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The honouring of obligations and commitments by Montenegro

Report[1]
Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)
Co-rapporteurs: Mr Kimmo SASI, Finland, Group of the European People's Party, and Mr Terry LEYDEN, Ireland, Alliance of Liberals and Democrats for Europe

Summary

The Monitoring Committee notes that Montenegro is a reliable and constructive partner to the Council of Europe, that it plays a positive role in the stabilisation of the region and has made progress in fulfilling its commitments and obligations since its accession in 2007. The country has moved forward in the five "key issues" identified by the Parliamentary Assembly in 2012, namely the independence of the judiciary, the situation of the media, the fight against corruption and organised crime, the rights of minorities and the fight against discrimination, and the situation of refugees and internally displaced persons.

However, the committee invites Montenegro to pursue policies focusing on democratic standards, consolidation of the rule of law, enhanced transparency and accountability of public institutions and the equitable representation of minorities.

Given Montenegro's determination to continue its reform process in the framework of the accession negotiations to the European Union, the committee proposes closing the monitoring procedure in respect of Montenegro and engaging in post-monitoring dialogue.

But it also underlines the importance of implementing the adopted legislation, and therefore expects the country to implement a series of reforms – concerning the electoral process, the independence of the judiciary, the fight against corruption and organised crime and the situation of the media – by the end of 2017, failing which the committee will propose considering reopening the full monitoring procedure in respect of Montenegro.

1. Reference to committee: Resolution 1115 (1997).

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A. Draft resolution[2]

1. In June 2012, the Parliamentary Assembly adopted Resolution 1890 (2012) on the honouring of obligations and commitments by Montenegro, deciding to pursue the monitoring procedure, while encouraging Montenegro to make progress on five "key issues", namely the independence of the judiciary, the situation of the media, the fight against corruption and organised crime, the rights of minorities and the fight against discrimination, and the situation of refugees and internal displaced persons (IDPs).

2. Since then, Montenegro has continued to play a positive role in the stabilisation of the region and to be a reliable and constructive partner, involved in several regional and multilateral initiatives. There has been excellent co-operation between the Montenegrin authorities and the Council of Europe, especially the European Commission for Democracy through law (Venice Commission), which has adopted many opinions on essential legislation since 2012. The Assembly in particular congratulates Montenegro on the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, "Istanbul Convention") on 22 April 2013, bringing the number of conventions ratified by Montenegro to 87.

3. The Assembly notes that there is in Montenegro a strong consensus on integration into the European Union, which has been a motor in accelerating the reform process. In particular, the opening of Chapters 23 and 24 of the accession negotiations in December 2014 should further boost the reforms launched in the fields of justice, human rights and fundamental freedoms. The Assembly welcomes the fruitful co-operation established between the Council of Europe and the European Union to improve democratic standards in Montenegro. The Assembly trusts that Montenegro's efforts towards European integration will also contribute to consolidating the fulfilment of its statutory obligations towards the Council of Europe.

4. The Assembly believes that policies focusing on democratic standards, consolidation of the rule of law, enhanced transparency and accountability of public institutions and equitable representation of minorities could help Montenegro overcome the polarisation which exists along political and ethnical lines in all spheres of society and which impedes the country's development.

5. Further to the disputed 2012 parliamentary elections and 2013 presidential election, the Assembly believes that building trust in the electoral processes has become even more necessary to ensure political stability and fair elections. The Assembly appreciated the setting up of a parliamentary "working group on building trust in the election process" in May 2013, which led to the adoption, in February 2014, of the Law on the Voter Register, the Law on Amendments to the Law on Identity Cards and the Law on Local Self-Government, and the adoption, in December 2014, of the Law on Amendments to the Law on Financing of Political Parties and Electoral Campaigns.

6. In the light of the recent developments, the Assembly has assessed progress made in the five key areas identified in 2012.

7. As regards the independence of the judiciary, the Assembly:

7.1. welcomes the adoption of the constitutional amendments on the judiciary of July 2013, which introduced qualified majorities for the election of the judges to the Constitutional Court, of the Supreme State Prosecutor and of members of the Judicial Council, whilst also introducing anti-deadlock mechanisms;

7.2. expects the Montenegrin authorities to adopt the necessary laws on the courts, the rights and duties of judges, the Judicial Council, the Constitutional Court and the Public Prosecution Office, taking into account all the recommendations of the Venice Commission;

7.3. welcomes the election of the Supreme State Prosecutor in November 2014, in line with the constitutional amendments of July 2013.

8. As regards the situation of the media, the Assembly:

8.1. welcomes the setting up, in December 2013, of the Commission for Monitoring the Actions of the Competent Authorities in the Investigation of Cases of Threats and Violence Against Journalists, Assassinations of Journalists and Attacks on Media Property, which could make a useful and much-needed contribution to resolving the 12 cases of attacks and murders of journalists. It also welcomes the fact that two cases have been solved thanks to enhanced co-operation between the State Prosecutor's Office, the police and the National Security Agency;

2. Draft resolution adopted unanimously by the committee on 11 December 2014.

8.2. urges the Montenegrin authorities to ensure, notably by appropriate funding, that the self-regulation bodies, in particular the Media Council for Self-Regulation and the Self-Regulatory Council for Local Press and Periodicals, have the capacity to perform their professional tasks;

8.3. welcomes the decriminalisation of defamation in 2012;

8.4. is, however, concerned about repeated breaches of the law by one specific media outlet that undermines human dignity; it urges the Montenegrin authorities not to condone such abuse of the freedom of the media and to take all necessary steps to ensure full respect of the law and the enforcement of court decisions.

9. As regards the fight against corruption and organised crime, the Assembly:

9.1. believes that, despite the many policies launched to root out corruption, it remains widespread and should be further tackled;

9.2. takes note of the plan to establish an agency for the prevention of corruption as of 2016 and urges the authorities to provide all the necessary means to enable this agency to properly conduct its essential duties, which include control of the financing of political parties and election campaigns, the handling of whistle-blower complaints and whistle-blower protection, as well as the application of the law on lobbying;

9.3. highlights in this respect the role of public scrutiny to detect and denounce acts of corruption, and the need to ensure the protection of whistle-blowers and investigative journalists active in this field;

9.4. expects the draft law on the Special Public Prosecutor on Corruption and Organised Crime to provide all necessary means to the Special Prosecutor to handle high-level corruption cases and war crimes cases and conduct his/her work fully independently and proactively;

9.5. encourages Montenegro to further adopt and implement a number of laws that could improve the fight against corruption, including a law on confiscation of assets acquired from criminal activity;

9.6. stresses the active role that the parliament and its Anti-Corruption Committee can play in fighting corruption, and invites the Montenegrin Parliament to participate actively in the recently created Parliamentary Assembly anti-corruption platform in order to draw inspiration from good practices developed in other member States.

10. As regards the rights of minorities and the fight against discrimination, the Assembly:

10.1. welcomes the adoption of the amendments to the Anti-Discrimination Law in March 2014, and to the Law on the Protector of Human Rights and Freedoms (Ombudsman) of Montenegro in July 2014. The Assembly notes that the Ombudsman will now act as the mechanism for the prevention of torture under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the mechanism of protection against discrimination under the Convention on the Elimination of All Forms of Discrimination. It calls on the Montenegrin authorities to ensure that the Ombudsman has all the necessary financial and human resources to carry out his/her mandate in an effective and independent manner;

10.2. expects the speedy adoption of amendments to the Law on Minority Rights and Freedoms and the adoption of the Law on Religious Communities;

10.3. invites the Montenegrin authorities to further implement the Strategy for improving the position of Roma and Egyptians in Montenegro and to continue to put great emphasis on education for Roma children;

10.4. congratulates the Montenegrin authorities on ensuring the peaceful organisation of three “Pride Parades” in 2013 and 2014 under police protection, with the support and the participation of high-level officials;

10.5. welcomes the comprehensive strategy and action plan launched by the authorities to combat discrimination, including based on sexual orientation, and acknowledges the political will demonstrated by the authorities to make progress in this area;

10.6. notes, however, that discrimination against lesbian, gay, bisexual and transgender people (LGBTs) remains widespread in traditional Montenegrin society. It encourages the Montenegrin authorities to further conduct awareness-raising activities to change mentalities and train the law-enforcement agencies, in particular the prosecution service, the police and magistrates, to take all the necessary measures to prosecute and punish any discriminatory acts or behaviour and hate speech.

11. As regards the situation of refugees and internally displaced persons, the Assembly:

11.1. reiterates its appreciation of the efforts made by the Montenegrin authorities to accommodate thousands of refugees and IDPs in the 1990s. It praises the commitment of the authorities, notably with the adoption of the 2011 Law on Foreigners, to either integrate refugees and IDPs by granting them the status of foreigner with permanent or temporary residence, or facilitate their voluntary return to their place of origin;

11.2. welcomes the fact that over 70% of the 16 000 IDPs and refugees still registered in Montenegro have applied for a legal status, and encourages the Montenegrin authorities, with the support of the Office of the United Nations High Commissioner for Refugees (UNHCR) and neighbouring authorities, to further facilitate the submission of applications and attainment of legal status. The Assembly remains confident that the Montenegrin authorities will find a legal solution for refugees and IDPs without legal status after the expiration of the 31 December 2014 deadline;

11.3. notes that the Montenegrin authorities remain committed to solving this issue through a number of social mechanisms. The Assembly is aware that the registration of some IDPs remains a challenge, but it is confident that the Montenegrin authorities, together with the neighbouring authorities, will find the means and legal solutions to solve the remaining pending cases;

11.4. pays special tribute to the work carried out by the UNHCR and the Red Cross and the invaluable legal and humanitarian assistance provided to the IDPs and refugees, in particular in the Konik camps. It welcomes the continuation of the Regional Housing Programme and the support of the Council of Europe Development Bank to promote durable housing solutions. It urges the Montenegrin authorities to remain committed to this remarkable regional initiative, which is a contribution to the post-Yugoslav conflict stabilisation and reconciliation process;

11.5. welcomes the ratification of the 1961 United Nations Convention for the Reduction of Statelessness by Montenegro in October 2013 and encourages the Montenegrin authorities to avoid any situation that could expose people living in Montenegro to statelessness.

12. The Assembly stresses the importance of the implementation of adopted legislation to fulfil the obligations towards the Council of Europe. It will therefore closely follow how the authorities of Montenegro enforce and implement the adopted legislation.

