UNHCR
United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report -

Universal Periodic Review:

MONTENEGRO

I. BACKGROUND INFORMATION

A. Background on Montenegro's Legislative Framework

Since Montenegro achieved its independence in 2006, the country has considerably advanced in the development of its legal framework with respect to persons of concern to UNHCR.[1]

After becoming a UN Member State in 2006, Montenegro succeeded to the *1951 Refugee Convention* and its *1967 Protocol* (hereafter the *1951 Convention*), and the *1954 Convention Relating to the Status of Stateless Persons*. Montenegro also ratified the *Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession* and the *European Convention on Nationality* in 2010.

Montenegro adopted a new *Constitution* along with a *Constitutional Law*, which entered into force on 22 October 2007. The Constitution recognizes in its Article 9 that "generally accepted rules of international law shall make an integral part of the internal legal order, shall have the supremacy over national legislation and shall apply directly when they contravene with national legislation." In addition, Montenegro's *Asylum Law*, drafted with UNHCR's participation, entered into force on 25 January 2007. The *Law on Montenegrin Citizenship* has been implemented since 5 May 2008.

On 7 July 2010, the Government passed a *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" have the same access to health care, education, employment, pension, as well as social and child protection as Montenegrin citizens do. The Employment Bureau confirmed that "displaced" and "internally displaced persons" can be registered with the Bureau and have access to the attached rights such as: gainful employment, rights guaranteed to unemployed persons (support for self-employment, vocational training and occupational retraining), and health insurance.

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 2011-15

[1]Persons of concern for the purposes of this paper are asylum-seekers, refugees and other forcibly displaced persons, stateless persons, and persons at risk of statelessness. These include persons from Croatia, Bosnia-Herzegovina, and Kosovo who remain displaced in Montenegro.

Strategy is to strengthen the Government's efforts in finding durable solutions for "displaced persons" and "internally displaced persons."

The Government's political will to enable full integration of the aforementioned refugees through implementation of the 2011-15 Strategy, which is also the seventh recommendation of the European Commission to the European Parliament and Council on Montenegro's application for EU membership. 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 Roma, Ashkali and Egyptians (RAE), including the closure of Konik camps accommodating RAE refugees from Kosovo, are marked as key priorities for Montenegro. On 27 June 2012, the European Council decided to open the negotiations with Montenegro, in recognition of the progress made in meeting the benchmarks.

"Displaced persons" and "internally displaced persons" unable to submit duly completed applications for the status of permanent or temporary residence within two years from the entry into force of the *Law on Amending the Law on Foreigners* (i.e. by 7 November 2011), will be considered as foreigners unlawfully staying in Montenegro. However, as a result of discussions with the EU and UNHCR, the Government has agreed that the deadline for the implementation of this law be extended until the end of 2012. 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 can still apply for foreigner status and will be granted temporary residence for foreigners, with all the rights accorded to the permanently residing foreigner. They will 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 will not be able to acquire a permanent residence will be considered as foreigners unlawfully staying in Montenegro.

B. Background on UNHCR's Persons of Concern

Although considered as "refugees" by UNHCR, the persons who arrived from Croatia, Bosnia-Herzegovina and Kosovo who sought refuge in Montenegro during the 1990's due to regional conflict 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*.

In 1992, the Government of Montenegro issued a *Decree on the Care of Displaced Persons*, enabling the Ministry of Internal Affairs to grant a special status to "displaced persons" from Croatia, Bosnia-Herzegovina and from some other former Yugoslav republics, and who had arrived in Montenegro between 1991 and 1997.[2] Later, when internally displaced persons from Kosovo arrived in Montenegro in 1998 and 1999, the Montenegrin Commissariat for Displaced Persons (MCDP) registered them as "internally displaced persons" under an *ad hoc* administrative measure responding to the emergency situation. This status was also granted to persons displaced from Albania, who resided in Kosovo and fled to Montenegro together

