

MONTENEGRO 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Montenegro is a mixed parliamentary and presidential republic with a multiparty political system. Voters choose both the president and the unicameral parliament through popular elections. The president nominates, and the parliament approves, the prime minister. An observation mission of the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe stated that the August 30 parliamentary elections were overall transparent and efficient but highlighted that the ruling party gained an undue advantage through misuse of office and state resources and dominant media coverage, which undermined the quality of information available to voters. Milo Djukanovic, president of the Democratic Party of Socialists was elected president in 2018 with nearly 54 percent of the vote in the first round for his second term as president. He had already served six terms as prime minister. Observers from ODIHR, the European Parliament, and the Council of Europe's Parliamentary Assembly noted the election proceeded in an orderly manner but had minor irregularities that did not affect the outcome. Despite opposition protests, elections were generally considered free and fair.

The National Police Force, which includes Border Police, is responsible for maintaining internal security. They are organized under the Police Administration, which is independent from the Ministry of Interior and report to the police director and, through him, to the prime minister. The Armed Forces of Montenegro are responsible for external security and consist of an army, navy, and air force that are overseen by the Ministry of Defense. Civilian authorities maintained effective control over the security forces. Members of the security forces committed some abuses.

Significant human rights issues included: allegations of torture by the government; arbitrary arrest or detention; serious problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; serious restrictions on free expression; substantial interference with the freedom of peaceful assembly and freedom of association; serious acts of corruption; crimes involving violence or

MONTENEGRO

threats of violence targeting persons with disabilities, members of national/racial/ethnic minority groups, or indigenous people; and crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, or intersex persons.

Impunity remained a problem, and the government did little to identify, investigate, prosecute, or punish officials who committed human rights abuses.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

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

Oversight over police is provided by the parliament, a civil control council, and an internal control unit within the Ministry of Internal Affairs. Parliamentary oversight in the area of security and defense is conducted through the Committee for Defense and Security, which conducts hearings and audits the activities and budget of entities responsible for security and defense, including police, as well as deliberating draft laws and amendments touching on the security sector. The Council for Civilian Control of Police Operations assesses the use of police powers regarding the protection of human rights and freedoms and provides reviews and recommendations to the minister of interior for action. A Ministry of Interior unit conducts assessments of the legality of police work, particularly in terms of respecting and protecting human rights when executing police tasks and exercising police powers. The Office of the Protector of Human Rights and Freedoms (Ombudsman's Office) also has oversight authority over police. It can investigate claims submitted either by the public or on its own initiative for suspected

MONTENEGRO

violations of human rights or other illegalities in the actions of police.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

While the constitution and law prohibit such practices, there were reports alleging that police tortured suspects and that beatings occurred in prisons and detention centers across the country. The government prosecuted some police officers and prison guards accused of overstepping their authority, but there were delays in the court proceedings. Nongovernmental organizations (NGOs) noted that several police officers found to be responsible for violating the rules of their service, including cases of excessive use of force, remained on duty.

On July 14, the NGO Human Rights Action (HRA) issued a public call for authorities to investigate “urgently, thoroughly, and impartially” allegations that police tortured three individuals suspected of being connected with the 2015 bomb attacks on the Grand Cafe and the house of former National Security Agency officer and current police officer Dusko Golubovic in late May and early June. All three individuals submitted separate reports to the Basic State Prosecution Office in Podgorica containing identical allegations of police torture by application of electroshock devices to their genitals and thighs, brutal beatings using boxing gloves and baseball bats, and other cruel methods, such as threatening to kill them and playing loud music to drown out their screams during the interrogation to extract their confessions.

The three individuals were Jovan Grujicic, the main suspect in the bombings; Benjamin Mugosa, who was initially accused of participation in the attacks, although the charges were subsequently dropped when it was revealed that he was in prison at the time of the bombings; and MB, an alleged witness who was said to have testified that Mugosa and Grujicic executed the attacks before the charges were dropped against Mugosa. The HRA claimed that the accusations of torture were not based solely on the descriptions provided by the three individuals but also

MONTENEGRO

on photographs of MB's injuries, which were published by the media outlets *Vijesti* and *Dan*.

The European Commission and several foreign governments quickly issued statements urging the authorities to carry out, without delay, a comprehensive, transparent, and effective investigation into the torture allegations in accordance with international and European standards. Media outlets and NGOs also cited the findings from a 2017 visit by the Council of Europe's Committee for the Prevention of Torture (CPT), which noted allegations of police mistreatment, including "punches, slaps, kicks, baton blows, and strikes with nonstandard objects, and the infliction of electrical shocks from hand-held electrical discharge devices." Most abuses were alleged to have occurred either at the time of apprehension or during the preinvestigation phase of detention for the purpose of extracting confessions.

While the Basic State Prosecutor's Office stated that police acted in accordance with the law, an investigation is ongoing. The HRA questioned why prosecutors ordered forensic medical examination of bodily injuries immediately upon a receipt of the reports of the two persons claiming torture but did not order a similar timely investigation upon receipt of the report from Grujicic. The HRA released a public letter to Supreme State Prosecutor Ivica Stankovic, asking him to check whether and when a forensic medical examination of Grujicic was ordered and to request that Grujicic be allowed to continue receiving psychiatric treatment and medicine that had been suspended as a result of his arrest.

The HRA did not receive any response to its requests to prosecutors for updates on the case on behalf of Grujicic's family. In August the HRA submitted a request for the UN special rapporteur on torture, Nils Melzer, to investigate the allegations of torture and had not received a response by year's end. The Ombudsman's Office's investigation into the allegations was ongoing at year's end. In early November the Basic Court in Podgorica issued a verdict acquitting Grujicic of the charges of bombing the Grand Cafe and Golubovic's house.

Impunity remained a problem in the security forces, particularly among the police and prison officers. Domestic NGOs cited corruption; lack of transparency; a lack of capacity by oversight bodies to conduct investigations into allegations of

MONTENEGRO

excessive force and misuse of authority in an objective and timely manner; and the ruling political parties' influence over prosecutors and officials within the Police Administration and the Ministry of Interior as factors contributing to impunity. Despite the existence of multiple, independent oversight bodies over police within the Ministry of Interior, parliament, and civil society, NGOs and the Council for Civilian Control of Police Operations noted a pervasive unwillingness of police officers to admit violations of human rights or misuse of authority committed by themselves or their colleagues. To increase respect for human rights by the security forces, authorities offered numerous training sessions on this subject, often in conjunction with international partners, as well as working group meetings dedicated to the promotion and protection of human rights in the country.

According to domestic NGOs, authorities made little progress in addressing the problem of police mistreatment and other shortcomings in the Internal Control Department of the Ministry of the Interior. They cited a lack of strict competitive recruitment criteria and training for police officers; the absence of effective oversight by the Internal Control Department; and the need for prosecutors to conduct more thorough and expeditious investigations into cases of alleged mistreatment by police officers as areas where there were continuing problems. The NGOs also noted there was an ongoing need for prosecutors to carry out timely investigations.

In September the HRA condemned the decision of the High Court in Podgorica to grant suspended sentences to 10 prison officers convicted of torturing and inflicting grievous bodily harm on 11 prison inmates in 2015. The court justified the suspended sentences on the grounds of the lack of prior convictions of the offenders, family circumstances, socioeconomic status (e.g., lack of property ownership), and the fact that the victims did not join the criminal prosecution. The HRA expressed frustration that none of the guards lost their jobs with the Ministry of Justice's Bureau for the Enforcement of Criminal Sanctions, contrary to the Labor Law and international standards, and noted that the responsibility of the officers' supervisors, whose presence in the prison at the time of the incident was captured in video, was never seriously investigated. According to the HRA, the suspended sentences promoted impunity for human rights offenses and encouraged the continued use of torture in prisons and by police. The decision also was at

MONTENEGRO

odds with international standards established by the UN Committee against Torture and the CPT.

Prison and Detention Center Conditions

There were some reports regarding prison and detention center conditions that raised human rights concerns.

Physical Conditions: There were some poor conditions in prisons and pretrial detention facilities due to overcrowding and access to medical care. In the report issued following its 2017 visit to Montenegro, the CPT noted problematic levels of prison overcrowding, i.e., less than three square meters (32.3 square feet) of space per inmate in multiple-occupancy cells in certain sections and remand prisoners confined to their cells for 23 hours a day without being offered activities for months or even years on end. The CPT noted that material condition in police stations it visited were not suitable for detaining persons for up to 72 hours due to structural deficiencies such as poor access to natural light, inadequate ventilation, poor conditions of hygiene, and irregular provision of food.

NGOs reported that detainees who were addicted to drugs, had mental disabilities, or had other disabilities continued to face difficulties in obtaining adequate treatment while detained. The CPT also noted the level of serious interprisoner violence was a long-standing and persistent problem at the remand prison and the Institute for Sentenced Prisoners. In May there were reports that one prisoner was stabbed by another prisoner. Also during the year, there were reports of cases of violence in the country's primary prison attributed to the long-standing "war" between the country's two main organized criminal groups, which prison authorities managed by taking preventive measures, such as providing separate accommodations and preventing mutual contact of persons who are members of opposing criminal groups as well as other operational and tactical measures and actions, such as providing close personal supervision of persons and conducting random periodic searches of their persons and accommodations. There were widespread reports that prison employees cooperated with members of the organized criminal groups, including one in prison. Some such employees were prosecuted by the authorities. During the year the Directorate for the Execution of Criminal Sanctions, in cooperation with security sector agencies, conducted two

MONTENEGRO

investigations of two directorate officials suspected of cooperating with members of organized criminal groups. In one proceeding, the directorate official was exonerated, while in another procedure an indictment was filed against the directorate official due to a well-founded suspicion that he committed the crime.

During a May 13 inspection of the security center in Niksic following the detention of Bishop Joanikije of the Serbian Orthodox Church of Montenegro and eight priests (see section 1.d.), the Council for Civilian Control of Police Operations noted poor conditions in the pretrial detention rooms. In addition to lacking water and being equipped with damaged and dirty mattresses, overcrowding was a problem, as there were only seven beds for the nine detainees. In other inspections of the security centers in Podgorica and Niksic, the council noted similar problems with overcrowding and a lack of capacity to provide basic services to detainees.

Podgorica Prison was not fully accessible to persons with disabilities.

Administration: Authorities conducted proper investigations of credible allegations of mistreatment, but they usually did so only in reaction to media campaigns or upon the ombudsman's recommendation. Results of investigations were generally made available to the public.

Independent Monitoring: The government permitted visits to prisons by independent nongovernmental observers, including human rights groups and media, and international bodies such as the CPT. Even when monitors visited on short notice, prison authorities allowed them to speak with the prisoners without the presence of a guard. The Ministry of Justice's Directorate for the Execution of Criminal Sanctions noted positive working relationships with NGOs, including those who were critical of the organization.

Improvements: Improvements in the physical facilities, staffing levels, and training for guards continued throughout the year. Overcrowding in Podgorica's temporary detention prison continued to diminish and was expected to improve further upon completion of new facilities. The government also announced that the new prison facility would be constructed in Mojkovac and would be suitable for 250 prisoners. The Bureau for the Execution of Criminal Sanctions provided health services to inmates to mitigate the spread of COVID-19. As of August,

MONTENEGRO

media outlets reported five cases of COVID-19 among prisoners in the facility at Spuz. It also touted new programs designed to focus on rehabilitation and providing inmates with skills to increase employment prospects upon release, including apprenticeship programs to cultivate farming skills.

In June parliament passed an amnesty law aimed at relieving the problem of overcrowding in the prison system and ensuring the safety of prisoners threatened by the COVID-19 pandemic. The law provides for a 15 percent reduction in prison sentences and a 10 percent reduction of sentences for those who have not yet begun serving their sentences. The amnesty does not apply to the most serious crimes, including war crimes against civilians, terrorism, human trafficking, rape, money laundering, criminal association, the creation of a criminal organization, abuse of a minor, and domestic violence. The NGO Civic Alliance described the amnesty law as positive and legally sound but noted that the law's objectives could have been achieved through other mechanisms, such as house arrest, deferred prosecutions, or better application of alternative sanctions.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government usually observed these requirements. Detainees have a right to be compensated in cases of unfounded detention and the government generally follows these requirements.

Arrest Procedures and Treatment of Detainees

Arrests require a judicial ruling or a "reasonable suspicion by the police that the suspect committed an offense." Police generally made arrests using warrants issued by judges and based on sufficient evidence. Police and prosecutors may detain suspects for up to 72 hours before bringing them before a judge and charging them. Although the law prohibits excessive delay in filing formal charges against suspects and in conducting investigations, delays sometimes occurred. At arraignment, judges make an initial determination about the legality of the

MONTENEGRO

detention, and arraignment usually occurred within the prescribed period.

Courts increasingly used bail. Judges can also release defendants without bail and limit their movements, impose reporting requirements on them, or retain their passports or other documents to prevent flight. The law permits a detainee to have an attorney present during police questioning and court proceedings, and detainees generally had prompt access to a lawyer. Although legal assistance is required to be available for persons in need, financial constraints sometimes limited the quality and availability of assistance. Authorities must immediately inform the detainee's family, common-law partner, or responsible social institution of an arrest, and they usually did so.

During June protests, police sometimes used excessive force when detaining protesters. The opposition condemned "police brutality" and asserted the country was moving from "an autocracy to a violent dictatorship." The Council for Civilian Control of Police Operations requested police leaders to identify and sanction officers shown in social media videos kicking individuals in custody and lying on the ground, adding that "legitimate police interventions must not be compromised by the disproportionate use of force." The NGO MANS declared that events in Budva and other cities represented flagrant, brutal violence of police against the country's citizens. It described videos of police officers kicking and beating persons who were restrained and helpless as appalling evidence of the government's brutal political abuse of captive institutions. Representatives of several foreign governments and the EU called on all sides to avoid escalation and further acts of violence, engage in constructive dialogue, and investigate allegations of disproportionate use of force.

Arbitrary Arrest: Police continued to summon witnesses and suspects to police stations for "informational talks" and often used this practice to curb hooliganism during soccer matches or to reduce participation in opposition political rallies. This practice generally did not involve holding suspects longer than the six hours allowed by law, nor did it typically result in charges.

