

MONTENEGRO 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Montenegro is a mixed parliamentary and presidential republic. Both the president and the unicameral parliament (the Assembly) are popularly elected. The president nominates, and the Assembly approves, the prime minister. Peaceful and pluralistic parliamentary elections, held on October 14, brought the country further into line with its commitments to the Organization for Security and Cooperation in Europe (OSCE) regarding the conduct of democratic elections, according to the final report of the OSCE's Limited Election Observation Mission. The mission's final report also noted, however, a lack of public confidence in the electoral process, fed by allegations of state and party confluence and election irregularities. Security forces reported to civilian authorities.

Thousands of refugees and persons displaced as a consequence of the Balkan conflicts of the 1990s continued to lack legal status and to live in poor conditions. Deficiencies in the application of the rule of law, including the absence of fully independent legal institutions, fostered high-level corruption, nepotism, and weak controls over conflicts of interest. Women, ethnic and religious minority groups, and those with disabilities faced significant discrimination, and lesbian, gay, bisexual, and transgender (LGBT) persons, as well as the Roma, Ashkali, and Egyptian ethnic groups, were especially stigmatized.

Other human rights problems included police mistreatment of persons in their custody; overcrowded and dilapidated prisons and pretrial detention centers that at times threatened health or life; instances of lengthy pretrial detention; warrantless government surveillance that violated citizens' privacy rights; harassment of media personnel; limits on freedom of assembly; widespread corruption; denial of public access to government information; child marriage among the Roma; and trafficking in persons. There were also reports of employer infringement upon workers' rights and of child labor.

The government took steps to prosecute and punish officials accused of corruption, whether in the security services or elsewhere. However, impunity remained a problem in some areas, and most of the cases that were prosecuted were discovered and made public by media and nongovernmental organizations (NGOs) rather than by governmental structures designed to monitor official behavior.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

On November 18, authorities detained Berane police officers Zeljko Bojic and Adnan Kozar on suspicion of killing Miroslav Soskic in 2008. Soskic was found dead in the Lim River in Berane after fleeing police, who suspected him of drug possession. Police claimed Soskic drowned, but an exhumation and an additional autopsy indicated that he may have died of physical injuries.

On December 14, the Podgorica High Court sentenced Zoran Bulatovic, an off-duty police officer, to 13 years in prison for the October 2011 killing of Aleksandar Pejanovic.

During the year authorities continued to pursue four cases of war crimes allegations against several individuals, primarily low- and mid-ranked police and military officers, who participated in the Balkan wars of 1991-99. The Court of Appeals announced judgments in two cases. It acquitted seven individuals of committing atrocities against Bosnian Muslims in the Bukovica region in 1992-93, and upheld the conviction of four former Yugoslav People's Army soldiers and reservists for war crimes in the Morinj prisoner of war camp in 1991 and 1992. In a retrial the Podgorica High Court acquitted nine former police officers accused of arresting and deporting 83 Bosnian refugees in 1992, most of whom were presumably killed in the wartime Bosnian Serb entity.

The frequently interrupted trial of eight Yugoslav army officers and soldiers accused of the 1999 killing of 23 Albanian civilians in Kaludjerski Laz, near Rozaje, continued at year's end. Authorities released on bail pending trial the principal defendant, Lieutenant Colonel Predrag Strugar.

b. Disappearance

There were no reports of disappearances or politically motivated abductions or kidnappings.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices, but police reportedly at times beat and harassed suspects, particularly during arrest and interrogation.

During the year prosecutors charged a number of officials with mistreating individuals. They included Bozidar Jaukovic, who was fired on July 26, and later prosecuted for exceeding his authority and inflicting bodily injuries upon Slavko Perovic, a former political party leader, in Herceg Novi on June 6.

In its first two quarterly reports, the NGO Civic Alliance expressed concern about increased reports of police officers' violent behavior toward citizens in their custody. The reports and observations of other human rights observers noted that in many cases authorities did not remove officers suspected of, or convicted of, such behavior from their duties. In most legal cases opened against them, police officers were fined.

During the first 11 months of the year, the Department for Internal Control of Police Operations (DICPO) received 70 complaints of police misconduct, 47 from citizens and 23 from police and other sources. Of the 47 cases processed in that period, DICPO accepted 11 for further consideration. Four cases were forwarded to the state prosecutor for further action, four others resulted in disciplinary action, one was forwarded to the Police Ethical Council, and the status of the two other cases was unknown.

The media reported that on March 5, the national police director, Bozidar Vuksanovic, reversed the policy of his predecessor and granted DICPO access to personnel information in the police electronic database. The earlier denial of access was seen by some media and NGOs as part of an effort to block DICPO from investigating allegations of police misconduct. DICPO was significantly understaffed during the year in that only seven of its 23 positions were filled. The new police director also reinstated former police officer Goran Stankovic, who claimed that he was forced to retire from the force earlier after appearing as a witness against officers accused of beating detainee Aleksandar Pejvanovic in 2009.

Observers noted that police continued the practice of filing countercharges against individuals who reported police abuse. It was widely believed that this practice contributed to the reluctance of citizens to report police mistreatment.

Prison and Detention Center Conditions

Prisons and facilities for holding pretrial detainees were generally dilapidated and overcrowded. Guards mistreated inmates, and visitors reported conditions that often were a threat to life or health, although there were some improvements compared to previous years.

Physical Conditions: In September the country's prison and pretrial detention center population of 1,239 exceeded the maximum capacity of 1,100, despite implementation of an amnesty program in 2010 that slightly reduced the numbers. Of the 1,239 inmates, 879 were convicts and 360 were detainees. Conditions for women were equal to those of men. There were 18 women in prisons and eight in pretrial detention. Inmates had access to potable water.

Media reported on inmates' complaints of mistreatment, inadequate prison conditions, inappropriate behavior of prison staff, and favoritism in the process of assigning prisoners to forms of detention that were more or less restrictive. Prison officials dismissed the allegations. During the first nine months of the year, there were two general and 46 individual hunger strikes at the country's two prisons. On August 29, prison security staff demanded that the prison management and the Ministry of Justice respond to what they considered unwarranted criticism by some NGOs and media. They also demanded better working conditions.

Approximately 360 prisoners were able to work as a result of prison programs. The country's two prisons, in Podgorica and Bijelo Polje, did not have the capacity to offer employment to all inmates. Only those inmates who worked were entitled to furloughs.

In the first nine months of the year, prison authorities disciplined eight prison wardens for violating various work rules and protocols, compared to 11 in 2011.

Although prisoners are legally entitled to conjugal visits, the prison in Bijelo Polje lacked premises for the visits. According to the NGO Civic Alliance, the premises for visits in Spuz prison do not meet appropriate standards and violate prisoners' privacy. Detainees are not entitled to conjugal visits.

According to an EU-funded report prepared by a group of NGOs that investigated the human rights of detainees and prisoners in the Spuz and Bijelo Polje prisons, there were examples of excessive use of force that amounted to inhumane and degrading treatment. The study was conducted from November 2011 through June; the group made 16 visits to the prisons and polled 58.9 percent of the prisoners. According to the report, every fourth prisoner has been subjected to

excessive use of force by prison guards. Inmates reported that abuses occurred in isolated locations away from prison cameras. Abuses were rarely reported because the guards threatened to report prisoners as having attacked them. Two-thirds of prisoners reported that they did not receive information regarding their rights and obligations. In their report the NGOs noted that six of the recommendations of the Council of Europe's Committee for the Prevention of Torture (CPT) after a 2008 visit were fully implemented, 16 were partly implemented, while 37 were not implemented, including recommendations to increase prison capacity, prevent abuse by prison staff, and develop work opportunities for inmates.

In May a guard in the detention unit of the Spuz prison beat detainee Marko Djurkovic because he did not get up in time for roll call. Prison authorities criticized the guard's behavior but also noted that the detainee failed to respect prison rules.

There was significant overcrowding in the sections for prisoners serving long-term and short-term sentences in both prisons. As of June 1, 197 persons were waiting to serve their sentences. The number of medical staff in the Podgorica prison was not sufficient.

Two inmates died in prison or detention during the year, one from natural causes, the other from a heroin overdose. According to the press, three prisoners injured themselves, allegedly by cutting their veins in protest against the violent behavior of prison guards.

The inadequacy of facilities for treating alcoholics and drug addicts led the administration of the Spuz facility to place many such patients in the psychiatric hospital at Dobrota, which was poorly equipped to handle criminal patients.

Administration: To reduce overcrowding, authorities had the option of using a work program for prisoners convicted of minor offenses. However, this sanction was rarely used. A Commission for Conditional Release, headed by the minister of justice and human rights, has authority to grant conditional release to prisoners who served two-thirds of their sentences, and to monitor furloughed convicts. During the first nine months of the year, the commission received 353 requests and approved 207 releases. The media reported that prisoners expressed dissatisfaction with the conduct of the conditional release program. No information on the state of prison recordkeeping was available.

Prisoners had reasonable access to visitors and religious observance.

Individual prisons did not have ombudsmen, but authorities permitted both visitors and detainees to submit complaints to judicial authorities and the national ombudsman, generally without censorship, and to request that authorities investigate credible allegations of inhumane conditions. During the first nine months of the year, the ombudsman received 46 such complaints, most of which related to the conduct of prison wardens and administration.

Several families of imprisoned or detained persons claimed during the year that serious violations of inmates' rights occurred despite existing safeguards. Authorities often investigated credible allegations of inhumane conditions, but usually did so only in reaction to media campaigns or upon the ombudsman's recommendation. NGOs and human rights activists often criticized the results of those investigations.

Monitoring: The government permits visits by independent nongovernmental observers, including human rights groups and the media, and international groups, including the International Committee of the Red Cross and CPT, who may conduct their visits in accordance with their standard protocols. Visits by domestic NGOs and the European Commission took place during the year. Some visits were undertaken on short notice, and monitors were allowed to speak with the prisoners without the presence of a guard.

Representatives of the Office of the Human Rights Ombudsman routinely visited prisons without prior notice, meeting with detainees and inmates. On October 23, government authorities established an Ombudsman's Advisory Body solely responsible for monitoring conditions in prisons and pretrial confinements.

Improvements: Authorities continued to make improvements in the prison system. At Spuz prison conditions for prisoners improved; two weightlifting gyms were built; units for minors and women were renovated; and the prison yard was enhanced. Ten cells were renovated in the detention unit. In Bijelo Polje prison, authorities renovated the bathroom and built additional showers and installed a new sewage system. Units for prisoners serving shorter sentences and suspects awaiting trial were repaired. Overcrowding in the detention prison in Podgorica was significantly reduced. The Ministry of Justice, which monitors prison and detention conditions, added additional personnel. Other measures taken restricted the prisons' operational and financial independence.