[2] This status had also been granted to a small number of people from other countries during this period, of which 24 are still registered (20 from Slovenia, 2 from another country, and 2 from undeclared countries).

with others.[3] The "internally displaced person" status remains largely undefined in written law, although both "internally displaced person" and "displaced person" status were temporarily extended following Montenegrin independence in 2006.[4]

The legal status of "displaced persons" and "internally displaced persons" has been a root cause of many of the problems faced by persons of concern in Montenegro, as it does not meet the standards of the *1951 Convention* in terms of access to rights. The temporary and weak nature of "displaced person" and "internally displaced person" status has limited their access to important economic and social rights, directly resulting in an increased economic and social vulnerability of persons of concern in Montenegro.

The Government of Montenegro conducted re-registration of persons of concern from ex-Yugoslavia in 2009 and some 16,500 persons reconfirmed their DP or IDP status during this exercise. Until the end of May 2012, 7,970 DPs and IDPs applied for the status of foreigner as per the *Law on Amending the Law on Foreigners*, representing 48% of all persons of concern. At the same time, 4,707 applicants were granted foreigner's status. According to the Government statistics, at the end of June 2012, there were 3,089 persons from Croatia and Bosnia-Herzegovina still holding the status of "displaced persons", while 8,612 persons from Kosovo were still holding the status of "internally displaced persons" in Montenegro. Since its independence in May 2006 until the end of April 2012, Montenegro also registered a total of 735 asylum-seekers.

Finally, Montenegro hosts a significant number of persons who are at risk of statelessness because they face difficulties in proving citizenship. The *2011 National Census on Population, Households and Dwellings* identified 4,312 persons who declared themselves to be without any citizenship. 1,649 of these persons (38%) were RAE, while the rest of them (2,663 people or 62%) were ethnic Serbs, Montenegrins, Albanians, Bosnians.

UNHCR has increased its work on the prevention of statelessness in Montenegro, through advocacy with the Government and also through cooperation with its legal aid implementing partner, the Legal Center. Many displaced persons face difficulties obtaining civil documents in their countries of origin. Subsequent civil registration and documentation are key components of UNHCR's protection strategy, as these documents are inexorably linked to the ability of displaced persons to access and enjoy basic human rights in Montenegro. The lack of documentation puts many persons of concern at risk of statelessness, in particular RAE and "internally displaced persons" from Kosovo. Between March and December 2011, UNHCR's legal aid implementing partner conducted a follow-up survey among Roma/RAE identified during a 2008 UNHCR/UNICEF survey as being at risk of statelessness. The survey was conducted in cooperation with a Government multi-sector team and with support of the UN system in Montenegro. Out of 1,270 local Roma and RAE covered by the survey, 252 were identified as persons still facing problems with personal documentation. At the same time, the survey included 2,644 refugees, out of whom a total of 1,448 persons with problems in personal documents were identified.

[3] Montenegro hosts a number of Albanian citizens who were granted refugee status under the federal laws of the former Yugoslavia. These are mostly ethnic Serbs and Montenegrins who arrived in Montenegro (then SFR Yugoslavia) in 1991, and have subsequently moved throughout Serbia and Montenegro (many residing in Kosovo until 1999 and then fleeing back to Montenegro). Estimated number of those who still hold internally displaced persons status is some 900 persons.

[4] See "Decision on the Temporary Retention of the Status and Rights of Displaced and Internally Displaced Persons in the Republic of Montenegro" ("OGRM", No.36/06).

II. ACHIEVEMENTS AND BEST PRACTICES

1. National Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons in Montenegro, With Special Emphasis on the Konik Area 2011-2015
In July 2011, the Government adopted a new strategy with accompanying annual action plans, which will allow full integration of persons of concern. This replaced and expanded upon the 2009 *Action Plan for Resolution of the Status of Displaced Persons from the Former Yugoslav Republics and of the Status of Internally Displaced Persons from Kosovo in Montenegro*. The Strategy opened avenues for harmonization of legislation with the Law on Foreigners to enable concerned persons to access all basic rights and thus full integration. It also foresees establishment of a clear procedure for subsequent registration of children born in Montenegro outside health facilities, as well as alleviated access to the status of foreigner to persons with particular needs. A Coordination Board has been established to monitor and lead the Strategy's implementation. The board is chaired by the Deputy Prime Minister and its members include all relevant line ministries (assistant minister level) and other Government offices, UNHCR and EU Delegation in Montenegro.

