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Permanent Mission of Montenegro to the United Nations Office and other International Organizations in Geneva

No: 109/OTICHR

The Permanent Mission of Montenegro to the United Nations and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and referring its letter from the 17 December 2014 has the honor to enclose the responses from the Government of Montenegro.

The Permanent Mission of Montenegro to the United Nations Office and other international organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights at Geneva the assurances of its highest considerations. AP

Geneva, 04 March 2015



**Office of the United Nations High Commissioner for Human Rights
Geneva**



1. What are the particular challenges in your country to respecting individuals' rights to freedom of peaceful assembly and of association in the context of natural resource exploitation, while also attracting investment and responsibly maximizing the State's ability to benefit from these resources? For example, are all stakeholders affected by projects consulted, with their rights and concerns taken into account? Are peaceful assemblies facilitated? Are companies cooperative and understanding of the need to preserve individuals' peaceful assembly and association rights?

- Right to public gathering in Montenegro is regulated under the newly ratified Law on Public Gatherings, an instrument aligned with EU standards and best contemporary practices in this field. Public protest and gathering within the context of exploitation of natural resources is in no way singled out, i.e. discriminated against in comprising to other causes for public protest. Public gatherings, in the context of natural resources exploitation, are thus not in a different position than other forms of public gatherings. It must be pointed out that the new Law, as well as the entire legal and constitutional framework with regard to this civil and political right, has been drafted with the intent to grant every Montenegrin citizen a right to publically gather and protest, without getting into the nature and cause for protest. However, the Government does recognize that preservation of natural resources is an important civic and political cause, and it is sound conclusion that cause-neutral legislation is the best guarantee that all kinds of protest is protected, including protest with regard to exploration of natural resources.

2. Can you identify any particular challenges faced by the States of origin of the corporations operating in your country?

- While public gatherings and protest with regard to preservation of nature have been organized of several occasions, this has not affected foreign investors and companies, and it is basically of no influence to countries of their origin.

3. For Question 1-3 – to what extent do these challenges stem from:

a) Gaps/inadequacies in the domestic or international legal framework (e.g., laws on FOIA rights themselves, environmental laws, labour laws, trade agreements);

Questionnaire for Member States

b) Government institutions (e.g., ineffective enforcement, lack of independence, lack of capacity, corruption);

e) The broader business environment (e.g., lack of voluntary guidelines or industry standards; competitive pressures);

d) Individual businesses themselves (e.g., focus on profits over rights, lack of interest in consulting local communities, willingness to leverage Government corruption)

e) Any other factors.

4. What is your Government doing to mitigate these challenges?

- Since we do not recognize significant shortcomings in this area, it is not applicable to single out any of the possible causes for this hypothetical question, or to give an answer on Government action on mitigating challenges.

5. Please provide any specific case studies illustrating natural resource exploitation projects which your Government believes had a positive or negative impact upon FOAA rights, for example: (1) suppression or facilitation of peaceful protests regarding a project; (2) harassment or facilitation of civil society or grassroots groups involved in a project; (3) outcomes when consulting – or failing to consult – with affected communities; (4) involvement of private security companies. We would especially appreciate examples that demonstrate how Government action helped or hurt the protection and promotion of FOAA rights.

- The most important case - a landmark case of sorts - involved public protest and broad civic action aimed at preserving Tara river against government plans to exploit its hydroelectric potential. In this case, protests resulted in a Parliament resolution and a de facto abandonment of plans to exploit this watercourse. Success of this civic initiative has to be seen as a positive influence for the right to public gathering.

6. What measures/actions would you recommend that States, businesses and private actors take to enhance the promotion and protection of freedom of peaceful assembly and of association in their policies, projects, goals and other engagements with civil society?

- Implementation and respect of positive regulation has to be the key variable in promoting of this right. Corporations, and especially the state through its administration and judiciary, must interpret and implement the law so to fully exercise its intent. The best message for promotion and implementation of all constitutional rights is an effective and expedient protection of such rights before courts and other authorities. Realization of justice through procedural remedies should be the most important task for the Government, and the best guarantee for the citizenry.

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