

POSITION OF MINORITIES IN THE POLITICAL LIFE OF MONTENEGRO





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Podgorica, 2024.

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Centre for Monitoring and Research (CeMI)

Bul. Svetog Petra Cetinjskog 96, VI/12

E-mail: info@cemi.org.me

www.cemi.org.me

Editor:

Zlatko Vujovic

Author:

Nenad Koprivica

Print:

SmartPrint

Circulation:

100

Year of Issue:

2024



NOTE: The opinions and views expressed in this report represent the opinion of the author and do not necessarily reflect the official views of the donors.

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ABOUT THE PROJECT

The Centre for Monitoring and Research (CeMI) is implementing a project titled 'Contribution to the inclusion of minorities in the political life of Montenegro' financially supported by the Ministry of Human and Minority Rights.

The goal of this project is to address the ongoing challenges in the political life of Montenegro, specifically in regard of the insufficient participation of minorities and other minority national communities in the system of decision-making in Montenegro. Our goal is to contribute to the improvement of their political inclusion through strengthening the capacities of relevant organizations and raising awareness about their rights among the members and general public.

For that cause, the project consisted from a set of activities focused on providing support for the organizations dealing with the protection of minorities' rights, as well as the education of the members of minority nations and other minority national communities about political participation and the decision-making processes. Through campaigns of informing and advocating, we put effort towards creating a more favorable environment for a higher degree of inclusion of minority groups in the political life of our country.

The study before you, presents one of the products of this project, and it was created as a result of our effort to provide a deeper view of the challenges and possibilities of political participation of the minorities and other minority national communities in Montenegro. By analyzing the relevant data and implementing expert methods of research, this study will give us a better understanding of the context and identification of key factors that influence their political inclusion.

INTRODUCTION

The participation of minorities in the political life of Montenegro is a complex question pertaining to various aspects of political engagement, representation in institutions and the challenges that minority groups face. Coming up with a sustainable policy of multiculturalism in a divided society, such as the one in Montenegro, demands changes in the system of values. Respect for uniqueness and diversities are key requirements for a stable and advanced society. This principle represents a part of the assets of the European Union, as a society that represents the most modern example of co-existence of diversity. The crucial foreign policy priority for Montenegro is accession to the EU and the motto of the European Union is 'United in diversity.' The implementation of this principle, enables a higher degree of protection of the minorities' rights and the preservation of their identity. In order to achieve stability and social growth, it is important that the citizens have a possibility of realization of guaranteed rights. This is possible only if the political elites take responsibility, adjust the constitutional system to the interest of the citizens, and not the political parties, and if the educational, cultural and media policy focus on promoting the cultural space in which different identities do not only achieve equality, but have the possibility to enrich each other.

However, the policy of multiculturalism is facing numerous challenges worldwide, including Montenegro. Key challenges pertain to the ethnic tension and conflicts which can arise from years of political, socio-economic and cultural divisions; question of identity; integration and inclusion: access to education, employment, healthcare services and other resources, as well as promoting cultural diversity and intercultural dialog; extremism and radicalization: these phenomena can be caused by the feeling of marginalization, injustice or unacceptance; politicization of ethnic and cultural identities – policies based on ethnic or national division can make the building of interethnic trust and cooperation difficult; influence of global flows such as migrations, globalization and xenophobia can also influence the policy of multiculturalism in the local context. In the political culture, the tendencies of closing within the ethnic, language and religious communities is noticeable, which leads to defining the borders and goals of political influence based on the ethnic characteristics and dealing. These challenges demand a thorough analysis, maturity of the political community and appropriate political and social strategies in order to ensure the co-existence of different ethnic groups and build an inclusive multicultural community.

The process of accession to the EU includes gradual establishment of institutional and legal framework in accordance with the EU norms and values. This demanding process includes essential social reforms in candidate states, along with the development of democracy through the rule of law. This includes building a political system based on separation of powers as basic social and political stability, with independent judiciary, efficient fight against corruption, full application of the Law, protection of human rights and resolute fight against discrimination.

In the 'European Union Global Strategy' from 2016,¹ the heads of EU states adopted the principles and priorities of international action of the Union, specifically taking into account the Great Britain exiting the EU and the migration flows towards Europe. The Strategy emphasizes that the EU will promote the international order based on multilateralism and the UN order. Additionally, the emphasis is on the EU order for strengthening of stability and situation in neighboring south-eastern borders, pointing out the policy of expansion as a way of strengthening the democracy and European values in the candidate states. The EU Strategy for the Western Balkans² confirms the 'European future' of the region as a geostrategic goal for a stable and united Europe, based on common values. The Strategy specifies the priorities and areas of common enhanced cooperation, focused on specific challenges the Western Balkans face, specifically emphasizing the need for thorough reforms and good neighbor relations. The goal is the progress on the integration path towards the European Union, and the process is merit-based, i.e. specific results which every country achieves (regatta principle). In that regard, the European Commission initiated six leading initiatives which should support the process of transformation in the Western Balkans. Those initiatives focus on the areas of common interest, such as the rule of law, safety and migrations, socio-economic development, transport and energy networks, digital agenda, peacemaking and good neighbor relations. Emphasizing dedication to the principle of rule of law in the process of adopting European standards and values indicates a need for the countries of Western Balkans reform their systems in order to ensure safety, respecting fundamental rights, fight against corruption and terrorism, and recognition and realization of fundamental rights and eliminating discrimination, especially towards vulnerable groups such as members of the national minorities, the Roma in particular.

Montenegro is a combination of diverse communities, whose members often do not know a lot about the others, and mutual prejudice can cause ethnic distancing. Ethnical distancing pertains to the rate of distance or difference between different ethnic groups in the society. Research on ethnic distance is imperative, in order to see what are their relations with each other, specifically in the light of the current political divisions. The CEDEM studies about ethnic distance in Montenegro research the citizens' view and perception of the members of different ethnic groups in the society, as well as the factors

¹ Shared vision, Common Action, A stronger Europe – A Global Strategy for the European Union's Foreign and Security Policy, Brussels, June 2016, <http://europa.eu/globalstrategy/en>

² <http://europa.rs/strategija-za-zapadni-balkan-eu-zapocinje-nove-vodece>

influencing those views. The key data involve the information about the level of ethnic distance between various groups, factors that influence that (such as political views, socio-economic status, education etc.), and the possible implications for the society and politics. Furthermore, the study researches the citizens' perceptions of the multiethnic relations in the society, the sense of belonging and identity, and their positions on political matters related to the ethnic divisions. The crucial findings of these and other studies provide important insight into the dynamics of ethnic relations in Montenegro and can serve as basis for developing policies focused on minimizing ethnic divisions and promoting interethnic understanding. The 'Ethnic distance in Montenegro' survey³ from December 2023, which aims at identifying the degree of ethnical distance, shows that every fifth member of any community expresses ethnical distance. 'Almost 23 percent of the citizens express distance, which is still a quarter and a high rate' The survey results point to the data that discrimination mostly pertains to the work and employment, education, as well as the public services. Those are the key areas identified by researching and they should be addressed in the upcoming period. The participation in the government is the crucial factor for nearly all the ethnic communities in regard to the perception of discrimination and violation of the minorities' rights. The survey⁴ showed that the ethnical distance is reduced among Serbs, while it increased among Bosniaks. 'The key reason for the reduction is that the number of Serbs who express ethnic distance, which was high before, went down drastically following the change of government and significant participation of the members of that nation in the government,' the head methodologist of CEDEM, professor Milos Besic explained, adding that the same reason lead to the Bosniaks getting distanced more. He stated that the youth are showing a lower level of ethnic distance compared to the older citizens.