The first group of 26 police officers specifically trained to be prison guards graduated from the police academy in Danilovgrad.

On December 31, the Ministry of Justice issued a public announcement seeking employees to fill 254 prison staff positions, mostly guards, to replace temporary personnel who lacked adequate training.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The national police force, which includes the border police, is responsible for law and order and was generally effective. Under a law adopted on July 26, the national police force was placed under the supervision of the Ministry of Interior. The Agency for National Security (ANB), an independent entity within the government, is responsible for intelligence and counterintelligence. On February 27, parliament adopted a Law on Defense. It provides for the development of a military intelligence and counterintelligence unit within the Ministry of Defense. This unit was not fully operational until the end of the year. The parliament is responsible for overseeing democratic and civilian control of the army, police, and security services. Members of parliament who sat on that body's Committee for Defense and Security had access to classified documents without prior approval or security clearances. However, opposition representatives on the committee complained that important information was often not provided to them in a timely manner, which they charged weakened the parliament's monitoring role.

Problems of impunity in the security forces remained, and opposition parties asserted that oversight mechanisms, including the Council for Civilian Control of Police Operations, were ineffective. Investigation of alleged abuses was often slow and ineffective. Prosecution of police for such abuses as mistreatment of persons in their custody, obtaining evidence by means of extortion, and other violations of office, was rare. Penalties for those found culpable were lenient.

Citizens continued to mistrust the police, but civil society members noted that the appointment of a new director of police led to slight improvements in the quality of police internal investigations. Whistleblowers among police were not well protected, as shown by the case of Goran Stankovic, a police officer who testified

in the high-profile beating of a pretrial detainee (see section 1.c.). Human rights observers claimed that citizens were reluctant to report police misconduct for fear of reprisal. The Prosecutor's Office is responsible for investigating allegations of mistreatment. Courts usually found that police use of force was reasonable.

Local NGOs cited corruption, lack of transparency, and the vulnerability of prosecutors and Interior Ministry officials to influence by the ruling political parties as major obstacles to fighting organized crime.

The OSCE, EU, and other international organizations continued to monitor police operations and advise the Ministry of Interior on police reforms.

Arrest Procedures and Treatment While in Detention

Arrests require a judicial warrant or a "strong suspicion that the suspect committed an offense." Police generally made arrests with warrants based on sufficient evidence. The law provides that police must inform arrested persons immediately of their rights, and authorities respected this right. Detained persons were informed promptly of charges against them. Authorities have a maximum of 24 hours to inform the family, common-law partner, or responsible social institution of an arrest. They may detain suspects for up to 48 hours before bringing them before a judge and charging them. At arraignment the judge makes an initial determination about the legality of the detention. Arraignment generally occurred within the prescribed period. The law permits a detainee to have an attorney present during police and court proceedings. Detainees generally had prompt access to a lawyer and family members. There is a system of bail, but authorities did not widely use it because citizens could rarely raise the money. Violations of prison and pretrial detention rules are punishable by 30 days' solitary confinement for inmates and 15 days for detainees. During the first eleven months, inmates were placed in solitary confinement in 215 cases and detainees in 151 cases.

If circumstances indicate that individuals facing criminal charges are a flight risk or may attempt to unduly influence legal proceedings, the court may limit their movement by prohibiting them from leaving their residence, visiting particular places or areas, or meeting with certain persons. They may also have a duty to report to authorities and can have their travel documents or driving license seized. The implementation of these measures may be controlled by electronic surveillance.

Arbitrary Arrest: While arbitrary arrests in the formal sense seldom occurred, police continued to summon both witnesses and suspects to police stations for “informative talks,” usually without holding them for extended periods. Persons who have been summoned have the right not to comply.

Pretrial Detention: The law sets the initial length of pretrial detention at 30 days but provides for the possibility of adding five more months and permits a defendant to be detained for a total of three years before a verdict is issued. The defendant has the right to appeal detention. Several civil society groups stated that the average period of pretrial detention remained too long. Authorities claimed that pretrial detainees on average accounted for 29 percent of the prison population.

Extensive backlogs in the justice system contributed to numerous instances of lengthy pretrial detention. A 2007 law on the right to trial within a reasonable time was not effective. There is no clear system to monitor the length of trials. Courts continued to reduce their backlogs of civil and criminal cases, but concerns remained about the reliability of statistics as an indicator of the qualitative progress. The backlog of unresolved cases was reduced from 160,000 in 2007 to 38,000 in 2011. However, many trial courts’ decisions were overruled by higher courts and sent back to lower courts for new trials.

The Ministry of Justice stated that in 2011 it received 188 claims for compensation for arbitrary arrest or detention and accepted 70. The ministry responded to an additional 78 claims by suggesting that the individuals open civil lawsuits. The ministry was still considering 40 of the 2011 cases at years’ end.

Amnesty: During the year the president received requests for pardons from 310 convicts and approved 142 of them.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, but some observers and critics asserted that governmental and political pressure and corruption influenced prosecutors and judges. Inadequate funding continued to hamper court operations and effectiveness. Nevertheless, progress continued to be made on judicial reform; strengthening the independence, responsibility, and capacity of judges and prosecutors; and improving the transparency of court rulings. Training for judges and prosecutors was organized by the Judicial Training Center.

Some observers contended that the process by which the executive and legislative branches proposed and adopted the courts' budgets could influence the independence of the judiciary. They noted the excessive involvement of the Ministry of Finance and the president of the Supreme Court in the financial affairs of the courts. The OSCE Court Monitoring Report for the period 2009–2011 called for measures to ensure the independence of the courts and increase the speed and efficiency of issuing final verdicts. There were also aspects of the legal framework that provided space for political influence. For example, some observers criticized the absence of a merit-based career system for appointing judicial and prosecutorial officials, leaving them vulnerable to political influence. While procedures require that cases be assigned to judges at random, some observers raised concerns over the transparency of the assignment process. Government officials and politicians at times sought to influence the judiciary by commenting publicly on cases before the courts, for example, in some trials for slander or alleged corruption involving prominent persons or senior officials. Such actions contributed to public distrust of the judiciary. A backlog of cases, antiquated courtroom facilities, inadequate administrative support for judges and prosecutors, shortage of skills, cumbersome procedures, and judicial corruption also remained problems.

The Judicial Council is responsible for the election, discipline, and removal of judges. The NGO Human Rights Action contended that many judges left their positions under pressure or at the "suggestion" of senior judicial officials. The NGO claims that once a removal procedure is initiated, it suspends any other investigations or procedures against the judge. The council's commission for monitoring compliance with the code of judicial ethics has acted on two complaints about the behavior of judges since the appointment of the commission in October 2011 and rejected both of them.

The government did not initiate disciplinary procedures against prosecutors for poor performance of their duties.

In July the Assembly amended the laws affecting the courts, the Judicial Council, and the Office of the State Prosecutor, in an attempt to limit political influence and broaden judicial independence.

To make the work of the courts more transparent, the Supreme Court's Web site, established in October 2011, began posting verdicts, including those of the Administrative Court and the Court of Appeals.

Authorities employed the witness protection law in one case only. In its 2011 progress report, the European Commission stated that further efforts were needed to “strengthen the financial capacity and autonomy” of the witness protection unit.

Plea bargaining was intended, among other things, to shorten the duration and increase the efficiency of the judicial process in cases involving possible sentences of 10 years or less. However, the procedure was still fairly new in the country and was employed in only 27 cases since it was introduced in 2010.

Trial Procedures

Most criminal trials are public, but sessions may be closed during the testimony of state-protected witnesses. Juries are not used. Professional judges preside over trials. Lay judges assist them in determining verdicts, but the judges generally determine the sentences. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner in pretrial and trial proceedings. Defendants have the right to an attorney and an attorney is provided at public expense when a defendant is a person with disabilities, in detention, destitute, or indicted on a charge carrying a possible sentence greater than 10 years. These rights were generally respected, but the implementation of the law on free legal aid that took effect on January 1 was jeopardized by the lack of funds for the legal aid offices, which were opened in all basic courts. The law on free legal aid was designed to apply to all persons unable to pay for legal protection. The monitoring by the Civic Alliance of 516 trials from April to May showed that in 82 percent of cases, lawyers responsible for providing free legal aid did not show up at the trial and more than 50 per cent were not prepared for the hearing. Public awareness of the free legal aid opportunities was inadequate.

Defendants and their attorneys have the right to access government-held evidence relevant to their cases. Defendants enjoy a legal presumption of innocence. Detained persons are immediately informed of the grounds for their detention. They are also informed at the time of detention that they have the right to remain silent, to seek an attorney, and to inform a person of their choice of their detention.

Courts may try defendants in absentia but must repeat the trials if the convicted individuals are later apprehended. Both the defense and the prosecution have the right of appeal. Defendants’ rights were generally respected and extended to all citizens, but NGOs reported several cases during the year in which a defendant’s right to a fair trial was violated.

The Final Report on Monitoring Trials, prepared by the Center for Democracy and Human Rights (CEDEM), which covered the period from April to July, concluded that the courts generally respected the right to a fair trial and rights of the participants in criminal proceedings. However, CEDEM also reported that in some instances these rights were breached.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The constitution and law provide for an independent judiciary in civil matters, and citizens had access to courts to bring lawsuits seeking damages for, or cessation of, human rights violations. Although parties have brought suits alleging human rights violations and at times prevailed, there was widespread public distrust in the independence of the judiciary, mainly because of nepotism, corruption, and political influence. NGOs noted that most civil cases against police officers proceeded slowly or were rejected, which discouraged citizens from filing complaints against police.

Both administrative and judicial remedies exist for civil rights abuses, but neither provided citizens with easily accessible or efficient recourse. Citizens may address complaints of police abuse to a legally mandated agency, the Council for Civilian Control of Police Operations, but the council can only make recommendations for action to the chief of police or the interior minister. According to the council, in 2011 it reviewed 62 complaints of police abuse and found 22 to be justified. The others were rejected as unjustified on their merits or not given positive responses for a variety of other reasons. There was no information on actions, if any, that were taken in response to the “justified” complaints. Many NGOs claimed that competent state institutions failed to investigate all cases of supposed human rights violations.

