**Questionnaire on homelessness and the right to housing**

Regarding Your addressing for submission of data and assessments of the situation of homeless persons in Montenegro, the Institution of Protector of Human Rights and Freedoms emphasizes the following:

Montenegro, as a legal and democratic state, has a vision of a humane society, with a high level of protection of human rights and freedoms. In such society, the actions of social protection and support should be based on individual needs, with equal participation of state, local, private, non-governmental sector and the citizens.

As a member of the United Nations (UN) and the Council of Europe, Montenegro must develop the reform of the social protection systems with respect to the rights, norms and standards set out in international documents.

Social housing is primarily established in the interest of marginalized social groups, whose economic and social limitations are the most pronounced, and the ability to meet the housing needs on the market almost non-existent, like the homeless persons, persons older than 65 years, people with disabilities, single parents, minors without parental care, victims of violence, refugees and members of certain ethnic communities in which one or more of the above grounds appear cumulatively.

**Legislative and institutional framework**

Homeless persons were identified as a vulnerable category for the first time by the state in the Law on social and child protection of 2013, while the service of opening a shelter is defined by a separate bylaw. In the mentioned law the homeless person is defined as: person without property, with no place or means for living who is temporarily placed in a reception centre or stays in public or other places not intended for living. Mentioned bylaw, Rules on detailed conditions for the provision and use, norms and minimum standards services stay at the shelter (“Official Gazette of Montenegro, No. 26/2014”), stipulates that accommodation services in a shelter provides the user which are threatened security, life and health, but also stipulates that accommodation services shall not exceed nine months.

The Law on social and child protection (“Official Gazette of Montenegro, No. 27/2013”) stipulates, with a view to decentralis­ing the competencies in the field of social and child protection services, apart from the centres for social work, the services of support to community life, social-educational and counseling-therapeutic services, as well as the shelter services may be provided by other stakeholders from both public and private sectors.

The Government of Montenegro, in the process of taking the necessary actions to improve the socio-economic status of citizens, especially people who are in need of services and support in the field of social and child protection, adopted the Social and Child Protection Development Strategy 2008-2012. After the expiry of the period, the Government has prepared a new Social and Child Protection Development Strategy 2013-2017. To this purpose the Government of Montenegro adopted the Strategy of Social Protection of the Elderly (2013-2017).

In the Law of social and child protection, the homeless are mentioned in the context of primary social care among the following categories:

1) A child: without parental care; whose parent is not able to take care of the child; with disabilities; in conflict with the law; that uses alcohol, drugs or other narcotic substances; that is a victim of abuse, neglect, domestic violence or exploitation, or is at risk of becoming a victim; that is a victim of trafficking in human beings; whose parents do not agree on the manner of exercising the parental right; who finds itself out of the place of residence without the supervision of a parent, adoptive parent or guardian; who is pregnant and without family support and adequate living conditions; who is single parent with a child and without family support and adequate living conditions; who needs an adequate form of social protection due to special circumstances and social risk.

2) An adult and old person: with disability; who uses alcohol, drugs or other narcotic substances; who is a victim of neglect, abuse, exploitation and violence in the family or who is at risk of becoming a victim; victim of trafficking in human beings; who is homeless; who is pregnant and without family support and adequate living conditions; who is a single parent with a child and without parental support and adequate living conditions; who needs an adequate form of social protection due to special circumstances and social risk. (article 4 of the Law of social and child protection)

In the same law the service provider shall be obliged to obtain business license prior to commencing its business. Mentioned license shall be issued by the competent state administration body (Ministry of Labour and Social Welfare) for a period of six years and shall be renewed. Also, professional worker employed with service provider must have operating licence. Mentioned licence shall be issued by the Institute for Social and Child Protection for a period of six years and shall be renewed. Currently, Montenegro does not have licensed service providers who deal with the protection of homeless. According to information from the Ministry of Labour and Social Welfare, the same ministry and the Department of Social and Child Protection will seek in the future to initiate actions relating to the examination of professional competence for professional workers in the field of social and child protection and to enable the requirements for obtaining a license.