13. In the light of the progress made since the adoption of Resolution 1890 (2012) in the five key areas then identified by the Assembly, the latter decides to close the monitoring procedure and to engage in a post-monitoring dialogue. This dialogue could be concluded by the end of 2017 if Montenegro fulfils the following requirements, which the Assembly deems necessary for Montenegro to honour its obligations and commitments to the Council of Europe, namely:

13.1. as regards the independence of the judiciary:

13.1.1. fully implement the constitutional amendments related to the judiciary adopted in July 2013 and adopt the laws on the Courts, the Rights and Duties of Judges, the Judicial Council, the Constitutional Court and the Public Prosecution Office, in full compliance with the relevant recommendations of the Venice Commission adopted in December 2014;

13.1.2. provide continuous professional training to, and enhance the co-ordination between the prosecution, the police and the judiciary, so as to ensure effective and professionally administered justice;

13.1.3. strengthen the position and the means of the newly elected Supreme State Prosecutor, who must be held accountable for bringing to court cases motivated by sound and reasoned indictments;

13.2. as regards trust in the electoral process:

13.2.1. implement the Law on the Funding of Political Parties and Electoral Campaigns, including regulations on the use of administrative resources during electoral campaigns;

13.2.2. finalise the establishment and ensure the correct use of electronic voter lists in future elections;

13.2.3. take measures to fully involve local authorities and local political leaders in building trust in the electoral process at local level;

13.3. as regards the fight against corruption:

13.3.1. implement the Law on the Prevention of Corruption and the Law on the Prevention of Conflict of Interest; entrust to the future Agency for the Prevention of Corruption the implementation of efficient preventive policies and give it all necessary means to properly control the funding of political parties and electoral campaigns;

13.3.2. adopt the Law on the Special Prosecutor on Corruption and Organised Crime, provide this office with the necessary human and financial resources and ensure co-ordination with the other instances active in the field of corruption, so as to duly and diligently prosecute cases of corruption;

13.3.3. establish track records on high-level cases, ensure the full implementation of the law and enable courts to reach final decisions;

13.3.4. further implement the recommendations made by the Group of States against Corruption (GRECO) related to the third and fourth evaluation rounds focusing on incrimination, funding of political parties, parliamentarians and the judiciary;

13.4. as regards the situation of the media:

13.4.1. refrain from condoning any abuse of freedom of the media and of expression, adopt legislation to punish attacks on human dignity in the media, and ensure that court decisions are duly enforced;

13.4.2. ensure that the Commission for Monitoring the Actions of the Competent Authorities in the Investigation of Cases of Threats and Violence Against Journalists, Assassinations of Journalists and Attacks on Media Property has full access to data and that all public bodies reply with diligence to all information requests made by the Commission in order to solve the ten remaining cases of attacks, threats and murders of journalists that it is dealing with;

13.4.3. promote the effective work of the media self-regulatory bodies and actively encourage ethical journalism and better professional standards.

14. Should the Montenegrin authorities fail to meet the above-mentioned commitments by the end of 2017, the Assembly expects its Monitoring Committee to consider whether Montenegro should be returned to the full monitoring procedure.

B. Explanatory memorandum by Mr Sasi and Mr Leyden, co-rapporteurs

1. Introduction

1. The Parliamentary Assembly adopted in June 2012 Resolution 1890 (2012) on the honouring of obligations and commitments by Montenegro, in which the Assembly decided to pursue the monitoring procedure, while encouraging Montenegro to make progress on five "key issues", namely the independence of the judiciary, the situation of the media, the fight against corruption and organised crime, the rights of minorities and the fight against discrimination, and the situation of refugees and internally displaced persons (IDPs).

2. Mr Terry Leyden (Ireland, ALDE) was appointed co-rapporteur by the Monitoring Committee on 27 February 2014, in place of Ms Nursuna Memecan, who carried out the first fact-finding visit after the adoption of 2012 resolution. We would like to thank our Turkish colleague for her contribution in the monitoring procedure of Montenegro.

3. This report was prepared on the basis of the findings of three visits carried out in the country: from 8 to 10 July 2013, we decided to look at the Implementation of Resolution 1890 (2012), to follow-up on the Assembly observation reports of the parliamentary elections (14 October 2012) and the presidential election (7 April 2013) and to have focused discussions on the latest political developments, the reform of the judiciary, the implementation of the anti-discrimination law and the situation of refugees and IDPs.[3] Our visit of April 2014 focused in the issues of the media and the fight against corruption, with meetings in Budva. The visit organised on 17 and 18 November 2014, after the reception of the comments by the Montenegrin delegation to the Assembly,[4] allowed us to discuss the latest developments in the country and to make our final assessment. This report addresses the recent developments in Montenegro and the progress made in the field of rule of law, democracy and human rights, with a special emphasis on the key areas identified by the Assembly in its Resolution 1890 (2012).

4. We would like to thank the two respective chairpersons of the Montenegrin delegation, Mr Zoran Vukčević and Mr Predrag Sekulić, who assisted in 2013 and 2014 in the preparation of this report and the excellent preparation of our fact-finding visits. We would also like to extend our thanks to the members of the Montenegrin delegation to the Assembly and the Secretariat of the delegation. We were able to meet the President of the Republic Mr Vujanović, the Prime Minister Mr Đjukanović, the Speaker of the Parliament Mr Krivokapić, the Deputy Prime Minister and Minister of Justice, the Ministers of the Interior, Human and Minorities' Rights, Labour and Social Affairs, the Montenegrin parliamentary delegation to Assembly, representatives of political parties, the judicial authorities, the Ombudsman, representatives of State agencies and of the Roma community, as well as representatives of international organisations, the diplomatic community, non-governmental organisations (NGOs) and the media. We appreciated the information provided before and after our visits by the delegation of Montenegro on the implementation of Resolution 1890 (2012), based on the replies provided by ministers and law enforcement agencies, in June 2013, October 2013, April 2014 and November 2014, an initiative that proved to be very useful.

5. Finally, our co-operation with the international organisations in Podgorica was excellent. We had fruitful meetings, notably with Ambassador Mitja Drobnič, Head of the European Union Mission, Ambassador Lubomir Kopaj, Head of the Mission of the Organization for Security and Co-operation in Europe (OSCE) to Montenegro, Rastislav Vrbensky, United Nations Resident Co-ordinator to Montenegro, and Ms Indu Mohanda, Representative of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Montenegro. We would like to thank them for sharing their experiences.

2. Recent developments

2.1. Regional and international developments

6. Since June 2012, Montenegro has continued to work closely with the Council of Europe. We were pleased to learn that Montenegro ratified, on 12 February 2013, two additional protocols, namely the Additional Protocol to the Convention on Human Rights and Biomedicine concerning Biomedical Research (CETS No. 195) and the Additional Protocol to the Convention on Human Rights and Biomedicine concerning Genetic Testing for Health Purposes (CETS No. 203). It also ratified, on 22 April 2013, the Council of Europe

3. See our information note AS/Mon (2013) 21 rev 2 of 8 November 2013.
4. See AS/Mon (2014) 22.

Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, "Istanbul Convention") and Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms on 8 November 2013,bringing the number of ratified conventions to 87. Montenegro is also envisaging signing and ratifying the Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes Involving Threats to Public Health (CETS No. 211, "MEDICRIME Convention").[5]

7. Noting that some reforms have still to be completed, "which the Montenegrin authorities have committed themselves to achieve under clear timetables", the Committee of Ministers of the Council of Europe decided, on 3 April 2014, to discontinue the dialogue-based regular stocktaking of co-operation and progress with the fulfilment of statutory commitments and democratic processes,[6] "on the understanding that the Montenegrin authorities will complete the reforms under way with regard to the recommendations contained in document SG/Inf(2014)5, as well as with regard to combating violence against women and domestic violence, increasing women's participation in politics, improving the situation of persons with disabilities and addressing discrimination against Roma".[7]

8. Montenegro launched membership talks with the European Union in June 2012. So far, it has temporarily closed two chapters, 25 and 26, on Science and Research and on Education and Culture. The Stabilisation and Association (SA) Council between the European Union and Montenegro of 26 June 2013 encouraged Montenegro to ensure that the reform momentum in the area of the judiciary and fundamental rights is maintained and reiterated that Montenegro needed to pay particular attention to the development of a solid track record in the area of rule of law, in particular with regard to organised crime and corruption, including at high level. It also stressed the need to devote further efforts to ensure the accountability and independence of the judiciary. It recalled that further efforts were needed to strengthen capacity, accountability and integrity safeguards within the judiciary.[8] In July 2013, Montenegro adopted action plans on chapters 23 and 24, which will constitute opening benchmarks and offer a range of measures aimed at reaching European Union standards in the fields. On 18 December 2013, Montenegro opened the negotiations on chapters 23 (judiciary and fundamental rights) and 24 (justice, freedom and security).[9] As a candidate country, Montenegro has aligned its foreign policy to the positions of the European Union, which was reflected in the sanctions applied to the Russian Federation after the annexation of Crimea.

9. Montenegro has remained an active partner in the stabilisation of the region. This was very much emphasised by the President of the Republic, Mr Vujanović, who underlined the good relationships established with all neighbouring countries, the active participation of Montenegro in all regional initiatives, and reiterated the political aspiration of Montenegrin authorities to integrate the European Union and the North Atlantic Treaty Organization (NATO). We congratulated Mr Krivokapić, Speaker of the Montenegrin Parliament, on his election as President of the Parliamentary Assembly of the OSCE on 5 July 2013. We also took note of an initiative launched by Mr Luksić, the Minister of Foreign and European Affairs, to set up a "Western Balkans Six" network that would group Montenegro, Serbia, Kosovo*[10] (in compliance with United Nations Security Council Resolution 1244), "the former Yugoslav Republic of Macedonia", Albania and Bosnia and Herzegovina.

10. While EU integration is a subject of consensus, the accession to NATO remains a controversial issue in Montenegro. The parliament debated a law on the status of NATO forces in an emergency plenary session in June 2014. NATO Secretary General Mr Rasmussen announced on 24 June 2014 that Montenegro would not be invited to join the organisation at a summit in September 2014. NATO would rather launch "intensified and focused talks" to "assess at the latest by the end of 2015 whether to invite Montenegro to join the alliance".[11]

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5. Information provided by the delegation of Montenegro, 19 June 2013.
6. SG/Inf(2014)5E of 31 January 2014.
7. CM/Del/Dec(2014)1196, decision adopted by the Committee of Ministers at its 1196th meeting, 2-3 April 2014.
8. Joint press release of the Fourth meeting of the Stabilisation and Association Council between the European Union and Montenegro, UE-ME 3605/13, 26 June 2013.
9. Montenegro also opened chapters 5 (Public procurement), 6 (Company law), 20 (Enterprise and industrial policy), followed by the opening of chapters 7 (Intellectual property law) and 10 (Information society and media) on 31 March 2014.
10. *All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.
11. www.balkaninsight.com/en/article/nato-rejects-montenegro-membership-in-2014.