Individuals may appeal violations of their human rights to the Constitutional Court, but the court was widely criticized for sluggishness, inefficiency, and lack of transparency. The number of accepted appeals remained extremely low. The Constitutional Court does not issue judgments, but only examines the alleged human rights violations committed in the case or procedure. If the court finds a

human rights violation, it will revoke the decision and refer it to the appropriate authority or court to rectify the abuse.

Regional Human Rights Court Decisions

Once national remedies are exhausted, citizens may appeal alleged violations of human rights by the state to the European Court for Human Rights (ECHR). At year's end, approximately 1,000 cases involving the country were pending before the ECHR.

Property Restitution

The country's four major religious communities (Serbian Orthodox, Montenegrin Orthodox, Muslim, and Roman Catholic) had numerous claims for restitution of property confiscated by authorities of Communist-era Yugoslavia. In the absence of state legislation specifically governing restitution of nationalized religious properties, there was no progress in this area.

On the other hand, restitution of property confiscated from citizens continued. From January 2007 through November 2012, 11,319 claims were filed with restitution commissions, of which 40 percent were resolved.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such interference without court approval or legal necessity and prohibit police from searching a residence or conducting undercover or monitoring operations without a warrant. The government generally respected these prohibitions relating to physical and property searches but was less compliant regarding digital privacy. There were several reports that police behaved violently during the search of private residences.

On May 14, the Podgorica Misdemeanor Court dismissed all charges against Vasilije Milickovic and his daughter. Milickovic was arrested three times and his daughter once for violating public peace and order when they refused to allow the construction crews of the Tehnoput Company onto their property during the construction of a road in May 2011.

The law requires the ANB to obtain court authorization for wiretaps, but authorities reportedly used wiretapping and surveillance inappropriately against opposition parties, the international community, NGOs, and other groups without

appropriate legal authority. Many individuals, embassies, and organizations operated on the assumption that they could be under surveillance. The NGO Alternativa stated that during 2011, the ANB performed secret surveillance and data collection against 113 persons. The NGOs claimed that oversight of these cases was not adequate, creating the possibility for abuse. NGOs claimed that police and the state prosecutor's office illegally monitored citizens' electronic communications and failed to account for how many people or Internet addresses they monitored.

The Agency for Protection of Personal Data (APPD), a government organization with responsibility for protecting personal data, noted that the most common violation of privacy was excessive use of public video surveillance. The agency claimed that illegal use of video cameras by both public institutions and private businesses was a major problem and difficult to control, emphasizing that surveillance was used contrary to regulations and without the APPD's approval in many cases. Two professors at the Podgorica College of Science, Jovan Mirkovic and Nevenka Antovic, filed civil suits against the state university management regarding the installation of video surveillance cameras in lecture rooms and halls. On December 27, the Podgorica Basic Court ruled that their privacy rights were not breached and ordered the plaintiffs to pay court costs.

During the first nine months of the year, seven citizens requested permission to inspect secret files kept on them between 1945 and 1989 by the former state security service, the precursor to the ANB. The ANB granted six such requests and responded that in one case there was no information concerning that person.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, but there were some restrictions. The law criminalizes inciting hatred and intolerance on national, racial, and religious grounds, and there were some prosecutions on these grounds during the year.

Freedom of Speech: Individuals could criticize the government publicly or privately without reprisal, and there were no official reports that authorities monitored political meetings or otherwise attempted to impede criticism.

On November 19, Podgorica Misdemeanor Court delivered a reprimand to the Metropolitan of the Serbian Orthodox Church (SPC) in Montenegro, Amfilohije Radovic, who was charged with engaging in speech offensive to Montenegrins. The High Public Prosecutor's Office in Podgorica had charged him with disseminating hate speech during two sermons in January 2011. At that time, Metropolitan Amfilohije condemned the government's plans to demolish an SPC church on Mount Rumija, and ridiculed the Montenegrin language.

Freedom of Press: The independent media were active and generally expressed a wide variety of political and social views; however, there were physical assaults and threats against journalists, and media were subject to political and economic pressure. The print media included private newspapers and a state-owned newspaper with a national circulation.

Some media outlets demonstrated a willingness to criticize the government. The prominence of articles and television programs critical of authorities suggested that self-censorship was not a major problem. Some observers noted that journalists were often susceptible to employer or political pressure. Combined with poor training and low pay, such pressures contributed at times to biased coverage.

A deep division between progovernment and opposition media prevented the establishment of a functional and unified self-regulation mechanism for journalists. On March 7, representatives of 19 print and electronic media outlets formed a media council for self-regulation. However, some of the most influential media, including the daily newspapers *Vijesti* and *Dan*, *Vijesti* Television, and the weekly newspaper *Monitor* declined to join what they described as an excessively progovernment group. They indicated that they would form a separate self-regulatory mechanism. A group of small local media outlets from the northern region of the country established their own self-regulation council.

Authorities were unsuccessful in their efforts to sell the government's 86 percent holding in the national daily newspaper *Pobjeda*, as required by law. A September 2011 tender for privatization of the state-owned publisher resulted in one bid, but authorities had not finished talks with the bidder at year's end. Opposition politicians continued to criticize *Pobjeda's* reporting, which they claimed favored the government and was used to discredit its opponents, including opposition politicians, some private media owners, and some NGOs.

Private media claimed that state-owned companies discriminated openly in favor of the state-owned newspaper *Pobjeda* in the placement of advertising, even

though it had a smaller circulation and less influence than its private competitors. The NGO Center for Civic Education reported that during a three-month period during the year, *Pobjeda* received 264,000 euros (\$348,000) from governmental institutions for advertising, while the government spent fewer than 20,000 euros (\$26,000) for advertising in the two independent newspapers, *Vijesti* and *Dan*.

Government opponents continued to criticize the functioning of the country's public radio and television broadcaster, Radio and Television of Montenegro (RTCG). They claimed that, despite some improvement, RTCG was still controlled by the ruling political structures and that the public broadcaster clearly favored the government in its programming and reporting.

Violence and Harassment: Representatives of the media continued to be targets of threats and physical reprisals. Journalists of the independent newspaper *Vijesti* continued to be the main targets. On July 20, the Basic Court of Podgorica sentenced Ivan Buskovic to nine months in prison for physically attacking *Vijesti* reporter Olivera Lakic on March 7. The attacker fled after punching Lakic in the head as she was unlocking the entrance to her apartment building. The attack, preceded by threats against Lakic and her family, followed articles she wrote alleging that cigarettes with fake branding were illegally produced at the Tara tobacco factory in Mojkovac. Lakic subsequently announced plans to quit journalism temporarily for her and her family's safety. Representatives of the media, NGOs, trade unions, and political parties demonstrated in front of the Ministry of Interior for several days demanding prompt action to solve this and other threats to media freedom. On March 13, police arrested Ivan Buskovic, a 29-year-old petty criminal whom Lakic recognized as her attacker. Authorities continue to investigate whether Buskovic was operating under the orders of others, an issue the court did not address. The court earlier convicted Slavko Music, a worker at the tobacco factory, to four months in prison for threatening Olivera over the articles. On October 4, another *Vijesti* journalist and a journalist from the newspaper *Dan* were attacked at an election rally.

On July 23, after lengthy legal proceedings, Podgorica's basic court gave the Podgorica mayor's son a six-month suspended sentence for a 2009 incident in which he attacked *Vijesti*'s editor in chief and a photo reporter as they photographed the mayor's illegally parked car. The editor in chief, accused of attacking the mayor's driver, was acquitted. Litigation related to 2011 attacks on the property of *Vijesti*'s publisher, Daily Press, continued. On July 3, media reported that Podgorica's basic court rejected a Daily Press lawsuit against the state for failing to prevent the attacks; Daily Press appealed.

In July 2011 the OSCE media representative wrote to the foreign and interior ministers that these crimes “seriously undermine media freedom in Montenegro and create a chilling effect for the entire media community.”

On July 9, Niksic’s basic court convicted Dragoljub Karadzic and sentenced him to three months imprisonment for a 2011 physical assault on a Vijesti Television and *Vijesti* newspaper media crew.

Libel Laws/National Security: On May 23, following the repeal of the criminal libel law in 2011, parliament enacted a law on amnesty to pardon persons convicted of defamation and insult. Based on the law, on December 13, Podgorica Basic Court issued a decision to pardon journalist Petar Komnenic, who was convicted of libel over a 2009 article about judges in the High Court.

On November 9, attorney Ana Kolarevic, the sister of newly reelected Prime Minister Milo Djukanovic, filed a civil lawsuit against the independent newspapers *Vijesti*, *Dan*, and *Monitor* over articles alleging that she took bribes during the purchase of Montenegrin Telekom by Magyar Telekom. Kolarevic demanded payment of 100,000 euros (\$132,000) from each newspaper as compensation for current and future emotional distress resulting from the articles.

Internet Freedom

There were no government restrictions on access to the Internet. According to the government Statistical Office, as of October, 55 percent of the country’s households had access to the Internet.

Until ordered to cease doing so in March 2011, one of the country’s principal Internet service providers gave police direct access to all forms of communications carried on its servers. It was unknown whether authorities made use of this access to monitor e-mail or Internet Web sites or chat rooms. There was no evidence that the government collected or disclosed personally identifiable information about persons based on that person’s peaceful expression of political, religious, or ideological opinion or belief.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution and laws provide for freedom of assembly and association, and the government generally respected these rights. A wide range of social, cultural, and political organizations functioned without interference, but authorities denied disgruntled workers the right to assemble and express their grievances on several occasions.

Freedom of Assembly

In order to hold public gatherings of any kind, organizers must notify the Ministry of Interior so that the venue can be made secure. According to the media, police rejected more than 200 applications for permission to assemble in 2010-11, most of them organized by disgruntled workers. The police contended that the assemblies would cause a public hindrance, and in some cases authorities offered the protesters other locations for their demonstrations. In a few cases, when protests were held without authorization or when protestors failed to respect police orders to disperse, police detained protesters for questioning and charged them with a misdemeanor. In April 2011 the NGO Civic Alliance applied to the Constitutional Court for an assessment of parts of the law relating to assembly, claiming that certain provisions that permitted government bodies to prohibit peaceful assemblies violated the constitution. The court did not respond to this request by year's end.