NGOs and the Ombudsman's Office noted that authorities engaged in a broad pattern of selective arrests in enforcing the Ministry of Health's measures to prevent the spread of COVID-19. On May 12, Archbishop Joanikije and eight

MONTENEGRO

other Serbian Orthodox Church priests were detained for their role in organizing a procession with several thousand worshipers in Niksic in commemoration of a religious feast day, despite the government's ban on public gatherings. Tensions rose after the clergymen were taken to the Niksic police station to give statements, as several hundred protesters gathered in front of the station and insulted police late into the night, finally dispersing after police threatened to use tear gas.

The National Coordination Body for Communicable Diseases (NCB) demanded that the Supreme State Prosecutor take immediate and decisive action against the organizers of the procession in Niksic, warning that the illegal gathering could jeopardize all the previous achievements of the fight against COVID-19. In his public address, Acting Supreme State Prosecutor Ivica Stankovic stressed that all those responsible would be held to account, adding that violations of the infectious disease-related regulations could reach as high as 12 years in prison. Despite these statements, no demonstration-related arrests lasted more than two weeks.

The Episcopal Council of the Serbian Orthodox Church requested that authorities release the detained priests, accusing the authorities and police of "politically and ideologically persecuting the Church." The Episcopal Council also warned and called on all political leaders to restrain from any party or political abuses of the Church. At the same time, pro-Serbian opposition parties joined the Serbian Orthodox Church in separate press releases to condemn the arrests and to urge the authorities to release the detained clergymen immediately. Several civil society political analysts also questioned authorities' decision to detain the clergymen, noting that detentions should be the last measure taken.

At approximately midnight on May 15, upon the expiration of the maximum 72-hour detention period permitted under the law, the Basic Prosecutor's Office in Niksic released Archbishop Joanikije and the eight other priests. The head of the Basic Prosecutor's Office, Stevo Sekaric, stated in a press conference that an indictment proposal had been filed against the priests for violating the government's COVID-19 preventative measures, for which a fine or up to one-year imprisonment were reportedly prescribed.

The following week, police took no action to detain or arrest anyone participating in large, public Independence Day celebrations on May 21, despite an abundance

MONTENEGRO

of video and photographic evidence that people were not respecting the NCB's ban on public gatherings. Political parties formerly in the opposition accused police and prosecutors of engaging in selective justice and of being extensions of the former ruling Democratic Party of Socialists (DPS). The Council for Civilian Control of Police Operations asked the director of the Police Administration, Veselin Veljovic, to provide it with detailed information about arrests and prosecutions for violations of the ban on public gatherings.

According to the Serbian Orthodox Church, more than 100 other clergymen across the country were called in for questioning, arrested, or fined for violating the COVID-19 preventative health measures. Among these clergymen was Metropolitan Amfilohije of Montenegro and the Littoral, who was called in for questioning on multiple occasions between April and June. During the June questioning, the 82-year-old metropolitan was held in custody for six hours even though the prosecutor had authorized his release after two hours.

The HRA and the NGO Institute Alternativa highlighted the disparity of responses and called on the government to either harmonize its actions and treat participants of different public assemblies equally or end the ban on public assemblies outright. NGOs highlighted, as examples of selective application of the law, the differing reaction of police to motorcade demonstrations by citizens driving from Tivat to Budva on May 13 in support of the Serbian Orthodox Church and to motorists participating in Independence Day celebrations organized by the government on May 21. In both cases, groups of citizens drove around, honking their horns and randomly flashing their lights to draw attention to their vehicles. According to the NGOs, police called in 25 persons who participated in the May 13 motorcade for interviews and fined 14 for violating traffic safety laws, while police did not question or fine any of the participants in the May 21 motorcades.

Pretrial Detention: Courts frequently ordered the detention of criminal defendants pending trial. The law sets the initial length of pretrial detention at 30 days but permits prosecutors to increase it by five months. When combined with extensions granted by trial judges, authorities could potentially detain a defendant legally for up to three years from arrest through completion of the trial or sentencing. The average detention lasted between 90 and 120 days. The length of

MONTENEGRO

pretrial detention was usually shorter than the maximum sentence for the alleged crime. Authorities stated that pretrial detainees on average accounted for 30 percent of the prison population. Police often relied on prolonged pretrial detention as an aid to investigate crimes. The backlog of criminal cases in the courts also contributed to prolonged detention. The courts continued to reduce this backlog gradually.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary. While the government expressed support for judicial independence and impartiality, some NGOs, international organizations, and legal experts asserted that political pressure, corruption, and nepotism influenced prosecutors and judges. The process of appointing judges and prosecutors remained somewhat politicized, although the constitution and law provide for a prosecutorial council to select prosecutors and a judicial council to select judges.

In February the Council of Europe's Group of States against Corruption (GRECO) described as "alarming" the lack of progress on the composition and independence of the Judicial Council, the body charged with upholding the independence and autonomy of courts. GRECO was particularly concerned by the ex officio participation of the minister of justice on the Judicial Council and the council's decision to reappoint five court presidents for at least a third term, which was not in line with its previous recommendations. While some progress was made in providing the public with information concerning disciplinary proceedings against prosecutors, the anticorruption monitoring body criticized the lack of similar progress in reviewing the disciplinary framework for judges.

Inadequate funding and a lack of organization continued to hamper the effectiveness of the courts. The law provides for plea bargaining, which is available for all crimes except war crimes and those related to terrorism.

Trial Procedures

The constitution and law provide for the right to a fair and public trial and the judiciary generally enforced that right, although many trials were delayed due to

MONTENEGRO

the COVID-19 pandemic. By law, defendants are presumed innocent. Authorities are required to inform detainees of the grounds for their detention. Defendants have the right to a fair and public trial without undue delay and to be present at their trial. Courts may close certain sessions during the testimony of government-protected or other sensitive witnesses. Authorities also close juvenile trials. Defendants have the right to consult an attorney in a timely manner in pretrial and trial proceedings. The law requires authorities to provide an attorney at public expense when a defendant is a person with disabilities or is already in detention, destitute, facing a charge carrying a possible sentence of more than 10 years, being tried in absentia, engaged in a plea-bargaining process, or being questioned solely by police or Customs Authority officials during the preliminary investigative phase, upon the approval of a prosecutor. Defendants have the right to adequate time and facilities to prepare a defense; to free interpretation from the moment charged through all appeals; and to confront prosecution witnesses, present their own witnesses and evidence, and remain silent. Both the defense and the prosecution have the right of appeal.

While the judiciary was unable to hold all criminal trials publicly due to a shortage of proper facilities. The shortage also affected the timeliness of trials. Systemic weaknesses, such as political influence and prolonged procedures, inconsistent court practices, and relatively lenient sentencing policy, diminished public confidence in the efficiency and impartiality of the judiciary. Lenient sentencing policies also discouraged the use of plea agreements, as they left little maneuvering room for prosecutors to negotiate better terms, thereby contributing to inefficiency in the administration of justice.

Courts may try defendants in absentia but by law must repeat the trial if the

MONTENEGRO

convicted individuals are later apprehended.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Politically Motivated Reprisal against Individuals Located Outside the Country

There were credible allegations that the country attempted to misuse international law enforcement tools for politically motivated purposes as reprisal against specific individuals located outside the country.

In August, Interpol's Commission for Control of International Arrest Warrants adopted the appeal filed by fugitive businessman Dusko Knezevic and revoked the arrest warrant issued for him in January 2019. The country's special prosecutor indicted Knezevic for several crimes, including organizing a criminal group, money laundering, and tax evasion. Knezevic, who fled to London, accused President Milo Djukanovic of corruption, claiming the arrest warrant was issued upon pressure from a cadre close to the president and his family who were trying to take over Knezevic's business and properties. Knezevic had claimed that Interpol's arrest warrants against him were not in line with the organization's legal regulations. His legal representative, Zdravko Djukic, told media that revoking the arrest warrant against Knezevic proved that the indictments against him were politically motivated.

Toby Cadman, a London-based lawyer specializing in criminal law, human rights law, and extradition, told local A1 Television that Interpol also revoked its international red notice against British-Israeli political consultant Aron Shaviv, whom he represented. Prosecutors accused Shaviv of assisting an alleged 2016 coup attempt in the country. After hearing arguments from both the defense and the prosecution, Interpol concluded, per Cadman, that the Montenegro-initiated red notice for Shaviv constituted "abuse of process" and was "politically motivated."

Civil Judicial Procedures and Remedies

The constitution and law provide for an independent judiciary in civil matters, and

MONTENEGRO

citizens had access to courts to bring lawsuits seeking damages for violations of constitutionally recognized human rights. Although parties brought suits alleging human rights violations and at times prevailed, perceptions that the system was subject to nepotism, corruption, and political influence led to widespread public distrust. According to NGOs, courts in most cases either rejected civil cases involving claims of human rights violations or proceeded on them slowly. When domestic courts issued decisions pertaining to human rights, the government generally complied with them.

Upon exhausting all other available effective legal remedies, citizens may appeal alleged violations of human rights to the Constitutional Court. Many cases filed with the court involved such complaints. The Constitutional Court has the authority to review all alleged constitutional and human rights violations. If it finds a violation, it vacates the lower court's decision and refers the case to an appropriate court or other authority to rectify the deficiency.

There were also administrative remedies for violations of constitutionally protected human rights. In cases of police abuse, citizens can address complaints to the Council for Civilian Control of Police Operations, which may then make recommendations for action to the chief of police or the interior minister. The Ombudsman's Office noted that even before operational delays caused by the COVID-19 pandemic, the long duration of trials, especially those that were deemed a high priority, eroded citizens' trust in the court system. This was particularly pronounced in disputes dealing with the establishment or termination of employment or the right to earnings and other wages. The office was also empowered to act in certain individual cases.

Once national remedies are exhausted, individuals, regardless of citizenship, may appeal cases alleging government violations of the European Convention on Human Rights to the European Court of Human Rights. The government has traditionally complied with all decisions of the European Court of Human Rights.

Property Restitution

The government has laws and mechanisms in place, but NGOs and advocacy groups reported that the government did not make significant progress on

MONTENEGRO

resolution of Holocaust-era claims, including for foreign citizens. The pre-World War II Jewish population was estimated to have been only about 30 individuals with no identified synagogue or communal property. There was one possible case of a claim for restitution regarding Holocaust-era properties. A family that has the longest-running property restitution case in the country reported its Jewish heritage in 2019, thus potentially bringing the case under the purview of the Terezin Declaration. Neither the local Jewish community nor the government has thus far confirmed the information, nor has the government taken any further action on the family's restitution claim.

The country's restitution law was most recently amended in 2007, and the country has not passed any laws dealing with restitution following the endorsement of the Terezin Declaration in 2009, nor did it make any special provisions for heirless property from the Holocaust era. The passage of a law on the restitution of religious or communal properties would have minimal impact on the Jewish community, given its small size and the absence of identified prewar Jewish communal property. Any such legislation would mainly apply to properties confiscated from the Serbian Orthodox and Roman Catholic Churches during the communist era. For additional information regarding Holocaust-era property restitution and related issues, please see the Department of State's Justice for Uncompensated Survivors Today (JUST) Act report to Congress, released publicly on July 29, 2020, at <https://www.state.gov/reports/just-act-report-to-congress/>.

A large number of restitution claims for private and religious properties confiscated during the communist era remained unresolved. Private individuals, NGOs, and the Serbian Orthodox Church criticized the government for delays in addressing this problem. These unresolved claims and concerns that the situation could happen again were some of the justifications used by the Serbian Orthodox Church and some political parties formerly in the opposition for protesting the passage of the Law on Freedom of Religion or Beliefs and Legal Status of Religious Communities by the government in December 2019. That law stipulates that religious property lacking clear ownership and that falls under the pre-1918 "cultural heritage" of the state may become state property, though the government repeatedly asserted that the purpose of the property provisions was not to

MONTENEGRO

confiscate property held by the Serbian Orthodox Church.

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

The constitution and law prohibit such actions without court approval or legal necessity and prohibit police from searching a residence or conducting undercover or monitoring operations without a warrant. The law requires the National Security Agency and police to obtain court authorization for wiretaps. Similarly, a 2018 Constitutional Court decision proclaimed that some provisions in the Criminal Procedure Code regarding secret surveillance measures were unconstitutional. Prosecutors can no longer independently decide on application of those measures; instead, all requests must now be approved by a court. That decision was the result of a case in which a state prosecutor, with prior information from and the consent of one of the participants, ordered the recording of a telephone conversation without first obtaining judicial authorization.

There were no official reports the government failed to respect these requirements for conducting physical and property searches. Human rights activists, such as the NGOs MANS and Institute Alternativa, continued to claim, however, that authorities engaged in illegal wiretapping and surveillance.

External judicial and parliamentary oversight bodies, including the opposition-controlled inspector general, did not report any violations of the law. However, in early February the *IN4S* news portal published a leaked recording of an alleged telephone call between assistant director of police Administration and the chief of sector for the fight against organized crime and corruption, Zoran Lazovic, and senior police officer Dusko Golubovic in which one of the speakers said Serbian Orthodox Church believers rallying over Christmas would “get their asses kicked if they make trouble during the church gathering.” According to local media, the Basic State Prosecutor’s Office in Podgorica opened an investigation into the case the Electronic Communications and Postal Services Agency was collecting information about the leaked recording. In addition, in an effort to discourage those under mandatory self-isolation from leaving their homes, the National Coordination Body for Communicable Diseases (NCB) on March 21 published the

MONTENEGRO

names and address of individuals who were required by authorities to stay home since March 18. Shortly afterward, the NGO Civic Alliance filed a complaint with the Constitutional Court. Civic Alliance claimed that the government's decision to publicize the names, surnames, and addresses of the persons put in isolation was illegal and infringed upon citizens' right to privacy. The government said it had received the consent of the Agency for Data Protection to publish the list, as COVID-19 endangered the survival and the functioning of the state. A number of prominent legal professionals supported the government's position, including law professor and former judge of the European Court of Human Rights Nebojsa Vucinic who countered that the right to privacy may be restricted when required by the general public interest. On April 3, a list with the names and identification numbers of persons who had tested positive for COVID-19 was published after being leaked by an official at the Podgorica Health Center. On April 8, the Prosecutor's Office announced it had arrested the person responsible for the unauthorized collection and use of personal information, an offense punishable by up to three years in prison. According to the Prosecutor's Office, the suspect sent the list of names to colleagues who were not authorized to have access via Viber.