2. Sarajevo Process
Montenegro actively participated in this process which aims to close the "chapter" of displacement resulting from the conflict during the dissolution of SFR Yugoslavia. Montenegro provided significant funding for the Regional Housing Program created by the participating countries and played an important role in drafting the Joint Declaration signed by the four foreign ministers of the participating countries. The Joint Declaration reconfirmed the commitment of the four participating countries to close "the chapter" of persons displaced during the 1991-1995 conflicts over the dissolution of SFR Yugoslavia through their integration in countries of asylum or return to home countries. In addition, Montenegro chaired the Working Group on Civil Status and Documents that enabled numerous refugees to obtain documents required for receiving foreigner's status in Montenegro.

3. Access to the foreigner's status
Numerous bureaucratic and other obstacles have been removed, including reduction of applicable administrative taxes. Obtaining civil registration documents continues to be pro-actively facilitated by the Montenegrin authorities and I/DPs remain adequately protected while their cases for the regularization of their civil status are pending.

4. Adoption of the *Law on Prohibition of Discrimination*
In 2010, the Montenegrin Parliament adopted the *Law on Prohibition of Discrimination,* which provides an extensive definition of discrimination, including gender-based discrimination and discrimination based on sexual orientation or any other personal characteristics. The Law lays down procedural guarantees for those facing discrimination.

5. Adoption of the *Law on Free Legal Aid*
UNHCR welcomes the adoption of the first ever *Law on Free Legal Aid*, which entered into force on 1 January 2011. Free legal aid provided based on this law is limited to court procedures.

III. KEY PROTECTION CHALLENGES AND RECOMMENDATIONS

Issue 1: I/DPs' rights and local integration

Due to the temporary and weak nature of the current legal status[5] of "displaced persons" from the former Yugoslav republics and "internally displaced persons" from Kosovo residing in Montenegro, those people are deprived of certain basic rights and are exposed to increased economic and social vulnerability. UNHCR continues to strongly advocate with the Government of Montenegro to provide simplified avenues for these persons to acquire the foreigner's status and thus local integration. The Government has taken important steps by decreasing status related taxes and by organizing bus visits for these people to Kosovo to help them collect personal documents required to apply for foreigner's status. In addition, Montenegro chaired the Working Group on Civil Status and Documents under the Sarajevo Process, which resulted in simplifying procedures in the respective countries of origin. However, despite all these measures, the requirements continue to be too costly and otherwise demanding for the majority of persons who have been victims of forced displacement.

Recommendations:

- 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 RAE IDPs, who are the most marginalised among UNHCR's persons of concern in Montenegro.
- Develop a comprehensive strategy to ensure the access of IDPs to socio-economic rights.

Issue 2: Protection of asylum-seekers and refugees

Montenegro is a host country to a growing number of people seeking asylum from around the world. Although Montenegro is clearly more a transit country than a destination country for asylum-seekers at this point, it is expected that the number of asylum-seekers will continue growing, particularly as Montenegro moves closer to its integration within the European Union.

UNHCR has made substantial efforts to assist the Government in the implementation of the *Asylum Law*, but continued commitment and additional human and financial resources are needed. The administrative structures need to be staffed, reorganized, and provided with sufficient resources for the implementation of their mandates.

Although the Asylum Office has assumed full responsibility for carrying out refugee status determination interviews pursuant to the *Asylum Law* since 2008, the quality of decision-making is hampered by insufficient staffing and limited experience of eligibility officers. Additional training is needed in a number of areas, such as the processing of individual claims, the legal reasoning to substantiate asylum decisions and the consideration of subsidiary protection in the adjudication of claims. The same applies to the members of the State Asylum Appeals Commission, the second and final instance in the asylum procedure.

