



General Assembly

Distr.: General
9 November 2012

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Fifteenth session
21 January–1 February 2013

**Compilation prepared by the Office of the High
Commissioner for Human Rights in accordance with
paragraph 5 of the annex to Human Rights Council
resolution 16/21**

Montenegro

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, and of the Office of the High Commissioner for Human Rights (OHCHR), and in other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

I. Background and framework

A. Scope of international obligations¹

International human rights treaties²

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
<i>Ratification, accession or succession</i>	ICERD (2006)	OP-CAT (2009)	ICRMW
	ICESCR (2006)	CRPD (2009)	
	ICCPR (2006)	CPED (2011)	
	ICCPR-OP 2 (2006)		
	CEDAW (2006)		
	CAT (2006)		
	CRC (2006)		
	OP-CRC-AC (2007)		
	OP-CRC-SC (2006)		
<i>Reservations, declarations and/or understandings</i>	ICRMW (signature only, 2006)		
		OP-CAT (Declaration, art. 24, 2009)	
<i>Complaint procedures, inquiry and urgent action³</i>	ICERD, art. 14 (2006)	OP-CRPD, art. 6 (2009)	ICCPR, art. 41
	ICCPR-OP 1 (2006)		OP-ICESCR
	OP-CEDAW, art. 8 (2006)	CPED, arts. 31 and 32 (2011)	OP-CRC-IC
	CAT, arts. 20, 21 and 22 (2006)	OP-ICESCR (signature only, 2009)	
	ICRMW (signature only, 2006)	OP-CRC-IC (signature only, 2012)	

Other main relevant international instruments

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
<i>Ratification, accession or succession</i>	Convention on the Prevention and Punishment of the Crime of Genocide		1961 Convention on the Reduction of Statelessness
	Rome Statute of the International Criminal Court		

<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
Palermo Protocol ⁴		Additional Protocol III to 1949 Geneva Conventions ⁸
Conventions on refugees and stateless persons ⁵		ILO Convention Nos. 169 and 189 ⁹
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁶		
ILO fundamental conventions ⁷		
UNESCO Convention against Discrimination in Education		

1. Montenegro was encouraged by treaty bodies to ratify ICRMW,¹⁰ the Convention on the Reduction of Statelessness¹¹ and OP-ICESCR.¹²

B. Constitutional and legislative framework

2. The Committee on the Elimination of Racial Discrimination (CERD) urged Montenegro to accelerate its efforts in bringing its laws, such as the 2006 Law on Minority Rights and Freedoms, into accordance with the provisions of the 2007 Constitution and ICERD.¹³ In 2010, in the framework of follow up to this recommendation, Montenegro stated that 13 laws had been delivered i.e. harmonized with the Constitution within newly set deadlines; three other laws were being developed; and that on 5 November 2009 the Proposal of the Law on Amendments of the Law on Minorities Rights and Freedoms had been adopted.¹⁴

3. In 2010, the Committee on the Rights of the Child (CRC) recommended the harmonization of the legislation of Montenegro with CRC.¹⁵ CRC also recommended that Montenegro adopt a clear provision on the definition of the child,¹⁶ integrate the principle of the best interests of the child in all legal provisions and implement it in judicial and administrative decisions and programmes with an impact on children;¹⁷ bring the Criminal Code into compliance with OP-CRC-SC;¹⁸ and consider introducing a specific prohibition with respect to the sale of arms, including small and light weapons when the final destination is a country where children are known to be, or may potentially be recruited or used in hostilities.¹⁹

4. In 2008, the Committee against Torture (CAT) expressed concern that the Criminal Code did not criminalize consent or acquiescence of torture by a public official and did not specifically cover mental suffering inflicted as torture. CAT recommended that Montenegro bring its definition of torture in domestic legislation into accordance with article 1 of the Convention.²⁰

C. Institutional and human rights infrastructure and policy measures

5. The Committee on the Elimination of Discrimination against Women (CEDAW) welcomed the Law on the Protector of Human Rights and Freedoms (2011)²¹ and encouraged the Protector of Human Rights and Freedoms (Ombudsman) to apply for accreditation to the International Coordinating Committee of National Human Rights Institutions (ICC). CEDAW also recommended that Montenegro ensure sufficient resources

for enabling the Ombudsman to carry out its mandate.²² CRC²³ and CERD²⁴ made similar recommendations. UNHCR called for ensuring effective implementation of the Law on Prohibition of Discrimination through the Ombudsman's office.²⁵ CAT called for the provision of resources enabling the Ombudsman Office to independently and impartially monitor and investigate alleged ill-treatment perpetrated by law enforcement personnel.²⁶ In 2009, Montenegro provided information to CAT on several measures adopted to strengthen the Ombudsman's independence and autonomy and about the decision that this institution would perform functions of the national mechanism for the prevention of the torture, in accordance with OP-CAT.²⁷

6. CRC recommended that Montenegro reinforce the role of the Council of Child Rights²⁸ and adopt a new National Plan of Action for Children.²⁹

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies³⁰

1. Reporting status

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CERD	March 1998 ³¹	2007	March 2009	Combined second and third reports overdue since 2011
CESCR	May 2005 ³²	2011	–	Initial report pending consideration
HR Committee	July 2004 ³³	–	–	Initial report overdue since 2008
CEDAW	February 1994 ³⁴	2010	October 2011	Second report due in 2015
CAT	November 1998 ³⁵	2006	November 2008	Second report due in November 2012
CRC	January 1996 ³⁶	2008	October 2010	Combined second and third report due in 2015 Initial OP-CRC-AC and OP-CRC-SC reports submitted in 2010 and 2009, respectively.
CRPD	–	–	–	Initial report overdue since 2011
CED	–	–	–	Initial report due in 2013

