



European Asylum Support Office

# EASO Country of Origin Information Report

## Montenegro Country Focus



November 2016

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## Montenegro

## Country Focus

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## Disclaimer

This report was written according to the EASO COI Report Methodology (2012) <sup>(1)</sup>. It is based on carefully selected sources of information. All sources used are referenced. To the extent possible and unless otherwise stated, all information presented, except for undisputed or obvious facts, has been cross-checked.

The information contained in this report has been researched, evaluated and analysed with utmost care. However, this document does not claim to be exhaustive. If a particular event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist.

Furthermore, this report is not conclusive as to the determination or merit of any particular claim to refugee status or asylum. Terminology used should not be regarded as indicative of a particular legal position.

'Refugee', 'risk' and similar terminology are used as a generic terminology and not as legally defined in the EU Asylum Acquis and the Geneva Convention.

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The target users are asylum caseworkers, COI researchers, policymakers, and decision-making authorities.

The drafting of this report was finalised on 14 September 2016. Any event taking place after this date is not included in this report. An exception to this cut-off date was made for the European Commission's 2016 Communication on EU Enlargement Policy issued 9 November 2016, the main findings of which were incorporated in this report, and some references to the recent 16 October 2016 parliamentary elections.

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<sup>(1)</sup> The EASO methodology is largely based on the Common EU Guidelines for processing Country of Origin Information (COI), 2008, and can be downloaded from the EASO COI Portal:

<https://coi.easo.europa.eu/administration/easo/PLib/EASO%20COI%20Report%20Methodology.pdf>



## Glossary and Abbreviations

AA	Albanian Alternative
ANB	Agency for National Security
BS	Bosniak Party
BTI	Bertelsmann Stiftung Transformation Index
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CCE	Center for Civic Education
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DPS	Democratic Party of Socialists
DF	Democratic Front
EC	European Commission
ECRI	European Commission Against Racism and Intolerance
FRY	Federal Republic of Yugoslavia
FZJ-FPB	Force for Unity – <i>Forca per Bashkim</i>
Global IntAKE	Global Intelligence AKE
GRECO	Group of States against Corruption
HGI	Croatian Civic Initiative
IA	Institute Alternative
(I)DP	(Internally) displaced person
IED	Improvised Explosive Devices
ILGA	International Lesbian and Gay Association
LPCG	Liberal Party of Montenegro
KLA	Kosovo Liberation Army
LGBT(I)	Lesbian, Gay, Bisexual, Transsexual (and Intersex) Persons
NATO	North Atlantic Treaty Organization
NGO	Nongovernmental Organisation
NPM	National Preventive Mechanism
OPCAT	Optional Protocol to the United Nations Convention Against Torture
OSCE	Organisation for Security and Co-operation in Europe
ODIHR	Office for Democratic Institutions and Human Rights
PCG	Positive Montenegro
RAE	Roma, Ashkali and (Bosnian) Egyptians
<i>Skupstina</i>	Parliament of Montenegro
SNP	Socialist People's Party

SDP Social Democratic Party

WRC Women's Rights Center

## Introduction

This Country Focus report on Montenegro was written at the request of the European Council for general background information and more detailed information relevant for international protection status determination and for the assessment of the applicability of the safe country of origin concept to Montenegro. For the designation of safe countries of origin, Annex I of the Asylum Procedures Directive foresees that:

‘A country is considered as a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive 2011/95/EU, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict’<sup>(2)</sup>.

In addition, ‘account shall be taken, *inter alia*, of the extent to which protection is provided against persecution or mistreatment’<sup>(3)</sup>. The Montenegro Country Focus at hand covers the most important information needs related to the above-mentioned criteria for safe country of origin designation, namely state structure, socio-political landscape, rule of law and state protection, security situation and human rights situation. The [Terms of Reference](#) can be found at the end of the report.

The report aims at providing an objective and neutral information base (without assessment or policy recommendations) that will allow for more informed policy discussions. It should be noted that the situation of third country nationals in Montenegro (including persons transiting through the country or seeking international protection in Montenegro) does not fall within the scope of this report.

## Methodology

- Defining the Terms of Reference

The [Terms of Reference](#) have been defined on 8 April 2016 taking into account feedback from the EASO Country of Origin Information (COI) Strategic Network.

- Drafting process

This report was drafted by a Country of Origin Information (COI) specialist from Hungary, as listed under the [Acknowledgments](#) section. The drafting of this report was finalised on 14 September 2016. Any event taking place after this date is not included in this report. An exception to this cut-off date was made for the European Commission’s 2016 Communication on EU Enlargement Policy<sup>(4)</sup> issued 9 November 2016, the main findings of which were also incorporated in this report.

- Quality control

In order to ensure that the authors respected the EASO COI Report Methodology, a review was carried out by COI specialists from the countries listed as reviewers in the [Acknowledgments](#) section.

All comments made by the reviewers were taken into consideration and most of them were implemented in the final draft of this report.

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<sup>(2)</sup> Council of Europe, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), 29 June 2013.

<sup>(3)</sup> Council of Europe, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), 29 June 2013.

<sup>(4)</sup> European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016.

Map (5)



(5) UN, Map No. 4274, July 2006.

# 1. State structure

## 1.1 Introduction

Following the disintegration of Yugoslavia in 1992, Montenegro remained in a federation with Serbia. In 2003 Serbia and Montenegro formed a new state union to replace the Federal Republic of Yugoslavia (FRY). The negotiations over the loosely integrated union were mediated by the European Union, which feared the destabilising effects of another disintegrating state in Balkans. The Bertelsmann Stiftung, in its Transformation Index (BTI) noted: ‘The Montenegrin government wanted to establish an independent state, but the opposite parties and most of parties in Serbia preferred a common state framework’<sup>(6)</sup>.

The state union and its institutions were defined in a constitutional chapter. Accommodating Montenegrin interests with the option of an independence referendum within 3 years was envisaged. Three years later, on 21 May 2006, the referendum was held and 55.5 % of Montenegrin citizens voted for independence. On 3 June 2006, Montenegro’s declaration of independence was adopted by Parliament. Following its declaration of independence Montenegro joined the United Nations and other major international organisations<sup>(7)</sup>.

In 2008 Montenegro applied for European Union membership and in 2010 the EU granted the country candidate status. In December 2011, the European Council launched the accession process with a view to opening negotiations in June 2012. In its 2016 Communication on EU Enlargement Policy (hereafter ‘2016 Communication’), the European Commission noted that ‘important work on alignment and preparation for the implementation of the *acquis* has taken place and Montenegro is moderately prepared in many chapters, such as the free movement of goods, public procurement, statistics as well as justice, freedom and security’<sup>(8)</sup>.

As regards the ongoing accession process to the NATO, Montenegro has ‘Invitee’ status since May 2016, allowing its representatives to participate as observers in NATO meetings<sup>(9)</sup>.

## 1.2 Constitution

The current constitution of Montenegro was ratified and adopted by the Constitutional Parliament of Montenegro on 19 October 2007 in an extraordinary session by achieving the required two-thirds majority of votes. The Constitution was officially proclaimed on 22 October 2007, replacing the Constitution of 1992<sup>(10)</sup>.

The constitution defines Montenegro as a civic, democratic and environmentally friendly country with social justice, established by the sovereign rights of its government. The preamble identifies the nationalities and national minorities of Montenegro as Montenegrins, Serbs, Bosnians, Albanians, Muslims, Croats and others as citizens of Montenegro, free, equal and ‘loyal to the democratic and civil state of Montenegro’<sup>(11)</sup>.

The constitution declares Montenegrin to be the official language of the state but also recognises Serbian, Bosnian, Albanian and Croatian. It also declares Cyrillic and Latin scripts to be of equal standing in law. The Constitution officially recognises the current flag and coat of arms as legitimate state symbols, as well as the current Montenegrin anthem. The Constitution also guarantees that

<sup>(6)</sup> BTI, BTI 2016 - Montenegro Country Report, 2016, p. 4.

<sup>(7)</sup> BTI, Montenegro Country Report, 2016, p. 4

<sup>(8)</sup> European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, 9 November 2016, p. 18

<sup>(9)</sup> NATO, Relations with Montenegro, 26 May 2016.

<sup>(10)</sup> Republic of Montenegro, The Constitution of Montenegro, 19 October 2007.

<sup>(11)</sup> Republic of Montenegro, The Constitution of Montenegro, 19 October 2007, preamble, art. 13.

religion is separate from the state and that 'religious communities shall be equal and free in the exercise of religious rites and religious affairs' <sup>(12)</sup>.

The constitution was amended on two occasions. The aim of the amendment in 2011 was to limit political influence over key judicial appointments. In July 2013 the constitutional provisions related to the judiciary were amended <sup>(13)</sup>.

## 1.2 Executive branch

The BTI report of 2016 summarises the state structure as follows: 'Montenegro is an independent and sovereign state with a republican form of government regulated by the division of power into legislative, executive, and judicial branches' <sup>(14)</sup>.

### 1.2.1 President

According to the constitution, the President serves a five-year term and may only serve two terms. To be eligible for the position a person must be a citizen of Montenegro and must have lived there for 10 of the 15 years prior to his candidature <sup>(15)</sup>.

The OSCE stipulates the rules of voting:

'The president is directly elected by popular vote. To be elected in the first round, a candidate must receive more than 50 % of the valid votes cast. The right to stand as a candidate is granted to every citizen, with voting rights, who resided permanently in Montenegro for at least 10 of the previous 15 years. This provision is at odds with international obligations' <sup>(16)</sup>.

Filip Vujanovic has been president since May 2003. He was re-elected in April 2008 and April 2013.

Vujanovic, who is an ally of the other veteran Montenegrin politician Milo Djukanovic, first ran for presidential election in December 2002 and won 86 % of the votes. However, the election was invalid as the turnout was less than 50 %. In the repeated election Vujanovic won with 81 % but the turnout was below 50 % again. At the third election the minimum turnout was abolished and he gained the majority of the votes. He became president on 19 May 2003. At the 2008 presidential election Vujanovic ran for the second term and he won in the first election round with 51.89 % of votes <sup>(17)</sup>. In 2013, President Filip Vujanovic was re-elected with 51 % of the votes.

A president cannot serve more than two terms. In 2013 the candidacy of Filip Vujanovic was challenged before the Constitutional Court by the opposition leader Miodrag Lekic. Lekic ran as an independent candidate but was widely supported by the largest opposition party (Democratic Front – DF). The grounds of this submission to the Constitutional Court was that he had already been president twice. The Court dismissed the appeal stating that 'there was a discontinuity in the legal status of the country after the declaration of independence' <sup>(18)</sup>.

The BBC notes that the post of president is largely symbolic and ceremonial <sup>(19)</sup>.