[5] According to international standards for the protection of internally displaced persons, an IDP is a person who falls within the definition provided for under the Guiding Principles on Internal Displacement, with no official status ascribed to such categorization.

Montenegro has not yet enacted legislation regulating reception standards or opened a facility for the accommodation of asylum-seekers. Through funds obtained from the European Community, UNHCR assisted the Ministry of Interior (MoI) in the construction of the Asylum Centre in Spuz, near Podgorica, which still needs to be connected to electricity and water. Meanwhile, the Government provides accommodation on an *ad hoc* basis.

Recommendations:

- Promulgate the laws, by-laws, regulations and operating instructions necessary to fully implement the *Asylum Law*.
- Provide human and financial resources, as well as training, to all bodies responsible for the implementation of the *Asylum Law*.
- Complete the construction of the Asylum Centre as soon as possible, and train staff in order to make it fully operational, in accordance with international standards.
- Clarify responsibilities among the Government bodies involved in asylum reception.

Issue 3: Statelessness

UNHCR is concerned about the large number of persons in Montenegro that are at risk of statelessness. The biggest problem is the absence of documents for these persons to prove their citizenship. This problem is mainly identified among RAE, and appears to arise from a combination of the administrative chaos created by the conflict in Kosovo, 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.

UNHCR also has concerns in relation to the readmission agreement negotiated between Montenegro and the European Community. The agreement includes a provision requiring readmission by Montenegro of former SFRY citizens who were born on Montenegrin territory and who have not acquired any other citizenship. This provision fails to take into account the specific circumstances of certain stateless individuals. Even if some of the persons who are returned to Montenegro pursuant to this agreement are able to acquire Montenegrin citizenship, the problem with the readmission provision is that it focuses solely on the person's place of birth and does not appear to allow any consideration of the various forms of an appropriate connection between an individual and a successor State and whether they would be able to acquire nationality there. On the basis of the principles set out in the *2006 Council of Europe Convention on the avoidance of Statelessness in relation to State Succession* and the *European Convention on Nationality*, it would be desirable to take into account (1) whether the persons concerned have an appropriate connection with Montenegro, (2) where they have habitually resided and (3) whether they have or had a legal bond to the territory of Montenegro or another territorial part of the former SFRY. Moreover, the agreement does not take into account the will of a person with regard to the acquisition of nationality[6] when he/she has an appropriate connection with more than one successor State. UNHCR hopes that the agreement will be implemented in such a way as to minimize these concerns.

UNHCR notes that the *Montenegrin Law on Citizenship* is generally in line with the standards for prevention and reduction of statelessness set out in the *1961 Convention on the Reduction of Statelessness*. For instance, it contains safeguards against statelessness among

[6] Cf. *European Convention on Nationality*, Art. 18 (1997); *Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession*, Art. 5 (2006).

children by granting citizenship to children born or found on Montenegrin territory, if their parents are unknown, if their citizenship is unknown, if they are stateless or if the child will otherwise remain stateless (Article 7).

The *1961 Convention on the Reduction of Statelessness* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. Stateless persons are often discriminated against in their enjoyment of fundamental rights. An increase in the number of States parties to this Convention is essential to strengthening international efforts to prevent and reduce statelessness. Considering that the *Montenegrin Law on Citizenship* is already in line with the main principles of the *1961 Convention,* UNHCR strongly encourages Montenegro to accede to this Convention.

Montenegro is party to the second international convention on statelessness: the *1954 Convention relating to the Status of Stateless Persons*. Montenegrin legislation accords basic rights to stateless persons and the *Montenegrin Citizenship Law* provides for facilitated naturalization of stateless persons. However, in the absence of a dedicated statelessness determination procedure, application of these provisions remains limited. UNHCR would encourage Montenegro to implement the *1954 Convention* through the development of a statelessness determination procedure.