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
CEDAW	2013	Violence against women; and women's participation in political and public life ³⁷	–
CERD	2010	Adoption of the law on non-discrimination; harmonization of domestic legislation; and displaced persons ³⁸	2010 ³⁹ Further information has been requested by CERD ⁴⁰
CAT	2009	Fundamental legal safeguards for detainees; displaced persons; impunity for war crimes; and prompt, thorough and impartial investigations of torture ⁴¹	2009 ⁴² Further information has been requested by CAT ⁴³

7. CRC invited Montenegro to submit an updated common core document.⁴⁴

B. Cooperation with special procedures⁴⁵

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Standing invitation</i>	Yes	Yes
<i>Visits undertaken</i>	Freedom of expression or opinion, (mission to the State Union of Serbia and Montenegro, 10-20 October 2004). Internally displaced persons, (mission to Serbia and Montenegro, 16-24 June 2005)	–
<i>Visits agreed to in principle</i>	–	–
<i>Visits requested</i>	–	–
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review three communications were sent and one reply was received in connection with these communications.	
<i>Follow-up reports and missions</i>	Internally displaced persons ⁴⁶	

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

8. In 2011, CEDAW welcomed the adoption of the Law on the Prohibition of Discrimination (2010) which defined and prohibited direct and indirect discrimination based on sex, sexual orientation, gender identity and other grounds, provided for remedies

and strengthened the role of the Ombudsman in relation to discrimination.⁴⁷ UNHCR noted that the capacity of the Ombudsman's office to address discrimination issues remained a challenge.⁴⁸ Noting the low number of complaints submitted to the Ombudsman under the Law, CEDAW recommended that Montenegro, *inter alia*, strengthen the mandate and resources of the Ombudsman to act on complaints about discrimination based on sex and appoint a Deputy Ombudsperson for Gender Equality; and raise awareness about the complaint procedures under the Law on Gender Equality and the Law on the Prohibition of Discrimination.⁴⁹

9. CEDAW noted with appreciation the establishment of local gender equality structures in 10 out of 21 municipalities, including councils for gender equality in 8 municipalities, and the adoption of local action plans for achieving gender equality in 6 of those municipalities.⁵⁰ However, it noted that a majority of municipalities had still not signed cooperation agreements with the Gender Equality Department for the establishment of local gender equality structures or adopted local plans for gender equality. It was also concerned at reports that the implementation of the Law on Gender Equality and the national and local gender equality plans was slow and that women's NGOs were not effectively involved in their implementation and monitoring. CEDAW recommended that Montenegro allocate funds to municipalities; and enhance the Gender Equality Department's capacity to coordinate and monitor the implementation of legislation and policy measures on gender equality.⁵¹

10. While noting the efforts undertaken by Montenegro to counter discrimination, CRC was concerned at the *de facto* discrimination against children of minority groups, refugee children and children with disabilities, in particular with regard to access to education, health care and housing. It recommended that Montenegro undertake public education campaigns to prevent and combat negative attitudes based on sex, age, race, nationality, ethnicity, religion and disability.⁵² CERD encouraged Montenegro to strengthen its efforts to promote inter-ethnic harmony and tolerance among the public.⁵³

11. In 2012, CEDAW was concerned at multiple forms of discrimination against Roma, Ashkali and Egyptian (RAE) women, the lack of birth registration or proof of such registration of many local and displaced/refugee RAE women placing them and their children at a risk of statelessness. CEDAW was concerned at the lack of basic services and infrastructure in the RAE refugee camps in Konik. It also noted with concern that displaced/refugee women faced difficulties in accessing the procedure for obtaining permanent residence status under the amended Law on Foreigners and the Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons in Montenegro (2011–2015) when they were unable to access certain documents needed to process such status.⁵⁴ CRC raised similar concerns.⁵⁵

12. UNHCR reported on the results of a 2011 survey. Out of 1,270 local Roma and RAE covered by the survey, 252 were identified as persons still facing problems with personal documentation.⁵⁶

13. UNHCR recommended that Montenegro establish a procedure for subsequent registration of children born outside of established health facilities in Montenegro and the issuance of documentation to all persons born in its territory and ensure that the relevant procedures are simple, accessible and well publicized.⁵⁷ CRC made similar recommendations.⁵⁸

B. Right to life, liberty and security of the person

14. In 2008, CAT, while welcoming the adoption of various measures, expressed concern at allegations of torture and ill-treatment by the police and the lack of prompt and

impartial investigations.⁵⁹ Similar concerns were expressed by CERD, with respect to disadvantaged ethnic groups, particularly Roma, being particularly targeted for such abuses.⁶⁰ CAT recommended that Montenegro ensure that all such allegations were investigated by an independent body; prosecute perpetrators; and impose appropriate sentences on those convicted to eliminate impunity.⁶¹ CAT also recommended that Montenegro ensure the right to complain to the competent authorities; provide protection to complainants of torture and ill-treatment in order to ensure their effective right to file a complaint; ensure that victims have an enforceable right to claim fair and adequate compensation; and develop reparation programmes.⁶²