NGOs focusing on women's and lesbian, gay, bisexual, transgender, and intersex (LGBTI) issues were particularly concerned with the government's publication of this medical information due to fears that it would identify members of vulnerable populations and expose them to potential discrimination or other adverse treatment. According to the NGO SOS Hotline Niksic, the NCB measures could result in the publication of the names and addresses of women and children residing in safe houses and shelter, violating the anonymity they needed to protect them from reprisals or other harmful actions from abusers. Similarly, the NGO LGBT Forum Progress reported the NCB required they provide the names and addresses of LGBTI persons who received food assistance in order to self-quarantine due to COVID-19 concerns to the Municipality of Podgorica and the Red Cross before the NCB would consent to continue providing food services. While the NCB stated the purpose of this requirement was to collect additional contact tracing data, the NGO expressed concerns about privacy and how the government might store and use the information in the future.

In July the Constitutional Court overturned the NCB's decision to publish the

MONTENEGRO

names of individuals in self-isolation to curb the spread of the virus. It found the decision unconstitutional as it violated citizens' right to privacy and for their personal data to be protected. The court expressed concern that the publication of personal data on persons in self-isolation created a precondition for their stigmatization by the broader community and that their data could be used by an unlimited number of citizens. Of even greater concern to the court, the publication of personal data could also deter those who needed medical help from seeking such help, which would have the contrary effect of endangering their health and increasing the risk the coronavirus could spread to other persons.

Section 2. Respect for Civil Liberties, Including

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, and the government generally respected these rights. However, unsolved attacks against journalists, political interference with the public broadcaster, smear campaigns carried out by progovernment tabloids, and unfair treatment and economic pressure from government ministries and agencies against independent and pro-opposition media remained a significant problem.

Freedom of Speech: Amid the subsequent tensions and protest walks (*litije*) of Serbian Orthodox Church followers following the adoption of the contentious Law on Freedom of Religion or Belief and the Legal Status of Religious Communities (religious freedom law) authorities arrested, detained, and fined a number of journalists, political activists, and private citizens for posting disinformation, “fake news,” or insulting comments against government officials on social media.

On January 5, police detained journalist Andjela Djikanovic from the online portal *FOS Media* and charged her with causing panic and disorder after publishing a false report claiming that 250 members of Kosovo's ROSU Special Forces Unit would be deployed in Montenegro (under the command of Montenegrin authorities) to help provide security during the Orthodox Christmas Eve on January 6. The government denied the veracity of the report and called on prosecutors to react promptly. Both national and international organizations called for Djikanovic's release; she was held in detention overnight and released January 6.

MONTENEGRO

The case was pending as of mid-November.

One week later, on January 12, police detained the editors in chief of the Montenegro-based pro-Serbian and pro-Russian online portals *IN4S* and *Borba*, Gojko Raicevic and Drazen Zivkovic, and charged them with causing panic and disorder by falsely reporting that an explosion took place at a government building in Podgorica used to hold ceremonial events. After questioning in the basic prosecutor's office, Raicevic and Zivkovic were released from detention on January 13. Their cases were pending as of mid-November.

The European Commission and Reporters without Borders expressed concern over the arrests of journalists for spreading disinformation. Journalist associations, NGOs, and opposition political parties accused the authorities of introducing a dangerous precedent that could easily lead to a practice of censoring media by arbitrarily deciding what constitutes "fake news." The Ombudsman's Office warned that detaining journalists must be a measure of last resort, and that, if detention is used, it must be done in only extremely justified situations and in line with international practices. Other government officials contended the arrests were necessary to counteract internal and external actors attempting to destabilize the state.

On February 10, the Agency for Electronic Media (AEM) decided to ban temporarily for three months the rebroadcasting of segments of certain programs of Serbia-based television stations Happy and Pink M for "promoting hatred, intolerance, and discrimination towards the members of the Montenegrin ethnicity." The AEM's managing council found that TV Happy's *Good Morning Serbia*, *Cyrillic*, and *After Lunch* programs as well as TV Pink M's *New Morning* program were used as vehicles for an "unprecedented hate speech campaign" by Serbian media against Montenegro over the Montenegrin religious freedom law.

The Atlantic Council of Montenegro's Digital Forensic Center warned on January 28 that "a well coordinated and planned disinformation campaign aimed at spreading confusion and havoc" was occurring following the passage of the religious freedom law. Similarly, on February 20, the European External Action Service noted that most of the false news in the country was originating from media based in Serbia, including state-owned outlets, as well as the Serbian-

MONTENEGRO

language publications of Russia-owned Sputnik and several pro-Serb portals in the country.

On January 23, the Misdemeanor Court of Niksic fined Milija Goranovic 500 euros (\$600) for posting an allegedly insulting comment on Facebook about the national police chief. According to reports, Goranovic posted a comment below a statement of the police director on Facebook telling the police chief “not to talk rubbish.” Police arrested Goranovic and brought him to the prosecutor, who charged him with violating the Law on Public Peace and Order. The law prescribes a fine ranging from 250 to 1,000 euros (\$300 to \$1,200) for “anyone who severely insults another person in the public place or otherwise behaves in an impudent, shameless, or abusive manner.”

On January 28, police detained Vesko Pejak, the coordinator of the small political party Alternativa Crna Gora, on suspicion of causing panic and disorder by commenting via Facebook that the ruling party and the president intended to drag the country into war. Pejak was released from detention the following day. The Montenegrin Center for Investigative Journalism called Pejak’s detention a violation of his rights. The HRA also described the authorities’ actions as a “coordinated suppression of the freedom of expression,” contrary to international standards. The HRA also announced that it had challenged the constitutionality of Article 398 of the criminal code, which was the basis for the controversial detentions and fines. That article allows up to a three-year prison term for persons who disclose or spread false news or allegations via the media that cause panic or seriously disrupts public peace and order. According to the HRA, the law was improperly being used by the government as a substitute for the criminal offense of defamation and insult, which was abolished in 2011.

At the beginning of May, Velimir Cabarkapa, a 29-year-old man employed by the public waterworks company in the city of Pljevlja, was arrested and detained for 72 hours for publishing a satirical version of the national anthem on Facebook. Cabarkapa made several allusions to drug trafficking, including substituting the lyrics, “We are sons of your cocaine and keepers of your heroin” for the original lyrics, “We are sons of your rocks and keepers of your honesty.” The parody followed the seizure by German police of 500 kilograms of cocaine in Hamburg on

MONTENEGRO

a vessel of the government-owned Barska Plovidba shipping firm a few days earlier. Prosecutors in Pljevlja charged Cabarkapa with violating the law that prohibits public mockery of the state, its flag, coat of arms, or national anthem and allows for a penalty of up to one year in prison. The law also prohibits changing the national anthem and performing it in a manner that impugns the state's reputation and dignity and provides that violators may be fined up to 20,000 euros (\$24,000). Several NGOs and journalists from the media outlets *Dan* and *Vijesti* shared the offending posts on social media, protesting the arrest and claiming that it impermissibly restricted freedom of opinion and expression provided by the constitution. In July, Cabarkapa was sentenced to two months in prison for defamation of the state and its symbols. The judgment was under appeal at year's end.

Over the first eight months of the year, media outlets reported that police and prosecutors sanctioned at least a dozen persons on suspicion of causing panic or disrupting public peace and order through posts online. Separately, police and prosecutors temporarily detained several individuals in March and April on suspicion of causing panic by posting false information inflating the numbers of persons said to be infected with or died from COVID-19 and accusing authorities of hiding real data.

Freedom of Press and Media, Including Online Media: Independent media were active and generally expressed a wide variety of political and social views, including through articles and programs critical of the authorities. The NGO Center for Civic Education warned in each of its annual reports since 2012, however, that selective and nontransparent public funding through the purchase of advertising continued to exert undue influence on the media market. According to the NGO, such funding was provided to reward media outlets favorable to the government and withheld from media that questioned official policies or practices.

The independent television station and newspaper *Vijesti* continued to attribute its difficulties making regular tax payments to unfair media conditions, economic pressure from the government, and selective prosecution. It complained of large government subsidies to the national public broadcaster, favoritism towards progovernment media when distributing public funds through advertising and

MONTENEGRO

project tenders, and a favorable disposition towards foreign-based media compared with local outlets. On November 19, the Commercial Court rejected for the second time the 2014 lawsuit brought by *Vijesti's* parent company, Daily Press, against the progovernment tabloid *Pink M* television for *Pink M* allegedly violating legal provisions on loyal competition by defaming and discrediting *Vijesti* in a series of reports in 2013-14. *Vijesti* announced it would appeal the Commercial Court's decision to the Appellate Court, which in 2018 annulled the same Commercial Court's ruling and returned the case for a retrial. *Vijesti* also alleged that the judiciary selectively applied defamation laws when independent media are involved.

Violence and Harassment: Unsolved attacks from previous years and an atmosphere of intimidation against media critical of the government continued to be a serious problem.

There was no progress in solving the 2018 shooting of *Vijesti* investigative reporter Olivera Lakic in front of her home in Podgorica. In February 2019, police announced that they had solved the case, identifying a criminal ringleader and eight members of his gang, which had also been accused of other serious criminal offenses. While initially police qualified the attack on Lakic as attempted murder, when the police announcement was made, the offense was reduced to criminal association with the goal of inflicting severe injuries. Only one of the nine individuals was imprisoned for other crimes. Formal charges in the Lakic case have still not been brought.

On April 8, police reported they had solved a nine-year-old case and arrested two persons suspected of setting fire to five *Vijesti* vehicles in three separate attacks in 2011 and 2014. A prosecutor from the Basic Prosecution Office in Podgorica pressed charges against a local criminal who had allegedly hired the two perpetrators to destroy the newspaper's vehicles. On June 10, the Basic Court in Podgorica dropped charges against the alleged mastermind of the attacks because prosecutors did not provide enough evidence to corroborate the charges.

In October 2019, the High Court of Bijelo Polje fined Nova M, the company that acquired *Pink M* in 2018, for defaming *Vijesti's* owners, Zeljko Ivanovic and Miodrag Perovic. Ivanovic and Perovic sued *Pink M* for its misleading reporting

MONTENEGRO

connecting them to a former *Vijesti* journalist suspected of collecting and distributing child pornography. Separately, 20 journalists from *Vijesti* individually sued Pink M for similarly attacking their reputations by misleadingly linking them to the accused. On January 28, the court ordered Nova M to pay a fine to one of the *Vijesti* journalists. An additional 19 cases were adjudicated in favor of the journalists but were still before either the basic or high courts. *Vijesti* criticized state institutions for alleged inefficiency in preventing progovernment tabloids from smearing independent media.

In December 2019 journalist Vladimir Otasevic, who worked for the independent daily newspaper *Dan*, was assaulted photographing controversial businessman Zoran Becirovic in the company of High State Prosecutor Milos Soskic in a shopping mall in Podgorica. Becirovic had previously been questioned by the State Special Prosecutor's Office over alleged witness intimidation. According to media reports, Becirovic's bodyguard, Mladen Mijatovic, grabbed Otasevic by the neck, hit him with his shoulder, and verbally threatened him. The assault reportedly occurred in the presence of Soskic, who according to media reports "remained silent" and did nothing to stop the incident. The incident received additional attention as Mijatovic was employed by the Ministry of Interior and did not have permission to work as a private bodyguard. The Ombudsman's Office, media outlets, NGOs, and opposition political parties condemned the attack and urged authorities to investigate the role of the state prosecutor and the Interior Ministry's employee in the incident. The Basic Prosecutor's Office in Podgorica refused a request for Mijatovic to be criminally processed and launched a misdemeanor procedure against Mijatovic on January 30, which was pending at year's end.

Media outlets reported that more than two-thirds of the 85 attacks on journalists since 2004 remained unsolved or did not result in sentences. Observers also noted that most of the attacks targeted independent or pro-opposition journalists and media professionals.

Censorship or Content Restrictions: Independent and pro-opposition media complained about unfair treatment and economic pressure from government ministries and agencies. The Center for Civic Education claimed that selective and

MONTENEGRO

nontransparent distribution of public funds to media outlets created an unfair media environment and constituted “soft censorship.”

On July 10, the Basic Court of Niksic confirmed in a retrial its previous ruling, that parliament dismissed RTCG council member Nikola Vukcevic illegally, and ordered the state or parliament to pay court expenses to Vukcevic. In late 2017, parliament dismissed Vukcevic and NGO activist Goran Djurovic from the RTCG council allegedly over conflicts of interest. The case has gone through several court appeals since 2017, with the Supreme Court issuing a nonbinding advisory opinion in 2019 declaring that courts lacked the authority to adjudicate cases challenging the right of parliament to dismiss disobedient independent individuals and could not force reappointments as specific performance. While the Niksic Basic Court’s ruling was not yet final, legal analysts did not believe either Vukcevic or Djurovic would be reinstated to their positions, as those positions were filled by other individuals. Instead, they may only be entitled to compensation in civil proceedings for the damage they suffered. NGOs and opposition politicians asserted that the dismissals, which were followed by the replacement of the RTCG’s director general, Andrijana Kadija, and the director of the broadcaster’s television section, Vladan Micunovic, were part of a coordinated campaign by former ruling party DPS to regain control of the RTCG.

In its October country report on the country, the European Commission (EC) noted that Montenegro made no progress on freedom of expression during the reporting period. The report highlighted the arrests and proceedings against editors of online portals and citizens for content they posted or shared online, the unresolved attacks on journalists, and the issue of the national public broadcaster RTCG’s editorial independence and professional standards as points of concern. The report also stated, “The growing volume of regionwide disinformation further polarized the society in the aftermath of the adoption of the law on freedom of religion and during the electoral campaign.”

In the Freedom House *Nations in Transit* report released on May 6, the country was downgraded from a semiconsolidated democracy to a transitional/hybrid regime. Freedom House noted that the overall media environment remained fractious and the development and sustainability of professional commercial media

MONTENEGRO

remained uncertain.