On April 19, the Council for Civilian Control of Police Operations found that a police decision to ban a rally by the NGO Number 19 in Sahovici and Tomasevo near Bijelo Polje in September 2011 to mark the "anniversary of the suffering of Muslim people" was incorrect. Police stated that the rally was banned because residents from neighboring villages of Pavino Polje and Tomasevo announced that they would organize a counter rally. Despite the council's opinion, a similar rally was banned on November 10.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

For the most part, the government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Internally Displaced Persons (IDPs)

According to government statistics, the displaced population at year's end included 2,689 persons from Croatia and Bosnia-Herzegovina who fled between 1991-95, designated by the government as "Displaced Persons" (DPs) and 8,504 persons from Kosovo who fled in 1999 and who are considered Internally Displaced Persons (IDPs). In the view of the UNHCR, DPs and IDPs are not treated equally. The citizenship law recognizes DPs as lawful permanent residents, a designation that could lead to citizenship through residence or marriage with a citizen. However, the law omits IDPs, whose numbers included ethnic Montenegrins, Serbs, Roma, Ashkali, Balkan Egyptians, Muslims, Bosniaks, and Albanians, from the description of persons meeting the required criteria for lawful residence.

The laws and regulations governing foreigners set a deadline of December 31, 2012, for DPs and IDPs to present completed applications for status as permanently residing foreigners (which *inter alia* requires a valid travel document) or as foreigners with temporary residence. Those unable to do so would be considered unlawfully resident in the country. DPs and IDPs who did not have travel documents necessary to apply for permanent foreign resident status could obtain the status of temporary foreign resident with a three-year deadline for regularizing their status as permanent foreign resident. Beginning in 2009, the government and UNHCR conducted a joint campaign to persuade displaced persons to apply for status as foreign residents and thus get access to basic rights not possessed by those with IDP/DP status. According to the Ministry of Interior, by year's end some 9,384 persons, or approximately 57 percent of the persons of concern, had applied. Of these, 5,463 were granted foreigner status.

Approximately 11,000 persons remained with IDP or DP status. As of October 11, the government was in the process of granting citizenship to approximately 1,650 refugees of Montenegrin origin from Albania who entered the country based on a 1991 treaty between the Socialist Federal Republic of Yugoslavia and Albania.

The status of the displaced remained temporary and their rights were limited, increasing their economic and social vulnerability. According to the UNHCR, their treatment did not meet the standards of the 1951 refugee convention. A number of them continued to live in substandard dwellings, struggle with rental payments for private accommodation, or fear eviction from illegally occupied facilities known as informal collective centers. Up to 1,800 Roma from Kosovo remained in a settlement in Berane and in two camps in Podgorica. In July a fire in one of these, camp Konik in Podgorica, left 800 Roma and Egyptians living for months in tents with limited food and inadequate sanitation. The government, while working to provide container shelters, gradually provided the funding to address many of the most basic humanitarian needs of the residents. International donors also provided emergency assistance for the camp residents.

Restricted access to employment pushed many of the displaced into gray-market activities. Romani, Ashkali, and Egyptians from Kosovo were particularly affected and continued to form the most marginalized and vulnerable segment of the displaced/refugee population. According to the government's Bureau for Refugee Care, 526 unemployed displaced persons were registered with the state employment agency, 90 of them unskilled Roma and Ashkali. Approximately 2,000 persons with DP or IDP status remained in barely habitable facilities that had been privatized.

Documentation requirements for acquiring permanent status were particularly difficult for Roma, Ashkali, and Egyptians, whether they were born in the territory of Montenegro or elsewhere. Many had no birth records, which were necessary to apply for temporary residence, either because their births were never registered or because their records were destroyed during the conflicts in the region. Although the law gives "permanent foreign residents" the same rights as citizens, except the right to vote, in practice they were not able to exercise such rights as ownership of real estate and their access to employment and education was limited. "Temporary foreign resident" status, available to those unable to obtain the necessary identity documents for permanent foreign resident status, did not convey access to employment and health care that was promised. The government extended to June 2013 a decree granting equal economic and social rights to displaced persons.

The government continued to encourage the displaced to return to their places of origin, but repatriation slowed to a trickle. Between January and September, 93 Romani families expressed willingness to return to their places of origin. Approximately 870 refugees from Bosnia and Croatia acquired Montenegrin

citizenship between January 2008 and August 2011, in many cases through marriage to citizens.

Protection of Refugees

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees that was free of discrimination. A path to citizenship was available only to refugees holding the status of DPs.

The country experienced a significant increase in the number of asylum applicants. During the year, 1,531 applications were received compared with 235 in 2011 and nine in 2010. The applicants were housed in several private apartment buildings throughout Podgorica, with inadequate monitoring or oversight. A reception center designed to house asylum seekers remained incomplete due to a lack of funding.

Access to Basic Services: Conditions for refugees varied. Those with relatives or property in the country were able to find housing, and in some cases, to rejoin family members. According to a joint survey conducted in May 2011 by the government, the OSCE, and the UNHCR, most of the vulnerable displaced persons lived in family settlements, while others lived in settlements with substandard housing designed as temporary accommodation.

Temporary Protection: Since the Law on Asylum entered into force in 2007, authorities provided four individuals with subsidiary protection.

Stateless Persons

Citizenship is derived from one's parents. According to the UNHCR, there were no legally recognized stateless persons in the country, but several thousand persons were de facto stateless and risked becoming legally stateless. The most common problem confronting de facto stateless persons, especially Roma, Ashkali, and Egyptians born on the territory of Montenegro or in Kosovo, was a lack of personal documentation.

In October 2011 authorities published 2011 census data related to citizenship. The census identified 4,312 persons who claimed to be without any citizenship. This figure included 841 persons who came to Montenegro during the Balkan wars (presumably refugees) but also 3,471 persons originally from Montenegro. Of the

4,312 persons, 38 percent declared themselves to be Roma or Egyptians, while others identified themselves as Serbs (23 percent), Montenegrins (20 percent), or Albanians (3 percent).

The government did not have a procedure for systematically identifying, documenting, and registering stateless persons or persons at risk of statelessness.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation

Recent Elections: Elections for the Assembly occurred on October 14. According to an October 15 statement by the limited observation missions of the OSCE and the Council of Europe, the elections took place in a peaceful and pluralistic environment, with respect for fundamental rights, and further consolidated the conduct of democratic elections in line with OSCE commitments and Council of Europe standards. However, international observers noted that they had received allegations of state and party collusion and election irregularities, indicating a lack of public confidence in the electoral process.

Participation of Women and Minorities: Women remained underrepresented in leadership positions in the government. The president of the Supreme Court and the chief state prosecutor were women. Following the October 14 elections, there were 14 female members of parliament (17.2 per cent) and three women in the cabinet. Two of the assembly's eleven standing committees included no women. One of the country's 21 municipalities had a female mayor. A woman led one of the 10 parties represented in the assembly. The law requires that at least 30 percent of the parliamentary candidates on each party list be women, and female candidates constituted 31 percent of the total in the October elections. However, the regulations fail to provide that the representation of women in parliament be such as to achieve a similar percentage among candidates elected.

Almost one-third (30.7 percent) of assembly members were minorities (16 Bosniaks, seven Albanians, one Muslim, and one Croat). The 16-member cabinet contained three members of minority groups. All minority groups except Roma,

Ashkali, and Egyptians were represented in the assembly. To harmonize the electoral law with the constitutional provision for “authentic representation” of minorities, the assembly adopted reforms in 2011 that established a right of representation for any ethnic minority group that won less than 3 percent of the vote or constituted less than 15 percent of the population (the reforms at the same time removed seats previously reserved for ethnic Albanians). Although the 2011 reforms would permit parliamentary representation of Roma, Ashkali, and Egyptians, these groups had no representatives. There was no Romani political party. Romani leaders contended that the minimum percentage requirements for representation of a political party in the assembly, 0.073 percent, were too high to permit these communities, who in 2011 constituted 1.01 percent of the population, including a substantial number of noncitizens, to achieve representation.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively, and corruption remained a serious problem, as indicated in Transparency International’s 2012 Perception Index. Officials in many institutions at times engaged in corrupt practices with impunity, but such practices were perceived to be particularly rife at the local level--in zoning, public procurement, privatization, education, and health care. A survey conducted in December 2011 by the governmental Administration for Anti-Corruption Initiative, in cooperation with the OSCE, found that corruption was most evident in the health care system, the customs office, and among police. During the first nine months of the year, citizens reported 67 cases of corruption to the competent government bodies.

Observers believed that public tenders, mainly used in the construction, trade, agriculture, and information technology sectors, often were rigged to suit companies with political influence. Institutional capacity for monitoring tenders was limited. In the first nine months of the year, there were no final convictions for violating the public procurement law. A new law that took effect in January requires any tender involving more than 500,000 euros (\$660,000) be reported to the Commission for Monitoring Public Procurement Procedures. During the first nine months of the year, this procedure was used once.

Although authorities took steps to strengthen anticorruption laws and institutions, implementation lagged. Efforts to investigate, prosecute, and convict officials for corruption remained largely ineffective. The State Auditor General has not taken any legal action related to embezzlement since his office was created in 2005. The

leading anticorruption NGO MANS criticized the chief state prosecutor for inefficiency, complicity in corruption, and failure to take appropriate anticorruption measures against top state officials. The NGO Civic Alliance claimed that officials did not act on many instances of corruption that MANS brought to their attention. MANS stated that police attempted to intimidate them by summoning a MANS activist, Dejan Milovac, for an “informational talk” on July 16, without stating a clear reason.

Internal controls seldom resulted in efficient prosecution of the perpetrators. A reform initiative was underway, but the public sector remained politicized and overstaffed. Authorities were slow to introduce measures that they themselves had identified as necessary. The commissions and working groups established to devise and implement the reforms were often themselves staffed by high-ranking state employees, who received pay in addition to their salaries.

Mechanisms for controlling the funding of political parties and electoral campaigns remained weak. According to the Amendments to the Law on Political Party Financing, enacted in December 2011, the state auditor general is responsible for auditing political parties’ annual balance sheets and reports on election campaign costs, while the State Election Commission is in charge of monitoring the implementation of other aspects of the law. The professional capacity and independence of the State Election Commission and the state auditor general were insufficient to ensure fully effective independent oversight. The mechanisms for verifying the funding of political parties and electoral campaigns and imposing penalties remained ineffective. Very few sanctions were applied to political parties for breaching financing rules.