The country's interest lies in achieving social stability, and in multiethnic societies that can be achieved by a better social integration of minorities through multilingualism, sense of social security and intercultural change. Montenegro, as a multiethnic country, must be inclusive. The requirement for prosperity of society is that the members of minority nations be in every government. Ethnicity plays an important role in the identity of individuals and groups, therefore it is a key factor in social stratification. Furthermore, the inclusion of different national, racial, ethnic, religious and language groups, as well as their members, is a crucial element of pluralism in society and the country. Safeguarding the fundamental rights, including the fight against discrimination and protection of national minorities, are the key elements of minority policy and diversity management. Effective participation of national minorities in the public life presents an important aspect of maintaining stability and legitimacy of a democratic society, contributes to the fulfillment of democratic principles and strengthening the state capacities to address the needs of its citizens. Denial of this right can make inter-ethnic relations tense and potentially threaten the stability of the state. By allowing the national minorities to actively participate in public

3 Milos Besic, Ethnic distance in Montenegro, CEDEM, 2023, <https://www.cedem.me/istrazivanje/ni-vo-et-nicke-distance-smanjeno-u-posljednjih-pet-godina/>

4 Milos Besic, Nationalism and ethnic distance in Montenegro, CEDEM, <https://www.cedem.me/wp-content/uploads/2023/12/Izvestaj-Etnicka-distanca-i-nacionalizam-PRAVI-DOKUMENT-1.pdf>

life strengthens the sense of belonging to the general public and the country, opens institutional channels for expressing interests and needs while also strengthening the sense of responsibility for political processes. In that manner, the possibility for national minorities to express their requests in a non-institutional or violent way is reduced. Therefore, establishing a clear connection between the stability and legitimacy of the state, which is related to the participation of national minorities in the public life, is of key significance for building a sustainable and inclusive society.



INTERNATIONAL STANDARDS IN THE FIELD OF MINORITY PROTECTION

The key international acts which guarantee the right to participation of the minorities in the public life are adopted in the frameworks of the United Nations, the European Council and OSCE.

1. The Universal Declaration of Human Rights: This declaration contains key principles which pertain to the equality, non-discrimination, the right to a national and ethnic identity and also the restriction of discrimination based on ethnicity.

2. International Covenant on Civil and Political Rights: This covenant guarantees the right to equality before the Law and forbids discrimination based on race, ethnicity or other characteristics.

3. International Covenant on Economic, Social and Cultural Rights: This covenant contains principles pertaining to the right to culture, education and participation in cultural life of the community.

4. The UN International Convention on the Elimination of All Forms of Racial Discrimination: This convention prohibits all forms of racial discrimination and incites fairness and equality among all races and ethnic groups.

5. Framework Convention for the Protection of National Minorities: This convention contains provisions pertaining to the rights of national minorities, including the right to identity, language, education and culture.

6. European Charter for Regional or Minority Languages: This charter guarantees the right to minority languages in areas such as education, judiciary, media and public administration.

7. European Convention on Human Rights (ECHR):

- Article 14: This Article prohibits discrimination on any basis, including race, skin color, language, religion, political or other opinion, national or social origin, belonging to a national minority and other characteristics.

- Protocol No. 12: This protocol guarantees the right to equality before Law without discrimination, which includes the prohibition of discrimination based on belonging to a national minority.

- Court practice of the European Court for Human Rights: The court often applies the Article 14 of ECHR in order to protect the rights of minority groups from discrimination and ensure their equality before Law.

8. Organization for Safety and Co-operation in Europe (OSCE):

- Helsinki Final Act: This document adopted in 1975 lays the foundation for the protection of minorities' rights and improvement of human rights in the area of OSCE.

- The Copenhagen Document: Adopted in 1990, this document emphasizes the importance of protecting the rights of national minorities and obliges the member states to respect these rights.

- High Commissioner on National Minorities: This institution within OSCE is dedicated to improving stability and addressing problems related to the national minorities in the OSCE area.

- Other guidelines and recommendations: OSCE regularly issues guidelines and recommendations on protection of the rights of minorities and improvement of their equality and integration into society.

The starting document of the UN is the **Universal Declaration of Human Rights** which in Article 21 guarantees the right to 'participate in managing their own country, directly or through freely selected representatives' for everyone and explicitly establishes the right for everyone to 'equal access to public services in their own country'. The availability of this right for the members of national minorities was strengthened by the prohibition of discrimination from the Article 2, which guarantees that everyone is entitled to all the rights and freedoms established in the Declaration, without any differences in regard of, inter alia, race, color, language, religion and national origin.

The International Covenant on Civil and Political Rights contains the most important provision of universal international law prescribed in Article 27, which reads: 'In countries where there are ethnic, religious or linguistic minorities, persons belonging to those minorities cannot be deprived of the right to, in community with other members of their group, have their own cultural life, profess or express their religion and use their own language.' In a similar way it regulates the right to effective participation in the public life, stipulating that every citizen has a right and possibility to participate in managing public affairs whether directly or via freely selected representatives (Article 25) and to be accepted, under general equal conditions, into the public services of their country. It is emphasized that the exercise of this right cannot be prevented by discriminatory treatment (which is prohibited by Article 2 of this Covenant) or by the application of unreasonable restrictions.

The general comment of the Committee on Human Rights points out that the differences between citizens, in regard of exercising this right, based on protected

personal characteristics (inter alia, race, color, language, religion and national origin) are unacceptable.

The UN Convention on Elimination of All Forms of Racial Discrimination in Article 5 stipulates the obligation for the countries to prohibit or eliminate racial discrimination in all of its forms and to guarantee to everyone the right to equality before Law regardless of race, color or national or ethnic origin in regard of exercising political rights (among which the ones emphasized are the right to participate in the elections, the right to vote and the right to run for office), rights to participate in the government and manage public affairs, on all levels, and the right of access, under equal conditions, the public functions. The international convention recognizes affirmative measures, because the Article 2 stipulates 'that the member states will, if circumstances require that, undertake special and specific measures in social, economic, cultural and other areas, to ensure development and protection of certain racial groups and their members in order to guarantee, under equal conditions, full realization of human rights and basic freedoms.'

The UN General Assembly Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, even though a non-treaty instrument that does not have characteristics of an internationally obliging act, completes the UN framework in this area. According to the Article 2 of the Declaration, the minorities have the right to effectively participate in the public life (including cultural, religious, social and economic life). The same Article stipulate that the national minorities have the right to, on national and regional levels, effectively participate in decision-making related to the minorities that they belong to or the areas they live in, in a way that does not conflict with the national legislation. Article 5 is indirectly also relevant which stipulates that the national politics and international programs of co-operation and aid be planned and conducted with due respect to the legit interests of the members of minority nations.