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<sup>(12)</sup> Republic of Montenegro, The Constitution of Montenegro, 19 October 2007, preamble, artt. 4, 14.

<sup>(13)</sup> Freedom House, Nations in Transit 2016 – Montenegro, 12 April 2016; Republic of Montenegro, The Constitution of Montenegro, 19 October 2007.

<sup>(14)</sup> BTI, Montenegro Country Report, 2016, p. 11; Republic of Montenegro, The Constitution of Montenegro, 19 October 2007, artt. 1, 2, 11.

<sup>(15)</sup> Republic of Montenegro, The Constitution of Montenegro, 19 October 2007, artt. 96, 97.

<sup>(16)</sup> OSCE/ODIHR, International Election Observation Mission, Montenegro, Presidential Election, Statement of Preliminary Findings and Conclusions, 7 April 2013.

<sup>(17)</sup> European Forum for Democracy and Solidarity, Montenegro, last update 18 March 2014.

<sup>(18)</sup> OSCE/ODIHR, International Election Observation Mission, Montenegro, Presidential Election, Statement of Preliminary Findings and Conclusions, 7 April 2013

<sup>(19)</sup> BBC, Montenegro Country Profile, 16 March 2016.

### 1.2.2 Government

According to the BTI 2016 report: 'The government holds executive power, and is responsible for the management of Montenegro's internal and foreign policy and the enforcement of legislation. It plays a key role in the legislative process, as the vast majority of laws are drafted by the government' <sup>(20)</sup>.

The government of Montenegro comprises the prime minister, the deputy prime ministers and ministers. Its composition is outlined on the website of the Montenegrin Government <sup>(21)</sup>.

Milo Djukanovic is the prime minister and head of the current government, formed after the 2012 elections.

In 2012, Milo Djukanovic took his seventh term in office as Prime Minister. Djukanovic started his political career in the Yugoslav Communist League. In 1991 he was elected prime minister and became the youngest to hold this position in Europe. He was Montenegro's president from 1998-2002 and was prime minister in the successive years, except from 2006-08 and 2010-12 <sup>(22)</sup>.

In July 2003, the public prosecutor's office in Naples linked him with an organised crime network related to tobacco smuggling during the UN embargo on Yugoslavia. Djukanovic denied his alleged involvement in organised crimes and the Italian authorities dropped all charges against him in April 2009. In December 2010 he resigned for the second time, insisting that his resignation was not related to international pressure over his alleged criminal activity. He continued to lead the DPS and in 2012 his party gained a majority in the elections. As a result he returned as prime minister with a new cabinet <sup>(23)</sup>.

In January 2015, the governing coalition (DPS, SDP, LP and ethnic minority parties) underwent changes as the SPD withdrew. A new ruling majority was formed when the Positive Montenegro (PCG) entered the coalition <sup>(24)</sup>.

In May 2016, as a result of months of anti-government protests and negotiations starting September 2015, a 'government of electoral trust' was formed in May 2016, aimed at unblocking the political deadlock and preparing for free and fair elections in October. Several cabinet posts were allocated to candidates suggested by the opposition parties <sup>(25)</sup>.

Negotiations are underway for the formation of a new government after the elections of 16 October 2016. Prime Minister Milo Djukanovic announced his resignation on 26 October 2016. Dusko Markovic, was nominated Prime Minister-designate <sup>(26)</sup>.

See also [2.1 Political Parties](#) and [2.2 Elections and Political Developments](#).

### 1.3 Legislative branch: Parliament

Montenegro has a unicameral Parliament (*Skupstina*) of 81 deputies, who are elected for a four-year term in a single nationwide constituency under a proportional, closed-list system<sup>(27)</sup>.

According to the Needs Assessment Mission Report of the Organisation for Security and Co-operation in Europe and the Office for Democratic Institutions and Human Rights (OSCE/ODIHR), 'Candidate lists that surpass the 3 percent threshold of valid votes are eligible to take part in the allocation of mandates.' The report notes that special rules are in place for the representation of national minority

<sup>(20)</sup> BTI, Montenegro Country Report, 2016, p.11.

<sup>(21)</sup> <http://www.gov.me/en/Organisation> [website]

<sup>(22)</sup> BBC, Montenegro Country Profile, 16 March 2016.

<sup>(23)</sup> European Forum for Democracy and Solidarity, Montenegro, last update 18 March 2014.

<sup>(24)</sup> GlobalSecurity.org [website], Montenegro – Politics, n.d.

<sup>(25)</sup> Balkan Insight, Montenegro Parliament Approves Cabinet Reshuffle, 19 May 2016.

<sup>(26)</sup> BBC, Montenegro Country Profile, 11 November 2016; GlobalSecurity.org [website], Montenegro – Politics, n.d.

<sup>(27)</sup> CoE GRECO, Evaluation Report Montenegro, FOURTH EVALUATION ROUND Corruption prevention in respect of members of parliament, judges and prosecutors, 26 August 2015.

communities: ‘a minority nation or a minority national community with a share of the total population of at least 15 percent countrywide or 1.5 percent in each municipality acquires the right to participate in allocation of seats separately with its obtained number of valid votes’<sup>(28)</sup>.

The latest parliamentary elections were held on 16 October 2016<sup>(29)</sup> (see also [2.2 Elections and Political Developments](#)).

The website of the Parliament of Montenegro lists the country’s political parties represented in Parliament, but has at the time of writing not yet been updated after the October elections<sup>(30)</sup>. In these elections, none of the political contenders won an absolute majority. Of the 81 seats, DPS gained 35, DF 18, Key coalition 9, Democratic Montenegro 9, SDP 4, Social Democrats 2, Bosniak Party 2, Croatian Civic Initiative 1 and Albanians Decisively Coalition 1<sup>(31)</sup>.

Under the previous Parliament, legislative activity suffered from repeated boycotts by opposition parties. A BTI report stated that ‘parliament capacity to perform its oversight and legislative functions is still weak’, adding that the parliament voted several times against important governmental policies due to the crisis in the governing coalition<sup>(32)</sup>.

For more information, see [2.2 Elections and Political Developments](#)

## 1.4 Administration

In its 2016 Communication, the European Commission noted that

‘Montenegro is moderately prepared with the reform of its public administration. Some progress has been made, notably with the adoption of the public administration reform strategy 2016-2020, the public financial management reform programme, the entry into force of the new law on salaries and the simplification of administrative procedures. However, strong political will is needed to effectively address the de-politicisation of public service and right-sizing of the state administration’<sup>(33)</sup>.

Freedom House also pointed out that, despite its significant financial problems, ‘the country has not made progress in reducing the ranks of government employees at the local level’<sup>(34)</sup>.

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<sup>(28)</sup> OSCE/ODIHR, Montenegro Parliamentary Elections October 2016 OSCE/ODIHR Needs Assessment Mission Report, 16-20 May 2016, p. 5.

<sup>(29)</sup> OSCE/ODIHR, Parliamentary Elections, 16 October 2016, n.d.

<sup>(30)</sup> Parliament of Montenegro (The), Parliamentary Parties, n.d.

<sup>(31)</sup> ElectionGuide, Montenegro Election for Skupstina (Assembly), n.d.

<sup>(32)</sup> BTI, Montenegro Country Report, 2016, p. 11.

<sup>(33)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p. 18

<sup>(34)</sup> Freedom House, Nations in Transit 2016 – Montenegro, 12 April 2016, p. 8.



## 2. Socio-political landscape

### 2.1 Political parties

BTI assesses the party system as fairly stable and socially rooted but believes it shows ‘moderate fragmentation and strong polarisation’<sup>(35)</sup>. It adds: ‘All relevant political and social players accept democratic institutions as legitimate’ and there are no individuals or groups holding any veto power. At the same time, national (churches, business etc.) and international actors are trying to influence decisions, but ‘their activity is staying within the limits of the usual behaviour of interest groups’<sup>(36)</sup>.

The Democratic Party of Socialists (DPS) and the Social Democratic Party (SDP) are the major political forces among the leading parties. After the 2012 elections, they formed a coalition government.

The DPS was founded in 1991 and it is a successor to the former leading League of Communists. Until 1997 the party was led by former president Bulatovic; in 1998 Milovan Djukanovic, his former ally, became the party leader and President of Montenegro. With Djukanovic’s presidency, the DPS gradually distanced itself from Serbian president Milosevic. The pro-Serbian and pro-Milosevic elements then broke away and established a new party, the Socialist People’s Party. The DPS’s main goal is a democratic, independent, internationally recognised state. The other leading aim is Europeanisation of the country<sup>(37)</sup>.

The DPS has won every general election in Montenegro since the first multiparty elections of 1990. In June 2012, the DPS-led government celebrated the official start of membership negotiations with the European Union. The party also wishes to join NATO<sup>(38)</sup>.

The DPS is considered one of the most organised parties; it has approximately 100,000 members, more than one-fifth of the total number of registered voters in the country. The party attracts many members from ethnic minorities as well. In the 2012 election, the party ran as the leader of the European Montenegro coalition, which got 39 seats out of the 81 in parliament<sup>(39)</sup>.

The SDP was founded in 1993 after a merger of the Social Democratic Reform Party and the Socialist Party of Montenegro. The party was strongly anti-war and opposed Milosevic’s policy. Over the years the SDP remained a relatively small party but managed to attract more young progressive voters to become the third-biggest party. The party plays a notable role in politics despite being a relatively small party. During the 2012 election, SDP was a part of the European Montenegro coalition, together with the DPS and the Liberal Party<sup>(40)</sup>. In January 2015, SDP withdrew from the coalition (see [2.2 Elections and political developments](#)).

In the assessment of Freedom House ‘numerous political parties compete for power, though the opposition is weak.’ Montenegro’s biggest opposition faction is the Democratic Front (DF), comprising the reform-minded Movement for Changes and the New Serb Democracy<sup>(41)</sup>. The pro-Serbian DF was the key force behind organised anti-government protests demanding free and fair elections and formation of an interim government, and actively criticises the government’s plans to join NATO<sup>(42)</sup>.

<sup>(35)</sup> BTI, Montenegro Country Report, 2016, p. 16.

<sup>(36)</sup> BTI, Montenegro Country Report, 2016, pp. 8-9.

<sup>(37)</sup> European Forum for Democracy and Solidarity, Montenegro, last update 18 March 2014

<sup>(38)</sup> European Forum for Democracy and Solidarity, Montenegro, last update 18 March 2014

<sup>(39)</sup> European Forum for Democracy and Solidarity, Montenegro, last update 18 March 2014

<sup>(40)</sup> European Forum for Democracy and Solidarity, Montenegro, last update 18 March 2014

<sup>(41)</sup> Freedom House, Freedom in the World, 2016.

<sup>(42)</sup> Freedom House, Freedom in the World, 2016.

