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## 2010 Human Rights Reports: Montenegro

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

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Montenegro is a mixed parliamentary and presidential republic with a population of 670,000. Both the parliament and the president are elected by popular vote. The president nominates the prime minister, who must win parliamentary approval. International observers reported that parliamentary elections held in March 2009 met almost all international standards but were marked by frequent allegations of electoral fraud and a blurring of state and party structures.

Principal human rights problems included police mistreatment of suspects in detention; substandard prison conditions; police impunity; lengthy pretrial detention; inefficient trials; intimidation of journalists; mistreatment of refugees; widespread reports of government corruption; denial of public access to information; discrimination against women; trafficking in persons; discrimination against persons with disabilities; discrimination against ethnic minorities, particularly Roma; intolerance based on sexual identity; and infringement on the rights of workers.

#### **RESPECT FOR HUMAN RIGHTS**

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

a. Arbitrary or Unlawful Deprivation of Life

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

On June 29, the High Court convicted police officer Rade Popovic of the June 2009 killing of Danijel Dedejic and sentenced him to six years in prison. The officer, who was off duty at the time, punched the victim in the face, and the victim died six days later.

During the year authorities continued to pursue several cases involving charges of war crimes committed during 1991-99. The trial of eight officers and soldiers of the Podgorica Corps of the former Federal Republic Yugoslav Army, who were accused of the 1999 killing of 23 Albanian civilians in Kaludjerski Laz near Rozaje, continued at year's end. One defendant

was being tried in absentia; the others remained in detention. The families of two of the alleged victims filed civil suits claiming compensation of 15,000 euros (\$19,950) and 20,000 euros (\$26,600), respectively, for mental anguish.

On April 22, the special prosecutor for the suppression of organized crime, corruption, terrorism, and war crimes, detained seven former military and police personnel and charged them with war crimes against Muslims in 1992-93 in the Bukovica region. The trial began on June 28. On December 31, the Bijelo Polje Superior Court acquitted the accused for lack of evidence.

Some nongovernmental organizations (NGOs), media, and opposition figures alleged that authorities manipulated the processing of the war crimes cases ahead of the May local elections. Twenty families whose members were victims of the alleged crimes filed civil suits with the Podgorica Basic Court. The court decided the civil case of Saban and Arifa Rizvanovic and ordered the government to pay each 10,000 euros (\$13,300) for physical and mental anguish. The Belgrade Fund for Humanitarian Law, the Rizvanovic court representative, voiced dissatisfaction with the level of compensation.

The trial continued of nine defendants charged with the deportation to Bosnia and Herzegovina of Muslims and Serbs who fled to Montenegro from Bosnia in 1992. The deported Bosnians were reportedly killed by Republika Srpska forces, and the deported Serbs, mostly deserters from the Republika Srpska army, were turned over to that army. While four defendants remained in custody; another four were arrested in Belgrade on October 29, in accordance with the new bilateral extradition agreement between Serbia and Montenegro. One defendant (Dusko Bakrac) remained at large. On November 23, unknown persons vandalized the vehicle of Slobodan Pejovic, a former colleague of those being charged, who testified in the case on October 20. This was the fifth incident involving vandalism against Pejovic. The perpetrators were never found, although police have maintained surveillance over the building in which Pejovic lived with his family. Pejovic told media that these instances of vandalism represented a continuation of pressure on him and an attempt to destabilize him as a person because of his testimony. Several hours after his car was demolished, his daughter was fired from the Ministry of Tourism. The ministry stated that she was fired not for political reasons but because she had completed her internship. Pejovic claimed that the secret service was behind the measures against him. Referring to the statements by some witnesses heard during the trial, the Association of Families of Deported Bosnian Citizens announced that they would file legal charges accusing Pejovic for being an accomplice in the crime.

On December 6, the Court of Appeals revoked a May decision of the Podgorica Superior Court that found six former Yugoslav People's Army soldiers and reservists guilty of war crimes in 1991 and 1992 in the Morinj prisoner of war camp and sentenced them to prison terms ranging from one and one-half to four years. The Court of Appeals ordered the Superior Court to repeat the trial. The five accused who had been apprehended were released, while one, convicted in absentia, remained at large at year's end.

In July authorities undertook a search for a suspected mass grave containing the bodies of Kosovo Albanians killed on the territory of Montenegro during the 1990s; no evidence of the graves was found.

On February 17, authorities extradited Stanko Kovacevic to Croatia. They arrested him in November 2009, based on a 2001 Interpol arrest warrant issued in Zagreb alleging that he committed war crimes in Croatia during the 1990s.

On March 24, police arrested Nikola Munjes, a refugee from Benkovac, Croatia, on a Croatian war crimes warrant. They held him in detention after his arrest, pending possible extradition.

On August 24, authorities extradited Marin Krivosic to Croatia where he was wanted for war crimes allegedly committed in 1991. On December 28, in Pljevlja, police arrested Milojko Nikolic, a member of the former Serbian paramilitary group "Jackals," who was suspected of involvement in war crimes against Albanian civilians during the war in Kosovo. The

recent agreement on extradition between Montenegro and Serbia would require authorities to extradite him to Serbia, where former "Jackals" were on trial on the charge that in 1999, in the village Cuska, in Kosovo, they killed 44 Albanian civilians and destroyed or set fire to more than 40 houses.

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b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution and law prohibit such practices; however, police at times beat and harassed suspects while arresting them or detaining them for questioning.

In June the NGO Youth Initiative for Human Rights (YIHR) asserted that the number of cases of police misconduct decreased during the first six months of the year. However, the NGO also noted that citizens reporting misdeeds of police officers faced difficulties: investigations of such cases were slow, evidence was difficult to obtain, and officers often remained on duty while they were being investigated.

In a report on its 2008 mission to the country that was released in March, the Council of Europe's Committee for the Prevention of Torture (CPT) noted that the CPT mission members heard many accusations of police mistreatment of persons in their custody, primarily in the first hours of detention in an effort to extract confessions. Both men and women complained of "slaps, punches, and kicks and blows with truncheons, gun butts, or other hard objects." The report stated that in several instances, the delegation noted evidence consistent with the charges in the medical documentation at prison establishments. Authorities responded by describing a number of measures they have taken to discourage such practices.

During the year the Department for Internal Control of Police Operations received 95 complaints concerning police conduct, compared with 112 during 2009. The department found 14 cases justified and 81 unjustified. Police stated that they took disciplinary actions in response to those complaints they considered justified.

Although there is a legally mandated agency, the Council for Civilian Control of Police Operations, to which citizens could address complaints of abuse, it is only empowered to make recommendations. Since its establishment in 2004, the council has reviewed and forwarded approximately 400 citizen complaints. In some cases, police failed to respond to these recommendations. The council publicly invited police officers to inform the Police Directorate and prosecutors about possible police mistreatment of citizens and other irregularities.

Aleksandar Zekovic, a member of the council, accused the Police Directorate of failing to punish adequately some officers found to have abused their office. The police rejected those claims as unfounded. A group of NGOs protested against the Parliament's failure to confirm the renomination procedure of the NGO representative in that body (Mr. Zekovic), while it endorsed the nominations of other four members.

Observers noted that during the year, police filed fewer countercharges against individuals who reported police abuse than in the past. It was widely believed that the practice of filing such charges contributed to the reported reluctance of citizens to report police mistreatment.

Delays in processing some allegations of police abuse at times led to their dismissal by the courts because they had not been filed in a timely manner. For example, in September 2009 the Basic Court in Podgorica cited this reason when it shelved the indictments of police officers Darko Delic, Darko Knezevic, Dragan Krstovic, Velimir Rajkovic, and Slavko Minic, who had been accused of mistreating Milovan Jovanovic.

During the year there were a number of incidents in which authorities were charged with, or convicted of, mistreating persons in their custody. For example, authorities in Herceg Novi charged police officer Bozidar Jaukovic with mistreating Milos Konjevic after Jaukovic arrived on the scene of an altercation on July 21. Konjevic claimed to have been severely beaten by Jaukovic.

The High Court in Bijelo Polje opened an investigation against police officer Dejan Radevic. Radevic was being investigated for excessive use of force while arresting Asmir Dacic on December 13 in Rozaje.

No new information was available regarding the May 2009 case of police officer Kenan Osmankadic, who wounded mental patient Batric Knezevic while escorting him to the mental hospital in Kotor. Authorities acknowledged that Osmankadic made some professional mistakes and pressed charges against him.

In August the Danilovgrad Basic Court sentenced police officer Dragan Djukic to three months in prison for the 2008 mistreatment of Prelja Djokic in the Konik district police station in Podgorica.

On June 11, the Podgorica Basic Court sentenced police officers Milan Kljajevic and Milanko Lekovic to five months in prison and Ivica Paunovic to three months for complicity in the mistreatment of Aleksandar Pejanovic while he was in custody in 2008. The court acquitted three other police officers: Bojan Radunovic, Dobrivoje Djuriscic, and Goran Stankovic. The convicted police officers appealed. In response to statements made by Stankovic, the prosecutor's office started and then stopped a new trial of Kljajevic, Lekovic, Paunovic, Radunovic, and Djuriscic. Aleksandar Pejanovic then filed a legal case against Radunovic and Djuriscic. In December 2009, during the trial, Stankovic alleged that several of his colleagues, mostly supervising and higher ranking officers, committed a series of offenses related to ordering, enabling, and covering up the torture of Pejanovic, including forging official records.

A trial was underway in the Basic Court of Bar in a case involving earlier alleged police misconduct, including five Bar police officers (Nesko Jaredic, Veselin Buskovic, Rifat Ramusovic, Ivica Raicevic, and Jagos Pivljanin) charged with beating Predrag Djukic and Ivan Abramovic in a police station in 2007. There were no reported developments in the case of two former police officers charged with abuse of power, extortion, and mistreatment of a flower vendor in Herceg Novi.

During the year the Berane Basic Court charged police officers Ivan Bojovic, Nebojsa Veljic, and Zeljko Devic with abusing four Kosovo Albanians detained in 2007. The trial was pending with the court at year's end.

On June 10, the Basic Court in Bar sentenced police officer Mirko Banovic to three months in prison and issued suspended sentences to Vuksan Damjanovic, Jugoslav Raicevic, and Nenad Krstajic for the 2005 beating of Milika Bukilic in Bar.

No new information was available concerning the investigation of former Podgorica police chief Milan Vujanovic, who reportedly ordered the beating of prisoners during a raid on Spuz Prison in 2005. In their report for the second quarter, the domestic NGO YIHR reported that the number of cases in which police and other security officers were involved in torture was lower than in the previous period, but the number of cases of politically motivated violence was at a "level to cause concern."

On June 25, a group of young men attacked the teenage son of the opposition Movement for Change party leader Nebojsa Medojevic, inflicting minor injuries. Three men were arrested. The attack followed a physical assault on Medojevic himself outside his home earlier in the year, shortly after he had given a high-profile interview during which he publicly named a suspected criminal figure. Medojevic asserted the attack was politically motivated. The Police Directorate strongly denied the claim; however, the Council for Civilian Control of Police Operations concluded that police exceeded their authority by expressing a view about the lack of political motivation for the incident.

### Prison and Detention Center Conditions

Prisons and facilities for holding pretrial detainees did not meet international standards and were generally dilapidated, overcrowded, and poorly maintained, although there were some improvements over previous years.

In the report of its 2008 visit, released in March, the CPT was especially critical of conditions in pretrial detention centers. In particular, it noted an "alarming" level of overcrowding in the remand prison in Podgorica; at the time of the CPT visit, 512 prisoners were in a facility whose official capacity was 320. According to the report, in many cells prisoners had only mattresses or blankets on the floor on which to sleep. Prisoners ate their meals in their cells, but there were not enough places for all of them to sit. There was little opportunity for exercise.

The press reported that inmates in Spuz and Bijelo Polje prisons went on hunger strikes several times during the year after claims of beatings, overcrowding, poor medical conditions, and bans on extraordinary visits. Prison administrators categorically denied those accusations.

YIHR claimed that the ombudsman did not receive all letters sent by inmates, many requests for access to free information remained unanswered, food and water in prison were of poor quality, and prison management banned many furloughs normally granted to prisoners.

In contrast with the previous year, there were no fatalities or attempts to commit suicide or self-inflicted injuries by prisoners or detainees. During the year there were five hunger strikes against lengthy criminal proceedings, severe punishment, and refusals to grant pardons. Disciplinary procedures were initiated against four prison staff.

