

**Presentation of the National Report on the Status of Human Rights in Montenegro,
UN Universal Periodical Review, 2nd Cycle
28 January 2013, Geneva**

Introductory Address

Mr. Chairman,
Your Excellencies,
Ladies and Gentlemen,

Please allow me to greet you at this session on behalf of the Government of Montenegro, our delegation and on my personal behalf. I wish to thank the Human Rights Council for the warm welcome and the opportunity to present the National Report on the Status of Human Rights in Montenegro, developed within the UN Human Rights Council 2nd Cycle of Universal Periodical Review for the period 2012-2016.

Montenegro has achieved significant progress in relation to the previous report in 2008, when it comes to the following, *inter alia*: Independence of Judiciary; Decriminalisation of insult and defamation; Fight against corruption and organised crime; Prison system improvement; Legal reforms related to anti-discrimination, domestic violence, trafficking in human beings, Strengthening of capacities of Ombudsman; Setting up the Council for anti-discrimination, Council for persons with disabilities; Council for right of a child; Advancement of tolerance towards differences, in particular in relation to LGBT population; Social inclusion of Roma and Egyptian community.

I wish to point out that the biggest attainment of Montenegrin independence is the multiethnic harmony with the trend of inclusion of minority population, adoption and respect for human rights standards, as well as continuation of free democratic elections and promotion of work and support to the human rights activists.

We have succeeded to achieve these results beside the fact that Montenegro as other part of Europe since 2009 has been facing the challenges of slow economic growth. We have succeeded to preserve macrostability thanks to efforts made by Government and to provide the dynamic of realisation of important and commensed projects in the field of human rights protection.

In this sense, it is a particular pleasure that the Report is being presented at this time, given that Montenegro joined the HRC as of 1 January 2013.

We consider membership in the HRC as a great honour and are aware of the responsibility to contribute to greater respect for human rights in the world and continuous improvement of the national human rights situation. At the same time, this membership is a strong confirmation from the part of the UN members that the

selected nation and its government will give the best possible contribution to the fulfilment of the HRC mandate globally. A seat in the HRC implies great responsibility not only towards the international community and our own nation, but also towards victims of human rights violation and abuse, both at the national and international levels. The Government confirmed its commitment to the Council by making the decision to appoint the Special representative of the Ministry of Foreign Affairs – Ambassador in the HRC.

The National Report on the Status of Human Rights in Montenegro is developed in line with the guidelines from the HRC Decision. The Report includes an overview of the human rights situation in Montenegro and the progress made between the two UPR cycles (2008–2012). Particular focus is placed on the implementation of recommendations from the first review. In addition, the Report presents the challenges and opportunities for further improvement of the overall system of human rights protection and promotion in Montenegro.

The Report before us is a result of cooperation between state authorities and non-governmental organisations. The UN system in Montenegro supported the process of drafting the Report. The Government of Montenegro adopted the National Report on the Status of Human Rights in Montenegro on 13 September 2012.

As the Minister of Human and Minority Rights, it gives me a great pleasure to inform you that Montenegro has achieved evident progress in developing and building a stable legislative and institutional set-up for the exercise, protection and promotion of human rights and freedoms. The process of state building, following the restoration of independence on 21 May 2006, included a comprehensive programme of legislative reforms and institution development, which accompanied the process of full sovereignty and Euro-Atlantic integration. As a result, and, *inter alia*, in confirmation of the progress concerning establishment of rule of law, adherence to fundamental rights and political criteria for membership, on 29 June 2012 Montenegro opened the process of negotiations for full membership in the EU. Through harmonisation with the *acquis*, implementation of legislative framework and regular monitoring of the respect for human rights and freedoms, the negotiations will lead to further progress in implementation of the required EU and UN standards.

Human rights and freedoms in Montenegro are guaranteed by the Constitution of Montenegro, numerous ratified international treaties, as well as national regulations applicable in Montenegro. The Constitution of Montenegro safeguards the multiethnic harmony, protects fundamental principles of human rights and freedoms and guarantees protection of political rights and freedoms, as well as protection of economic, social and cultural rights and freedoms. The Constitution guarantees protection of a set of specific minority rights.