## 2.2 Elections and political developments

General multi-party elections are held regularly and mostly assessed as positive by international observers. However, according to BTI, there are serious concerns regarding fairness of the electoral process <sup>(43)</sup>.

In 2012, legislators dissolved the *Skupstina* and called early elections to allow the government to begin talks with the European Union on a fresh mandate. A coalition led by Democratic Party of Socialists (DPS – PM Milo Djukanovic’s party, with the SDP and the Liberal Party) won the election with 46 % (39 seats) of the vote. The Democratic Front (DF) took 20 seats, followed by the Socialist People’s Party (SNP) with 9, Positive Montenegro with 7, Bosniak Party with 3.

The Croat Citizens’ Initiative and two Albanian parties won 1 seat each. The DPS-led coalition took power and Djukanovic, who has served as prime minister or president in the last two decades, began his seventh term as prime minister <sup>(44)</sup>.

In 2013, President Filip Vujanovic was re-elected with 51 % of the votes. The candidacy of Filip Vujanovic had been challenged before Constitutional Court by the opposition leader Miodrag Lekic, who ran as an independent candidate but was widely supported by the largest opposition party (Democratic Front – DF). The grounds of this submission to the Constitutional Court was that Vujanovic had already been president twice, and the constitution limits the presidency to two terms. The Court dismissed the appeal stating that ‘there was a discontinuity in the legal status of the country after the declaration of independence’ <sup>(45)</sup>.

During the campaign for the 2013 presidential elections, the media published an audiotape of a discussion among state officials about employment opportunities for governing parties’ supporters. After the “Audio Recording” affair a parliamentary working group was set up to build trust in elections through legislative changes; in 2013 and 2014 this working group proposed several amendments regarding laws on the elections <sup>(46)</sup>. In its 2016 Communication, however, the European Commission stated that ‘there has been no political follow-up to the alleged abuse of public funds for party political purposes (“audio recordings affair”)’ <sup>(47)</sup>.

The other important development in 2014 was the adoption by parliament of amendments to the Law on the Election of Councillors and Members of Parliament, focusing on the electronic identification of voters and changes in the composition of the electoral administration. Electronic identification of voters was introduced to prevent repeated voting and to prevent voting by individuals who were not entitled to do so. The new rules were supposed to be applied after 1 November 2014, but, according to BTI, the government was reluctant to implement them due to a lack of financial resources <sup>(48)</sup>.

In 2015 four parties – the Social Democratic Party of Montenegro (SDP), Socialist People’s Party of Montenegro (SNP), Democratic Front (DF) and Positive Montenegro – experienced splits and four new parties – the Social Democrats of Montenegro, Democrats of Montenegro, DEMOS, and United Reform Action (URA) – were formed <sup>(49)</sup>.

In January 2015, the governing coalition underwent a number of changes because of the withdrawal of the SDP. The reasons for its withdrawal were alleged electoral fraud and reportedly the poor state of democracy in the country. As Djukanovic’s cabinet lost its majority in Parliament, a new ally among

<sup>(43)</sup> BTI, Montenegro Country Report, 2016, p. 7.

<sup>(44)</sup> Freedom House, Nations in Transit 2016 – Montenegro, 12 April 2016,

<sup>(45)</sup> OSCE/ODIHR, International Election Observation Mission, Montenegro, Presidential Election, Statement of Preliminary Findings and Conclusions, 7 April 2013

<sup>(46)</sup> BTI, Montenegro Country Report, 2016, p. 7

<sup>(47)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p.18

<sup>(48)</sup> BTI, Montenegro Country Report, 2016, p. 8

<sup>(49)</sup> Freedom House, Nations in Transit 2016 - Montenegro, 12 April 2016, p. 2.

the sharply divided opposition was needed to regain the majority and avoid early general elections. The OSCE/ODIHR noted: 'A new ruling majority was formed when Positive Montenegro party (PCG) offered its support to the DPS, which was enough to win the government confidence vote' <sup>(50)</sup>.

In July 2015, the opposition party Democratic Front (DF) refused to participate in the work of a newly formed committee that would monitor implementation of laws on the electoral process since the parliament had rejected its proposals for removing citizens living abroad from the electoral list. DF announced it would organise protests as the 'only form of political battle against the numerous corruption scandals and election irregularities that impaired conditions for a fair political fight' <sup>(51)</sup>.

Since late September 2015, Montenegro has experienced a stream of protests, with police at times using force to disperse protesters. Initially the protests were driven by DF and were largely anti-NATO in nature, as Freedom House reported. Later, the focus of the demonstrations became more anti-government. The protesters called for free and fair elections and the end of Milo Djukanovic's 26-year rule. After police broke up the protests in October 2015, the ruling DPS urged political dialogue in the electoral process <sup>(52)</sup>.

In late November 2015 politicians initiated a new round of talks to overcome the political crisis. Representatives from all political parties except DF participated. 'The opposition insisted on the presence of EU representatives, while the government maintained that the dialogue should have an internal character. Participants in the meeting agreed to form a working group with a mandate to address electoral issues, but the group had not made significant changes by years' end', Freedom House noted in its report <sup>(53)</sup>.

The political crisis lasted until the beginning of 2016. Djukanovic called the parliament to take a vote of confidence in his government in December 2015, which he survived in January 2016. The vote signalled the end of the political alliance between DPS and SDP which dated back to 1998. He won this confidence motion with support of the opposition party Positive Montenegro, which had been growing closer to Djukanovic's DPS <sup>(54)</sup>.

After five months of negotiations ruling DPS and opposition parties signed an agreement in May 2016 to ensure free elections and end the prolonged political crisis. This agreement was expected to restore political stability before the election in October 2016 <sup>(55)</sup>. Indeed, according to the 2016 EC Communication: 'Despite persisting polarisation of the political environment, this ['government of electoral trust'] has demonstrated the capacity to reach compromises between the government and parts of the opposition' <sup>(56)</sup>.

In the parliamentary elections of 16 October 2016, the DPS won 36 seats, followed by the opposition Democratic Front with 18 seats. During the vote, a number of Serbian nationals were arrested for allegedly staging a coup, orchestrated, according to Montenegro's special prosecutor, by Russian nationalists. Democratic Front leader Andreja Mandic, however, accused Djukanovic of staging the alleged coup attempt himself and subsequently boycotted the first session of the new Parliament <sup>(57)</sup>. According to press reports, on the election day, the Montenegrin authorities blocked the messaging services Viber and Whatsapp for several hours because of 'unlawful marketing', resulting in complaints

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<sup>(50)</sup> OSCE/ODIHR, Montenegro Parliamentary Elections October 2016, OSCE/ODIHR Needs Assessment Mission Report, 16-20 May 2016

<sup>(51)</sup> Freedom House, Nations in Transit 2016 – Montenegro, 12 April 2016, p. 5

<sup>(52)</sup> Freedom House, Nations in Transit 2016 – Montenegro, 12 April 2016, p. 2

<sup>(53)</sup> Freedom House, Nations in Transit 2016 - Montenegro, 12 April 2016, p. 6.

<sup>(54)</sup> EurActiv, NATO bid puts Montenegro government to the test, 28 January 2016.

<sup>(55)</sup> Balkan Insight, Djukanovic to Reshuffle Cabinet in Montenegro, 3 May 2016.

<sup>(56)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p.18

<sup>(57)</sup> New York Times (The), Montenegro Parliament Convenes Amid Opposition Boycott, 7 November 2016; Balkan Insight, Montenegro Prosecution Accused of Fabricating Russian Plot Claims, 7 November 2016.

from opposition politicians. At the same time, several websites, including governmental ones, were downed on election day, allegedly by Russian hackers <sup>(58)</sup>.

As regards the election process itself, the 2016 EC Communication states:

‘Despite the technical delays and difficult relationships between responsible institutions, overall the election preparations were conducted in a more participatory and transparent manner. The elections were held in a competitive environment and characterised by general respect for fundamental freedoms. The relevant national authorities are expected to swiftly and transparently investigate alleged procedural irregularities, the arrests made and the temporary closure of two mobile communication platforms.’<sup>(59)</sup>

After the elections, Milo Djukanovic announced his resignation as prime minister. Instead, Dusko Markovic, the deputy leader of the DPS and trustee of Milo Djukanovic, will try to form a new government <sup>(60)</sup>.

### 2.3 Civil society

The freedom of assembly and of association is guaranteed in the constitution (Articles 52 and 53). According to BTI, ‘the freedom of association is further protected and regulated by the Law on Nongovernmental Organisations (NGOs), the Law on Political parties etc. The Law on NGOs defines two forms of NGOs: associations and foundations’ <sup>(61)</sup>.

About 3,300 NGOs are registered in the country, of which more than 40% are based in Podgorica. According to polls mentioned by BTI, 39.8 % of the people have confidence in these organisations, although the public trust in NGOs has declined since 2010 <sup>(62)</sup>.

Traditions of civil society remain fairly weak with certain positive developments as BTI outlines in its report. A large number of social groups with diverse interests work, but not all these social interests are properly represented in the political system. BTI added: ‘This is mainly due to a limited number of cooperative associations and interest groups that mediate between society and the political system’ <sup>(63)</sup>. Interest groups that fall outside the usual representation by political parties (such as LGBT, women, youth, and ethnic minorities) are on the agendas of NGOs.

Freedom House notes:

‘The role of civil society in public policy-making is still limited due to selective availability of important documents and information (...) and failure to include civil society representatives in the monitoring of strategic reform documents. The Council for the Development of NGOs, a governmental body consisting of an equal number of representatives from government and civil society, has had very limited impact due to lack of government responsiveness’ <sup>(64)</sup>.

A 2016 Needs Assessment Report of the EU-funded TACSO (Technical Assistance for Civil Society Organisations), while highlighting important progress made under the impetus of the EU accession negotiations, raises concerns about measures concerning financial stability (due to uncertainties regarding funding) and viability of NGOs, as well as a lack of transparency in the allocation of funds, and a lack of monitoring of implementation of activities <sup>(65)</sup>.

<sup>(58)</sup> Balkan Insight, Montenegro to tighten cyber security against hackers, 7 November 2016.

<sup>(59)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p.18

<sup>(60)</sup> BBC, Montenegro Country Profile, 11 November 2016.

<sup>(61)</sup> BTI, Montenegro Country Report, 2016, p. 9.

<sup>(62)</sup> BTI, Montenegro Country Report, 2016, p. 17.

<sup>(63)</sup> BTI, Montenegro Country Report, 2016, p. 18.

<sup>(64)</sup> Freedom House, Nations in Transit 2016 - Montenegro, 12 April 2016, p. 6.

<sup>(65)</sup> TACSO, Needs Assessment Report Montenegro, Updated 2016.