2.2. Recent developments at national level

11. Since the adoption of Resolution 1890 (2012), two elections at national level took place in Montenegro, namely the parliamentary elections (14 October 2012) and the presidential election (7 April 2013), both of which were observed by the Parliamentary Assembly[12] and a limited observation mission of the OSCE Office for Democratic Institutions and Human Rights (ODIHR). The conclusions and recommendations made by the ad hoc observation committees in their reports of 14 October 2012 and 7 April 2013 have been discussed with the authorities and taken into account in our work.

12. The Coalition for European Montenegro, led by Milo Đjukanović, leader of the Democratic Party of Socialists (DPS) – comprising the DPS, the Social Democratic Party (SDP) (headed by the Speaker of the Parliament Mr Krivokapić) and the Liberal Party (LP) – won 39 seats (46.33%) and was able to form a parliamentary majority with the Bosniak Party (3 seats, 4.24% of the votes) and the Croatian Civic Initiative (1 seat, 0.41% of the votes).

13. The opposition is composed of the Democratic Front (DF) – a newly formed coalition grouping the Movement for Changes and the New Serb Democracy party (20 seats, 23.19%) led by Mr Miodrag Lekić, by the People's Socialist Party (SNP) (9 seats, 11.24%), Positive Montenegro (7 seats, 8.37%) and a coalition of Albanian parties (Force for Unity – Forca per Bashkim (FZJ-FPB): New Democratic Power – Forca per Bashkim and Perspective and the Citizens Initiative, Democratic League in Montenegro, the Democratic Party and the Albanian Alternative) (2 seats, 2.54%).

14. The newly elected parliament started work on 25 November 2012. The new Rules of Procedure provides for the organisation of oversight hearings on a more regular basis. An Anti-Corruption Committee, in charge of supervising the work of the State bodies in the area of the fight against organised crime and corruption, as well as a European Integration Committee were set up.

15. The new government was elected on 4 December 2012. The government is composed of 19 members and led by Prime Minister Mr Đjukanović. The delegation indicated that 3 out of 18 members of the government are members of minorities (16.66%): "The deputy Prime Minister is of Bosniak ethnicity, the Minister and minority rights is of Muslim ethnicity, and a Minister without portfolio is Croatian."[13]

16. On 7 April 2013, two candidates participated in the president elections: Mr Filip Vujanović, outgoing President (DPS), and Mr Miodrag Lekić, an independent candidate. Mr Vujanović was re-elected President of the Republic with 51.21% of the votes (161 940 votes), according to the State Electoral Commission. The turnout was 63.90%. Mr Lekić contested the results, and requested the annulment of the election results and the organisation of new elections. Considering that the presidential election was a rigged election, the Democratic Front decided to boycott the parliament. During the presidential campaign, the opposition called for electoral reform, improved implementation of the rule of law and a stronger fight against corruption.

17. In addition, the leak of tape recordings from a meeting of the DPS, held in preparation for the 2012 early parliamentary elections, was another political issue. In our previous information note, we described the "audio recording" case:[14] DPS members allegedly alluded to the possible abuse of State resources to get more voter support. We note that the issue of possible abuse of State and administrative resources was raised on several occasions by Parliamentary Assembly election observers. It was also denounced by an NGO in a report published in November 2012.[15] This case was widely covered in the media after the daily newspaper *Dan* published the transcripts of the statement made by the DPS officials.[16]

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12. See Doc. 13069 and Doc. 13217.
13. Information provided by the national delegation, 19 June 2013, p. 70.
14. See AS/Mon (2013) 21 rev 2, paragraphs 20-23.
15. See the "Report on the misuse of State resources and public authorities in the 2012 parliamentary campaign" published by the Network for affirmation of the non-governmental sector (MANS), November 2012.
16. www.osce.org/odihr/elections/100274, Limited Election Observation Mission. Montenegro, Presidential Election of 7 April 2013, report of 22 March 2013.

18. The Democratic Front challenged the results of the presidential elections, expressed mistrust in the electoral processes and invoked possible frauds. It decided to boycott the parliament. Negotiations were launched between the majority and the opposition to bring the parliamentary boycott by the Democratic Front to an end. The parliament agreed to set up two working bodies to address these election-related issues and amend the regulations:

18.1. On 24 June 2013, the parliament set up an "Inquiry Committee for the purpose of collecting information and facts on the events relating to the work of State authorities regarding publishing of audio recordings and transcripts from the meetings of DPS authorities and bodies", with the support of the ruling DPS, which responded to all invitations for hearings, including by the President of the DPS and the Prime Minister, Mr Milo Đjukanović.

18.2. Further to our meetings in July 2013, we had the feeling that this investigation committee had limited powers, no means to apply sanctions and could only request the Prosecutor's Office to launch an investigation, provided they had collected sufficient evidence. Given the sensitivity of the issue, we also felt that the committee was quite polarised and would find it hard to reach political conclusions. The committee eventually submitted a technical report to the parliament on 31 July 2013, but without drawing any political conclusions. At the same time, *ad interim* Chief Prosecutor Mr Veselin Vucković, who had launched an investigation in 2013, informed us that 400 people had been interviewed and 253 legal entities checked; 43 cases had been opened against 60 people and one legal entity; 12 people were indicted, 11 of them sentenced; 21 indictments were turned down for lack of reasonable evidence. This prosecution led the Basic Court in Pljevlja to impose two suspended sentences, while 10 other people were acquitted.[17]

18.3. On 31 May 2013, the parliament adopted a "Proposal for the Conclusion on building trust in the electoral process", leading to the setting up of a "Working Group for building trust in the election process". This working group was mandated to consult the public and entities interested in dealing with electoral issues and propose amendments to the Law on Voter Registers, the Law on Identity Card, the Law on Register of Temporary Residence, the Law on Election of Councillors and MPs, the Law on Financing of Political Parties and the Law on Montenegrin Citizenship, taking into account its own observations and the OSCE/ODIHR and Council of Europe recommendations. Further to our meeting with the working group (composed of six MPs from the majority and six from the opposition appointed by the parliament) in July 2013, we highlighted the constructive spirit that animated this working group. The group worked on amendments to most of the laws concerned, in co-operation with representatives of NGOs, and, on an ad hoc basis, with the participation of representatives of the Union of Municipalities of Montenegro.

19. Local elections took place on 25 May 2014 in 13 municipalities. For the first time in these elections, following the 2014 amendments to the Law on Election of Councillors and MPs, affirmative action for minorities was introduced at local level. The ruling party, the DPS, won the majority of votes in 11 municipalities, and the absolute majority of votes in three of them. Five hundred domestic observers from the NGO MANS (Network for affirmation of the non-governmental sector) monitored the elections and reported hundreds of irregularities.[18] MANS announced that it would submit more than 130 criminal complaints for offences against voting rights. MANS accused the DPS of violating electoral law and of buying ID cards from opposition supporters in order to prevent them from voting.[19] Since then, the Head of MANS, Ms Calović, has been subjected to a lot of criticism and was recently targeted by a smear campaign in one media[20], violating her human dignity, which is unacceptable and should not be left unpunished. This incident happened in a context that we felt made life difficult for NGOs who perform oversight of public action and publish critical reports. The substance of the information must be discussed, but criticising the people who have presented the information is not appropriate.

17. AS/Mon (2014) 22, p. 13.
18. In their official reply (See AS/Mon (2014) 22, p. 13), the authorities contested the impartial attitude of MANS, being a NGO "hired by the EU Delegation in Podgorica to observe the elections" and "actively engaged in politics and on the side of the opposition". The NGO drafted the objections submitted on behalf of the opposition by the Democratic Front to the State Election Commission.
19. www.balkaninsight.com/en/article/montenegro-s-ruling-party-wins-local-elections.
20. The newspaper *Informer* published offensive reports discrediting Ms Calović's personal and professional integrity.

20. Despite a court ruling which banned the further publication of the offensive material, the daily *Informer* repeatedly continued this smear campaign, in clear breach of the law and the ruling of the court, which prompted some parliamentarians to propose the re-criminalisation of defamation. This, in our view, would be a step backwards. We expect the authorities to take the necessary legal steps to prevent any similar campaigns, not to condone in any way such campaigns, and ensure that court sentences are fully applied.

21. In the capital city of Podgorica, the two national ruling parties, the Party of Democratic Socialists (DPS, 29 seats out of 59) and the Social Democratic Party (SDP) together with Positive Montenegro (5 seats) found it difficult to reach an agreement on the candidate for the post of mayor. The opposition (Socialist People's party (SNP) and Democratic Front) had won 25 seats. An interim administration was appointed to run the immediate business.[21] On 6 October 2014, the DPS and SDP finally reached an agreement and elected Mr Slavoljub Stijepović Mayor of the capital.

22. Finally, we should mention that both the President of the Republic and the Prime Minister, Mr Đjukanović, stressed to us that the development of the country's economy was a priority for the authorities. In particular Mr Đjukanović stressed that Montenegro's economy remains underdeveloped, and should be boosted by the development of tourism projects on the coast, the construction of highways, the construction of a new power plant and an undersea electricity cable link with Italy, and a research project to explore oil and gas resources. During our visits, the bankruptcy and the €300 million debt of the Podgorica Aluminium Plant (KAP) – one of the country's major exporters – and the activation of the financial guarantee that had been provided by the State in 2005 in the framework of a settlement agreement signed with the KAP, stirred heated debates in the country.[22]

3. Rule of law

3.1. The independence of the judiciary (key issue)

23. The adoption of constitutional amendments to de-politicise the judiciary was an accession requirement, and one of the "key issues" identified by the Assembly in its Resolution 1890 (2012). It was also a strong requirement from the European Commission to start the European Union accession negotiations. The Montenegrin authorities had decided to submit new draft constitutional amendments related to the Constitutional Court, the Supreme State Prosecutor and the Judicial Council to the European Commission for Democracy through Law (Venice Commission) in May 2013. At its 14 June 2013 meeting, the Venice Commission authorised the rapporteurs to send the draft opinion[23] to the Montenegrin authorities prior to its adoption during the October 2013 plenary session of the Venice Commission.

24. During our fact-finding visit in July 2013, we discussed these draft amendments with the highest judicial authorities. While the President of the Judicial Council supported the proposed amendments, the President and Vice-President of the Constitutional Court were much more cautious and expressed strong doubts, especially about the proposal related to the selection of five of the judges of the Constitutional Court after an open competition, which was considered as "expedient", would leave room for manoeuvre between political parties and would transform the Constitutional Court into a partisan body. They considered that these new constitutional amendments would destabilise the Constitutional Court, affect the mandates of incumbent judges and jeopardise legal certainty.