Some media outlets continued to demonstrate a willingness to criticize the government. A lack of training and unprofessional journalistic behavior, combined with low salaries and political pressure, contributed to self-censorship and biased coverage of events.

Libel/Slander Laws: There is no criminal libel law, but media outlets faced libel charges in civil proceedings. The government increasingly employed existing insult laws throughout the year against persons posting comments critical of the state or state officials on social media (see Freedom of Speech).

In a new trial on April 23, the Supreme Court repeated its 2015 decision to fine the independent weekly newspaper *Monitor* for defaming President Milo Djukanovic's sister, Ana Kolarevic. Kolarevic sued the weekly for its 2012 reports on her alleged role in the controversial privatization of the national telecommunication company, Telekom Crna Gora. The case was returned to the Supreme Court for retrial after the Constitutional Court in July 2019 overturned the 2015 Supreme Court decision for violating *Monitor's* constitutional right to freedom of expression.

On October 8, the High Court of Podgorica found investigative journalist Jovo Martinovic guilty in a retrial and sentenced him to one year in prison for drug trafficking, according to news reports. The court acquitted him of charges of criminal organization. Martinovic, an investigative freelance journalist who covered organized crime, spent 14 months in pretrial detention from 2015 to 2017 and therefore will not serve additional time according to the same reports. In 2019 the High Court sentenced Martinovic to 18 months in prison for being part of an international drug smuggling network, but an appellate court overturned the verdict in September and sent the case back for retrial. Martinovic claimed his contact with convicted criminals was solely in the context of his work reporting on organized crime. Martinovic stated he would appeal the decision, calling the decision a "political decision of the court." The Committee to Protect Journalists called the ruling a "missed opportunity to bring justice" to Martinovic and stated "the ruling sends a wrong message to journalists...and will have a chilling effect

MONTENEGRO

on the country's media.”

Actions to Expand Freedom of Expression, Including for Media: On July 27, parliament adopted two new media laws, a general law on media and a law on the RTCG.

The law on media introduced a number of new measures, including providing for the establishment of a fund to support media pluralism and diversity by providing financial assistance to commercial media; providing for greater transparency in media ownership by requiring outlets to make public information about shareholders who own more than 5 percent of a media company; requiring ministries and other public institutions to report the funds they have provided to media through both advertising and other means; and establishing a regulatory system for online media. Civil society and independent media criticized some of the law's provisions, particularly one that obliges journalists to disclose their sources if a prosecutor deems it necessary to protect national security, territorial integrity, or public health. The NGO Center for Investigative Journalism stated that the restrictions imposed on journalists could damage investigative journalism and discourage potential journalistic sources from speaking to the media.

The new law on the RTCG introduced, inter alia, measures to increase the RTCG's transparency, including requiring the managing council to inform the public in a more regular and comprehensive manner about its activities. The law also establishes an ombudsman position in the RTCG to make it more responsive to citizens' complaints and demands; issues defined criteria for the selection of RTCG managing council members to prevent the selection of party officials; and abolishes a requirement that the RTCG conclude an agreement with the government as a precondition for receiving public funds, which was perceived as a way the government could influence the RTCG's independence. The NGO Media Center claimed that, despite the government's declared intention to decrease political influence over the public broadcaster, the way the law defines the parliament's role in the appointment and dismissal process of the RTCG managing council, including allowing members of parliament to vote on the NGO-proposed

MONTENEGRO

candidates, shows that it wanted to retain control over the RTCG.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no official reports that the government monitored private online communications without appropriate legal authority.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The constitution and law provide for freedom of association and the government generally respected this right.

Freedom of Peaceful Assembly

The constitution and law provide for the freedom of peaceful assembly and association, and the government generally respected these rights. There were credible reports that the government selectively restricted freedom of peaceful assembly in conjunction with the issuance of health measures by the Ministry of Health to prevent the spread of COVID-19 through arbitrary arrests, detentions, and fines (see section 1.d.). Public gatherings within 164 feet of government buildings are prohibited.

Police asserted that they prohibited gatherings that would disturb public peace and order, cause public transmission of COVID-19, or interfere with traffic. In some cases, authorities offered protesters alternate locations for demonstrations. In a few cases, police detained protesters for questioning or charged them with misdemeanors.

On June 24, when police arrested 17 opposition members, including former mayor Marko Carevic and local assembly speaker Krsto Radovic in Budva, who refused to relinquish power after losing elections, ongoing protests escalated, and police used tear gas to disperse the crowds. That same night, demonstrations erupted outside of police headquarters in the capital of Podgorica as well as in the central

MONTENEGRO

and northern cities of Niksic, Berane, Bijelo Polje, and Pljevlja, with protesters throwing stones at police in what officials of the former ruling party, the Democratic Party of Socialists (DPS), called well scripted actions from familiar playbooks of past pre-election periods. Police in turn used force to detain dozens of demonstrators in what observers characterized as excessive use of force. In total, police arrested 41 individuals, and prosecutors brought criminal and misdemeanor charges against 54 opposition officials and supporters across the country. Nine police officers were injured during the clashes with protesters.

Several NGOs criticized the government for issuing confusing and inconsistent announcements of limits on both outdoor and indoor public gatherings to contain the spread of COVID-19. The most drastic measures were announced at the end of June, when the government banned all religious gatherings and political gatherings in open spaces, even with social distancing. That ban was later extended to include private events. In July the NGOs HRA and Institute Alternativa requested the Constitutional Court assess the constitutionality of the prohibition on public gatherings and suspend the ban on the grounds that it introduced disproportionate and excessive limitations on freedom of peaceful assembly and that it was discriminatory in character. In addition, the Council for Civilian Control of Police Operations called on the Police Administration to ensure consistent application of police authorities and health regulations to all public gatherings, regardless of their character, purpose, or organizers.

In February the army chief of staff, General Dragutin Dakic, issued a statement warning that while soldiers were free to practice their faith, they were not allowed to participate in the ongoing Serbian Orthodox Church-organized religious processions (*litije*), characterizing them as “political” protests. Dakic stated, “There is no place in the Armed Forces for those who defend the church from the law, since a soldier is expected to defend the state in line with the law and the constitution.” Dakic added that “taking part in the protests, which are obviously political, which feature only the flags of another country, is unacceptable.” In June the ombudsman issued an opinion asserting that the army intervened arbitrarily and violated the right to freedom of peaceful assembly with its verbal order banning participation in the *litije*. The ombudsman emphasized that the order had no clear basis in the law because it did not prevent military personnel from participating in

MONTENEGRO

protests or political rallies “if they do not wear military uniforms or parts of uniforms while attending those events.” He also stated that freedom of assembly is a basic democratic right and, like the right to freedom of thought, conscience, and religion, it a foundation of society and cannot be interpreted narrowly.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement

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

At the end of March, the Ministry of Health adopted a series of temporary measures to restrict movement to prevent the spread of COVID-19 and protect the public health. The measures banned movement on weekdays between 7:00 p.m. and 5:00 a.m., between 1:00 p.m. on Saturday and 5:00 a.m. on Sunday, and between 11:00 a.m. on Sunday and 5:00 a.m. on Monday, except for persons performing regular work duties or providing essential public services. Authorities suspended intercity passenger traffic except for transportation related to the movement of goods, medicines, and emergency medical services, utility services, supply of fuel and electricity, and transportation of employees and to allow persons who were outside their place of residence to return home. The measures prohibited going to beaches, rivers, lakes, and picnic areas, suspended international passenger traffic except to repatriate the country’s nationals, and required that persons who did return be quarantined for 14 days after arrival.

Members of the former opposition Democratic Front (DF) alliance claimed the government acted inappropriately, as it lacked the authority for such actions without invoking a state of emergency. The government put forth three legal bases for acting without a declaration of a state of emergency that were broadly supported by the legal community and civil society.

During the initial wave of the COVID-19 pandemic between March and May, the

MONTENEGRO

restrictions on freedom of movement disproportionately affected residents of the largely Romani community in the Vrela Ribnicka neighborhood in Podgorica. At the beginning of April, the National Coordination Body for Communicable Diseases (NCB) decided to apply self-isolation measures on 23 residential buildings in Vrela Ribnicka after a resident from the neighborhood was hospitalized for COVID-related complications. The densely populated and economically disenfranchised neighborhood predominantly consists of 243 Roma, Balkan-Egyptians, and Bosnian refugees displaced during the Yugoslav wars in the 1990s. The NCB provided basic supplies and hygiene products to those in self-isolation, and the local police guarded the buildings and enforced isolation measures. While similar movement restrictions were imposed in other locations, including Biokovac near Bijelo Polje, the quarantine on Vrela Ribnicka remained in effect far longer than in the other locations.

e. Status and Treatment of Internally Displaced Persons

Ministry of Interior statistics indicated that 15,248 displaced persons (DPs) from the former Yugoslavia had applied to resolve their residency status as of September. Of the 12,379 completed applications, 12,194 received permanent resident status while 185 received temporary resident status; 164 applications were still pending. Individuals with temporary residence still needed support to acquire permanent residence because they still needed to acquire identity documents, such as birth and citizenship certificates, to get their passports.

Persons whose applications for “foreigner with permanent residence” status were pending with the Ministry of Interior continued to hold the legal status of DPs or IDPs. Some persons who were entitled to apply faced difficulties in obtaining the required documentation, particularly in regularizing previously unregistered births or paying the fees required to procure documents.

With support of the Office of the UN High Commissioner for Refugees (UNHCR), the government, together with the government of Kosovo, continued to assist displaced Roma and Balkan-Egyptians in obtaining personal identification documents under a Montenegro-Kosovo agreement on late registration of births of persons born outside the hospital system. By the end of 2019, approximately 1,400 persons received assistance through this cooperation. Some 40 others remained in

MONTENEGRO

need of Kosovo documents to be able to acquire permanent residence status in Montenegro. The process, supported by UNHCR, facilitated the registration of births of persons born in Montenegro or Kosovo, especially Romani, Ashkali, and Balkan-Egyptian children.

Conditions for IDPs and DPs from the Yugoslav wars varied. Access to employment, health care, and social services was sometimes limited due to language barriers, insufficient integration programs, lack of documentation, or unclear or inconsistent administrative procedures. According to UNHCR's livelihood study launched in 2018, many remained vulnerable, in need of support to become self-reliant, and continued to live below the poverty line. The COVID-19 pandemic additionally affected livelihood prospects of refugees from the former Yugoslavia. According to two UN Rapid Social Impact Assessments on the socioeconomic consequences of the COVID-19 epidemic in Montenegro undertaken in April and June, 38.5 percent (in April) and 75 percent (in May) of refugees from the former Yugoslavia with a pending status had lost their jobs or income, as had 52.4 percent (in April) and 38.5 percent (in May) of refugees from the former Yugoslavia with temporary residence.

Together with Croatia, Serbia, and Bosnia and Herzegovina, the country was a party to the Regional Housing Program, facilitated by international donors, to provide durable solutions for up to 6,000 DPs and IDPs in the country. A number of DPs and IDPs continued to live in substandard dwellings, struggled to pay rent for private accommodation, faced problems obtaining sustainable livelihoods, or feared eviction from illegally occupied facilities known as informal collective centers, mostly in the coastal municipalities.

Restricted access to employment pushed many DPs into gray-market activities. Poor economic prospects particularly affected Roma, Ashkali, Balkan-Egyptians, and IDPs from Kosovo in urban areas due to their low levels of schooling and literacy, high unemployment, and other obstacles to full integration in society. The high unemployment rate also affected the aging Kosovo-Serb population in the Berane area.

Although the law gives foreigners with permanent residence the full scope of rights of citizens with the exception of the right to vote, DPs and IDPs from the former

MONTENEGRO

Yugoslavia sometimes had limited access to employment, education, property ownership, and specialized medical care due to the difficulty of obtaining official documents. IDPs could find opportunities if they showed flexibility in accepting jobs that did not necessarily reflect their education or experience or did not insist on a labor contract.

The government continued to encourage IDPs and DPs to return to their places of origin, but repatriation was essentially nonexistent due to the preference of many IDPs and DPs to remain in the country out of fear of reprisals in their countries of origin or a lack of resources or the lost bond with their country or place of origin. During the first eight months of the year, the situation worsened due to movement restrictions to contain the spread of COVID-19 and related health concerns.

f. Protection of Refugees

The government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Access to Asylum: The law provides for the granting of refugee or subsidiary protection status, and the government established a system for providing protection to refugees. Authorities did not employ methods for managing mixed migration movements effectively, such as prioritization or accelerated procedures. Observers noted that attention and readiness to address the increased mixed flow of migrants remained focused on border control aspects, as authorities reported 1,589 illegal border crossings during the first eight months of the year. To reduce irregular migration, the European Border and Coast Guard Agency (Frontex) in July began assisting with border management by deploying personnel to areas where the country borders the EU.

During the first surge of the COVID-19 outbreak between March 16 and June 5, the country closed its borders and suspended access to asylum procedures. The Reception Center for Foreigners and Asylum Seekers in Spuz became a self-quarantine facility, and persons accommodated there had to follow generally applied restrictions on movement. A new reception center for foreigners and asylum seekers opened in July at Bozaj, on the border with Albania, that could

MONTENEGRO

accommodate up to 60 persons.

While transitory movement through the country resumed at the end of May, access to asylum procedures remained inconsistent. Families and vulnerable asylum seekers were admitted to reception centers after a 14-day quarantine in a separate part of the center. Authorities, however, increasingly returned single men trying to register their intention to apply for asylum directly to the Albanian border, then pushed them back into Albania. While the official number of migrants and asylum seekers registered after May grew steadily, observers believed their actual number grew exponentially, as migrants and asylum seekers bypassed reception centers and stayed in private hostels and abandoned houses. During the first eight months of the year, 1,702 persons registered their intention to apply for asylum with the Border Police. Of this number, 409 persons (24 percent) applied for asylum with the Ministry of Interior. In the same period, three persons were granted asylum status.

