



**PERMANENT MISSION OF MONTENEGRO TO THE UNITED NATIONS AND
OTHER INTERNATIONAL ORGANIZATIONS IN GENEVA**

No. OHCHR/ 84-4

The Permanent Mission of Montenegro to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and with reference to the letter of Mr. David Boyd, UN Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, dated 27 September 2018, has the honor to enclose the responses to the questionnaire related to Air Pollution and Human Rights.

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

Geneva, 29 October 2018

**Office of the United Nations High Commissioner for Human Rights
Geneva**



Montenegro Answers to the questionnaire related to Air Pollution and Human Rights

1. Please provide specific examples of constitutional provisions, legislation, regulations, standards, policies and programmes in relation to preventing, reducing, or eliminating air pollution, both outdoor and indoor. Please include, inter alia, any instruments that refer directly to the right to a healthy environment and/or the right to breathe clean air.

The Constitution of Montenegro:

Article 19.

Environment

Everyone shall have the right to a healthy environment and shall be entitled to a timely and complete information on its state.

Everyone has the duty to preserve and promote the environment.

Article 65.

State and environment

The state shall protect environment.

Freedom of earning and free entrepreneurship shall be restricted by environment protection.

Law on Environment (OJ MNE No.052/16)

Article 5

Environmental Protection Principles

Access to information and public participations principle

a) Everyone has the right to be informed on the state of the environment and to participate in the decision making process, which implementation might have an impact on the environment.

b) Data on the state of the environment are public.

Principle of protection of right to healthy environment and access to justice:

a) citizen or group of citizens, their associations, professional and other organizations have the possibility to influence decision making on issues important for environment as well as right to legal protection in front of competent bodies and courts.

Article 19

Air Protection

Air protection is realised through implementation of measures for systemic monitoring of air quality, reduction of air pollution and technical/technological measures needed for reduction of emissions of pollutants into air, as well as with monitoring of impact of air pollution on human health and environment.”

Law on Air Protection (OJ MNE No. 43/15)

Article I

Subject matter

This Law regulates the manner of air quality monitoring, protection measures, air quality assessment and improvement, air quality planning and management as well.

Air, as a natural value of common good, is a part of environment and has the special protection in Montenegro.

The protection of air against pollution caused by radioactive substances, genetically modified organism, noise and natural disasters shall be regulated by special legislation."

The Law on Air Protection defines "air" as "ambient air of the troposphere, excluding air in the work place, whose quality is defined through regulations from the field of labour protection".

2. Please provide specific examples of good practices in preventing, reducing, or eliminating air pollution, both outdoor and indoor. These examples may occur at the international, national, sub-national, or local level. Examples may involve air quality monitoring; guaranteeing procedural rights (e. g. public access to air quality information, public participation in decision-making about air pollution, access to remedies); air quality legislation, regulations, standards, and policies; initiatives to reduce air pollution from specific sectors (e. g. electricity generation, industry, transportation, indoor cooking, heating, and lighting), laws, policies and programmes to protect vulnerable populations from air pollution; laws, policies, or programmes to concurrently address air pollution and climate change; and effective enforcement of rules governing air pollution.

Citizens of Montenegro have access to real-time data on air quality <http://www.epa.org.me/vazduh/> Web portal of the Agency for Protection of Nature and Environment also provides historical data (daily, monthly and annual reports).

Legislation on air protection in Montenegro is harmonised with Directive 2008/50/EC and other relevant acquis, which provides for internationally comparable data (regularly submitted to EEA/EIONET) as well as mechanisms for improvement of air quality (e.g. air quality plans and short-term air quality action plans).

In accordance with the Directive 2008/50/EC and the national legislation, 3 air quality plans were developed so far in Montenegro (for municipalities Pljevlja and Niksic and the capital city of Podgorica). All three plans were designed to reduce air concentrations of PM10. One short term action plan was produced for municipality of Pljevlja, in case of exceedance of the information and/or alert threshold for SO₂. Fortunately, exceedances of this pollutant haven't happened so far.

Air protection on the state level is governed by the National Strategy for Air Quality Management. The strategy was adopted in 2013 with a set of 52 measures and the first implementation period was from 2013-2017. Some 76.9% were implemented in that period, while the rest were reviewed and eventually transferred into the next implementation period (2017-2020). In the second implementation period the Strategy envisages 43 measures which estimated cost is around €23,287,500, out of which 60% was already insured at the time of the adoption of the Action Plan. The Ministry of Sustainable Development and Tourism coordinates implementation of this strategy and reports annually on achieved progress. Annual reports are adopted by the Government and available to the public.

Within the competences of the Nature and Environmental Protection Agency, annual air quality monitoring programme is regularly implemented in accordance with the national legislation which is fully harmonized with the EU legislation.

All the data from automated analyzers are available in real time on the Agency's website www.cpa.org.me, along with the other data obtained from laboratory analysis and all validated data, within monthly reports and annual Information on the state of the environment, also available on the website.