Several law enforcement officials faced corruption charges during the year. On July 1, the Supreme State Prosecutor’s Office indicted three employees from the Ministry of Interior for taking bribes in return for issuing forged personal documents. Those cases were initiated on the basis of evidence provided by a third party. Verdicts by primary courts were issued against former Budva mayor Rajko Kuljaca, Deputy Mayor Dragan Marovic, and nine associates on charges of abuse of power, with a possible sentence of two to five years’ imprisonment. Kuljaca was believed to have enabled the firm Zavala Invest to start construction of a hotel complex that was illegally built on the protected Zavala peninsula. The president and a judge of the basic court in Cetinje, Goran Vrbica and Nebojsa Markovic, were indicted for bribery. The former mayor of Ulcinj, Gzim Hajdinaga, together with Naser Keljmendi, who was alleged by Interpol to head one of the region’s largest criminal organizations, reached a settlement with the supreme state

prosecutor to pay 10,000 euros (\$13,000) in damages stemming from illegal construction deals in Ulcinj municipality. The number of corruption cases in which the assets were confiscated was very low.

Police corruption and inappropriate government influence on police behavior remained problems. The close-knit nature of Montenegrin society discouraged the reporting of corruption and made it easy for criminals, using family or social connections, to gain access to law enforcement officers.

During the year the Ministry of Interior's Internal Affairs Unit reported that 36 law enforcement officers had faced criminal charges since 2008. Internal investigations by a variety of institutions significantly reduced, but did not eliminate, impunity. NGOs noted that many police officers found responsible for violating rules of service, as well as senior officers implicated in former cases of torture, remained on duty. The OSCE and resident diplomatic missions continued to provide training for police, security, and border and customs officers on combating terrorism, corruption, and financial crimes.

Government officials were subject to financial disclosure laws, and most complied with the requirements in a timely fashion. The governmental Commission for the Prevention of Conflicts of Interest (CPCI) has the power to investigate the truthfulness of officials' disclosures about their property and income, except for their bank accounts. Any gift exceeding 50 euros (\$66) must be reported to the CPCI. The NGO Center for Monitoring stated that many top state officials who are required to report their annual income reported that they were deeply in debt. In the view of the NGO, such reports were not consistent with the earnings of the officials in question.

During the first ten months of the year, 159 of 3,496 officials failed to report their income; the consequences for those who declined to file, if any, were unknown. During the same period, the CPCI initiated procedures to remove 21 officials. It reported that courts issued verdicts in cases involving 11 officials during the first three months of the year but failed to publish their names due to the opinion of the Agency for Protection of Personal Data that the names of public officials should not be disclosed. On June 25, the agency ordered the CPCI to reduce the scope of information published about state officials.

Excessive discretion granted to officials in the disposition of public property likely encouraged corruption. For example, on September 28, the media reported that the City of Podgorica gave full ownership of city-owned apartments to 19 local

government officials to address their housing needs. According to the media, many of those officials were financially secure. In spite of two decisions of the Administrative Court during the year requiring that it do so, the City of Podgorica failed to publish names of 300 municipal employees, persons in need, and other persons whom Podgorica authorities deemed worthy of receiving apartments based on their “significant contributions to the city.”

The law provides protection for whistleblowers in state agencies. Police director Bozidar Vuksanovic reinstated five border police officers after the Ministry of Interior fired them for making public statements about smuggling between Montenegro and Kosovo. However, observers believed that whistleblowers still remained vulnerable. For example, Nenad Cobeljic, the president of the military trade union, was found guilty by military authorities of disciplinary offenses and barred from promotion for two years. He was charged with dereliction of duty. Cobeljic claimed that he was disciplined because of his public allegations of corruption in the military and discrimination against army trade unionists.

The constitution and law provide for public access to government information, but implementation was weak and inconsistent, particularly regarding information about aspects of privatization agreements. On July 26, the parliament adopted a new law requiring agencies to proactively publish some government information but also imposing restrictions related to confidentiality and personal data protection. Some ministries were responsive to information requests, while others at times publicly criticized them. The level of access did not differ for noncitizens or the foreign or domestic press.

NGOs reported that their requests for government-held information frequently went unanswered. In April after nearly two years, the NGO Human Rights Action received a response from the chief state prosecutor to a request for information about measures the prosecutor took in connection with 12 cases involving allegations of official malfeasance. According to MANS agencies usually refused to give information that could reveal corruption or illegal activity, particularly involving the privatization process. MANS reported that citizens preferred to submit requests through NGOs rather directly to government offices. In the period January to June, MANS submitted 14,000 requests for information. The government responded to 41 percent of the requests.

Authorities usually provided reasons for their denials, and denials could be appealed to higher-level state bodies or courts; the latter usually upheld such appeals: The Administrative Court ruled favorably on 80 percent of the

approximately 7,000 complaints filed by MANS between 2005 and 2012. However, court orders to the ministries to comply with specific requests were often ambiguous and, consequently, sometimes ignored.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction and were able to publish their findings on human rights cases. Government officials were usually cooperative and responsive to the views of international groups, but some of the many domestic NGOs regarded cooperation as only nominal. On October 5, the NGO Center for Development of NGOs stated that an eight-month assessment of the cooperation between the public sector and NGOs indicated that cooperation was poor. According to the assessment, state agencies did not respect the regulations mandating them to operate transparently and to cooperate with NGOs.

As of August the government recognized 300 active NGOs. A council for cooperation between the government and NGOs became fully operational and met regularly during the year. The council was involved in drafting relevant legislation. NGOs participated in the activities of various state agencies, most often as members in working groups and councils dealing with various policies. There were complaints about the nontransparent allocation of money to NGOs from public funds.

Government Human Rights Bodies: There is an ombudsman for human rights, who is responsible for monitoring and preventing torture and other forms of cruel, inhuman, or degrading treatment or punishment as well as discrimination. The ombudsman operated without government or party interference. His administrative and budgetary resources increased during the year to approximately 544,000 euros (\$718,000). The ombudsman was active and established good cooperation with NGOs. Upon finding a violation of human rights or freedoms by a state agency or institution, the ombudsman may propose remedial measures, including dismissal of the violator, and evaluate their implementation. Failure to comply with the ombudsman's request for corrective action within a defined period of time is punishable by fines of 500 to 2,000 euros (\$660 to \$2,640).

The ombudsman may investigate alleged human rights violations by government authorities and inspect such institutions as prisons and pretrial detention centers without prior notification. The ombudsman may propose new laws, ask the

Constitutional Court to provide an assessment of whether a law violates the constitution or international treaty obligations, provide an evaluation of human rights issues upon request of a competent body, address general issues that are important for the protection and promotion of human rights and freedoms, and cooperate with other organizations and institutions dealing with human rights and freedoms. However, the ombudsman may not act upon complaints about judicial proceedings underway except when the complaints involve delays, obvious procedural violations, or authorities' failure to carry out court decisions. The government and the courts generally implemented the ombudsman's recommendations, although with delays.

A 2011 law permits the ombudsman to represent individual citizens who complain of discrimination, but not those who allege torture or cruelty. Critics asserted that the law failed to define the ombudsman's responsibilities for protecting personal data and personal documents with sufficient precision. In 2011 the ombudsman received 797 complaints; the majority concerned the work of state agencies and public administration, courts, police, local governments, and state prosecutor's offices.

Although the Assembly's Standing Committee for Human Rights and Freedoms increased its activities, improved its cooperation with national and international organizations, and met several times during the year, its contribution was perceived by many observers as insignificant.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and laws prohibit discrimination based on race, sexual orientation, gender, disability, language, or social status. The government did not fully enforce these prohibitions. The Office of the Ombudsman, which is responsible for the law's implementation, lacked the human, technical, and financial resources for its enforcement. Antidiscrimination campaigns and training for public servants continued, but government efforts to combat discrimination remained modest. In February an Antidiscrimination Council chaired by the prime minister became operational. The NGO Civic Alliance complained that the appointment of council members was not transparent and that representatives of ethnic minorities were not included.

Women

Rape and Domestic Violence: The usual penalty for rape, including spousal rape, is one to 10 years in prison; however, where the victim is younger than 14, suffered serious bodily injury, or was the victim of several perpetrators, punishment could be more severe. In practice sentences were generally much more lenient, the average being two years and eight months. NGOs provided assistance to victims of sexual violence due to a lack of government support institutions.

Deeply ingrained societal attitudes hampered the prosecution of rape cases. Victims were reluctant to report crimes due to the cultural stigma that attaches to victims and their families. Judges frequently allowed participants in court proceedings to cast aspersions upon a victim's character. In 2011 three cases of rape and four cases of attempted rape were reported. Spousal rape is also punishable through a civil action, but this was infrequent, since it required the victim to initiate the lawsuit and appear in court.

Violence against women, including domestic violence, was a persistent and common problem. Domestic violence is punishable by fine or imprisonment, depending on the gravity of the offense. While domestic violence was widely acknowledged, no reliable statistics existed on the extent of the problem.

NGOs that worked with abused women plausibly claimed that a significant number of incidents were unreported due to fear of reprisals by attackers or lack of measures to prevent reoccurrence. NGOs played the major role in addressing and responding to violence against women. Observers considered the responsiveness of official agencies to be inadequate, but some of them, including the judiciary and police, appeared to be more responsive to complaints about domestic violence than in past years.

A July survey conducted by the NGOs CEED Consulting, and SOS Hotline Niksic, found that women tolerated violence because they feared rejection by their families or the broader community, were economically dependent on men, had low levels of self-confidence, or lacked trust in public institutions. Violence against women mostly occurred in marriage. The survey indicated that government institutions responsible for combating domestic violence failed to respond adequately to these problems, in part because personnel lacked adequate training about the nature of domestic violence and the legal procedures available for dealing with it.

In the first 10 months of the year, police received accusations of family violence in 139 cases and in the same period filed criminal charges against 145 individuals.

During the first six months of the year, the NGO SOS Hotline for Women and Children Victims of Family Violence received 479 telephone calls. Psychological violence was reported in all of these calls, physical violence in 80.5 percent, and economic abuse and dependency in 60.5 percent. Most women who asked for assistance possessed at least a high school diploma and were between the ages of 35 and 55. Male victims were generally elderly and were abused by their children.

Lengthy trials, economic dependency, and lack of alternative places to live often obliged victims and perpetrators to continue to live together, resulting at times in additional assaults and greater hesitation of victims to report them. Government efforts to protect victims of domestic violence were inadequate. Local NGOs working to combat domestic violence relied to a large extent on international donor assistance. According to NGOs and the ombudsman, female victims of domestic violence often complained that government-run social welfare centers did not respond adequately to their appeals for help. Juvenile victims of domestic violence were sometimes accommodated in the children's correctional facility in Ljubovic or the orphanage in Bijela.

Authorities were aware of the problem of domestic violence but did not allocate adequate resources for accommodation and care of victims of family violence, removal of violent persons from families, or other efforts necessary to combat it effectively. NGOs operated two shelters for victims of domestic violence in the central part of the country but did not address the needs of victims in the north and other rural areas. Women's advocacy groups worked to combat domestic violence through awareness campaigns and sought to improve women's access to legal services and workshops.