In October the total prison population was 1,438 persons, of whom 780 were convicts and 658 were detainees. The maximum national prison capacity is 1,130 inmates. Approximately 1,000 convicted persons were waiting to serve their prison sentence. To reduce overcrowding, the Assembly approved an amnesty law on July 27.

In contrast with previous years, there were no reports of juveniles held in the same cells with adult prisoners.

Although the Spuz Prison hospital contains a department for treating alcoholics and drug addicts, it was overcrowded, and such prisoners, along with mentally ill prisoners, were often treated in the Kotor psychiatric hospital, which lacks facilities and personnel to house mentally ill patients together with dangerous convicts.

There were a number of cases in which prison officials were accused of, charged with, or convicted of, mistreating inmates. The family of Zeljko Mrvaljevic called on authorities to punish the officials who, they alleged, ordered his beating in prison on January 16. Prison personnel were alleged to have beaten Mrvaljevic in the belief that he smuggled 11 mobile telephones into Spuz Prison. After the beating, officials transferred Mrvaljevic to Bijelo Polje Prison in order, his parents alleged, to distance themselves from his injuries.

On February 12, the State Prosecutor's Office rejected as unfounded civil cases against Spuz Prison wardens filed by the families of inmates Dalibor Nikezic and Igor Milic, who claimed that in October 2009 wardens severely beat them. Earlier, after analyzing security camera footage and documents related to the reported attacks, ombudsman Sucko Bakovic declared that there had been no reason for the use of force in the case, especially not to the extent shown in the video. The footage in question was posted online and shows uniformed staff hitting prisoners who were being held down on the floor by prison guards. Following the ombudsman's intervention, prison officials initiated disciplinary proceedings against three wardens. However, the chief state prosecutor, the Ministry of Justice, and prison management concluded that the inmates were "resisting," and that the guards Igor Markovic and Radovan Todorovic did not overstep their authority. Some NGOs believed that the prosecutor's office should have investigated the case or provided an explanation for not doing so and more generally they criticized the prosecutor's office and prison authorities for their apparent unwillingness to confront

prison torture. On November 2, the prison director informed the media that four wardens were demoted and the prison management removed in connection with this incident.

There were no new developments in the case of two female prison guards accused of beating and injuring detainee Vladana Kljajic in 2008 in the women's detention unit in Spuz Prison. Prison authorities claimed that Kljajic broke prison rules and was appropriately disciplined but not beaten. Prison authorities filed charges against Kljajic for assaulting an official, while Kljajic's mother filed charges against the prison wardens.

On October 5, the Podgorica High Court imposed sentences of two and a half to six years on four persons for distributing heroin inside Spuz Prison to inmate Alen Harovic, who was found dead in his cell in October 2009.

On March 17, the Basic Court in Danilovgrad determined that authorities overseeing Spuz Prison were responsible for the 2007 death of prisoner Dragan Kastratovic by electric shock and ordered the prison to pay financial compensation to his family.

Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted visitors and detainees to submit complaints to judicial authorities and ombudsman without censorship and to request that authorities investigate credible allegations of inhumane conditions. There was a special complaints box in Spuz Prison in which the inmates could file grievances directly with the ombudsman. However, several families of imprisoned or detained persons claimed that serious violations of those rights occurred. Authorities investigated credible allegations of inhumane conditions, but some investigations took place only after media campaigns or the ombudsman's recommendation. NGOs and human rights activists often criticized the results of those investigations. The Ministry of Justice, responsible for operating the national prisons, monitored prison and detention conditions.

The government permitted monitoring visits by independent human rights observers, and they occurred during the year, including visits undertaken on short notice. Human rights observers, including the International Committee of the Red Cross (ICRC) and domestic NGOs, were allowed to visit prisons and detention units and to speak with the prisoners without the presence of a guard. The ICRC and the Helsinki Committee of Montenegro made several visits during the year. Their visits took place in accordance with the ICRC's standard modalities. Representatives of the Office of the Human Rights Ombudsman routinely visited prisons without prior notice, meeting with detainees and inmates.

The ombudsman may consider cases involving violations of human rights and freedoms committed by government authorities, whether by their actions or their inaction, and can undertake activities to remedy such violations. The ombudsman can also deal with general issues that are important for the protection and promotion of human rights and freedoms and can cooperate with appropriate organizations and institutions dealing with human rights and freedoms. However, the ombudsman may act upon complaints about ongoing judicial proceedings only in cases of delay, if an obvious abuse of procedural powers occurred, or if court decisions have not been executed. The ombudsman may, without prior notification, undertake an inspection of all spaces in prisons and other premises in which individuals deprived of their liberty are held. The ombudsman may provide an opinion on the protection and promotion of human rights and freedoms, upon the request of the authorities deciding on such rights.

The law permits inmates to serve their sentences through voluntary service in a state institution or agency, but this alternative, which observers noted could reduce overcrowding, was used only in a few cases.

Authorities continued to make improvements in the prison system. New spaces were built in prisons in Spuz (8,300 square feet) and Bijelo Polje (2,150 square feet). A new unit for prisoners serving shorter sentences was established in Spuz. Repairs were made on the electric and water supplies and sewage facilities in both prisons and existing facilities were renovated. The CPT's March report acknowledged a number of improvements made in the years before its 2008 visit.

To improve the general qualifications of prison staff, on March 11, Spuz Prison and the Police Academy signed a memorandum of understanding on the training and education of prison staff. During the year approximately 82 percent of prison staff had at least a secondary education. The memorandum described the planning, organization, and administration of a two-year program for training guards and other employees working within the prison.

In its 2008 report, which was released in March, the CPT pointed out many shortcomings in prison and detention centers. In their response, also released in March, the authorities, who had been aware of the CPT's concerns since its 2008 visit, described measures undertaken to correct some of the abuses it observed. The response described measures authorities had taken to improve the hygienic and technical conditions (potable water, daily light, ventilation, wooden beds, and separate bathrooms) in police detention centers. They reported they had acquired and installed video surveillance equipment in a number of police facilities. Authorities reported that they had developed information forms in Montenegrin and other languages informing detainees of the reasons for their detention, their right not to make a statement, to have a defense attorney, and to inform someone close to them about their detention. Authorities reported to the CPT that they had introduced a hotline for complaints about police behavior; they had taken organizational measures to improve the timely provision of meals for detainees; and a police code of ethics was adopted. The government response described other concrete measures they had taken to reduce the mistreatment of prisoners, improve detainees' contacts with the outside world, improve their medical treatment, and improve conditions in the Komanski Most Children and Youth Center and the Ljubovic Children's Correction Center. No independent reports were available to confirm or evaluate these improvements.

Authorities completed a project to equip detention units in all police stations with video surveillance equipment in an effort to reduce police abuse. The main prison in Spuz opened a new extradition pavilion that, on November 1, had seven detainees, and a new pavilion to house 144 minors, women, foreigners, and inmates serving sentences of less than six months. The government renovated existing facilities and installed a permanent water supply to the prison; however, adequate facilities for treating mentally ill prisoners or those with special needs were lacking.

#### d. Arbitrary Arrest or Detention

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

#### Role of the Police and Security Apparatus

The national and border police were responsible for law and order. They worked under the supervision of the Ministry of Interior and Public Administration and were generally effective. In 2009 internal control responsibility was moved from the Police Directorate to the Ministry of Interior and Public Administration in an effort to improve control of the police force. The Agency for National Security, a separate entity within the Ministry of Interior and Public Administration, has responsibility for intelligence and counterintelligence. The Ministry of Defense is responsible for military and security matters. There is a military security department within the Ministry of Defense.

The Assembly's Committee for Defense and Security held regular meetings with the directors of the national police and the Agency for National Security as well as the minister of defense. The Assembly is responsible for overseeing the democratic and civilian control of the army, police and security services in accordance with the Law on Parliamentary Oversight of the Security Services adopted on December 22. Pursuant to the amendments to the Law on Secrecy of Information, Assembly members sitting on the Committee for Defense and Security had access to classified documents without prior approval or security clearances.

A report by the European Commission indicated that there was "some progress" in policing and police reform over the 12 months that ended in August and that a "track record" was being established in this regard. The commission reported that

disciplinary measures were imposed on 124 police officers in this period, while from February to July, criminal charges were brought against 27.

#### Arrest Procedures and Treatment While in Detention

Arrests require a judicial warrant or a "strong suspicion that the suspect committed an offense." Police generally made arrests with warrants based on sufficient evidence. The law provides that police must inform arrested persons immediately of their rights, and authorities respected this right in practice. The police have a maximum of 24 hours to inform the family, common law partner, or a social institution of an arrest. Authorities may detain suspects for up to 48 hours before bringing them before a judge and charging them. At arraignment the judge makes an initial determination about the legality of the detention. In practice, arraignment generally occurred within the prescribed period. The law permits a detainee to have an attorney present during police and court proceedings. Detainees generally had prompt access to family members. There is a system of bail; however, it was not widely used because citizens could rarely raise money for bail. The law sets the initial length of pretrial detention at 30 days but provides for the possibility of an extension to five more months and allows a defendant to be detained for up to three years before a first-instance verdict is issued.

Police continued to summon suspects and witnesses to police stations for "informative talks," usually without holding them for extended periods. In principle those who have been summoned have the right not to respond.

The law forbids use of force, threats, and coercion by police to obtain evidence; however, during the year there were a few allegations that police sometimes used those methods to obtain evidence. NGOs and human rights observers noted that the incidence of such practices had greatly declined in the previous two years.

Long trial delays frequently led to lengthy pretrial detention. The law prohibits excessive delays by authorities in filing formal charges against suspects and in opening investigations; however, such delays occurred regularly. The law on the right to trial within a reasonable time was not implemented effectively; almost all complaints about delays were rejected on procedural grounds. Trials themselves were subject to frequent interruptions. Pretrial detainees, on average, accounted for 50 percent of the prison population. The average length of pretrial detention was approximately six months and 10 days.

On August 26, those portions of a new Criminal Procedure Code relating to war crimes and organized crime and corruption entered into force. The Ministry of Justice had earlier stated that the judiciary was prepared to apply the entire code during the year; however, implementation of the remaining elements was postponed by one year.

#### Amnesty

On July 27, the Assembly adopted an amnesty law that allows for a 20 percent reduction of some prison sentences. The law applies to persons who were serving sentences as of the day the law came into force, to persons convicted by foreign courts but serving their sentences within the country, and to persons convicted of sentences up to three months who had not yet started to serve their sentences. The amnesty did not include persons convicted of human trafficking, war crimes, crimes against humanity, rape, and those pardoned in accordance with previous laws. According to the law, sentences of three months or less should be suspended.

#### e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary; however, some observers asserted that the judiciary was not always independent and that government officials at times influenced prosecutors for political and personal reasons. Some observers contended that the executive and legislative branches, through the process of proposing and adopting

the budget for the courts, could influence the independence of the judiciary, as well as through the legal framework, which leaves space for political influence. Many observers asserted that the system of appointing judicial and prosecutorial officials contained inadequate protection against the exertion of political influence on the judiciary and that the absence of a merit-based career system, together with the system of random allocation of cases, undermined its quality. A large backlog of cases, frequently primitive courtroom facilities, lack of sufficient administrative support for judges and prosecutors, shortage of skills, cumbersome procedures, and judicial corruption also remained problems.

Although many cases took years to resolve, courts continued to make progress in reducing the backlog of civil and criminal cases. They accomplished this by establishing deadlines for solving priority cases, using greater flexibility in reassigning judges from one court to other as needed, and equipping courtrooms with modern technology. However, many suggested that these measures may have had an adverse effect on quality. Priority was given to the cases involving corruption, organized crime, war crimes, drugs, illegal construction, money laundering, human trafficking, and family violence.

The Judicial Council is responsible for the election, discipline, and removal of judges. Since the existing Judicial Council was established in 2008, several judges have been fired, suspended, or sanctioned for unprofessional behavior. Beginning in June 2009, the Judicial Council prohibited judges from sitting on various government commissions due to the incompatibility of such service with their primary judicial function.

On December 28, President Filip Vujanovic nominated outgoing Minister of Justice Miras Radovic as to be a Constitutional Court judge. Parliament appointed Radovic judge a day later. Many questioned the government's intention to depoliticize the judiciary, given Radovic's former involvement in the government. Radovic, who served as a judge prior to his appointment as Justice Minister in the previous government, resigned as a member of the ruling Democratic Party of Socialists on December 29. He stressed that he would do his job without political influence. The Constitutional Court consists of seven judges appointed for nine-year terms. They in turn appoint one of their number as president of the court for a period of three years.