Also, Agency participates in drafting legal regulations governing this area, development of studies and strategies, as well as proposals of measures for resolving the problems in relation to the air pollution. Agency has initiated and developed a project which is in its final phase of implementation, which will, inter alia, provide necessary equipment and contribute significantly to the air quality monitoring system and reporting as well. Agency organizes workshops, lectures and presentations for children from kindergartens, primary and secondary schools, and also creates advertising material for the media and distributed it to the public. This institution has an active cooperation with both the Public Health Institute and representatives of the industries, particularly in cases of increased concentrations of pollutants (mainly during the winter season when the pollution is most often). Nature and Environmental Protection Agency delivers the reports on air quality regularly to the EEA base (CDR).

3. Please identify specific challenges that your government, has faced in attempting to address air pollution and its impacts on human rights.

The most significant challenge related to improvement of the air quality in Montenegro is reduction of emissions of pollutants from household heating. Large percent of households (60-70%) use solid fuel (mostly firewood, but also coal) for household heating. Montenegro does not have pipeline access to natural gas and the systems for district heating are not developed. There is a need to improve the firewood market making sure that dry firewood is used for heating if it is used, but also there is even more important need to improve energy efficiency of heating devices and support citizens in acquiring modern heating appliances. (for example, the Municipality of Pljevlja supported more than 2.500 households with 50% subsidy for wood brickets and pellets) and improvement of energy efficiency of houses.

Transition to more ecologically friendly fuels and heating appliances is slow.

4. Please specify ways in which additional protection is provided for populations who may be particularly vulnerable to air pollution (e.g. women, children, persons living in poverty, members of Indigenous peoples and traditional communities, older persons, persons with disabilities, displaced persons, and national or ethnic, religious and linguistic minorities).

In accordance with the Law on Air Protection, the Institute for Public Health is in charge of providing health advices to citizens during eventual epizodes of the bad air quality. Special attention is given to particularly vulnerable groups (elderly, children, people with chronic respiratory problems, etc.)

5. Please provide specific examples related to the regulation of businesses and other non-State actors in relation to the protection of human rights from air pollution and the fulfilment of their obligations in this regard.

The Law on environment specifies that citizen or group of citizens, their associations, professional and other organizations have the possibility to influence decision making on issues important for environment as well as right to legal protection in front of competent bodies and courts.

Their obligations toward environment protection and especially air protection are specifically regulated.

The Law on Environment prescribes the following:

Article 7 The Subjects

The protection of the environment is, within the range of their competences, provided by: government bodies, government administration bodies, local councils' units, local and foreign legal and natural persons, non-governmental organizations, citizens, and citizens' associations.

Article 8 Liabilities of the Subjects

The subjects of environmental protection are liable, within the range of their competences, to provide the control and to prevent any form of pollution and degradation of the environment, i.e. to reduce the pollution and degradation to the smallest possible degree, as well as to rehabilitate and reconstruct parts or segments of the environment whose quality has been damaged due to pollution and other forms of degradation, providing in this way for sustainable use of natural resources, as a basic precondition for sustainable development.

Subjects of environmental protection cooperate and establish mutual communication in line with special regulations.

Article 9 Performance of activities

Local and foreign legal and natural persons are obligated, when performing their activities, to provide for rational use of natural resources, to incorporate environmental protection costs in the investment and production costs, to implement the regulations, i.e. to undertake environmental protection measures in line with the Law and other regulations."

The Law on Air Protection prescribes:

Article 39 Obligations of legal persons and entrepreneurs

The legal persons and entrepreneurs that, while performing their business activities, affect or may affect air quality shall provide: the technical measures for prevention or reduction of emissions into the air, calculation of costs of air protection against pollution as a part of investment and production costs and keeping records on expenditures, monitoring of effects of the business activity on the air quality as well as other protection measures in accordance with this law and other regulations.

The legal persons and entrepreneurs referred to in the paragraph 1 of this Article shall obtain from the Agency a permit on allowed emissions of pollutants in the air (hereinafter referred to as: emission permit).

The emission permit is issued by the Agency based on emission limit values set.

The emission permit referred to in the paragraph 2 of this Article is issued in the form of a decision.

More detailed method and documents necessary for permit issuing shall be laid down in a regulation of the Ministry.

Business activities referred to in the paragraph 1 of this Article shall be laid down by the Government in a separate regulation.

Moreover, other legislative acts (e.g. Law on Industrial Emissions, Law on Environmental Impact Assessment, etc.) prescribe other specific permits and obligations.

6. How do you ensure that the rights of environmentalists working on air quality issues (environmental human rights defenders) are protected? What efforts has your Government made to create a safe and enabling environment for them to freely exercise their rights without fear of violence, intimidation, or reprisal?

There are no specific instruments for protection of environmentalists in the domestic legal framework.