



NGO: EUROPEAN CENTRE FOR LAW AND JUSTICE (ECLJ)

**UNIVERSAL PERIODIC REVIEW
43RD SESSION**

**STATUS OF HUMAN RIGHTS IN MONTENEGRO
FOR THE 43RD SESSION OF THE
UNIVERSAL PERIODIC REVIEW**

Status of Human Rights in Montenegro for the 43rd Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in Montenegro for the 43rd session of the Universal Periodic Review (UPR).

Background

2. Montenegro is in Southeastern Europe, and is part of an area known as the Balkans.¹ It has a population of 604,966 people.² Of the total population, 72.1% identify as Orthodox Christian, 19.1% as Muslim, 3.4% as Roman Catholic, 1.2% as atheist, 1.5% as “other,” and 2.6% as “unspecified.”³

3. Montenegro’s previous review was held on January 22, 2018.⁴ As a result, Montenegro received 169 recommendations, of which 159 were supported.⁵ One recommendation made by Uruguay and supported by Montenegro was that the government “[s]trictly apply the prohibition of abortion based on the sex of the fetus and establish assistance services for women who feel pressured to carry out abortion for this reason.”⁶ There were also several recommendations made on the issue of human trafficking, including a recommendation made by Ghana and supported by Montenegro that the government “[v]igorously pursue public policy programmes aimed at combating trafficking in persons, in particular of Roma, Ashkali, and Egyptian girls and women.”⁷

Legal Framework

Abortion

4. Montenegro’s constitution does not mention abortion. However, there are numerous references in the constitution to the rights to life and dignity of human beings. Article 17 of Montenegro’s constitution provides that “[a]ll shall be deemed equal before the law, regardless of any particularity or personal feature.”⁸ Article 18 states that “[t]he state shall guarantee the equality of women and men and shall develop the policy of equal opportunities.”⁹ Equal protection for everyone under the law is codified in Article 19.¹⁰ Article 27 states that “[t]he

right of a person and dignity of a human being with regard to the application of biology and medicine shall be guaranteed.”¹¹ Further, Article 28 provides that “[t]he dignity and security of a man shall be guaranteed,” thus implying a protection of human life.¹²

5. Montenegro is a party to the International Covenant on Civil Political Rights (ICCPR) and is responsible for upholding the principles enshrined in it.¹³ Under Article 6 of the ICCPR, “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”¹⁴

6. However, abortion is legal in some instances in Montenegro. Section 2, Article 4 of Montenegro’s Law on Conditions and Procedure for Termination of Pregnancy states that abortion at the woman’s request is limited to ten weeks of gestation.¹⁵ Article 6 then states that, after ten weeks, women can still obtain an abortion so long as there are health issues regarding the mother, the mother could face serious social or economic issues connected with the child, mental or physical disabilities affecting the child, if the child were conceived from rape or incest.¹⁶

Human Trafficking

7. Article 63 of Montenegro’s constitution prohibits forced labor.¹⁷

8. Article 444 of Montenegro’s criminal code prohibits human trafficking and prescribes a sentence of one to ten years for offenders or at least three years for those who traffic minors.¹⁸ Additionally, a person who knowingly uses the services of a trafficked person is subject to a six month to five year sentence, unless he engages the services of a minor, in which case he subject to a sentence of three to fifteen years.¹⁹

9. Under Article 445 of Montenegro’s criminal code, anyone convicted of child trafficking for adoption is subject to a sentence of one to five years. Anyone who does so as part of an organization is subject to a sentence of at least three years.²⁰

10. Article 8 of the ICCPR, to which Montenegro is a party, states, “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”²¹

11. Additionally, Montenegro is a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.²² Under Article 9 sec. 1 of this Protocol:

1. State Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.²³

Abortion in Montenegro

12. In addition to abortion being legal for excuses regarding socio-economic reasons, health, and rape, abortion on request is legal up to ten weeks gestation.²⁴ Abortion on request means “doctors or other professionals are not required to attest to, or certify, the existence of a particular reason or justification for the abortion.”²⁵

13. With the freedom to obtain abortions throughout a pregnancy for socio-economic reasons, there seems to be a major issue of illegal “sex-selective” abortion in Montenegro, whose people traditionally suffer from a strong, albeit immoral, belief that male children are more desirable than female children. Sex-selective abortion has been illegal in Montenegro since 2009. However, the law against sex-selective abortion has not stopped this horrendous practice in the country. A strategy used by many women for sex-selective abortion is to go to one center to identify the sex of the preborn baby and go elsewhere to perform the abortion.