The anticorruption watchdog Network for Affirmation of the NGO Sector (MANS) claimed that Chief State Prosecutor Ranka Carapic violated conflict of interest laws by serving as president of the Prosecutor's Council. MANS called on the Assembly to remove her from that position. MANS accused Carapic of receiving significant financial compensation from her council position.

Generally accepted rules of international law are an integral part of the internal legal order and have supremacy over national legislation. The extradition agreements with neighboring Serbia and Croatia helped bring some suspects in the country and abroad to justice.

Authorities claimed that courts completed 75 percent of their cases in 2009, processing 14,038 more cases than the previous year. They stressed that this was accomplished despite the financial difficulties faced by the court. Financial problems were also cited as the reason for postponing the full implementation of the newly adopted criminal procedure code. Authorities justified courts' lenient penal policies (one-third of judgments resulted in prison sentences, approximately 10-15 percent in fines, and more than 50 percent in probationary sentences) by pointing to the problem of overcrowded prisons and the large number of convicts, all but the most serious offenders, at liberty, waiting to serve their prison sentences.

The implementation of civil and criminal court decisions frequently remained weak. A law on free legal aid is still pending. The salaries of judges and public prosecutors were improved.

On April 22, Judge Ljiljana Simonovic of the Kolasin Basic Court accused Vesna Medenica, president of the Supreme Court, of removing her from office for political reasons. Medenica told the press that Simonovic was dismissed for poor performance unrelated to any political influence.

On December 4, the Court of Appeals confirmed a June ruling of the Podgorica Superior Court that sentenced Vaselj Dedvukaj in absentia to six years and six months in prison. Dedvukaj was one of 17 persons convicted in 2008 of planning a rebellion in order to create by force an autonomous region for ethnic Albanians, contrary to the constitution.

On July 5, Arif Spahic, a former judge of Bijelo Polje Superior Court, was sentenced to seven years in prison on charges of corruption. On December 30, the Court of Appeals confirmed the decision of the Superior Court. Spahic was found guilty of taking bribes to reduce the sentence and ensure the release of a man convicted of causing a death in a car accident. Dzemal Ljuca, an employee of the municipality of Bijelo Polje, was sentenced to two years in prison for brokering the deal.

#### Trial Procedures

Criminal trials are generally public, but sessions may be closed during the testimony of state-protected witnesses. Juries are not used. Professional judges preside over trials. Lay judges assist them in determining verdicts but the judges generally determine the sentences. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner in pretrial and trial proceedings. Defendants have a right to an attorney; an attorney is generally provided at public expense when a defendant is destitute or following indictment on a charge carrying a possible sentence greater than 10 years in prison. Defendants and their attorneys have the right to access government held evidence relevant to their cases. Defendants enjoy a legal presumption of innocence. Courts may try defendants in absentia as long as they repeat the trials if the convicted individuals are later apprehended. Both the defense and the prosecution have the right of appeal. The government at times influenced the judiciary--for example, in some trials for slander or corruption involving prominent persons or senior officials--and such influence contributed to continued public distrust of the judiciary. However, defendants' rights were generally respected and extended to all citizens.

A two-year trial-monitoring project sponsored by the Organization for Security and Cooperation in Europe (OSCE), completed in June 2009, indicated that progress was made in prosecuting cases but noted problems with the duration of trials, their fairness, and the insufficient capacity of the judiciary. A report issued by the Council of Europe in September 2009 described the country's progress in reducing backlogs court cases as "impressive."

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Regional Human Rights Court Decisions

Once national remedies are exhausted, citizens may appeal violations of their human rights to the European Court of Human Rights (ECHR). At year's end, 700 cases involving the country were pending before the ECHR. Most related to property restitution, property rights, length of pretrial detention, media freedom, treatment of citizens by police, the right to a timely trial, and slander. Since 2004, ECHR rejected 250 appeals as inadmissible and has issued three rulings against the government for violations of the European Convention on Human Rights. Authorities immediately implemented the first ruling, handed down in April 2009. The other two, issued on September 21, became binding on December 21.

#### Civil Judicial Procedures and Remedies

The constitution and law provide for an independent judiciary in civil matters, and citizens had access to courts to bring lawsuits seeking damages for, or cessation of, human rights violations. Although parties have brought suits alleging

human rights violations and at times prevailed, there was high public distrust in the independence of the judiciary. The sensitivity of law enforcement and the judiciary when it comes to human rights remained insufficient. Legal aid is provided by the Bar Association and NGOs.

Citizens may appeal violations of their human rights to the Constitutional Court. However, this legal remedy as the supreme form of appeal before the domestic judiciary turned out to be practically unavailable to citizens.

In July 2009 an attorney filed a claim for 1.1 million euros (\$1.5 million) in damages covering eight cases involving 46 plaintiffs and one claim on May 26, for 40,000 euros (\$53,200) involving four plaintiffs related to the 1992 deportation of Muslims and Bosniaks to the Republika Srpska in Bosnia-Herzegovina, where they subsequently were killed or disappeared. These cases were in addition to earlier ones in which 196 plaintiffs were awarded 4.1 million euros (\$5.5 million). Two cases were completed in which the plaintiffs were awarded 370,000 euros (\$492,000), while other cases were pending at year's end.

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

The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice. The law requires the Agency for National Security (ANB) to obtain court authorization for wiretaps; however, some observers believed that authorities selectively used wiretapping and surveillance against opposition parties and other groups without court authorization. Many individuals and organizations operated on the assumption that they were, or could be, under surveillance.

There was no response during the year by the Constitutional Court to a complaint filed in 2008 by MANS challenging the laws and the memorandum of understanding between police and the telephone company M-Tel giving police direct access to the databases of mobile telephone service providers, without judicial oversight, for the purpose of monitoring potential criminal activity. M-Tel is one of the country's three mobile phone service providers. MANS asserted that this violated citizens' right to privacy. Police responded that all communications monitoring had to be approved by the competent prosecutor's office.

On July 26, 24 journalists, 10 representatives of opposition political parties (including four Assembly members), and seven employees of MANS filed requests with the ANB for access to any files being kept on them. On August 24, the ANB replied that they were not keeping any such files. During an October 6 session of the Assembly's Committee for Defense and Security, the ANB informed parliamentarians that it was not conducting surveillance of opposition politicians, NGO representatives, or journalists.

During the first nine months of the year, four citizens requested permission to inspect secret files kept by security services between the years 1945 to 1989. Two requests related to the persons directly, while two requests related to third persons. The ANB responded that there was no information concerning any of those persons.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press; however, there were some restrictions of freedom of the press in practice.

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

The print media included private newspapers and a state-owned newspaper with a national circulation. The independent media were active and generally expressed a wide variety of political and social views without government restriction. The government did not restrict the distribution of foreign publications.

Authorities made no further attempts to sell the government's 51 percent stake in the public company that publishes the daily newspaper *Pobjeda*, following the failure of efforts to do so in 2007 and 2008. The failure to privatize the state-owned newspaper as required by the 2002 parliamentary legislation remains unfulfilled at year's end. Instead, the company received 12.77 million euros (\$17 million) from the government in the form of tax concessions and loan guarantees made in 2009. On July 7, the Ministry of Finance informed the media that the aim of these actions was to avoid *Pobjeda*'s bankruptcy and help the paper survive. The government's actions increased its share in the company to 86 percent.

Opposition politicians criticized the government's 2009 decision to appoint Predrag Sekulic, the political director of the ruling Democratic Party of Socialists, as president of the board of directors of *Pobjeda* and to appoint an advisor to former prime minister Milo Djukanovic as the paper's editor in chief. They asserted that the newspaper clearly favored the government in its reporting. Some observers claimed that the newspaper was used to discredit the government opponents, including opposition politicians, some private media owners, and NGOs. On December 29, Sekulic became a minister in the newly formed government and subsequently stepped down from the board.

A wide variety of public and private broadcast media included a national public radio and a television broadcaster, 14 local public radio and four local public television stations, and 41 private radio and 19 private television stations. On January 27, the Agency for Electronic Communication and Postal Activity (AECPA) allocated a series of 20 terrestrial broadcasting frequencies to broadcasters that responded to a tender issued by the AECPA in November 2009. The private television network *TV Vijesti*, which had attempted for two years to get licenses to broadcast in Podgorica, was also granted frequencies. *TV Vijesti*, often seen as a strong critic of the government and former Prime Minister Djukanovic, had previously accused the government of blocking its access to a wider market for political reasons by delaying the tender process.

The Council of Europe, the OSCE, and the European Commission, as well as domestic NGOs, criticized the Law on Electronic Communications which provided for the government's major role in selecting members of the AECPA's governing council. In response to these criticisms and in order to align with international standards on the independence of media regulators, the Assembly on July 27 adopted the Law on Electronic Media which took the responsibility for issuing broadcasting licenses away from the AECPA and transferred it to the Agency for Electronic Media, which is legally an independent regulator.

Government opponents--and even the ruling party's junior coalition partner, the Social Democratic Party--continued to criticize the functioning of the country's public radio and television broadcaster, Radio and Television of Montenegro (RTCG). They alleged that changes made in 2008 to the law governing the funding of the public broadcaster, which substituted government subsidies for user fees, made RTCG more dependent on the government. They also criticized changes in the method of selecting members of the governing board of the public outlets, which increased the role of the Assembly at the expense of civil society. In 2009 the Assembly elected all nine members of the RTCG council. Some observers noted that a majority of the nine entities authorized to nominate candidates for the RTCG council are state-funded institutions or organizations and that the public broadcaster clearly favored the government in its programming and reporting.

There were no reports during the year of physical attacks on journalists, but threats against them and unsolved attacks on them from previous years, as well as police investigations and court procedures related to those attacks, remained in public focus. At year's end, despite much legal wrangling, pretrial proceedings were not completed in the well-known case of the alleged attack in August 2009 by Podgorica Mayor Miomir Mugosa and his son on deputy editor in chief Mihailo Jovovic and photo reporter Boris Pejovic of Podgorica-based daily *Vijesti*. The incident reportedly began while Pejovic was photographing the mayor's official car, which allegedly was parked illegally. On January 25, in a separate procedure, the Podgorica Court for Offences fined Mugosa 400 euros (\$532) for insulting Jovovic and Pejovic in connection with the incident.

There were no developments in the investigations of several earlier physical attacks on journalists, including a 2008 attack on Mladen Stojovic, a journalist of the Serbian daily *Danas* and former stringer for Podgorica-based daily *Vijesti*.

On July 12, the Supreme Court confirmed the Court of Appeals' 2009 sentence of Damir Mandic to 18 years in prison as an accessory in the 2004 murder of *Dan* newspaper editor Dusko Jovanovic. Other participants, as well as those who actually planned the murder, remained at large at year's end.

On June 25, police interrogated *Monitor* journalist Petar Komnencic and NGO activist Veselin Bajceta about a video that appeared on the Internet of alleged drug trafficker Safet Kalic's 2001 wedding. The video showed several ANB officials attending the wedding ceremony and in close contact with Kalic. Komnencic and Bajceta publicly questioned why authorities were investigating the placement of the footage on the Internet. They expressed concern that the investigators were not taking action against the intelligence officers observed in the video.

Officials continued to bring or threaten libel and defamation suits against media organizations or journalists that accused them of wrongdoing directly or by implication. In many cases, media observers regarded the fines levied upon those convicted as disproportionate, and some NGOs warned that the prospect of criminal libel charges could deter journalists from reporting candidly on events. On April 22, the Assembly amended the Criminal Code by introducing the publishing of court judgments in libel cases as an alternative to imposing fines. The NGO Human Rights Action called on the authorities during the year to decriminalize libel completely or, alternatively, to reduce fines significantly in keeping with ECHR case law. Conviction of criminal libel could lead to fines of up to 14,000 euros (\$18,620).

On February 8, the Podgorica Superior Court fined the daily newspaper *Dan* 14,000 euros (\$18,620) for libel following former Prime Minister Djukanovic's 2003 lawsuit. The prime minister sued the paper's deputy editor in chief, Danilo Vukovic, for publishing articles in 2003 related to Djukanovic's alleged involvement in the well-known human trafficking case of a Moldovan woman.