25. On 31 July 2013, the main political parties, with the exception of the opposition party Democratic Front, adopted the constitutional amendments that complied with most of the recommendations of the Venice Commission. We welcomed this much-awaited adoption, which should contribute to the de-politicisation process of the judiciary. The new constitutional provisions introduce qualified majorities for the election of the judges of the Constitutional court, the Supreme State Prosecutor, members of the Judicial Council, while putting in place anti-deadlock mechanisms. The amendments read as follows (excerpts):

> *"In the first round of voting by two-third majority and in the second by three-fifth majority of all members of the Parliament, after at least one month, the Parliament shall elect and remove from office judges of the Constitutional Court, the Supreme State Prosecutor and four members of the Judicial Council from among eminent jurists."*

21. www.balkaninsight.com/en/article/early-elections-could-end-montenegro-s-capital-political-crises.
22. For further information on this case, see our previous information note AS/Mon (2013) 21 rev 2.
23. Document CDL(2013)033.

"In the first round of voting, the Parliament shall elect the Supreme State Prosecutor upon proposal of the Prosecutorial Council. If the proposed candidate does not acquire the required majority, in the second round of voting, the Parliament shall elect the Supreme State Prosecutor from among all candidates who meet the legal requirements."

"The President of the Supreme Court shall be elected and removed from office by the Judicial Council, by the two-third majority, upon proposal of the General session of the Supreme Court"

"The President of the Judicial Council shall be elected by the Judicial Council from amongst its members who are not judicial officials, by the two-third majority of members of the Judicial Council."

"The Judicial Council shall be composed of the president and nine members. The members shall be the President of the Supreme Court, four members from out of judges that shall be elected and released from duty by the Conference of Judges, four members from out of reputable lawyers that shall be elected and released from duty by the Parliament and the Minister responsible for judicial affairs."

26. On 24 September 2013, the parliament adopted, within the 45-day period from the date of promulgation of the amendments, the first required amendments to the Law on the Judicial Council, the Law on Courts, the Law on the Public Prosecution Office, and the Law on the Constitutional Court of Montenegro, to harmonise these laws with the newly adopted constitutional amendments.[24]

27. We expected the new appointment procedure of the Supreme State Prosecutor, deriving from the constitutional changes of July 2013 in line with the Venice Commission's recommendations, to secure a stronger, more independent prosecutor leadership. An election was organised in spring 2014. None of the four proposed candidates managed to reach either the two-thirds majority in the first round or the required three-fifths majority in the second round. Instead of launching a new tender (as prescribed by the Constitution), the parliament decided, pertaining to the provisions of its own Rules of Procedure, to organise a third round of elections (while we were in Podgorica, in April 2014), which was also unsuccessful. This procedure was challenged in the meantime by the NGO Human Rights Action (HRA). The Constitutional Court ruled, on 23 July 2014, that the provisions of the Rules of Procedure of the Parliament of Montenegro on election of the Supreme State Prosecutor were not in conformity with the Constitution.[25]

28. After the parliament failed to find a consensual candidate who would qualify to become the Supreme State Prosecutor in April 2014, Ivica Stanković was elected Supreme State Prosecutor on 7 October 2014 in the second voting round (with a three-fifths majority).

29. The HRA also has warned about the continuing practice of electing heads of the judiciary in an unconstitutional manner, pointing out that the election for the President of the Supreme Court, which was on-going in August 2014, was conducted under the provisions of the Law on the Judicial Council that contravened the Constitution and prompted the HRA to lodge another constitutional complaint to review the constitutionality of provisions of the Judicial Council Act on election and dismissal of the President of the Supreme Court.[26] In the meantime, the Judicial Council proceeded with the election, and on 26 July 2014 re-appointed as President of the Supreme Court Ms Medenica, who is no longer chairing the Judicial Council.[27]

30. The authorities were preparing the Law on the Judicial Council, the Law on Courts, Law on the Rights and Duties of Judge, the Law on the Public Prosecution Office, and the Law on the Constitutional Court of Montenegro that needed to be further amended to comply with the requirements in the framework of the negotiations of chapter 23 of the European Union negotiations. The Venice Commission adopted in October 2014 an opinion on the draft law on the Constitutional Court,[28] and adopted its opinion on these four other draft laws at its 12-13 December 2014 meeting.

31. We also welcome the intention of the authorities to amend and improve the Law on Legal Free Aid, which is currently being examined by the parliament.

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24. This requirement was stipulated in the Constitutional Law for Implementation of Amendments I to XVI to the Constitution of Montenegro of 31 July 2013. Information provided by the Montenegrin delegation on 16 September 2013.
25. Election of the Supreme State Prosecutor – Statement by Human Rights Action, www.hraction.org/?p=6246#more-6246, and the Press statement of Human Rights Action of 25 July 2014.
26. Press statement of Human Rights Action, 25 July 2014.
27. AS/Mon (2014) 22, p. 18.
28. CDL-AD(2014)033, Opinion on the Draft Law on the Constitutional Court of Montenegro, adopted by the Venice Commission at its 100th Plenary Session (Rome, 10-11 October 2014).

32. While the constitutional amendments related to the judiciary represent progress towards the fulfilment of our requirements, it remains of utmost importance that the Law on the Judicial Council, the Law on Courts, the Law on the Public Prosecution Office, and the Law on the Constitutional Court of Montenegro are fully in line with Council of Europe standards. We welcome the co-operation of the Montenegrin authorities to review the adoption of these laws in full compliance with all Venice Commission recommendations, and their effective implementation is essential to ensure that the judiciary can work in an independent manner. They should be further scrutinised in the framework of the proposed post-monitoring dialogue with Montenegro.

3.2. The fight against corruption and organised crime (key issue)

33. We stressed that effective anti-corruption laws and practices are essential to secure the rule of law and that concrete results need to be delivered to root out corruption that remains widespread and deeply rooted. A number of cases were brought to our attention,[29] also in the city of Budva (that we visited in April 2014).

34. We were informed about the amendments to the Criminal Code and Criminal Procedure Code in August 2013, which vested larger investigative competences in the State Supreme Prosecutor and Special Prosecutor on Corruption and Organised Crime. A special IT system would be developed to enable the Special Prosecutor to have direct access to databases from the different State agencies. However, this would take time and funds.

35. We welcome the ongoing steps taken by the authorities to further comply with the recommendations of the Group of States against Corruption (GRECO). According to the latest Transparency International report on the perception of corruption, published on 3 December 2014,[30] Montenegro is in 76th position with a corruption perception index of 42. However, we believe that implementation of the legislation is essential. All State institutions should be designed and equipped to prevent, detect and sanction corruption.

36. Montenegro's track record in the fight against corruption is often pointed out: few high-level cases have been prosecuted to the final stage. Some sentences delivered by courts of first instance were invalidated by higher courts on procedural grounds. In Budva, the Mayor, Lazar Rađjenović, was arrested in March 2014 on suspicion of abuse of office, together with Aleksandar Ticić, the privatisation adviser to Prime Minister Milo Đjukanović, and Jelica Petričević, the Deputy Director of Prva Bank.[31] Some interlocutors however raised the question as to whether these arrests might have been prompted by an internal feud between two factions within the DPS party.

37. We understand that Montenegro has engaged in several reforms of its anti-corruption policies at the request of the European Commission. The draft Law on Prevention of Corruption, the Directorate for Anti-Corruption Initiative and the Commission for Prevention of Conflict of Interest should be merged into an Agency for the Prevention of Corruption, which should be operational as of 2016. This new Agency should also take over the competences of the State Election Commission for control of the financing of political parties and election campaigns and be responsible for the handling of whistle-blower complaints and whistle-blower protection, as well as for the application of the law on lobbying.

38. The drafting of the Law on the Special State Prosecutor's Office is in progress and was reviewed by the Venice Commission. This Law should improve the competences, independence and organisational structure of the Special Prosecutor for dealing with cases of organised crime and corruption. It remains to be seen how the Special Prosecutor will work with the Supreme State Prosecutor.

39. The draft Law on the Special Public Prosecutor's Office for the Fight against Corruption and Organised Crime was sent to the Venice Commission, which adopted its opinions on 12 and 13 December 2014.[32] For the time being, it remained unclear for many of our interlocutors whether the Supreme State Prosecutor would supervise the work of the Special Public Prosecutor for Corruption and Organised Crime, and whether he would have full access to the files dealt with by the Special Public Prosecutor.

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29. The Organised Crime and Corruption Reporting Project (OCCRP) and MANS published a number of reports on this issue, see https://reportingproject.net/unholy-alliances/.

30. See www.transparency.org/cpi2014/results.

31. According to media reports, the charges stemmed from a 2007 bank loan for €2 million to the private company Luna, which Rađjenović backed with a State guarantee. Police said the loan was used to purchase 26 000 square metres of State land in Kosljun, and has not been repaid. The bank's receivables were collected from the municipality. www.anticorruption-montenegro.org/home/news-from-montenegro/100-arrests-highlight-montenegro-s-efforts-against-corruption.

32. See document CDL(2014)055.

40. A draft Law on Confiscation of Assets Acquired from Criminal Activity is also in preparation. It should improve the conduct of financial investigations and the exchange of experience at regional and international level, considering that the assets acquired from crime are often sent to other countries.[33]

41. A draft Law on Amendments to the Law on Prevention of Conflict of Interest should strengthen limitations in the exercise of public functions, define the content of reports on income and assets, and prescribe other measures that will enable more effective detection and sanctioning of cases of conflict of interest.[34]

42. In this respect, we believe that the parliament should play a key role in promoting the fight against corruption. An "anti-corruption committee", composed of eight members from the majority and five from the opposition, was established by the parliament in 2012. During our last visit, we had an exchange of views with its Chairperson and members. This committee organised consultative hearings on the "Telekom" affair[35] on 6 February 2013 and urged the Supreme Public Prosecutor's Office to send an urgent appeal to the US administration to send all necessary information, which was still awaited by the newly elected Supreme Public Prosecutor in November 2014; a consultative hearing on the audio-recording affair on 11 December 2013, which was adjourned because the acting Supreme State Prosecutor left the meeting; a consultative hearing on 30 December 2013 regarding the purchase of the motel "Zlatica" with the adjoining land to resolve the issue of accommodation of the special and specific unit of the Police Administration, which was terminated due to the absence of the acting Supreme State Prosecutor;[36] or, more recently, a hearing on "Multimillion contracts for legal and consulting services paid by the Electric Power Company of Montenegro", following a complaint lodged by representatives of civil society, the material collected was sent to the Supreme State Prosecutor, who, within 30 days, were to submit to the Anti-Corruption Committee information on the material.[37]

43. Representatives of civil society, however, regretted that the anti-corruption committee may remain a weak instance due to its structure and lack of clear jurisdiction, failing to deliver concrete outcomes from governmental and judicial mechanisms in terms of changing problematic policies and practices.[38] We therefore invite the Montenegrin Parliament to reinforce the legal means provided to the committee to strengthen its oversight role and its capacity to have an impact on the fight against corruption. We can only encourage the Montenegrin Parliament to further take advantage of the recently created Parliamentary Assembly anti-corruption platform,[39] which could provide a useful forum for the exchange of good practices.