The Framework Convention for the Protection of National Minorities from 1995, as the biggest catalogue of minority rights and a key act of the European Council which regulates the position of national minorities, in a general manner regulates the issue of political participation of the minorities. It stands as a first international agreement after World War II, which exclusively pertains to the protection of the rights of the members of minority nations because it does not deal with joint rights of minorities, but the rights of individuals who belong to collectivities. Even though the Article 15 of the Framework Convention is perceived as one of the fundamental norms of this act, it does not provide many elements based on which the 'European standard' for political participation of the national minorities could eventually be established. Since those individual rights are achieved through the implementation of principles and goals at the national level, established by the Convention, through relevant legislation and appropriate measures and public policies, states are to a certain extent in a position to create legislation and policies that correspond to their specific circumstances. That is the exact reason why this document is called 'Framework Convention.' Therefore, the chosen approach gives

states a certain amount of freedom in implementing goals they got obliged to and with that an opportunity to, in achieving those goals, complying with the principles established by the Convention, take into consideration their own specificities of the legal and political order. A provision in Article 1 of the Framework Convention stipulates that the protection of the national minorities and rights and freedoms of the members of those minorities are an integral part of international protection of human rights and as such it belongs in the area of international co-operation.

The European Charter on Regional or Minority Languages from 1992 is aimed at preserving these languages and had as its basic idea the desire of the Council of Europe to adopt an international agreement within its framework with the primary goal of protecting regional and minority languages. Due to the action of numerous factors, especially historical ones, many European countries have certain, regionally settled, autochthonous population groups on their territory that speak a different language from the language of the majority of the population. The charter is based on eight basic principles, and from the moment of ratification, the state assumes numerous obligations in the fields of education, justice, public administration, etc. The provisions of the Charter concerning the use of minority languages in the administration or before the courts imply the presence of speakers of minority languages in the administration and the judiciary. Conducting court proceedings in the language of the minority, enabling the party to address the court in that language, as well as the recognition and issuance of documents in that language (Article 9 of the Charter) is better achieved in a multi-national environment, which enables direct contact between the court and the party. That is why the Charter encourages a multicultural approach and expects states to accept a minimum percentage of provisions that it is sure contribute to the preservation of linguistic diversity. The Charter did not establish a list of regional or minority languages that are protected by it, but applies a flexible approach that allows states to decide for themselves which languages they will determine the method and measures of protection. By ratifying the European Charter on Regional or Minority Languages, Montenegro accepted Albanian and Romani as minority languages.

The most important document for the protection of human rights on European soil - **the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)**, provides indirect protection of minority rights, by pointing out the violation of the right to respect for private and family life (Article 8), the right to freedom of expression (Article 10), and the right to freedom of assembly and association (Article 11), because it does not contain special provisions on the protection of minorities. However, Article 14 prohibits discrimination on the basis of connection with a national minority in the enjoyment of the rights and freedoms provided for in the Convention.⁵

⁵ Article 14 of the Convention reads: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

Although it refers only to the principle of prohibition of discrimination, the practice of the European Court of Human Rights has shown that certain violations of the provisions of Art. 14 largely connected with a certain national and ethnic affiliation, regardless of the fact that there is no special provision protecting the rights of minorities in the European Convention on Human Rights. For the first time, the European Court of Human Rights applied Article 1 of Protocol 12 to the Convention in the case of *Sejdic and Finci v. Bosnia and Herzegovina* (2009), establishing discrimination based on nationality in exercising the right to run for public office because they are members of the Jewish, Roma and other minorities are prevented from running for election as members of the Presidency and the House of Peoples of Bosnia and Herzegovina. The court observed this situation in the context of changed conditions because Bosnia and Herzegovina has stabilized since the end of the war and, by joining international agreements and organizations, has committed itself to changing the disputed constitutional provisions. As a result, the state authorities were ordered to change the tripartite government structures available only to the constituent nations in favor of the members of the "others". However, in the context of the given conditions in this country and the lack of political will, this judgment has not yet been carried out.

The Treaty of Lisbon introduced the term "members of minorities" into the EU's primary legislation, which is the first explicit use of that term in the history of EU law. Article 2 of the EU Treaty states that "The Union is based on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of members of minorities." These values are common to member states in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality of women and men prevail". Since these values are shared by all member states, the EU and each member state individually should encourage and actively promote them in all their internal and external policies in a consistent manner, bearing in mind that these rights should be treated the same as other rights listed in the Treaties. This is despite the fact that the EU Treaties, in accordance with the approach of international law in this respect, do not define the term "minority". Respect for the protection of minorities has been established, among other things, as one of the political criteria for the admission of new states to the EU.

The documents of the **OSCE**, the Organization for Security and Co-operation in Europe, also complement international standards in the protection of human rights. They were based on documents within the Security Conference (later Organization), which was started with the adoption of the Final Act of the Helsinki Conference on August 1st, 1975. This document, although it did not have the force of an international treaty, was the basis for the adoption of a series of documents in the field of human rights. **The Copenhagen Document on the Human Dimension (1990), the Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999) and the Ljubljana Guidelines for the Integration of Diverse Societies (2012)** are particularly noteworthy.

The key provision of the Copenhagen Document is contained in point 35, which is dedicated to the issues of national minorities, which guarantee protection from assimilation and the enjoyment of all human rights without discrimination. It is established that states will respect the right of members of national minorities to participate effectively in public affairs, including participation in affairs related to the protection and promotion of minority identity. There is a long list of special rights of national minorities, which includes the right to use language, establish religious and educational institutions, freedom of association and expression, and freedom of movement. In addition, the Document recognizes the role of establishing local or autonomous administrations that correspond to the specific historical or territorial circumstances of minorities as one of the ways to improve the ethnic, cultural, linguistic and religious identity of national minorities.

The Lund recommendations were created in 1999 and are fully dedicated to the effective participation of national minorities in public life, but they deal very little with the representation of national minorities in administration and the judiciary. The document was formulated in the form of recommendations to the states, and the right of national minorities to participate in public life appears in two important ways: participation in decision-making and local self-government. States are recommended to ensure special representation of minorities in legislative bodies, civil services, government and other institutions. The recommendations from Lund envisage the creation of an electoral system in a way that will enable the establishment of political parties, as well as a model that will make it easier for minorities to be represented in political life.

The Ljubljana guidelines point out in point 9 that “integration policy should be based on equal inclusion” and should be aimed at creating a society in which “everyone enjoys full membership in their society, everyone has equal access to public goods and services and everyone equal opportunities are provided”. According to the Ljubljana guidelines, “effective participation on an equal basis by all members of society in social, economic and cultural life and public affairs should become a basic social tendency” (point 9).

The activity of the OSCE in this field was particularly marked by the activity of two bodies: The Office for Democratic Institutions and Human Rights (ODIHR) and the High Commissioner for National Minorities. The function of the High Commissioner for National Minorities was established at the Helsinki Summit in 1992 with the task of preventing ethnic conflicts through preventive action.



NATIONAL CONTEXT

The multi-ethnic character of Montenegro implies the importance of including all communities in political life. Montenegro, as a multi-ethnic country, exists in conditions of numerous challenges when it comes to the rights of minorities. After the restoration of independence, the Constitution of Montenegro from 2007 played a crucial role in the guarantees of minority rights by following the structure of these rights given in key international and regional documents and the basis for the further development of the protection of minority rights. The contribution of society is extremely important in improving the respect of minority rights because the implementation of minority rights is not only a legal issue. The normative framework for the protection of minority rights represents an additional guarantee of more effective protection and respect for minority rights. Therefore, it is necessary to identify and analyze key laws and regulations related to the rights and position of minority groups in the political system of Montenegro.