At UNHCR's ministerial meeting in December 2011, Montenegro made two statelessness related pledges. The first was in relation to the harmonization of national legislation and procedures related to statelessness and to ensure active cooperation with other states for the reduction of statelessness. The second concerns accelerating procedures for obtaining civil documentation to minimize the possibility of statelessness arising from the lack of such documentation.

Recommendations:

- Accede to the *1961 Convention on the Reduction of Statelessness*.
- 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 the Montenegrin territory.
- Establish a procedure for subsequent registration of children born outside 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.
- 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*.

Issue 4: Protection from SGBV

Within the present system of social protection, there is no possibility to provide psycho-social treatment to the victims of family violence, nor to the perpetrator. Furthermore, there are no Government-run shelters available for victims of family violence, apart from two safe houses run by NGOs that are completely dependent on international donations. Such services and

facilities should be accessible to all persons in need, including persons of concern to UNHCR, who may be particularly vulnerable due to the past traumatic experiences and have weak or non-existent support networks upon which to rely.

Recommendation:

- Provide and create conditions for certain measures of protection from sexual and gender-based violence (SGBV), namely adequate shelter facilities for victims, psycho-social rehabilitation of the victim and mandatory psycho-social treatment of the perpetrator. Such facilities should be made available to all victims and perpetrators without discrimination on any grounds.

Issue 5: *Law on Prohibition of Discrimination*

The concrete benefits of the *Law on Prohibition of Discrimination* had no effect before the adoption of the new *Law on Ombudsman* on 15 August 2011. The *Law on Prohibition of Discrimination* tasked the Ombudsman to serve as the main protector against discrimination (which was a new development, requiring the existing Law on Ombudsman to be amended). The capacity of the Ombudsman's office to address discrimination issues remains a challenge.

Recommendation:

- Ensure effective implementation of the *Law on Prohibition of Discrimination* through the Ombudsman Office.

Issue 6: *Law on Free Legal Aid*

Currently, marginalized groups are left in a precarious situation without access to legal procedures and protection of their basic rights. UNHCR has been funding the provision of free legal aid for persons of its concern in Montenegro for a number of years. However, the need for free legal assistance remains high, especially for SGBV cases among displaced persons. The Law covers only judicial procedures and not administrative procedures, which are mainly of benefit for UNHCR's persons of concern.

Recommendation:

- Ensure effective implementation of the *Law on Free Legal Aid*.

Human Rights Liaison Unit
Division for International Protection
UNHCR
July 2012

UNHCR
United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

Annex

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedures'

1. Treaty Body Concluding Observations and Recommendations

Committee on the Elimination of Discrimination against Women
CEDAW/C/MNE/CO/1, 50th session
4 November 2011

Positive aspects
4. The Committee welcomes the adoption, since the entry into force of the Convention for the State party, of several legislative measures aimed at eliminating discrimination against women, including:
(f) Law on Foreigners (Nos. 82/08 and 72/09) which, in article 51, stipulates that temporary residence permits can be granted to foreigners who are victims of trafficking or of organized crime, and provides for witness protection; and
(g) Law on Free Legal Aid due to enter into force on 1 January 2012.

(UNHCR COMM: The Law on Free Legal Aid entered into force on 1 January 2012 but does not provide for free legal aid in administrative proceedings, which is most relevant to UNHCR's persons of concern)

5. The Committee notes with appreciation the adoption of various institutional and policy measures aimed at advancing women's rights, including:
(b) National Strategy for the Fight against Trafficking in Human Beings and the Action Plan for the implementation of the Strategy for the period 2010–2011; and
(c) Appointment of a coordinator for the fight against trafficking in the Police Directorate directly cooperating with the Government Office for the Fight against Trafficking in Human Beings.