15. In 2010, CRC also referred to reported allegations of children being ill-treated and/or tortured, especially in residential care institutions. CRC recommended that Montenegro provide all children deprived of their liberty, including children placed in institutions, with a complaints mechanism; investigate such allegations; and provide care, recovery, reintegration and compensation for victims of torture.⁶³

16. CAT recommended that Montenegro train all relevant personnel on how to identify signs of torture and ill-treatment and report such incidents to the competent authorities; and integrate the Istanbul Protocol into the training for physicians and other officials undertaking investigations.⁶⁴

17. CAT was concerned that detainees were not always afforded the right to access a lawyer, an independent doctor, if possible of their choice, and to contact a relative from the outset of deprivation of liberty; and that pretrial detainees did not have in all circumstances the right to confidential communication with their legal counsels. CAT recommended that Montenegro should ensure that all detainees are afforded, in practice, fundamental legal safeguards during their detention.⁶⁵

18. CAT remained concerned at the overcrowding and poor material conditions in Podgorica Prison, recommending that Montenegro strengthen the national prison reform process and prevent sexual violence in prisons, including inter-prisoner violence.⁶⁶

19. While noting the adoption of the Law on Protection from Family Violence (2010), CEDAW made recommendations to address its concerns at the high incidence of domestic and sexual violence against women and girls; underreporting; the lack of prosecutions; limited use of protection orders; lenient sentences imposed on perpetrators; the fact that marital rape was subject to private rather than ex officio prosecution; the limited support for NGOs providing assistance to women victims of violence; and the lack of research and disaggregated data on violence against women.⁶⁷ UNHCR noted that there were no Government-run shelters available for victims of family violence and stated that such facilities should be accessible to all persons in need, including those of concern to UNHCR. UNHCR recommended that Montenegro provide and create conditions for certain measures of protection from sexual and gender-based violence, namely adequate shelter facilities for victims, psychosocial rehabilitation of the victim and mandatory psychosocial treatment of the perpetrator. Such facilities should be made available without discrimination on any grounds.⁶⁸

20. Montenegro was urged by CAT and CRC to adopt and implement legislation prohibiting corporal punishment in all settings, supported by necessary awareness-raising and educational campaigns.⁶⁹ CRC also recommended that Montenegro adopt and implement the Anti-Violence Strategy for the prevention and reduction of child abuse and neglect;⁷⁰ and prioritize the elimination of all forms of violence against children.⁷¹

21. CRC expressed concern that there were children, especially RAE children engaged in harmful and exploitative labour, particularly in begging, and recommended that Montenegro take measures to ensure effective implementation of ILO Conventions Nos. 138 and 182, which it had ratified.⁷² CRC was also concerned at the high number of

children, predominantly Roma, living and working on the streets. CRC recommended that Montenegro elaborate programmes to prevent children from leaving families and schools and children in street situations becoming victims of trafficking and economic and sexual exploitation; ensure that children in street situations are not considered or treated as offenders;⁷³ and undertake systematic prevention activities, including birth registration.⁷⁴

22. CRC was concerned at the rise in rates of children subjected to sexual exploitation and abuse⁷⁵ and at the growing availability of child pornography. It recommended that Montenegro combat cybercrime, especially child pornography on the Internet.⁷⁶ While noting that the trend in trafficking in persons had decreased in the last few years, CAT was concerned that it remained a considerable problem for women.⁷⁷ CEDAW, while also recognizing measures taken,⁷⁸ recommended that Montenegro review its sentencing policy in trafficking cases and provide mandatory training for judges, prosecutors and police officers on appropriate application of article 444 of the Criminal Code and of relevant provisions on witness protection in the Criminal Procedure Code and the Witness Protection Law; intensify training for immigration and other law enforcement officials on early identification of victims of trafficking, focusing on RAE women, displaced women and unaccompanied or street girls; strengthen programmes for the reintegration of victims of trafficking in society; and combat the sexual exploitation of girls and boys.⁷⁹

23. CRC recommended that Montenegro establish an identification mechanism for children, including asylum-seeking, refugee and unaccompanied children, who may have been involved in armed conflict abroad; and provide these children with assistance for their physical and psychological recovery and social reintegration.⁸⁰

C. Administration of justice, including impunity, and the rule of law

24. CERD and CAT welcomed the Strategy for the Reform of the Judiciary (2007-2012) to improve its independence and autonomy and build its efficiency.⁸¹ Expressing concern that constitutional provisions did not yet fully protect the independence of the judiciary, CAT made recommendations for making judicial appointments and for adopting an independent monitoring mechanism of Court proceedings.⁸²

25. UNHCR stated that marginalized groups were left in a precarious situation without access to legal procedures and protection of their basic rights. UNHCR had been funding the provision of free legal aid for persons of concern to UNHCR. However, the need for free legal aid remained high, especially for sexual and gender-based violence cases among “displaced” persons. The new Law on Free Legal Aid only covered judicial and not administrative procedures that mainly benefited persons of concern to UNHCR. UNHCR called on Montenegro to ensure the law’s effective implementation.⁸³

26. CAT referred to the reported climate of impunity surrounding war crimes and urged Montenegro to expedite and complete its investigation of war crimes and ensure that all perpetrators, in particular those bearing the greatest responsibility, were brought to justice.⁸⁴ CERD made a similar recommendation.⁸⁵