Ladies and Gentlemen,

Since the previous report 2008, Montenegro joined the following agreements, *inter alia*: Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (OPCAT), 2009; International Convention on the Rights of Persons with Disabilities (ICRRD), 2009; Optional Protocol on the Rights of Persons with Disabilities, 2009; International Convention for the Protection of All Persons from Enforced Disappearance, 2011; ILO Convention 183 on Maternity Protection, 2012; Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 2012; Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (in force since 1 January 2013). The Optional Protocol to ICESCR (2009, New York) and Optional Protocol on Communication Procedure to CRC (2012, Geneva) were signed. The procedure is in progress to ratify the Convention on Preventing and Combating Violence against Women and Domestic Violence, which was signed in Istanbul in 2011.

Significant progress has been made to strengthen the independence and efficiency of the judiciary, access to justice, and decrease of court proceedings length, cooperation with NGOs, the civil sector and international agents.

The law prescribes more objective criteria for the election and promotion of judges and state prosecutors and the system for their appraisal, and election procedures have been upgraded. The reasons for accountability of judges and state prosecutors are clearly defined by law and the procedure for disciplinary liability and dismissal organised according to the principle of full protection of judges' and prosecutors' rights, objectivity and transparency. Given the importance of the fight against crime, especially organised crime, the amendments included also the method of election of Special Prosecutor by the Prosecutorial Council. The composition of the Prosecutorial Council was changed in order to provide bigger independence and to enable the majority from the state prosecution to make decisions. During previous period, significant progress has been made in terms of reducing the backlog of court cases as well as in undertaking serious of measures defined by the Strategy and Action Plan of Judicial Reform. The cooperation with international institutions, in particular European Court of Human Rights, has been advanced, through the cooperation, education and interactive dialogue of national judges with judges of mentioned court.

Court web pages www.sudovi.me now make available final court judgments, ECHR judgments against Montenegro, publications and characteristic judgments of the Strasbourg Court.

For the sake of familiarising citizens with the work of judicial authorities, the system of free legal aid and support services for Witnesses/Victims have been established, numerous publications and guidelines for the procedures have been designed. The "Open Days" have been organised for students, NGOs and embassies.

Quality system for the protection of human rights and freedoms implies efficient mechanisms to check compliance with the law and standards. In this regard, allow me to highlight the role of the Protector of Human Rights and Freedoms of Montenegro (the Ombudsman). The Ombudsman is an autonomous and independent authority undertaking the measures to protect the human rights and freedoms in cases of infringement by act, action or omission on the part of state authorities, local self-government authorities, public services and other holders of public authorities.

Let me point out that the new Law strengthens the competences of the Ombudsman. It is set up as the national mechanism for the protection of persons deprived of liberty against torture or other forms of cruel, inhuman or degrading treatment or punishment. On 6 June 2012, the Parliament of Montenegro appointed Deputy Ombudsman for prevention and protection of persons deprived of liberty, which provides this function of the Ombudsman.

The biggest step forward in the provision of systemic conditions for the fight against discrimination in Montenegro has been made by adoption of the Law on Prohibition of Discrimination (2010) and the new Law on the Ombudsman (2011); what lies ahead is its full implementation.

The Implementation Plan for the Law on Prohibition of Discrimination, developed together with the OSCE, set the Education Plan and Media Promotion Plan for anti-discriminatory action. Education and promotion include primarily the marginalised and most vulnerable social groups, with special emphasis on discrimination against LGBT population and persons with disabilities. Namely, series of seminars/workshops on protection from discrimination take place each year, intended for state institutions and all social structures.

The media campaign has been carried out in 2011 by the Ministry for Human and Minority Rights aimed at fighting discrimination and protection of most vulnerable groups and it is planned to be continued. Education and promotion of anti-discriminatory actions have been designated to achieve the set objective of respect for all human rights, creating a supportive and more tolerant environment and respect for diversity.

I wish to point out that three important international conferences have been organised so far (two of them took place last year), devoted primarily to LGBT rights. One of them took place last year, under the auspices of the Prime Minister of Montenegro. It gathered high representatives of the countries of the region with the aim to establish regional cooperation focused on fighting discrimination on the basis of sexual orientation.

