

**Peer review mission on the capacity of the Ministry of
Human Rights**

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**Peer Assessment Report
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List of acronyms

CSO	Civil Society Organization
EC	European Commission
EU	European Union
HRMA	Human Resources Management Authority
LGBT	Lesbian, Gay, Bisexual, Transgender
MHMR	Ministry for Human and Minority Rights
MoD	Ministry of Defence
MoE	Ministry of Education
MoF	Ministry of Finance
MoFA	Ministry of Foreign Affairs
MoI	Ministry of Interior
MoLSA	Ministry of Labour and Social Affairs
MoTSD	Ministry of Tourism and Sustainable Development
NMC	National Minority Councils
TAIEX	Technical Assistance and Information Exchange
WG	Working Group

1. Introduction

This report is based on the findings of the follow-up expert mission to Montenegro scheduled in the period 3-7 April 2017. The previous two TAIEX mission aimed at assessing the capacity of the Ministry for Human and Minority Rights (hereinafter MHMR) had taken place in the spring of 2015 and 2016 respectively. The first ensuing Report contained 22 Recommendations. The second Report, in addition to assessing how the institution was able to perform its tasks, looked at the previous recommendations and contained an indication of the progress achieved. It also added 8 new recommendations. Considering that the MHMR's institutional set-up, competencies and tasks have remained unchanged, the present report will not go over them again. It will keep its focus on organizational issues and on whether any progress has been recorded since the last report in relation to the issues addressed in the recommendations.

The findings and recommendations of this report are primarily based on the information provided during the interviews held with virtually all the staff members of the MHMR, as well as with representatives of the National Minority Councils (NMCs), with the President of the Fund for Protection and Realization of Minority Rights (hereinafter only the Fund), with the Chairperson and a few members of the Parliament's Committee on Human Rights, with representatives of the Center for Protection and Development of Minority Cultures, as well as of the Ministry of Labour and Social Affairs (MoLSA), Ministry of Education (MoE), Ministry of Tourism and Sustainable Development (MoTSD) in relation to areas of common concern. Most of the interviews were conducted within the premises of the MHMR. Consultations were also held with representatives of Montenegrin civil society organizations (CSOs) working in the field of human rights at large (LGBT, democracy and rule of law, disabled, rehabilitation of drug addicts, human rights monitoring, minority groups). A field visit to Konik camp and a meeting with the staff of the International Federation of Red Cross and Red Crescent Societies also took place. The newly appointed Minister was present at both the beginning and closure of the mission. The final debriefing was organized in the premises of the Ministry of Foreign Affairs (MoFA) and was attended by representatives of the MHMR and of the institutions met in the course of the mission.

For the purpose of this report the data gathered in person was supplemented by background material provided by the MHMR to the EC, also encompassing information on the most relevant laws to which the MHMR had contributed to, and complemented by those provided by the interviewees and obtained via independent research. The combination of sources proved particularly important for the production of a balanced report capable of reflecting as objectively as possible the current situation. In order to avoid repetitions, information already contained in the Report of the MHMR on work and situations in the administrative areas for 2016 (which was also presented in the course of meetings) will only be duplicated if functional to the understanding of the recommendations formulated. Similarly, the mandate and legal basis of the MHMR and of the various bodies it oversees or it is responsible for, will only be mentioned in relation to eventual changes.

Given the broad scope of the review, the complexity of the MHMR, the political implications that are inherently present, and the limited amount of time and resources available to

conduct this assessment, it is fair to state that the present report, just like the previous, cannot aspire to be comprehensive. It is also understood that, at times, some of the issues discussed and recommendations provided require a deeper and better understanding of the overall institutional and political dynamics of the country. They, however, do represent the view of an external observer and, as such, should be considered at least to call for the initiation of a reflection on those issues hereby identified as critical. Despite the awareness that the implementation of some of the recommendations require coordinated efforts with other line Ministries (that of Finance in the first place), without a thorough reconsideration (which was already advocated) of the conditions in which the MHMR is currently operating, the situation is unlikely to reach the sought standards. Some patterns for actions have thus been identified.

In order to facilitate appreciation of the progresses achieved, the structure of the present report echoes those dating 2015 and 2016. Previous recommendations, with an indication of progress achieved are followed, when needed, by new observations and suggestions for improvement.