27. CAT recommended that Montenegro adopt a comprehensive law on juvenile justice in line with international standards and CRC recommended that Montenegro set up a separate juvenile justice system in line with United Nations standards.⁸⁶ With reference to the implementation of recommendations, the United Nations Country Team (UNCT) stated that Montenegro had adopted specialized legislation on juvenile justice in 2011. While noting significant efforts in promoting alternatives to criminal prosecution, it noted further action was required to increase their practical application. UNCT stated that there challenges remained in both legislative and policy frameworks and in the capacity of professionals to administer juvenile justice cases and cases involving children as victims

and witnesses of crime in a manner consistent with child rights and international standards. Montenegro still lacked a uniform juvenile justice data collection and information system, which limited the effectiveness of policy initiatives. Additional efforts were needed to improve existing and to develop new rehabilitation and reintegration programmes for children in conflict with the law who are residing in semi-open and residential institutions.⁸⁷

D. Right to privacy, marriage and family life

28. CEDAW noted with concern that the practice of arranged and forced early marriages was still prevalent within RAE communities, concerning girls and boys aged 14–16.⁸⁸

29. CEDAW recommended that Montenegro: undertake research on the economic consequences of divorce on both spouses; and ensure that the concept of joint marital property extended to intangible property and was divided equally.⁸⁹

30. CRC was concerned that the number of children placed in institutions had not decreased.⁹⁰ UNCT reported that 63 per cent of children abandoned in residential institutions were children with disabilities. Local-level services that should support children with disabilities and their families (such as day care centres) were insufficiently developed and suffered from poor and unpredictable funding. UNCT reported on the need to accelerate the child welfare reform process through strengthening preventive social work interventions and expanding foster care and small group homes.⁹¹

E. Freedom of expression and right to participate in public and political life

31. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning the situation of a sports journalist who had on numerous occasions stressed the alleged influence of criminal organizations on professional football. According to the information received, the journalist was reportedly assaulted following the broadcast in January 2008 of a documentary entitled “Insajder” (Insider) on Serbian TV B92, in which the journalist highlighted the alleged linkage between professional football and criminal organizations. Serious concern was expressed that the assault could be related to the exercise of his right to freedom of opinion and expression and for the physical and psychological integrity of the victim.⁹²

32. CEDAW was concerned at sex-discriminatory statements made by politicians and that the media often conveyed stereotyped and sometimes degrading images of women or failed to comply with their obligation under article 4 of the Law on Gender Equality to use gender-sensitive language. CEDAW called on Montenegro to effectively enforce the Law on Gender Equality and encourage private and public media to adopt professional codes of ethics.⁹³

33. While noting the recent adoption of the Law for the Election of Councillors and Representatives providing for a 30 per cent quota for women candidates on political parties’ electoral lists, CEDAW noted with concern that women were significantly underrepresented in Parliament. It recommended that Montenegro review the 30 per cent quota in the Electoral Law to ensure that in each group of three candidates at least one candidate was a woman on political parties’ electoral lists; adopt other temporary measures, such as a gender-parity system for appointments and accelerated recruitment of women in the public service, especially in senior positions; remove discriminatory practices and address cultural barriers that prevent women from moving into decision-making and management positions; and create an enabling environment for political participation of women, including RAE women.⁹⁴

F. Right to work and to just and favourable conditions of work

34. Regarding employment issues, CEDAW recommended that Montenegro: ensure that the Law on Changes to the Labour Law expressly provided for equal remuneration of women and men for work of equal value, protected the rights of women employed on fixed-term contracts to paid maternity leave and introduces special non-transferable paternity leave; sensitize employers and employees on flexible work arrangements for women and men; effectively implement existing and adopt additional policies and targeted measures with time-bound targets and indicators to achieve substantive equality of men and women in the labour market, promote employment of women, including RAE women, eliminate occupational segregation and close the gender wage gap.⁹⁵

G. Right to social security and to an adequate standard of living

35. CRC expressed concern at the low standard of living of a large percentage of children and their families, affecting in particular RAE children⁹⁶ and at the insufficient and sporadic support provided especially to families in a crisis situation due to poverty, caring for children with disabilities and single-parent households.⁹⁷ CRC recommended the prioritization of children's rights and welfare in the country's budget policy; and urged Montenegro to pay particular attention to economically disadvantaged, marginalized and neglected children, including RAE children and children with disabilities.⁹⁸ CEDAW called on Montenegro to increase, regularly review and adjust the levels of family benefits for single mothers to ensure an adequate standard of living for them and their children; adopt targeted measures and programmes to economically empower single mothers, and protect them against discrimination and abuse.⁹⁹

H. Right to health

36. CRC made recommendations to address its concerns at the overall insufficient quality of health services; the limited and inequitable access to health-care services outside the capital, especially affecting Roma, refugee children and children with disabilities;¹⁰⁰ and the high number of teenage pregnancies and abortions.¹⁰¹ Additionally, CEDAW recommended that Montenegro ensure that all women and girls, including women with disabilities, RAE and displaced/refugee women have free and adequate access to contraceptives, sexual and reproductive health services, and information in accessible formats, including in rural areas.¹⁰²

I. Right to education

37. CRC was concerned at the low quality of education; barriers to accessing education for children lacking birth registration and identity documents, Roma children and children with disabilities; and the prevalence of violence in schools. It recommended that Montenegro increase the quality of schools, by introducing, inter alia, interactive teaching methods, better equipment and increasing the teacher/pupil ratio; ensure that education is de facto free of charge; ensure that children are not denied access to education on any grounds; and promote non-violent relations.¹⁰³

