



Montenegro

Permanent Mission of Montenegro to the
United Nations Office and other International Organizations
in Geneva

No. 01/11

The Permanent Mission of Montenegro to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honor to kindly enclose herewith answers to the Questionnaire of the Special Rapporteur on Human Rights and the Environment related to the activities undertaken with regards to toxic waste in the context of providing safe, clean, healthy and sustainable environment.

The Mission would highly appreciate if the Office could convey the letter to the Special Rapporteur.

The Permanent Mission of Montenegro to the United Nations Office and other International Organizations in Geneva avails itself of the opportunity to renew to the Office of the High Commissioner for Human Rights in Geneva the assurances of its highest consideration.


Geneva, 1 November 2021



Office of the High Commissioner for Human Rights

GENEVA

Montenegro
Answers to the Questionnaire on The Right to a Safe, clean, Healthy and Sustainable
Environment:
Toxic-free places to live, work, study and play

1. Please provide examples of ways in which toxic environments – characterized by unhealthy levels of pollution and high risk of exposure to toxic substance are having adverse impact on human rights....

Unhealthy levels of pollution endanger right to healthy environment which is guaranteed by the Montenegrin Constitution.

2. What are most heavily polluted places in your State? Are any areas in your State designated as “sacrifice zones” because of the extreme pollution? Are there any examples of heavily polluted places that have been comprehensively cleaned up and rehabilitated? If not, what are the barriers to cleanup and rehabilitation?

Heavily polluted places in Montenegro are identified by the project "Industrial waste management and cleaning" in cooperation with the World Bank: Bijela shipyard, Maljevac ash and slag landfill and the Gradac flotation tailings pond, as well as location of the Aluminium Plant Podgorica (red mug and solid waste landfill). Completion of works and finalization of remediation of the location of the Shipyard Bijela, planned by the end of March 2022. The works on the remediation of the Maljevac landfill were completed in June 15, 2021, while the completion of the works on the Gradac location is expected by the end of November this year. Regarding the location of KAP (red sludge pools and solid waste landfills), the activities on the research of locations that are necessary for defining the concept and the beginning of the project documentation have been completed.

In addition, in 2017, the implementation of the project "Comprehensive environmentally friendly waste management containing PCBs in Montenegro" began. The project is implemented by the UNDP in cooperation with the Ministry by the GEF funds and project partners - Montenegrin Electricity Distribution System - CEDIS, UNIPOM / KAP, Port of Bar, Pljevlja Coal Mine, Port of Adria, Railways Montenegro, etc. The aim of the project is the identification, disposal and permanent disposal of equipment, waste and soil contaminated with polychlorinated biphenyls (PCBs) from the environment, which will solve a significant environmental problem in the country.

There are no designated “sacrifice zones” in Montenegro.

3. What are the specific obligation of States and responsibilities of business in terms of preventing exposures to unhealthy levels of pollution to toxic substances, rehabilitating toxic sites and providing compensation to adversely impacted individuals?

Law on environmental liability with regard to environmental damage (OG of MNE”, No 027/14, 055/16) governs the manner and procedure for establishing environmental liability as well as the application of preventive and remedial measures to prevent and remedy environmental damage. Legal and natural persons who have caused, by the occupational activities or other acts, environmental damage or any imminent threat of such damage shall be liable for such damage and shall carry out measures to prevent and remedy the damage in accordance with this Law.

Law on industrial emissions (OG MNE No. 17/19) prescribe in accordance with the EU Directive EU 2010/75 the application of the best available techniques to prevent, mitigate and eliminate pollution from industrial installations.

Law on chemicals lays down the classification, labelling, packaging, marketing, export and import of chemicals, as well as any other issue relevant for the protection of human health and the environment from harmful effects of chemicals.

In accordance with the *Law on environment*, the operator of a Seveso plant or complex which in its operating activities has or may have one or more dangerous substances shall take all necessary measures to prevent a chemical accident and limit the impact of such an accident on the human life and health and the environment in order to create the conditions for risk management in accordance with this Law.

In addition, responsibilities of business in terms of preventing exposures to unhealthy levels of pollution to toxic substances are defined in *Law on occupational health and safety* ("OG of MNE", No. 034/14, 044/18). Protection and health at work means providing working conditions that do not lead to injuries at work, occupational diseases and work-related illnesses and that create preconditions for full physical and mental protection of employees. Measures for protection and health at work are planned and provided in all work processes at the employer, in order to prevent or reduce risks to life and health of employees. The measures are prescribed by bylaws in the field of occupational health and safety and other regulations.

4. Please provide specific examples of constitutional provisions, legislation, institutions, regulations, standards, jurisprudents, policies and programmes that apply a right base approach to ensuring toxic free environments?

Basis for environmental legal framework is to be found in the Constitution of Montenegro, which affirms the right of citizens to a healthy environment, as well as the obligation of citizens to protect and improve environment. Procedures and regulatory obligations in the environmental sector are largely in line with EU requirements and relevant international conventions. Progress has been made in particular on the adoption of relevant regulations, including by-laws (Law on the Environment (OG of MNE 52/16), Law on Chemicals (OG of MNE 51/17), Law on Biocidal Products (OG of MNE 54/16), Law on Waste Management (OG of MNE 64/11, 39/16), Law on Air Protection (OG of MNE 25/15, 43/15), Law on Industrial Emissions (OG of MNE 17/19), Law on Liability for the Environmental Damage (OG of MNE 27/14, 55/16) Law on Food Safety (OG of MNE 57/15).