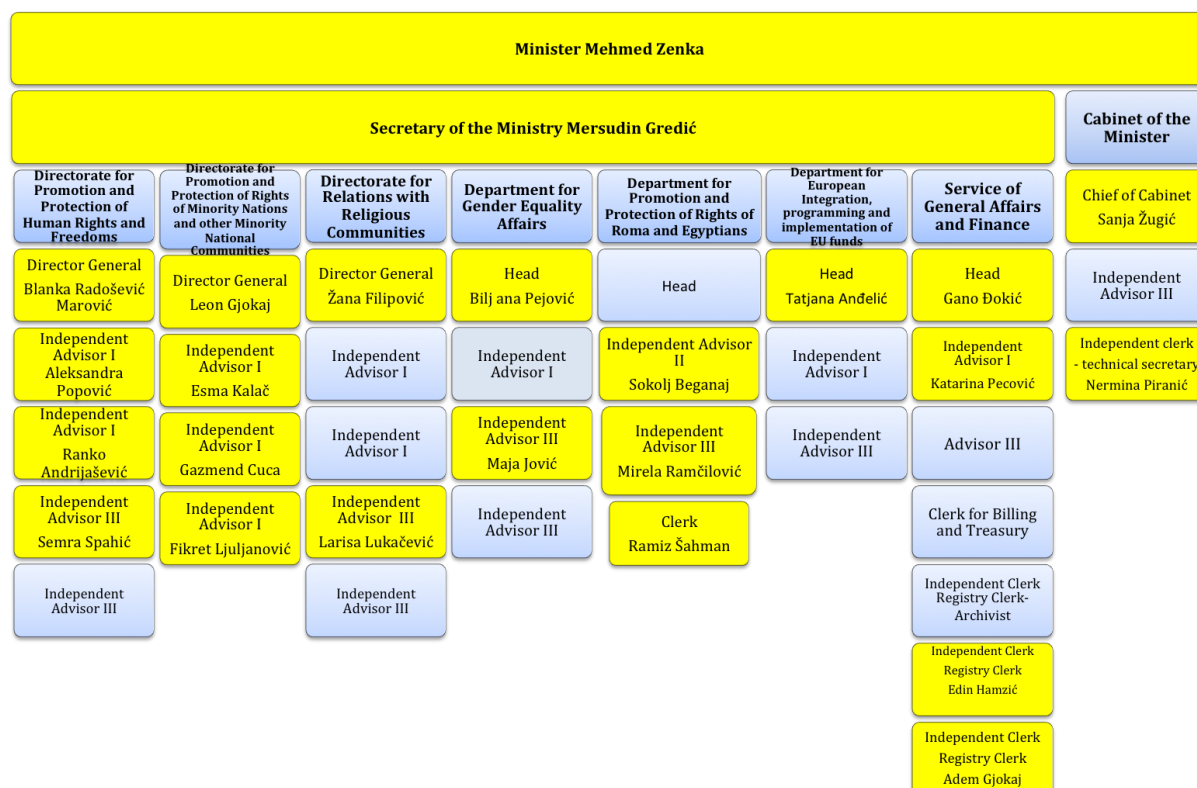
2. The MHMR: internal organization and staffing

1. Overview

Of the 29 recommendations issued on the basis of the 2015 and 2016 peer reviews, dealt with internal organization, either under the angle of human resources (comprehensively understood) or capacity. Since the first peer review, the MHMR has showed a certain commitment to address the staffing issues that had been identified, both in quantity and quality but since the work is still in progress, it seems opportune to continue looking into it in detail.

According to the latest organogram provided, attached below, currently the MHMR counts on 24 staff members out of the 37 foreseen by the Rulebook of 2015. Since 2015 the staff has increased of 7 units. Following the 2016 peer review two recruitments (Independent Advisor I within the Directorate for the Promotion of Human Rights and Freedoms and Head of the Department for European Integration) took place. The new Head of the Department for European Integration, however, was recruited internally as she is the former Independent Advisor I of the Department for Gender Equality Affairs, a position which is currently still vacant. Of the two recruitments deriving from the accession process, foreseen to take place in 2016 (Independent Advisor I in the Directorate for the Promotion and Protection of Human Rights and Freedoms¹, and in the Department for Gender Equality), only the first took place. Thus, the anticipated result of 27 staff members at the end of 2016 was not reached, even though 4 out of the 6 recruitment envisaged for 2017 have been approved by the MoF. As learned in the course of the mission the position of the Secretary of the Ministry has just been left vacant, with no indications as to the possible replacement. Being a politically-appointed position, it is expected that it will be filled very quickly. The turnover, however, will inevitably have an impact on the MHMR as a whole. Even if handover procedures are properly in place, such apical changes determine an overall readjustment that is yet to be appreciated. According to the above mentioned figures, thus, at the time of writing, 65% (63% considering the vacant Secretary of the Ministry position) of the total workforce envisaged by the Rulebook is currently in place.

What follows is the updated organogram. Note that the positions in the blue boxes are vacant.



Though they are not listed in the organogram (which, as it was explained, mirrors the job positions identified in the Rulebook), there are two additional figures working in the MHMR. One is the junior currently interning in the Department for Gender Equality Affairs. The other is the International Human Rights Expert seconded by the Hungarian Government since July 2016 for an initial period of 12 months. The International Expert provides advice, upon request, on a number of different issues, including the international reporting obligations of the country. He also provided some introductory lectures to staff on the universal and regional human rights system and standards. At the time of writing it was envisaged that his presence could be extended for another 2 years.

1.1 MHMR's human resources: issues of concern

1.1.1 Staffing of the MHMR

The 2015 and 2016 reports contained serious concerns that the lack of staff could hinder the capacity of the MHMR to perform its role. Whilst the further, minimal increase of staff recorded ever since is welcome, it is a fact that the number of people expected to be in place by the end of 2016 has not been met. This is still illustrative of a situation that is far from being satisfactory. As already highlighted in the past, this has inevitable consequences on the workload and share of tasks amongst staff within each operational unit and on the overall capacity of the MHMR to implement activities of increasing quality. Coupling this data with the fact that Director General for Relations with Religious Communities has just taken up service and that the position of Secretary of the Ministry is vacant, the situation cannot be said to have improved as expected.

The presence of a senior International Human Rights expert does represent a resource for the MHMR: its competence, however, is still underused. The fact that he proposed to provide basic, introductory lectures on the universal and regional human rights systems

(which turned out to be much needed), rather than being requested to do so is illustrative of the incapacity of the MHMR to capitalize its resources. Probably the language barrier plays a certain role but cannot justify the situation, particularly having in mind the international exposure (in terms of sources, standards and obligations, for instance) that an institution such as the MHMR has or should have.

1.1.2 Working conditions

Currently the office space and equipment available to the staff of the MHMR is inadequate. Offices are limited in number and overcrowded. The poor working conditions, coupled with the staff shortage that inevitably affect the individual workload, might be some of the reasons (another one being connected with the overall perception of the MHMR of a second-class Ministry) that contribute to making the MHMR an institution not capable of attracting valid candidates. Whilst it is clear that the decision as to the allocation of resources does not fall on the shoulders of the MHMR, it is evident that if its sought improvements are to be achieved, the issue of material working conditions must be addressed compellingly with the Government.