38. While noting efforts made to include RAE children in formal education, CEDAW recommended that Montenegro: adopt further temporary special measures to increase enrolment and completion rates of RAE girls and boys; train and recruit more RAE teachers and intensify efforts to integrate RAE children into local schools; provide mandatory training to teachers who are non-RAE teachers on their obligations to report incidents of

abuse and harassment of RAE children; and continue raising awareness among RAE families about the importance of education and provide further incentives to RAE parents to send their daughters to school.¹⁰⁴

39. CERD also recommended that Montenegro continue its efforts to facilitate the integration of minority pupils into mainstream education, including by providing language support in preschool education.¹⁰⁵

J. Persons with disabilities

40. Regarding the implementation of UPR recommendations, UNCT indicated that Montenegro had ratified the CRPD and OP-CRPD and was due to submit its first report. UNCT observed, however, that much work was needed to ensure full implementation of the Convention. Persons with disabilities were still excluded and discriminated against in practice. Physical accessibility to facilities and public transport, accessibility to social services and civic participation was still limited. The Government had begun to address significant stigma and cultural obstacles to inclusion in partnership with the United Nations Children's Fund (UNICEF).¹⁰⁶ While noting that the situation in the institution "Komanski Most" had been addressed to a certain degree through efforts to provide services for children in separate buildings, CRC was concerned that children with disabilities were still placed in the institution for adults and recommended that Montenegro develop a comprehensive national policy on disability; establish a monitoring system for residential care institutions; and include children with disabilities in the general school system.¹⁰⁷

K. Minorities

41. While noting the action plan to implement the Decade of Roma Inclusion 2005-2015 and the Strategy for the Improvement of the Position of Roma, Ashkali and Egyptian Populations (RAE) in Montenegro for the period 2008-2012,¹⁰⁸ CERD was concerned that socioeconomic and living conditions of Roma were precarious and discriminatory regarding education, employment, health care and social welfare. CERD recommended that Montenegro implement stronger special measures to enable the Roma to have practical access to education, employment in the public administration, health care and social welfare in a non-discriminatory manner.¹⁰⁹ CAT raised similar concerns and made similar recommendations.¹¹⁰

L. Migrants, refugees and asylum seekers and internally displaced persons

42. UNHCR reported that, although it considered as "refugees" the persons who sought refuge in Montenegro during the 1990s due to regional conflict, they had not crossed an international border at the time of their arrival. Subsequent to their arrival and despite the dissolution of the former Yugoslavia and Montenegro's eventual independence in 2006, these persons were never recognized as refugees, nor granted the same rights as refugees under the Montenegrin Asylum Law or the 1951 Convention.¹¹¹

43. In 2008, CAT expressed concern that Montenegro had not yet regularized the legal status of a large number of displaced and internally displaced persons and recommended granting them a legal status to minimize the risk of statelessness and full protection from expulsion.¹¹² In 2009, CERD was also concerned at the difficulties experienced by "displaced persons" and "internally displaced persons" in accessing, inter alia, employment, health insurance, social welfare and property rights. CERD recommended that Montenegro accelerate its efforts to resolve their uncertain legal status, including through grants of

citizenship, long-term residence or refugee status.¹¹³ In the framework of follow-up to this recommendation, CERD encouraged Montenegro to accelerate the adoption of the Law on Amendments of the Law on Foreigners.¹¹⁴

44. UNHCR reported that, on 7 July 2010, the Government passed the Decree on the Manner of Exercising the Rights by Displaced Persons from the Former Yugoslav Republics and Internally Displaced Persons From Kosovo Residing in Montenegro guaranteeing that until 7 January 2012 “displaced” and “internally displaced persons” had the same access to health care, education, employment, pension and social and child protection as Montenegrin citizens did.¹¹⁵

45. UNHCR indicated that the Government conducted a re-registration exercise in 2009 and some 16,500 persons from ex-Yugoslavia reconfirmed their “displaced person” or “internally displaced person” status during that exercise. Until the end of May 2012, 7,970 “displaced” and “internally displaced persons” applied for the status of foreigner as per the Law on Amending the Law on Foreigners, representing 48 per cent of all persons of concern. At the same time, 4,707 applicants were granted foreigner’s status.¹¹⁶

46. According to the Government’s statistics, at the end of June 2012, there were 3,089 persons still holding the status of “displaced persons”, while 8,612 persons were still holding the status of “internally displaced persons” in Montenegro.¹¹⁷

47. UNHCR indicated that, according to the Law on Amending the Law on Foreigners, “displaced persons” and “internally displaced persons” unable to submit duly completed applications for the status of permanent or temporary residence by the end of 2012 would be considered as foreigners unlawfully staying in Montenegro. Moreover, according to article 105(a) 5 of the Law on Amending the Law on Foreigners, “displaced persons” and “internally displaced persons” unable to present a valid travel document could still apply for foreigner status and would be granted temporary residence for foreigners, with all the rights accorded to the permanently residing foreigner. They would then have three years of temporary residence to obtain valid travel documents and have their status changed to that of permanent residents. At the end of the three years of temporary residence, those who would not be able to acquire a permanent residence would be considered as foreigners unlawfully staying in Montenegro.¹¹⁸

