questioned as a witness, actions are taken by people who have acquired special knowledge in the field of children's rights and about the rules of treatment of juvenile offenders and juveniles as participants in criminal proceedings, taking into account the age, personal characteristics, education and living circumstances of the juvenile.

- the same persons are, if possible and where appropriate, conducting all interviews with the child;

**Answer:**

As a rule, always the same prosecutor (who is trained to work with children) manages the procedure from start to finish, in cooperation with the same professional who conducted the interview.

The legal obligation to hear a child victim is performed directly by the police inspector (in pre-trial proceedings, with the prescribed presence of the guardianship body and / or professional person) and the judge (it is the child may be asked questions only through the judge), with prescribed presence of the guardianship body and / or professional person. A forensic interview with the child victim is performed by an expert in a helping profession, trained to perform forensic interviews, via video link, and this interview is recorded. After so recorded testimony, the child is sent to another specialist for psychotherapeutic treatment – to an adequate service of the health care system.

- the number of interviews is as limited as possible and in so far as strictly necessary for the purpose of proceedings;

**Answer:**

Article 93, as noted above, prescribes that juveniles shall be heard in a separate room equipped with technical devices for audio-visual recording. Such a recording shall be sealed and attached to the minutes, i.e. transcript. In this way, the number of interviews is limited to a minimum.

Article 93 of the **Law on the Treatment of Juveniles in Criminal Proceedings** prescribes that “the hearing of the juvenile is, as a rule, performed by the public prosecutor and a judge of the same sex as the juvenile (note by the Consultant: this is not appropriate if the perpetrator of child abuse is of the same sex as the judge), in a separate room equipped with technical devices for audio-visual recording. Exceptionally, a juvenile may be heard again if there are justified reasons for that”.

- the child may be accompanied by his or her legal representative or, where appropriate, an adult of his or her choice, unless a reasoned decision has been made to the contrary in respect of that person.

**Answer:**

The child is always accompanied by his / her legal representative, i.e. parent or an adult person of his / her choice, except in a situation where the prosecutor for juveniles may deny the right of a legal representative to attend a specific action in the preliminary proceedings, if such a decision is in the interest of protecting his / her personality, in accordance with Article 74, paragraph 4 of the Law on the Treatment of Juveniles in Criminal Proceedings.

**23b.** Please also specify whether all interviews with the victim or, where appropriate, those with a child witness, may be videotaped and whether these videotaped interviews may be accepted as evidence during the court proceedings;

**Answer:**

All interviews with the child victim are audio and visually recording and these recordings are used as evidence in criminal proceedings – Article 93 of the Law on the Treatment of Juveniles in Criminal Proceedings.

**23c.** Please describe under which conditions the judge may order the hearing to take place without the presence of the public and the child victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies? (**Article 36**).

**Answer:**

Article 314 of the Criminal Procedure Code provides that a judge may, from the opening of the session until the conclusion of the main hearing, at any time, ex officio or upon the motion of the parties, exclude the public from the entire main hearing or one part of it, if that is necessary for protecting the interests of a juvenile, i.e. child victim of criminal offence of sexual exploitation or abuse. In cooperation with UNICEF, the prosecution offices provided the technical means for audio-visual recording, or hearing of a child, and are using them in practice.

According to Article 113, the injured parties who are victims of a criminal offence against sexual freedom, as well as children being heard as witnesses, shall be entitled to testify in separate premises before a judge and a court reporter, whereas the prosecutor, defendant and defence counsel shall be given the possibility to view the course of hearing from other premises and to put questions to the witness, after having been duly instructed by the court thereon. The instruction shall be entered in the record.