Working conditions do not only refer to office space and equipment but also to services. For instance, firewalls preventing access to social networks do not go well with the stated efforts of the MHMR to have a strong communication and outreach strategy which includes for instance a Facebook page and a Youtube channel (under construction) that employee are prevented to access from work. It is certainly not by banning access to, for instance, social media that productivity or committal of staff is ensured; such objectives should be rather achieved by working toward the establishment of a corporate (human rights) culture and individual work ethics, two issues that do not seem to have been taken care properly.

1.1.3 Training of staff

Whilst lapse of time almost inevitably offers to professionals the possibility to increase their competence, the capacity of the staff of the MHMR remains an issue of concerns. Last year the peer review indicated that the changes recorded (namely an increased attention to the training needs of staff) seemed genuine but additional steps were needed in order to build the managerial competence of the personnel and contribute to molding a corporate human rights culture.

A number of issues, however, need to be pointed out. The first is that the need of training does not seem to have been properly internalized, particularly by the senior management. The impression gathered in the course of the meetings is that training seems still to be considered more functional to pleasing outside stakeholders or ticking a box than necessary for the proper discharge of professional functions. Yet, in the course of the conversation it emerged in more than one occasion how staff did not master the human rights implications of gender equality or could envisage, and fully appreciate, the repercussions that the recent Law on Regularization of Informal Structures might have on vulnerable segments of the population, Roma in the first place. With particular reference to the latter, in the course of the meetings (both with representatives of the MHMR and other stakeholders) it was quite apparent how the MHMR saw no role in it: the suggested assessment of the impact of the law was taken reluctantly and so were recommendations aimed at verifying that adequate information about the requirements for legalization had been circulated amongst the concerned populace, at collecting information from municipalities on the housing situations

of people in private or public dwelling that might be affected (also based on the data available to the MoLSA), about contingency plans (if any) municipalities adopted, in relation to the existence of a rulebook or guidelines for evictions (proposing a draft in case of non-existence), and advocating for financial and legal support to those affected. As a matter of fact, the MHMR appeared satisfied of the assurances given by the MoTSD concerning the existence of alternative accommodation and full compliance of the procedures with the law. It was only after a certain insistence that the MHMR seemed to finally agreed to somehow step in, giving however the impression of doing it mainly to please the international mission.

The second point is that no comprehensive database on training has been set up. The only possibility available to check the training history of one staff is to go through the personal file. This is cumbersome, time-consuming and not really effective as it does not allow, at a glance, to cross-check and process relevant information providing a full picture of the situation of training attended at any given time.

The third point, for which there is a shared responsibility with the HRMA, is the fact that not only no induction course is in place for newly recruited staff/interns, but no such induction is foreseen for senior management. Whilst it is understandable that “on-the-job training” or “professional experience” are fundamental, there seems to be a presumption that, because of their rank, senior managers enjoy automatic knowledge and understanding of human and project management, human rights in general and of specific areas in particular. Considering that the senior positions are politically appointed, the need to ensure an adequate level of legal understanding of human rights and their implications is even more evident than in connection to professionals succeeding a competitive examination.

A fourth point concerns the English linguistic skills of the staff, which is apparently not given the needed weight. Considering the international nature and exposure of the MHMR and the fact that, also for professional growth, staff should inevitably to revert to external (English) materials, the training offer should include continuous compulsory language courses and not only sporadic training attended by a limited number of staff. At a minimum, all staff (apart from those dealing with finance and administration) should have a working knowledge of English. The provision of language courses to the staff of the MHMR, in addition to contributing to their professional growth and increased accession and understanding of international human rights norms and standards, could also represent an asset facilitating the building of a corporate attitude of the personnel.

A fifth point concerns that fact that regular, in-depth training should not only be informative but capable of equipping the staff with the skills needed to ensure that human rights standards are effectively incorporated into the daily practice of the administration. So far, however, no tools exist to ensure that the sought level of competence is achieved. One of the easiest ways to assess the impact of training is to test participants ideally before but certainly after the training. Results could be used not as part of the appraisal system currently in place, but as a way for the Service of General Affairs and Finance, that shares training responsibility with the HRMA, to actually qualitatively assess the impact of training, identify deficiencies and better steer the training efforts, investments, and offer.

Last year it was suggested that, for the sake of cost-effectiveness basic human rights courses could be provided on-line to newly recruited staff as part of their induction training. Apparently that has remained dead letter.

1.1.4 Transparency of recruitment

Whilst it is commendable (and it was advocated) that efforts are being put into hiring qualified staff, this cannot become an excuse to challenge the transparency selection process. Indeed, in the course of the meeting, the fellow currently interning in the Department for Gender Equality Affairs was presented as the next recruit for the position of Independent Advisor III. Although it is evident that the person will have an objective advantage in the selection process, the latter should be able to identify the best possible candidate and not turn out to be a formal exercise with a predetermined outcome.

1.2 Communication strategy

The continuous absence of a dedicated Public Information Officer (or other professional specifically in charge of communication, including social channels, and outreach) seriously hampers, in my opinion, the capacity of the MHMR to position itself in the public eye. This, in turn, would be able to exert its positive influence by increasing the leverage of the MHMR in the decision-making process. The possibility for the Ministry to make use of the social communication facilities of the Government cannot be considered sufficient to achieve the awareness-raising, conscience-building goals that it should reach. A review over a certain period of time of the MHMR's webpage and Facebook account reveals that they have become more regularly updated only recently (on Facebook for instance there was a gap of posts of two months between December 2016 and February 2017), but not on all sections. Twitter is still missing. The newly introduced regular meetings of the Head of the PR Services of the Government with those in charge of PRs in other Ministries is to be regarded as a concrete step towards ensuring a better positioning of the MHMR in terms of media appearances and coverage but, alone, remains insufficient. According to the information provided in the course of the meetings, a new Rulebook, introducing, amongst others, a position charged with (social) communication, is expected soon. Considering the difficulties in recruiting experienced by the MHMR in the past, however, it is not certain when to expect changes.