48. UNHCR, while recognizing important steps taken by the Government to decrease status-related taxes and by organizing bus visits for concerned persons to help them collect personal documents required to apply for foreigner’s status, strongly advocated for the provision of simplified avenues for acquiring foreigner’s status. It also recommended that Montenegro harmonize the Law on Social and Child Welfare and its by-laws, as well as other relevant laws, with the amended Law on Foreigners; give appropriate attention to the needs of “internally displaced” RAE; and develop a comprehensive strategy to ensure the access of “internally displaced persons” to socioeconomic rights.¹¹⁹

49. UNHCR reported that, on 28 July 2011, the Government of Montenegro adopted the 2011–2015 Strategy for Durable Solutions of Issues regarding Displaced and Internally Displaced Persons in Montenegro, with Special Emphasis on the Konik Area. The overall aim of the 2011–2015 Strategy was to strengthen the Government’s efforts in finding durable solutions for “displaced persons” and “internally displaced persons.”¹²⁰ According to UNHCR, the implementation of a non-discriminatory legal and policy framework in line with international standards and the guarantee of a legal status for displaced persons, in particular RAE, including the closure of Konik camps accommodating RAE refugees from Kosovo, were marked as key priorities for Montenegro.¹²¹

50. UNHCR referred to the results of the 2011 National Census on Population, Households and Dwellings, which identified 4,312 persons who declared themselves to be without any citizenship. Of these persons, 1,649 (38 per cent) were RAE, while the rest of

them (2,663 people or 62 per cent) were ethnic Albanians, Bosnians, Montenegrins and Serbs.¹²² UNHCR expressed concern at the large number of persons in Montenegro that were at risk of statelessness. The biggest problem was the absence of documents for those persons to prove their citizenship. That problem was mainly identified among RAE and appeared to arise from a combination of the administrative chaos created by the conflict in the region, arbitrary or discriminatory practices by civil servants in countries of origin and the lack of understanding among the affected population of the means and importance of registering and documenting (or re-registering and re-documenting) themselves and their children.¹²³

51. UNHCR recommended that Montenegro create a determination procedure to systematically identify and register stateless persons and grant them a legal status; increase efforts to facilitate access to missing civil registration and documents and promote civil registration and documentation for all persons born on Montenegrin territory; and define the legal status of undocumented RAE, as outlined in the Strategy for Improvement of the Situation of RAE Population in Montenegro 2012–2016 and the Strategy for Durable Solutions of Issues regarding Displaced and Internally Displaced Persons in Montenegro, with Special Emphasis on the Konik Area 2011–2015.¹²⁴

52. In 2008, CAT recommended that Montenegro should provide the necessary human and financial resources to the administrative bodies responsible for the implementation of the Law on Asylum and promulgate the necessary regulations and instructions to implement the law and ensure that the principle of non-refoulement was duly observed.¹²⁵ In 2012, UNHCR made similar recommendations.¹²⁶

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations compilation on Montenegro from the previous cycle (A/HRC/WG.6/3/MNE/2).

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination;
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR;
ICCPR	International Covenant on Civil and Political Rights;
ICCPR-OP 1	Optional Protocol to ICCPR;
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty;
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women;
OP-CEDAW	Optional Protocol to CEDAW;
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CAT	Optional Protocol to CAT;
CRC	Convention on the Rights of the Child;
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict;
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography;
OP-CRC-IC	Optional Protocol to CRC on a communications procedure;
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
CRPD	Convention on the Rights of Persons with Disabilities;

OP-CRPD Optional Protocol to CRPD;
 CPED International Convention for the Protection of All Persons from Enforced
 Disappearance.

- ³ Individual complaints: ICCPR-OP 1, art 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and CPED, art. 31; Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; CPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13; Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; CPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12; Urgent action: CPED, art. 30.
- ⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- ⁵ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and 1954 Convention relating to the Status of Stateless Persons.
- ⁶ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.
- ⁷ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ⁸ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.
- ⁹ International Labour Organization Conventions No. 169, concerning Indigenous and Tribal Peoples in Independent Countries and No.189 concerning Decent Work for Domestic Workers.
- ¹⁰ Concluding observations of the Committee against Torture, CAT/C/MNE/CO/1, para. 25; concluding observations of the Committee on the Elimination of Racial Discrimination, CERD/C/MNE/CO/1, para. 21; concluding observations of the Committee on the Rights of the Child, CRC/C/MNE/CO/1, para. 76; and concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/MNE/CO/1, para. 43.
- ¹¹ CAT/C/MNE/CO/1, para. 11; CERD/C/MNE/CO/1, para. 15; and CEDAW/C/MNE/CO/1, para. 35 (d). See also UNHCR submission for the UPR of Montenegro, p. 7.
- ¹² CRC/C/MNE/CO/1, para. 76.
- ¹³ CERD/C/MNE/CO/1, para. 10. See also Letter dated 27 August 2010 from CERD to the Permanent Mission of Montenegro in Geneva, p. 2, available at http://www2.ohchr.org/english/bodies/cerd/docs/followup/Montenegro_27082010.pdf.
- ¹⁴ CERD/C/MNE/CO/1/Add.1.
- ¹⁵ CRC/C/MNE/CO/1, para. 6.
- ¹⁶ *Ibid.*, para. 24, and concluding observations of the Committee on the Rights of the Child on the Optional Protocol on the sale of children, child prostitution and child pornography, CRC/C/OPSC/MNE/CO/1, para. 9.
- ¹⁷ CRC/C/MNE/CO/1, para. 29.
- ¹⁸ CRC/C/OPSC/MNE/CO/1, para. 30.