Principal areas of concern and recommendations

Education
26. While noting the State party's efforts to include Roma, Ashkali and Egyptian children in formal education, the Committee is concerned about the low enrolment and high dropout rates of Roma, Ashkali and Egyptian girls at the primary and secondary levels, patriarchal attitudes of their parents towards education of girls, as well as reports on gaps in the quality of education provided in schools in Roma, Ashkali and Egyptian majority areas and racial discrimination, abuse and harassment of Roma, Ashkali and Egyptian girls and boys by children and teachers who are not Roma, Ashkali and Egyptian. It also notes with concern the extremely low number of Roma, Ashkali and Egyptian women and girls in higher education.
27. The Committee recommends that the State party:
(a) Adopt further temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, to increase enrolment and completion rates of Roma, Ashkali and Egyptian girls and

boys, as well as the participation of Roma, Ashkali and Egyptian women and girls in higher education;

(b) Train and recruit more Roma, Ashkali and Egyptian teachers, including women, allocate sufficient resources for improving the quality of education in schools in and around the Konik refugee camps, and intensify efforts to integrate Roma, Ashkali and Egyptian children into local schools;

(c) Provide mandatory training to teachers who are not Roma, Ashkali and Egyptian on their obligations to report incidents of abuse and harassment of Roma, Ashkali and Egyptian girls and boys and to refrain from such acts;

(d) Continue raising awareness among Roma, Ashkali and Egyptian families about the importance of education for the life and career prospects of girls and provide further incentives to those parents to send their daughters to school.

Health

30. The Committee is concerned about the low prevalence of contraceptives and inadequate access to sexual and reproductive health services and information, especially for disabled, Roma, Ashkali and Egyptian and displaced/refugee women, in particular in rural areas. It also notes with concern that education on sexual and reproductive health and rights at the secondary level is only optional.

31. By reference to its general recommendation No. 24 (1999) on article 12 (women and health), the Committee calls on the State party to:

(a) Ensure that all women and girls, including women with disabilities, Roma, Ashkali and Egyptian 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;

(b) Raise awareness, through education campaigns, enhanced counselling services and the media, about the importance of using contraceptives for family planning and the prevention of sexually transmitted diseases, including HIV/AIDS; and

(c) Include mandatory education on sexual and reproductive health and rights in the regular school curricula at the secondary level.

Disadvantaged groups of women

34. The Committee is concerned about multiple forms of discrimination against Roma, Ashkali and Egyptian women, the lack of birth registration or proof of such registration of many local and displaced/refugee Roma, Ashkali and Egyptian women placing them and their children at a risk of statelessness, and the lack of basic services and infrastructure in the Roma, Ashkali and Egyptian refugee camps in Konik. It also notes with concern that displaced/refugee women, including many Roma, Ashkali and Egyptian women, face 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 are unable to access certain documents needed to process such status.

35. The Committee recommends that the State party:

(a) Adopt temporary special measures to eliminate the multiple forms of discrimination against Roma, Ashkali and Egyptian women, including in education, employment and health care, collect disaggregated data on the situation of Roma, Ashkali and Egyptian women, and include such information in its next periodic report;

(b) Effectively implement the Strategy for the Improvement of the Status of the Roma, Ashkali and Egyptian Community in Montenegro (2008–2012) and intensify

efforts to improve women's and girls' access to basic services in the Roma, Ashkali and Egyptian refugee camps in Konik;

(c) Strengthen the assistance provided to displaced/refugee women, including Roma, Ashkali and Egyptian women, in civil registration in Montenegro and cooperate with their countries of habitual residence to facilitate access to passports or other documents required for the status of foreigners with permanent residence in the State party; and

(d) Consider ratifying the Convention on the Reduction of Statelessness.

Committee on the Rights of the Child
Optional Protocol on the involvement of children in armed conflict
CRC/C/OPAC/MNE/CO/1, 55th session
1 November 2010

Assistance for physical and psychological recovery

21. The Committee regrets the paucity of information on measures taken to identify children entering Montenegro who may have been involved in armed conflict abroad.