The availability of a communication expert could also serve the awareness raising campaigns regularly launched by the MHMR under different strategies or plans. Whilst it is understandable that more traditional communication scheme are necessary to address the older part of the population, those who are not using social networks, or living in rural areas, it is a fact that more modern forms of communications are key to pass the messages across the large part of the society which is almost constantly connected and is more and more used to quick, often visual contemporary forms of communications.

Overall, the road towards creating, in the eyes of the public, the image of the MHMR as an fully-fledged institution, holding a primary responsibility in upholding human rights and capable of positioning itself as a strong interlocutor of the Government is still long.

1.3 Administrative and support staff

The lack of support and administrative staff lamented in the past continues, as the situation has remained unchanged since the recruitment, last year of a clerk, in the Department for the Promotion and Protection of Rights of Roma and Egyptians. To date of the 4 clerical posts envisaged within the Service for General Affairs and Finance only two of which are filled. As already indicated last year, the analysis of the job description of those 4 positions, as contained in the current Rulebook, seem to suggest that, even if available, this staff would not be able to provide the daily support needed, in the first place, by the Head of the Directorates/Departments, let alone that required by the other staff.² The situation can (and possibly was) be partly remedied with recourse to volunteers/interns and hopefully the Rulebook currently under elaboration will also address this aspect and fill the expected needs for administrative support that Advisers and Heads of the various Departments/Directorates have identified.

² Of 4 positions one is rightly devoted to accounting and finance, another is in charge of the archives, registry, mail and other administrative errands, whereas of the remaining two (Independent Clerk/Record Keeper) would be responsible for vehicles and transportation (providing transportation for the Minister himself and the rest of the staff of the MHMR, as need be), correspondence, and other various administrative errands, including photocopying and distribution of mail. By providing the job description of such two positions at once the Rulebook does not favour a proper understanding of the Department of tasks and, in turn, might create the conditions for confusion.

3. Financial issues

3.1 The budget of the MHMR

According to the information provided prior and during the meetings, the budget of the MHMR is as follows:

Directorate/ Department/ Service	2013	2014	2015	2016	2017
Service of General Affairs and Finance	109,885.72	157,749.35	161.317,32	487,314.57	518.559, 74 ³
Directorate for Promotion and Protection of Human Rights and Freedoms	120,957.91	195,638.42	112.950,02	251,486.80 ⁴	61.486,8 0
Directorate for Promotion and Protection of Rights of Minority Nations and other Minority National Communities	192,419.61	160,143.66	152.237,16	99,393.50	111.393, 50
Directorate for Relations with Religious Communities	200.000,00	200.000,00	200.000,00	200.000,00	200.000,0 0
Department for Gender Equality Affairs	54,682.65	60,103.40	57.994,30	27.603,25	31.603,2 5
Department for Promotion and Protection of Rights of Roma and Egyptians	228,700.74	180,198.63	187.007,69	156,974.92	156.974, 92
Department for European Integration				63,558.95	62.558,9 5
Total €	1.206.646,6 3	853.833,46	871.506,49	1,086,331.9 9	1,142,57 7.16

The funds allocated to religious minorities, totaling € 200,000, appear in the detailed budget plan under the line “Transfers to institutions, individuals, NGO and public sector” and “Transfers for political parties and associations”, thus giving the impression that the recipients could be a variety of institutions whereas the sum is earmarked for religious institutions only. The fact that the Department for the Promotion and Protection of Rights of Roma and Egyptians includes a budget item “Consulting services, projects and studies”, conflicts with the information according to which the MHMR cannot disburse contributions to NGOs, as when asked about clarifications on the above mentioned budget line it was clearly specified that, in case for instance of organization of a seminar, the tender is paid with this money.

One of the points raised in the course of the meetings is the disconnect between the budget and the strategies for which the MHMR is responsible, as no budget lines is actually foreseen to cover the costs related to their implementation. In this respect, it strikes that the budget of the MHMR is almost 84 times less than the MoI’s and around 43 times less the MoD’s.

3.2 Allocation of funds to religious communities: issues of concerns

A new Directorate General for Relations with Religious Communities was recently appointed. According to her presentation, the Directorate should focus on preservation and protection of religious heritage and cultural resources. Due to the limited time in office, she was not able to comment on the thorny issue of allocation of funds to religious communities. None of the changes sought in the previous peer reports aimed at increasing the transparency of the process of the periodic disbursements has been implemented. Lack of clear, objective criteria for the allocation of funds, absence of a database enabling the intra-ministerial Commission to effectively monitor the status of requests of funds and, if need be, request for clarifications, render the procedure currently in place unsatisfactory. The MHMR is still not properly discharging its monitoring responsibility on the use of such funds and the current ceiling of € 5,000.00 per application does not address the concerns as to the possible misuse/abuse of the procedure. The reporting template introduced last year, which was the object of criticism for being simplistic, has not been amended. No or late submissions of reports remains unsanctioned and so does the implementation of the provision of return of allocated funds to the MHMR in case of non-expenditure.