- ¹⁹ Concluding observations of the Committee on the Rights of the Child on the Optional Protocol on the involvement of children in armed conflict, CRC/C/OPAC/MNE/CO/1, para. 25.
- ²⁰ CAT/C/MNE/CO/1, para. 5. See also CRC/C/MNE/CO/1, paras. 34–35.
- ²¹ CEDAW/C/MNE/CO/1, para. 4 (c).
- ²² *Ibid.*, para. 13 (b).
- ²³ CRC/C/MNE/CO/1, para. 12.
- ²⁴ CERD/C/MNE/CO/1, para. 13. See also CAT/C/MNE/CO/1, para. 7.
- ²⁵ UNHCR submission for UPR of Montenegro, p. 8.
- ²⁶ CAT/C/MNE/CO/1, para. 7.
- ²⁷ Follow-up responses to the concluding observations of the Committee against Torture, CAT/C/MNE/CO/1/Add.1, paras. 7 and 9.
- ²⁸ CRC/C/MNE/CO/1, para. 8. See also CRC/C/OPAC/MNE/CO/1, para. 8, and CRC/C/OPSC/MNE/CO/1, para. 13.
- ²⁹ CRC/C/MNE/CO/1, para. 10. See also CRC/C/OPSC/MNE/CO/1, para. 11, and CRC/C/OPAC/MNE/CO/1, para. 6.
- ³⁰ The following abbreviations have been used for this document:
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|--------------|--------------------------------------------------------------|
| CERD | Committee on the Elimination of Racial Discrimination |
| CESCR | Committee on Economic, Social and Cultural Rights |
| HR Committee | Human Rights Committee |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CAT | Committee against Torture |
| CRC | Committee on the Rights of the Child |
| CRPD | Committee on the Rights of Persons with Disabilities |
| CED | Committee on Enforced Disappearances |
- ³¹ Concluding observations of CERD on the report of Yugoslavia, A/53/18, paras. 190–214).
- ³² Concluding observations of CESCR on the report of Serbia and Montenegro, E/C.12/1/Add.108.
- ³³ Concluding observations on the initial report of Serbia and Montenegro, CCPR/CO/81/SEMO.
- ³⁴ Concluding observations of CEDAW on the report of the Federal Republic of Yugoslavia (Serbia and Montenegro), Annual report, A/49/38, paras. 758-766 (submitted on an exceptional basis, CEDAW/C/YUG/SP.1).
- ³⁵ Concluding observations of CAT on the initial report of Yugoslavia, A/54/44, paras. 35–52.
- ³⁶ Concluding observations to the initial report of the Federal Republic of Yugoslavia (Serbia and Montenegro), CRC/C/15/Add.49.
- ³⁷ CEDAW/C/MNE/CO/1, para. 44.
- ³⁸ CERD/C/MNE/CO/1, para. 27.
- ³⁹ CERD/C/MNE/CO/1/Add.1, 3 March 2010.
- ⁴⁰ Letter dated 27 August 2010 from CERD to the Permanent Mission of Montenegro in Geneva, available at http://www2.ohchr.org/english/bodies/cerd/docs/followup/Montenegro_27082010.pdf.
- ⁴¹ CAT/C/MNE/CO/1, para. 28.
- ⁴² CAT/C/MNE/CO/1/Add.1.
- ⁴³ Letter dated 19 November 2010 from CAT to the Permanent Mission of Montenegro in Geneva. Available from www2.ohchr.org/english/bodies/cat/docs/FU_Montenegro_19112010.pdf.
- ⁴⁴ CRC/C/MNE/CO/1, para. 80.
- ⁴⁵ For the titles of special procedures, see www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx and www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx.
- ⁴⁶ Report of the Representative of the Secretary-General on the human rights of internally displaced persons: follow-up visit to Serbia and Montenegro, A/HRC/13/21/Add.1.
- ⁴⁷ CEDAW/C/MNE/CO/1, para. 4 (b). See also CRC/C/MNE/CO/1, para. 3(b).
- ⁴⁸ UNHCR, submission for the UPR of Montenegro, p. 8.
- ⁴⁹ CEDAW/C/MNE/CO/1, paras. 12–13.
- ⁵⁰ *Ibid.*, para. 5 (a).
- ⁵¹ *Ibid.*, paras. 14–15.
- ⁵² CRC/C/MNE/CO/1, paras. 25–26.
- ⁵³ CERD/C/MNE/CO/1, para. 20.
- ⁵⁴ CEDAW/C/MNE/CO/1, para. 34.
- ⁵⁵ CRC/C/MNE/CO/1, paras. 32 and 61.