44. One particular issue addressed by NGOs was the decision taken in August 2013 to remove the unique, 13-digit birth number from tax administration and real estate administration registers. NGOs stressed that this ID number was an effective tool for investigating the real ownership of assets or investments in companies that present a conflict of interest for politicians and State officials and for identifying alleged wrongdoings. It enabled citizens to have access to information on the assets of public figures and people connected to them.[40]

45. While the authorities invoked the protection of personal data, the parliamentary anti-corruption committee organised a consultative hearing on 27 December 2013. It concluded that "for the purposes of researching events and organised crime and corruption, which is the job of investigative journalists and some NGOs, the availability of the data that has been removed is very important, and that means that personal identification numbers of the owners of companies or real estate have to be accessible". The committee pointed out the mutual incompatibility of a number of laws (on Personal Data Protection Law, Free Access to Information, Business Enterprises, Tax Administration, State Surveying and Cadastre) as related to the level of public disclosure of information, including web publishing of personal identification numbers, and decided to set up a working group to address this issue.[41]

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33. AS/Mon (2014) 22, pp. 5-6.
34. AS/Mon (2014) 22, p. 44.
35. See the previous monitoring report of the Assembly.
36. Information provided by the delegation, 4 April 2014, pp. 24-28.
37. AS/Mon (2014) 22, p. 46.
38. Contribution of MANS, to the Montenegro 2014 progress report of the European Commission.
39. See the dedicated website of this project: https://pace.coe.int/en_GB/web/apce/anti-corruption-platform.
40. www.anticorruption-montenegro.org/home/news-from-montenegro/94-montenegro-important-numbers-in-the-fight-against-corruption.
41. Information provided by the delegation, 4 April 2014, p. 25.

46. As regards the fight against money laundering, we should note the adoption of the Law on the Prevention of Money Laundering and Financing of Terrorism on 25 July 2014, notably to comply with the recommendations issued by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).

3.3. Other developments

47. During our visits, we took note of the latest developments regarding the judiciary, in particular the reduction of the backlog of court cases,[42] the setting up of a national remedy in case of lengthy procedures in 2010 (67 claims were registered in 2013), the trainings of judges, the attention paid to the case law of the European Court of Human Rights, and the monitoring of the work of the courts by 14 NGOs, taking into account that 150 000 new judicial cases involving 300 000 people (that is half of the Montenegrin population) were initiated each year.[43]

48. The issue of war crimes remains open. We refer to the latest report of the Council of Europe Commissioner for Human Rights further to his visit in March 2014[44] where he called on the authorities to end impunity for the most serious wartime crimes and provide effective remedies for the victims. The authorities stated that all war crime cases (Morinj, Deportation, Bukovica, Štrpci) had been resolved in a legal manner, except the case of "Kaluđerski laz", which had ongoing appellate proceedings. They mentioned that 11 final verdicts for damages to the victims of war crimes were rendered. A court settlement was agreed in 42 cases, all related to the Deportation case. In 13 cases before Montenegrin courts, the claim for damages to victims of war crimes was finally rejected. Some human rights defenders that we met, however, regretted the poor level of indictment which had led to these court decisions. We would like here to echo their concerns, and the position of the Commissioner for Human Rights, by recalling that rendering justice in the case of war crimes is essential to foster reconciliation in the country and the region as a whole.

4. Democracy

4.1. Electoral legislation

49. A number of electoral issues were discussed with our interlocutors. The government, the opposition and the non-governmental sector launched an initiative to task the Ministry of the Interior with the management of the electoral rolls, given the Ministry's advanced IT system. Mr Rasko Konjević, Minister of the Interior, recalled that citizens must have a biometric ID to be able to vote. While the law was passed in 2008, 25 000 citizens still had no such ID in 2013. New information campaigns should be launched. Mobile teams have been set up by the Ministry of the Interior to collect biometric data in the field.

50. We have encouraged the Montenegrin Parliament to pursue this work, and to address all the issues that have been identified on several occasions by the Assembly's ad hoc committees on the observation of elections. These improvements should ensure an electoral process free from misuse of State and administrative resources, ensure that no pressure and intimidation is employed against teachers and public civil servants to vote for the candidate backed by the parties in power, increase transparency in the funding of political parties and of the election campaign by fully implementing the GRECO recommendations[45] and strengthen the role of the State Election Commission (SEC), improve the quality of the voters register and guarantee the right of universal suffrage for all citizens of Montenegro without the 24-month residence requirement.[46]

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42. The authorities indicated that at the end of 2013, 4 251 cases of all kinds older than three years (dating from 2010 and earlier) remained unsolved in all of the courts of the country. On 31 August 2014, in all Montenegrin courts, there was a total of 3 815 unsolved cases, of all kinds, older than three years. AS/Mon (2014) 22, p. 18.
43. Information provided by Ms Medenica, at that time President of the Supreme Court and of the Judicial Council, in AS/Mon (2013) 21 rev 2, p. 7.
44. CommDH(2014)13, 23 June 2014, Report by the Commissioner for Human Rights, following his visit to Montenegro, from 17 to 20 March 2014.
45. See Greco RC-III(2012)17E, Third Evaluation Round Compliance Report on Montenegro "Incriminations (ETS Nos. 173 and 191, GPC 2)", "Transparency of Party Funding", adopted by GRECO at its 58th plenary meeting, Strasbourg, 3-7 December 2012.
46. See Doc. 13217.

51. Further to the activities of the "working group for building trust in the election process" (see above), a number of changes were made to the electoral legislation: on 17 February 2014, the parliament adopted the Law on the Voter Register, the Law on Amendments to the Law on Financing of Political Parties, the Law on Amendments to the Law on Identity Card and the Law on Local Self-Government.

52. The new law on the funding of political parties was intended to address the problem of the misuse of administrative resources, following the "audio-recording" affair. It stipulates that State institutions on the whole territory shall not deliver social benefits or recruit any staff during an election period. Many interlocutors, including the President of the Republic, acknowledged that this new law hampers the proper functioning of the State and needs fine-tuning. Another provision foresees that the electrical supply company publishes the names of debtors before and after elections, and the name of all beneficiaries of social aid should be published, which may raise concern about the protection of personal data. The capacity of the SEC to supervise the implementation of this law was also questioned.

53. The Constitutional Court, however, struck out some provisions of the Law on the Financing Political Parties and Election Campaigns in May 2014. A working group, chaired by MP Draginja Vuksanović, was entrusted with reviewing, with the active and constructive participation of NGOs, the working version of the Law on Funding of Political Parties and Election Campaigns prepared by the government. The working group completed its work on 17 November 2014.

54. We expect the Law on Funding of Political Parties and Election Campaigns to strictly regulate the use of administrative resources during electoral campaigns, which is essential to ensure that all political parties are on a level playing field in a country that has not experienced political alternatives in the past 25 years, and where 40% of employees work for the State.

55. On 21 March 2014, the parliament adopted the Law on Amendments to the Law on Election of Councillors and MPs, which was not reviewed by the Venice Commission, we have learnt, and which introduces some new provisions:[47]

55.1. One of these provisions concerns the appointment of the President of the SEC, who will be elected by the parliament by a majority vote of the total number of MPs, at the proposal of the Administrative Committee after public announcement. The SEC will consist of a president and 10 standing members, plus one authorised representative of each of the submitters of the electoral lists. The law now gives the possibility of appointing a deputy from among the other minority groups as a substitute to a permanent SEC member, appointed as a representative of a political party or electoral list, in order to allow for representation of members of minority groups or national communities. On the basis of a vacancy notice and at the proposal of the Administrative Committee, one representative of civil society, the NGO sector and universities, who is an expert on electoral legislation, will be elected to the SEC.

55.2. On 7 October 2014, the parliament elected Budimir Šaranović Head of the SEC, Vlado Dedović member of the SEC designated among civil society representatives, the non-governmental sector and universities, as well as the nine other members of the SEC.[48]

55.3. The law changes the composition of the municipal election commissions, consisting of a president and four standing members, and one authorised representative of each of the submitters of the electoral lists. It is also stipulated that the Ministry of the Interior is obliged to keep voter registers and to send a notice about elections to all voters. It is envisaged that an electronic device for identification of voters be used at polling stations, and certain provisions on housebound voting have been amended. We were informed that €200 000 had been allocated to provide the necessary equipment and software for the electronic registration of voters.

55.4. A working version of the electronic voter register was prepared by the Minister of the Interior at the end of October 2014. It was the opposition that requested that the electronic identification of voters be in place before the local elections in Herceg Novi in December 2014.[49]

55.5. Other provisions concern the electoral lists: the number of signatures necessary for establishing the list for the election of councillors and MPs is reduced from 1% to 0.8% of voters in the constituency; the support of at least 150 voters is enough to determine the electoral lists of political parties or groups of voters representing minority groups or minority communities.

47. Information provided by the delegation, 4 April 2014.
48. AS/Mon (2014) 22, p. 11.
49. Ibid., p. 16.

56. We congratulate the parliament on its efforts to improve trust in the electoral processes and address a number of issues raised these past months. We believe that such trust is essential for the good and stable functioning of democracy. Therefore, we encourage the authorities to review the implementation of these laws, allocate sufficient financial resources to ensure the proper functioning of the SEC, and redress possible shortcomings that could affect the normal lives of many citizens and the proper functioning of public services.

4.2. The situation of the media (key issue)

57. In our previous report, we looked at the situation of the media. During our last visits, we expressed our concerns about repeated attacks against journalists or media property that remained unsolved. We also stressed that, in a democratic society it is unacceptable that journalists, in particular investigative journalists, are subjected to direct or indirect threats. The issue of the freedom of the media was again discussed in 2014 with the authorities. In this respect, we took into consideration the findings of the Commissioner for Human Rights, following his visit to the country in March 2014.[50]

58. Violence and threats against journalists are still of great concern. Official data indicated that 52 cases were registered from 2004 until February 2014 in which representatives of media or their property were subjected to physical attacks or serious threats.[51] Thirty-two cases were resolved. The NGO Human Rights Action provided us with detailed reports on 30 cases from 2004 to January 2014, related to threats, stoning of premises, destruction of property, beatings, planting of explosives and the murders of Duško Jovanović, Chief Editor of the daily *Dan*, in 2004, and Srđan Vojičić, bodyguard of the assaulted writer Jevrem Brković, in 2006.[52] Many cases remain unsolved.