Freedom House reported that the poor institutional framework and financing for NGOs remained a significant obstacle to civil-sector sustainability. Several NGOs proposed the financing of NGOs through 0.5-1.5% of the state budget but this was rejected during a public hearing, where it was argued that it was not in line with the draft law that aims to finance the sector based on its needs. According to the draft law, the government determines the priority areas for funding of NGOs projects and programmes each year, thereby also defining the scope of projects <sup>(66)</sup>.

## 2.4 Media (TV, radio, newspapers, Internet)

Freedom House stated in its report: ‘The Montenegrin media landscape features a national public radio and television (RTCG); 14 public and 37 private radio stations with local coverage, three local television services; and four private television broadcasting services with national reach’ <sup>(67)</sup>.

The BTI reported about 80 electronic, online and print media outlets. <sup>(68)</sup>

According to the NGO *Civil Rights Defenders*, in 2015 the country had ‘16 commercial television stations, 38 commercial radio stations, along with the national public service broadcaster and 17 local public service (three television and 14 radio stations). Despite a variety of media outlets, standards of freedom of expression have been undermined by a number of attacks and threats on media content and products and media property’ <sup>(69)</sup>.

The US Department of State (US DoS) report on human rights practices during 2015 mentioned complaints by independent and opposition media about ‘unfair treatment and economic pressure from government ministries and agencies’. The opposition claims that ‘the ruling political structures controlled the country’s public radio and television broadcaster, Radio and Television of Montenegro (RTCG). Its broadcasts favoured the ruling DPS and its satellite parties’ <sup>(70)</sup>.

A report by the NGO Center for Civic Education (CCE) stated that ‘state funding and selective advertising are used to reward positive media coverage, and withheld to punish media outlets that question official policies or practices’ <sup>(71)</sup>. Independent media struggle with funding, while the government financially supports the state-owned media outlets <sup>(72)</sup>. CCE pointed out that this state funding system caused serious erosion of the independence of many Montenegrin media outlets for which state support is necessary for survival <sup>(73)</sup>.

Regarding Internet freedom, US DoS stated that ‘government did not restrict or disrupt access to the internet or censor online content, but there were credible reports it monitored private online communications without appropriate legal authority.’ The estimated internet penetration during the year was approximately 57 % <sup>(74)</sup>.

NGOs expressed concerns about adoption of legislation authorising direct access of the Agency for National Security (ANB) to the registries and databases of all legal entities without prior court approval. Police and intelligence services allegedly unlawfully collected data from citizens’ mobile phones and Internet usage <sup>(75)</sup>.

For more information on freedom of expression, see [5.2.1 Freedom of expression](#).

<sup>(66)</sup> Freedom House, Nations in Transit 2016 - Montenegro, 12 April 2016, p. 6.

<sup>(67)</sup> Freedom House, Nations in Transit 2016 - Montenegro, 12 April 2016, p. 7.

<sup>(68)</sup> BTI, Montenegro Country Report, 2016, p. 10.

<sup>(69)</sup> Civil Rights Defenders, Human Rights in Montenegro, updated in June 2015.

<sup>(70)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016

<sup>(71)</sup> CCE, Eroding Freedoms: Media and Soft Censorship in Montenegro, 2015.

<sup>(72)</sup> Freedom House, Nations in Transit 2016 - Montenegro, 12 April 2016, p. 8; Civil Rights Defenders, Human Rights in Montenegro, updated in June 2015.

<sup>(73)</sup> CCE, Eroding Freedoms: Media and Soft Censorship in Montenegro, 2015.

<sup>(74)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016.

<sup>(75)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016

For information on attacks against journalists and media, see [5.4.2 Journalists and media](#).

## 3. Rule of Law and State Protection

### 3.1. Law enforcement

#### 3.1.1 Police/Intelligence services

The National Police Force, including the Border Police, are responsible for maintaining law and order under the supervision of the Ministry of the Interior. According to US DoS, the police are generally effective <sup>(76)</sup>.

The number of police officers is expected to decrease from 4,684 in 2010 to 4,287 in 2017 <sup>(77)</sup>. According to data from the NGO Institute Alternative (IA), reporting on police integrity, the Police Authority had 4,203 employees in April 2015, so the aimed reduction has already been attained. However, IA commented: 'it still has the greatest number of police officers per capita in Europe' <sup>(78)</sup>.

The Agency for National Security (ANB), an independent entity within the government, is responsible for intelligence and counterintelligence activities. According to the US DoS, the ANB is 'considered by many to be a political arm of the ruling DPS' <sup>(79)</sup>.

IA emphasised in its study that over the past few years a complete 'oversight' system over the police was developed <sup>(80)</sup> including internal and external controls: parliamentary supervision by two Committees, civic control, and specialised independent institutions. 'However, oversight practice is still not at a satisfactory level', IA noted <sup>(81)</sup>. The main problem is that oversight institutions lack influence in cases they are dealing with. In many cases the competent judicial authorities were not making any progress, especially in cases related to high-ranking police officers <sup>(82)</sup>.

The US DoS in its 2015 report also emphasised that impunity and corruption were obstacles to greater effectiveness. 'There was also a widespread view that personal connections influenced the enforcement of laws' <sup>(83)</sup>. A common opinion is that police officers' low salaries contribute to corruption and unprofessional behaviour. In cases where courts decided that police had used unreasonable force, sentences were usually lenient <sup>(84)</sup>.

Human rights observers, cited in the US DoS 2015 report, are concerned about the low number of prosecutions of police officers related to accusations of human rights violations. They note that citizens are reluctant to report police misconduct as they fear reprisals. The police, allegedly, have a practice of filing counter-charges against people who report police abuse<sup>(85)</sup>.

The use of excessive force by riot police was reported during the mass demonstrations in October 2015 <sup>(86)</sup>.

See also [5.2.4 Torture](#) and [5.2.5 Detention](#).

<sup>(76)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016

<sup>(77)</sup> PointPulse, Police administration in Montenegro, n.d.

<sup>(78)</sup> IA, How to enhance police integrity in Montenegro?, September 2015

<sup>(79)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016

<sup>(80)</sup> The legal basis is the Law on Parliamentary Oversight of Security and Defence Sector, Official Gazette of the Republic of Montenegro, no. 80/2010. See PointPulse, Police administration in Montenegro, n.d.

<sup>(81)</sup> IA, How to enhance police integrity in Montenegro?, September 2015, p. 7.

<sup>(82)</sup> IA, How to enhance police integrity in Montenegro?, September 2015

<sup>(83)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016

<sup>(84)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016

<sup>(85)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016.

<sup>(86)</sup> AI, Amnesty International Report 2015/16 - Montenegro, 24 February 2016.

### 3.1.2 Army

According to Global Security, after separation from Serbia in 2006, ‘Montenegro inherited trained and disciplined in-place ground and naval forces’. These units have to be transformed into a force that is compatible with the North Atlantic Treaty Organization (NATO). However, ‘the defence structures needed to be further developed and adapted to the new strategic environment based on the defined national interests and goal.’ The ongoing defence reform aims to establish an ‘entirely new, stable, functional, and reliable security system’ which is able to contribute to peace and stability on the regional and global level <sup>(87)</sup>.

The Law on the Armed Forces of Montenegro was passed by the assembly of Montenegro on 23 December 2009. This law regulates the organisation of the army, the military service, rights and obligations. Size, composition and active Armed Forces Reserve engagement are prescribed by the government regulation <sup>(88)</sup>.

BTI emphasised in its 2016 Country report that the Armed Forces and security services were under parliamentary supervision and subject to democratic and civil control <sup>(89)</sup>.

### 3.1.3 Corruption / fight against organised crime

Many COI sources consulted for this report confirm that corruption is a problem in Montenegro.

The US DoS report wrote: ‘the public in Montenegro viewed corruption as endemic in the government and elsewhere in the public sector at both local and national levels. This was particularly the case in the areas of health, higher education, the judiciary, customs, political parties, police, urban planning, the construction, industry, and employment’ <sup>(90)</sup>.

The main motivation to become vulnerable of corruption are, according to the same source, ‘politicisation, poor salaries and lack of motivation and training of public servants’. The report further noted that corruption cases were characterised by impunity, political favouritism, nepotism, and selective prosecution of political and societal opponents <sup>(91)</sup>.

According to BTI, ‘the number of reports to the Directorate for Anti-Corruption Initiative of suspicion of corruption increased significantly in 2014. In the first half of 2014, 66 reports were received, compared to 22 in 2013. However, very few of these reports result in criminal charges’ <sup>(92)</sup>.

In December 2014 the parliament adopted a comprehensive package of laws, forming the legal basis for a new anti-corruption agency with administrative investigation powers, to be operational as of 1 January 2016<sup>(93)</sup>. Freedom House reported the establishment of a new Agency for Prevention of Corruption, while mentioning public criticisms of the director of the agency for alleged close ties with the vice president of the ruling Democratic Party of Socialists (DPS) <sup>(94)</sup>.

Several high-profile arrests took place in 2015. The former mayors of Bar and Budva were indicted and the former president of Serbia and Montenegro was arrested on corruption-related allegations <sup>(95)</sup>.

In the fight against corruption, the EC in its 2016 Communication noted that ‘Montenegro has achieved some level of preparation’, although ‘corruption remains prevalent in many areas and continues to be a serious problem’ <sup>(96)</sup>. While the process of institution-building advanced well, with the start of a new

<sup>(87)</sup>Global Security, Military of Montenegro (Vojska Crne Gore), 28 November 2011.

<sup>(88)</sup>Global Security, Military of Montenegro (Vojska Crne Gore), 28 November 2011.

<sup>(89)</sup> BTI, Montenegro Country Report, 2016, p. 11.

<sup>(90)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016

<sup>(91)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016

<sup>(92)</sup> BTI, Montenegro Country Report, 2016, p. 14.

<sup>(93)</sup>EC, Montenegro 2015 Progress Report, 10 November 2015, p. 16.

<sup>(94)</sup> Freedom House, Nations in Transit 2016 – Montenegro, p. 10.

<sup>(95)</sup> Freedom House, Nations in Transit 2016 – Montenegro, pp. 9-10.

<sup>(96)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p.19



Anti-Corruption Agency in 2016, a more proactive attitude is needed from institutions to fulfil their mandate, and more needs to be done in terms of successful investigations and convictions, in particular in high-level corruption cases, and prevention of corruption <sup>(97)</sup>.

As regards the fight against organised crime, EC in its 2016 Communication noted:

‘Montenegro has achieved some level of preparation in the fight against organised crime. Some progress was made, notably on strengthening the legal, regulatory and institutional framework. Efforts should continue to develop the track record in organised crime cases, especially as regards trafficking in human beings and money laundering where results are limited. The number of suspicious bank transactions detected remains low’ <sup>(98)</sup>.

### 3.2 Judiciary

The judiciary is autonomous and independent, according to the constitution <sup>(99)</sup>.