In addition to the pandemic-related suspension of asylum procedures, asylum seekers were negatively affected by continued delays in interviewing and decision-making after procedures resumed. During the first eight months of the year, authorities conducted 28 interviews, compared with a total of 78 interviews in 2019. As of October, 24 asylum seekers continued to wait for interview slots. Of the total applications filed, as of the end of August, 25 asylum seekers had actively pursued their asylum claim; the claims had been pending for eight to 27 months, although the deadline for decision-making is set at six months but can be extended under circumstances foreseen by law up to 21 months. Of 409 asylum applications, only three (0.7 percent) were approved; lack of follow through on applications contributed significantly to this figure.

Access to Basic Services: Once the asylum procedure is initiated, asylum seekers are granted access to free health care and education for minor applicants in line with international standards, although barriers to access, including language and cultural differences, sometimes limited practical access. During the year the Ministry of Interior decided to facilitate the effective access to the labor market for asylum seekers who were in the asylum procedure for longer than nine months in line with the law. Previously, this right was largely theoretical as asylum seekers

MONTENEGRO

were not able to register with the Employment Agency without a personal identification number (PIN) issued by the ministry. A working group formed in 2020 between the ministry and UNHCR proposed a way for issuance of PIN numbers within the existing legislative framework. As of September, asylum seekers residing in the country for more than nine months could get a PIN number from the Ministry of Interior's branch office in Podgorica, which would allow them to register with the Employment Agency. Many refugees had difficulties obtaining documents, and thus accessing services such as health care, due to language barriers.

According to the two UN Rapid Social Impact Assessments on the socioeconomic consequences of the COVID-19 pandemic that were conducted in April and June, all asylum seekers in private accommodation lost their (informal) jobs in April. While 33 percent regained an income by June, 66.7 percent remained jobless. Similarly, 91.7 percent of refugees lost their jobs in April; 21 percent regained employment by June, leaving some 70 percent jobless.

Durable Solutions: A path to citizenship for refugees is available but requires evidence that the applicant had renounced citizenship in his or her country of origin. The government provided support for the voluntary return or reintegration of DPs from countries of the former Yugoslavia. Those who chose the option of integration rather than return to their country of origin enjoyed access to the same rights as citizens, including access to basic services and naturalization in the country, but they did not have the right to vote.

Temporary Protection: The government also provided subsidiary protection to individuals who may not qualify as refugees. During the first eight months of the year, the Ministry of Interior did not approve any of the 404 requests submitted for subsidiary protection. By law, persons granted subsidiary protection are entitled to a facilitated integration plan for three years after receiving status. The integration plan is tailored to the individual's particular needs and includes support in accessing education, Montenegrin language classes, employment, and the provision of accommodation for up to two years. Beneficiaries of refugee or subsidiary protection status may appeal a decision relating to their entitlements

MONTENEGRO

before the Administrative Court.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The country held parliamentary elections on August 30. The elections were competitive and took place in an environment highly polarized over issues of religion and national identity. ODIHR stated the elections were overall transparent and efficient but highlighted that the ruling party gained an undue advantage through misuse of office and state resources and dominant media coverage. ODIHR also found the State Election Commission did not entirely fulfill its regulatory role, leaving many aspects related to voter registration unaddressed and failing to provide clear recommendations for protecting the health of voters and for facilitating mobile voting by voters in quarantine. ODIHR further noted the elections took place amid concerns about the government's inconsistent adherence to the constitution, including: calling early elections without shortening parliament's mandate; introducing pandemic-related restrictions on public gatherings and rallies without parliament calling a state of emergency; and initiating criminal proceedings and arrests for several members of parliament without a prior waiver of their immunity by parliament.

The European Network of Election Monitoring Organization (ENEMO) and ODIHR observers noted that election day was calm and peaceful but identified a few cases of minor irregularities that did not affect the electoral process. Unlike the previous parliamentary elections in 2016, all parties accepted the election results. ODIHR found that the lack of independent campaign coverage by media further undermined the quality of information available to voters.

The country held presidential elections in 2018. The ODIHR observation mission to the elections noted in its final report that although the candidate nominated by the governing party held an institutional advantage, fundamental freedoms were respected. Candidates campaigned freely, and media provided the contestants with

MONTENEGRO

a platform to present their views. The technical aspects of the election were adequately managed, although observers noted the transparency and professionalism of the State Election Commission remained issues of concern. Election day proceeded in an orderly manner despite a few observed procedural irregularities.

After several delays due to the COVID-19 pandemic, the Appellate Court began a hearing on September 7 on the Podgorica High Court's May 2019 conviction of 13 individuals for their role in plotting a failed coup to disrupt the country's 2016 parliamentary elections. The persons convicted included two leaders of the opposition DF political alliance, Andrija Mandic and Milan Knezevic, and two alleged Russian intelligence officers. Appeals of the convictions were pending as of year's end.

Political Parties and Political Participation: Political parties were able to form and operate freely. The former ruling DPS and its government, however, often mixed official business and party prerogatives, and there were reports the government used the purchase of public advertising selectively to support media outlets offering favorable coverage. Election observers noted that extensive visits and inaugurations by the president, prime minister, and local DPS government officials during the campaign appeared to blur the line between the state and the ruling party, given that their media appearances were at times used to promote party accomplishments and visibility rather than to conduct strictly official matters. As in previous elections, independent observers found that the DPS gained an undue advantage through various forms of misuse of office and state resources, such as offering temporary employment in the public sector and distributing extraordinary welfare benefits to "vulnerable" groups based on unclear criteria. Official investigations were initiated in two cases, based on allegations of pressure to vote for the DPS. Nevertheless, in the August 30 election, opposition parties won a majority of the seats in parliament for the first time in 30 years.

The trial of Nebojsa Medojevic, a leader of the DF, along with 11 other DF members for alleged money laundering linked to DF financing during the 2016 elections, continued during the year. The DF accused the prosecutor's office of acting under the influence of the former ruling party DPS and bringing false

MONTENEGRO

charges against it to reduce DF's influence in the country as the strongest opposition group.

Participation of Women and Members of Minority Groups: No laws formally limit the participation of women or minorities in the political process, and they did participate. Although the law requires that at least 30 percent of a political party's candidates be female, women held only 22 percent (18 of 81) of delegate seats in the parliament, down from 23 (28 percent) in the previous parliament. In the national government, women held four out of 17 ministerial seats. At the beginning of October, NGOs focusing on women's rights expressed frustration not only with the lower representation of women in the new parliament, but also the absence of women from political negotiations on the composition of the new government thus far.

Traditionally, the largest minority groups in the country (i.e., Serbs, Bosniaks, Albanians, and Croats) had representatives in parliament; Roma, Ashkali, and Balkan-Egyptians remained unrepresented. In the August 30 parliamentary elections, the two Croatian electoral lists did not pass the election threshold needed to win seats in parliament. Although the law provides representation to minority-affiliated parties that win less than 3 percent of the vote or constitute less than 15 percent of the population, the law does not apply to the Romani community. At the end of 2019, the Democratic Roma Party became the first Romani political party established in the country. Mensur Shalaj, the leader of the party, was also a member of the Roma Council. The Democratic Roma Party did not participate in the August 30 parliamentary elections.

The law also provides for positive discrimination in the allocation of electoral seats at the municipal level for minorities constituting 1.5 to 15 percent of the population. There were no political representatives of Roma, Ashkali, or Balkan-Egyptians at the municipal level.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but the government

MONTENEGRO

did not implement the law effectively, and corruption remained a problem. There were numerous reports of government corruption during the year. Officials often engaged in corrupt practices with impunity. The public viewed corruption in hiring practices based on personal relationships or political affiliation as endemic in the government and elsewhere in the public sector at both local and national levels, particularly in the areas of health care, higher education, the judiciary, customs, political parties, police, the armed forces, urban planning, the construction industry, and employment. Corruption and low public trust in government institutions were major issues in the August 30 parliamentary elections.

The Agency for the Prevention of Corruption (APC) continued to operate and expand its capabilities and program offerings, but domestic NGOs were critical of the agency's lack of transparency and described periodic working group meetings with them as cosmetic and superficial. The European Commission noted continued problems related to the credibility, independence, and effectiveness of the agency.

Agencies tasked with fighting corruption acknowledged that cooperation and information sharing among them was inadequate; their capacity improved but remained limited. Politicization, poor salaries, and lack of motivation and training of public servants provided fertile ground for corruption.

Corruption: Most citizen reports of corruption to the APC involved public administration, the private sector, and the judiciary. Shortly before the August 30 elections, the portal *IN4S* released video footage of Dusica Vulic, an activist of the Podgorica board of the former ruling party DPS, inquiring about the party affiliation of a potential candidate for a position in the army. In the video, a girl named Marija, accompanied by a man, inquired about what it takes to become a soldier, explaining that she was previously rejected by the army despite having participated in a summer military camp and personally receiving praise from Defense Minister Predrag Boskovic. Vulic told Marija that professional engagement in the army required a positive opinion of the local board of the DPS, that the candidate declare himself as a Montenegrin, and that the candidate show sympathy for DPS, meaning a promise to vote for the party in elections. Neither the Ministry of Defense nor the DPS denied the authenticity of the video, and following an investigation, the Basic State Prosecutor's Office indicted Vulic on

MONTENEGRO

September 7 for the criminal offense of violation of freedom of choice in voting. Vulic's trial began on October 12 in the Basic Court in Podgorica, where she denied attempting illegally to influence Slavoljub Markovic, Marija Markovic, and Predrag Konatar to vote for the DPS electoral list during national parliamentary elections on August 30. The trial was pending as of the end of the year.

The Special State Prosecutor's Office, in cooperation with the Special Police, continued to make arrests in operation Klap, a nationwide anticorruption campaign against tax officials, private companies, and individuals. As of June, criminal charges have been filed against 24 individuals and 14 companies suspected of creating a criminal organization, tax evasion, abuse of official position, forgery of an official document, and committing bankruptcy fraud. Nine of the charged suspects cooperated with authorities and negotiated plea bargains. Through their illegal activities, the suspects were estimated to have damaged the state budget by approximately six million euros (\$7.2 million).

Police corruption and inappropriate government influence on police behavior remained problems. Impunity remained a problem in the security forces, according to the NGOs Human Rights Action and Network for Affirmation of the NGO Sector (MANS). NGOs cited corruption, lack of transparency, and the ruling political parties' influence over prosecutors and officials of the Ministry of Interior as obstacles to greater effectiveness. They noted there was no clear mechanism to investigate instances of impunity. There was also a widespread view that personal connections influenced the enforcement of laws. Low salaries sometimes contributed to corruption and unprofessional behavior by police officers.

Human rights observers continued to express concern over investigative delays (even factoring in the difficult operating environment because of COVID-19) and the low number of prosecutions of security force personnel accused of human rights abuses. Police did not provide information about the number of human rights complaints against security forces or investigations into complaints. The prosecutor's office, which is responsible for investigating such abuses, seldom challenged the Police Administration's finding that its use of force was reasonable. Human rights observers claimed citizens were reluctant to report police

MONTENEGRO

misconduct due to fear of reprisals.

Watchdog groups alleged that the continuing police practice of filing countercharges against individuals who reported police abuse discouraged citizens from reporting and influenced other police officers to cover up responsibility for violations. An external police oversight body, the Council for Civilian Control of Police Operations, stated that identification of police officers who committed alleged abuses was problematic because officers wore masks and were not willing to admit personal responsibility. Although part of their uniform, the masks contributed to de facto impunity because police officers who perpetrated abuses could not be identified, and their units and commanders were unwilling to identify one of their members.

Financial Disclosure: The law requires government officials to report any increases in value of personal property of more than 5,000 euros (\$6,000) or any gift exceeding 50 euros (\$60) to the APC. Violations of the obligation to file and disclose are subject to administrative or misdemeanor sanctions. Most officials complied with the requirements in a timely fashion. In the first eight months of the year, however, the agency filed 326 requests to initiate misdemeanor proceedings against public officials who did not submit regular annual reports on income and assets or for breaking campaign finance laws. Of those proceedings, 161 (82 percent) resulted in sanctions, including 109 fines totaling 44,090 euros (\$53,000) and 52 warnings.

During and after the August 30 parliamentary elections, the APC initiated 293 procedures related to the use of public resources in the election campaign, of which 123 concerned excessive monthly spending and 101 concerned improper hiring of temporary and part-time employees. In September the agency also initiated misdemeanor proceedings against the former ruling DPS because two party donors who contributed a combined total of 5,600 euros (\$6,700) were not on the voter list and thus were ineligible to make campaign contributions to political parties. The NGO MANS nevertheless filed several initiatives against the APC for failure to comply with provisions of the law pertaining to publication of oversight reports on its public website and for failing to enforce deadlines and publish price lists for

MONTENEGRO

political advertising on media outlets.

In May, Speaker of Parliament Ivan Brajovic was summoned to give a statement in the Special Prosecutor's Office following accusations made by SDP Member of Parliament Rasko Konjevic that fugitive businessman Dusko Knezevic had paid off approximately 50,000 euros (\$60,000) of debt incurred on a credit card issued to Brajovic by Knezevic's Atlas Bank. The State Special Prosecutor's Office acknowledged it had been investigating financial transactions between Brajovic and Knezevic since 2017. The NGO MANS also called on the State Special Prosecutor's Office to prosecute Brajovic based on extensive documents it received and made public allegedly showing that Brajovic made a deal with persons tied to Knezevic, which enabled him to sell a piece of his land near Podgorica for an inflated amount (150,000 euros (\$180,000)) to settle his debt with Atlas Bank. As of September, no charges had been filed in the case. In a similar case in 2019, Knezevic made public documentation showing that Atlas Bank had settled a credit card debt of 16,000 euros (\$19,000) held by President Djukanovic. The APC declined to investigate that case, determining that settling a public official's debt on a credit card could not be considered as a gift.

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

Several domestic and international human rights groups operated, generally without government restriction, investigating and publishing their findings on human rights cases. Government officials were usually cooperative and responsive to the views of international groups, but some domestic NGOs assessed this cooperation as uneven and noted that the government selectively ignored their requests for information under the Law on Free Access to Information. In its *2019 Progress Report on Montenegro*, the European Commission identified as "matters of serious concern" the practice of "controversial dismissals of prominent nongovernmental organizations' representatives from key institutions and bodies" and a growing trend among public institutions of responding to requests for

MONTENEGRO

information by declaring it to be classified.