22. The Committee recommends that the State party establish an identification mechanism for children, including asylum-seeking refugee children and unaccompanied children, who may have been involved in armed conflict abroad. The Committee further recommends that the State party take measures to provide these children with appropriate assistance for their physical and psychological recovery and their social reintegration.

Committee on the Rights of the Child
Optional Protocol on the sale of children, child prostitution, and child pornography
CRC/C/OPSC/MNE/CO/1, 55th session
1 November 2010

Programmes targeting particular groups

27. While welcoming the information provided by the State party delegation on programmes in place targeting particular groups of children, such as Roma, Ashkali and Egyptian children and children in street situations to enhance social inclusion, the Committee regrets that children remain vulnerable to the offences covered under the Optional Protocol.

28. The Committee recommends that the State party undertake systematic prevention activities, including birth registration, targeting children who are especially vulnerable or at risk, with particular attention to girls, in order to prevent them from becoming victims of offences covered by the Optional Protocol.

Dissemination and awareness-raising

14. While appreciating the importance that the State party is attributing to dissemination and awareness-raising activities, the Committee is concerned that these have been limited to trafficking in human beings and that the Optional Protocol has not been sufficiently promoted and disseminated. In that regard the Committee regrets that children, including children of minority communities, children in street situations and refugee children, as well as parents do not have adequate knowledge of the risks of the violation of the rights of children as enshrined in the Optional Protocol and of strategies to protect children against these violations.

15. The Committee urges the State party:

(a) To make the provisions of the Optional Protocol widely known to the public, particularly to children and their families, by, inter alia, developing and implementing long-term awareness-raising campaigns and integrating the provisions of the Optional Protocol into school curricula at all levels of the education system using appropriate material created specifically for children;

(b) In cooperation with civil society and media and in line with article 9, paragraph 2, of the Optional Protocol, to intensify and promote awareness-raising among the public at large, including children, through information by all appropriate means, about the harmful effects of all the offences referred to in the Optional Protocol and to encourage the participation of the community and, in particular, children and child victims of both sexes, in such awareness-raising and information and education programmes.

Committee on the Elimination of Racial Discrimination
CERD/C/MNE/CO/1, 74th session
16 March 2009

Positive aspects

1. The Committee welcomes the many legislative and administrative measures taken by the State party to establish a framework for the promotion and protection of human rights, and in particular the elimination of discrimination in areas of relevance to the Convention, including the adoption of:

(b) The Law on Asylum in 2006, the establishment of the Asylum Office and the State Asylum Appeals Commission in 2007; and

(c) The Law on Employment of Aliens in March 2007, which provides avenues for fair employment of recognized refugees and persons granted subsidiary protection under the Law on Asylum.

(*UNHCR COMM: Montenegro may also be commended for the amendment of the Law on Foreigners which opened avenues for full access to all basic rights for the Former Yugoslav refugees through acquisition of the status of foreigner with permanent or temporary residence).*

Concerns and recommendations

15. The Committee is concerned at the difficulties experienced by a large number of "displaced persons" from Croatia and from Bosnia and Herzegovina and "internally displaced persons" from Kosovo in accessing, inter alia, employment, health insurance, social welfare, and property rights because of their uncertain legal status. The Committee notes with interest ongoing efforts to bring about an early and durable solution to this problem (art. 5).

The Committee recommends that the State party accelerate its efforts to resolve the uncertain legal status of "displaced persons" from Croatia and from Bosnia and Herzegovina and "internally displaced persons" from Kosovo, including through grants of citizenship, long-term residence, or refugee status, as appropriate. The Committee recommends that the State party ratify the Convention on the Reduction of Statelessness adopted in 1961.