Sexual harassment: Sexual harassment is illegal but remained a problem, and society generally tolerated it. Public awareness remained low. Victims, both women and men, were hesitant to report harassment for fear of reprisal. The NGO Montenegrin Women's Lobby stated that 27 women ages 19 to 47 asked for their assistance because of sexual harassment during the year.

Reproductive Rights: The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Health clinics and local health NGOs operated freely in disseminating information on family planning under the guidance of the Ministry of Health. There was free access to contraceptives and to

skilled attendance during childbirth, including essential obstetric and postpartum care. The government provided free childbirth services.

Discrimination: The constitution provides for gender equality. Women have the same legal status and rights as men under family law, labor law, property law, and access to the judicial system. In practice women often did not have equal legal, economic, or social status with men. In inheritance law, where women have the same legal status as men, there remained instances of women ceding their property and inheritance rights to men, but this practice continued to decline significantly. Women were hesitant to report discrimination. In 2011 the ombudsman received 131 discrimination complaints. The NGO SOS noted that it was difficult for women to defend their property rights in divorce proceedings. According to a survey conducted by the NGO, 58 percent of divorced women initiated proceedings for the division of marital property, but only 3 percent of them were successful, and proceedings lasted six years on average. One emerging trend involved husbands in divorce proceedings titling their property in the name of other family members or friends rather than their wives. Traditional patriarchal ideas of gender, according to which women should be subservient to male members of their families, resulted in continued discrimination against women in the home. For example, 84 percent of illiterate persons were women. In rural areas women could not always exercise their right to control property, and husbands occasionally directed their wives' voting.

Widespread, albeit mostly tacit, discriminatory cultural norms prevented women from equal participation in all areas of social development and generally discouraged them from seeking work outside the home. When they did so, they faced discriminatory treatment in the labor market, particularly in the trade and tourism sectors. Employers frequently violated women's legal entitlement to a 40-hour workweek, overtime, paid leave, and maternity leave. Expectations regarding women's obligations toward the family adversely affected their opportunities for advancement. Harassment at work was often unreported due to the victim's fear of being fired and a lack of information on legal remedies.

According to the national statistical office (MONSTAT), one of every 134 women held a management position in government or commerce, compared to one of every 18 men. Men far outnumbered women in senior positions (70 percent versus 30 percent), even though more women had college degrees. According to an October MONSTAT survey, men owned 87 percent of all agriculture farms, while women were responsible for field work 66 percent of the time. The survey showed that men owned 90 percent of all businesses. Some job announcements openly

specified discriminatory employment criteria for women, such as age and physical appearance. In 2011 women accounted for only 13.4 percent of the police force and 8.6 percent of army personnel. Nevertheless, an increasing number of women served as judges, and there were many women in such professional fields as law, science, and medicine.

Educational opportunities for women from the Romani, Ashkali, and Egyptian communities were limited due to traditional values and societal prejudice. Due to poor education and harsh living conditions, Romani women seldom visited gynecologists or obstetricians, with negative consequences for their health and infant mortality rates. According to Romani NGOs, Romani women were mostly economically dependent (71 percent), while half of them between the ages of 15 and 24 were illiterate.

Although the law incorporates the principle of nondiscrimination against women, it does not explicitly address the principle of equal pay for equal work. Women's wages were lower than those of men for comparable work. The government's Department for Gender Equality worked to inform women of their rights. A distinction between "male" and "female" professions was entrenched. From 2008 to 2011, according to research completed by the NGO Foundation for Development of Economic Science, women earned an average of 16 percent less than men.

The government took steps to improve employment of women from rural areas, training judges and prosecutors on gender equality, completing the campaign on the Convention of All Forms of Discrimination against Women, and including fathers in the national gender equality campaign.

An 11-member standing committee of the Assembly devoted to gender equality held five meetings during the first nine months of the year and proposed various measures for advancing policies and strategies aimed at enhancing gender equality.

Children

Birth Registration: Citizenship is derived from one's parents, by birth in the country's territory, through naturalization, or as otherwise specified by international treaties governing the acquisition of citizenship. Roma, Ashkali, and Egyptian parents registered the births of their children at lower rates than other groups, mostly due to the lack of awareness of the importance of civil registration

and a lack of identity documents. Consequently some children in these communities continued to lack birth or registration documentation.

Education: By law primary education is free and compulsory. It was not universal. During the year only 68 students from the Roma and Egyptian communities attended secondary school. Nine students from these communities attended university. Impediments often included lack of knowledge of the language of instruction, poverty, and tradition. Many parents did not want their children, particularly girls, to go to school, preferring that they stay at home and marry at an early age. There were no textbooks in the Romani language.

Child Abuse: During 2011 authorities registered 300 cases of child abuse and negligence involving physical and mental abuse. The government took insufficient action to investigate such cases, and the legal requirement that a parent or guardian be present in order for a juvenile to make an allegation of a crime was a significant disincentive to reporting family-related abuse. In September the NGO Children above All stated that only 20 children called their EU-sponsored “confidential telephone” designed for children, adolescents, and their parents. The country lacked proper facilities for children who suffered from family violence. Many children were exposed to alcohol, drugs, and violence. The ombudsman noted that social welfare centers failed to provide adequate child protection in a number of cases. A shelter for victims of family violence run by the NGO Safe Woman’s House accommodated 20 children during the year. There were no marital or family counseling centers. During 2011 the Ministry of Labor and Social Welfare acted to limit parental guardianship in six cases and deny it in one.

On September 1, a new law on juvenile justice took effect. Intended to improve the treatment of juveniles, both offenders and victims, it consolidated all provisions of previous legislation that pertained to juveniles. The Judicial Council began establishing special judicial units for juvenile justice at the high courts of Podgorica and Bijelo Polje. According to MONSTAT, 240 minors were reported to have committed criminal offenses in 2011.

Media coverage of crime stories continued to violate the privacy rights of children by reporting details about them, including personal information. Publication of such information is illegal unless there is a legitimate public interest. None of the offending media outlets were prosecuted for these offenses.

Many Romani, Ashkali, and Egyptian children began to work, both at home and in the streets, at an early age, typically around age seven, to contribute to family

income. Parents and relatives of Romani children forced them to beg at busy intersections, on street corners, from door to door, and in restaurants and cafes. Many of the children were from nearby countries. Police reported that they apprehended 14 children begging on the streets; most of them were Roma and most were between two and 14 years old. The older children were subsequently taken to Ljubovic Correctional Facility. During the same period, police pressed criminal charges against parents in six instances for forcing their children to beg.

There were some prosecutions for child abuse. For example, on November 1, the basic court in Bijelo Polje sentenced a 37-year-old person from Niksic identified only as "O.J." to four months in prison for showing pornographic footage to children between the ages of six and 10.

According to a UNICEF child poverty study released on April 20, every tenth child in the country was poor, and nearly three out of four poor children lived in remote rural areas without basic infrastructural facilities.

Child Marriage: The minimum age for legal marriage is 18 in most cases but 16 with the consent of a court. Child marriage was a problem, particularly in Romani communities, where boys and girls generally married at around age 14. These marriages are considered illegal and not officially recognized. Roma NGOs claimed that families pay a dowry from 4,000 and 15,000 euros (\$5,280 and \$19,800) for a child bride. Some NGOs reported that some of the girls were trafficked to foreigners for marriage.

Sexual Exploitation of Children: There is a statutory rape law. The age of consent is 18. Sexual activity with a juvenile carries a sentence of up to three years. Paying a juvenile for sexual activity carries a prison term of three months to five years. A person found guilty of inciting another into prostitution may be fined or given a prison sentence of up to one year. However, if a minor is involved, the convicted offender faces a prison term of one to 10 years.

Child pornography is illegal, and punishment ranges from imprisonment for six months for displaying child pornography, to five years for using a child in the production of pornography.

On June 18, the deputy ombudsman stated that between 2008 and 2011, authorities dealt with 68 cases of reported sexual harassment of children between 14 and 16 years of age and filed criminal charges in 54 cases. Most of the cases related to sexual intercourse with minors, common-law marriage, and dowry marriages.

Institutionalized Children: Inadequate treatment of children with mental disabilities at the Komanski Most institution for persons with disabilities continued to be a problem (see section 6, Persons with Disabilities). Observers criticized authorities for inadequate efforts to deinstitutionalize children with mental disabilities.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

The Jewish population is small--the president of the Jewish Community of Montenegro told the press during the year that his organization had approximately 350 active members. On January 31, the community signed an agreement with the government on mutual relations. The government and the city of Podgorica completed plans to donate land to build the first synagogue in modern times. In November a rabbi arrived. There were no reports of anti-Semitic incidents.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, pensions, allowances, family care and support, buildings, information, air travel, and road and railway transportation. The constitution gives persons with mental disabilities the right to be placed in adequate residential institutions and the right to foster care and support or other state services. However, societal discrimination against persons with disabilities effectively limited their access to these benefits, and authorities did not actively prosecute infractions. While authorities generally enforced the requirement that new public buildings include access for persons with disabilities, a continuing lack of access to older public buildings, hospitals, and public transportation was a problem.

In October 2011 a girl from Niksic filed a civil suit against the Municipal Assembly of Niksic seeking 5,000 euros (\$6,600) in damages for injuries she

sustained after falling from her wheelchair at the entrance of city hall, which was inaccessible to persons with disabilities. The case was pending at year's end.

Despite some government efforts, persons with disabilities remained among the most vulnerable members of the population. According to the 2011 census, 11 percent of the population had difficulty performing everyday activities due to illness, disability, or age. The Ministries of Health, Labor and Social Welfare, Education and Sports, Finance, Justice and Human Rights, and Sustainable Development and Tourism, as well as the Secretariat for Legislation, the State Employment Agency, and five NGOs all provided assistance and protection in their respective spheres to persons with disabilities through a Council for Care of Persons with Disabilities. NGOs contended that the government was significantly behind in implementing its plan to integrate persons with disabilities.

Discriminatory treatment persisted. Regulations providing protection, encouraging employment, and securing housing for persons with disabilities were not consistently implemented. Although persons with disabilities are entitled to health care within the general health care system, often it was not delivered in a satisfactory manner. Disability allowances were inadequate and did not cover the cost of living.