On July 9, the Podgorica Superior Court overruled the May acquittal in a libel case involving *Monitor* magazine journalist Sead Sadikovic. The Superior Court's ruling directs the journalist to pay ANB official Zoran Lazovic one euro (\$1.33) for "emotional distress" caused by an article that *Monitor* published in April 2007. The article contained information about Lazovic's purported connections with alleged drug trafficker Safet Kalic. Sadikovic was quoted as saying that "the Superior Court's decision is a clear message that journalists should not mention state officials, especially police officials."

On October 19, Podgorica's Superior Court upheld a lower court's imposition of a 3,000-euro (\$4,000) fine on Petar Komnencic, a *Monitor* journalist, for libeling Ivica Stankoivic, who was then president of the Podgorica Superior Court, in a 2007 article implying that he had criminal connections. On November 5, the Podgorica Superior Court overruled the basic court's November 2009 imposition of a 2,000 euro (\$2,660) fine against Komnencic, who was found guilty of libeling alleged drug trafficker Safet Kalic. The superior court ordered the lower court to retry Komnencic. The journalist was sued for an article published by the *Monitor* in 2008. Komnencic assessed his acquittal as a consequence of the country's process of

integration with the EU and asserted that "the government, which was instructing the courts, or the courts, under government influence, became aware" that libel verdicts with large fines would not be allowed anymore. On November 15, in a separate civil lawsuit, the Podgorica Basic Court acquitted the *Monitor* of libel charges filed by Kalic for a series of articles published by the weekly in 2007 and 2008.

The slander trial of author Ibrahim Cikir was delayed several times during the year, as police claimed they could not find Cikir at his home address in Bijelo Polje to serve a summons on him. Eleven persons sued him because of allegations he made in a book that, as former prison employees, they tortured him when he was serving a sentence following what he considered to be a politically motivated prosecution. Cikir and 20 leaders of the Party of Democratic Action of Montenegro went to prison in 1994, convicted of plotting an armed conflict in the northern Sandzak region.

Lower courts acquitted journalists and NGO activists in several defamation suits during the year. The Podgorica Basic Court acquitted *Vijesti* journalist Jasmina Muminovic of the defamation charges filed against her by alleged drug trafficker Safet Kalic. The same court acquitted *Vijesti* journalist Samir Adrovic of defamation charges filed against him by the former head of police in the city of Ulcinj. *Vijesti* journalist Komnen Radevic was also acquitted of libel by the Podgorica Basic Court.

On November 8, Podgorica's Basic Court acquitted Vanja Calovic, executive director of anticorruption watchdog MANS, of defamation charges brought by MNSS BV, the company that owned the Niksic Steelworks. On February 15, Dejan Milovac, a MANS activist, was acquitted in a defamation suit against him brought by Cetinje Mayor Milo Jankovic.

On April 30, the Podgorica Basic Court announced that the then president of the Podgorica Superior Court, Ivica Stankovic, withdrew a defamation lawsuit against the *Vijesti* editor in chief. Stankovic had sued over an article alleging that, in a closed session of the Assembly's Security Committee, the director of police named Stankovic as one of the judges who had obstructed several police investigations.

On May 18, the Superior Court overruled a September 2009 Podgorica Basic Court decision to fine *Vijesti*, along with Nebojsa Medojevic, leader of opposition political party Movement for Change, 33,000 euros (\$43,890) for tarnishing the reputation of the firm MNSS BV, owner of the Niksic Steelworks. The case involved a 2008 opinion piece, written by then presidential candidate Medojevic, which warned of the potential for money laundering following MNSS BV's purchase of the steelworks.

On August 11, Milutin Sekulovic, a correspondent for Serbian daily *Vecernje Novosti*, informed police that he was threatened over the phone by Milan Golubovic, a municipal official in Berane. An article written by Sekulovic that same day about Golubovic's decision to order the removal of a billboard protesting a waste disposal decision was believed to be the reason Golubovic threatened him. The prosecutor's office concluded that there were no elements of a criminal act in Golubovic's behavior. On September 10, Jovan Loncar, a citizen of Berane whose billboards were removed by local authorities, sued the municipality and the companies managing the billboards for violating his freedom of expression. The lawsuit was pending before Berane's basic court at year's end.

On September 24, five individuals employed by *Vijesti* and known to be strong critics of the government--director Zeljko Ivanovic, editor in chief Ljubisa Mitrovic, cultural affairs editor Balsa Brkovic, director of *TV Vijesti* Slavoljub Scekcic, and *Vijesti* columnist Milan Popovic--received anonymous letters containing the threatening message, "it is over, you are next." Popovic had been previously interrogated by supreme state prosecutor Ranka Carapic about a January 2009 opinion piece he published in *Vijesti*, in which he cited corruption, conflicts of interest, and organized crime as major national problems and wrote that there were indications of the prime minister being involved in such activities. Popovic claimed that Carapic asked him for evidence to support the allegations. A group of intellectuals protested against the prosecutor's action, calling it a violation of Popovic's right to freedom of speech. On October 5, the group again publicly protested

disciplinary action initiated against Popovic the previous day by the University of Montenegro law faculty dean Ranko Mujovic for having criticized him (Mujovic) and high-ranking state officials at a September 30 faculty meeting.

On October 14, on the eve of a municipal election in Ulcinj, the owner of local television station Teuta, Dino Ramovic, informed police that he received telephone threats from Ulcinj Mayor Gzim Hajdinaga, who led the Democratic Union of Albanians and the Party of Democratic Prosperity coalition in the election. Unsatisfied with the timing and order of presentation of his coalition's preelection activities by Teuta, Hajdinaga warned Ramovic that 200 of his supporters would come to the station to force him fulfill his demands. Upon Ramovic's denouncement, the police provided an overnight patrol to safeguard the television station.

Despite these developments, observers noted an increase in the willingness of the media to criticize the government, although a profound division between progovernment and opposition media remained. The prominence of articles and television programs critical of the authorities during the year suggested that self-censorship was not a major problem; however, observers noted that some journalists were susceptible to political and business influence due to their lack of expertise and their political affiliations.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet Web sites or chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail and social media websites. According to the Agency for Telecommunication and Postal Activity, the total number of broadband connections was 63,155 in October, which corresponds to an Internet household penetration of 34.4 percent. According to data published by the International Telecommunication Union, there were 294,000 Internet users in the country in 2008; government data showed 44 percent of the population used the Internet in December 2009, up from 36 percent in October 2008.

There were no reports that the government collected or disclosed personally identifiable information of a person based on that person's peaceful expression of political, religious, or ideological opinion or belief. However, MANS criticized police authorities for finalizing an agreement in 2007 with a local telecommunication service provider M-Tel under which the provider agreed to give authorities direct access to the company's data. In 2008 MANS, citing the Free Access to Information Law, requested information from the police about the content of the agreement. On May 28, after an administrative court overruled the initial police denial of the request, the Ministry of Interior complied by ordering the Police Administration to reveal the details of the agreement, and on October 11, the ministry gave a copy of it to MANS. The agreement gave police round-the-clock access to all forms of communication provided by M-Tel. On September 13, the Constitutional Court rejected MANS' 2008 complaint that the agreement concluded between the police and the operator violates the plaintiffs' right to privacy. However, the Constitutional Court did not act during the year upon MANS' 2008 request for a decision on the constitutionality of provisions of the Criminal Code and the government action plan for the fight against corruption and organized crime concerning police authorities having access to telecommunication providers' data.

#### Academic Freedom and Cultural Events

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

#### b. Freedom of Peaceful Assembly and Association

The constitution and law provide for freedom of assembly and association, and the government generally respected these rights in practice. A wide range of social, cultural, and political organizations functioned without interference. Citing the organizers' noncompliance with a legal requirement to announce public gatherings in advance, police in May 2009 banned

a series of assemblies of workers of the Aluminum Plant of Podgorica who wanted to demonstrate against the company's management for failing to pay salaries. The workers complained to the Ministry of Interior and Public Administration, asserting that this requirement violated the constitution, but there were no indications that the government responded.

c. Freedom of Religion

For a description of religious freedom, see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt/](http://www.state.gov/g/drl/irf/rpt/).

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

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

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

The law prohibits forced or arbitrary exile, and the government did not employ it.

Internally Displaced Persons (IDPs)

The government maintains an official estimate of 10,948 persons who fled Kosovo during the 1999 conflict there, and whom it recognizes as IDPs (both the present territories of Montenegro and Kosovo having been part of the State Union of Serbia and Montenegro). However, for an additional 5,415 persons, mostly ethnic Serbs who fled in 1991-95 from Bosnia and Herzegovina and from Croatia during the conflict that attended the breakup of Yugoslavia, it created the category of "displaced persons" (DPs). The UNHCR, on the other hand, regards all of these persons to have been "refugees" at the time of their arrival.

The treatment of DPs and IDPs was not equal. The law recognizes DPs as lawful residents, a designation that could lead to citizenship through residence or through marriage with a citizen. However, the law omits IDPs, whose numbers included mainly Roma, Ashkali, Balkan Egyptians, Muslims, Bosniaks, ethnic Serbs, Albanians, and Montenegrins, from the description of persons meeting the required criteria for lawful residence.

Many of the displaced, both DPs and IDPs, continued to live in deplorable conditions in unofficial collective centers and other accommodations. However, authorities permitted them access to domestic and international humanitarian organizations and permitted them to accept assistance provided by these groups.

The government did not attack or target displaced persons or forcibly return or resettle them under dangerous conditions.

Restricted access to employment has pushed many DPs and IDPs to provide for themselves and their families through gray-market activities. Romani, Ashkali, and Egyptian IDPs from Kosovo were particularly affected and continued to form the most marginalized and vulnerable segment of the displaced/refugee population. A law governing the employment of aliens, which entered into force in January 2009, removed the right of IDPs or DPs to work. After UNHCR's intervention with the prime minister, the possibility of engagement at seasonal work was opened, but only until the end of 2009. In July the government passed the Decree on the Manner of Exercising Rights by DPs and IDPs, which enabled these persons to register with the Employment Bureau and have the same health care as Montenegrin nationals. However, the prerequisite for registration is having a unique citizen identification number (JMBG), which requires birth and citizenship documentation, which many, particularly Roma, Ashkali, and Egyptian IDPs, do not have.

Between April and July 2009, the government completed a program of registration of DPs from Bosnia and Croatia and reported that 5,769 of the initial 7,820 had successfully reregistered. Between September 2009 and February 2010, the government completed the registration of IDPs from Kosovo, and their numbers decreased from 16,197 to 10,979. The registration, closely monitored by the UNHCR, was intended to help authorities decide on the future status of these persons. Those who did not reregister or were not entitled to reregister would not be eligible for the status of "foreigner with permanent residence," and their present status would be terminated.

However, those persons not able or willing to apply for the status of foreigner with permanent residence, as well as those unable to access Montenegrin citizenship, would have the possibility to apply for asylum if they are still in need of international protection. The deadline for submitting applications for foreigner with permanent residence status is scheduled to expire on November 7, 2011. Those who miss the deadline will be considered as illegal residents.

In September 2009 the government adopted an action plan for resolving the status of displaced persons from the former Yugoslav republics and IDPs from Kosovo and in October 2009 amended the Law on Aliens in order to meet the benchmarks for visa liberalization set by the EU. The new provisions give such persons the opportunity to seek the status of foreigners with permanent residence while exempting them from the minimum income standard and other usual requirements for that status. A foreigner with permanent residence has the same rights as a citizen, save the right to vote. In UNHCR's view, however, this mechanism involved many difficult hurdles. Persons would be required to provide valid travel documents from their countries of origin and should have no criminal records. The requirement to present valid travel documents was of particular concern to the Romani, Ashkali, and Egyptian communities, many of whom had no birth records, either because their births were never registered or because their records were destroyed during conflict. However, related legislation permits DPs/IDPs unable to present valid travel documents to obtain the status of "temporary" foreign resident, with all the rights accorded to foreigners with permanent residence, and gives those three years to obtain valid travel documents and have their status made permanent.

The UNHCR observed that limited progress was made in the implementation of the action plan since its introduction, despite the government's stated commitment to it. The number of applications for the new status by DPs and IDPs remained low, and by the end of the year only 529 DPs and 351 IDPs applied for the status of foreigner with permanent residence. In addition, only 40 DPs and one IDP applied for the status of foreigner with temporary residence. As of year's end, 373 persons (238 DPs and 135 IDPs) were granted the status of foreigner with permanent residence, while no decisions were made on the applications for temporary residence.