Last year doubts were cast about the actual tasks performed by the staff of the Directorate. As the Department was done with the drafting of the Law on religious freedoms, it was not clear which activities, apart from the allocation of funds (which takes places on a regular basis) and collection of reports, were actually conducted.⁵ It is expected that the new

³ This is the total budget allocated to administrative costs, including salaries for employees of all Directorates/Departments. Gross salaries amount to 37.8% of the total budget. This sum also includes the salaries of the 4 new staff that are expected to be hired in the course of the year.

⁴ This includes the € 200,000.00 allocated to the religious communities by the relevant Department. The budget line, however, reads “ Transfer to institutions, individuals, NGO and public sector”. Considering that only religious communities are the recipients of the above-mentioned sum, the description does not seem to be correct.

⁵ Whilst commenting the first draft of this report the MHMR pointed out that the Directorate is also responsible for the implementation of the agreements which Montenegro signed with the Holy See (the Catholic Church), the Islamic and the Jewish communities, through the work of the Joint Commissions and the Ministry, and it directly manages the negotiations on the agreement with the Orthodox churches in

Rulebook currently under elaboration will contribute to the overall efficiency of the MHMR also by reducing the positions envisaged for the Department in favour of others and more realistically detailing the job descriptions.

3.3 The MHMR's supervision of National Minority Councils

The current six National Minority Councils (NMCs), enjoying legal entity status, are the direct recipient of a total annual amount of € 300.000,00 derived from the State budget.⁶ Both in 2015 and 2016 the peer report, in line with the 2014 findings of the State Audit Institution and of the 2015 internal audit, recommended that MHMR initiates a more serious supervision over the NMCs' reporting obligations (both financial and narrative) and the legality of their work. Despite introduction of reporting guidelines (and not actual forms), which were to apply starting from the 2015 financial year, NMC's reporting is still rather free, making monitoring difficult or at least ineffective. The State Audit's suggested recourse to the forms set in the Rulebook on the Content and the Form of Financial Statements for Business Companies and other Legal Persons, did only receive sporadic implementation. Again, this seems to suggest that no real thought has been given to the oversight responsibility exercised by the MHMR vis-à-vis expenditures by the NMCs. The opinion already expressed in the previous reports, thus, remains unchanged in that it seems that the supervision is rather superficial and merely formal.⁷ It was anticipated that the proposed amendments to the Law on Minority Rights and Freedoms should strengthen the supervisory role MHMR over the work and expenditures of the NMCs.

3.4 The Fund for Protection and Realization of Minority Rights (Minority Fund) and the Center for Protection and Development of Minority Cultures

The lack of transparency in the allocation of funds, the need to depoliticize the work and functioning of the NMCs, and the issues related to conflict of interest, that have already been voiced in the past by many observers and partly subscribed (for what fell within the remits of the peer-review) in the previous reports have not yet been resolved.⁸ In the course of 2016 the MHMR took part in the WG charged with drafting of the proposal of the law amending the Law on Minority Rights and Freedoms. The Venice Commission reviewed the amendments, which had also been harmonized with CoE and EU legislation. The proposed amendments aim at providing stronger institutional support to minorities, address the lack of transparency in the procedure for the allocation of funds and improve the overall efficiency of the Fund, including the reporting obligations and the system for controlling expenditures. By establishing that the funding of NMCs should amount to 0.05% of the State budget⁹ as a minimum, the law also foreseen that Councils will no longer able to apply to the

Montenegro. None of these activities, however, was mentioned during the meeting. In any event, it is not clear the workload they impose.

⁶ According to the law which is currently under elaboration, the sum should vary every year, corresponding to 0.05% of the State budget.

⁷ Whilst commenting the first draft of the present Report, the MHMR clarified that the issue of the control of the MHMR over the work and costs of the NMCs will be more precisely regulated with the Law on Amendments to the Law on Minority Rights and Freedoms.

⁸ The shortcomings of the Law on Minority Rights and the Fund's critical aspects, particularly in relation to the allocation of resources, were unsuccessfully tackled since 2011.

⁹ The initial figure of 0.10% was amended in the course of the elaboration of the present report in line with the information provided by the MHMR. Which means that NMCs will be the recipients of around € 50,000.00+/year against the current fixed amount € 50,000.00/year, which are judged absolutely insufficient to enable proper functioning and achievements of objectives.

Fund¹⁰. The inclusion of private individuals amongst the possible beneficiaries of grants, however, does open the door to possible abuse and it is not clear how the conflict of interest currently existing between the members of the Board and beneficiaries will be eradicated. On 29 December 2016 the law did not receive the vote of the qualified majority, thus it is expected to be put on the agenda again in the first semester of 2017.

In addition to the concern expressed in the previous reports, which do not fall within the power of the MHMR, it is striking how the Fund has a budget which equals that of the MHMR (with possibility of increase due to international funding) and that 25% of it is used to cover the ordinary running costs, including the salaries of the 8 staff working for it. This amounts to around € 250.000, which is half of the budget of the Service of General Affairs and Finance of the MHMR, which has 3 times as many staff as the Fund. There must be political reasons for keeping the Fund as it is: considering the importance that the MHMR plays not only in promoting and protecting human rights but also in the process of accession of Montenegro to the EU, doubts can be raised as to the need for maintaining such an superstructure

Financial and narrative reports on projects financed by the Fund are sent directly to the Parliament via the Human Right Committee, which continued to adopt them routinely without any substantive consideration and with no questioning (apart from formal censoring) on the non-compliance of the Fund with administrative court decisions in favour of NGOs whose applications were considered inadmissible by the Fund. The fact that controllers and controlled partly belong to the same category (8 out of the 15 members of the Board are elected by Parliament) does raise an evident conflict of interest that hopefully the amendments to the Law will address.

The proposed law, however, does not address the issue of at least partial duplication of activities (and funding) between the Fund and the Center for Protection and Development of Minority Cultures, which were illustrated in last year's report. In this respect, it seems that it should fall within the remits of the MHMR to advocate a more harmonized use and disbursement of resources, which by the way only in part are really functional to increased human rights protection.