14. Montenegrin lawmakers acknowledge this issue, with some even being potentially sympathetic towards it. While Montenegrin ruling coalition leader Dragon Ivanovic “sincerely condemned” the country’s trend of the dwindling proportion of newborn girls, he later claimed “[e]very citizen has the right to influence the reproduction of their children.” Aida Petrovic, the executive director of the Montenegrin Women’s Lobby, condemned Ivanovic’s comments as “shameful” and equivalent to “public support for selective abortions.” Further, others, from the NGO Women’s Rights Center to the president of the parliament, view Ivanovic’s allusion to sex-selective abortions being a “right,” as a violation of Montenegro’s constitution and antidiscrimination laws and believe everyone has right to be born whether male or female.

15. One researcher has written about a heart-wrenching story of sex-selective abortion in Montenegro.²⁶ After giving birth to two daughters, and under pressure from her parents-in-law to have a son, a woman aborted four of her preborn daughters over the course of a decade.²⁷ She finally had a son at the age of 44, but it was not enough to gain the approval of her in-laws, and she now lives with the emotional pain that so often follows abortion.²⁸ Now in her sixties, she goes to Church in anguish and prays “God, please forgive me!”²⁹ Stories of this kind are all too common in Montenegro.³⁰

16. Even though Montenegro’s ten-week gestational limit law is consistent with at least fifty-three countries that have a gestational limit of twelve weeks or less, its unlimited allowance for socio-economic reasons is only consistent with eleven countries.³¹ Clearly, Montenegro can do better, especially in light of the fact that the so-called freedom to have an abortion for socio-economic reasons is most likely allowing for sex-selective abortions in the country.

17. Across the world, abortion laws are generally restrictive, as most countries recognize the importance and duty of protecting the right to life of the preborn child. Currently, a majority of nations have strict limitations when it comes to taking the life of a preborn child. Out of the 193 Member States of the U.N., an overwhelming majority (112) of them have strict limits on abortion: twenty countries prohibit abortion altogether; forty-two countries only permit abortion where the mother’s life is at risk; and fifty only allow abortion to preserve the health

of the mother. Even in the sixty-two countries that have varying gestational limits for on-demand abortions, the majority of these (fifty-three) have a gestational limit of twelve weeks or less, while some allow only up to fourteen weeks, or somewhere in-between. Only eleven countries allow abortion throughout pregnancy for social and economic grounds, as well as for rape, incest, or fetal impairment. Only two countries broadly allow pre-viability abortion. Finally, there are only six extreme outliers among the nations, including China and North Korea, which do not have a law indicating any gestational limit on abortion, though their regulatory mechanisms vary.³²

18. While abortion laws and regulations vary across nations, what most countries do agree on is that the state has an interest, not only in protecting women and girls, but also in protecting the lives of all its citizens – including the preborn.³³ This interest is enshrined in national and international documents alike, as well as in the legislation of individual countries. Montenegro’s own laws reflect this fact. But again, it can do better to protect the sanctity of life as reflected in international human rights instruments.

19. For instance, the Universal Declaration of Human Rights (UDHR), the cornerstone of all international human rights, states that “recognition of the inherent dignity and of the equal and inalienable rights of *all* members of the human family is the foundation of freedom, justice and peace in the world,” and that “[e]veryone has the right to life”³⁴ Likewise, Article 6 of the ICCPR states that “[e]very human being has the inherent right to life. This right shall be protected by law.”³⁵ The preamble of the United Nations Charter states that “the peoples of the United Nations determined . . . to reaffirm faith in fundamental human rights, in the dignity and worth of the human person”³⁶ It is important to note that, while virtually all international treaties contain provisions for the protection and promotion of the right to life, not one contains a “right to abortion.” Furthermore, since the 1994 Cairo Conference on Population and Development, U.N. Member States have had an affirmative commitment to “reduce the recourse to abortion”³⁷ and to “take appropriate steps to help women avoid abortion, *which in no case should be promoted as a method of family planning.*”³⁸