However, sources raised concerns over the independence and efficiency of the judiciary. *Civil Rights Defenders* stated in its report that ‘the judiciary remains one of the biggest weak spots’ since Montenegro became an independent state, and ‘efficiency of the courts is one of the major features in need of improvements’ <sup>(100)</sup>.

The US DoS 2015 report believes the process of appointing judges and prosecutors has remained politicised, although it noted that ‘the government continued to make progress on judicial reform by strengthening the independence, responsibility and capacity of judges and prosecutors and increasing the transparency of court rulings’ <sup>(101)</sup>.

The BTI 2016 report highlights recent positive developments in the area of judicial reform, such as the adoption of a new judicial reform strategy for 2014-2018, positive steps in trial procedures (length and number of cases processed), and procedures aimed at reducing political influence when appointing judges. Challenges still remain regarding the independence of the Judicial and Prosecutorial Councils, limited availability of administrative capacity and budget, and vague criteria for appointing and promoting judges and prosecutors <sup>(102)</sup>.

The Commission’s 2016 Communication follows same line:

‘The judicial system is moderately prepared. During the reporting period, Montenegro made some progress in this field. The capacity of the Judicial and Prosecutorial Council has improved. However, the new legislative framework for increasing the independence, accountability and professionalism of the judiciary, as well as the code of ethics, have not yet been fully implemented. Measures to reduce the number of pending cases and the total length of proceedings need to continue’ <sup>(103)</sup>.

#### Courts system

Montenegro has a multi-tiered judicial system, comprising 14 basic courts, 2 high courts, a commercial court, an Appellate Court (second instance), an Administrative Court and a Supreme Court (third instance court). In addition, there are three misdemeanour courts and one high misdemeanour court <sup>(104)</sup>. The Law on Courts and the Law on the Judicial Council and Judges (adopted in 2015) regulate in detail the working of the judiciary. In 2012 there were 260 judges of whom 117 are men and 143 are

<sup>(97)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p.19

<sup>(98)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p.19

<sup>(99)</sup> Republic of Montenegro, The Constitution of Montenegro, 19 October 2007.

<sup>(100)</sup> Civil Rights Defenders, Human Rights in Montenegro (updated in June 2015).

<sup>(101)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016.

<sup>(102)</sup> BTI, Montenegro Country Report, 2016, p.12-13.

<sup>(103)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p.18

<sup>(104)</sup> Sudovi Crne Gore (The Courts of Montenegro), Organisation of the court network in Montenegro, n.d.

women<sup>(105)</sup>. Information on all these courts can be found on the website of the Courts of Montenegro<sup>(106)</sup>.

The misdemeanour courts are, according to the Group of States against Corruption (GRECO), organised outside the judicial system with 60 judges, who may impose sanctions (warnings, fines and imprisonment) for minor violations of the law. These judges are not hired under the same conditions as court judges but are appointed by government for five years renewable. The misdemeanour courts, although lacking the status of (independent) courts, are allowed to pass sentences of imprisonment and substantial fines. GRECO voiced concerns that such high penalties require impartiality and independence of these misdemeanour ‘courts’ which are now being paid by the government. Plans are under way to make misdemeanour courts part of the regular judicial structure with equivalent recruitment, selection process and tenure conditions<sup>(107)</sup>.

The Supreme Court is the highest court; its President is elected by the Judicial Council for five years (renewed once)<sup>(108)</sup>. In the assessment of GRECO, the Supreme Court and its President have a large number of responsibilities in the functioning of the judiciary (such as supervision, advisory and disciplinary matters). GRECO points at the risk of such a concentration of powers in a person and institution<sup>(109)</sup>.

The Judicial Council consists of the President of the Supreme Court, four judges appointed by the Conference of Judges, four prominent lawyers appointed by the Assembly, and the Minister of Justice. The Council has the following competences:

‘Decides on disciplinary responsibility of judges; gives opinions on draft regulations in the field of justice; provides implementation, sustainability and uniformity of the Judicial Information System in the part related to the courts; ensures the training of judicial function holders in cooperation with the Prosecutors’ Council; maintains records on judges; investigates complaints of judges and takes positions regarding threats to their independence and autonomy; proposes guidelines for determining the number of judges and other officers and employees of the courts; establishes the methodology for preparing reports on the work of the courts and annual work schedules, and other tasks prescribed by Law’<sup>(110)</sup>.

The Constitutional Court examines the legislation’s compatibility with Constitution and decides on appeals regarding alleged breaches of fundamental rights and freedom.’ It is composed of seven judges appointed by Parliament for a non-renewable 12-year term. The President and the court members cannot be members of parliament or hold any other public duty. However, the media has reported that some of the judges appointed to the Constitutional Court in 2013 had previously been active in different political parties<sup>(111)</sup>.

As of 2000, the judiciary system has been under reform aimed at ‘respect of the rule of law and an independent, accountable and efficient judiciary’. According to the Juridical Reform Strategy 2014-

<sup>(105)</sup> CoE GRECO Evaluation Report Montenegro, Forth evaluation round, Corruption prevention in respect of members of parliament, judges and prosecutors, 26 August 2015, p. 21.

<sup>(106)</sup> Sudovi Crne Gore (The Courts of Montenegro), General information, n.d.

<sup>(107)</sup> CoE GRECO Evaluation Report Montenegro, FOURTH EVALUATION ROUND Corruption prevention in respect of members of parliament, judges and prosecutors, 26 August 2015, p. 21.

<sup>(108)</sup> Sudovi Crne Gore (The Courts of Montenegro), Supreme Court of Montenegro – Jurisdiction, n.d.

<sup>(109)</sup> CoE GRECO Evaluation Report Montenegro, FOURTH EVALUATION ROUND Corruption prevention in respect of members of parliament, judges and prosecutors, 26 August 2015, p. 21.

<sup>(110)</sup> Judicial Council of Montenegro, Annual report 2014, n.d., p. 8.

<sup>(111)</sup> CoE GRECO Evaluation Report Montenegro, FOURTH EVALUATION ROUND Corruption prevention in respect of members of parliament, judges and prosecutors, 26 August 2015, p. 21.

2018, judicial institutions are to implement the adopted legal framework, to strengthen the planning activities and to actively contribute to the process of integration into Europe <sup>(112)</sup>.

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<sup>(112)</sup> Judicial Council of Montenegro, Annual report 2014, n.d., p. 8; EC, Montenegro 2015 Progress Report, 10 November 2015, p. 12.

## 4. Security situation

In a security risk profile by Global IntAKE (AKE), an online country intelligence and information monitoring resource, Montenegro is considered one of the most stable former Yugoslav republics. There is a low risk of external conflicts involving Montenegro, since it has no border dispute or external disagreements with its neighbours. However, as the neighbouring countries Bosnia-Herzegovina, Albania and Kosovo suffer from internal tensions, these could easily spill over into Montenegro<sup>(113)</sup>.

In a political risk profile, AKE assesses that the prospect of NATO membership could further increase regional stability – although such membership depends on political and defence reforms<sup>(114)</sup>. BTI notes: ‘The state’s monopoly on the use of force covers the entire territory of the country. Police and military forces provide security in all areas of the country and there are no organizations such as militias or guerrillas’<sup>(115)</sup>.

The US DoS, Bureau of Diplomatic Security (OSAC), states that ethnic violence is rare, as are incidents based on religion, and not supported by the majority of the population<sup>(116)</sup>. The ethnic majority is formed by Montenegrins followed by ethnic Serbs. Many of the various ethnic groups in the region, including Bosniaks and Albanians, had been displaced and moved to Montenegro as a result of the Balkan conflicts during in ’90s. However, as many internally displaced persons (IDP) have successfully integrated and established new lives in Montenegro, concerns about possible security issues that may occur elsewhere during mass migration are diminishing<sup>(117)</sup>.

Social and economic discontent has the potential to spark protests. Demonstrations are frequent but are usually small-scale and non-violent; however, clashes between police and demonstrators have occurred<sup>(118)</sup>. During protests on 17 and 18 October 2015, for the first time since independence, violence was notable. According to analysis by AKE in July 2016, there is a risk of more violent demonstrations, although these are expected to be limited to the central governmental areas of Podgorica<sup>(119)</sup>.

Montenegro’s strategic location makes it a transit country for the illicit trafficking of people, narcotics and weapons. The trade has helped the growth of crime syndicates with ties to Serbia, Croatia and Italy, facilitated by weak port security and corrupt border controls<sup>(120)</sup>. According to OSAC, there is substantial organised crime with numerous criminal gangs involved in trafficking and smuggling. Violence among members of these groups is common with car burnings and Improvised Explosive Devices (IED) used to intimidate. In 2015 60 car burnings and 34 IED incidents were reported<sup>(121)</sup>. *Balkan Insight* reported in June 2016 that police sent anti-terrorist units to the coastal town of Kotor to prevent more armed clashes between drug gangs after a series of murders and shootings in recent months<sup>(122)</sup>.

The risk of organised terrorism in Montenegro is minimal, according to AKE’s analysis, which adds: ‘no domestic or international groups are currently known to operate there’. In 2006, 18 ethnic Albanians with alleged links to the Kosovo Liberation Army (KLA) were arrested on charges of planning an attack in an area bordering Albania where most of the Albanian community lives. Since Montenegro recognised Kosovo’s independence in 2008 relations with the Albanian minority are less tense<sup>(123)</sup>.

<sup>(113)</sup> AKE, Montenegro – Security Risk Profile, last updated 09 July 2016.

<sup>(114)</sup> AKE, Montenegro – Political Risk Profile, last updated 02 August 2016.

<sup>(115)</sup> BTI, Montenegro Country Report, 2016, p. 6.

<sup>(116)</sup> OSAC, Montenegro 2016 Crime & Safety Report, 20 January 2016.

<sup>(117)</sup> AKE, Montenegro – Political Risk Profile, last updated 02 August 2016

<sup>(118)</sup> OSAC, Montenegro 2016 Crime & Safety Report, 20 January 2016.

<sup>(119)</sup> AKE, Montenegro – Security Risk Profile, last updated 09 July 2016

<sup>(120)</sup> AKE, Montenegro – Political Risk Profile, last updated 02 August 2016

<sup>(121)</sup> OSAC, Montenegro 2016 Crime & Safety Report, 20 January 2016.

<sup>(122)</sup> Balkan Insight, Gang Violence Shakes Montenegrin Resort of Kotor, 07 June 2016.

<sup>(123)</sup> AKE, Montenegro – Political Risk Profile, last updated 02 August 2016.

As highlighted in the EC 2016 Communication, 'Montenegro continued to play a constructive role in regional cooperation. It ratified its border agreements with Bosnia and Herzegovina and with Kosovo' <sup>(124)</sup>.

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<sup>(124)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p.19.