3.5 Legislative and strategic activity of the MHMR

As the present review is not aimed at assessing the human rights legal framework of Montenegro, the present section will not enter into the merits of the legislation to which the MHMR has contributed over the past period. Although they are comprehensively listed in the Report of the MHMR on work and situations in the administrative areas for 2016, below is a short summary.

In addition to the already mentioned draft Law on Amendments to the Law on Minority Rights and Freedoms, during 2016, the MHMR worked on the Proposal Law on Amendments to the Law on the Protector of Human Rights and Freedoms of Montenegro as well as on the amendments to the Law on Antidiscrimination. The latter aims at which aimed at further aligning the national legislation with EU Directives. Its content was the object of review by

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the EC. The law better defines procedures and practices which are not discriminatory and strengthens the criminal response to discriminatory acts (in line with EU directives). It introduces new grounds for discrimination (such as the change of gender) and contains clearer definitions of discrimination on the basis of age, political affiliation, in education and professional development. It also encompasses discrimination in access to goods and service in public and private field and dedicates 2 provisions to the grounds of race and religion/belief.

Since the last peer review the MHMR also conducted a compatibility analysis of the legislation with the Law on Prohibition of Discrimination of Persons with Disabilities and the UNCRPD. Of the 60 laws reviewed, covering 13 areas, 34 were found in need of amendments. The recommendations included in the analysis were used as a base to develop the Strategy for the Protection of Persons with Disabilities from Discrimination and Promotion Equality for the period 2017-2021 with the Action Plan 2017-2018, which were adopted at the end of 2016. Though presented as the first strategic document which defines measures and activities for providing complete protection against discrimination of persons with disabilities and enjoyment of equal rights in all spheres of life, the Strategy seems more like an action plan, as it consists in a roadmap on how to proceed with the needed legislative amendments.

In the course of the past period, the following strategies have been adopted: the Strategy for Improving the Quality of Life of LGBT People for the period 2013-2018, for Improving the Situation of Roma and Egyptians in Montenegro 2016 - 2020 for the Protection of Persons with Disabilities 2017-2021, on Gender Equality 2017 -2021, all accompanied by the relevant action plans.

Additional agreements of cooperation to combat discrimination based on sexual orientation or gender identity and promotion of tolerance towards LGBT people were signed at municipal level, bringing the 14 total number of local government involved. Efforts to strengthen cooperation also continued in the area of gender equality: 11 out of 23 municipalities, including Podgorica, have adopted local action plans for gender equality. In 12 municipalities councils for gender equality have been established and 5 municipalities have offices for gender equality. 6 municipalities have allocated budgetary resources for the implementation of gender equality policy whereas 15 municipalities have adopted decisions on gender equality. The network of coordinators at the local level has been very active also in 2016 and currently 21 members. The 106 gender equality contact point operates under the overview of the MHMR – considering the lamented lack of capacity of the MHMR, however, reservations exist as to whether the Institution is able to discharge its role properly or whether the appointment, though important as it marks the indispensable step for implementing quality gender equality policies nationwide, remains at the level of formality.

In 2016 the national Council for gender equality, with 21 members, 4 of which are NGOs and chaired by the MHMR, was established. The Council is meant to be professional and advisory body, tasked with monitoring the implementation of all policies both national and local from a gender perspective is in the process. Considering that the first meeting of the Council was held in October 2016 and that the institution is still at the very initial stage of its work, it is not possible to draw any conclusion as to its effectiveness nor on capacity of the MHMR to

ensure that it performs efficiently. The Council foresees the presence of 8 advisory bodies/committees (currently in process), whose task is to further monitor the implementation and improvement of equal opportunities policy within respective areas.

4. Relationships with other actors and stakeholders

The relationship between the MHMR and other bodies or institutions working in human-rights related fields, also in relation to the synergies established, continues to be quite satisfactory. This is particularly true when it comes to areas related to Roma, persons with disabilities, LGBT, and women: although the level of enjoyment of rights by the relevant groups is far from being satisfactory, as much work needs to be done, genuine efforts for putting in place concerted actions are recorded. Regular recourse to survey on human rights issues administered to other public administrations and the general are commendable: their findings, however, do not seem to be used by the MHMR to push (also at the level of HRMA) for specific training filling the identified gaps and to determine outreach/(social) communication actions. What the inter-institutional relationships clearly show is the worrisome lack of capacity of the MHMR to see human rights as truly cross-cutting issues, permeating all areas of life. Unless the human rights dimension of a problem is apparent, in other words, the MHMR will not take action. The fact that the MHMR did not see the human rights implication of the implementation of the Law on Regularization of Informal Structures is, in this respect, quite illustrative.

The relationships with the CSOs has remained unchanged since the first peer review. On the one hand there is the MHMR that claims that the cooperation and coordination is functioning very well, on the other there are the NGOs that have mixed feelings, claiming that coordination efforts are purely formal. Illustrative, in this respect, is the fact that the repeated public calls launched to have CSOs on board in the WG charged with developing the law on amendment to the Law on Antidiscrimination went deserted. Even those CSOs, particularly working in the area of LGBT and Roma rights, that express a certain satisfaction with the cooperation, concur with the majority that the MHMR lacks sufficient and capable staff and funds to properly discharge its functions. Doubts are also raised as to the capacity of the MHMR to conduct proper monitoring and evaluation of its activities, particularly those included in the various Action plans it adopted, so as to identifies deficiencies and put in place corrective actions. The criticism already voiced, related to the incapacity of the MHMR to take issues at a higher level, remained unchanged: for instance, in connection with domestic violence cases or the hunger strikes of mothers for the reduction of lifelong pension fees for mothers of three and more children, the national Gender Council (chaired by the MHMR) remained totally silent. For its part, the MHMR does not seem to do much to convince the CSOs that over time have become disillusioned, that it is a reliable and solid partner in cooperation and not one simply tanking advantage of their contributions.