In December 2011, the Government set up three working groups (with equal numbers of representatives of ministries and NGOs), with the aim to create the conditions for LGBT persons to obtain equal status in the community. One of the groups was assigned

the major task of developing the national programmatic document for the fight against homophobia and transphobia. Adoption of this document by the Government is envisaged by the end of next month.

With regard to implementation of gender equality in Montenegro and equal opportunities for women and men in all areas of social life, we can say that significant efforts have been invested to set up the legislative framework and implement educational and media activities in the aim of *de facto* gender equality. Particular attention is paid to greater participation of women in politics, economic empowerment of women and encouraging entrepreneurship, as well as to measures to combat violence against women. Cooperation between relevant state institutions and NGO sector resulted in the development and adoption of the new Action Plan for the achievement of gender equality 2013-2017, envisaging nine areas for future activities in the aim of full realisation of women's human rights and achievement of gender equality.

Cooperation with local self-governments concerning gender mainstreaming at the local level has continued and improved. However, more efficient implementation of the legislation from this area needs more work, especially with regard to greater participation of women in leadership and combating violence against women.

When it comes to the rights of a child, I wish to point out that the Council for the Rights of a Child has been established and consists of state institutions and NGOs representatives. The development of the National action plan for children is in the final stage and expected to be adopted in 2013.

In line with the provisions of the UN Convention on the Rights of Persons with Disabilities, legislative, institutional and strategic frameworks for the exercise and protection of rights of persons with disabilities have been upgraded.

In the aim of monitoring implementation of new legislative framework and improving the institutional setup, the Council for Persons with Disabilities was established which consists of Government and NGO representatives, as well as persons with disabilities. Implementation of the Strategy for Integration of Persons with Disabilities (2008-2016) is underway based on the Action Plan which articulates the efforts of all national resources in this area. Parallel to this the implementation of Strategy for inclusive education is going on.

Beside evident progress, one of the major challenges in the exercise of the rights of persons with disabilities remains inadequate architectural accessibility of public and other facilities in general use, which is a precondition for full social integration.

The Constitution of Montenegro, Law on Minority Rights and Freedoms and other legal acts, as well as the accepted international documents, created the legislative framework that enables further promotion of good relations between nations in Montenegro and

protection of minority nations and other minority national communities. The adopted strategic documents firmly testify to the commitment of the Government of Montenegro to approach the issue of protection and promotion of the rights of minority nations and other minority national communities with full focus and commitment. Strengthening of existing and newly established institutions provides an impetus to the exercise of these specific rights. The new institutions such as the Fund for Protection and Exercise of Minority Rights, Centre for Minority Culture Preservation and Development, and Minority Councils, provided full contribution to the exercise of minority rights, preservation of the overall national identity of minority communities and development of civil Montenegro.

In this area, particular attention has been provided to social inclusion of Roma and Egyptian population in the Montenegrin society. By implementing the measures set in the strategic documents, Montenegro has made good and evident steps forward to improve the lives of Roma and Egyptians in all sectors. In April last year, the Government of Montenegro adopted the new strategic document for improvement of the situation of Roma and Egyptians in Montenegro for the period 2012-2016.

One of the major challenges faced by Montenegro is durable solution to the situation of refugees and internally displaced persons from former Yugoslavia during 1900ies. This issue is being resolved by means of development of a good legal framework and strengthening of institutions, and by a regional approach that will include cooperation with the displaced persons' countries of origin. Aware of the complexity of the issue, in October 2011 the Government of Montenegro set up the Coordinating Committee for monitoring implementation of the Strategy for Durable Solution to the Issue of Displaced and Internally Displaced Persons, with special emphasis on the Konik site (Roma population).

Statistical data show that out of total number of displaced persons and internally displaced persons in Montenegro, which is around 16.000, the application for status resolving by the end of 2012 has been submitted by 9.500 persons (5.639 applications have been resolved), which makes 60% of total number. The Draft Law amending the Law on Foreigners has been developed in order to extend the deadline for displaced persons' and internally displaced persons' application for residence and temporary residence until 31 December 2013. Draft Law is in the Government procedure, and expected be adopted in the Parliament in the summary procedure.