20. Montenegro’s laws show that the country understands that abortion is something to be restricted. Therefore, Montenegro must understand that abortion is one of the gravest of all offenses against human life and justice because it entails the deliberate killing of an innocent human being. Why else would a country have limitations on abortion if it did not already understand that? Yet, countries implicitly deny and contradict this truth when they seek to accommodate nonexistent “rights” of “privacy” and “autonomy” over the absolute right to life of all people. This can especially be seen in the cases of sex-selective abortions in Montenegro. In these egregious cases, Montenegro must continue to take efforts to eradicate the thought that one sex of a human being is better than another, a belief that is not only completely wrong, but also blatantly misogynistic.

21. In addition to the deliberate killing of a preborn child, abortion can also cause physical harm to the mother. This can result directly from the procedure itself (e.g., perforation of the uterus, laceration of the cervix), from the deprivation of the health benefits of continuing pregnancy (e.g., eliminating the protective effect of a full-term pregnancy against breast

cancer),³⁹ or by masking other dangerous symptoms (e.g., a woman with an undiagnosed infection or ectopic pregnancy may believe her symptoms are merely normal after-effects of abortion, leading her to delay seeking medical help).⁴⁰ Remarkably, the World Health Organization's newly published 2022 "Abortion care guideline," which is written by pro-abortion activists and has no binding value, also acknowledges the complications of abortion.⁴¹

Human Trafficking

22. The Balkans region (which includes Montenegro) is a hotspot for traffickers in Europe.⁴² Victims, typically children and women, are exploited for the purposes of sex trafficking and forced labor within these countries.⁴³ Montenegro in particular is a country in this region that is affected by human trafficking. Traffickers there are typically men between ages twenty-five and forty-nine that are members of organized criminal groups in the Western Balkans.⁴⁴ Victims in Montenegro tend to be women and girls from Montenegro, the Balkans region at large, and in some cases, other eastern European countries.⁴⁵

23. While the number of identified victims of trafficking was low until 2019 (with four in 2017, ten in 2018, and one in 2019), from November 2019 to December 2020, the number of identified victims increased to fifty-two over that thirteen-month period.⁴⁶ However, the number of trafficked persons is thought to be substantially higher than those reported.⁴⁷ Montenegro has been urged to cooperate with experienced NGOs in order to increase the number of victims being identified, as well as those that should be supported.⁴⁸ For instance, Montenegro was urged to adopt "[a]n effective assistance system, including specialized shelters for trafficking victims, needs to operate on a permanent basis and be adequately funded," noting that "[t]his is also key to improving and increasing identification rates, as victims are more likely to come forward if assistance, especially adequate accommodation, is readily available."⁴⁹ Further, the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) has urged Montenegro to establish a system of compensation to victims of human trafficking in the country.⁵⁰

24. In addition to identifying a low number of victims, Montenegrin authorities have prosecuted few perpetrators of human trafficking. Between 2014 and March 2020, only one final judgment in a human trafficking case was issued.⁵¹ As with victim identification, prosecution of human trafficking has increased somewhat in the last several years. From the end of 2018 to mid-2020, the newly formed Operational Team for Combating Trafficking in Human Beings opened twelve investigations into human trafficking.⁵² Additionally, at least four more cases of human trafficking have been tried since July 2020, resulting in at least two convictions.⁵³

25. Montenegro has taken some strides in the global fight against human trafficking and in complying with their protocol as part of the Convention against Transnational Organized Crime. The Organization for Security and Co-operation in Europe (OSCE) has helped Montenegro organize a series of training courses for the heads of police and security stations across the country throughout October 5-8, 2021.⁵⁴ About 20 security heads and 70 police

officers, “primarily those patrolling the streets who are the first line of contact with trafficked victims,” participated in these programs.⁵⁵

26. In addition, in the week leading up to June 13, 2022, Montenegrin police were part of a broader effort across 22 European countries in arresting 130 traffickers.⁵⁶ Further, these collective actions led to identifying more than 100 possible victims of trafficking.⁵⁷

27. Lastly, Montenegro’s Center for Education in Judiciary and State Prosecution, alongside the United Nations Office on Drugs and Crime, conducted a mock trial for judges, prosecutors, and police officers in June of 2022.⁵⁸ The purpose of this mock trial was to educate them on real time “challenges and opportunities in identifying and investigating trafficking in persons cases under the learning-by-doing methodology.”⁵⁹ It is yet to be seen how Montenegro will utilize this recent training, but these are certainly steps in the right direction.