59. We therefore welcome the setting up, in December 2013, of a "Commission for Monitoring the Actions of the Competent Authorities in the Investigation of Cases of Threats and Violence Against Journalists, Assassinations of Journalists and Attacks on Media Property" composed of 11 members[53] and chaired by the Deputy Editor of *Dan*, Mr Nikola Marković. This positive move will help to render justice and could help restore trust and confidence between investigative journalists and the authorities. This Commission will hopefully shed light on some unsolved murders and attacks – in particular the assassination of Duško Jovanović – and generally restore the confidence and trust of society in their institutions. We noted that recently, following the impetus given by the Commission, two cases were solved: two people were arrested in relation to the explosion in front of the *Vijesti* building on 23 December 2013, and six people were arrested following the attack of a journalist in Nikšić. We met representatives of the Commission a second time in November 2014. We trust that it will be able to continue to press for the remaining cases to be resolved, despite the diverging opinions of the representatives from the different stakeholders on the output of this Commission. Echoing the call of the Commissioner for Human Rights, we consider that the authorities should show zero tolerance to violence and threats against journalists. We take note, with satisfaction, that no new attacks have occurred since January 2014.

60. We noted that the use of the term "media mafia" by an opposition MP during a parliamentary debate in the presence of the Prime Minister had stirred much debate among journalists. The authorities later denied that this term was intended to mean investigative journalists and stressed that these words were taken out of context and misinterpreted.[54] It was quite obvious, however, that the journalists we met perceived this expression as an attempt to target investigative journalists and as a possible way of legitimising new threats and new attacks targeting journalists, who could been seen, by some, as misleadingly depicted as "mafia members".

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50. See the press statement of 21 March 2014 and the report by Nils Muižnieks, Commissioner for Human Rights, following his visit to Montenegro from 17 to 20 March 2014, CommDH(2014)13, 23 June 2014.

51. In the comments to the report of the Commissioner for Human Rights (CommDH/GovRep(2014)10, 23 June 2014), the authorities indicated that 26 out of the 34 cases were concluded: 20 were prosecuted, while in 6 cases the prosecutor decided "that there were no elements of a criminal offence" in the reported attacks. There were 13 criminal and 10 misdemeanor charges filed, involving 36 people.

52. HRA report on "Prosecution of attacks on journalist in Montenegro", 31 January 2014.

53. This commission is composed of two representatives from the Public Prosecutor's Office, two from the police administration, two from the national security agency, one from the Media Self-Regulation Council, one from the media trade union, one from the NGO Sector and one journalist (Mihailo Jovović) from the independent daily *Vijesti*.

54. See the comments provided by the authorities to the report of the Commissioner for Human Rights, CommDH/GovRep(2014)10, 23 June 2014, pp. 6-7. See also the detailed explanations provided by the authorities in AS/Mon (2014) 22, p. 41.

61. During our visits, we recalled that it is the responsibility of the authorities to create the necessary space for journalists to work freely and to strengthen self-regulatory bodies. It is also a shared responsibility of the authorities and journalists to further improve ethics in this still highly polarised media scene. The authorities stressed that they took the decision to decriminalise defamation in 2012. However they complained that some journalists failed to work in line with ethical standards.[55] We encouraged the authorities to strengthen the self-regulatory bodies that should deal with ethics in journalism. For the time being, there are three distinct (and divided) self-regulatory bodies: the Media Council for Self-Regulation (18 members), the Self-Regulatory Council for Local Press and Periodicals (22 members), grouping print media outlets and local electronic media, and the Press Council, established at the end of May 2012 by the dailies *Vijesti* and *Dan* and the weekly *Monitor* and included in the register of NGOs on 6 August 2012.[56] In its "Action Plan for Monitoring Implementation of Recommendations from the European Commission", the government plans to fund the Media Council and Self-Regulatory Council. However, during our visit in November 2014, there were concerns that this public funding might not be secured in 2015. This is essential to ensure that the regulatory bodies can be encouraged and perform the professional work expected of them.

62. In this regard, we welcome the initiative taken by the OSCE Representative on Freedom of the Media, Dunja Mijatović, to organise, in Vienna on 13 October 2014, a round table with representatives of various Montenegrin media (*Pobjeda*, *Dan*, *Vijesti*, *Dnevne novine*, *Monitor* and Portal analitika), and with the support of the Montenegrin authorities. At this meeting, media representatives agreed to reconsider the professional code of ethics, as a first step towards improving media self-regulation in the country, and on the key principles on which media self-regulation should be based.[57] We hope that this initiative will prove to be fruitful. The Council of Europe should be ready to assist.

63. Public advertisement in the media was also discussed. The independent media considered that the situation was unbalanced and that the public and pro-governmental media – and the still State-owned media, Pobjeda, which should finally be privatised – benefited most from public advertisement, which was used as a tool to exert economic pressure on critical media. The Deputy Prime Minister and Minister of Information, Mr Lazović, recognised that there are no strict rules governing the distribution of public advertisement in the media, however advertisements were mostly published in the three main printed media.[58] He also stressed the need to ensure diversification of the media in a highly competitive environment.

5. Human rights

5.1. The rights of minorities and the fight against discrimination (key issue)

5.1.1. Legal framework

64. During our visits to Montenegro, we focused discussions on the fight against discrimination, in particular against the Roma and the lesbian, gay bisexual and transgender (LGBT) community, with Mr Suad Numanović, Minister of Human and Minority Rights, Mr Jovan Kojićić, Secretary of the Anti-Discrimination Council and Advisor to the Prime Minister for Human Rights and Protection against Discrimination, and Mr Šućko Baković, Protector of Human Rights and Freedoms (Ombudsman), as well as with NGOs.

65. A working group, which comprised representatives of the Ombudsman's Office, the Committee for Human Rights and Freedoms, relevant State institutions, the European Commission, the OSCE and the non-governmental sector had been set up to prepare amendments to the 2010 anti-discrimination law and the 2011 ombudsman law (see below), in order to take into account the recommendations of the Venice Commission and the European Commission against Racism and Intolerance (ECRI) to address both direct and indirect discrimination.[59]

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55. While the Media Self-Regulation Council considers that hate speech is the most violated principle of the Codex, the HRA identified the breach of the presumption of innocence as the main violation of Codex, see HRA conclusions of its First report – Conclusions and Recommendations (September 2012 – March 2013).

56. www.hraction.org/wp-content/uploads/Report-on-media-monitoring.pdf.

57. See AS/Mon (2014) 22, p. 42 and the OSCE press release of 14 October 2014, "Media representatives in Montenegro agree on steps to co-operate in order to strengthen media self-regulation".

58. We could not obtain reliable figures about the number of copies printed by each media. In their comments to the report of the Commissioner for Human Rights (CommDH/GovRep(2014)10, p. 3), the authorities indicated that they spend over €880 000 in public advertisement, distributed as follows: *Dan* – €332 686.82; *Pobjeda* – €267 598.94, *Vijesti* – €255 756.31; *Monitor* – €24 760.25.

59. Information provided by the delegation, 19 June 2013, p. 72.

66. The 2010 Anti-Discrimination Law was amended in 26 March 2014. New forms of discrimination, such as harassment, sexual harassment, racial discrimination and hate speech, are proscribed. It introduces the promotion of equality as a tool to prevent discrimination, and allows "situation testing", whereby a lawsuit can be filed by a person who intends to directly test the implementation of the anti-discrimination rules. It addresses the issue of "coerced" segregation [against Roma, Ashkali and Egyptian (RAE)] raised by ECRI.[60] It prescribes deadlines to introduce a lawsuit from the date of the recognition of discrimination (from 1 to 3 years).[61]

5.1.2. The situation of the LGBT community

67. On the proposal of the Anti-Discrimination Council, Montenegro adopted a "Strategy for Improving the Quality of Life of LGBT Persons 2013-2018", along with the 2013 Action Plan. This comprehensive strategy should lead to a number of legislative changes to improve the protection of the rights of LGBT people. It is also aimed at giving a strong signal of the government's willingness to pursue its commitments in this area.

68. Compared to the findings of the Assembly in previous years, we note that the authorities are attempting to be more supportive of the LGBT community. The newly created campaign group called "Queer Montenegro" stressed the excellent co-operation set up with the police. The NGO Forum Progress organised its first "Seaside parade" in Budva on 24 July 2013. A number of State officials backed the event. The police ensured the protection of the demonstrators.

69. The organiser of the second (Gay) Pride parade in the capital – planned for late June 2014 – decided to postpone it until autumn 2014 for security reasons, following consultations with the police. The Parade took place on 2 November 2014, organised by the NGO Queer Montenegro in the presence and with the support of the Minister for Human and Minority Rights, Mr Numanović, the Minister of the Interior, Mr Raško Konjević, and the Mayor of Podgorica, Mr Stijepović, and representatives of the international community. This Parade was organised under the slogan "Traditionally Proud" and demanded the respect of the rights of the LGBT population. It was attended by 200 people, under the protection of 1 800 police and took place without major incident.[62] We congratulate the authorities for ensuring the peaceful organisation of three parades in the past year and a half.

70. However, the LGBT community still faces difficult times: during the 2013 Budva "Seaside Parade", there were violent clashes between the police and anti-gay protesters",[63] who chanted homophobic slogans such as "kill the gays". We firmly condemn these violent clashes, as well as the publication of fake obituaries announcing the "death" of Zdravko Cimbaljević, Director of Forum Progress. He eventually went to Canada where he was granted asylum. Unfortunately such violent events show that awareness-raising and educational programmes must remain a priority to secure human rights for all.

71. Finally, human rights defenders regretted that only one criminal charge was brought against unidentified people for serious bodily harm, for throwing stones at police officers during the parade in Podgorica in 2013, while the Supreme State Prosecutor's Office explained that it did not conduct a criminal prosecution "because it was determined that there was no criminal offence that can be prosecuted *ex officio*" and that "none of the participants in the parade reported physical assault at the premises of the local police unit".[64] After the organisation of the Parade in Podgorica in November 2014, criminal charges were brought against two juveniles, who were acting alone according to the organisers of the Parade.

72. The representatives of the LGBT community consider that the legal framework pertaining to the rights of LGBT people can be considered satisfactory, but it has still to be fully implemented. The response by the State Prosecution Office to threats and attacks are not always consistent. We therefore welcome the signature of a Memorandum of Understanding in March 2014 by the Supreme Court of Montenegro and the NGO LGBT Forum Progress, which should strengthen and enhance the capacities of judges to better understand the human rights of LGBT people and international standards related to sexual orientation and gender identity.[65]

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60. See ECRI report on Montenegro (CRI(2012)5), published on 21 February 2012.
61. Information provided by the delegation, 4 April 2014, p. 37.
62. AS/Mon (2014) 22, pp. 23-24.
63. According to the HRA, during the parade in Budva two participants were slightly injured, while in Podgorica 20 police officers were injured. The damage in Podgorica was estimated at €200 000. The police detained more than 80 people, 22 in Budva and 60 in Podgorica, www.hraction.org/?p=6890#more-6890.
64. Written reply given to HRA, see www.hraction.org/?p=6890#more-6890.
65. AS/Mon (2014) 22, p. 24.