## 5. Human rights situation

### 5.1 Legal context and institutional framework

The constitution of Montenegro guarantees and protects rights and liberties and Article 6 states ‘everyone shall be obliged to respect the rights and liberties of others’. Article 8 of the constitution prohibits direct and indirect discrimination <sup>(125)</sup>.

The Law on the Protector of Human Rights and Freedoms of Montenegro (Ombudsman) regulates the competency, authorisations and manner of working and procedure of the Ombudsman <sup>(126)</sup> regarding the protection of human rights guaranteed by the relevant national law and ratified international human rights treaties <sup>(127)</sup>.

The Protector of Human Rights and Freedoms of Montenegro is an ‘independent and autonomous institution entrusted with protecting and promoting human rights and freedoms when these have been violated by means of an enactment, act or failure to act on the part of the state authorities, local self-government authorities, public services and other holders of public powers’ <sup>(128)</sup>.

The mission of the Ombudsman is to raise awareness regarding the importance of the rule of law and consistent protection of human rights and freedoms. In the field of anti-discrimination it ‘undertakes measures and actions to eliminate discrimination keeping separate records of submitted complaints and suits, collects and analyses case-law on discrimination’ <sup>(129)</sup>.

The European Commission Against Racism and Intolerance (ECRI) pointed out in its 2012 report that the country has taken a number of positive steps towards combating racism and intolerance, including ratification of the vast majority of relevant international legal instruments of concern to ECRI. Montenegro has ratified, among others, Protocol No. 12 to the European Convention on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and Additional Protocol to the Convention on Cybercrime <sup>(130)</sup>. The Constitution (Articles 79 and 80) guarantees comprehensive protection of national/ethnic minorities and prohibits assimilation <sup>(131)</sup>.

The NGO *Civil Rights Defenders* noted that national legislation related to human rights is considered to be within European standards but better implementation is still required. In its report it highlighted the area of freedom of expression, anti-discrimination and the judiciary. It also underlined the importance of the amendments to the laws regarding the role of the Ombudsman, adopted in August 2014, which foresees a greater level of independence of this institute <sup>(132)</sup>.

### 5.2 General situation

With regard to the human rights situation, the European Commission’s 2016 Communication highlights the following:

‘Montenegro completed several legislative reforms to further align with the EU and international human rights standards and ensure that adequate mechanisms are in place to protect vulnerable groups from discrimination. Implementation of the legislation remains weak. Amendments to the overall legislative framework, to ensure a coherent sanctioning policy for human rights violations, have not been adopted yet. Institutional capacity needs to

<sup>(125)</sup> Republic of Montenegro, The Constitution of Montenegro, 19 October 2007, Artt. 6, 8.

<sup>(126)</sup> The Ombudsman’s website is in Croatian: Zaštitnik ljudskih prava i sloboda Crne Gore, <http://www.ombudsman.co.me/>.

<sup>(127)</sup> EQUINET, Protector of Human Rights and Freedoms (Ombudsman), 19 October 2015.

<sup>(128)</sup> EQUINET, Protector of Human Rights and Freedoms (Ombudsman), 19 October 2015.

<sup>(129)</sup> EQUINET, Protector of Human Rights and Freedoms (Ombudsman), 19 October 2015

<sup>(130)</sup> ECRI, ECRI report on Montenegro, 12 February 2012, p. 7.

<sup>(131)</sup> Republic of Montenegro, The Constitution of Montenegro, 19 October 2007, Artt. 79-80.

<sup>(132)</sup> Civil Rights Defenders, Human Rights in Montenegro, updated in June 2015.

increase further. The Roma minority remains the most vulnerable and most discriminated-against community in various areas of life.’<sup>(133)</sup>

In Freedom House’s assessment, Montenegro’s freedom status declined from free to partly free in 2016, due to restrictions on the freedom of assembly, clashes between police and opposition demonstrators and ‘the repeated postponement of an LGBT pride parade, in the context of years of harassment and discrimination against LGBT people’<sup>(134)</sup>.

According to Amnesty International, the main human-rights problems are: threats and attacks against independent media and journalists, and excessive use of force by Montenegrin police during mass protests organised by opposition parties<sup>(135)</sup>.

Groups vulnerable to exclusion, as assessed by UNDP and BTI, are the RAE population (Roma, Ashkali and (Bosnian) Egyptians – see [5.3.1 Ethnic Minorities](#)), vulnerable displaced persons and social welfare beneficiaries, pensioners, the long-term unemployed and persons with disabilities. BTI’s general conclusion is that the position of these groups has slightly improved but needs more effort to become more favourable<sup>(136)</sup>.

### 5.2.1 Freedom of expression

In its 2016 Communication, the EC assessed that Montenegro has achieved ‘some level of preparation in the area of freedom of expression’, but no further progress was made in the past year. The EC highlights the high number of defamation cases which it sees as an indication for weak self-regulation mechanisms. State advertising in the media lacks transparency and non-discrimination<sup>(137)</sup>.

According to Freedom House, the media operate independently in the country and the government does not explicitly censor media outlets, although indirect censorship existse<sup>(138)</sup>. Reporters without Borders also mentions self-censorship by journalists as they ‘are often the targets of violent verbal and physical attacks and those responsible enjoy virtually systematic impunity’<sup>(139)</sup>. Montenegro ranks 106 in the 2016 World Press Freedom Index, 8 places higher than in 2015<sup>(140)</sup>.

The US DoS Country Report for Human rights Practices over 2015 mentioned that ‘some media outlets demonstrated a willingness to criticize the government’ and the number of critical articles and television programmes ‘suggested self-censorship was not a major problem’<sup>(141)</sup>. However, *Civil Rights Defenders* expressed serious concerns regarding biased media reporting, which tend to support governmental policies, ‘while the media is also strictly divided across political lines’<sup>(142)</sup>.

For information on attacks against journalists and media, see [5.4.2 Journalists and media](#).

### 5.2.2 Freedom of religion

The main religious groups in Montenegro are, according to BTI: ‘Orthodox Christians (72.07 %) who are divided between two opposed churches the Serbian Orthodox Church and the Montenegrin Orthodox Church; Muslims (19.41 %) and Catholics (3.44 %), while the remaining 5.4 % of the population belong to other religious groups, are atheists/agnostics or did not declare their religious affiliation’<sup>(143)</sup>. The BTI reported that ‘the SPC [Serbian Orthodox Church] attempts to interfere in the

<sup>(133)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p.19

<sup>(134)</sup> Freedom House, Freedom in the World 2016 - Montenegro, 2016.

<sup>(135)</sup> AI, Amnesty International Report 2015/16 - Montenegro, 24 February 2016.

<sup>(136)</sup> BTI, Montenegro Country Report, 2016, p. 18.

<sup>(137)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p.19

<sup>(138)</sup> Freedom House, Freedom in the World 2016 - Montenegro, 2016.

<sup>(139)</sup> Reporters without Borders, Montenegro – another EU dunce, n.d.

<sup>(140)</sup> Reporters without Borders, Montenegro – another EU dunce, n.d.

<sup>(141)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016.

<sup>(142)</sup> Civil Rights Defenders, Human Rights in Montenegro, updated in June 2015.

<sup>(143)</sup> BTI, Montenegro Country Report, 2016, p. 6.

affairs of the state and politics.’ The clergy often uses offensive rhetoric and seeks influence political and democratic processes at the state level’<sup>(144)</sup>.

The constitution guarantees freedom of thought, conscience and religion, the right to change one’s belief or religion, and prohibits religious discrimination. Religious communities are separated from the state<sup>(145)</sup>.

A new draft law on freedom of religion, designed to replace an outdated law which provides the legal framework for religious life, was criticised by religious groups, especially the Serbian Orthodox Church. These religious groups complained that they had not participated in its drafting and that the law ‘jeopardized the autonomy of religious communities’. The public also reacted negatively to the draft law<sup>(146)</sup>.

The NGO *Civil Rights Defenders* noted that ‘religion is respected and no case of violations have been reported although tensions are high between the Serbian and Montenegrin Orthodox Church’. It observed that ‘this conflict also questions separation of the church and state, since the Montenegrin church receives special treatment from the state’<sup>(147)</sup>.

### 5.2.3 Freedom of assembly

The 2016 BTI report mentions that in December 2014 the Law on Public Gatherings was amended clarifying ‘that public gatherings can only be temporarily restricted in cases prescribed by the law.’ The amendments also introduced new restrictions on public-gathering locations. The new provisions ‘ban public gatherings within 50 metres of hospitals, kindergartens and primary schools, protected cultural sights, buildings of parliament, government, the president or the Constitutional Court of Montenegro’. Gatherings are also prohibited on highways, motorways, regional and local roads, and in nature parks. These provisions have been criticised by opposition parties and NGOs and, in January 2015, the opposition party Movement for Changes asked the Constitutional Court for a ruling on the constitutionality of this provision.<sup>(148)</sup>

### 5.2.4. Torture and other cruel, inhumane and degrading treatment and punishment

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) reported in 2014 that Montenegro ratified the Optional Protocol to the United Nations Convention Against Torture (OPCAT) in March 2009. The Ombudsman was designated as National Preventive Mechanism (NPM) in August 2011 after the Law on Ombudsman entered into force. The Deputy Ombudsman was appointed for the prevention of torture and two legal advisors within the office were assigned to tasks related to prevention<sup>(149)</sup>.

See also [5.2.5 Detention](#).

### 5.2.5 Detention

*Civil Rights Defenders* noted that several cases of mistreatment in police detention have been reported. Such cases are prosecuted slowly, often without explanatory verdicts given<sup>(150)</sup>.

<sup>(144)</sup> BTI, Montenegro Country Report, 2016, p. 7.

<sup>(145)</sup> Republic of Montenegro, The Constitution of Montenegro, 19 October 2007, Artt. 14, 46.

<sup>(146)</sup> US DoS, 2015 Report on International Religious Freedom - Montenegro, 10 August 2016.

<sup>(147)</sup> Civil Rights Defenders, Human Rights in Montenegro, updated in June 2015.

<sup>(148)</sup> BTI, Montenegro Country Report, 2016, p. 9.

<sup>(149)</sup> CE, Report to the Government of Montenegro on the visit to Montenegro” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 20 February 2013, 22 May 2014, p. 8.

<sup>(150)</sup> Civil Rights Defenders, Human Rights in Montenegro, updated in June 2015.



The NPM (see [5.2.4 Torture](#)) has conducted numerous visits to prisons and detention centers and published two thematic reports on police and psychiatric establishments <sup>(151)</sup>. The CPT delegation received many allegations referred to ill-treatment in custody. In its opinion the Montenegrin authorities have not handled this problem effectively. A multi-faceted approach was urged to change a police-force culture which viewed ill-treatment as acceptable. It also recommended the prompt investigation of allegations of ill-treatment. The report stated that detention conditions were distinctly better than during the 2008 visit. However, a number of shortcomings remained. A concrete example was mentioned concerning Kotor Police Station where detainees had no access to natural light <sup>(152)</sup>.

