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Permanent Mission of Montenegro to the United Nations Office, World Trade Organization and other International Organizations in Geneva

No: 99/OHCHR

The Permanent Mission of Montenegro to the United Nations and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and referring to its NV from 16th January 2015 has the honor to enclose the reply to the Questionnaire of the OHCHR on equal participation in political and public affairs.

The Permanent Mission of Montenegro to the United Nations Office, World Trade Organization 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 at Geneva the assurances of its highest considerations.

Geneva, 27 February 2015



Office of the United Nations High Commissioner for Human Rights

Geneva

Reply to the questionnaire of the OHCHR on equal participation in political and public affairs

In terms of improving the social life of persons with disabilities, when it comes to their participation in political and public life, at the presidential elections held on 7 April, 2013 the Ministry of Human and Minority Rights, in cooperation with the NGO sector, has successfully implemented the "pilot project" so to provide for visually impaired and blind persons the necessary conditions to realize their right to vote by them self and without help, by using the voting patterns.

Following successfully implemented pilot project, this procedure for exercising voting right of blind persons has become an integral part of the Law on Amendments to the Law on Election of Councilors and MPs in Montenegro, both in the part of the election material and in the voting procedures. In the local elections, which were held in May 2014 in all Montenegrin municipalities, this now legal requirement was fully respected in cooperation with the municipal election commissions.

Also, it is important to note that persons with disabilities, as well as NGOs dealing with the protection of the rights of persons with disabilities, were involved in the work of all committees and working groups for the development of legislative and policy documents that deal with this issue, through a public tender. All activities related to education and promotion in the field of anti-discrimination behavior and practices, include partnerships with persons with disabilities and non-governmental organizations dealing with the protection of their rights.

In order to improve the normative framework that regulates the prohibition of discrimination and protection of persons with disabilities, in course is the preparation of the Proposal Law on Prohibition of Discrimination of Persons with Disabilities, which will contribute, in addition to respect for human rights and dignity of persons with disabilities, also to encouraging their involvement in all spheres of social life and achieving full equality and equity in Montenegrin society.

In addition, in this Proposal Law the prohibition of discrimination in political and public life is particularly regulated in terms of preventing, restricting or obstructing access, movement, stay and work at polling stations by failing to meet accessibility standards, the right to independent and secret voting, and the right to run for, be nominated and elected to public office. Also, failure to take and failure to implement measures to create conditions for full and effective participation of persons with disabilities in the performance of public functions, as well as the denial or restriction of the right to elect and be elected to the management bodies of public institutions, NGOs and other institutions, and the efficient performance of duties and public functions at all levels of government with the help of technology created for helping persons with disabilities, is considered to be discrimination under this Law. The fines ranging from 1,500 to 20,000 EUR are prescribed for performing discrimination in mentioned areas.

The adoption of the Law on Prohibition of Discrimination of Persons with Disabilities is expected in the second quarter of 2015.

The Constitution of Montenegro in the Section 5, the Special - minority rights, Article 79, grants to members of minority nations and other minority national communities the additional set of rights and freedoms which can be used individually or in community with others, where, among other things, provides for the right to use their own language and alphabet in private, public and official practice (paragraph 3); provides for conducting proceedings in the language of minority nations and other minority national communities before local government, public and judicial authorities in areas with significant participation in the population (paragraph 5); provides for the

right to in the official documents write their name in their own language and alphabet (paragraph 7); provides for proportional representation in public services, bodies of state government and local self-government (paragraph 10); provides for the information in their own language (paragraph 11).

Information about registration of voters and election process are available in minority languages in areas where members of minority nations and other minority national communities make significant part of the population. Ballots in all election processes are printed in minority languages, predominantly Albanian, as well as in Cyrillic and Latin alphabets.

According to Article 15 of the Framework Convention for the Protection of National Minorities of the Council of Europe, ratified by Montenegro, "(t)he Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them."