73. LGBT NGOs continue to seek access to equal rights for the LGBT community. At the same time, many interlocutors stressed that Montenegro is a traditional society, and we understand that promoting and enhancing LGBT rights requires time and patience. This means that, despite the progress noted and the political will of the authorities, a lot still remains to be done to ensure freedom of assembly. We now expect resolute action from the police and the judiciary to prosecute and punish the perpetrators of violence and hate speech.

5.1.3. Gender equality

74. In the field of gender equality, we were informed by Suad Numanović, Minister of Human and Minority Rights, that an action plan for gender equality was adopted in 2013. The fight against violence against women, economic empowerment of women and representation of women in politics are among the priorities addressed by the authorities.

75. We welcomed the amendment made to the Law on Election of Councillors and MPs on 21 March 2014, which introduces the "zip system" in the electoral lists, whereby at least 30%, and one in every fourth candidate, should be a representative of the less-represented gender on the list; which should, in the current context, ensure a better participation of women in parliament (women currently represent 17.8% of MPs). This is a positive step.[66]

76. Concerning violence against women, we congratulate Montenegro for ratifying, on 22 April 2013, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, "Istanbul Convention") which entered into force on 1 August 2014. We welcome the activities carried out by the Political Women's Club for the fight against domestic violence, which prepared a publication on "Violence in the family – my rights" in co-operation with the NGO sector.[67]

5.1.4. Situation of the minorities

77. The Minister of Human and Minority Rights indicated that amendments to the 2004 law on the protection of minority rights, the 2010 law on minorities and the law on the national minority councils were in preparation. These amendments should better regulate national minority councils and ensure equal distribution of the funds allocated to minorities.

78. A law on religious communities was under preparation and should be reviewed by the Venice Commission. So far, bilateral agreements were signed between the State and the Vatican, as well as the Jewish and the Islamic communities. The new law should replace the 1977 law and better regulate relations between the State and the religious communities. The issue of the properties of religious communities should be addressed in a separate law.

79. The Law on the Election of Councillors and Members of Parliament was amended in 2011 to ensure authentic and proportionate representation of minorities. It was applied for the first time during the 2012 parliamentary elections. *Pro memoria*, this revised Law decreased both the number of signatures necessary for the ratification of electoral lists (namely 1 000 signatures from registered voters instead of 1% of the total number of voters; 300 signatures for specific minorities representing up to 2% of the total population) and the threshold for the allocation of seats to minority electoral lists (0.7% of valid votes for the minorities and minority national community and 0.35% for the Croatian minority, compared to the 3% threshold for non-minority lists).

80. During our discussions in July 2013, the SNP representatives emphasised that they want Article 45 of the Constitution, which stipulates the 24-month residence requirement to have the right to vote, to be amended. The representative of the Bosniak party wanted minorities to be better represented in State institutions and that it becomes a constitutional requirement. The Croatian Civic Initiative regretted that minorities were not involved in the European Union negotiations and urged the organisation of a round table on the new law on minorities which is under preparation. The Democratic Party (representing the Albanians) deplored that the new electoral law deprived the Albanians of their special constituency, bringing down the number of their MPs from four to two and insisted on education in Albanian, and representation in public

66. In our previous information note (AS/Mon (2013) 21 rev 2), we noted that there was a 30% requirement but no zip system, thus limiting women's participation in parliament to 17.8% at the 2012 parliamentary elections.
67. Information provided by the delegation, 4 April 2014, p. 8.

institutions reflecting the proportion of their group in the population. In addition, FORCA stressed the need to have an organic law on defining minorities, the need to have more space in public media and strengthening of competencies of the municipalities run by minorities.

81. Concerning the situation of the Roma, we welcomed the adoption of the Strategy for improving the position of Roma and Egyptians in Montenegro 2012-2016 in April 2012, and of an action plan for 2012. Mr Isen Gaši, President of the National Council of Roma of Montenegro, indicated that there are currently 6 000 Roma living in Montenegro, and 2 000 displaced Roma and Egyptians. He stated that 70% of the domiciled Roma lived in rather good conditions. 2 200 Roma children are enrolled in schools. However, 700 to 800 Roma children are not registered, and thus cannot go to school.

82. Much attention is still devoted to the situation of the displaced Roma that fled Kosovo in the late 1990s and settled down in Montenegro (see below). The Minister of Human and Minority rights conceded that the domiciled Roma suffered from this process, even though there is an increase in the school enrolment rate and employment rate and better access to social rights. We note with satisfaction that, for the first time, the Strategy includes provisions to tackle forced and underage marriages of Roma and Egyptian women, and violence against women. On 1 July 2013, Montenegro took over the annual chairmanship of the Decade of Roma Inclusion from Croatia. Montenegro intends to reinforce its activities to further support the integration of Roma.

5.1.5. The Ombudsman

83. The amendments to the 2010 Anti-Discrimination Law defined the competencies and authority of the Protector of Human Rights and Freedoms (Ombudsman) of Montenegro with regard to discrimination.

84. The Law on the Protector of Human Rights and Freedoms (Ombudsman) was adopted in 2011 and amended on 18 July 2014. The new law provides for the selection of candidates for the Ombudsman by the President of the Republic after consulting scientific and technical institutions and representatives of civil society organisations. It provides that the Ombudsman be received without delay, and upon his/her request, by the highest authorities and heads of all organs. The Ombudsman institution has become the mechanism for the prevention of torture under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the mechanism of protection against discrimination under the Convention on the Elimination of All Forms of Discrimination. The Ombudsman will be able to visit bodies, institution or organisations where people are deprived of their liberty or people with limited movement are accommodated, make recommendations to the competent bodies, institutions and organisations with the aim of improving the treatment of those people, provide opinions about proposals for laws and other regulations for the protection and promotion of human rights and freedoms of prisoners and people with limited movement.

85. The Ombudsman, his/her deputy, advisors and members of the working body of the institution will have complete and unlimited access to all facilities and all necessary documents for activities directed to the prevention of torture, without limitation and regardless of the degree of secrecy. A new clause provides for permanent protection of people employed in the institution of the Protector (immunity) against any sanctions or adverse consequences they could potentially suffer due to their positions or to recommendations they might give.[68]

86. We understand that the Ombudsman should have a better financial position after the adoption of the 2014 law and more competence for the management of his/her staff members. However, several of our interlocutors raised the issue of the human and financial resources of the Ombudsman and his/her ability to carry out these tasks. It is therefore essential that the Montenegrin authorities seek the expertise of the Council of Europe to ensure that the competencies and resources of the Ombudsman, as defined in the amended law, are sufficient for this institution to work as an independent and efficient body.

5.1.6. The situation of refugees and IDPs (key issue)

87. In September 2014, there were 6 587 IDPs and refugees (5 742 IDPs from Kosovo[69] and 845 refugees from Bosnia and Herzegovina and Croatia resided in Montenegro[70]). The number of families who wish to return voluntarily to their country of origin remains low,[71] despite a seemingly slowly increasing tendency.[72]

68. AS/Mon (2014) 22, p. 23.
69. Figures provided by the Ministry of Labour and Social Affairs on 31 October 2014.

The Montenegrin authorities point to the lack of available land and housing solutions, along with general boundary conditions for reintegration, which continue to affect the prospects for sustainable voluntary return to Kosovo.

88. In its Resolution 1890 (2012), the Assembly, further to the revision of the Law on Foreigners, called on the Montenegrin authorities to facilitate the granting of a legal status and of a temporary or permanent residence permit for refugees and IDPs still living in Montenegro and to find a suitable way to resolve those cases of people facing statelessness when proper identification documents are no longer available or cannot be obtained for registration. The 2011 Law on Foreigners prescribed that displaced and internally displaced persons may submit a request to obtain the status of foreigners with permanent residence by 31 December 2012. On 28 May 2013, the Parliament of Montenegro adopted the Law on Amendments to the Law on Foreigners, extending the deadline to 31 December 2013. The parliament again extended this deadline to 31 December 2014 after adopting amendments to the law amending the Law on Foreigners, on 23 December 2013. In April 2014, 3 400 IDPs and refugees had not yet filed a request to regulate their legal status (compared to 4 800 in September 2013[73]). The parliament prolonged, for the fourth time, the deadline for submitting requests for temporary or permanent residence permits by displaced persons and IDPs (until 31 December 2014). Since 2011, the authorities remain committed to either integrating the refugees by granting them the status of foreigner with permanent residence, or to facilitating their voluntary return to their place of origin.

89. We are aware of the efforts undertaken by the authorities and the UNHCR to help IDPs and refugees to get ID papers in their country of origin,[74] though it remains a problem. We had been informed that in 2013 steps were taken by the authorities of Montenegro and Kosovo to allow a mobile team from Kosovo, with the proper technical equipment, to provide biometric ID cards to IDPs. By the beginning of October 2014, four mobile teams from Kosovo visited the Konik camps and Montenegrin towns where refugees are accommodated and interviewed 332 people who had applied for documents.[75] We encourage the Montenegrin authorities, together with the UNHCR, to pursue this action, which will further ease the situation of a number of IDPs, and reduce the number of people without a legal status.

90. We were also informed that IDPs and refugees who stay in Montenegro, until acquiring the status of foreigner with permanent residence in line with the Law on Foreigners, shall have, until 30 June 2015, the same rights as Montenegrin citizens, including the right to work and the right of unemployment insurance in accordance with the regulations in the field of labour and employment (with some exceptions linked to Montenegrin citizenship). However, they still face difficulties in accessing the labour market, as they cannot be recruited by public administrations or companies.

91. We noted, with satisfaction, that close to 90% of the children residing in the Konik camps attend school.[76] The entry into force of the amendments to the General Law on Education in August 2013, enabling people with the status of foreigner with permanent residence to work as teachers in educational institutions in Montenegro, is to be welcomed.

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70. UNHCR Montenegro fact sheet, September 2014. This figure should be compared with the 10 422 IDPs and refugees registered in March 2013, according to the figures provided by the Refugee Care and Support Office and the Ministry of the Interior on 20 March 2013 and by the delegation on 19 June 2013. The number of IDPs and refugees was 15 800 in 2009.