3.1. Constitutional provisions relating to minorities

First, we will analyze the Constitution of Montenegro, because it provides the basic framework for human rights and political freedoms, especially in the part of the provisions related to the rights of minority groups and their political participation. Montenegro is constitutionally defined as a civil, democratic, ecological and social justice state based on the rule of law. The bearer of sovereignty is a citizen with Montenegrin citizenship. The Constitution of Montenegro provides a legal basis for promoting, strengthening and improving the protection of basic human rights and freedoms and confirms Montenegro's obligation to respect international standards in that context. The preamble of the Constitution of Montenegro determines the state based on the values of freedom, peace, tolerance, respect for human rights and freedom, multiculturalism, democracy and the rule of law, as well as commitment to equal cooperation with other nations and states and European and Euro-Atlantic integration. The Preamble of the Constitution determines the determination of free and equal citizens, as members of "nations and national minorities" living in Montenegro: Montenegrins, Serbs, Bosniaks, Albanians, Muslims, Croats and others, to express their commitment to a democratic and civil Montenegro. From the point of view of the key principles of the Constitution, on which the exercise of all human rights, including minority rights, is based, the provisions by which Montenegro guarantees and protects rights and freedoms are relevant, and rights and freedoms are inviolable. Almost half of the articles of the

Constitution⁶ (68 out of 158) refer to human rights and freedoms, which normatively confirms their importance. Article 6 provides a general guarantee of the protection of human rights and freedoms, as inviolable categories. Article 7 prescribes the prohibition of inciting hatred or intolerance on any basis, and Article 8 prescribes the prohibition of discrimination, as a general prerequisite for the enjoyment of all human rights and freedoms. More specifically, Article 8 guarantees the prohibition of any indirect or direct discrimination on any basis. The Constitution also proclaims the principle of affirmative action because it stipulates that regulations and the introduction of special measures aimed at creation of conditions for achieving national, gender and overall equality and protection of persons who are in an unequal position on any basis. Furthermore, the Constitution proclaims the principle of the equality of the Cyrillic and Latin alphabets, which are equal, and the official language in Montenegro is Montenegrin. Apart from this, Serbian, Bosnian, Albanian and Croatian languages are also in official use.

According to Article 9 of the Constitution of Montenegro, confirmed and published international treaties and generally accepted rules of international law are an integral part of the internal legal order, have primacy over domestic legislation and are directly applied when relations are regulated differently from internal legislation. Among the legal instruments of the UN, these are: The Covenant on Civil and Political Rights, the Covenant on Social, Economic and Cultural Rights, as well as the International Convention on the Elimination of All Forms of Racial Discrimination. Also, Montenegro is bound by the Universal Declaration of Human Rights, but not as a contractual obligation, but as an international customary law obligation. The legal instruments of the Council of Europe: The European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter, the Framework Convention for the Protection of National Minorities and the European Charter on Regional and Minority Languages.

In Article 16, the Constitution prescribes the content of legal relations that are regulated by law (in accordance with the Constitution), among which in particular the way of realizing human rights and freedoms, when it is necessary for their realization and the way of realizing special minority rights. According to the structure of the catalog of human rights, which are significant for the development of the rights of minorities, are the provisions on free and equal elections for all and the prohibition of the activities of political and other organizations aimed at, among other things, violating guaranteed freedoms and rights or causing national, racial, religious and other hatred and intolerance. When it comes to the protection of cultural rights, the Constitution prescribes that everyone is obliged to preserve natural and cultural heritage of general interest, and that the state protects natural and

3.1.1. Special - minority rights

Special measures can only be applied until the goals for which they were undertaken are achieved, which leaves room for the establishment of additional mechanisms for

⁶ "Official Gazette of Montenegro," No. 1/2007 and 38/2013

the protection and promotion of minority rights, that is, the integration of minorities while preserving their uniqueness. The second part of the Constitution contains 65 articles guaranteeing human rights and freedoms, civil, political, economic, social and cultural, as well as the rights of minorities. The Constitution and laws of Montenegro give minorities a set of additional rights. In the second part, in Articles 79 and 80, the Constitution guarantees rights and freedoms to members of minority nations and other minority national communities, which they can use individually and in community with others, and prohibits the assimilation of members of minority nations and other minority national communities.

Identity Protection

Article 79

The Constitution guarantees the following special rights to members of minority nations and other minority national communities:

1. the right to express, preserve, develop and publicly manifest national, ethnic, cultural and religious distinctiveness;
2. the right to choose, use and publicly display national symbols and celebrate national holidays;
3. the right to use one's language and script in private, public and official use;
4. the right to education in one's own language and script in state institutions and that the curriculum includes the history and culture of members of minority nations and other minority national communities;
5. the right for local self-government bodies, state and judicial bodies to conduct proceedings in the language of minorities and other minority national communities in areas with significant participation in the population;
6. the right to establish educational, cultural and religious associations with material assistance from the state;
7. the right to write and use their own name and surname in their own language and script in official documents;
8. the right to have traditional local names, names of streets and settlements, as well as topographical signs written in the language of minority people and other minority national communities in areas with a significant participation in the population;
9. the right to authentic representation in the Parliament of Montenegro and assemblies of local self-government units in which they make up a significant part of the population, in accordance with the principle of affirmative action;
10. the right to proportional representation in public services, state and local self-government bodies;
11. the right to information in one's own language;
12. the right to establish and maintain contacts with citizens and associations outside Montenegro with whom they have a common national and ethnic origin, cultural and historical heritage, as well as religious beliefs;
13. the right to establish councils for the protection and promotion of special rights.

Prohibition of assimilation

Article 80

Forced assimilation of members of minority nations and other minority national communities is prohibited.

The state is obliged to protect members of minority nations and other minority national communities from all forms of forced assimilation.

3.2. The Law on Minority Rights and Freedoms

The systemic Law on Minority Rights and Freedoms⁷ further elaborates the constitutional principles and in Article 2 establishes the criteria for defining minorities and other minority national communities, as well as enabling the effective participation of minorities in public life. They are defined as “any group of citizens of Montenegro, numerically smaller than the rest of the prevailing population, which has common ethnic, religious or linguistic characteristics, different from the rest of the population, is historically linked to Montenegro and motivated by the desire to express and preserve the national, ethnic, cultural, linguistic and religious identity”. The equality of minorities in relation to other citizens is proclaimed in Article 4 of the Law and is ensured through protection against discrimination in all spheres of social life of minorities. Paragraph 2 of this article establishes the illegality and punishability of any violation of the rights of minorities, thereby additionally ensuring equality.