Also the Law on Election of Councilors and MPs of Montenegro provides for a range of rights of affirmative character for members of minority nations and other minority national communities. Consequently, political parties or groups of voters representing minority nation or other minority national community, can establish the election lists for the election of councilors if it is supported with signatures of at least 150 voters (other lists need 0.8% of the number of voters in the election unit) while for the election of MPs the list can be established if it is supported by signatures of at least 1,000 voters. The election list for the election of MPs representing minority nation or other minority national community with participation in the total population of Montenegro up to 2% can be established if it is supported by signatures of at least 300 voters, in terms of allocation of mandates, where, by the rule are participating only the election lists that have won at least 3% of the total number of valid votes in the election unit, the election lists of minority nation or other minority national community, in case they do not meet this requirement, and separately gain 0.7% of the valid votes, are entitled to participate in the distribution as a single-joint election list with the total number of obtained votes, where for the calculation of the mandates will be considered all the sum providing up to 3 mandates. This right is used by the election lists of the members of specific - same minority nation or the same minority national community with the participation up to 15% of the total population in the election unit, according to the last population census.

When it comes to the Croatian minority in Montenegro, the said Law ensures that, in the case that none of the election lists for the election of MPs belonging to the Croatian nation do not meet the requirement for distribution of mandates (not 3% nor 0.7%), the most successful of these lists, with at least 0.35% of the valid votes, shall become entitled to one mandate. This right is used for the election lists of the members of specific - same minority nation or the same minority national community with the participation up to 15% at the national level and with the participation of 1.5% up to 15% on the territory of the local self-government/government.

As regards the Ministry of Human and Minority Rights, the whole procedure for the election of six umbrella institutions of minority nations in Montenegro, namely: the Bosniak, Albanian, Muslim, Roma, Serbian and Croatian National Councils, which, according to the Law on Minority Rights and Freedoms are under the jurisdiction of the Ministry, is adapted and implemented in accordance with the needs of members of mentioned minority nations (forms for registration, forms for voting, the process of application for electors, etc., are all printed in Albanian, Croatian, Romani language, and in Cyrillic and Latin alphabets).

Improvement of the situation of the Roma and Egyptian population and their inclusion in society, as one of the main objectives of the Strategy to Improve the situation of the Roma and Egyptians, cannot be achieved without adequate participation of Roma and Egyptian female and

male activists in public and political life, i.e. without political representation of Roma community as a specific cultural and political entity and community. This is an important and necessary part of the overall cultural and social emancipation of the Roma and Egyptian communities, but also a very important and concrete factor in the fight against discrimination, for equal treatment of Roma and Egyptians, as individuals and as a community.

In this regard, the Ministry for Human and Minority Rights, in cooperation with state bodies and non-governmental organizations, is conducting series of activities aimed at raising awareness about the importance of the inclusion of RE population, especially women, in decision-making bodies (committees, councils, etc.).

Participation in the conduct of public affairs in the context of Gender equality

In the Article 18 of the Constitution of Montenegro. The state shall guarantee the equality of woman and men, and shall develop the policy of equal opportunities.

The Gender Equality Act defines measures to eliminate discrimination based on gender and creation of equal opportunities for women and men in all areas of social life.

Right to vote and to be elected

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The Gender Equality Act defines measures to eliminate discrimination based on gender and creation of equal opportunities for women and men in all areas of social life.

In the Law on Elections (2011), Montenegro has introduced a 30% quota for women, and in the Law on Amendments to the Law on Election of Councilors and MPs Article 39a, predicts that in order to achieve gender equality principle, on the list at least 30 % of candidates shall be from under-represented sex. On the electoral list among every four candidates in the order of the list (the first four places, next four places and so on by the end of the list) must be at least one candidate member of the under-represented sex. Election list that does not meet the requirements of paragraphs 1 and 2 of this Article shall be deemed incomplete for proclamation of the electoral list, and the applicant of the electoral list will be invited to correct the deficiencies of the list, in accordance with this Law. The electoral list that does not correct the deficiencies referred to in paragraph 3 of this Article, the Electoral Commission shall refuse to proclaim the electoral list, in accordance with the law.

The Law on Gender Equality as an affirmative measures in Article 12 stipulates that "Political parties, with their acts defined methods and measures to achieve equal representation of women and men in their bodies, on the candidates lists for the election of MPs and councilors, in the selected clubs of MPs and councilors, and for the election to public functions at all levels.