Recommendations

28. While Montenegro’s gestational abortion restrictions are consistent with several countries, they are still in the minority. Additionally, its extremely liberal allowance for socio-economic grounds is not only an extreme position, but one held by only a handful of countries. We therefore ask that Montenegro improve its laws in order to protect life at all stages, a position that international human rights laws and a vast majority of other countries hold. Additionally, Montenegro should reform its laws so that women cannot seek to end their child’s life, at any point before birth, simply for purposes of social or economic convenience. Lastly, Montenegro must continue to seek ways to eradicate the discriminatory culture of sex-selective abortion that exists amongst some of its people.

29. In order to combat the trafficking of individuals through Montenegro and the Balkans, Montenegro must continue to take proactive measures to identify cases of human trafficking as they enter the country. In order to do this, Montenegro must continue to train authorities on how to properly identify potential cases of human trafficking and identify the victims. Further, aid and rehabilitation services are critical in order to help the victims. Additionally, once the victims have been identified and cared for, their traffickers must be investigated and prosecuted vigorously. Lastly, we encourage Montenegro to continue to work with other countries in the region to combat human trafficking in the Balkans.

¹ *Montenegro*, THE WORLD FACTBOOK (Jul. 27, 2022), <https://www.cia.gov/the-world-factbook/countries/montenegro/>.

² *Id.*

³ *Id.*

⁴ *Universal Periodic Review – Montenegro*, UNHRC, <https://www.ohchr.org/en/hr-bodies/upr/me-index>.

⁵ *Matrix of Recommendations – Montenegro*, UNHRC, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session29/ME/MatriceRecommendationsMontenegro.docx>.

⁶ *Id.* at A/HRC/38/13 - Para. 105.

⁷ *Id.*

⁸ MONTENEGRO’S CONSTITUTION OF 2007 art. 17, https://www.constituteproject.org/constitution/Montenegro_2007.pdf.

⁹ *Id.* art. 18.

¹⁰ *Id.* art. 19.

¹¹ *Id.* art. 27.

¹² *Id.* art. 28.

¹³ *International Covenant on Civil and Political Rights*, UNITED NATIONS,

https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=_en&mtdsg_no=IV-4&src=IND.

¹⁴ *International Covenant on Civil and Political Rights*, Dec. 16, 1966, 999 U.N.T.S. 171, art. 6 [hereinafter ICCPR].

¹⁵ *Law on Conditions and Procedure for Termination of Pregnancy*, 2009, § 2, art.4 (Montenegro),

<https://abortion-policies.srhr.org/documents/countries/02-Montenegro-Law-on-the-Interruption-of-Pregnancy-2009.pdf#page=1>.

¹⁶ *Id.* at art. 6.

¹⁷ MONTENEGRO'S CONSTITUTION OF 2007 art. 63,

https://www.constituteproject.org/constitution/Montenegro_2007.pdf.

¹⁸ MONTENEGRO CRIM. CODE, art. 444, <https://www.icj.org/wp-content/uploads/2013/05/Montenegro-Criminal-Code-2003-eng.pdf>.

¹⁹ *Id.*

²⁰ *Id.* art. 445.

²¹ ICCPR, *supra* note 14, art. 8.

²² *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, Nov. 15, 2000, 2237 U.N.T.S. 319, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en.

²³ *Id.* art. 9 sect. 1.

²⁴ *Law on Conditions and Procedure for Termination of Pregnancy*, art. 4.

²⁵ *European Abortion Laws: A Comparative Overview*, CTR. FOR REPROD. RTS,

<https://reproductiverights.org/wp-content/uploads/2020/12/European-abortion-law-a-comparative-review.pdf>.