During the year the government continued to encourage IDPs to return to their places of origin. Some continued to assert that the government did not provide adequate support to make it possible for them to do so. However, after many years in the country, the number participating in voluntary repatriation has declined. At the time of the 2009 reregistration, 9,953 IDPs (or 90.1 percent) expressed their desire to remain in the country, while 244 (or 2.2 percent) declared themselves as willing to return to Kosovo. Some 1,600 IDPs, mostly Roma, Ashkali, and Egyptians, have returned to Kosovo since 2001; 177 returned during the year. Among DPs, only 35 refugees returned to Bosnia and Herzegovina and to Croatia in 2006, nine returned in 2007, five in 2008, 10 in 2009, and 12 during the year.

While a considerable number of DPs have returned to their places of origin since 1996, the repatriation of those who remained slowed to a trickle. Only 10 persons returned to Bosnia and Herzegovina or to Croatia in 2009 and just another 12 during the year. By contrast, more than 600 Bosnian and Croatian refugees acquired Montenegrin citizenship between May 2008 and June 2010, in many cases through marriage with Montenegrin citizens.

During October and November, the UNHCR conducted an outreach and media campaign for DPs and IDPs to inform them about the possibility of acquiring permanent residence as a foreigner and the November 7 deadline for applications.

The July 22 reduction of applicable administrative taxes removed an important obstacle and facilitated DP and IDP access to the new status. The UNHCR observed that progress in implementing the action plan was limited, despite the government's commitment to expeditious completion of numerous measures, such as harmonizing the revisions in the law with the Law on Aliens.

On November 9, the European Commission recommended that the European Council grant Montenegro EU candidate country status but condition the opening of accession negotiations upon, inter alia, the government guaranteeing the legal status of displaced persons, and adopting and implementing a sustainable strategy for closure of the Konik camp.

#### Protection of Refugees

The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. A path to citizenship was effectively accessible to recognized refugees.

In practice, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. At the beginning of 2008, the government assumed responsibility for refugee status determination, and the UNHCR, which previously exercised this responsibility, continued to provide technical support.

Conditions for refugees varied; those with relatives or property in the country were able to find housing and, in some cases, to rejoin family members. However, between 2,000 and 3,000 refugees holding DP status remained in barely habitable facilities (mainly on the Adriatic Coast) that had been privatized. On November 11, the Kotor Basic Court ruled that 30 IDPs from Kosovo must move from a holiday resort in Kamenovo owned by the company Recreatours.

Although the 2007 law that governs asylum affords a number of protections, the failure of the government to harmonize other legislation with this law deprived asylum seekers of the right to identity documents, employment, and health care. On May 27, authorities adopted the Regulation on Access to Health Care for Asylum Seekers, Refugees, and Persons Granted Subsidiary and Temporary Protection to address some of these problems. However, these persons still faced obstacles to obtaining health care, since the regulation was not fully implemented during the year.

During the year authorities processed asylum applications involving nine persons; none were granted asylum. Although the country remained primarily a point of transit for asylum seekers, authorities anticipating that the number of asylum seekers would increase as the country moved closer toward EU accession, continued construction of a reception center designed to house approximately 65 asylum seekers.

#### Stateless Persons

Citizenship is derived from one's parents. According to the UNHCR, there were no legally stateless persons in the country; however, there were individuals who were de facto stateless. The biggest problem related to statelessness was the lack of personal documentation for many inhabitants, primarily in the Romani, Ashkali, and Egyptian communities, both those of local origin and those who entered the country from Kosovo. Government data published in May 2009 reported a total of 9,934 Roma, Ashkali, and Egyptians, of whom 4,400 were refugees from Kosovo. The 2009 registration of Kosovo IDPs indicated that this population numbered approximately 3,100 persons. The UNHCR estimated that approximately 1,300 local Roma and 1,600 Kosovo-born Romani, Ashkali, and Egyptian refugees were at risk of statelessness due to lack of personal documentation, as they were either never registered at birth or lacked proof of registration. As of year's end, the government had not developed a procedure for systematically identifying, documenting, and registering stateless persons or persons at risk of statelessness, although UNHCR experience indicated that lack of documentation was the most significant factor leading to statelessness or the loss of effective citizenship.

While the country is party to several conventions dealing with statelessness, the government holds that it is not bound to grant citizenship to persons who became stateless as a result of the dissolution of the State Union of Serbia and Montenegro, since Serbia, as the "succeeding state," was obligated to award citizenship to these persons.

The UNHCR continued a regional project, in cooperation with partner NGOs, to register Romani, Ashkali, and Egyptian community members and assist them to obtain personal identity documents. During the year the UNHCR and the Legal Center provided legal advice to approximately 5,600 displaced persons from Bosnia, Croatia, and Kosovo and to some 200 local Roma, Ashkali, and Egyptians at risk of statelessness, providing help in obtaining personal documents for submission to various administrative and judicial entities in an effort to obtain access to basic rights. In addition, the Legal Center assisted nine asylum seekers in the refugee status determination procedure.

A further 1,300 persons were at risk of statelessness because they faced difficulties proving citizenship. These were mostly Roma, Ashkali, and Egyptians who originated from Montenegro or Kosovo and were either never registered at birth or lacked acceptable proof of registration.

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

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

#### Elections and Political Participation

According to the OSCE election observation mission, the March 2009 parliamentary elections met almost all OSCE and Council of Europe commitments. The mission's statement noted frequent allegations of electoral fraud and a blurring of state and party structures that created a negative atmosphere among many voters. As in previous elections, most opposition parties raised concerns regarding campaign and party financing, and the overlap of state and political party structures. Allegations of pressure on voters and the purchase of voter identification documents were again reported by some opposition parties, the media, and certain individuals.

On May 23, local elections were held in 14 of the country's 21 municipalities. The elections were not monitored by either international or domestic observers. While individuals and parties could freely nominate their candidates and run for local elections, the press reported several instances of politically motivated incidents.

On December 29, the parliament failed for the fifth time to reach the two-thirds majority required to pass an election law designed to bring electoral procedures in line with the 2007 constitution.

Political parties generally operated without restrictions or outside interference.

Parliamentary control of the executive branch of government remained weak.

There were 10 women in the 81-seat Assembly and one in the cabinet. There was one female mayor in the country's 21 municipalities. Four of the 11 parties in the Assembly had female members in their caucuses. There were no women in six out of nine standing parliamentary committees. The president of the Supreme Court and the chief state prosecutor were women.

There were 19 members of ethnic minorities in the Assembly and three members of ethnic minorities in the cabinet. The law reserves five Assembly seats for ethnic Albanians. No Roma ran for or held a seat in the Assembly.

### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials at times engaged in corrupt practices with impunity. The perception of the public sector as corrupt, particularly in the executive and judicial branches, was widespread. Observers noted that corruption was most evident in the areas of spatial planning, the judiciary, customs, police, local government, health care, and education.

While many of the legal prerequisites for effective anticorruption policies were in place, implementation lagged. The World Bank's worldwide governance indicators reflected that corruption was a serious problem. In the first six months of 2009, police forwarded 887 corruption cases involving 1,420 persons to prosecutors. In the same period, courts convicted 206 defendants in 151 cases. Local NGOs, media, and opposition political parties frequently accused the government of not taking sufficient measures against corruption and organized crime. The results of investigations, prosecutions, and convictions for corruption at all levels remained weak. Citizens rarely reported corruption. Internal controls carried out within institutions or by responsible agencies seldom resulted in efficient prosecution of the perpetrators. State functionaries often had several functions and were permitted to be presidents or members of managing boards in more than one public company or state institution.

On December 24, the mayor of the city of Budva, Rajko Kuljaca, and nine of his associates, were arrested on charges of abuse of office. Among those arrested was deputy mayor Dragan Marovic, brother of outgoing Deputy Prime Minister Svetozar Marovic. According to a police press release, Kuljaca and Marovic were suspected of having secured "substantial unlawful gain" for the Zavala Invest Company through abuse of their official positions. On December 26, Radomir Ivanovic, investigative judge of the Podgorica Superior Court, ordered a 30-day detention of the suspects, who were believed to have committed crimes carrying penalties of up to ten years' imprisonment.

Police corruption and inappropriate government influence on police behavior remained problems; the small, close-knit nature of Montenegrin society discouraged the reporting of corruption and made criminals' access to law enforcement officers easy. In February the government formed an interagency joint investigative team designed to work exclusively on fighting organized crime and corruption and enhancing the ability of law enforcement agencies to work together.

Acting on a June 2 request by the deputy special prosecutor for organized crime and corruption, police arrested 22 persons, including three police officers and 11 customs officers and one agricultural sanitary inspector from the towns of Rozaje and Berane. Police suspected that these individuals received and gave bribes, abused their offices, and smuggled goods across the border with Serbia. They were charged in Superior Court on August 23.

According to the Council of Europe's commissioner for human rights, who visited the country in 2008, there were few criminal proceedings against law enforcement officers for extortion of evidence, mistreatment, torture, or abuse of office, and the few that occurred were not efficiently conducted. Courts rendered verdicts only in a small number of reported cases but sentences were limited to admonitions, suspended sentences, and fines. During the first eight months of the year, authorities dismissed one officer and fined eight for abuse of office and exceeding authority. During the year the Interior and Public Administration Ministry's Internal Affairs Unit took disciplinary measures to address those problems. These internal investigations, combined with the work of the Council for the Civilian Control of Police Operations, the ombudsman, and human rights activists, reduced impunity. However, NGOs noted that police officers found responsible for violating rules of service, as well as senior officers implicated in cases of torture, remained on duty. The OSCE and local diplomatic missions provided training for police, security, and border and customs officers on combating terrorism, corruption, and financial crimes.

Public officials were subject to financial disclosure under a 2008 conflict of interest law that requires state officials, including members of the legislature, to disclose their salaries and property. During the first eight months of the year, the Commission for Preventing Conflicts of Interest, charged with carrying out that law, initiated legal proceedings against 248

state officials and proposed the dismissal of 15, for failing to comply with disclosure requirements. The commission initiated legal proceedings against 313 state officials who failed to comply in 2008 and 52 who failed to comply in 2009. During the year 92 persons were fined and 156 others warned. While the law provides for fines ranging from 825 to 1,100 euros (\$1,097 to \$1,463), the highest fine imposed by a court was 500 euros (\$665). The commission did not perform an adequate supervisory role, as it does not have the authority to check disclosures by public officials and has weak sanctioning powers. Many observers noted that the law had significant loopholes and was weakly implemented in practice.

Protection for whistleblowers who reported corruption was inadequate. However, in July the Administrative Court revoked the September 2009 dismissal of Mirjana Draskovic, a veterinary inspector with 28 years of experience. She was fired by the Veterinarian Directorate after she made public statements about irregularities in the work of the Veterinarian Directorate and Ministry of Agriculture. The State Prosecutor's Office took no action on Draskovic's reports about the irregularities.

On July 29, the government adopted its 2010-14 Strategy for the Fight against Corruption and Organized Crime, together with an action plan for its implementation over the following two years. The strategy laid down the main guidelines, principles, and goals for the fight against corruption and organized crime. NGOs claimed that the plan was developed without their involvement by unknown individuals or groups and adopted without any public consultation, even though a team composed of representatives of public institutions and NGOs had been working on a similar document for four months and had presented it at a public debate to all interested stakeholders.

A law on financing political parties was enacted in 2008, but according to the NGO Center for Democratic Transition, did not significantly improve the transparency and accountability of political party finances.

There were allegations that authorities failed to act on reports of suspected corruption at high political levels. Many citizens continued to believe that state officials misappropriated public funds and pocketed significant revenue from the privatization of formerly state-owned companies. In spite of the existing institutional framework to curb corruption, the overall number of investigations, prosecutions and convictions remained low.

While open bidding was the most commonly used procedure for public procurement, many auditing reports identified inconsistent or irregular application of legal provisions or circumvention of the law in practice. The Commission for the Control of Public Procurement Procedures received 290 complaints during the first 10 months of the year alleging violations of procurement procedures. The commission found 98 complaints to be valid and rejected 192.

The constitution and law provide for public access to government information; however, implementation of the law was weak and inconsistent, in particular in relation to some parts of privatization agreements. Some ministries were supportive of information requests, while others at times publicly criticized them. The level of access did not differ for noncitizens or the foreign or domestic press.

On April 12, in response to a ruling by the Administrative Court, the government reversed its earlier position and published its answers to a questionnaire required of countries seeking admission to the EU. The questionnaire contained responses to detailed questions about reforms being made on the country's road to EU integration. The government previously refused to provide the information, on the grounds that publishing it would jeopardize national political and economic interests. Two NGOs took the matter to the Administrative Court.