5. Recommendations

5.1 Recommendations formulated in 2015 and 2016 followed by comments in the light of the findings of the present Report

The recommendations that follows stand as of the date of writing, not taking into account the changes that the Rulebook on the Internal Organization and Systematization of the MHMR currently under elaboration will introduce. Some of the recommendations have been grouped together in order to facilitate understanding.

1. An enduring solution to the lack of human rights proficiency of the MHMR personnel requires a thorough overhaul in the approach to human resources. Financial resources are also needed: at the moment, though, priority has to be given to a change in strategy;

MHMR showed commitment to this recommendation, within current limitations and with due balance with other obligations. The objective is yet to be achieved and it is recommended that the issue of staffing, together with the financial resources needed to implement the adopted strategies, it taken up more vigorously. In particular, it is suggested to move from a "input" to an "output"-based mentality: such a change might also contribute to strengthen the position of the MHMR when budget allocations are made, so as to ensure that adequate funds for the results the MHMR is expected to achieve are if not fully.

2. An expert analysis and appraisal aimed at identifying the underlying causes of the shortage of staff and high staff turnover must be envisaged. This should also encompass the work and working environment as a whole as well as the work conditions;

No analysis has been officially carried out but the cumulative effects deriving from improved knowledge and confidence of staff, institutional commitment to training better working conditions (also due to a increased number of staff) have exerted a possible, though timid, positive influence on the situation of human resources management. Should an expert analysis be considered too costly, an internal review of the level of satisfaction of staff could be launched in order to identify areas for improvement.

3. The overall human resources planning and management must be the object of a thorough reconsideration aimed at ensuring that all staff is in place, even though that means reducing the overall number of posts and recruitment of more junior staff. This responds to the need to inject the MHMR with fresh blood able to revive the institution and favour a change of the mind-set from the inside;

MHMR started the suggested process by increasing the number of staff, with new personnel being under recruitment. The process however did not reach the anticipated result and the MHMR remains understaffed. As indicated in recommendation no. 1, the shortage of competent staff seriously hampers the capacity of the MHMR to perform its functions and this is to be taken up more vigorously.

4. Human resources management is not something that can be improvised: it is thus pivotal that the relevant responsibilities are performed by a specialist or that at least the person entrusted with them has received proper and adequate training;
Human and capital management and resources seem to have been taken more seriously. The guard should not let down and continued attention must be devoted to the issue, that also needs to be taken to higher levels, starting from the introduction of effective (internal) procedures aimed at ensuring that managers received adequate induction training when they take up their position and specific continuous training on managerial skills (in addition to the specific human-rights training foreseen for all staff) in the course of their service. The issue of induction and specialized courses for senior management should not be underestimated and should be taken up by the MHMR with the HRMA

5. The MHMR should truly commit itself to recruitment processes that ensure that candidates are properly qualified for their position;
Qualified candidates still need adequate training and support to be able to perform their functions. The MHMR should commit itself to selection processes that are genuinely transparent.

6. In principle, Heads of Directorate/Departments should be more experienced/senior than their staff so as to be able to exercise the proper guidance, oversight and supervision;
Unless changes in the Rulebook are introduced, this is going to remain dead letter.

7. Expert capacity of the staff of the MHMR must be ensured at all levels. Upon entry to the MHMR through the regular and systematic provision of adequate induction training; during the career of staff through regular, continuous training capable to ensure that all personnel internalize and embrace the human rights approach to issues, is in a position to better comprehend the policies being implemented, and able to integrate human rights into their daily practice, so as to address the disconnect which is currently existing. This would also prevent the Ministry being over reliant on outside substantive contributors, as it is clearly the case with the Department for Gender Equality.
The MHMR should learn how to capitalize the internal resources, thus for instance taking full advantage of the presence of the International Human Rights Expert in building knowledge (also assessing knowledge gaps!) from the inside.

Currently there is not proper induction course in place for new recruits. The absence of a comprehensive database on training makes it difficult to have a meaningful picture of the state of the art related to training of staff. This should be corrected. Knowledge and skill assessment tools should become mandatory in connection with training provided, so as to assess the impact of training, draw conclusions as to the progress made by staff and determine institutional and personal training needs.

8. The lack of a corporate, human rights culture and conscience amongst staff should also be addressed, so as to strengthen the public trust in the institution.

The efforts towards the building of a (solid) human rights (corporate) culture and conscience must continue. Outreach and communication strategies, aimed at improving the perception the public has of the MHRM should be strengthened, being also functional to initiating a virtuous circle whereby the public confidence reinforces the self of responsibility and belonging of the staff and overall has a positive impact on the positioning of the MHMR within the Government (for instance, increasing the leverage it can enjoy when negotiating budget).