Education for children with mental and physical disabilities remained inadequate. Children with disabilities attended primary schools, and to a lesser degree, secondary schools. There were three schools specially designed for children with disabilities (two in Podgorica and one in Kotor). In other schools throughout the country, children with minor physical and mental disabilities attended school together with other children. Many schools had no access for students with physical disabilities. Those students who went to university generally were limited in which faculties they could enroll, since only a few were accessible. Many parents turned to the ombudsman because their children had problems in schools; the ombudsman recommended that children with special needs be provided assistants. While in 2011 the government funded 158 such assistants, there were 145 in 2012, assigned to 22 different schools. The government continued to implement its plan to construct daycare centers for children with disabilities as an alternative form of social protection in all 21 municipalities; six centers were in operation by year's end, with three additional centers nearing completion, according to the government.

In March the chief state prosecutor, citing insufficient evidence, stated she would not pursue allegations of mistreatment of children at the Komanski Most institution

for persons with mental disabilities. A negative 2010 report by a CPT mission was followed by a March 2011 report by the ombudsman, who described conditions there for individuals with mental disabilities, including children, as inadequate. Problems included insufficient separation of adults from children and a lack of accommodation for female residents. NGOs criticized the chief state prosecutor for the delayed response. Since the CPT visit, authorities have taken a number of steps to respond to these criticisms. In January and February, three individuals in the Komanski Most institution died of influenza, while almost one-half of the residents were ill. The media and NGOs alleged that authorities kept the epidemic hidden and responded to it ineffectively.

Employment for persons with disabilities was limited. Advocates indicated that training programs were very limited and did not contribute significantly to their economic integration. Governmental entities employed very few persons with disabilities. In the private sector, 15 employers provided employment to 36 persons with disabilities. Authorities provided incentives to private employers to hire persons with disabilities, and those who failed to meet established quotas for hiring such persons were required to contribute to a Fund for Professional Rehabilitation and Employment of Persons with Disabilities. Employers often preferred to pay the contribution. The nontransparent use of the fund was itself a source of controversy. NGOs claimed that during first 10 months of the year, the fund dispensed only a small fraction of its resources, returning 7.4 million euros (\$9.8 million) to the state budget at the end of the budgetary year. NGOs complained that despite this surplus, some requests for funding for the employment of persons with disabilities were rejected under the pretext of lack of funds. NGOs requested that the fund be detached from the State Employment Agency and Ministry of Finance and made a separate legal entity.

According to the Association of Young Persons with Disabilities, 10 persons with disabilities were studying at local universities in 2011, compared with three in 2001. That association implemented a project for training guide dogs and provided three dogs to visually impaired individuals.

Mental health care remained inadequate. Institutionalized persons often became wards of the state and lived in isolation in outdated and underfunded facilities. Institutionalization perpetuated stigmatization of persons with mental disabilities. A 2011 NGO report on psychiatric and mental hospitals in Kotor, Podgorica, and Niksic cited many of these deficiencies; however, the report's authors did not observe any mistreatment of patients.

On February 8, a court ordered Rados Pavicevic to pay 700 euros (\$924) to the Montenegrin Youth Association of Handicapped Persons after he was convicted of ejecting Andrija Samardzic from his restaurant because he was accompanied by a guide dog.

National/Racial/Ethnic Minorities

Roma, Ashkali, and Egyptians experienced societal discrimination and had limited access to social services. In 2009, according to government statistics, more than 50 percent of school-age children from these communities were not integrated into the obligatory primary education system. Their institutional and geographic segregation continued. For example, the Bozidar Vukovic primary school continued to maintain a remote facility in the Konik refugee camp in Podgorica that was attended only by 290 Romani, Ashkali, and Egyptian students. The government provided transportation to 88 Roma children from the Konik refugee camp to attend other schools in town. In February 2011 the European Commission against Racism and Intolerance advised that the continued separation of Romani children from children of other ethnic groups would seriously impede the integration of Roma into society.

According to the NGO Fund for Providing Roma Scholarships, the primary-school dropout rate for students belonging to these minorities was approximately 50 percent in the 2010-11 academic year. There was some progress in enrolling students from these communities in secondary school. The number rose from 37 students in 2009-10 to 63 in 2012-13. Only 11 Romani students attended university in 2010-11.

According to the 2011 census, Roma, Ashkali, and Egyptians constituted approximately 1 percent of the population. According to 2009 UN data, approximately 40 percent of them lacked birth or citizenship certificates. Many, including IDPs from Kosovo, lived illegally in squatter settlements, often widely scattered, and lacked such basic services as public utilities, medical care, and sewage disposal. The law relating to citizenship and its accompanying regulations made obtaining citizenship very difficult for persons without personal identity documents. According to 2009 UN Development Program data, approximately 70 percent of Roma were illiterate, 50 percent were unemployed, and 36 percent lived below the poverty level.

Local authorities often ignored or tacitly condoned widespread societal prejudice against Roma, Ashkali, and Egyptians. Members of these minorities lacked

political representation and generally stayed out of politics. They occasionally lacked access to medical specialists that was available to other residents. According to a study carried out by three NGOs, the greatest disadvantages facing these minority groups in employment were inability to speak the national language, lack of education, and employer discrimination. In March the government introduced subsidies aimed at encouraging private entrepreneurs to hire Roma, Ashkali, and Egyptians. Of those registered with the Employment Agency, 90 per cent had no occupational or job skills.

Although authorities appropriated 473,000 euros (\$624,000) during the year to implement an action plan to improve the situation of Roma, Ashkali, and Egyptians, they took no significant measures to advance the plan during the year.

The Albanian National Council requested new textbooks for Albanian students and more involvement of Albanian authors in writing them. Albanian politicians complained that the national television station shortened its program broadcast in the Albanian language.

A court in Cetinje pressed charges against ethnic Montenegrin restaurant owner Milo Kadija because of a July 28 incident in which he expelled Veselinka Rajkovic (an ethnic Serb), her five minor children, and a Serbian Orthodox Church nun from his establishment. Kadija was charged with discrimination based on national and religious affiliation.

Ethnic Serbian politicians claimed that the government failed to respect the agreement signed between the government and opposition parties in September 2011, which provided for teaching Montenegrin, Serbian, Bosnian, and Croatian languages in schools. They stated that the relevant commission failed to develop a program for Serbian and other languages.

The leaders of ethnic minority communities continued to allege that the government did not fully comply with the constitutional requirement of affirmative action for minorities. They asserted that in addition to representation in the Assembly, these rights also included the representation in local self-government assemblies in areas where a minority group forms a significant share of the population. They also complained that minorities were underrepresented in the government administration, the judiciary, and state-owned economic enterprises. A study conducted in June 2011 by the Ministry of Human and Minority Rights showed a large imbalance in the ethnic distribution of public sector jobs. Ethnic Montenegrins, who constituted less than half of the population, held 79 percent of

public administration positions. At year's end there were three Roma in the central administration and none in local government bodies.

Amendments to the election law enacted in September 2011 to enhance affirmative action gave minorities additional representation in the Assembly. The amendments apply to minorities that win less than 3 percent of votes and constitute less than 15 percent of the population. The law received mixed reactions from minority communities. Ethnic Albanians were displeased that the Assembly seats set aside for them were eliminated, while others welcomed the opportunity to have representation in the Assembly (see section 3).

The government supported national councils, intended to represent the interests of ethnic minorities, for Serbs, Bosniaks, Albanians, Muslims, Croats, and Roma. The government fund for financing these organizations continued to be the focus of public attention due to the alleged misappropriation of funds. Authorities provided 737,000 euros (\$973,000) to the councils during the year for specific projects. Some NGOs and opposition groups alleged that the money was earmarked to finance political campaigns, since some fund members were politically active. They also claimed that the fund continued to finance new projects led by NGOs that had not completed projects funded in previous years. The NGO Civic Alliance sued the members of the fund, claiming that their term of office had expired by 10 days at the time they made their allocation of funds for 2012. Police investigated the work of the fund but discussed no details of their investigation.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Antidiscrimination law forbids discrimination based on sexual orientation and gender identity and applies to LGBT individuals.

LGBT persons and their supporters experienced continued discrimination, ostracism, hostile public attitudes, and violence. Although negative public perception of LGBT persons led most to conceal their orientation, they were becoming more visible as many continued to come out to their families and colleagues.

Only one domestic NGO, LGBT Forum Progress, focused solely on the rights of the LGBT community, but others also dealt with LGBT rights. LGBT Forum Progress ran a shelter for LGBT persons that, during the year, accommodated 20

persons, mainly men. The government and several senior government officials have affirmed their support of the LGBT community and LGBT rights. The government hosted an international LGBT conference, provided financing for LGBT individuals to travel to the European Gay Games, and participated and facilitated the development of a National Strategy to Combat Homophobia and Transphobia. The Prime Minister has an adviser for LGBT and human rights issues. The government also passed legislation to provide government-funded gender reassignment surgery, but a protocol was still being developed at year's end.

Nevertheless, negative public attitudes toward LGBT persons were at times manifested in aggression and violence, most of which was not reported. Individuals hostile to LGBT persons also used social media and LGBT dating sites to anonymously attack and bully LGBT and suspected LGBT individuals. Reports by some NGOs indicated that the public hospitals rejected patients whom they believed to be LGBT, and that some LGBT persons were fired because of their sexual orientation. According to the study on discrimination based on sexual orientation drafted by the deputy ombudsman, Aleksandar Zekovic, more than 100 persons were prosecuted during the year for agitation and discrimination against LGBT persons.

During the year the NGO Juventas received 52 telephone requests for assistance through its LGBT hotline. The callers were mostly men and ranged in age from 14 to 55. None of the callers contacted police or hospitals for assistance for fear of having their sexual orientation revealed.

On March 29, the head of the Cetinje Seminary Protojerej, Stavrofor Gojko Perovic, publicly condemned LGBT persons and their "immoral desires" and stated that he did not want to see their behavior legalized. He compared homosexuality to pedophilia and bestiality. The vicar of the Kotor Catholic Diocese, Don Anton Belan, added that the church was against homosexuality and that legalizing gay marriage would be a step back for Christian families.

On April 3, Juventas hosted a conference regarding the role of media in protecting the human rights of LGBT persons. According to their analysis and report, 79 percent of news articles related to LGBT issues were neutral regarding the topic. It also noted a 300 percent increase in media coverage of LGBT issues during the previous 12 months. Some media outlets monitored and deleted hate speech from their online commentary sections.

On May 17, the International Day Against Homophobia, human rights NGOs criticized the government for making no progress investigating violence surrounding the 2011 celebration of the May 17 holiday, when hooligans threw tear gas into the crowd attending a concert in Podgorica, then beat a number of the fleeing concert-goers.