On November 25, the Ministry of Justice revoked the decision of the chief state prosecutor to deny the Youth Initiative for Human Right's request for information about actions taken by the chief state prosecutor in 12 cases of allegations of official misbehavior: the torture of prisoners in Spuz Prison in 2005; threats against Aleksandar Zekovic in 2007; the beating of Vladana Kljajic in Spuz Prison in 2007; the torture of members of the Party of Democratic Action in 1994; illegal

surveillance of several judges of the Superior Court in Podgorica; the beating of journalist Tufik Softic and former boxer Aleksandar Pejanovic; the beating of detainees in the "Eagle's Flight" police operation; statements of veterinarian inspector Mirjana Draskovic about corruption at high levels regarding the issuance of licenses for food imports; the existence of a "football mafia" in the country; and the killing of Dusko Jovanovic and Srdjan Vojcic. The Ministry of Justice stated that the chief state prosecutor failed to give clear reasons for denying the request for information and ordered the chief state prosecutor to review the matter and issue a new decision.

The NGO Youth Initiative for Human Rights noted in its report for the second quarter that political party allegiance was the key to employment in public service and that the ethnic composition of the public sector workforce did not correspond to that of the general population.

NGOs reported that their requests for government-held information frequently went unanswered. Public awareness of a right to access government information remained at low level, and citizens themselves seldom turned to state institutions for information. Anticorruption NGO MANS reported that the competent authorities provided timely responses to approximately 38 percent of its requests for information. MANS noted that agencies usually refused to give information that could reveal corruption or lawbreaking, particularly involving the privatization process. MANS reported that citizens preferred to submit requests through NGOs rather than do so themselves. Authorities usually provided reasons for denials (such as threats to state interests or to the business interests of the contracting parties), and these could be appealed to the higher-level state bodies or courts. While the courts usually supported access to information, their orders to the ministries to comply with specific requests were often ambiguous and, consequently, sometimes ignored. The administrative court ruled favorably on 77 percent of the 4,879 complaints filed by MANS since 2005.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to the views of international groups, but some of the many domestic NGOs regarded cooperation as only nominal.

In March the government published the report of the Council of Europe's CPT on its 2008 visit to the country. However, a translation into Montenegrin was only published after the NGO Human Rights Action filed a lawsuit with the administrative court to require it to do so.

Almost 4,500 domestic registered NGOs operated in the country, including those specializing in human and minority rights and women's rights. According to NGOs, authorities provided nominal, rather than substantive, cooperation. The OSCE- and EU-led international community efforts to engage the government on human rights issues.

Several NGOs and international organizations investigated human rights cases. According to its 2009 report, the UN Human Rights Council Working Group on Enforced or Involuntary Disappearance and Missing Persons forwarded 15 cases involving disappearances that took place in 1992 and 1993 to the government for its response; the government provided an explanation in one case; 14 cases remained outstanding. The working group decided to discontinue consideration of those 14 cases.

The government cooperated with international human rights and humanitarian NGOs and on February 17-21 hosted a visit by the European Commission for Human Rights. Amnesty International visited the country in November 2009.

**There is an ombudsman for human rights, who operated without government or party interference but received inadequate resources. Public awareness of the ombudsman's role remained insufficient. The Office of the**

Ombudsman had a staff of 23 persons; its annual budget was 431,400 euros (\$573,762). Upon finding a violation of human rights or freedoms by any state agency or institution, the ombudsman could initiate disciplinary procedures, including dismissal, against the violator. In addition to 77 unresolved cases from earlier years, the office received 525 new complaints in 2009, or 10 percent more than in 2008. The largest number of complaints involved the work of the courts (168), followed by public administration (152), public services (48), local governments (37), and the prosecutor's offices (nine); 69 complaints related to the work of companies and other organizations. During the year the ombudsman's office met with 845 citizens and communicated with 1,850 citizens by telephone. The majority of complaints concerned lengthy trials and the lack of implementation of court decisions. The government and the courts generally implemented the ombudsman's recommendations

Failure to comply with the ombudsman's request for access to official data, documents, or premises, or with the ombudsman's request to testify at a hearing, is punishable by fines of 10 to 20 times the minimum monthly wage, or between 550 and 1,100 euros (\$731 and \$1,463).

The Assembly's Standing Committee for Human Rights and Freedoms met several times during the year, but its contribution was perceived by many observers as insignificant.

Authorities cooperated with the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Court, of which the country is a member.

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

The constitution and laws prohibit discrimination based on race, gender, disability, language, or social status; however, the government did not effectively enforce these prohibitions in practice. On July 27, the Assembly adopted an antidiscrimination statute containing comprehensive prohibitions of discrimination on the basis of race, religion, sexual orientation, gender identity, and other grounds. However, the Office of the Ombudsman, which is responsible for the law's implementation, lacked the human, technical, and financial resources for its enforcement.

#### Women

Rape, including spousal rape, is illegal; however, enforcement remained a serious problem. Instances of rape were significantly underreported due to the cultural stigma that attaches to victims and even their families. Deeply ingrained societal attitudes hampered prosecutions; judges frequently allowed aspersions on a victim's character to be entered into court proceedings. As a result victims were reluctant to report rape. Punishment for rape, including spousal rape, is one to 10 years in prison; however, authorities can only prosecute the crime if the victim brings charges. There were no arrests or convictions for spousal rape during the year. According to police and judiciary statistics during 2009, there were 13 cases of rape reported and 16 persons were sentenced to prison.

Domestic and other violence against women was a persistent and common problem. NGO sources working with abused women make strong claims that significant number of incidents remain unreported due to fear of reprisals from their attackers or lack of measures to prevent reoccurrence. According to government authorities, the number of reported incidents of domestic violence tripled between 2006 and 2009. The press reported that during 2009, police investigated 519 cases of possible domestic violence, 9 percent fewer than 2008; 85 persons were sentenced. According to NGO estimates, one out of four women has been a victim of some form of domestic violence. The NGO SOS, which operated a hotline for victims of domestic violence, reported that during the first four months of the year, it worked with 137 persons, far more than in past years. SOS noted an increase in the number of children and elderly among the victims and an increase in the use of physical violence. SOS also reported that health institutions charged the victims of family violence for medical aid, claiming that the injuries occurred as the result of "fights."

On July 27, the Assembly approved the Law on Protection against Family Violence. The law was not fully implemented by year's end, as regulations and an action plan for its implementation had not been put in place. Since adoption of the law, police filed charges against 92 perpetrators.

Domestic violence is a crime punishable by fine or prison sentence, depending on the seriousness of the offense. Perpetrators are mainly fined; the rare prison sentences imposed were lenient. Due to lengthy trials, economic dependence or lack of other places to go, victims and perpetrators often lived together in the same place, which frequently resulted in new, more aggressive assaults that discouraged victims were usually hesitant to report. Local NGOs working to combat domestic violence relied to a large extent on international donor assistance. During the year official agencies, including the police and, to some extent, the judiciary improved their response to domestic violence; however, efforts remained inadequate. According to NGOs, many female victims of domestic violence complained about the inadequate response of social welfare centers to their appeals for help.

On May 27, the Judicial Council terminated the assignment of Podgorica Superior Court judge Milorad Marotic at his own request due to personal reasons. He had been indicted for domestic violence in 2008 and temporarily suspended by the Judicial Council, but the Administrative Court revoked the suspension in September 2009.

NGOs operated two shelters for victims of domestic violence. Women's advocacy groups worked to combat domestic violence through awareness campaigns and sought to improve women's access to legal services and workshops.

Sexual harassment is prohibited by law; however, it remained a problem and society generally tolerated it. Victims were hesitant to report harassment, although police were usually effective in intervening when asked to do so. According to surveys conducted by the Damar polling agency in March, 20 percent of employed persons stated that they were victims of workplace harassment.

The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Health clinics and local health NGOs operated freely in disseminating information on family planning under the guidance of the Ministry of Health. There was free access to contraceptives and to skilled attendance during childbirth, including essential obstetric and postpartum care. The government guaranteed free childbirth services. According to statistics developed by intergovernmental organizations, the estimated maternal mortality rate in 2008 was 15 maternal deaths per 100,000 live births.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

Women have the same rights as men in property law, family law, and the judicial system; however, in practice women did not enjoy equal social status with men. NGOs pointed out that it was difficult for women to defend their property rights in divorce suits. One emerging trend involved husbands in divorce proceedings titling their property in the name of other family members or friends rather than their wives. Traditional patriarchal ideas of gender, which maintain that women should be subservient to male members of their families, persisted and resulted in continued discrimination against women in the home. For example, 84 percent of illiterate persons were women. In rural areas, women could not always exercise their right to control property, and husbands occasionally directed their wives' voting.

Women constituted 6.3 percent of central government employees, 11.4 percent of employees of local governments, and 12.3 percent of members of the national parliament.

There were no official statistics about women in managerial positions. Some job announcements openly advertised discriminatory criteria, such as age and physical appearance, for female applicants. Few women held senior management positions in government, military, or commerce. There were, however, some signs of improvement; an increasing number of women served as judges, and there were many women in professional fields such as law, science, and medicine. Women from Romani communities did not have equal opportunities for education due to traditional values and restrictions on their participation in society. Due to low education and harsh living conditions, Romani women seldom visited gynecologists, with negative consequences for their health and for infant mortality rates.

Women constituted 50.7 percent of the population and 46.3 percent of the unemployed population. Media reports indicate that 44.9 percent of the holders of bachelors, masters, and doctoral degrees were women.

Although the law incorporates the general principle of nondiscrimination against women, it does not explicitly address the principle of equal pay for equal work; in practice, women's wages were lower than those of men for comparable work. According to an August report of the Statistical Office of Montenegro (Monstat), working women have lower salaries than their male colleagues. According to Monstat, women in 2009 earned, on average, 13 percent less than men. The average monthly salary with taxes and contributions for women amounted to 581 euros (\$773) at the end of September 2009, while men received an average of 674 euros (\$896). Of 15 industries surveyed, women had higher salaries in only transport and warehousing.

There remained a deeply rooted division between male and female professions. In April 2009 the government transformed its Office for Gender Equality into a department within the Ministry for Protection of Human and Minority Rights.

Gender equality is provided for in the constitution. It is regulated by the Law on Gender Equality (2007) and promoted by an action plan (2008). Although implementation of the action plan is monitored by parliament, the government, and the ombudsman, it has not been properly implemented. In addition, the Law on Gender Equality includes only limited sanctions and does not clearly address the principle of equal pay. The protection of women against their economic dependency remains insufficient.

#### Children

Citizenship is derived from one's parents by birth in the country's territory, by marriage to a Montenegrin citizen, or as specified by international treaties governing the acquisition of citizenship. Roma, Ashkali, and Egyptians continued to experience difficulties registering the births of their children, mostly due to the lack of awareness of the importance of civil registration and a lack of documentation of parents' identities. Romani children are not well integrated into the broader community, and discrimination against them remained widespread.

There is a law on child and social protection. However, implementation of the national plan for children has been inadequate, as the Council for Children's Rights, which is the main body for coordinating implementation of the national plan, is not operational.

By law, education was compulsory and free; however, according to Romani community leaders, nearly one-half of Romani children never enrolled in primary school. According to the national statistics in May, only 47 percent of the 2,587 Romani children between the ages of six and 15 attended primary school. Romani children continued to face difficulties in continuing their education, including lack of knowledge of the local language, poverty, and tradition. Many Romani parents did not want their children, particularly girls, to go to school, but preferred them to stay at home and marry at an early age.

Of the comparatively small number of Roma who completed primary school, a much smaller proportion continued to secondary and higher education compared with non-Romani children. Human rights observers reported that the

government did not undertake adequate efforts to monitor or encourage Roma to continue to attend school. In the Konik refugee camp in Podgorica, there was a remote campus of the Bozidar Vukovic primary school, which was attended exclusively by 247 Romani, Ashkali, and Egyptian students. Romani NGO leaders described this as discrimination and during the year asked that this type of school division be abolished. There was some progress; the proportion of Romani, Ashkali, and Egyptian children enrolled in the first year of secondary school increased from 50 percent in the 2008-09 school years to 55 percent in 2009-10. Sixty Romani students continued to secondary education and 12 attended university in 2010-11.

Some ethnic Albanians continued to criticize the government for not providing textbooks on history, music, and visual arts oriented to Albanian primary school children. The first privately funded Muslim religious secondary school opened in Malesija, near Podgorica, in 2007; as of year's end, however, authorities had not given it full accreditation. There was one fully accredited Albanian-language private school.