9. Administrative capacity of the personnel of the MHMR must also be strengthened with *ad hoc* cross-cutting training for example on project implementation, monitoring and evaluation. This applies, in particular but not only to the supervisory role carried out by the MHMR in relation to the funds made available to religious communities and to the monitoring function performed in relation to the work of National Minority Councils;
10. MHMR Managers needs to receive specific training on human capital management so as to be able to understand the importance of building an environment which is conducive to committal of employees and become able to implement it;
Even though specific training has been offered, the absence of assessment of its impact makes it difficult to identify whether there is still a need for it, as the impressions gathered in the course of the mission seem to suggest. For further recommendations on point 10 see point 4 above.
11. Adequate administrative support for all Directorates/Departments must be envisaged;
MHMR partly addressed the problem. The situation, however, still needs improvement.
12. A post dealing exclusively to Public Information and External Relations, also in charge of social communication, should be introduced;
Commendable efforts have been paid to the development of a more structured communication strategy, also encompassing some social media. The results, however, are not yet satisfactory due to the lack of dedicated staff and timely and effective steps. The importance of the public image of the MHMR also as a tool to reinforce the leverage that the MHMR is able to exert during political negotiations is yet to be fully appreciated.
13. The administrative positions currently envisaged within the Service of General Affairs and Finance must be rationalized as to avoid risks of confusions in the tasks.
No changes recorded.
14. Positions of interns and volunteers must be clearly identified in the MHMR's organogram and mirrored in the Rulebook;
15. Recourse to interns and volunteers should be envisaged to provide support not only to professionals but also administrative staff;
Current interns/volunteers are only attached to professional positions, though they may perform administrative tasks. Though the Rulebook and the relevant staffing scheme have not been changed, the intern's and the International Human Rights Expert's work were presented and acknowledged during the meetings.

16. Selection, acceptance, conditions of work and obligations of non-staff (interns and volunteers) must be clearly identified and made public, so as to ensure transparency; **During meetings, working conditions of the intern were presented in a professional way. The need for transparency must not only be applied in the course of the selection of interns/volunteers but also in connection with future competitions to which former interns apply.**
17. The transparency of the procedure for the allocation of funds by the Directorate for Relations with Religious Communities must be increased: criteria (not relevant areas) for allocation must be spelled out, a limit to the maximum amount that can be allocated be envisaged, regular (not ad hoc) and substantive verification of expenditures foreseen;
The changes introduced by the MHMR in fulfilment of the 2015 recommendation, which had a cosmetic rather than substantive nature and could not be considered adequate, were not the object of revision. The situation, thus, remains highly unsatisfactory.
18. Reporting obligations (financial and narrative) of National Minority Councils should be enforced more stringently and not be merely formal;
Even though the MHMR developed a manual with guidelines on how to report, the obligations do not seem to be fulfilled adequately. The MHMR should perform its supervisory and monitoring role more effectively, ensuring full adherence to the obligations.
19. MHMR should ensure that human rights culture informs and permeates the work of the Government, also by raising awareness and providing training to other civil servants, particularly aimed at ensuring that human rights are incorporated into the daily practices, and through the strategic increase of the human rights focal points;
Despite increased effort, further commitment is expected.
20. Coordination and cooperation with CSOs must not be dependent on individuals and cannot be one-way: MHMR must be able to provide CSOs, when needed, the appropriate backup in denouncing problematic situations and putting pressure for changes;
The impression that the MHMR neglected and underestimated the need to maintain healthy, two-way relationships with the CSOs (particularly, but not only, in the area of women's rights) remains unchanged. It is recommended that increased capacity of the MHMR goes hand in hand with working towards rebuilding the trust of the CSOs in the institution. In this respect it is advisable that MHMR's managers receive specific training on partnership building, including communication, conflict resolutions, funding...
21. The MHMR's summary budget should indicate clearly the amount of money available for each Directorate/Department and clearly distinguish the amounts available for achieving their mandate from that to be disbursed to beneficiaries in the form of grants so as to provide a real picture;

The budget was presented in a more transparent way, but there are still budget lines, such as the ones on “Transfer to institutions, individuals, NGO and public sector”, related to the fund available for religious communities, which are misleading.

22. The work of the MHMR cannot be subject only to occasional financial audit but must be the object of impartial self-scrutiny on a regular basis;

To date no changes in the internal audit (revolving around one person working at once for the MoLSA and the MHMR) have been recorded. The situation thus remains unsatisfactory. Lack of specific measurable knowledge and skills by the staff, furthermore, overall hampers self-scrutiny.

23. All staff, particularly those having overview responsibility over granting/expenditure of funds, should be encouraged to undergo specific training on relevant topics.

Whilst training has been paid increased attention, no objective information or data as to its impact is available. See recommendations under point 7 above for further guidance.

24. Continuous training and the need to fill knowledge gaps should be considered as falling within professional responsibilities and no exemptions should be accepted.

25. Monitoring capacities of the staff should be strengthened also to compensate for the inability of the internal audit to provide for proper and thorough oversight.

The process of internalizing the need and purpose of training is yet to be completed. See recommendations under points 4, 7, 10 and 20 for further guidance.

26. Considerations should be given about the possibility to create a database for tracing funds granted to Religious Minorities.

The situation has remained unchanged and needs improvement.

27. Adequate, comprehensive templates should be introduced to implement reporting obligations by NMCs and Religious Minorities.

Guidelines alone are not sufficient. Ensuring adherence to it is a task that the MHMR seems not to discharge fully.

28. Outreach and (social) communication should be improved.

The few progresses reported are not sufficient.

29. CSOs should not only be seen as interlocutors but subjects to be backed-up when the interest of human rights requires.

The relationship with the NGOs remains, at times, conflictual and should be addressed also with appropriate training for the benefit of MHMR’s managers, as recommended under point 20.

New recommendation

30. Efforts should be paid in order to ensure that the working conditions of the MHMR staff are adequate.

31. Knowledge of English by staff members should be considered a priority.
32. The capacity of the MHMR to mainstream human rights into public polities, namely identifying and assessing the human rights implications (in different areas of life) of policy actions is yet to be satisfactory. Specific training of this very topic should be provided (see also comments under point 7 as far as assessment of impact of training is concerned).
33. MHMR should ensure that staff appointed as contact persons at municipal level (i.e. the 106 Gender contact persons) receive adequate support, including continuous training.