Based on Article 7 of the same Law, the Government of Montenegro adopts the Minority Policy Strategy, in order to ensure the conditions for the unhindered enjoyment and nurturing of the national or ethnic peculiarities of minorities and their members. This instrument defines measures for the implementation of the Law itself, as well as for improving the living conditions of minorities. The strategy represents a set of special measures in a five-year period, as well as the definition of carriers, deadlines and financial costs in order to improve the position of minorities and their better integration in society. International legal standards are implemented through this strategy, in a way that protects identity and enables minority equality. The first such strategy was adopted in 2008, for a period of ten years, and was a planning act of the Government. The first one was followed by a new Minority Policy Strategy for a period of five years: 2019-2023, which defines measures to improve the living conditions of minorities, namely: affirming the principles of civic education and upbringing; creation of program radio and TV content about minorities; the use of languages and scripts of minorities when marking the names of bodies, local self-government units, settlements, squares and streets, institutions and the like; periodic research on the representation of minorities

⁷ “Official Gazette of Montenegro”, No. 31/06 and 38/07 and “Official Gazette of Montenegro”, No. 2/11 and 31/17

in state administration bodies, local self-government and public services; organizing educations; production and broadcasting of legally established program contents; compliance with the defined legal measures of affirmative action during employment. One of the main challenges is strengthening the rule of law, with a special emphasis on improving compliance and implementation of laws and other acts, undertaking specific measures for the protection of minorities and the fight against discrimination. Education, as a factor in the education of society and the promotion of European values, has a great contribution to the realization of these measures. The catalog of minority rights and freedoms enacted by the Law is established on the basis of constitutional principles that enable minorities and other minority national communities and their members the right to express, preserve, develop, transmit and publicly manifest their national, ethnic, cultural, religious and linguistic identity, as part of their traditions. The role of the state in this context is to develop and improve the study of the history, tradition, language and culture of minorities and other minority national communities, and as a consequence of the law and accepted international obligations, the competent authorities have the obligation to ensure the protection of the cultural heritage of minorities and other minority national communities and their members.

On the basis of Article 8a of this law, the Government established a public institution, the Centre for the Preservation and Development of Minority Culture, for the purpose of promoting and protecting minority rights, encouraging the preservation, development and expression of the culture of minorities and other minority national communities in Montenegro, and encouraging the spirit of tolerance and intercultural dialogue and mutual respect and understanding. The work of this institution is supervised by the state administration body responsible for human and minority rights. In accordance with this law, minorities can establish institutions, societies, associations and non-governmental organizations in all areas of social life in order to preserve and develop their national or ethnic identity. The state contributes to the financing of these organizations in accordance with its possibilities.

The set of identity issues includes the right to enter one's own name and surname in one's own language and script in official documents, that is, the use of one's own language and script as a right of special importance for minorities. Using the mother tongue enables members of minority nations to actively participate in social life. Thus, in Article 11 paragraph 2 of this law, it is prescribed that in local self-government units where members of minority nations make up the majority or at least 5% of the population, according to the results of the last two consecutive censuses, the language of that minority is also in official use. This includes the use of language in administrative and judicial proceedings, when issuing public documents, on ballots and the like, writing the names of local self-government units, settlements, squares, streets, institutions and others in the language and script of minorities. In the field of information, in accordance with Article 12 of this Law, minorities are provided with freedom of information at the level of standards contained in international documents

on human rights and freedoms. In addition, Article 13 of this law gives minorities the right to schooling in their own language and to the representation of that language in general and vocational education, at all levels of upbringing and education, depending on the number of students and the financial capabilities of Montenegro. When classes are conducted in the language of minorities and other minority national communities, the official language and alphabet must be learned, while pupils and students who do not belong to minorities and other minority national communities can learn the language of minorities and other minority national communities with whom they live together. The law specifies that classes with classes in the language and script of minorities and other minorities of national communities can be established for a smaller number of students than the number established for the operation of that institution, but that number cannot be less than 50% of the number of students otherwise provided for by law. Programs for the needs of minority education according to this law contain topics from the fields of history, art, literature, tradition and culture of minorities and other minority national communities. Before the adoption of programs that express the uniqueness of minorities and other minority national communities, the Council of Minorities and Other Minority National Communities, in the capacity of a body whose function is to further strengthen and improve the rights of minorities in Montenegro, gives an opinion to the competent authority for adoption subject programs. In territories where the language of minorities and other minority national communities is also in official use, the educational program in institutions in the official language may also include the possibility of learning the language of minorities and other minority national communities. Bearing in mind the importance of higher education, the Law particularly emphasizes the possibility of providing departments, faculties or institutes for the education of educators, teachers and teachers in the language of minority nations and other minority national communities. In that sense, it works effective participation of minorities and other minority national communities, the possibility of promoting international educational, scientific and technical cooperation is given, with the aim of enabling members of minority nations and other minority national communities to study abroad in their native language and that the diplomas thus obtained are recognized, in accordance with the law regulating the recognition of these documents. In order to fully enjoy the rights of minorities and other minority national communities, institutions of higher education in Montenegro, on the proposal of the Council of Minorities and other Minority National Communities, may enroll a certain number of students, members of minority nations and other minority national communities, every school year, in accordance with its internal regulations. Members of minority nations have the right to establish educational institutions, in which case their financing is the responsibility of the founder. Educational work in a school institution or a special department of a regular school with classes in the language of minorities and other minority national communities is carried out by teachers from among those minority people and other minority national communities who have active knowledge of the language and script of those minorities and other minority national communities. The director of a school

institution founded by Montenegro or a municipality with teaching in the language and script of minorities and other minority national communities who meets the conditions prescribed by law is elected in accordance with the law. The competent body of the state administration is obliged to obtain the opinion of the Council of those minorities and other minority national communities before the election of the director.

Article 20 of this Law prescribes the right to use national symbols. This issue is regulated by a special law. Article 21 of this law provides minorities with the right to mark significant dates, events and personalities from their tradition and history, as part of the rights guaranteed by the Constitution of Montenegro. Article 22, as well as Art. 31 and 32 of this law prescribe the possibility of association of minorities, in accordance with the law and internationally recognized principles, as well as the establishment of contacts and cooperation with citizens and associations outside of Montenegro with whom they share a common national and ethnic origin, cultural-historical heritage or religious beliefs. The law additionally ensures the possibility of expressing the interests of minorities, as well as effective participation in the exercise and public control of government. Cooperation with governmental and non-governmental organizations in the country and abroad enables the improvement of the status of minorities in the country, which is made possible by the provision of Article 22 paragraph 3 of this law. Establishing and maintaining cross-border relations with home countries is allowed only if it is not contrary to state interests. Material and financial assistance certainly represent an important segment of the functioning of minority organizations, which is why it is important to make it available to minorities and communities. Assistance can come from domestic or foreign organizations, foundations and private individuals, and such assistance can be supported by the state through appropriate tax and other benefits, as well as through exemption from customs duties, in accordance with the law. This Law also regulates the issue of assistance to minorities and communities. The principle of affirmative action, the application of which is guaranteed with the right to authentic representation of minorities in the Parliament of Montenegro and local self-government assemblies, is prescribed by the Constitution of Montenegro, as well as by Article 22a of the Law on Minority Rights and Freedoms.

Proportionate representation of minorities in public services, state and local government bodies, as well as the right to participate in the process of making and proposing decisions of state bodies that are of interest for the realization of minority rights is ensured in accordance with the Law. Proportionate representation of minorities in public services, state and local government bodies, to which minorities are entitled in accordance with Article 25 of this Law, is ensured by state administration bodies responsible for personnel issues in cooperation with minority councils. Consultations, public opinion polls and dialogue are just some of the mechanisms for the participation of minorities in the process of making and proposing decisions of state bodies that are of interest for the realization of minority rights in accordance with this law. The use of minority languages in the publication of statutes, decisions or other general

acts adopted by administrative bodies is prescribed in Article 27 of this law. In local self-government units where the majority or at least 5% of the population is made up of minorities and other minority national communities, the local self-government is obliged, within the plan and program for the effective participation of the local population in the performance of public affairs or by adopting a special plan and program, through the council of the respective minorities and other minority national communities, provide conditions for the participation of minorities and other minority national communities in the adoption of municipal development programs, spatial and urban plans, budgets and general acts that determine the rights and obligations of citizens and regulate the way and procedure for the participation of minorities and other minority national communities in the performance of public affairs and to determine the body that conducts the public debate under those and other acts. This provision aims to emphasize the importance of the participation of minorities in exercising the right to local self-government, as an element of government that has the closest contact with citizens and thus with their essential and subtle life needs, which are most often met precisely at this level of government organization. When it comes to the central level, if the deputies elected in accordance with the principle of affirmative action, and in accordance with the electoral legislation, consider that the proposed act or regulation significantly encroaches on the interests of those minorities and other minority national communities, they will coordinate their views on this with the proposer.