²⁶ Diāna Kiščenko, *An Ethnographic Exploration of Son Preference and Inheritance Practices in Montenegro*, 69 COMPAR. SE. EUR. STUD. 69, 69-70 (2021).

²⁷ *Id.* at 70, 79.

²⁸ *Id.* at 79.

²⁹ *Id.*

³⁰ *Id.* at 80.

³¹ *The World's Abortion Laws*, CTR. FOR REPROD. RTS. (Feb. 23, 2021),

https://reproductiverights.org/sites/default/files/WALM_2021update_V1.pdf.

³² *Id.*

³³ *Id.*

³⁴ G.A. Res. 217 (III) A, *Universal Declaration of Human Rights*, preamble, art. 3 (Dec. 10, 1948) (emphasis added).

³⁵ ICCPR, *supra* note 14.

³⁶ U.N. Charter pmbl.

³⁷ *Report of the International Conference on Population and Development, Cairo A/CONF/F.171/13/Rev.1 at 58* (5-13 Sept. 1994), <https://documents-ddsny.un.org/doc/UNDOC/GEN/N95/231/26/IMG/N9523126.pdf?OpenElement>.

³⁸ *Id.* at 46 (emphasis added).

³⁹ See Justin D. Heminger, *Big Abortion: What the Antiabortion Movement Can Learn from Big Tobacco*, 54 CATH. U.L. REV. 1273, 1288-89 & nn.119 & 121 (2005).

⁴⁰ See generally *Physical Effects of Abortion: Fact Sheets, News, Articles, Links to Published Studies and More*, UNCHOICE, www.theunchoice.com/physical.htm (listing sequelae and referencing sources).

⁴¹ World Health Org., *Abortion Care Guideline 79* (2022),

<https://apps.who.int/iris/bitstream/handle/10665/349316/9789240039483-eng.pdf?sequence=1&isAllowed=y>.

⁴² Fjori Sinoruka, *Balkan Countries Struggling to Curb Human Trafficking – US Report*, BALKAN INSIGHT (Jul. 20, 2022), <https://balkaninsight.com/2022/07/20/balkan-countries-struggling-to-curb-human-trafficking-us-report/>.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ GRETA, *Human Trafficking: Montenegro Should Do More to Punish Perpetrators and Ensure Access to Justice and Compensation for Victims*, COUNCIL OF EUR. (Jun. 2, 2021), <https://www.coe.int/en/web/portal/>

/human-trafficking-montenegro-should-do-more-to-punish-perpetrators-and-ensure-access-to-justice-and-compensation-for-victims [hereinafter, GRETA, *Human Trafficking*].

⁴⁷ *Montenegro Must Improve Support for Victims and Potential Victims of Trafficking, Says UN Expert*, UNITED NATIONS HUM. RTS. (Nov. 8, 2019), <https://www.ohchr.org/en/press-releases/2019/11/montenegro-must-improve-support-victims-and-potential-victims-trafficking>.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ GRETA, *Human Trafficking*, *supra* note 46.

⁵¹ GRETA, Evaluation Report — Montenegro 25 (2021), <https://rm.coe.int/evaluation-report-on-the-implementation-of-the-council-of-europe-conve/1680a2aefc>.

⁵² *Id.* at 26.

⁵³ *Id.* at 28.

⁵⁴ *OSCE Mission to Montenegro Trains Police Officers on Trafficking in Human Beings*, OSCE (Oct. 8, 2021), <https://www.osce.org/mission-to-montenegro/500449>.

⁵⁵ *Id.*

⁵⁶ Bart Meijer, *Police Arrest 130 Suspected Human Traffickers in European Crackdown*, REUTERS (Jul. 5, 2022), <https://www.reuters.com/world/europe/130-human-trafficker-suspects-arrested-eu-wide-crackdown-2022-07-05/>.

⁵⁷ *Id.*

⁵⁸ *Montenegro Supported in Fighting Against Modern Slavery*. UNITED NATIONS OFF. ON DRUGS AND CRIME (June 30, 2022), <https://www.unodc.org/southeasterneurope/en/all-stories-june-montenegro-supported-in-fighting-against-modern-slavery.html>.

⁵⁹ *Id.*