Together with Serbia, Croatia and B&H, Montenegro is part of the Sarajevo Process, aiming for durable solutions for refugees and displaced persons in the region. This process has been supported by the UNHCR, OSCE, Council of Europe Development Bank, US Government and international donors. The National Housing Programme for Montenegro envisages securing the funds to resolve housing issue for 6,063 persons (1,177 households) from the most vulnerable categories. The timeframe for implementation is until 2016.

With regard to fighting human trafficking, Montenegro has been implementing continuous activities proposing, monitoring and implementing the mechanisms for efficient fight against human trafficking in line with the relevant international regulations and the National Strategy of the Government of Montenegro for Fight against Trafficking in Human Beings.

Since the objectives and guidelines of the national Strategy for Fight against Trafficking from 2003 were fully implemented by means of 4 Action Plans, the Government of Montenegro adopted the Strategy for Fight against Trafficking for the period 2012-2018 and the accompanying Action Plan. The documents place emphasis on six main areas. In addition to prevention and education, victim assistance, protection and reintegration, and efficient prosecution the new areas are introduced such as coordination and partnership, international cooperation and identification of trafficking victims.

Family protection is a key priority to us. In this area the Law on Protection from Domestic Violence has been adopted in 2010. It laid down five measures for the protection of victims of domestic violence and the principle of urgency is envisaged for the cases related to protection from violence. The obligation to report violence has been introduced for the state authorities, other authorities, health, educational and other institutions. Criminal Code incriminates the criminal offences against marriage and family, including the criminal offence of domestic violence and the criminal offence of neglect and abuse of a juvenile. The measures stipulated by the two laws represent a comprehensive legislative framework for protection in this area.

By adopting the Strategy on Protection from Domestic Violence in July 2011, the Government of Montenegro demonstrated its determination to improve protection from domestic violence.

The Law on Free Legal Aid was adopted in 2011 and accompanied by free legal aid services launched in 15 Basic Courts.

With regard to prevention of corruption Montenegro completed the anti-corruption legislative and institutional framework. The emphasis now lies on efficient implementation of regulations and further advancement of state authorities' integrity and cooperation with the non-governmental sector. The EU integration includes a number of activities to prepare for opening the Chapters 23 and 24, dealing with issues of human rights and judiciary, but also anti-corruption. The strategic anticorruption documents are being successfully implemented; a new two-year Action Plan for the Fight against Corruption and Organised Crime is being drafted. With regard to evaluation of implementation of the UN Convention against Corruption, the report is in the final stage of harmonisation with the UNODC. We believe that favourable report will come out by the end of February 2013. In December 2012, GRECO noted that all five recommendations concerning incrimination issued to Montenegro by this Council of Europe body had been met.

Ladies and Gentlemen,

One of the areas deserving particular attention in the context of human rights observance refers to protection of rights of the people deprived of their liberty. The criminal sanction enforcement system has been strengthened in the country in recent years. Results have been achieved and some of the most important ones in human rights protection will be briefly mentioned here. The Ministry of Justice launched a new criminal sanction enforcement policy in Montenegro largely characterised by: improved legal framework, promotion of alternative sanctions, and improved conditions within penitentiary institutions.

The amended Law on Criminal Sanctions Enforcement from June 2011, established a separate unit – the Parole Section of the Ministry of Justice's Criminal Sanction Enforcement Department. The increasing trend of alternative sanctioning and reducing the number of imprisonment sentences pronounced will lead to reduced numbers of people in custody and, by extension, improve the prison conditions. The improvement of the legal framework is underway, aiming at dividing the current Law on Criminal Sanctions Enforcement into two separate pieces of legislation – the Law on Enforcement of Custodial Sentences and the Law on Enforcement of Alternative Sanctions.

In an attempt to alleviate the problem of overcrowded prisons, some capital investments in the sector are also planned. The Master Plan for investments envisages the construction of a facility for long-term custodial sentences and a prison hospital in Spuž and Bijelo Polje prisons. Intensive cooperation with the Development Bank of the Council of Europe is underway for funding this activity.

An essential element of human rights and freedoms which is provided particular protection in Montenegro consists of the freedom of thought and expression, the right to information and freedom of the media.