On June 18, unknown perpetrators set fire to an LGBT symbol, the rainbow flag, which hung outside the ombudsman's office in Podgorica. The ombudsman's office stated that the vandalism confirmed the country's high level of homophobia. The ombudsman's landlord would not allow the flag to be replaced for fear of further incidents. An investigation conducted immediately after the act did not lead to the apprehension of the perpetrators.

On September 10, a group of individuals belonging to the soccer fan club Varvari (Barbarians) assaulted Danilo Marunovic, Todor Vujosevic, and Mirko Boskovic in downtown Podgorica after a concert. The attack resulted in minor injuries and one broken nose. Vujosevic starred in, and Marunovic directed, a 2011 LGBT rights commercial that featured the country's first publicly displayed kiss between two men. On October 12, two of the alleged perpetrators of the incident, Drasko Mirkovic and Nikola Raznatovic, went on trial in the Podgorica Basic Court. However, the court had to adjourn when one of the defendants failed to appear. On the same day as the trial, a group of unidentified individuals who were waiting outside of the house of Todor Vujosevic, one of the victims, assaulted him and screamed homophobic epithets at him. Police arrived, but the crowd disbursed before anyone was apprehended. One of the perpetrators, Raca Rajkovic, was later arrested, tried, and sentenced to three months in prison.

Other Societal Violence or Discrimination

There were no reports of violence against persons with AIDS. The NGO Juventas stated that persons with HIV/AIDS were stigmatized and experienced discrimination. Observers believed that fear of discrimination prevented many persons from seeking HIV testing. The NGO Cazas ran the only center for psychological support to persons with HIV/AIDS. Authorities voiced concern about the inadequate registration of persons who died of AIDS since their cause of death was unreported if they did not die in hospitals. There were reported cases in which doctors refused to treat patients infected with HIV or disclosed their identities.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law permits workers to organize trade unions and conduct trade union activities without prior consent. It allows unions to engage in collective bargaining and other activities without government interference. The law gives workers the right to strike, except for security-related personnel and other public servants whose absence from work would jeopardize the public interest, national security, safety of persons and property, or functioning of the government. It is illegal for employers to discriminate against union members or those seeking to organize a union, and employers may be fined or sentenced to one year in prison for violations. Workers dismissed for union activity have the right to reinstatement. The law provides for the right to bargain collectively.

Under the law collective bargaining agreements cover only the registered workforce. A July agreement that included the Confederation of Trade Unions, the Union of Free Trade Unions, the Ministry of Labor and Social Welfare, and the Union of Employers extended the validity of the existing collective agreement until September 30, but the working group responsible for drafting the new collective agreement and bringing it in line with the 2011 amendments to the Labor Law failed to agree on all points of the new agreement. In this situation, worker rights continued to be protected, although to a lesser degree, by existing labor law and other agreements in force.

On September 29, the Trade Union of Teachers, which operates within the Union of Free Trade Unions, accused the Confederation of Trade Unions of exerting pressure on school principals to influence the votes of teachers in the October parliamentary elections. They also accused the confederation of bullying members of the Trade Union of Teachers.

The law provides for out-of-court settlement of individual and collective labor disputes. In 2010 an agency was created to arbitrate such disputes. From September 2011 to September 2012, the agency reviewed 632 cases, 77.5 percent more than the previous year. It found in favor of employees in more than 60 percent of the cases, but in many instances, according to media reports, employers failed to abide by the agency's decisions.

None of the protections available to legally registered workers applied to unregistered workers, many of whom came from abroad and did not have employment agreements. According to the press, between 15,000 and 50,000

unregistered workers (domestic and foreign) were employed during the summer season, primarily in the fields of construction, trade, tourism, agriculture, and catering.

Workers frequently exercised the right to strike. According to various estimates, between 1,000 and 10,000 workers participated in strikes during the year. In addition to the strikes, the government faced several large protests during the year by those dissatisfied with the government's performance. Collective bargaining remained at a rudimentary level and was hampered by the fact that only the unions with the largest membership in a particular plant could be parties to collective agreements. There were reports from both private and public sector employees that employers threatened or otherwise intimidated workers engaged in union organizing or other legal union activities. Members of the army trade union alleged that they faced discrimination and pressure from commanding personnel. Employers were rumored at times to have interfered in the internal affairs of unions by attempting to influence union members. In some cases employees' salaries were cut, and some were dismissed. In the case of dismissals, years could pass before workers regained employment due to extensive court delays. The government's efforts to enforce labor law were inconsistent.

On September 18, the management of the steelmill Toscelik Niksic fired trade union leader Janko Vucinic, who had led a series of employee strikes. The company denied that the firing was related to Vucinic's trade union activities; they maintained that they fired him because of poor work performance.

Many workers in privatized or bankrupt companies had outstanding claims for back payment of salaries and severance pay. Several local governments failed to pay their staff for months on end. Unpaid wages and factory closures led to large-scale strikes. The law provides some recourse, and parties reached settlements in the past involving compensation, but these were exceptions. The law requires employers to make substantial contributions to pension, social, and health-care funds. To avoid these payments, employers often did not officially register their employees.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, but there were reports that individuals were trafficked to, from, and within the country for labor, particularly for commercial sex and construction work. Forced begging by Romani children remained far the most prevalent form of compulsory labor.

Also see the State Department's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

There are laws and regulations to protect children from exploitation in the workplace, and the government generally enforced them in the formal economy. While the official minimum employment age for employment is 15, it was common in farming communities to find younger children assisting their families. Children under 18 may not work in jobs that involve particularly difficult physical work, overtime and night work, or underground or underwater work, or that “may have a harmful effect or involve increased risk for their health and lives.” The law specifies monetary penalties for violation of these provisions, with fines ranging from 10 to 300 times the minimum wage.

Romani children worked in a variety of unofficial retail jobs, typically washing car windows, collecting items such as scrap metal, or selling old newspapers. Many Romani children engaged in begging. Police asserted that the practice constituted isolated family begging rather than organized begging. Begging was readily observable in the country, particularly in Podgorica and the coastal areas during the summer. Police claimed that most of the children engaged in begging came from Kosovo and Serbia. Police continued an initiative aimed at suppressing begging. They arrested and charged several adults with organizing and forcing their relatives, mostly young Romani children, to beg. Police pressed charges against the adult perpetrators, while children found without a guardian were placed in the children's correctional facility in Ljubovic.

During the year the government neither received nor investigated any reports of child labor. In June the government established an Inspection Administration, which unified 30 inspectorial bodies from seven ministries and six agencies and became the sole government body responsible for government inspections, including of labor practices. Apart from begging, which is not considered “work” under the law, inspectors reported no violations of child labor laws during the year. The Inspection Administration had 35 inspectors in 15 municipalities. There were no inspectors dedicated solely to child labor; compliance with child labor law was investigated as part of a general labor inspection.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

According to the National Statistics Office, the average net salary in May was 480 euros (\$634), an increase of 1.1 percent from 2011. The national monthly minimum wage in June was 147.50 euros (\$194.70). The absolute poverty line for 2011 was set by the government at 175 euros (\$231); the government statistics office estimated that approximately 9.3 percent of the population (60,000) lived below the poverty line, compared to 6.6 per cent in 2010. Nearly 18 percent of citizens in the north lived below the poverty line, compared to 6.3 percent in the central and 6.4 percent in the southern part of the country. Significant portions of the workforce, particularly in rural areas and the informal sector, earned less than the minimum wage.

The law establishes a 40-hour workweek (except in specified unusual circumstances) and requires an unspecified premium for work in excess of 40 hours per week. The law mandates a 30-minute daily rest period and limits overtime to 10 hours per week, but seasonal workers often worked much longer. Many workers, particularly women employed in commerce, catering, and service industries, worked unpaid overtime and were sometimes forced to work on religious holidays or forgo their rights to weekly and annual leave. However, these employees often did not report the violations for fear of repercussions. Employees can choose which holidays to observe depending on ethnic or religious affiliation. Watchdogs reported that the situation slightly improved due to proactive checks from labor inspectors. There were reports that, at times, employers failed to make their mandatory contributions to the pensions and other services for their employees, or paid them at a minimum level. Women were subject to discrimination based on their marital status, pregnancy, and physical appearance.

Employers often preferred to provide employment on a temporary basis, citing the poor business environment and global economic crisis as justifications. During the year employers advertised through the state Employment Agency for 36,800 temporary and 3,700 permanent job vacancies. To avoid employing workers permanently, employers hired them for a several-month “trial period” and then fired them before the trial period ended. They would then hire new workers and repeat this cycle.

While there are no legal or technical barriers preventing an employee from bringing a complaint against an employer, high unemployment coupled with fear of losing one’s job, a backlogged court system, and the lack of legal protection for

the approximately 20 percent of the labor force working in the unregistered gray economy were disincentives for filing complaints.

The use of “temporary” workers continued to be a major issue between trade unions and employers, since employers had considerable leverage over the terms of employment of such workers, particularly women, older workers, and those with disabilities. Amendments to the law that came into force in December 2011 restricted temporary employment to two years. The Ministry of Labor and Social Welfare, the Union of Free Trade Unions of Montenegro, and the Montenegrin Employers Federation had various interpretations about the date when the amendments were to enter into force.

The government establishes health and safety regulations in the workplace. Employers who fail to abide by preventative measures or legal provisions for protection at work may be fined or imprisoned for up to one year. The regulations require employers and supervisors to supply and enforce the use of safety equipment and to report any serious workplace deaths or injuries within 24 hours. Authorities did not rigidly enforce the safety requirements, and both employers and workers violated health and safety rules, particularly in the construction and electric power industries, wood processing, and welding. The machinery and tools used at construction sites were often not properly maintained, which increased the risk of injuries. During the year there were five deaths and 24 serious injuries at work, mostly at construction sites and wood-processing facilities. During the year nine inspectors conducted workplace safety inspections. The most frequent reasons cited for injuries were lack of work-related training, inadequate medical care for workers, and old equipment.

Labor inspectors have legal authority to close an establishment until violations are corrected. They can fine owners who are guilty of repeated violations. Inspectors found violations involving work without contracts, inadequate payments to workers, failure to pay worker contributions to social funds, and lengthy working hours. During the year inspectors conducted 12,154 inspections, found 8,359 irregularities, closed workplaces in 216 cases, issued 3,689 reprimands, and levied 1,679 on-the-spot fines for lesser violations. Inspectors found the most irregularities in the catering, tourism, and construction sectors.