16. The Committee acknowledges the various measures to advance the situation of the Roma. However, the Committee is concerned that, despite compulsory school education and the various measures undertaken by the State party such as the Roma Education Initiative which introduced Roma assistants in some schools, a disproportionately large number of Roma children are not enrolled in schools, have high drop out rates and do not complete higher education. The Committee is also concerned at the large number of Roma from Kosovo who face problems in accessing education due to their lack of proficiency in Montenegrin as well as lack of documents (art. 5 (e) (v)).

The Committee recommends that the State party continue to address the various factors responsible for the low level of education among the Roma with a view to improving enrolment and completion of their education. It also recommends that the State party continue its efforts to facilitate the integration of minority pupils into mainstream education, including by providing language support in preschool education.

Committee against Torture
CAT/C/MNE/CO/1, 41st session
19 January 2009

Refugees and asylum-seekers

10. The Committee notes with satisfaction that the Constitution of Montenegro guarantees the right to seek asylum and that in July 2006 the State party adopted its first Asylum Law, the implementation of which started on 25 January 2007. However, the Committee remains concerned that the Law is not yet fully implemented, including the establishment of facilities for the accommodation of asylum-seekers (art. 3).

The State party 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 operating instructions for the full implementation of the Law on Asylum. The State party should ensure that the principle of non-refoulement is duly observed as enshrined in article 3 of the Convention.

Displaced persons

11. The Committee is concerned that the State party has not yet regularized the legal status of a large number of "displaced persons" from Croatia and Bosnia-Herzegovina and "internally displaced persons" from Kosovo (art. 3).

The Committee reiterates the recommendations made by the Commissioner for Human Rights of the Council of Europe, following his visit to the country from 2 to 6 June 2008 (CommDH(2008)25). In this regard, the State party should:

(a) Take concrete measures for the local integration of "displaced persons" from Croatia and Bosnia-Herzegovina and grant them a legal status and full protection against expulsion in violation of their legal rights,

(b) Regularize the status of "internally displaced persons" from Kosovo residing in Montenegro by granting them a proper legal status to minimize the risk of statelessness, and

(c) Consider ratifying the Convention on the Reduction of Statelessness adopted in 1961.

(UNHCR COMM to 11 a) and 11 b): The Amendment to the Law on Foreigners (2009) opens the possibility for DPs from Croatia and BiH, and IDPs from Kosovo to regularize their stay in Montenegro by applying for the status of foreigner with permanent or temporary residence. Harmonization of relevant legislation with the Law on Foreigners is ongoing and will when finalized ensure access to basic rights for former refugees with the new status).

Trafficking in persons

23. While noting that the trend in trafficking in persons has decreased in the last years, the Committee is concerned at reports that trafficking in persons, particularly women, remain a considerable problem. The Committee is also concerned that Montenegro is a transit country (arts. 2, 10 and 16).

The State party should undertake effective measures, including through regional and international cooperation, to combat and prevent trafficking in persons, conduct training for law enforcement officials, particularly border and customs officials, continue to prosecute and punish perpetrators, and ensure the provision of free legal aid, recovery and reintegration services to victims of trafficking.

2. Special Procedures' Reports:

Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin

Addendum: Follow-up visit to the mission to Serbia and Montenegro (including Kosovo) in 2005

Human Rights Council, 13th session

A/HRC/13/21/Add.1

11 December 2009

Introduction

(Footnote 2: In light of the small number of internally displaced persons remaining in Montenegro, the Representative did not seek to re-visit that country.)

Internally displaced Roma in Kosovo

58. There are strong indications that only a minority of displaced Roma, Ashkali and Egyptians plans to return to Kosovo, which is to a large extent a reflection of the dire reintegration perspective. According to the Living Standards Measurement Survey, conducted even before the unilateral declaration of independence, only one in five internally displaced Roma (20.5%) wished to return to Kosovo. In the period from 2000–June 2009, UNHCR registered returns of only 4515 Roma, Ashkali and Egyptian IDPs. A further 2992 persons voluntarily returned from third countries, namely the former Yugoslav Republic of Macedonia and the Republic of Montenegro. As with regard to other returns, it is uncertain how many returns have proven to be sustainable.