Government Human Rights Bodies: The ombudsman served within the Office of the Protector of Human Rights to prevent torture and other forms of cruel, inhuman, or degrading treatment or punishment as well as discrimination. The Office of the Protector of Human Rights may investigate alleged government human rights violations and inspect such institutions as prisons and pretrial detention centers without prior notification. It may access all documents, irrespective of their level of secrecy, relating to detainees or convicts and talk to prisoners or detainees without the presence of officials. The office may not act upon complaints about judicial proceedings in process, except when the complaint involves delays, obvious procedural violations, or failure to carry out court decisions. The ombudsman may propose new laws, ask the Constitutional Court to determine whether a law violates the constitution or treaty obligations, evaluate particular human rights problems upon request of a competent body, address general problems important for the protection and promotion of human rights and freedoms, and cooperate with other organizations and institutions dealing with human rights and freedoms. Upon finding a violation of human rights by a government agency, the ombudsman may request remedial measures, including dismissal of the violator, and evaluate how well the agency implemented the remedial measures. Failure to comply with the ombudsman's request for corrective action within a defined period is punishable by fines of 500 to 2,500 euros (\$600 to \$3,000). The government and courts generally implemented the ombudsman's recommendations, although often with delays. The ombudsman operated without government or party interference and enjoyed cooperation from NGOs.

Parliament has a six-member Standing Committee for Human Rights and Freedoms. Many observers continued to perceive its contribution as insignificant and criticized its apparent sole focus on how international and European institutions assessed the country.

Some NGOs and international organizations criticized the Ministry of Human and Minority Rights for being reactive rather than proactive, stating that its capacity

MONTENEGRO

remained limited and needed further strengthening.

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

Women

Rape and Domestic Violence: These acts are illegal, and authorities generally enforced the law. In most cases the penalty provided by law for rape, including spousal rape, is one to 10 years in prison, although the law permits lower sentences in cases where there are exceptionally extenuating circumstances or a significant lack of evidence. Actual sentences were generally lenient, averaging three years. Judges often used questionable methods, including forcing confrontations between victims and perpetrators, to assess the credibility of victims. NGOs expressed concern about the security of the courtrooms where victims were often forced to meet with abusers. In one case a convicted perpetrator assaulted a domestic violence survivor in front of a judge while being escorted into the courtroom by prison staff. Despite that incident and the testimony of several experts, including NGO representatives and the victim's lawyer, the perpetrator was acquitted by the judge.

Domestic violence is generally punishable by a fine or a one-year prison sentence. According to NGO reports, domestic violence survivors continued to experience difficulties having their cases prosecuted in the judicial system, promoting an atmosphere of impunity for abusers. This problem was further compounded by the additional constraints put on prosecutors and the courts due to the COVID-19 pandemic. In some cases police were quick to dismiss allegations of domestic violence, particularly for young couples, noting that the problems would be resolved over time. Even when their cases were tried in court and they received a judgment in their favor, survivors noted the sentences imposed on perpetrators were lenient and dominated by suspended sentences and fines. Lengthy trials, economic dependency, societal norms, and a lack of alternative housing often forced survivors and perpetrators to continue to live together.

Police response to domestic violence was also reported to be substandard, with

MONTENEGRO

officers often counseling women to “forgive” their attackers or to “not harm their (the attackers) job prospects.” Cases involving perpetrators who were also public officials remained problematic. The trial against a police officer who attacked and injured a woman in a nightclub in 2019 was still ongoing 15 months after the incident and a year since the start of the trial. Other institutions’ responses were also problematic. According to NGOs, social centers have increasingly taken actions to keep victims and abusers together in order to preserve the family structure or pay one-time assistance for rent, rather than accommodating victims in licensed shelters and providing other needed support to them, including psychological and legal support.

The country aligned its legislation with the Istanbul Convention on preventing and combatting violence against women and domestic violence, but domestic violence remained a persistent and common problem. The law permits survivors to obtain restraining orders against abusers. When the abuser and survivor live together, authorities may remove the abuser from the property, regardless of ownership rights. In practice this was rarely done, and NGOs reported that, as a result of the Ministry of Health’s COVID-19 restrictive measures, women were actually spending more time with abusers. Domestic violence was a serious problem in all communities.

According to NGOs and the ombudsman, female survivors of domestic violence often complained that government-run social welfare centers did not respond adequately to their appeals for help. NGOs reported that state institutions did not provide physical protection for survivors.

The government, in cooperation with an NGO, operated a free hotline for victims of family violence. As a part of COVID-19 measures, the government imposed a curfew barring citizens from leaving their homes between the hours of 7:00 p.m. and 7:00 a.m. the following morning, which was accompanied by an increase in the number of reported domestic violence cases. The government promoted use of the NGO SOS Hotline in Niksic and the UNDP developed the mobile application “Be safe” as tools for domestic violence victims to call for help. NGOs continued to report that, despite some progress, particularly in the law, government agencies responded inadequately to prevent domestic violence and help survivors recover.

MONTENEGRO

According to NGOs, because of the restrictive COVID-19 measures, authorities failed to address domestic violence in a timely manner, leaving survivors with limited support. The NGO Women's Rights Center stated that perpetrators often confiscated victims' phones and not all victims were able to use digital tools, which limited reporting.

In March, NGOs reported that police in Niksic refused to accept the complaint and call for help of a Romani survivor of domestic violence seeking safe refuge at a police station, despite being accompanied by a caseworker from the NGO Center for Roma Initiatives who was there to support the survivor and help her find safe accommodations. The survivor, who was from Kosovo and primarily spoke Albanian and had only a limited knowledge of the Montenegrin language, was a trafficking victim who entered Montenegro illegally in December 2019 after escaping a forced marriage in Kosovo. In Montenegro, she was initially forced into a marriage with a man in Bar and then to a man in Herceg Novi.

During her first marriage in Kosovo, the survivor first became the victim of domestic violence from her husband's family. Her second marriage to a man in Montenegro was equally abusive, with her husband taking her personal documents to keep her under control. She then fled her second husband's family home to Niksic to stay with an acquaintance's family, although she once again encountered domestic violence. While she was not subject to physical violence from either of the families she stayed with in Montenegro, the survivor claimed that she endured mental and emotional abuse. A male friend of the acquaintance's family in Niksic, who offered to provide her with a ride and help the survivor escape, turned on her and attempted to rape her. While in Niksic, the survivor came into contact with the Center for Roma Initiatives and she was advised to file a complaint for forced marriage and trafficking, domestic violence, and attempted rape with the police. Because the survivor was from Kosovo, the police refused to act without first receiving permission from a health-sanitary inspector due to COVID-19 restrictions, even though she had been living in Montenegro since December 2019. Under the government's preventative health measures, health-sanitary inspectors worked with the police and oversaw decisions pertaining to quarantine and self-isolation for individuals seeking to enter Montenegro during the pandemic. The health-sanitary inspector required the victim and the NGO caseworker who

MONTENEGRO

followed her to self-isolate for 14 days, a period later extended to 28 days. Homeless and unable to find accommodation due to the requirement that she self-isolate for 14 days, the survivor spent the night in front of the police station with her eight-month-old baby after which she returned to her abuser, as she risked facing criminal charges for violating public health measures. The Center for Roma Initiatives remained in touch with the survivor and continued to advocate on her behalf with police, who finally agreed to allow her to be accommodated at the shelter run by the NGO SOS Hotline for Women and Children Victims of Violence Niksic in mid-April. Shortly thereafter, the Department for Combatting Trafficking in Persons at the Ministry of Interior took up the survivor's case, and in June she was transferred to the Shelter for Victims of Trafficking in Persons.

The Center for Roma Initiatives claimed that the harsh treatment of the survivor and the NGO caseworker at the hands of the police and the health-sanitary inspector was due to discrimination based on their Romani ethnicity. Their unwillingness to accept the survivor's complaint caused her considerable anguish as she feared for her life, both from her second husband's family and from the man who tried to rape her, who she often saw passing by the house where she lived. After her return to the home of her second husband's family, she faced renewed mental and emotional abuse and significant pressure to leave the house as soon as possible. The case was under investigation, and NGOs continued to monitor it closely.

Other Harmful Traditional Practices: Child marriage continued to be a problem in Romani communities (see Child, Early, and Forced Marriage subsection under Children, below). Although illegal, in many Romani communities, the practice of paying a traditional "bride price" of several hundred to several thousand euros for girls and women to be sold into or purchased from families across the border in Kosovo or Albania led to concerns about trafficking in persons. The potential to be "remarried" existed, with some girls being sent back to their families, being resold, and the money then given to the former spouse's family. These practices were rarely reported, and police rarely intervened, viewing the practices as "traditional." These practices led to girls withdrawing from school at a rate much higher than boys, limiting their literacy and ability to provide for themselves and their families, essentially trapping them in these situations. At the end of 2019, the government

MONTENEGRO

established a team for the formal identification of victims of trafficking. Since the beginning of the year, the team identified two victims of forced child marriage, and it continued to evaluate additional potential cases of forced child marriages.

In June, police filed criminal charges for human trafficking against a 43-year-old individual from Podgorica who allegedly arranged an illicit marriage for his 17-year-old daughter in exchange for 5,000 euros (\$6,000). The multi-institutional Human Trafficking Task Force initiated several cases in which police intervened and the girls and women were given status as victims of trafficking in persons.

Sexual Harassment: Sexual harassment is not defined as a crime under the law. According to the Center for Women's Rights, sexual harassment, including street harassment, of women occurred often, but few women reported it. Public awareness of the problem remained low. Victims hesitated to report harassment in the workplace due to fears of employer reprisals and a lack of information about legal remedies. Stalking or predatory behavior with physical intimidation is punishable by law with a fine or up to three years' imprisonment.

Reproductive Rights: The government recognized the right of most couples and individuals to decide the number, spacing, and timing of their children; to manage their reproductive health; and to have the information and means to do so, free from discrimination, coercion, and violence. In the case of transgender individuals, the country continues to require sterilization before their gender identity is legally recognized.

Free health care was available to all citizens; however, health-care costs acted as a barrier for noncitizens and those lacking identification documents to access regular prenatal care. Due to poor education and living conditions, Romani and Egyptian women seldom visited gynecologists, obstetricians, or any other doctors and had the least access to family planning counseling and gynecological services. Romani and Egyptian women able to access these services often reported discriminatory treatment, including verbal harassment. Women outside these communities also reported verbal harassment when accessing reproductive health services. NGOs noted that such harassment was often unreported due to inadequate victim support mechanisms. Depending on the location, there was one gynecologist per 5,000 to 8,000 women, which affected women's access to routine health services during

MONTENEGRO

pregnancy and childbirth.

There were no legal barriers to contraception; however, a 2020 UNFPA report indicated the country had enacted only 37 percent of legislation and regulations necessary to ensure full and equal access to contraceptive services. According to NGOs, there was a lack of publicly available information and appropriate educational programs, and economic status and restrictions by partners were barriers preventing women from using contraception.

The government provided access to sexual and reproductive health services for survivors of sexual violence. NGOs stated that these services were often not tailored to those experiencing sexual violence and that persons performing examinations sometimes lacked the necessary expertise to prepare a valid forensic report.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: The law provides for the same legal status and rights for women as for men. All property acquired during marriage is joint property. The government enforced these laws somewhat effectively. The NGO SOS noted, however, that women often experienced difficulty in defending their property rights in divorce proceedings due to the widespread public belief that property belongs to the man. Sometimes women ceded their inherited property and inheritance rights to male relatives due to tradition and pressure from their families. Men consequently tended to be favored in the distribution of property ownership, sometimes limiting a woman's options in the cases of domestic violence or divorce. Women continued to experience discrimination in salaries and access to pension benefits (see section 7.d.).

The Department for Gender Equality worked to inform women of their rights, and parliament has a committee on gender equality. The government has a 2017-21 strategy on gender equality. In January the government published the *Gender Equality Index for Montenegro*, one of a series of indices that measure inequalities in EU member states and countries in the EU accession process. The index measured labor, money, knowledge, time, power, health, and violence. The index

MONTENEGRO

value for Montenegro was 55 (out of 100 points). The largest inequality between men and women was noted in the category of power (35.1), followed by time (52.7), knowledge (55.1), money (59.7), and work (65.2). The highest equality was reported in health (86.9).

According to Romani rights NGOs, one-half of Romani women between the ages of 15 and 24 were illiterate. Romani women often faced double discrimination based on their gender and ethnicity.

Gender-biased Sex Selection: Although illegal, medical professionals noted that gender-biased sex selection took place, resulting in a boy-to-girl ratio at birth of 110 to 100. The government did not actively address the problem.

Children

Birth Registration: Children derive citizenship from their parents and, under some circumstances, by birth in the country, through naturalization, or as otherwise specified by international treaties governing the acquisition of citizenship. Registration of birth, a responsibility of the parents, is required for a child to have the necessary documents to establish his or her citizenship. Births of all children in hospitals and medical institutions were registered automatically. The parents of Romani, Ashkali, and Balkan-Egyptian children not born in hospitals registered their births at much lower rates than other groups, mostly due to lack of awareness of the registration process or the parents' own lack of identification documents. It was difficult for the unregistered children of Romani and Balkan-Egyptian parents to access such government services as health care, social allowances, and education. Of the Romani and Balkan-Egyptian children in primary school, 10 percent were not registered.

Education: The law provides for free, compulsory elementary education for all children. Secondary education is free but not compulsory. Enrolment in secondary education starts at the age of 14 or 15. NGOs reported that the end of elementary education represented one of the most vulnerable moments for Romani children, especially Romani girls, as without school attendance monitoring, children were left to their parents and were vulnerable to "traditional" marriages. According to a UN Rapid Social Impact Assessment of COVID-19's impact between April and

MONTENEGRO

June, in households with children under the age of 18, while 78 percent had a television set, only 63 percent had a computer or laptop with an internet connection and just 39 percent had a tablet with an internet connection. A multiple indicator cluster survey from 2018 sponsored by UNHCR and UNICEF in the country found that only 89.5 percent of Romani households had a television, compared with 99.1 percent of total households and only 15.3 percent had a computer compared with 61.1 percent of total households, putting Romani children at a greater disadvantage for distance learning than other students.