While tuition for primary education was free, students, except for families who benefited from social welfare programs had to provide their own books and school supplies. NGO programs and grants helped provide books and other school resources for Romani students. The government provided books for children without parents, the disabled, special social cases, and Romani children.

In an effort to reduce dropouts among Romani children, the UNHCR, the EU, and the Foundation for Providing Scholarships to Roma, a local NGO continued a pilot project for 15 students in the sixth and seventh grades of the school in the Konik refugee camp.

A deputy ombudsman investigated complaints of violations of children's rights. His office received 32 complaints during the first nine months of the year, mainly involving contact with parents after divorce, protection from violence, the rights of children with disabilities, children's right to education, and access to social benefits.

The NGO Center for Children's Rights, in cooperation with 19 other NGOs, reported an increase of juvenile delinquency, drug use, begging, and violence against minors. Romani children still remained a vulnerable group, while many issues relating to refugee children were not resolved.

Child abuse was an underreported problem that the government took little action to address. The country lacked proper facilities for children who suffered from family violence. The law does not allow a juvenile to make an allegation of a crime without a parent or guardian present. Consequently, there was almost no reporting of incest or other child abuse to authorities. In 2007 police reported four cases of child sexual abuse. During the first nine months of the year, social welfare centers received complaints about the mistreatment of 72 children from 27 families. Seventeen children were accommodated in the shelter for victims of family violence run by the NGO Safe Woman's House.

Child marriage was a problem, particularly in Romani communities, where boys and girls generally married around age 14. It was difficult to estimate the extent of underage marriage in the Romani community because the Roma frequently did not register such marriages. Romani children were disadvantaged by poverty, leading many to start work both at home and in the streets at an early age, typically around age seven, in order to contribute to the family income. Romani children were also disadvantaged by having to attend school in a nonnative language, since many spoke Romani at home. The government generally ignored the problem.

The age of consent is 18. There is a statutory rape law. The penalties for rape are higher if the victim was a minor. Child pornography is illegal, with penalties ranging from six months in prison for displays of child pornography, to a maximum of five years' imprisonment for using a child in the production of pornography.

Street children, most of them Roma, were organized into groups to beg at busy intersections, on street corners, and in restaurants and cafes. During the first nine months of the year, police charged 13 persons with organizing the begging and removed 10 children from the streets; the children were temporarily accommodated in the Center for Children and Youth, and then sent back to their places of origin in Serbia, Bosnia and Herzegovina, and Montenegro.

Children with disabilities faced numerous obstacles in education and other social services. Some children with mental disabilities were confined in institutions under substandard conditions. In its March 9 report on its 2008 visit to the country, the CPT described the treatment of 15 children in the Komanski Most Institution for Persons with Special Needs, where mentally disabled children were held together with adults in unsanitary circumstances and without sufficient supervision to prevent their mistreatment by adults.

The government adopted an action plan to carry out the CPT's recommendations and sought to improve the living conditions and treatment of patients in the Komanski Most Institution for Persons with Special Needs. The facilities were reconstructed and properly equipped. The children were separated from adults, and males were separated from females. The size of the staff has increased. Individual daily activity plans, in line with the inmates' physical and mental characteristics, were revised. The isolation room is no longer used, while leather restraints were used strictly according to need, and a log of their use was maintained. However, conditions remained inadequate, especially the shortage of trained staff and continued substandard facilities.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

#### Anti-Semitism

The country's Jewish population was small and widely distributed across the country. A 2004 survey by the government statistics office concluded that there was no organized Jewish community; an international Jewish NGO reached a similar conclusion. There were no reports of anti-Semitic acts.

#### Trafficking in Persons

For information on trafficking in persons, please see the State Department's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, pensions, allowances, family care and support, buildings, information and communication. The constitution also provides persons with mental disabilities with the right to be placed in an adequate residential institution and the right to foster care and support or other state services; however, societal discrimination against persons with disabilities effectively limited their access to these benefits, and authorities did not actively prosecute infractions. While laws mandating that new public buildings have access for persons with disabilities were generally enforced, lack of access to older public buildings, hospitals, and public transportation was a problem. A 2008 Law on Spatial Planning and Construction regulates the accessibility of public facilities and mandates that all public facilities must be made accessible to persons with disabilities by 2013. Facilities at polling stations were inadequate for persons with disabilities, although authorities provided mobile voting for voters who could not come to polling stations because of illness or disability.

Education for children with disabilities, including the implementation of the strategy for inclusive education, was insufficient.

Society often stigmatized persons with disabilities, and such persons depended greatly on government disability allowances, which were not adequate.

The Ministries of Health, Labor and Social Welfare, Education and Sports, Science, Culture, and Human and Minority rights were responsible for protecting the rights of persons with disabilities.

Unemployment remained a serious problem for persons with disabilities. While the law provides incentives and tax breaks to employers who hired them, employers rarely chose to hire persons with disabilities. Only 2 percent of the approximately 63,000 persons with disabilities in the country had employment during the year. In August the Employment Agency reported that 2,297 persons with disabilities were registered. To enhance the employment prospects of persons with disabilities, the Ministry of Labor and Social Welfare, the Employment Agency, trade unions, local governments, and associations of persons with disabilities signed a memorandum of understanding to monitor and evaluate the employment process and create a data base.

Mid-2009 estimates of the number of children with special needs ranged between 6,000 and 7,000. NGOs stated that the ambitious government action plan for implementing its strategy for integration of persons with disabilities for 2008-16 was significantly behind schedule. A study conducted in 2008 by the UN Development Program (UNDP) and the Strategic Studies and Prognosis Institute cited estimates of the number of persons with disabilities in the education system that varied from 2 to 10 percent. Although they were entitled to receive healthcare from the state, the numerous obstacles they faced, including the physical inaccessibility of most health institutions, unequal access to various medical treatment, and the limited availability of prosthetics, blocked full access.

Mental health care was inadequate in terms of service and capacity. Facilities for treating persons with mental disorders were out of date and underfunded. Institutional isolation perpetuated stigmatization and discrimination against the mentally ill. Institutionalized persons often became wards of the state and often lived in isolation.

On March 9, the CPT released a report on its 2008 visit to the country that characterized as "appalling" conditions for disabled persons deprived of their liberty in the Kaminski Most Institution for Persons with Special Needs. In describing Ward B of the institution, the CPT took note of "totally bare and malodorous rooms" and residents (some of whom were physically handicapped or blind, as well as mentally disabled)" were seen to lie alone, occasionally with their heads covered with a blanket, some naked, with flies crawling on them. In a locked "baby room," the delegation saw five bedridden residents, aged between three and 19, lying in cots. There was also a locked dayroom where approximately 25 residents (men, women and children together) were left wandering alone. In an unstaffed and locked part of the ward, where residents appeared to be left alone, the delegation found a dayroom in which seven residents were physically attached to furniture. The CPT report emphasized the importance of safeguards when committing persons to institutions, particularly when these decisions are made by committees of officials.

The Law on Social and Child Protection provides for the right of accommodation and education of persons with physical, mental, and sensual deficiencies in an institution for persons with special needs. The law provides that the initial decision on whether a particular individual needs this type of accommodation is made by the social welfare center commission, while the Ministry of Education is responsible for deciding on the applicant's special educational needs. The decisions of these bodies can be appealed to the Ministry of Labor and Social Welfare Center and then to the Administrative Court. Family Law regulates the area of guardianship.

On September 17, the Podgorica Basic Court fined the Podgorica municipal government 500 euros (\$665) for failing to implement its July 2009 decision, that city employee Marijana Mugosa was entitled to come to her office with a guide dog. The Podgorica government appealed, and the superior court, on October 22, delayed the execution of the basic court's decision. While the ombudsman criticized the Podgorica mayor for failing to implement the court decision, the mayor blamed the ombudsman for overstepping his authority by meddling in the court decision. The city of Podgorica accepted Mugosa's return to work but assigned her to an isolated location, explaining that the presence of her guide dog in the office harmed the health of her two colleagues. The basic court initiated an investigation of the adequacy of the new office location.

On September 22, Andrija Samardzic and his guide dog were expelled from the Carine restaurant in Podgorica where he was having dinner. Following a meeting with the Association of Handicapped Youth, the owner of the restaurant apologized and said that persons with disabilities who use guide dogs would be welcome in his restaurants; however, on November 5, Andrija Samardzic was expelled from the restaurant. The NGO Antidiscrimination Center Equista filed charges with the Podgorica basic court against the owner of the restaurant.

Local residents in the Gorica district near Danilovgrad protested against the construction of a day care center for children with special needs and signed a petition against it. The NGO YIHR criticized the petition and called on the competent authorities to ignore the protests and proceed with the construction.

#### National/Racial/Ethnic Minorities

The constitution provides both individual and collective rights for minorities, and for most groups these rights were generally observed in practice; however, Roma were disadvantaged in access to social services and experienced societal discrimination.

Unlike in some previous years, there were no reports of physical attacks against persons during the year for what appeared to be ethnic reasons.

The leaders of ethnic Serbian, Albanian, and Bosniaks communities, as well as Muslim leaders, continued to complain of their underrepresentation in government, the judiciary, and state-owned economic enterprises. According to a study conducted by YIHR between December 2009 and May, there was a huge imbalance in the employment of some ethnic groups in public service, with Roma being at the bottom.

Three members of the national cabinet were members of national minorities. Although members of the national parliament included almost all minority groups except Roma, the right to authentic political representation of minorities as provided for in the constitution was not implemented.

A survey by the NGO Human Rights Initiative indicated that, despite the existence of a satisfactory legal framework, the availability of information in minority languages and the protection of minority cultures and tradition needed improvement. Human rights activists raised the issue of insufficient usage of the Romani language in government notices and publications.

On July 24, the Assembly amended the Law on General Education to provide that classes throughout the country would be taught in the Montenegrin language, resulting in protests by parents who threatened to withdraw their children from schools. Many Serb political representatives stated that ethnic Serbs living in the country were being treated in a discriminatory manner. Opposition parties filed the case with the Constitutional Court. Authorities delayed the implementation of the law until the next academic year to create conditions in the National Educational Council for General Education for the Montenegrin language to be introduced as a subject, namely more teachers, better text books, and a

more thorough curriculum. On December 24, the National Council for General Education adopted a curriculum for the study of Montenegrin language and literature for primary and secondary education.

According to a joint survey conducted in 2008 by the National Statistics Office, the Roma National Council, and the local NGO Roma Circle, there were approximately 11,000 Roma in the country, of whom 4,500 were IDPs or DPs and 6,500 were long-term residents. Many Roma, including IDPs from Kosovo, lived illegally in squatter settlements, often far apart from each other and lacking such basic services as public utilities, medical care, and sewage facilities.

Prejudice against Roma, who comprised 0.42 percent of the population, was widespread, and local authorities often ignored or tacitly condoned their intimidation or mistreatment. Negative stereotypes strongly impacted the Romani, Ashkali, and Egyptian populations. They did not have political representatives and generally stayed out of politics. They often lacked identity documents and therefore did not have access to basic social services. Some settlements were located on property whose owners wanted to reassume control or on the premises of companies due to be privatized, and their residents were at risk of eviction; however, no evictions were reported during the year. The Romani, Ashkali, and Egyptian population faced many challenges related to social inclusion, including access to secondary medical protection (such as surgeons and specialist doctors) afforded to other residents.

A well-known human rights researcher, Aleksandar Zekovic, alleged that the relevant social and health institutions failed to prevent and report the death of two Romani children in Niksic in 2008 and 2009.

According to 2009 UN data, approximately 40 percent of the Romani, Ashkali, and Egyptian population in the country lacked birth or citizenship certificates. The Law on Citizenship and its accompanying regulations posed numerous obstacles for Romani, Ashkali, and Egyptian residents in obtaining citizenship, as many lacked personal identity documents (see section 2.d.).

According to the UNDP, approximately 70 percent of Roma were illiterate, 50 percent were unemployed, and 36 percent lived below the poverty level.

On November 22, the ombudsman asked the police directorate about the alleged mistreatment of two Romani men, Vahid Adzovic and Mentor Idrizaj, by police after they were caught stealing car batteries. The two men claimed that they were beaten and otherwise mistreated by the residents of the village Botun near Podgorica who caught them and turned them over to police.

Six officers of the border police from Rozaje who were dismissed accused the head of the Border Police Branch in Berane, Veselin Krgovic, and the Police Directorate of discrimination against Bosniaks, Muslims, and Albanians on national grounds, claiming that to be the reason for their dismissal. Authorities rejected those allegations and attributed the dismissals to downsizing of the police force.