Several institutions deal with the protection of rights and the improvement of the position of minorities in Montenegro, such as the Ministry of Human and Minority Rights, the Parliamentary Committee on Human Rights and Freedoms, the Protector of Human Rights and Freedoms (Ombudsman), councils of minorities and other minority national communities, The Fund for the Protection and Realization of Minority Rights, the Centre for the Preservation and Development of Minority Culture (CEKUM), regulated by Article 8a of the Law on Minority Rights and Freedoms, and others.

3.2.1. Councils of minorities and other minority national communities

It was previously stated that the Constitution in Article 79 guarantees rights and freedoms to members of minority nations and other minority national communities that they can use individually and in community with others, including the establishment of the Council for the Protection and Promotion of Special Rights. The right to establish minority councils is also prescribed by Article 33 of the Law. A minority nation or other minority national community and their members may, in order to preserve their national identity and improve their rights and freedoms, establish a council of that minority nation or other minority national community. National councils of minorities in Montenegro, according to the way they are elected, can be considered a representative body, while according to the mandate and capacities determined by law, they have an exclusively advisory role. Six councils were established in Montenegro: The Albanian National Council, the Bosniak Council, the Croatian Council, the Muslim People's Council, the Roma Council and the Serbian National Council.

The council is elected for a period of four years and can have at least 17 members. A minority nation or other minority national community may establish only one council. The Council is elected for a period of four years. The council of a minority nation or other minority national community has at least 17 members. The council of a minority people or other minority national community consists of members by function: MPs and members of the Government from among the relevant minority people or other minority national community, presidents of municipalities, presidents of city municipalities, presidents of municipal assemblies, presidents of assemblies of city municipalities, presidents of parties represented in the Parliament of Montenegro. Above, to the municipal assembly, the assembly of the city municipality, from among the relevant minority people or other minority national community. The persons referred to in paragraph 5 of this article confirm their membership in the council of a minority nation or other minority national community with a declaration of acceptance of membership. Other members of the council of a minority nation or other minority national community are elected by secret ballot, at the electoral assembly of that minority nation or other minority national community. The right to participate in the electoral assembly has every adult citizen-member of the relevant minority nation or other minority national community. Persons who are members of the council, by function, cannot participate in the electoral assembly. The competent ministry issues rules and instructions for the election of members of the council of a minority nation or other minority national community. The rules from paragraph 10 of this article contain: the number of members of the council of a minority nation or other minority national community, convening and working method of the electoral assembly, as well as the method of electing members of the council of a minority nation or other minority national community at the electoral assembly. Council members elect the president and secretary of the council by secret ballot, from among their members.

In accordance with the provisions of Article 33, paragraph 13 of this law, the council adopts the budget, statute, annual work plan, as well as the rules of procedure for its work, which regulate matters of importance for the work of that council. Funds for financing minority councils are provided from the state budget, in the amount of at least 0.05% of the current budget. Supervision over the legality of the council's work is carried out by the Ministry and the competent working body of the Assembly. The obligation to submit a report on work and financial operations and an independent auditor's report is prescribed by Article 33a of this law, and the council is obliged to submit that report to the Ministry and the competent working body of the Assembly, no later than March 31st of the current year, for the previous year. The opinion of the Ministry is submitted to the competent working body of the Assembly together with the report of the council. The report on the work of the council contains data on the council as well as the activities it carried out in order to preserve and improve the freedoms and rights of minorities, while the report on the financial operations of the council is prepared in accordance with the regulations governing budget and fiscal responsibility.

issues. Article 34 stipulates that the records of the councils referred to in Article 33 of this law are kept by the Ministry. By entering the register, the council acquires the status of a legal entity. The form and method of keeping council records is prescribed by the Ministry. The decision on the registration of the advice in the records is published in the "Official Gazette of Montenegro".

Article 35 prescribes the duties performed by the council; The provisions of Article 35a of the law refer to the mandate of a member of the Council of Minorities. The same article prescribes the conditions under which the mandate of a member of the council may end before the end of the term for which he was elected and under which conditions he may be dismissed. The reasons for the termination of the mandate before the expiration of the time for which the council was elected are: termination of the function on the basis of which he became a member of the council, dismissal and at personal request. Reasons for dismissal are also listed in detail, namely: negligent performance of duties, permanently lost ability to perform duties and conviction to unconditional prison sentence or for a criminal offense that makes him unfit to perform the duties of a member of the Council of Minorities.

Article 36 foresees the establishment of the Fund for the Protection and Realization of Minority Rights, which is established by the Parliament of Montenegro in order to support activities important for the preservation and development of the identity of minorities in the area of national, cultural, linguistic and religious identity. The act establishing the Fund determines the Fund's bodies, their mandate, competences and the manner of their work and decision-making, the composition and number of members of the management body, as well as other issues of importance for the Fund's work. In the management body of the Fund, each council of a minority nation or other minority national community has its own representative. In the amendments to the Law on Minority Rights and Freedoms from 2017, new articles 36a to 36s were added, which regulate issues related to the organization of the Fund, rights and obligations, financing, as well as authorizations related to the activities of the Fund.

The protection of the rights of minorities is an obligation of state bodies, that is, local administration and courts, and such an obligation is stipulated in Article 37 of the law. The Ministry proposes to the Government a policy for the development and protection of minority rights, while the Government is obliged to submit a report to the Parliament on the development and protection of minority rights once a year. This obligation is provided for in Article 38 of the law, which regulates the mechanism of minority rights protection and control among the various branches of government. Article 39 provides for the prohibition of taking measures and activities, as well as direct or indirect discrimination on any basis, the aim or outcome of which could be the violation or limitation of the legal rights and freedoms of minorities.

With the adoption of the Law on the Selection, Use and Public Display of National Symbols,⁸ minorities were granted the right to use national symbols. According to this Law, symbols used by members of minority nations and other minority national communities for their representation and expression of their national identity are considered national symbols. The national symbols are the coat of arms, the flag and the anthem.⁹ The standard of the coat of arms and the flag, as well as the sheet music of the national anthem, are determined by the decision of the council of the minority nation or other minority national community, in the manner determined by the statute of the council. Consent to such a decision is given by the Government of Montenegro, and the original of the coat of arms, the original of the flag and the sheet music of the anthem are kept by the President of the Parliament of Montenegro. The coat of arms, flag and anthem are used in the form and content determined in accordance with this law. The law stipulates that national symbols cannot offend the feelings of others with their content.