Child Abuse: Child abuse laws are covered by the 2017-21 strategy for the prevention and protection of children from domestic violence. Penalties range from a year in prison for violence without a weapon to 12 years for actions that result in the victim's death; however, severe penalties were rarely seen and short prison stays, suspended sentences, or even small fines were the norm.

In September media outlets reported that an individual in Ulcinj was arrested for forcing a child to commit theft in February. The Basic Court in Ulcinj sentenced the perpetrator to 360 hours of public work over a six-month period. According to media reports, the perpetrator had a criminal record for theft and had been sentenced before for the same crime.

The Ministry of Health reported that child abuse remained a problem, with every third child subject to emotional abuse, while every fourth child was a victim of physical abuse. Many children, particularly high school students, were exposed to alcohol, drugs, and violence. The ombudsman noted that child sexual abuse victims were usually girls between the ages of 14 and 16. The abusers were mostly close relatives of the children, and abuse usually occurred at home. The very low number of reported cases of sexual violence against children raised concerns about identification of victims. To address the problem of child abuse, the government developed, in conjunction with UNICEF, *The Strategy for Exercising the Rights of the Child 2019-2023*. The strategy set out a comprehensive “whole of government” approach to improving the conditions for exercising children's rights in all areas covered by the UN Convention on the Rights of the Child and its optional protocols.

Authorities prosecuted child abuse when they had cases with enough evidence, and

MONTENEGRO

the government worked to raise public awareness of the importance of reporting cases. Facilities and psychotherapy assistance for children who suffered from family violence were inadequate, and there were no marital or family counseling centers. Authorities sometimes placed juvenile victims of domestic violence in the children's correctional facility in Ljubovic or in the orphanage in Bijela.

Child, Early, and Forced Marriage: The minimum legal age for marriage is 18 in most cases, but persons as young as 16 may marry with the consent of a court or a parent. Punishment for arranging forced marriages ranges from six months to five years in prison, but convictions were rare, generally owing to a lack of evidence or poor understanding of the law.

Child marriage was a serious problem in the Romani and Balkan-Egyptian communities. There continued to be reports of underage girls being sold into "traditional" or "arranged" marriages without their consent, including to persons in neighboring countries. These marriages generally did not meet the criteria necessary for legal, documented marriages. As such, they were difficult to track and regulate, regardless of legality. In March the government launched the "Children are Children" campaign to raise the awareness of the harmful effects of child marriage in the Romani and Balkan-Egyptian communities and explain the applicable regulations and procedures for protecting children from arranged marriages. The campaign was conducted by the Ministry of the Interior, the Ministry of Labor and Social Welfare, and the Police Administration in cooperation with the NGO Center for Roma Initiatives and focused on working with members of the Romani and Balkan-Egyptian communities in Podgorica, Niksic, Tivat, and Berane.

The custom of buying or selling virgin brides continued in the Romani, Ashkali, and Balkan-Egyptian communities. Brides found not to be virgins prior to marriage faced severe repercussions, including violence, from the groom's family, their family, and the community at large.

The government implemented some measures to prevent underage marriage, including enforcing mandatory school education.

Sexual Exploitation of Children: The law prohibits commercial sexual

MONTENEGRO

exploitation, sale, and offering or procuring for prostitution, and the country partially enforced the law. The age of sexual consent is 18. There is a statutory rape law. Sexual activity with a juvenile carries a prison sentence of up to three years. Paying a juvenile for sexual activity carries a prison term of three months to five years. Authorities may fine or imprison for one to 10 years any person found guilty of inducing a minor into prostitution.

Child pornography is illegal, and sentences for violators range from six months in prison for displaying child pornography to eight years for using a child in the production of pornography.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The Jewish community population was estimated to be approximately 400 to 500 individuals. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, or mental disabilities. The government was implementing the *Strategy for Integration of Persons with Disabilities 2016-2020*, but NGOs claimed it did not do so effectively. During the year a network of 10 NGOs that worked with persons with disabilities continued to coordinate and monitor implementation of the government's strategy. The NGO Youth with Disabilities stated that although the Ministry of Labor and Social Welfare is in charge of the register of persons with disabilities established pursuant to the strategy, there were problems

MONTENEGRO

consolidating information on persons with disabilities that had been collected by different state institutions and included new data from persons who had not previously registered with any institution.

Authorities generally enforced the requirement that new public buildings be accessible to persons with disabilities, but most public facilities, including buildings and public transportation, were older and lacked access. Although election laws specifically require accessible polling places, according to NGOs, approximately 65 percent of polling stations remained inaccessible during the August 30 national parliamentary elections. In addition, ballot templates for persons with visual disabilities were missing in 17 percent of polling stations. Individual abuses of the right to vote with a proxy voter were also reported.

Some recent renovations of existing government buildings took accessibility into account, such as the beginning of construction on a central elevator at the Ministry of Foreign Affairs. The plan was only at its initial stages, however, and had yet to realize a completely accessible building.

Despite legal protections, persons with disabilities often hesitated to bring legal proceedings against persons or institutions seen to be violating their rights. Observers ascribed this reluctance to the adverse outcomes of previous court cases or, according to the ombudsman, to insufficient public awareness of human rights and protection mechanisms relating to disabilities. Several discrimination cases that the NGO Association of Youth with Disabilities initiated against the Ministry of Finance, a health center in Podgorica, the Montenegrin Fund for Solidarity Housing Construction, , and social centers in Podgorica, Tivat, and Budva continued through the year, while a discrimination case against the postal service was resolved in favor of the person with disabilities.

The Council for Care of Persons with Disabilities, chaired by the minister of labor and social welfare, has responsibility for policies protecting the rights of persons with disabilities. It consists of the Ministries of Health; Labor and Social Welfare; Education; Sports; Finance; Justice; Human and Minority Rights; Sustainable Development and Tourism, as well as the Secretariat for Legislation, the State Employment Agency, and five NGOs, all of which provided assistance and

MONTENEGRO

protection in their respective spheres through the year.

According to NGOs, services at the local level to children with mental and physical disabilities remained inadequate. Associations of parents of children with disabilities were the primary providers of these services. The law permits parents or guardians of persons with disabilities to work half time, but employers did not respect this right.

The government made efforts to enable children with disabilities to attend schools and universities, but the quality of the education they received and the facilities to accommodate them remained inadequate at all levels. There are three models of education for children with disabilities in the country: mainstream schools, special classes at mainstream schools, and resource centers, of which there were three in the country. The laws governing education also provide for the creation of special commissions by municipalities to provide guidance in the educational process for children with disabilities. Such guidance does not apply to other children.

The NGO Association of Youth with Disabilities of Montenegro stated that the last two models are tantamount to segregation of students with disabilities, which is considered to be a form of discrimination under the law. The NGO's monitoring of the education of children and young persons with disabilities showed that commissions often referred them to a limited number of primary and secondary schools and that no child with a disability was sent to a gymnasium (a prestigious preparatory school for students who will continue on in postsecondary education), which was unacceptable.

NGOs also stated that supported-living assistance at home and similar services were not provided to families and parents of children with disabilities. The COVID-19 pandemic further complicated the schooling of children with disabilities, many of whom remained without adequate teaching assistance. Paid leave was not ensured to some parents of children with disabilities.

Persons with disabilities were often institutionalized or encouraged towards institutions, which perpetuated stigmatization. The NGO Association of Youth with Disabilities of Montenegro reported two cases of human rights violations in institutions catering to persons with disabilities during the year. The Ombudsman's

MONTENEGRO

Office confirmed the violation in both cases.

The first case involved a child who used the services of the day care center in Niksic. Workers at the center used scotch tape to bind a child and then wrapped the child in a carpet, and officials claimed this was the method to “calm a child.” The parent submitted a request for the day care center to provide video footage of the center from the day of the incident, but the center employees claimed the camera was not working at that time. The ombudsman issued an opinion in which the violation was confirmed, but due to sensitivity of the child data contained in the opinion, it is not available to the public.

Persons with physical disabilities had difficulty obtaining high-quality medical devices to facilitate their mobility through health and social insurance.

Members of National/Racial/Ethnic Minority Groups

Roma, Ashkali, and Balkan-Egyptians remained the most vulnerable victims of discrimination, mainly as a result of prejudice and limited access to social services due to a lack of required documentation. The law on citizenship and its accompanying regulations makes obtaining citizenship difficult for persons without personal identity documents or those born outside of a hospital. Access to health-care services, including childbirth, remained challenging for members of these communities due to their lack of medical-care cards.

According to the Roma Education Fund, the poverty rate among Roma, Ashkali, and Balkan-Egyptians remained higher than for the general population. Many Roma, Ashkali, and Balkan-Egyptians lived in illegal squatter settlements that often lacked services, such as public utilities, medical care, and sewage disposal. NGOs reported that several Romani neighborhoods did not have running water, which prevented, for instance, the Vreli Ribnicki Romani community from complying with health recommendations. The NGO Young Roma stated, however, that one of the biggest problems of the Romani community living in illegal squatter settlements was the risk of eviction, especially in the southern part of the country.

The Ministry of Human and Minority Rights stated that the government continued

MONTENEGRO

to provide housing for marginalized groups, including Roma.

The government's implementation of its *Strategy for Social Inclusion of Roma and Balkan-Egyptians 2016-2020* resulted in some improvement in the number of Romani children attending school, access to health care, and access to housing. According to the NGO Young Roma, the state employment agency, in conjunction with international organizations, financed the employment of three individuals as associates for the social inclusion of Roma and Balkan-Egyptians in the area of education over the previous three years. NGOs reported that, although the number of Romani children attending school increased, they continued to face limitations in the area of education. The NGO Young Roma reported that its research showed the average score of Romani children in schools was 2.23 out of 5--just above passing--which reduced their chances of continuing later education. The NGO Pihren America stated that Romani children were additionally disadvantaged due to the shift to online schooling as a result of the COVID-19 pandemic, as not all families had access to electricity or computers to facilitate virtual learning (also see section 6, Children).

Albanians and Bosniaks in the southern and northeastern parts of the country frequently complained about central government discrimination and economic neglect. Ethnic Serb politicians claimed that the government discriminated against the Serbian national identity, language, and religion.

Following the August 30 parliamentary elections, media outlets reported several cases of physical and verbal attacks on members of the Bosniak community in Pljevlja. On September 2, unknown assailants smashed windows at the Islamic Community in Pljevlja and left the message, "The black bird will fly; Pljevlja will be Srebrenica." The cases raised ethnic tensions and concerns about future attacks on Bosniaks and increased fear among Muslim communities. The attacks were condemned by different political actors, other religious groups, and the international community, all of whom called for peace and tolerance. Authorities visited Pljevlja and former minister of interior Mevludin Nuhodzic stated that everything would be done to identify the perpetrators. Although the Islamic community facility was covered by security cameras, police failed to identify the

MONTENEGRO

perpetrators and an investigation was ongoing at year's end.

Government-supported national councils for Serbs, Bosniaks, Albanians, Muslims, Croats, and Roma represented the interests of those groups. NGOs, legal observers, and media outlets continued to accuse the government of misappropriating money from a fund established to finance the national councils.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

The law forbids incitement to hatred based on sexual orientation and prohibits discrimination against individuals on the basis of sexual orientation or gender identity. The presence of an anti-LGBTI bias motive is an aggravating circumstance when prosecuting hate crimes.

During the year the NGO LGBT Forum Progress submitted more than 219 complaints to police of online discrimination, hate speech, and verbal abuse, including comments on social media, and asked authorities to press charges against the commenters. According to NGOs, as a result of COVID-related restrictions on movement, many LGBTI persons returned to their primary residences where they experienced an increase of hate, abuse, discrimination, and rejection by family members. Many of them searched for psychosocial and legal support. LGBTI centers run by NGOs were closed due to the pandemic, limiting their ability to provide support to the LGBTI community.

In January 2019 the Supreme Court annulled a 2018 Constitutional Court decision that prohibiting the gathering of the LGBTI community in Niksic in 2015 violated the right to peaceful assembly of members of the organizations LGBT Forum Progress and Hiperion. Instead of reversing the original decision of the Administrative Court based on the Constitutional Court's resolution of the legal issue at the heart of the case, however, the Supreme Court returned the case to the Administrative Court for reconsideration. The NGO Human Rights Action criticized the Supreme Court for not exercising its authority to issue a final decision in the case, arguing that the court's action caused further unnecessary delays and weakened legal protection for the freedom of assembly in the country.

MONTENEGRO

The case was ongoing at year's end.

Every police station had an officer whose duties included monitoring observance of the rights of LGBTI persons. During the year a “team of confidence” between police and LGBTI NGOs continued working to improve communication between police and the community. The government also formed the National Focal Point Network composed of representatives from local municipalities to promote LGBTI rights at the local level.

During the year the national team formed by the Ministry of Human and Minority Rights to monitor implementation of the *National Strategy for the Improvement of the Quality of Life of LGBTI Persons in Montenegro 2019-2023* worked to increase the capacity of institutions involved in the protection of individuals against discrimination, particularly in the judicial system. The NGOs Juventas and Queer of Montenegro reported they cooperated with the team to help local authorities create and approve local action plans to fight homophobia and transphobia and improve the quality of life for LGBTI persons. During the year four municipalities (Podgorica, Kolasin, Bijelo Polje, and Kotor) adopted local action plans.

The government did not provide funds for operating the LGBTI shelter in the coming year, although the *National Strategy for the Improvement of the Quality of Life of LGBTI Persons in Montenegro 2019-2023* anticipated that the shelter would be fully funded for the duration of the strategy.

HIV and AIDS Social Stigma

The NGOs Juventas and the Montenegrin HIV Foundation stated persons with HIV/AIDS were stigmatized and experienced discrimination, although most discrimination was undocumented. Observers believed fear of discrimination, societal taboos relating to sex, and the lack of privacy of medical records discouraged many persons from seeking testing for HIV. NGOs reported patients often faced discrimination by medical personnel and received inadequate treatment. Due to the COVID-19 pandemic, people had difficulty or were unable

MONTENEGRO

to access HIV testing, and medical personnel failed to provide adequate treatment.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the rights of workers, including members of the armed forces, to form and join independent trade unions, bargain collectively, and conduct legal strikes. To represent workers in collective bargaining at the enterprise level, a union must count at least 20 percent of the workforce in the enterprise as members. To act as a worker representative in a sector, group, or branch of industry, a trade union must include at least 15 percent of the total workforce in that sector, group, or branch. The law prohibits discrimination against union members or those seeking to organize a union and requires the reinstatement of workers dismissed for union activity.