On November 27, the Podgorica Superior Court sentenced Milos Kovac, from Serbia, to four months in prison for spreading national intolerance and hatred. According to the indictment, Kovac and Sonja Stojanovic, also from Serbia, insulted, swore at, and physically attacked a tourist guide during their visit to the museum of King Nikola in Cetinje in 2007. Stojanovic was acquitted.

During the year authorities appropriated approximately 400,000 euros (\$532,000) to improve conditions for Roma under the Strategy for Improvement of the Roma Position in Montenegro 2008-12. Priorities included the integration of the Romani, Ashkali, and Egyptian population into society. NGOs alleged, however, that the appropriated funds were not spent. Despite the appointment in 2009 of a new national coordinator, the establishment of a commission for monitoring the implementation of the strategy (including representatives of Roma and NGOs), and the establishment of a center for the preservation and protection of minorities' culture, government efforts did not result in significant improvements during

the year. Minister for Human and Minority Rights Ferhat Dinosa publicly stated that the abbreviated name RAE, for Roma, Ashkali, and Egyptians, should be avoided, and he invited the public to use the correct names for each Romani ethnic group.

During the year the government continued to fund the operating costs of national councils, those elected bodies established in 2007 and 2008 to represent the interests of minority groups. It provided an additional 850,000 euros (\$1.13 million) to the councils during the year for the implementation of 126 projects, apportioned according to the size of each group. There were national councils for Serbs, Bosniaks, Albanians, Muslims, Croats, and Roma. Some members of the councils and human rights activists voiced suspicions that their funds had been misappropriated. The Fund for Minorities decided to allocate funds just a few days before parliament adopted amendments to the Law on Minority rights, on December 9, that established new criteria for appropriation of funds. A group of Romani activists voiced their dissatisfaction with the excessive amount of government assistance provided to Vaselj Beganaj, president of the NGO coalition Roma Circle. NGOs asserted that his projects were given preferential treatment and that some funds were used for personal expenditures.

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

The constitution calls for respect for human rights on all grounds and prohibits the instigation of hatred or intolerance on any grounds. Nevertheless, antipathy and stigmatization toward lesbian, gay, bisexual, and transgender (LGBT) persons existed.

A number of NGOs and human rights activists continued to sharply criticize and unsuccessfully demand the removal from office of the minority and Human Rights Minister Ferhat Dinosa for "his incompetent, intolerant and homophobic statements."

The Ombudsman's Office stated that since adoption of an antidiscrimination law in July, their office received two complaints against discrimination on sexual orientation.

NGOs Juventas and Safe Woman's House, along with individual members of the LGBT population, filed a complaint with ombudsman's office claiming a program aired on Atlas TV called "Glamour Noir" contained hate speech. The Slobodan Skerovic secondary school in Podgorica sanctioned a psychology teacher who was a guest on the program because of her statements about LGBT persons on that program. Following the ombudsman's recommendation, the Broadcasting Agency urged Atlas TV and other electronic media outlets "to avoid promoting or instigating intolerance or hate speech."

There were infrequent reports of violence and discrimination directed against gay men; there were no reports that the government condoned such actions. In July two cases of violence against gay men were reported to the NGO Juventas. Neither case was reported to the police, as the victims reportedly feared disclosure of their sexual orientation during the investigation and possible court trial. There were no reports that persons were denied equal opportunities in education and employment on the basis of sexual orientation. Societal antipathy towards gays and lesbians led most of them to conceal their orientation. No person publicly declared their gay or lesbian affinity during the year. Juventas reported two cases in which media carried insulting remarks against LGBT persons.

During the year the NGO Juventas and the Coalition for LGBT conducted an awareness campaign through the EU-funded project, "Montenegro Bright Spot on the Gay Map," a hopeful response to the Dutch NGO that had once labeled the country "the dark spot on the gay map."

In July, as part of efforts to provide protection to sexual minorities in the country, six Montenegrin police officers took part in training programs in Los Angeles and Toronto on the protection of LGBT rights.

## Other Societal Violence or Discrimination

There were no reports of violence against persons with AIDS; however, the NGO Juventas stated that persons with HIV/AIDS were stigmatized and experienced discrimination. Observers believed that fear of discrimination prevented many persons from seeking HIV testing, and the rate of testing was only 33 persons per 1,000 inhabitants. The NGO Cazas runs the only center for psychological support and assistance to persons infected by HIV and AIDS.

Although knowledge about transmission of HIV was generally widespread, changes in behavior lagged behind. Since persons are not accustomed to HIV testing, HIV infection is often discovered only in the later stages, often when the person being tested has already developed AIDS. Most of this population lives at subsistence level.

## Section 7 Worker Rights

### a. The Right of Association

The law entitles workers, except for uniformed military and police personnel, to form and join independent unions of their choice without previous authorization or excessive requirements, and authorities effectively enforced these laws. Approximately 60 percent of the workforce in the formal economy was unionized. The most prominent trade union organizations were the Confederation of Trade Unions of Montenegro and the Union of Free Trade Unions of Montenegro.

In May the legislature adopted a new law on trade union representativeness to ease restrictions on trade union pluralism.

The law allows unions to conduct their activities without government interference, and the government protected this right in practice. The law provides for the right to strike, with the exception of military and police personnel and public servants. During the year workers in the private sector exercised this right by conducting frequent legal strikes. Worker participation in an unlawful strike is sufficient grounds for dismissal or for the union to be held responsible for damages.

Unpaid wages and factory closures led to large-scale strikes. In September strikers took possession of the management buildings in the Podgorica Aluminum Plant (KAP) and the steel works and bauxite mine in Niksic. Workers held a hunger strike in the bauxite mine pit. On September 30, police interrogated 17 members of the trade union of the steel works in Niksic. The trade union stated that it considered the police action a pressure tactic.

### b. The Right to Organize and Bargain Collectively

The law provides for the right to bargain collectively; however, collective bargaining remained at a rudimentary level and was hampered by the fact that only the most representative unions, i.e. unions with the largest membership in a given plant, can be the parties to the collective agreements. Under a 2004 law, collective bargaining agreements cover the registered workforce. On November 3, representatives of the government's Social Council, the Union of Employers, and the Confederation of Trade Unions of Montenegro signed amendments to the general collective agreement to align the agreement with the labor law. The Union of Free Trade Unions of Montenegro, which did not sign the amendments, described them as detrimental to workers and filed a case with the Constitutional Court.

The law prohibits antiunion discrimination and employer interference in union activities, but there were some reports that it occurred during the year. Trade union activists reported that there were cases of dismissal, demotion, and suspension for suspected union activity.

On April 28, the Trade Union of the Podgorica Aluminum Plant stated that company management exerted various kinds of pressures on workers to prevent their participation in an announced strike. The Union of Free Trade Unions and several

NGOs urged the minister of labor and social welfare to stop antiunion discrimination at the company and criticized the Labor Inspectorate for inaction.

Workers dismissed for union activity had the right to reinstatement. However, because of delays in the court system, it could take a worker who claimed to have been unjustly fired several years to regain employment through legal action. There is a law providing for out-of-court settlement of labor disputes, and the Agency for Amicable Labor Dispute Resolution, which became operational in August, exists to implement the law. Between August and November, the agency reviewed 46 cases involving 465 parties.

On March 12, following a 24-day strike at the bauxite mine in Niksic, company management agreed to reinstate eight miners who had been dismissed. Management also agreed that miners with more than 20 years of service could retire with pensions based on length of service.

On April 30, the government brokered a deal between KAP management and its trade union, reversing the dismissal of trade union leader Sandra Obradovic and a few other workers. After management had previously refused to withdraw the dismissals and meet the union's requests, the strike escalated and workers occupied the management building, forcing the management to leave the premises. The trade union called on the authorities to intervene.

The Confederation of Trade Unions of Montenegro reported instances of employers bullying trade union members. When the trade union at the Mikro firm in Bijelo Polje organized a strike to protest unpaid salaries and allowances – in full compliance with national procedures – the employer threatened to sue the union for 100,000 euros (\$133,000) in damages. A similar situation led to a strike by the local branch of the construction workers' union at the Prvoborac Kamen i Beton firm in Herceg Novi. Following the strike, management issued the local trade union leader an official warning.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor; however, there were reports that individuals were trafficked from abroad and within the country for labor, particularly in construction. There was also forced begging, mostly by Romani children (see section 7.d.). See also the State Department's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### d. Prohibition of Child Labor and Minimum Age for Employment

There are laws and policies to protect children from exploitation in the workplace, including those prohibiting forced or compulsory labor and those establishing acceptable working conditions. The government generally enforced these laws and regulations effectively in the formal economy. The official minimum age for employment is 15 years; however, in farming communities it was common to find younger children assisting their families. Romani children also worked in a variety of unofficial retail jobs, typically washing car windows, collecting items such as scrap metal, or selling old newspapers.

Many Romani children also engaged in begging. In Podgorica and the coastal areas, police continued an initiative aimed at suppressing begging. They arrested and charged several adults with organizing and forcing their relatives, mostly young Romani children, to beg. Most of these children were temporarily accommodated in the Center for Children and Youth. Police asserted that the practice constituted isolated family begging rather than organized begging. Police pressed charges against the perpetrators while the children were sent to their families. See also the State Department's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

Inspectors from the State Labor Inspector's Office were responsible for enforcing the child labor laws within the formal economy. Inspectors reported no violations of child labor laws during the year. The ministry has 40 inspectors covering

labor issues divided in eight branch offices, although there were no resources devoted exclusively to investigating child labor. The government has provided two general awareness training courses for officials charged with enforcing child labor laws.

#### e. Acceptable Conditions of Work

The national minimum wage of 55 euros (\$73) per month did not provide a decent standard of living for a worker and family. According to statistics released at the end of August, the average salary was approximately 504 euros (\$670) per month and was not adequate for a worker and family to live comfortably. The government statistics office estimated that approximately 5 percent of the population lived below the poverty line in 2008. Significant portions of the workforce, particularly in rural areas and the informal sector, earned less than the minimum wage. The Ministry of Labor and Social Welfare enforced the minimum wage; there were no reports during the year of employers in the formal economy failing to pay it.

The law limits hours worked to 40 per week (except in specified unusual circumstances), sets a 30-minute daily rest period, and requires an unspecified premium for work in excess of 40 hours per week. Overtime work is limited to 10 hours per week; however, seasonal workers often worked much longer hours.

Many workers from privatized or bankrupt companies had outstanding claims for back payment of salaries and severance pay. The law provides some recourse, and parties have reached settlements involving some compensation in the past; however, these were the exception. The law requires employers to make substantial contributions to pension and health care funds. To avoid these payments, employers often did not officially register their employees.

During the first nine months of the year, the Employment Agency granted licenses for the employment of 10,062 foreigners, most of them seasonal workers in the fields of tourism, catering, and construction. The quota for nonresident employees for the year was 39,450. Labor law provisions governing temporary employment place no limitation on extending the temporary employment of a worker, putting employers in a position of considerable leverage over workers, particularly women, older workers, and those with disabilities.

The government establishes mandatory health and safety regulations, and it increased inspections and preventative measures during the year.

The law governing workplace health and safety covers both the public and private sectors. Employers are obliged to provide and ensure the use of safety equipment at work and report any serious injury or death at work within 24 hours; however, authorities did not strictly enforce laws and regulations on worker safety. In practice, workers often lacked safety equipment, especially in the construction and wood-processing industries. During the first nine months of the year, there were 45 injuries and four deaths from injuries at work. The most frequent reasons cited for injuries were lack of work-related training, inadequate medical care for workers, and old workplace equipment.

During the first nine months of the year, authorities conducted 11,405 inspections and found 8,171 violations of labor standards. Labor inspectors have legal authority to close an establishment until violations are corrected. In cases of repeated violations, the owners can be fined. Infractions included violations related to labor permits and contracts, payment for work, annual leave, and unpaid and unreported overtime. Inspectors shut down workplaces in 356 cases, levied 2,515 on-the-spot fines for lesser violations, and filed criminal charges in three severe cases.

Workers did not have the right to remove themselves from situations that endanger health and safety without jeopardy to their employment. As a part of the agreement with the European Agency for Protection and Health at Work, the Ministry of Health, Labor and Social Welfare distributed 18,000 fliers during 2009 to raise awareness about potential hazards. The law requires employers to make a risk assessment of workplaces that includes measures to prevent and reduce risks.

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