The Ministry of Ecology, Spatial Planning and Urbanism is responsible for creating a national legislative and strategic framework in the field of chemicals management and for the entire field of environment. The implementation of regulations, i.e. professional and administrative tasks in this area are entrusted to the Environmental Protection Agency. When it comes to chemicals, inspection supervision over the application of regulations in this area is the responsibility of the Directorate for Inspection Affairs (sanitary and environmental inspection). Chemical testing and other professional activities are performed by the LLC Center for Eco toxicological Testing (mainly through the Department of Chemical Analysis) and the Institute of Public Health, as accredited laboratories. For the area of chemicals management in the part related to plant protection products and plant nutrition products, food safety from the aspect of controlling the presence of chemicals in food, as well as for the protection of animal welfare used for experimental purposes. The Ministry of Health performs administrative tasks related to the management of chemicals related to monitoring and analysis of the most important indicators of health status of the population, analysis of risk factors that negatively affect the health of the population, prevention and control of chronic noncommunicable diseases, monitoring and control of precursor traffic, strengthening public health. monitoring environmental protection measures that affect the health of citizens, the health safety of water for human use and giving opinions on its safety. Also, this ministry is responsible for establishing the Poison Control Center.

5. If your state is one of the 156 UN member States that recognize the right to a safe, clean, healthy and sustainable environment, has this right contributed to preventing, mitigating or rehabilitating toxic environments? If so, how? If not, why not?

The "polluter-pays" principle is introduced in Montenegro. The Law on environment defines that eco-fees are the fees for the environmental pollution payable on the "polluter pays" principle. The eco-fees shall be paid by legal and natural persons for: discharging pollutants into the air, import of substances damaging the ozone layer, creation and disposal of hazardous waste. The amount, method of calculation and payment of fees is defined by the Decree. Eco Fund was established by the Decision of the Government of Montenegro in November 2018 with the purpose to act as a central national institution for financing and providing technical support to projects / programs in the field of the environment, climate change and energy.

Environmental monitoring is carried out by systematic measurement, testing of quantitative and qualitative indicators of the state of the environment, which includes the monitoring of natural factors, i.e. changes in the state and characteristics of the environment, including cross-border environmental monitoring. The environmental monitoring include: biodiversity and the nature conservation status; water quality; marine ecosystem, air quality; content of dangerous and harmful substances in the soil; level of environmental noise; level of non-ionizing radiation; level of radioactivity in the environment; natural phenomena, meteorological, hydrological, oceanographic, erosion, seismological and other geophysical phenomena; waste management streams; emission of air pollutants and greenhouse gases. Environmental monitoring ensures a continuous control and monitoring of the state of the environment in accordance with this and special laws.

However, if there is a historical pollution at the certain site, and there is a public concern related to endangered health of people living nearby, it is quite difficult to prove at the court that health conditions are directly connected to the pollution. There is a need to further educate judges and prosecutors on environmental crime, but, there is also a need for better health statistics and targeted surveys in order to support claims related to health problems.

6. Please provide specific examples of good practices in preventing, mitigation or rehabilitating toxic environments

It is important to point out that the state of the environment of Montenegro is monitored based on measurement results achieved by the implementation of the Environmental Monitoring Program and collected data, through direct cooperation of institutions responsible for certain thematic areas and authorized laboratories. Information on the state of the environment is published every year on the Agency's website. The right to information on environmental issues is regulated in several regulations, which fully transpose the relevant provisions of EU regulations on public access to environmental information and public participation in decision-making on environmental issues. In addition, it is improved cooperation with non-governmental organizations and NGO is continuously involved them in the processes of implementation of public policies in this area.

Banning the use of the specific substances is mostly done by the Decree on prohibited and permitted methods of use, manufacture, and placing on the market of chemicals that present unacceptable risk to human health and the environment (OG of MNE No. 070/18, 076/20). This decree is transposing the Annex XVII of REACH Regulation.

In addition, reducing air and water pollution is defined with Law on waters and Law on air protection and accompanying bylaws adopted based on these laws.

7. Please specify ways in which additional protection is provided (or should be provided) for population who may be particularly vulnerable to toxic environments. How can these populations be empowered to protect their rights?

The level of awareness of consumers and the general public and vulnerable groups about the risks of chemicals and the need for adequate management of chemicals is still not at a satisfactory level. Although the Institute for Public Health within their duties and capabilities conducting information and education of certain target groups, in order to achieve a satisfactory level of awareness of the general

population in activities to raise awareness of the risks of chemicals. In addition, it is established better cooperation with NGO sector in order to disseminate information and raise awareness in this area.

Beside the right to appeal to regular courts, citizens of Montenegro can also address the Ombudsman if their right to healthy environment is endangered.

8. Are the actions of high income States linked to increase of exposure to toxic substances in low and middle income States? What are ways in which high income States should assist low income States in preventing and rehabilitating toxic environments?

Montenegro is surrounded by other Balkans countries which are not high income states. Transboundary transport of pollution is however present and there are regional projects and initiatives targeting this issue. Process of approximation to the EU of Western Balkan countries is assisting the region both financially and technically to mitigate the pollution and prevent transboundary impacts. Montenegro cooperates with various UN bodies and agencies (UNDP, UNECE, UNEP, UNIDO, WHO, etc.) on some projects related to protection of human rights in environmental matters. There is a substantial need for further financial and technical assistance from high income countries in order to insure better protection of citizens.

9. For business, what policies or practices are in place to ensure that activity, products and services prevent risk of toxic exposures and meet human rights standards, especially those articulated in the Guiding Principles on Business and Human Rights?

The corporate responsibility to respect human rights is regulated only by generic laws, while the proactive attitude like having special policies and statements is very rare.