Rules on detailed conditions for the provision and use, norms and minimum standards services stay at the shelter stipulates that the accommodation services in a shelter are provided for following categories: 1) a child who is a victim of abuse, neglect, violence and exploitation, or is at risk of becoming a victim; 2) a child who is caught outside their place of residence without the consent of their parents, adoptive parents or guardians; 3) a child with behavioral problems; 4) a child who is a victim of trafficking; 5) an adult and the old person who is a victim of abuse, neglect, violence and exploitation, or is at risk of becoming a victim; 6) an adult and the old person who is a victim of trafficking; 7) the adult and the old person who is homeless; 8) the child, the adult and the old personwho needs an adequate form of social protection, due to special circumstances and social risk.

The provider of accommodation services at the shelter is obliged to provide: adequate housing, material conditions, accommodation in accordance with the age and gender of the user, nutrition and access to health services, personal hygiene and sanitation facilities, a safe environment and the development of potential users and user empowerment.

**Assessment of the situation**

The Protector consider that existing regulations must be improved, respectively it is necessary to provide permanent accommodation for shelter users and psycho-social support and assistance in order to achieve their social inclusion. Aware that homelessness is complex problem which involves many law dilemmas and questions, the Protector considers that the state mustn't forget people without a place for living and that people mustn’t be treated as second-class citizens but as full righted citizens of Montenegro.Also, it is important to point out that social welfare information system (social card) is established, but exact evidence of homeless people not exist, with regard to the fact that the some homeless are not reported to the relevant centres for social work.Namely, the evidence of homeless persons is kept in relation to the number of persons that have reported to the social work centers in order to provide assistance and which is in the process determined that the homeless. According to information from the Ministry of Labour and Social Welfare, the number of homeless persons who registered in the relevant centers in 2015 is 36. Of this number, the homeless, in most cases are: adults who have lost their jobs, who are out of prison, seriously ill persons or persons who have domestic violence experienced, persons rejected by family, persons addicted to alcohol and other intoxicating substances (pills, drugs). For one displaced person, the housing problem is solved, with the help of the Ministry of Labour and Social Welfare, UNHCR, the Institute for the Care of Refugees and local authorities.

The Protector believes that a recent decision of the Ministry of Labour and Social Welfare and the Capital City to build a shelter for the homeless on the territory of the capital is key step for the future permanent care of the homeless. Having in mind that the construction of the building of shelters could take several years, certainly longer than the upcoming winter when the shelter is in need, the Protector emphasizes the need to urgently find an appropriate interim solution for the homeless before winter.

Social welfare centers are bound by law to provide 24-hour service "urgent intervention" people who find themselves in a situation that threatens the life, health and development, what is certainly homeless people. Urgent intervention includes: solving material safety of persons, determination of temporary accommodation to persons, conducting procedure for permanent care, monitoring of movement and general security of persons. According to information from the Ministry of Labour and Social Welfare, until now the social welfare centers have provided seven urgent intervention. In that sense, the Protector considers that the social welfare centres and the Ministry of Labour and Social Welfare must strengthen the provision of these services and secured accommodation of all homeless persons who turn to them for help in the meantime while the building of shelters don’t build and don’t start work.

In the Law on Social Housing (“Official Gazette of Montenegro, No. 35/2013”) the homeless are not recognized as a category who has priority in exercising right to social housing. Social housing, in terms of this Law, is housing of an adequate standard which ensures individuals or households who due to social, economic and other reasons can not resolve the issue of housing. Same law stipulates that the right to social housing can realize natural persons who have no house or other residential building, or persons whose residential building is not an appropriate standard and persons who from total revenues can not provide housing facility. With possible amendments to the Law on Social Housing, the homeless should be on the list of priorities for the provision of social housing.

Having in mind that homeless persons were identified as a vulnerable category for the first time by the state in the Law on social and child protection of 2013, it is necessary to commend the work of NGO “Human Rights Action” who led to a temporary shelter from December 2012 to May 2013.