According to the US DoS 2015 Human Rights report, ‘there are reports that police and prison guards at times beat and harassed suspects to obtain evidence, confessions, or as punishment’ <sup>(153)</sup>. Still according to US DoS, the government prosecuted police officers and prison guards accused of overstepping their authority. The impunity has significantly reduced but did not end <sup>(154)</sup>.

The constitution prohibits arbitrary arrest and detention <sup>(155)</sup>, and, according to the US DoS, ‘the government generally observed these prohibitions. Nevertheless, the police had to compensate numerous persons for unwarranted detention. Since 2010 authorities paid more than a million euros in damages for unwarranted detention’ <sup>(156)</sup>.

## 5.3 Specific groups

### 5.3.1 Ethnic minorities

According to BTI, the RAE population in Montenegro experiences permanent poverty and is vulnerable to social exclusion. They face practical difficulties in finding work, social and health protection and education. Their unemployment rate is 44 % <sup>(157)</sup>. The RAE children experience discrimination from schoolmates and school institutions; the school drop-out rate is about 50 % <sup>(158)</sup>. They lack political representation as a group in parliament, in spite of a law that provides parliamentary representation of minority groups that win less than 3 % of the votes or constitute less than 15 % of the population <sup>(159)</sup>. However, there have been slight improvements in certain areas. The rate of school dropouts of Roma children is decreasing. Also the percentage of employers who are willing to hire Roma has increased slightly to 19%, according to the BTI report <sup>(160)</sup>.

The Ministry of Human and Minority Rights, cited in the US DoS 2015 report, stated that ‘the greatest challenges facing these groups are poverty, prejudice, low levels of education, unemployment, inadequate housing, ethnic stereotyping, and their nomadic life style. Many Roma do not have marketable skills, work experience and proper qualifications to participate in the formal economy’ <sup>(161)</sup>.

On 5 September 2016, the third seminar on the integration of Roma and Egyptian communities was held in Montenegro’s capital, organised by the Delegation of the European Union to Montenegro in

<sup>(151)</sup> CE, Report to the Government of Montenegro on the visit to Montenegro” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 20 February 2013, 22 May 2014, p. 8.

<sup>(152)</sup> CE, Report to the Government of Montenegro on the visit to Montenegro” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 20 February 2013, 22 May 2014, pp. 12-13, 19.

<sup>(153)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016.

<sup>(154)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016.

<sup>(155)</sup> Republic of Montenegro, The Constitution of Montenegro, 19 October 2007, Art. 29, 30.

<sup>(156)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016.

<sup>(157)</sup> BTI, Montenegro Country Report, 2016, p. 27.

<sup>(158)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016

<sup>(159)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016; Civil Rights Defenders, Human Rights in Montenegro, updated in June 2015.

<sup>(160)</sup> BTI, Montenegro Country Report, 2016, pp. 18, 27.

<sup>(161)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016

cooperation with the General Directorate for European Neighbourhood Policy and Enlargement Negotiations. The topic of this seminar was: ‘From words to deeds – towards the integration of Roma’. The government expressed its full commitment to ‘creating and implementing politics for faster and full social inclusion and improvement of economic situation of Roma and Egyptians in Montenegro’ through the Roma Integration Initiative 2020, a follow-up of the Roma Inclusion Decade 2005-2015. A Strategy for Social Inclusion of Roma and Egyptians 2016-2020 was presented, together with an action plan for its implementation <sup>(162)</sup>.

A specific RAE group of concern is the group of Roma refugees from Kosovo living in the Konik camp (see [5.3.8 Refugees, IDPs and Returnees](#)).

Other ethnic minorities in Montenegro are Albanians, Bosniaks and Serbs. Their situation is, according to human rights reports, generally slightly better than that of the RAE <sup>(163)</sup>. Research conducted by a Montenegrin NGO in November 2013, cited in BTI 2015, shows that the ‘inter-ethnic distance’ [expressed as distrust or prejudice] is greatest towards the Roma population (46 % of the respondents). Inter-ethnic distance is 39.4 % towards Albanians, and 35.6 % towards Croats <sup>(164)</sup>.

### 5.3.2 Journalists and media

The EC 2016 Communication mentions incidents during anti-government protests in October 2015, whereby the premises of a commercial media company were damaged and several journalists were physically and verbally assaulted and threatened <sup>(165)</sup>. Still according to the EC, no progress was made in the resolution of cases of attacks on journalists <sup>(166)</sup>.

A prominent example of such an unresolved case relates to the attack against journalist Dusko Jovanovic, who was shot dead on 28 May 2004 after having received death threats. The head of a government commission examining attacks on journalists said that Jovanovic was ‘one of Prime Minister Milo Djukanovic’s most vocal critics’ <sup>(167)</sup>. One of the perpetrators received a long prison sentence for his involvement but authorities believe it was a contract killing. The motivation of the murder is not known. According to the High State Prosecutor Sanja Jovicevic, the most recent investigation into this murder was conducted by authorities on 20 May 2016 and investigations are continuing <sup>(168)</sup>.

Freedom House reported at least 16 attacks in 2015 on independent media (mainly buildings and vehicles). Pro-government media are also engaged in ‘smear campaigns against prominent civil society representatives’ <sup>(169)</sup>. The commission assigned to investigate violence incidents against journalists was operational in 2015. However, there is a growing international concern about the culture of impunity <sup>(170)</sup>.

For more information on freedom of expression in general, see [5.2.1 Freedom of expression](#).

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<sup>(162)</sup> Ministry for Human and Minority Rights, The integration of Roma – the key question in the every political agenda, 5 September 2016.

<sup>(163)</sup> For more information refer to Minority Rights International, Montenegro, n.d. <http://minorityrights.org/country/montenegro/>

<sup>(164)</sup> BTI, Montenegro Country Report, 2016, p. 17.

<sup>(165)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p.19

<sup>(166)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p.19

<sup>(167)</sup> OCCRP, Montenegro: State To Offer Reward For Information On Journalist’s Murder 12 Years Ago, 06 June 2016.

<sup>(168)</sup> OCCRP, Montenegro: State To Offer Reward For Information On Journalist’s Murder 12 Years Ago, 06 June 2016.

<sup>(169)</sup> Freedom House, Nations in Transit 2016 - Montenegro, 12 April 2016, pp. 6-8.

<sup>(170)</sup> Freedom House, Nations in Transit 2016 - Montenegro, 12 April 2016.

### 5.3.3 Human rights and peace defenders

According to *Civil Rights Defenders*, human rights defenders are formally supported by the government. Defamation campaigns still occur, though, through media closely aligned to the Government. Activists are also subject to threats from extreme-right wing and religious groups<sup>(171)</sup>.

### 5.3.4 Women

Montenegro ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) on 23 October 2006<sup>(172)</sup>. The Minister for Human and Minority Rights reported on the country's implementation of the CEDAW recommendations on Paragraphs 19 and 23. These recommendations deal with violence against women, trafficking and exploitation of prostitution, and participation in political and public life. A new Law on Domestic Violence Protection, regulating measures against domestic violence, entered into force in August 2010. Since then, the number of cases reporting domestic violence and violence against women, and court decisions have increased<sup>(173)</sup>. There are three NGO-run shelters for women and children who are victims of domestic violence, in Podgorica, Niksic and Pljevlja, and one public institution in Bijelo Polje 'to support a family in which women and children victims of violence are placed'. Other measures within the aforementioned law are the collection of data on violence against women, to be used for analysis and to combat domestic violence<sup>(174)</sup>.

CEDAW also foresees measures to combat trafficking and sexual exploitation. Montenegro has ratified the relevant conventions and protocols and implemented regulations on criminalisation of trafficking and prosecution of human trafficking. Training and education of professionals in relevant institutions is provided via the newly established Center for Judicial Education and Human Resources Authority<sup>(175)</sup>.

On the issue of participation in political and public life, the CEDAW committee advises a revision of the current Law on the Election of Councillors and MPs (Official Gazette of Montenegro, no. 46/11), Article 39a in which a 30 % quota for 'the under-represented sex' is guaranteed. This issue was undecided when the Ministry's report was published. In addition, more measures and procedures are proposed to improve the gender balance in social, economic and political life<sup>(176)</sup>.

In an address to the UN General Assembly 1 October 2015, the President of Montenegro urged for broader global respect for human rights and, taking his country as an example, stated: 'we pay particular attention, inter alia, to the issues of prevention of discrimination and violence, protection of children's rights, rights of persons with disabilities, LGBT [lesbian, gay, bisexual and transgender] people, empowerment of women and girls, and protection of freedom of opinion and expression'<sup>(177)</sup>.

The NGO Women's Rights Center (WRC) in Podgorica, founded in 2012, provides information, psychological and legal assistance to women to fight for a better position in society and access to justice<sup>(178)</sup>.

<sup>(171)</sup> Civil Rights Defenders, Human Rights in Montenegro, updated in June 2015.

<sup>(172)</sup> CEDAW2014, CEDAW ratification, n.d..

<sup>(173)</sup> Ministry for Human and Minority Rights, Written information on the steps undertaken to implement the CEDAW recommendations contained in paragraphs 19 and 23, CEDAW /C/MNE/Q/1/Add.1, January 2014, pp. 3-4.

<sup>(174)</sup> Ministry for Human and Minority Rights, Written information on the steps undertaken to implement the CEDAW recommendations contained in paragraphs 19 and 23, CEDAW /C/MNE/Q/1/Add.1, January 2014, pp. 6-7.

<sup>(175)</sup> Ministry for Human and Minority Rights, Written information on the steps undertaken to implement the CEDAW recommendations contained in paragraphs 19 and 23, CEDAW /C/MNE/Q/1/Add.1, January 2014, p. 8.

<sup>(176)</sup> Ministry for Human and Minority Rights, Written information on the steps undertaken to implement the CEDAW recommendations contained in paragraphs 19 and 23, CEDAW /C/MNE/Q/1/Add.1, January 2014, p. 15.

<sup>(177)</sup> UN News Centre, At UN President of Montenegro urges broader respect for human rights, 1 October 2015.

<sup>(178)</sup> Women's Rights Center, [website], <http://www.womensrightscenter.org/>.

### 5.3.5 Children

Human rights concerns regarding children mainly focus on lack of citizenship, education and health care, and child labour. Especially RAE children are not always registered at birth when they are born outside of hospitals ('mostly due to their lack of awareness of the importance of registration and the parents' own lack of identification documents', as the US DoS 2015 report notes). They subsequently have difficulties accessing governmental services such as health care, education and social allowances<sup>(179)</sup>.