During the year a new labor law took effect that is intended to strengthen the protection of employees' rights, increase flexibility in the labor market, and suppress the informal economy through a number of new measures. The new law creates an obligation for employers to consult with a labor union (or employee representatives) and notify the Employment Agency about the consultations in cases of a collective layoff (i.e., dismissal of at least 20 employees over a 90-day period); creates an obligation for all employment agreements to contain a reference to bargaining agreements being applied with the employer; and requires that all employer bargaining agreements must be registered with the Ministry of Labor and Social Welfare.

The government generally enforced the law. Penalties for violations were commensurate with those under other laws related to denials of civil rights.

While the government generally respected freedom of association, employers often intimidated workers engaged in union activity. According to the Union of Free Trade Unions, workers in the trade sector were intimidated when establishing their union, and they belonged to the category of workers whose rights were the most

MONTENEGRO

endangered.

Workers exercised their right to join unions and engage in collective bargaining, although not always without employer interference.

Although allowed by law, collective bargaining remained rare. The government continued to be party to collective negotiations at the national level. Only the union with the largest registered membership at any given level was entitled to bargain, negotiate settlements of collective labor disputes, and participate in other government bodies.

The right to strike is restricted for public servants whose absence from work would jeopardize public interests, national security, the safety of persons and property, or the functioning of the government. International observers noted that the range of professions in which strikes are proscribed exceeds international standards. Employers may unilaterally establish minimum service requirements if negotiations with trade unions fail to lead to an agreement.

Management and local authorities often blocked attempts to organize strikes by declaring them illegal, citing lack of legally required advance notice, which ranges from two to 10 days, depending on circumstances. There were reports from employees in both the private and public sectors that employers threatened or otherwise intimidated workers who engaged in union organizing or in other legal union activities. In some cases private employers reduced workers' salaries or dismissed them because of their union activities.

Workers in privatized or bankrupt companies had outstanding claims for back pay and severance. In some cases workers were not able to collect on their claims, despite valid court decisions in their favor. Several local governments failed to pay their staff for months at a time. Unpaid wages, factory closures, and growing poverty led to some protests and labor strikes, including a strike of workers for a municipal company in Pljevlja and a transport company in Berane.

Trade unions claimed workers were largely unaware of their rights and afraid of

MONTENEGRO

retaliation if they initiated complaints.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, and authorities made efforts to investigate or identify victims of forced labor in the formal economy. Penalties under the law for offenses related to forced labor were commensurate with those for other serious crimes.

In January police operated the “Call Center” action and reported that 93 Taiwanese persons were found and arrested in three locations in Podgorica. The investigation showed that 37 persons, of whom 25 were men and 12 were women, were victims of forced labor and received the status of trafficking in persons victims. The status of an additional 40 persons involved in the case was still unknown. The traffickers restricted the movement of their victims and used force and threats to commit fraud through the internet against persons from Asian-language areas. Montenegrin police in cooperation with Taiwanese police returned the victims and perpetrators to their country of origin, where prosecutions were ongoing.

There were reports of Romani girls forced into domestic servitude and of children forced to beg, mostly by their families (see section 7.c.). Migrants from neighboring countries were vulnerable to forced labor during the summer tourist season, although to a lesser extent during the year due to the COVID-19 pandemic. There were no reports of prosecutions or convictions.

Also see the State Department’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the worst forms of child labor. The official minimum age for employment is 15. Children younger than 18 may not engage in jobs that require difficult physical labor; overtime; work at night, underground or underwater work; or work that “may have a harmful effect or involve increased risk to their health and lives,” although the law allows employees between the ages of 15 and 18 to work at night in certain circumstances. The government generally enforced these

MONTENEGRO

restrictions in the formal, but not the informal, economy.

Penalties for violations were commensurate with those for other serious crimes. The Labor Inspectorate investigated compliance with the child labor law only as part of a general labor inspection regime. The Labor Inspectorate reported that few cases of child labor were identified in informal workplaces. In these cases, the Labor Inspectorate imposed fines and inspectors ordered employers to acquire necessary documentation to meet the legal requirements permitting child labor. The government did not collect data specifically on child labor.

Many parents and relatives forced Romani, Ashkali, and Balkan-Egyptian children to work at an early age to contribute to their family's income. They engaged in begging at busy intersections, on street corners, door to door, and in restaurants and cafes or in sifting through trashcans. While many working children were from the country, a large percentage of those between the ages of seven and 16 were from nearby countries, mainly Kosovo and Serbia. Police generally returned the children they apprehended to their families.

In villages, children usually worked in family businesses and agriculture. Romani, Ashkali, and Balkan-Egyptian children worked chiefly during the summer, typically washing car windows, loading trucks, collecting items such as scrap metal, selling old newspapers or car accessories, or working alongside their parents as day laborers. Many internally displaced Romani, Ashkali, and Balkan-Egyptian children were forced to engage in begging or manual labor. Police asserted that begging was a family practice rather than an organized, large-scale activity, but this claim was disputed by several NGOs. Begging was readily observable, particularly in Podgorica and the coastal areas during the summer. During a March operation dubbed "Beggar," police identified children forced to beg and prosecuted their parents, who faced misdemeanor charges. The children were returned to their families.

Despite operation "Beggar," police seldom pressed charges against the adult perpetrators. Authorities placed victims of forced child labor who did not have guardians in the children's correctional facility in Ljubovic. After leaving the facility, most children returned to forced begging. Romani NGOs tried to raise awareness of the problem and suggested the government did not provide sufficient

MONTENEGRO

resources to rehabilitate children begging and living on the street.

Children were subjected to commercial sexual exploitation (see section 6, Children, and section 7.b.). In 2019 the supreme state prosecutor indicted one individual for trafficking four children for the purpose of labor exploitation. The case remained pending.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination based on race, color, sex, religion, political opinion or other affiliation, national origin, citizenship, disability, sexual orientation, gender identity, age, language, pregnancy, marital status, social status or origin, membership in political and trade union organizations, or health conditions, including HIV-positive status and other communicable diseases. The government did not enforce antidiscrimination laws and regulations effectively, and there were instances of discrimination on these bases. Penalties for violations were not commensurate with those for other crimes related to denials of civil rights.

Persons with disabilities faced significant discrimination in employment despite affirmative action programs that provided significant financial incentives to employers to hire persons with disabilities. Although the state employment agency did not track the employment rate of persons with disabilities, it reported that 25.6 percent of unemployed persons were persons with disabilities. In addition, the NGO the Association of Youth with Disabilities reported that approximately 3,021 persons with disabilities were employed in the country. Advocates noted there were too few training programs for persons with disabilities to contribute significantly to their economic integration. Neither governmental entities nor private employers hired many persons with disabilities. NGOs reported employers often chose to pay fines rather than employ a person with a disability.

In late July, parliament passed a number of amendments to the Law on Pension and Disability Insurance, one of which changed the previous mandatory retirement age

MONTENEGRO

for both men and women from 67 to 66 for men and 64 for women, prompting outcries of gender-based discrimination. The amendments arose from the government's consultation and public debate with the Union of Free Trade Unions, which asked for the right to earn a pension at the age of 65 for men and 62 for women, with the possibility to continue working until the age of 67 for all workers. In September the Association of Judges in Montenegro submitted an initiative to the Constitutional Court challenging the amendments, claiming that they violated the constitution and international treaties, which prescribe equality between women and men. More specifically, the Association claimed that if the amendments were implemented, a large number of judges would need to retire in the next year, including Supreme Court president Vesna Medenica, who would need to retire in the summer of 2021. In November the Constitutional Court agreed to begin proceedings on the initiative; a decision on the initiative was not expected until 2021.

Women were also, at times, subject to discrimination based on their marital status, pregnancy, or physical appearance. Employers did not respect all their legal obligations to pregnant women and sometimes reduced their responsibilities or fired them after they returned from maternity leave. A disproportionate share of women held jobs with lower levels of responsibility than men. Employers promoted women less frequently than men. Some job announcements for women explicitly included discriminatory employment criteria, such as age and physical appearance. Employers at times violated women's entitlement to a 40-hour workweek, overtime, paid leave, and maternity leave. Societal expectations regarding women's obligations to the family reduced their opportunities to obtain jobs and advance in the workplace. Nevertheless, an increasing number of women served in professional fields, such as law, science, and medicine. Women accounted for less than 9 percent of personnel in the armed forces and National Police Force.

According to the Union of Free Trade Unions, gender-based violence, harassment, and discrimination existed in the workplace, but most victims were discouraged from reporting incidents due to several systemic issues. Very few employed women recognized certain behaviors as gender-based violence and harassment, and often it was very difficult for them to assess whether there was gender

MONTENEGRO

discrimination. Even when instances of gender-based violence, harassment, and discrimination were clear, many victims were reluctant to report the violations due to few examples of successful prosecutions and fear of reprisal.

In 2019 the NGO Women's Right Center published a study in which 34 percent of survey respondents said they had experienced at least one form of sexual harassment at work. Every tenth respondent said that a colleague or superior proposed to have sex with them, and 6 percent said they faced such sexual advances more than once. In addition, 5 percent of the respondents said that they had been forced to have sexual intercourse with their colleague or supervisor. In 71 percent of cases, the respondents stated that the person perpetrating the sexual harassment was in a higher position than they. Approximately half of the respondents who had experienced sexual harassment at work said they told someone about the incidents, while the other half said they did not tell anyone due to shame or fear of losing their jobs.

The law does not mandate equal pay for work of equal value. Women were not permitted to work in the same industries as men, as the government designated some jobs too dangerous to have women working in them, and women were not allowed to work the same night hours as men. Women also faced discrimination in access to pension benefits, as the legal age at which men and women could retire and access both full and partial pension benefits were not equal.

As part of COVID-19 health measures, the government decided to close kindergartens and schools, and parents of children under the age of 11 were entitled to take paid leave. In practice, however, private employers did not respect these measures and recipients were required to trade days off for holidays if seeking paid time off. Trade unions and NGOs reported that although the government partly subsidized one payment, employees were not receiving the full amount. Employees, especially women, often did not report such violations due to the risk of losing their jobs.

Bosniaks, who accounted for 9 percent of the country's population, traditionally constituted 6 percent of the government workforce. Roma, displaced persons, refugees, and migrant workers faced employment discrimination. Migrant workers usually came from Serbia, Bosnia and Herzegovina, North Macedonia, or Albania

MONTENEGRO

to work on construction sites and in agriculture. There were also instances of discrimination against unregistered domestic and foreign workers.

In July the Basic Court in Podgorica ruled that between 2009 and 2019, the Ministry of Defense committed severe forms of prolonged and repeated discrimination against the Trade Union of Defense and the Army of Montenegro. The court forbade any further discriminatory actions against the union. In the explanation of the sentence, the judge indicated that the ministry and general headquarters of the army systematically discriminated against the president of the union and its members for performing work activities related to the union. In 2018 the ombudsman issued an opinion recommending that the discriminator take adequate measures to eliminate uneven treatment within 30 days.

e. Acceptable Conditions of Work

According to the National Statistics Office, the national monthly minimum wage, was slightly above the government's absolute poverty line. Significant portions of the workforce, particularly in rural areas and in the informal sector, earned less than the minimum wage.

The law limits overtime to 10 hours per week, and total work time cannot exceed 48 work hours per week on average within a four-month period, but seasonal workers often worked much longer. During the year new labor laws came into effect that provide new protections for employees with regard to required overtime, night work, and the duration of fixed-term employment contracts.

The government did not effectively enforce minimum wage and overtime laws, although penalties for violations were commensurate with those for other similar crimes.

Many workers, particularly women employed in the commercial, catering, and service industries, worked unpaid overtime, and employers sometimes forced them to work on religious holidays without additional compensation or to forgo their rights to weekly and annual leave. Employers sometimes failed to pay the minimum wage, other employee benefits, or mandatory contributions to pension funds. Employees often did not report such violations due to fear of retaliation.

MONTENEGRO

The practice of only formally paying a worker the minimum wage, thus being responsible for lower mandatory contributions, and giving the employee cash payments as a supplement was common. Also common was the practice of signing short-term work contracts or having lengthy “trial” periods for workers instead of signing them to permanent contracts as prescribed by law.

Administrative and judicial procedures were subject to lengthy delays and appeals, sometimes taking years. This led to an increase in the number of persons seeking recourse through alternative dispute resolution. Most disputes reviewed by the Agency for Peaceful Resolution of Labor Disputes involved accusations of government institutions violating laws on overtime, night work, holidays, social insurance contribution requirements, or other administrative regulations.

The government set occupational health and safety standards that were current and appropriate for the main industries. Regulations require employers and supervisors to supply and enforce the use of safety equipment, conduct risk assessment analysis, and report any workplace deaths or serious injuries within 24 hours.

The Labor Inspectorate is responsible for enforcing wage, hour, and occupational health and safety laws. The number of labor inspectors was sufficient to enforce compliance in the formal economy. Resources, remediation efforts, and investigations were not adequate to successfully identify, enforce, or prevent violations in the informal economy. The Union of Free Trade Unions reported that approximately 40,000 persons were employed in the informal economy. Penalties for violations of occupational health and safety standards were generally commensurate with those for other similar crimes in the formal sector. Labor inspectors have the legal authority to close an establishment until it corrects violations or to fine owners who commit repeated violations, although they rarely exercised this right in practice. Labor inspectors have the authority to make unannounced inspections.

Employment in the construction, energy, wood-processing, transportation, and heavy industries presented the highest risk of injury. During the first eight months of the year, the Labor Inspectorate registered 13 worker injuries, of which nine

MONTENEGRO

were serious injuries and four resulted in death.

The most frequent reasons cited for unsafe working conditions were the lenient fines for violations of safety rules, failure to use safety equipment, lack of work-related information and training, inadequate medical care for workers, and old or inadequately maintained equipment.