3.3. Education, culture and information

In addition to the Law on Minority Rights and Freedoms, the legal framework that regulates the rights of minorities and other minority national communities consists of laws and other acts that regulate the exercise of rights in certain areas, such as education, information, culture, use of language and letters, etc. One of the important laws is the Law on the Selection, Use and Public Display of National Symbols. This Law regulates the right to free choice, use and public display of national symbols of members of minority nations and other minority national communities. The Law on Local Self-Government¹⁰ stipulates that in the performance of their duties, local self-government bodies are obliged to ensure equal protection of the rights and legal interests of local residents and legal entities based on the law, and that the municipality provides conditions for the protection and promotion of minority rights. It is also prescribed that the municipality is obliged to provide conditions for the protection and promotion of minority rights and gender equality (Article 11), that local officials or employees in the performance of their duties may not discriminate on the basis of belonging to a minority national community or a minority people (Article 95). In order to ensure and improve the right of proportional representation of minorities and other minority national communities, the obligation of the human resource management unit to monitor the implementation of measures to achieve equal representation is prescribed (Article 146). The law also stipulates that the program of public hearings, in municipalities where the majority or a significant part of the population is made up of members of minority nations, is also held in their language (Article 168).

⁸ "Official Gazette of Montenegro", No. 003/20 from 23.01.2020

⁹ Ibid

¹⁰ "Official Gazette of Montenegro", No. 2/18

The general Law on Education and Upbringing¹¹ particularly emphasizes the rights of minorities and refers to the availability of education, culture and information in the languages of minority groups, as well as the impact of education on political participation. Article 11 of the law stipulates that classes are conducted in the languages in official use, respecting the rights of minorities, while specifying the languages in which the classes are conducted (Bosnian, Albanian and Croatian languages). Article 29 of the law prescribes that, for the purpose of deciding on professional issues and for professional assistance in the decision-making process and the preparation of regulations in the field of education, a National Council is established, while Article 31a prescribes that one third of the members of the National Council are elected from among representatives of minority nations and other minority national communities. When hiring teachers, the Law stipulates that teachers in institutions or a special department of an institution with classes in the language of members of minority nations and other minority national communities must, in addition to the conditions prescribed by law, have an active knowledge of the language and script of that minority and the Montenegrin language. In a school where classes are conducted in the language of members of minority nations and other minority national communities, pedagogical records are printed and kept in the Montenegrin language and in the language of members of minority nations and other minority national communities, while public documents are printed and issued in the Montenegrin language and in the language of members of minority nations and other minority national communities.

The Law on Culture,¹² when determining the principles on which it rests in Montenegro, prescribes that, among other things, they are contained in the freedom of creativity and respect for the right to culture; commitment of the state and local self-government to encourage and help the development of cultural and artistic creativity and the protection and preservation of cultural heritage; equal preservation of all cultural identities and respect for cultural diversity; and finally - building and improving the culture system, in accordance with international standards, especially EU standards. In this sense, the Law particularly emphasizes the public interest, which is reflected in the preservation of original and traditional cultural and ethno-cultural peculiarities in Montenegro. Realization of public interest in culture is ensured by Montenegro and local self-government, and the manner and measures of realization of public interest are determined by the National Cultural Development Program.

The Fund for Encouraging Pluralism and Diversity of the Media, through the Law on Media,¹³ encourages the provision of public services in order to realize the rights guaranteed by the Constitution and the law for "non-commercial media content of public interest, in the languages of minorities and other minority national communities". Article 17 of the Law stipulates that financial resources are provided in an independent

¹¹ "Official Gazette of Montenegro", No. 64/02, 31/05 and 49/07 and 'Official Gazette of Montenegro', No. 45/10, 45/11, 39/13 and 44/13 and 47/17

¹² "Official Gazette of Montenegro", No. 49/08, 16/11, 40/11, 38/12

and transparent manner, with guarantees of editorial, programmatic and institutional autonomy. The funds from the Fund are used to encourage media pluralism, and especially for the production and publication of content that, among other things, is important for the protection of the rights and dignity of minorities and other minority national communities against discrimination, stereotypes and prejudices. This Law prohibits the publication of information in the media that expresses ideas, claims and opinions that cause, spread, incite or justify discrimination, hatred or violence against a person or group of persons because of their personal characteristics, religious and other beliefs, xenophobia, racial hatred, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed in the form of nationalism, discrimination and hostility against minority people and other minority national communities.

The Law on Electronic Media¹⁴ in Article 74 stipulates that public broadcasters are obliged to provide public services for the production and broadcasting of radio and/or television programs with informative, cultural, artistic, educational, scientific, children's, entertainment, sports and other program contents in the languages of minority nations. and other minority national communities in the areas where they live, without discrimination.

Pursuant to Article 38 of the Law on Minority Rights and Freedoms,¹⁵ the Government of Montenegro must submit a Report on the development and protection of the rights of minorities and other minority national communities to the Parliament of Montenegro at least once a year.

¹³ "Official Gazette of Montenegro", No. 82/20

¹⁴ "Official Gazette of Montenegro", No. 46/10, 53/11, 6/13, 55/16 and 92/17

¹⁵ "Sl. list RCG", br. 31/06, 51/06 i 38/07, 2/11 i "Sl. list CG", br. 31/17

IV

REPORTS OF INTERNATIONAL ORGANIZATIONS

Based on Article 25 of the Framework Convention for the Protection of National Minorities, Montenegro is obliged to submit periodic reports to the Secretary General of the Council of Europe, including information relevant to the implementation of the Framework Convention. Such reports are intended to indicate changes, additions and novelties in the legal and institutional framework for the protection of minorities and other minority national communities in Montenegro, undertaken and planned measures for the improvement and development of the rights of minorities and other minority national communities, and progress in implementation of the recommendations of the Advisory Committee for the Framework Convention for the Protection of National Minorities mentioned in the previous Opinions on Montenegro.

Official sources of the European Union, such as the Annual Progress Report, provide an overview of the problems and challenges that national minorities face in political participation in Montenegro. Such EU reports usually analyze various aspects of political life in the country, including issues related to minority communities. A chapter dealing with human rights, justice and internal affairs may include information on political representation, minority rights, challenges facing minorities, and recommendations for improving the situation.

Also, the reports of civil society organizations dealing with human rights are very relevant and useful, as they often provide additional insights into the political position of minority groups in the country.

1. Annual progress report for 2023¹⁶

When it comes to the promotion and implementation of human rights, institutional capacity still needs to be further strengthened, including the allocation of appropriate financial resources. The internal structure of the Ministry of Human and Minority Rights should be improved and deal with all areas related to fundamental rights, including the provision of necessary human resources. Changes in the leadership and structure of the Ministry introduced in July 2022 have threatened its capacity to promote fundamental rights, enforce the legal framework, draft new laws and implement and monitor existing

¹⁶ https://neighbourhood-enlargement.ec.europa.eu/document/download/e09b27af-427a-440b-a47a-ed5254aec169_en?filename=SWD_2023_694%20Montenegro%20report.pdf

strategies and policies. Key personnel responsible for the rights of persons with disabilities and the fight against discrimination were removed. Montenegro has yet to adopt a comprehensive monitoring and data collection system to assess the level of implementation of human rights laws, policies and strategies.

