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I Role and structure organization

The Protector of Human Rights and Freedoms (**Ombudsman**) in Montenegro is an independent and autonomous institution, with a mandate to protect and advance human rights and freedoms, whenever they are violated either by act, work or indolence of the public authorities. Protector's mission is much wider, i.e. to raise awareness of the necessity for the rule of law, on complete and consistent protection of freedoms and rights of citizens and, in general, to create legal security for citizens; lawful and impartial work of all public authorities where citizens exercise their rights, freedoms and legal interests.

• Legal framework

The Constitution of Montenegro, under Article 81, stipulates that the Protector of Human Rights and Freedoms is an independent and autonomous authority that takes measures to protect human rights and freedoms. Authorizations and the procedure before the Protector are regulated under the Law on the Protector of Human Rights and Freedoms. The Protector exercises duties on the basis of the Constitution and the law observing also the principles of justice and fairness in his/her work.

• basic functions as defines under the law

The Protector is authorized to protect human rights and freedoms when they are violated by means of enactment, action or failure to act of state authorities (Government, ministries, administrations, agencies), authorities of local government (municipal body), public services and other holder of public power (health or education institutions, public enterprises or other legal person with public authorizations), as well as measures to prevent torture and other forms of inhuman actions and punishments and measures for protection from discrimination. Compared to the courts, the Protector has special authorizations for on-going judicial proceedings as follows: in case of delay, if an obvious abuse of procedural powers occurred or if the court decisions have not been executed.

• Structural organization

The Law on the Protector of Human Rights and Freedoms stipulates that the Protector has at least one Deputy Protector. The Parliament of the Republic of Montenegro decides on the number of Deputies and their selection, upon proposal of the Protector.

The institution of the Protector of Human Rights and Freedoms, from its establishment, has been dealing with protection and promotion of the rights of the child acting upon complaints and implementing projects. The results achieved impose a need for establishing a department for protection of the rights of the child within the institution, with Deputy Protector for the Rights of the Child as the head of the department.

The Deputy Protector of Human Rights and Freedoms for the rights of the child was elected in 2009, by the Parliament of Montenegro.

Technical service has been established for conducting expert and administrative affairs. Multiethnicity is present in the structure of the employees.

II Individual complaints

• The scope of competences of the Ombudsman in handling individual complaints

If a citizen believes that his/her human rights and freedoms have been violated he/she can address the Protector by filing a complaint. The Protector may also be addressed through relevant association, or organization, as well as through members of the Parliament.

The Protector of Human Rights and Freedoms acts upon complaints of the citizens when their human rights and freedoms are violated by means of enactment, action or failure to act of:

- state authorities (court, Government, ministries, administrations, agencies);
- authorities of local government (municipal body) ;
- public services and other holder of public power (health or education institutions, public enterprises or other legal person with public authorizations).

If it is a case of violation of the rights of the child, the complaint may be filed by the parent, caretaker or legal representative or organization/authority dealing with protection of the rights of the child.

The Protector will take certain measures in cases when the rights of the citizens are violated due to:

- wrong application of laws or other regulations;
- breach of administrative procedure;
- failure to act upon your complaints;
- denial of requested information;
- failure to execute decisions passed;
- wrong determination of matter-of-fact state;
- unjustified long procedure.

The Protector also acts *ex officio* when he or she comes into possession of reliable information that human rights and freedoms or the rights of the child have been violated by means of enactment, action or failure to act of the authorities, and in such case it is necessary to obtain the consent of the injured person.

During 2010 and 2011 the Protector has been working on 93 cases in the field of the rights of the child. Apart from processing the complaints from the citizens, the Protector has initiated procedures *ex officio* in 18 cases. Complaints in most cases are filed by parents.

There are few cases when children address the Protector independently, and with the aim of establishing direct communication with children, the Protector opened a Blog page during 2010 in the official website which is exclusively intended for children and the rights of the child. Through the Blog the children ask the Protector questions directly.

The complaints mostly refer to inability of establishing contact of the child with the parent he/she is not living with in cases of conflict divorces, exercising the rights within social and child protection, exercising the rights of the children with developmental disabilities and exercising the rights of children who are in conflict with the law as well as exercising the right to education.

III. Expressed opinions, statements, recommendations and / or proposals for legal and / or other reforms

The Protector of Human Rights and Freedoms of Montenegro has provided in the last period 15 recommendations to various authorities. The recommendations mostly related to matters within social and child protection and matters of exercising the right to education.

IV. Research

During 2010 the research "How do you live" ¹ was conducted among children in Montenegro. The basic objectives of the research were aimed at collecting data on the children's attitude towards the conditions they live, grow and develop in and their satisfaction with own life. The focus was on comprehending children's opinion on certain everyday topics (home, family, school, local community and similar) and obtaining the overall picture on their opinion of the situation they live in.

The institution of the Protector of Human Rights and Freedoms initiated implementation of the regional project *Improving of the position of the child with the aim of protection from all forms of exploitation*, which is being implemented in cooperation with the Ombudspersons from the region and with the support from Save the Children Norway.

The institution of the Protector of Human Rights and Freedoms has conducted the first phase of the project, relating to *Protection of children from economic exploitation*, which includes a number of activities such as conducting interviews with children and collecting information from relevant subjects. With the aim of successful realization of the planned activities and collecting information from children who are involved in beggary and vagrancy, the Protector gathered information through questionnaires delivered to all Centers for social work in the territory of Montenegro, ministries, NGOs working with children and for children as well as to all relevant agencies dealing with this matter. The questionnaire was written and adjusted to the type of institution or authority which it relates to. The analysis of the received answers provided the Protector with a comprehensive insight into the matter-of-fact situation regarding the economic exploitation of children in Montenegro as well as opinion of the relevant entities regarding staff, financial and other conditions for work on prevention and combating this matter as well as opinion regarding the existing legal regulations in this field. A meeting with

¹ <http://www.ombudsman.co.me/djeca/index.php>

all relevant entities was also held in which the result of the research were presented and the directions of further actions were considered.

The institution of the Protector of Human Rights and Freedoms of Montenegro has had a certain number of complaints relating to exercising of the rights of persons with mental illness and children with disabilities in mental development. Acting upon these complaints, a number of recommendations have been made to competent institutions, because it was observed that there are difficulties in exercising of the rights of persons with disabilities in mental development. Acknowledging the significance of ensuring the exercise of the rights of persons with mental illness, the Protector decided to conduct a research which would be based on the situation in the field. Visits to institutions provided a direct insight into the state of the buildings and the environment where persons with mental illnesses live, as well as insight into the structure of the employees in the institutions. Special attention was paid to protection from all forms of discrimination, conditions of accommodation and mechanisms for supervision and monitoring, having in mind the standards applied in the institutions. The results of the research and the analysis of the achieved results with the recommendations of the Protector were incorporated in a special report which the Protector of Human Rights and Freedoms has presented to the Parliament of Montenegro.

V Communications, promotions and publications

The institution of the Protector of Human Rights and Freedoms within its regular activities and through realization of projects in cooperation with international and national organizations has continuously conducted promotion of the rights of the child through publishing brochures and conducting researches on various topics. Publication "Children and Media", published in July 2010, contains international and national standards relating to the method of reporting of media about children and the contents for children as well as participation of the children themselves in media. The publication also contains recommendations of the Protector relating to this field.

The institution of the Protector of Human Rights and Freedoms published "Guide for Children with Developmental Disabilities" relating to the possibilities of achieving the most quality education by introducing the Teaching Assistant as a form of assistance for children.