The Criminal Code amendments from June 2011 decriminalised insult and defamation. Just satisfaction in such cases is now sought in civil proceedings only. The Supreme Court set the guidelines for all courts, aligned with the case law of the European Court for Human Rights, limiting the amount of compensation for non-pecuniary damages in insult and defamation cases. The Judicial Training Centre covered freedom of expression in their annual training programmes for judges.

The 2010 Electronic Media Law is fully harmonised with the Directive on Audio-Visual Media Services. The Agency for Electronic Media was set up under this Law as an independent media regulator with full political, financial and institutional independence.

Following the EC recommendations for further strengthening the independence of the media regulatory body, the Ministry of Culture proposed amendments to the Electronic

Media Law for the first quarter in 2013 in the aim to release the Agency for Electronic Media from the obligation to provide financial and operational reports to the Parliament.

Three self-regulatory bodies have been set up which reinforces the principles of self-regulation, freedom and independence of the media, and monitoring the observance of professional standards and codes of ethics in Montenegrin journalism.

Montenegro acceded to the Council of Europe Convention on Access to Official Documents; as of 01 February 2013, the new Free Access to Information Law will be applied with a set of new provisions in place.

Religious matters and rights of religious communities in Montenegro are clearly set in the Constitution guaranteeing the right to freedom of thought, conscience and religion. The state guarantees their equality and freedom in the exercise of rites and religious matters. The drafting of the Law on Legal Status of Religious Communities is planned for 2013. Montenegro signed the contracts with the Holy See, as well as with Islamic and Jewish community.

The most valuable practice of all subjects in Montenegro is the involvement of civil society in all activities in the area of advancement of standards in field of human rights respect. One of the most valuable country's achievements is civil society involvement in improving standards in all areas as recognised by the EC taking stock of Montenegro's reforms needed for launching the EU membership talks. The interactions with the civil society are governed by the Decree on the Method and Procedures for Interactions between State Administration Authorities and Nongovernmental Organisations.

Ladies and Gentlemen,

With particular respect for the importance of preserving a healthy environment, I draw your attention to the fact that Montenegro is defined in its Constitution as an ecological state. The National Sustainable Development Strategy is providing a long-term guidance for the economic and social development and environmental protection with a view of sustainable development. Meanwhile, in between the two reports, the environment-related legal and institutional framework has been improved. The Ministry of Sustainable Development and Tourism is working continuously on raising environmental awareness.

Montenegro set up an independent authority – the Environmental Protection Agency (EPA) in 2009. In cooperation with the OSCE Mission, on 15 April 2011 an Aarhus Centre was set up within the EPA to assist in the application of the Aarhus Convention, strengthening implementation capacities, raising environmental awareness, improving access to information, public participation, etc.

Dear Chairman, Ladies and Gentlemen,

It is Montenegro's strategic orientation to continuously improve the rule of law, its legal order and protection of rights and freedoms for all citizens with a view of further enhancement and development of our young and modern state, and meeting the requirements for a fully fledged membership to Euro-Atlantic structures. On this challenging path, we have made major progress in legal and institutional terms towards the exercise of human, civil, political, economic social, cultural and other rights.

This introductory speech aimed at giving a brief overview of the actions taken to improve and preserve the human rights protection system in Montenegro. This complex system and all the matters related to it require a much longer period of time. I wish to add that over the previous period Montenegro was committed to following through the recommendations from the First Reporting Cycle.

I take the opportunity to thank all the countries that contributed with their recommendations to further development of human rights protection mechanisms in Montenegro and improved outcomes as compared to the previous reporting period.

I wish to thank you for your commitment in discussing the National Report on the Status of Human Rights in Montenegro and express my hope that in interactive discussion today you will gain a true insight into the system of human rights protection in the country.

Montenegrin delegation will endeavour to assist you in this fully, particularly given that this is the first presentation since Montenegro, as already noted, has become a member of the Human Rights Council in Geneva.

Montenegro continuously cooperates with all mechanisms for human rights protection, in particular with special procedures to which questions we have answered regularly. In that context, we point out the mistake in the OHCHR report, which is going to be corrected by the Secretariat.

Thank you for your attention.