71. In 2013, 103 families expressed an interest. The return of 46 of them (238 individuals) was approved and considered as safe by the international organisations involved in this process, provided their respective municipalities would provide land parcels on which houses would be built using the donor funds allocated for returnees. According to the data provided by the Bureau for the Care of Refugees and the Ministry of Labour and Social Affairs on 17 October 2013, 788 IDPs said they were willing to return voluntarily to Kosovo, provided their rights would be fully respected there. In 2014, 14 families returned voluntarily to Klina and Pecs in Kosovo and 100 more families expressed the wish to return (AS/Mon (2014) 22, p. 27).

72. In November 2014, the Minister of Labour indicated that about 100 people had returned to Kosovo, while one thousand expressed interest in so doing.

73. Information provided by the delegation on 21 October 2013.

74. The Montenegrin authorities, together with the UNHCR and the OSCE, conducted 16 visits to Kosovo with people without papers, mostly Roma. 600 people have used this facility so far and 2 000 documents were collected. Information provided by the delegation on 21 October 2013.

75. 260 people were provided with copies of the registers from the registry, 191 people applied for an identity card of the Republic of Kosovo, while 69 passports and identity cards were presented to internally displaced persons.

76. Information provided by the delegation on 21 October 2013.

92. Despite the efforts made by the authorities to facilitate access to documents in the countries of origin and despite the decrease of administrative fees, the identification process remains expensive for IDPs (the average fees amount to between €100 and €170 per person) and complex, including for newborn babies with refugee or IDP parents. We were informed that the Montenegrin Government, together with the European Union delegation and the UNHCR, would continue to co-operate with the countries of origin through the Working Group on Civil Documents under the Belgrade Initiative, in order to lower the fees for identity documents.[77]

93. The UNHCR advocates the adoption of a law on subsequent birth certificate for people that would ensure universal registration.[78] In 2013, 98 requests for subsequent registration of people born outside health facilities had been submitted by the NGO Law Center, 45 cases being successfully completed. More requests for subsequent registration were to be processed by the UNCHR and the Law Center in 2014.[79] On the other hand, the authorities stressed that they had put every possible measure in place to facilitate transportation and registration. They feared that some IDPs refrain from seeking ID documents and to register in order to have access to the social rights provided by both their countries of origin and of residence.

94. The Minister of Labour informed us that, further to an agreement with the UNHCR, refugees from Croatia and Bosnia and Herzegovina would no longer be considered as refugees in 2015.

95. During the July 2013 visit, and again in November 2014, thanks to the assistance provided by the UNHCR Representative and officers in Montenegro, the co-rapporteurs visited Camp Konik I (38 huts, 214 families, 1 156 people) and Camp Konik II (56 huts, 67 families, 316 people)[80] in the suburbs of Podgorica, which had been visited by the previous Assembly rapporteurs in 2012.[81] A series of projects launched by the authorities to upgrade the accommodation continue, such as the Regional Process of Sarajevo and the "Pilot Project Konik Camp" (construction of 120 residential units), launched in March 2013 and managed by the Council of Europe Development Bank, the European Union's Instrument for Pre-accession Assistance (IPA) project 2011 project on "The identification of durable solutions for internally displaced persons and residents of Konik camp", the "National Housing Programme for the most vulnerable refugees and displaced persons" to resolve housing issues and provide 1 177 housing units for about 6 000 people in 13 municipalities, and the financial or in-kind contributions of national donors (in particular the German NGO Help, the Swiss Agency for Development and Co-operation, and the United States[82]). In October 2014, the Montenegrin authorities and the Council of Europe Development Bank signed a grant agreement worth €9.9 million to build housing units for 120 families in Podgorica and a senior home in Pljevlja for 68 elderly people. Regional housing programmes will provide housing for displaced persons with 907 housing units as well as by supplying construction material for 120 housing units and the construction of 60 prefabricated houses. The government expects to complete this process by 2016 and to be able to close all collective centres by then.[83]

96. We believe that the Montenegrin authorities have steadily tried to find durable solutions for IDPs and refugees. Until September 2014, 11 569 displaced persons and IDPs had applied for the status of foreigner with permanent residence, out of which 10 284 cases were resolved, while 1 285 were still being resolved; 556 IDPs had applied for the status of foreigner with temporary residence, out of which 402 cases were resolved, while 154 were still being resolved.[84] This means that over 70% of the 16 000 IDPs and refugees still registered in Montenegro have applied for a legal status, and we encourage the Montenegrin authorities, with the support of the UNHCR and neighbouring authorities, to further facilitate the applications lodged by refugees and IDPs to obtain a legal status by 31 December 2014.

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77. Ibid.
78. For further details on this issue, see the UNHCR Report on Statelessness in South Eastern Europe, September 2011. In its contribution of 21 October 2013, the delegation stressed the fact that "following several meetings, the regional technical working group initiated and co-ordinated by the Ministry of the Interior of Montenegro concluded that people born in former SFRY and FRY republics could not become stateless, as citizenship may be acquired by origin (by means of registration, subsequent registration or determination) whereas a child, regardless of the republic or country of birth, may acquire citizenship based on that of the parents".
79. Information provided by the delegation on 4 April 2014.
80. Information provided by the Ministry of Labour and Social Affairs – figures as at 17 October 2013.
81. See AS/Mon (2013) 21 rev 2.
82. The United States announced a donation of 100 housing containers, which were used in Camp Bondsteel in Kosovo, to improve the housing conditions in Camp Konik II. Information provided by the delegation, 19 June 2013.
83. AS/Mon (2014) 22, p. 25.
84. AS/Mon (2014) 22, p. 29.

97. The issue of a possible risk of statelessness remains open. A public notice was published by the Ministry of the Interior from 22 September until 22 November 2014 urging all people who believe they have no citizenship of any State, or do not have access to citizenship, to apply for Montenegrin citizenship.[85] In this respect, we welcome the ratification of the 1961 United Nations Convention for the reduction of statelessness by Montenegro in October 2013.

98. During our contacts with the UNHCR, we also discussed the situation of asylum seekers. As Montenegro is becoming an attractive country, bordering an European Union country (Croatia) and further moving toward European Union integration, the number of asylum seekers is on the rise (1 066 requests registered in 2013, compared to 10 in 2010). Between 2007 and 2014, more than 6 300 requests for asylum were submitted. Eleven people were granted protection by the authorities. An Asylum Centre with a capacity of 65 people was opened in February 2014, with a possibility of increasing the capacity to 100 people. It should primarily host the most vulnerable asylum seekers (women, pregnant women and children).[86] The asylum system also needs to be built up by the authorities. In this respect, we were informed by the authorities that an inter-ministerial working group had been formed to draft a new Law on Asylum as well as secondary legislation, and that the establishment of electronic records of asylum seekers with basic information is planned for December 2014.[87]

6. Conclusions

99. During our visits in July 2013, April 2014 and November 2014, we could observe the steady, pro-European commitment of Montenegro to comply with Council of Europe standards and European Union requirements with regard to the rule of law, democracy and human rights. Montenegro has made great progress in fulfilling its commitments and obligations.

100. We welcome the continuous efforts of the Montenegrin authorities to further promote the fight against discrimination. We acknowledge that a number of positive steps have been taken to secure the rights of assembly of the LGBT community, and encourage the authorities to pursue their awareness-raising action to increase the level of tolerance of society. The recent amendments to the Law on the Ombudsman should increase the competencies, capacities and financial independence of this institution, which should strengthen the protection of human rights. We also look forward to the improvements under preparation in the field of the protection of minorities, which should further consolidate the peaceful co-existence of all minorities living in Montenegro. Continued attention still needs to be devoted to the Roma community.

101. We would like to thank the Montenegrin authorities, in co-operation with the UNHCR and the international community, for their continuous efforts to host and/or integrate refugees and IDPs. The revised Law on Foreigners facilitated access to a permanent or temporary residence permit, even though administrative and financial difficulties remain. We therefore urge the Montenegrin authorities to continue their efforts to assist the 3 400 IDPs and refugees who still do not have ID papers and will be considered as illegals on Montenegrin territory by the end of December 2014.

102. While praising the Montenegrin authorities for the progress made, we would like to point out some essential issues that need to be further addressed:

102.1. The adoption of the long-awaited constitutional amendments to the judiciary in July 2013 represents substantial progress. However, a number of laws related to the courts, the rights and duties of judges and the Judicial Council, the Constitutional Court and the Public Prosecution Office still need to be amended to fully comply with all Venice Commission recommendations and Council of Europe standards and we will need to follow these developments. This is a prerequisite to restore the people's confidence in their judicial system and ensure the independence of the judiciary. We strongly encourage the Montenegrin authorities to continue to work closely with the Venice Commission and take into account its recommendations.

102.2. The "working group for building trust in the election process", established in 2013, allowed political parties to conduct a constructive dialogue and propose amendments to a number of important laws pertaining to the electoral processes. We regret however that the Venice Commission was not consulted on this important legislation. Trust in the electoral process needs to be built at all levels, including at the local level and more attention should be paid to the implementation of the laws by local authorities and local politicians.

85. Ibid.
86. Information provided by the delegation, 21 October 2013.
87. AS/Mon(2014) 22, p. 29-30.

102.3. A new law on the prevention of corruption should reform the structures in charge of combating corruption and organised crime. We note that, as of 2016, the future Agency for the Prevention of Corruption will have an essential role to play in controlling the implementation of the law on the funding of political parties and in many other fields. Its capacities ought to be strengthened. We also need to ensure that the Special Prosecutor, whose competencies and relationship with the (now democratically elected) State Supreme Prosecutor are regulated in a separate law, will have all the necessary guarantees to work in an independent way, without political interference.

102.4. In the field of the media, the setting up of the "Commission for Monitoring Actions of Competent Authorities in the Investigation of Cases of Threats and Violence Against Journalists, Assassinations of Journalists and Attacks on Media Property" is an encouraging sign and should contribute to solving a number of cases of attacks and threats against journalists. However, this might not be sufficient to create a media-friendly working environment. It is high time the issue of self-regulation was addressed, to ensure that the profession practises ethical journalism and sanctions violations of the code of ethics of journalists.

103. To conclude, in the light of the progress made since 2012 by Montenegro, and of its renewed commitment to continuing the reform process in the framework of the European Union accession negotiations, we are in a position to propose the closing of the monitoring procedure and to engage in a post-monitoring dialogue in line with Resolution 2018 (2014), adopted in October 2014 by the Assembly. Thus, we will require that the Montenegrin authorities complete, by the end of 2017, a series of reforms in the fields of building trust in the electoral process, strengthening the independence of the judiciary, enhancing the fight against corruption and organised crime and improving the situation of the media. Should the Montenegrin authorities fail to meet the above-mentioned commitments by the end of 2017, the Monitoring Committee should examine whether Montenegro should be returned to the full monitoring procedure.