Regarding the rights of members of minority nations, in December 2022, Montenegro submitted the sixth report on the implementation of the European Charter on Regional or Minority Languages and the fourth report on the implementation of the Framework Convention for the Protection of National Minorities. The Committee of Experts of the European Charter on Regional or Minority Languages published, in September 2023, the seventh monitoring report on Montenegro, **stating that there are still shortcomings in the adequate use and protection of the Romani language in accordance with European standards and legislation.** Report on the implementation of the Action Plan for 2022, for the implementation of the policy strategy for minorities for the period 2019-2023. was adopted in April 2023, while the Action Plan for 2023 was adopted in May 2023.

There is still no equal treatment of minorities in the Parliament. Data on the implementation of the strategy for minorities for the period from 2019-2023. years are not available. In July 2022, the Ministry of Human and Minority Rights established a new Directorate for the Promotion and Protection of the Rights of Minorities and Other Minority Communities. In 2022, the Ministry allocated 150,000 euros to non-governmental organizations dealing with the rights of minorities. In November 2022, the Fund for the Protection and Realization of 53 Minority Rights allocated more than one million euros to 195 organizations and individuals for the advancement of minority rights. In August 2023, the Special Prosecutor's Office opened a criminal investigation into the financial management of the Fund. In March 2022, the Ombudsman gave an opinion to the Ministry on possible amendments to the Law on Minority Rights and Freedoms in order to ensure direct appointment in minority councils based on the freely expressed will of minorities and other minority national communities.

Roma and Egyptians are still the most vulnerable, and anti-gypsyism remains a problem. **There was no progress regarding the reduction of the census for the political representation of Roma in the Parliament, because the Law on the Election of Councilors and MPs was not amended.** The Parliamentary Committee on Human Rights and Freedoms, in cooperation with the Ministry for Human and Minority Rights and the Ombudsman, organized the first session of the Roma Parliament on April 6th, 2023. The Roma Council boycotted the session. On October 19th, 2022, the government organized the third ministerial meeting of the Roma in Podgorica. The ministers of all the countries of the Western Balkans responsible for the inclusion of Roma agreed to act on the commitments taken from Poznan in 2019 and the first two ministerial meetings organized in Tirana (2020) and Sarajevo (2021). They also agreed to strengthen ongoing work on Roma integration in housing, employment, the green

and digital agenda and Roma-inclusive budgeting, and to adopt strong monitoring and reporting systems to measure progress in implementing the new Roma strategies and the Poznań Declaration goals. with the help of national statistical offices.

On 2nd of November 2022, the government appointed its National Roma Contact Person (NRCP), a post vacant since August 2020. NRCP comes from the Roma community and is a long-term employee of the Ministry. However, the NRCP has no decision-making role in the Ministry and its limited capacity and resources remain a major weakness. On May 26th, 2023, the government adopted the Decision on the establishment of a coordinating body to monitor the implementation of the obligations from the Poznań Declaration, chaired by the NRCP. In 2022, 26 civil society organizations received public funds for the implementation of projects in the field of Roma inclusion. Also, in 2022, the Fund for Minorities supported 10 projects in the area of Roma inclusion.

The budget allocated to projects supporting Roma inclusion is increasing, but adequate planning, monitoring and financial control are lacking. In the 2022/2023 school year. 202 Roma children (92 boys and 110 girls) attended preschool, 1,833 (950 boys and 883 girls) attended primary school, and 214 attended secondary school (122 boys and 92 girls). There are currently 14 Roma students. The number of Roma educational mediators working in different municipalities is increasing, of which 30 are supported by the Ministry of Education. **The legal framework still does not support the enrollment of Roma students in higher education.**

Although Montenegro provides scholarships of 150 euros per month, there are no additional incentives. **Taken as a whole, the quality of education of Roma children remains an area of great concern.** In 2022, the Ombudsperson conducted field research in Roma settlements in 13 municipalities. Preliminary findings show that Roma and Egyptians live in less segregated neighborhoods than 6 or 7 years ago, but 42.2% of Roma still live in Roma-only neighborhoods. The problem of overcrowding of Roma households still exists, with slight improvements in access to water, electricity supply and possession of basic appliances. The state is still not systematically addressing child begging and child marriage, nor is it taking sufficient steps to fulfill its promises to address statelessness, as recommended by the United Nations High Commissioner for Refugees (UNHCR). The Romani language is not used enough and is not taught in schools.



CONCLUSIONS AND RECOMMENDATIONS FOR IMPROVING THE POSITION OF MINORITIES

The preparation of this study serves the purpose of strengthening various processes in which minority rights should be improved, as a result of better knowledge of regulations in areas that are important for the realization of minority rights.

Based on the analysis of the key aspects of the study, we can conclude that despite the socio-political (dis)opportunities and their influence on the positioning of human and minority rights on the political agenda, in the previous period, Montenegro made significant efforts to develop the rights of minorities and other minority national communities. However, there is still a need to improve their position. There are still important issues that need to be addressed because there are still challenges in achieving complete inclusion and equal status of minority groups. And this primarily refers to the reduction of the gap between the prescribed - normatively proclaimed concept of protection and the factual, realistic degree of protection of the rights of members of minority nations and their communities. It also includes issues related to access to education, employment, etc. but also the need to adopt new and harmonize existing laws with international legal standards on the protection of human and minority rights.

There are also specific challenges that minority groups face in the process of political participation, primarily the Roma, as well as obstacles in the political system itself. Through appropriate representation in all branches of government and participation in political decision-making, members of minority nations and communities will assume part of the responsibility both for their own and for the progress and development of Montenegro as a whole. Effective political participation of members of minority nations and communities will strengthen the internal and international legitimacy of Montenegro as a democratic state.

The system for the protection of minority rights is still an open framework that can be supplemented in order to achieve essential equality and the best international legal standards in this area.

Recommendations for improving the position of minority groups in the political life of Montenegro:

These recommendations represent guidelines for the development of policies that could contribute to improving the position of minority groups in the political life of Montenegro. It is important that these recommendations are adapted to the specific needs of individual communities and that they are implemented in cooperation with representatives of minority groups.

1. Establishment of an effective system of monitoring and evaluation of the realization of the rights of minorities and other minority national communities, in order to monitor the implementation of recommendations and measure progress in relation to their position.
2. Promoting and expanding the policy of affirmative action for national minority communities, especially Roma, in order to amend the Law on the Election of Councilors and MPs in order to ensure equal treatment in electoral legislation, as well as through further development of the reference normative framework.
3. Implementation of reforms that support the rights of minority groups through the EU accession process and through their empowerment to participate in the political life of Montenegro.
4. Development of a communication strategy in order to improve dialogue and cooperation for a better understanding of the rights and needs of minorities and other minority national communities. It is necessary to additionally develop programs and policies that will raise the level of awareness of members of minority nations and other minority national communities and the general public about the status, rights and obligations of minorities, in accordance with international standards and positive regulations of Montenegro.
5. Strengthening of institutional capacities and allocation of appropriate budget for implementation and monitoring of strategies and policies in this area.
6. Regular updating of changes in relevant legal documents in legislation or new regulations that may refer to the rights of minority groups.
7. More systematic and efficient implementation of the recommendations from Ombudsman. Greater role of the Committee on Human Rights and Freedoms of the Parliament of Montenegro with the aim of having a more significant impact on the improvement of political participation and employment of minorities.
8. Improving the socio-economic integration of members of minority nations through the effective implementation of existing normative solutions and principles of affirmative action in order to promote their employment.

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