Education is compulsory and free at primary-school level. About 95% of all children attend school. However, the numbers are much lower for Roma (51 %) and Balkan Egyptian (54 %) children. Many of these children drop out of school before they get a diploma. According to the US DoS 2015 report, 1,538 RAE children attended primary school, but only 80 from these communities attended secondary school, and 20 went to university<sup>(180)</sup>. RAE children may lack knowledge of Montenegrin language before they enrol at school and often live in remote areas which makes it difficult for them to go to school<sup>(181)</sup>. The Montenegrin authorities estimate that about 80 % of the RAE population is illiterate<sup>(182)</sup>.

According to a survey by the Institute of Public Health carried out in 2012 among university students about their childhood experiences, 30 % had been emotionally abused or neglected (mostly males), while 24 % had been physically abused and 4% sexually abused<sup>(183)</sup>.

Child marriage is a matter of concern, especially among the RAE community. According to a survey by the NGO Center for Roma Initiatives, cited in the US DoS 2015 report, 70 % of the Romani population aged 12-18 entered into arranged marriages for which bride prices of 4000-15,000 euro are paid. The government took several measures to prevent child marriages, such as compulsory school attendance, and prosecuting persons involved in early marriages<sup>(184)</sup>.

The US Department of Labour in its 2015 Findings on the Worst Forms of Child Labor highlighted that 'Montenegro made a significant advancement in efforts to eliminate the worst forms of child labor'<sup>(185)</sup>.

### 5.3.6 Lesbian, Gay, Bisexual, Transsexual and Intersex Persons (LGBTI)

The first national LGBTI policy was adopted by the government of Montenegro on 9 May 2013. The strategy for improvement of quality of life of LGBTI persons in Montenegro represents a systematic response to the need for a consistent approach to fight all forms of discrimination<sup>(186)</sup>.

The US DoS 2015 report noted that 'negative public perception of LGBTI persons led many to conceal their sexual orientation.' Medical practitioners were reportedly intolerant towards gay persons. An increasing number of violent incidents against LGBT persons had been reported in 2015. Seventeen cases were files by prosecutors between January 2014 and September 2015. LGBTI representatives claimed that young persons perpetrated 80 % of violent crimes against them. It was noted that LGBTI did not report all violent attacks to police out of fear of more violence. According to US DoS, cooperation between police and the LGBTI community had improved, although 'some prosecutors and

<sup>(179)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016

<sup>(180)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016

<sup>(181)</sup> Humanium, Children of Montenegro, last updated 14 November 2012

<sup>(182)</sup> ECRI, ECRI report on Montenegro, 12 February 2012, p. 15.

<sup>(183)</sup> Institute of Public Health, Survey on Adverse Childhood Experiences in Montenegro, January 2013

<sup>(184)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016.

<sup>(185)</sup> US DoL, 2015 Findings on the Worst Forms of Child Labour, n.d.

<sup>(186)</sup> Aleksandar Zekovic, Jovan Kojicic, Predrag Tomovic, Myths and Stereotypes – violence and hate speech towards LGBT persons: police and judicial practice in Montenegro, 2014.

judges demonstrated prejudice against LGBTI persons'. Every police station has an officer dedicated to monitoring LGBTI persons' rights. <sup>(187)</sup>

In 2014, the LGBT Forum Progress, a domestic LGBT NGO, published a report on data related to hate speech, violence and discrimination towards members of the LGBTI community in Montenegro. This document refers to 218 reports filed to the Police Directorate of Montenegro and the Basic state prosecutor offices in 2013 and in the first quarter of 2014. Based on these reports the authorities have filed a misdemeanour procedure against 108 persons <sup>(188)</sup>.

The International Lesbian and Gay Association (ILGA) reported that 'public acceptance of the LGBTI community is low overall, and authorities failed to address discrimination convincingly'. ILGA noted that there was no progress by the Ombudsman's office in cases related to homophobia and transphobia. Positive developments are that judiciary and police staff received training on issues linked to sexual orientation and gender identity and freedom of assembly remained guaranteed <sup>(189)</sup>.

The *Civil Rights Defenders* emphasised that Montenegro did not fulfil its obligations on protection from discrimination, especially concerning the Roma and LGBT communities: 'The LGBT community is most often subject to hate speech, threats, acts of violence and discrimination' <sup>(190)</sup>.

BTI reported that 2013 and 2014 showed a potential for small-scale, localised violence against the LGBTI communities, especially during and after pride parades. However, it added that 2014 had not seen such violent incidents, which was considered an improvement <sup>(191)</sup>. An LGBTI group reported that the police in Niksic banned a local pride march three times during 2015, citing security considerations<sup>(192)</sup>. An LGBTI pride parade took place peacefully in Podgorica in December 2015 <sup>(193)</sup>.

### 5.3.7 Victims of Trafficking

The Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) in its 2016 report welcomed a number of positive developments with regard to the legal framework for combating trafficking in human beings (THB), the cooperation between state institutions and NGOs on action against THB, including victim identification, the provision of training to relevant professionals, and the actions in the area of prevention. Additional steps by the Montenegrin authorities are needed, however, with regard to identification of victims and their access to assistance and protection measures, with regard to child victims of trafficking, and with regard to access to compensation for victims of THB <sup>(194)</sup>.

According to the US DoS 2016 Trafficking in Persons Report, 'the Government of Montenegro does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so' <sup>(195)</sup>. Progress was made in the implementation of a 2012-2018 anti-trafficking strategy through the adoption of a 2015 action plan, the provision of victim services, the identification of an increased number of victims; however, law enforcement efforts were limited <sup>(196)</sup>.

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<sup>(187)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016.

<sup>(188)</sup> Aleksandar Zekovic, Jovan Kojicic, Predrag Tomovic, Myths and Stereotypes – violence and hate speech towards LGBT persons: police and judicial practice in Montenegro, 2014.

<sup>(189)</sup> ILGA, Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe – May 2015.

<sup>(190)</sup> Civil Rights Defenders, Human Rights in Montenegro, updated in June 2015.

<sup>(191)</sup> BTI, Montenegro Country Report, 2016, p. 31.

<sup>(192)</sup> Freedom House, Freedom in the World 2016 - Montenegro, 2016.

<sup>(193)</sup> US DoS, 2015 Country Reports on Human Rights Practices – Montenegro, 13 April 2016.

<sup>(194)</sup> CoE GRETA, Report concerning the implementation of the CoE Convention on Action against THB by Montenegro, 28 September 2016.

<sup>(195)</sup> US DoS, US DoS 2016 Trafficking in Persons Report, 30 June 2016.

<sup>(196)</sup> US DoS, US DoS 2016 Trafficking in Persons Report, 30 June 2016.

### 5.3.8 Refugees and IDPs

According to Freedom House, ‘approximately 16,000 refugees, most of them displaced in the 1990’s Balkan conflicts, live in Montenegro, but only about 1,000 have gained full citizenship’<sup>(197)</sup>. In 2015, according to the US DoS (which cited the Ministry of Interior) 10,365 persons received permanent status, 237 temporary status, and 1,200 persons acquired Montenegrin citizenship<sup>(198)</sup>. In its annual report on 2015, AI noted that some 1,107 RAE people displaced from Kosovo in 1999 had been granted legal status. However, 595 remained at risk of statelessness<sup>(199)</sup>. The US DoS 2015 report noted that 2,872 persons never applied for residency. These were mostly people who had fled Kosovo in 1999, designated as internally displaced persons (IDPs), and some 295 people who had fled Croatia and Bosnia in 1991-1995, designated as displaced persons (DPs)<sup>(200)</sup>. The European Commission against Racism and Intolerance (ECRI) explained that the application procedure still required the submission of a valid travel document from the country of origin, a birth certificate and citizenship documents. This created ‘unsurmountable’ problems for many ‘displaced’ persons, particularly RAE persons, who fled long ago and no longer had such documents from their home country. ECRI estimates that about 2,200 people, of whom the vast majority are RAE, do not have such documents<sup>(201)</sup>.

The Governments of Montenegro and Kosovo organised mobile teams to assist displaced RAE in IDP camps to obtain personal documents, facilitating the birth registration of RAE children, according to the US DoS 2015 report<sup>(202)</sup>.

As many as 1,800 Roma from Kosovo stay in a settlement in Berane and in two camps in Podgorica<sup>(203)</sup>. The largest refugee camp is Konik, at the outskirts of Podgorica, where about 1,500 RAE displaced from Kosovo in 1999 still live ‘in desperate conditions’, according to ECRI. ECRI has urged the government to close the camp, which was damaged by a large fire in 2012; since then the people lived in metal containers<sup>(204)</sup>. According to the US DoS 2015 report, the situation in the Konik camp has improved with EU funding and international donors continued to assist camp residents. There is a regional housing programme with Croatia, Serbia, and Bosnia-Herzegovina to aid up to 6,000 DPs and IDPs<sup>(205)</sup>.

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# Terms of Reference

## Acknowledgments

## Disclaimer

## Abbreviations and acronyms

## Introduction/Context

## Map

### 1. State structure

- 1.1 Constitution
- 1.2 Executive branch
  - President
  - Government
- 1.3 Legislative branch
  - Parliament (assembly, senate?)
- 1.4 Administration

### 2. Socio-political landscape

- 2.1 Political parties
- 2.2 Elections
- 2.3 Opposition/ Armed groups
- 2.4 Civil society (ngo's, freedom of speech, freedom of assembly and association, labour rights and conditions)
- 2.5 Media (TV, radio, newspapers, internet)

### 3. Rule of Law and State Protection

3.1. Law enforcement (include information about: Capacity to protect civilians; Corruption; Abuse of power; accountability mechanisms to deal with these issues - where relevant)

- 3.1.1 Police
- 3.1.2 Army
- 3.1.3 Intelligence/Security forces
- 3.1.4 Corruption / fight against organised crime

3.2 Judiciary (include information about: Capacity to protect civilians; Corruption; Abuse of power; Internal mechanisms to deal with these issues - where relevant)

- 3.2.1 Courts system (state courts, religious courts, military courts, etc.)  
Capacity and Judicial integrity

### 4. Security situation (general, regional)

- 4.1 Short description of the (regional) situation
- 4.2 Amount/ Level of violence (chronology of main incidents)

- 4.3 Actors in the conflict (security forces, armed opposition groups)
- 4.4 Areas of control/influence
- 4.5 Impact of the violence to the population

## **5. Human rights situation**

- 5.1 Legal context (relevant legislation: constitution, treaties, citizenship, etc.)
- 5.2 General situation (arbitrary arrests, detention, torture, disappearances, situation in detention facilities, deportation/refoulement)
- 5.3 Specific groups (e.g., ethnic/religious minorities, journalists, human rights defenders, children, women, LGBT, victims of trafficking, returnees, etc.)

## **6. Reintegration of returnees**

### **Bibliography**

### **Terms of Reference**



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