- ⁵⁶ UNHCR, submission for the UPR of Montenegro, p. 3.
- ⁵⁷ *Ibid.*, p. 7.
- ⁵⁸ CRC/C/MNE/CO/1, para. 33. See also *ibid.*, para. 62.
- ⁵⁹ CAT/C/MNE/CO/1, para. 17.
- ⁶⁰ CERD/C/MNE/CO/1, para. 18.
- ⁶¹ CAT/C/MNE/CO/1, para. 17.
- ⁶² *Ibid.*, paras. 18–20.
- ⁶³ CRC/C/MNE/CO/1, paras. 34–35.
- ⁶⁴ CAT/C/MNE/CO/1, para. 14.
- ⁶⁵ *Ibid.*, para. 6.
- ⁶⁶ *Ibid.*, para. 15.
- ⁶⁷ CEDAW/C/MNE/CO/1, paras. 18–19. See also, CEDAW/C/MNE/CO/1, para. 4 (d) and CRC/C/MNE/CO/1, paras. 3 (a) and 45.
- ⁶⁸ UNHCR, submission for the UPR of Montenegro, pp. 7–8.
- ⁶⁹ CRC/C/MNE/CO/1, para. 37 and CAT/C/MNE/CO/1, para. 22.
- ⁷⁰ CRC/C/MNE/CO/1, para. 46.
- ⁷¹ *Ibid.*, para. 38.
- ⁷² *Ibid.*, paras. 63–64.
- ⁷³ *Ibid.*, paras. 65–66.
- ⁷⁴ CRC/C/OPSC/MNE/CO/1, para. 28.
- ⁷⁵ CRC/C/MNE/CO/1, para. 67.
- ⁷⁶ CRC/C/OPSC/MNE/CO/1, paras. 25–26.
- ⁷⁷ CAT/C/MNE/CO/1, para. 23.
- ⁷⁸ CEDAW/C/MNE/CO/1, paras. 20 and 5 (b) and (c). See also CRC/C/MNE/CO/1, para. 69, and CRC/C/OPSC/MNE/CO/1, para. 10.
- ⁷⁹ CEDAW/C/MNE/CO/1, para. 21. See also CAT/C/MNE/CO/1, para. 23, and CRC/C/OPSC/MNE/CO/1, paras. 17 and 19.
- ⁸⁰ CRC/C/OPAC/MNE/CO/1, para. 22.
- ⁸¹ CERD/C/MNE/CO/1, para. 5, and CAT/C/MNE/CO/1, para. 3 (d).
- ⁸² CAT/C/MNE/CO/1, para. 8.
- ⁸³ UNHCR, submission for the UPR of Montenegro, p. 8.
- ⁸⁴ CAT/C/MNE/CO/1, para. 12.
- ⁸⁵ CERD/C/MNE/CO/1, para. 19.
- ⁸⁶ CAT/C/MNE/CO/1, para. 9, and CRC/C/MNE/CO/1, para. 74.
- ⁸⁷ UNCT, submission for UPR of Montenegro, comments on juvenile justice.
- ⁸⁸ CEDAW/C/MNE/CO/1, para. 38.
- ⁸⁹ *Ibid.*, para. 37.
- ⁹⁰ CRC/C/MNE/CO/1, para. 41.
- ⁹¹ UNCT, submission for the UPR of Montenegro, comments on the recommendation to ratify CRPD.
- ⁹² Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, summary of cases transmitted to Governments and replies received, A/HRC/11/4/Add.1, paras. 1745–1748.
- ⁹³ CEDAW/C/MNE/CO/1, paras. 16–17.
- ⁹⁴ *Ibid.*, paras. 22–23.
- ⁹⁵ *Ibid.*, para. 29.
- ⁹⁶ CRC/C/MNE/CO/1, para. 57.
- ⁹⁷ *Ibid.*, para. 39.
- ⁹⁸ *Ibid.*, para. 14.
- ⁹⁹ CEDAW/C/MNE/CO/1, para. 33.
- ¹⁰⁰ CRC/C/MNE/CO/1, paras. 49–50.
- ¹⁰¹ *Ibid.*, paras. 53–54.
- ¹⁰² CEDAW/C/MNE/CO/1, para. 31.
- ¹⁰³ CRC/C/MNE/CO/1, paras. 59–60.
- ¹⁰⁴ CEDAW/C/MNE/CO/1, paras. 26–27.
- ¹⁰⁵ CERD/C/MNE/CO/1, para. 16.
- ¹⁰⁶ UNCT, submission for the UPR of Montenegro, comments on the recommendation to ratify CRPD.

- ¹⁰⁷ CRC/C/MNE/CO/1, paras. 47–48.
¹⁰⁸ CERD/C/MNE/CO/1, para. 6.
¹⁰⁹ *Ibid.*, para. 17.
¹¹⁰ CAT/C/MNE/CO/1, para. 16.
¹¹¹ UNHCR, submission for the UPR of Montenegro, p. 2.
¹¹² CAT/C/MNE/CO/1, para. 11.
¹¹³ CERD/C/MNE/CO/1, para. 15.
¹¹⁴ Letter dated 27 August 2010 from CERD to the Permanent Mission of Montenegro in Geneva.
Available from www2.ohchr.org/english/bodies/cerd/docs/followup/Montenegro_27082010.pdf.
¹¹⁵ UNHCR, submission for the UPR of Montenegro, p. 1.
¹¹⁶ *Ibid.*, p. 3.
¹¹⁷ *Ibid.*, p. 3.
¹¹⁸ *Ibid.*, p. 2.
¹¹⁹ *Ibid.*, p. 5.
¹²⁰ *Ibid.*, pp.1–2.
¹²¹ *Ibid.*, p. 2.
¹²² *Ibid.*, p. 3.
¹²³ *Ibid.*, p. 6.
¹²⁴ *Ibid.*, p.7.
¹²⁵ CAT/C/MNE/CO/1, para. 10.
¹²⁶ UNHCR, submission for the UPR of Montenegro, pp. 6–7.
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