

DRAFT



**MONTENEGRO
THE MINISTRY OF LABOUR AND SOCIAL WELFARE**

**THE STRATEGY FOR DURABLE SOLUTIONS OF ISSUES REGARDING
DISPLACED AND INTERNALLY DISPLACED PERSONS IN MONTENEGRO,
WITH SPECIAL EMPHASIS ON THE KONIK AREA**

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LIST OF ABBREVIATIONS

MoI	-	The Ministry of Interior
DP	-	Displaced person
IDP	-	Internally displaced person
UNHCR	-	United Nations High Commissioner for Refugees
OGM	-	Official Gazette of Montenegro
OGRM	-	Official Gazette of the Republic of Montenegro
UNDP	-	United Nations Development Programme
RAE	-	Roma, Ashkali and Egyptian
BCR	-	The Bureau for the Care of Refugees
MH	-	Ministry of Health
MF	-	Ministry of Finance
MES	-	Ministry of Education and Sport
MSDT	-	Ministry of Sustainable Development and Tourism
MFAEI	-	Ministry of Foreign Affairs and European Integrations
MJ	-	Ministry of Justice
EA	-	Employment Agency
EI	-	Educational Institute
IPH	-	Institute for Public Health
PD	-	Police Directorate
RCM	-	Red Cross of Montenegro
CSW	-	Center for Social Work
EU	-	European Union
EUD	-	European Union Delegation

1. INTRODUCTION

The waves of refugees that arrived in Montenegro during the nineties, were caused by the armed conflicts in ex Yugoslav republics and in Kosovo. Since the onset of the refugee crisis, the number of refugees in Montenegro significantly fluctuated.

In 1992, as a reaction to the refugee crisis, the Government of Montenegro issued a “*Decree on the Care of Displaced Persons*,” enabling the Ministry of Interior (MoI) to grant “*displaced person*” status (DP) to people from Croatia, Bosnia and Herzegovina and some other former Yugoslav republics who sought refuge in Montenegro between 1991 and 1997.¹ Later, when internally displaced persons from Kosovo arrived in Montenegro in 1998 and 1999, the Bureau for the Care of Refugees (at that time Montenegrin Commissariat for Displaced Persons) registered them as “*internally displaced persons*” (IDP) under an *ad hoc* administrative measure responding to the emergency situation. This status was also granted to refugees from Albania, who resided in Kosovo and fled to Montenegro together with others.² Throughout the years the DP and IDP status remained largely undefined in written law, although both “*internally displaced person*” and “*displaced person*” status were temporarily continued following Montenegrin independence in 2006.³

The legal status of “*displaced persons*” and “*internally displaced persons*” does not currently meet the standards of the *1951 Convention Relating to the Status of Refugees* in terms of access to rights. Most laws adopted after independence of Montenegro do not recognize this status referring only to citizens, foreigners and refugees. The temporary nature of “*displaced person*” and “*internally displaced person*” status has therefore limited their full access to important economic and social rights, leading in many cases to increased vulnerability.

Montenegro has been dealing with issues of DPs and IDPs for many years now. Permanent resolution of issues regarding these persons, in accordance with international standards, has been the subject of *National Strategy for Durable Solutions for Refugees and Internally Displaced Persons in Montenegro*, adopted in April 2005.

In 2009 the Government of Montenegro, in cooperation with UNHCR and EU Delegation to Montenegro, adopted *The Action Plan for Resolving the Status of Displaced Persons from Former Yugoslav Republics and Internally Displaced Persons from Kosovo residing in Montenegro*. The *Action Plan* creates a mechanism for DPs and IDPs to have privileged access to the status of foreigner with permanent residence. This status provides access to the same rights as Montenegrin citizens with the exception of the right to vote and the right to be elected to political positions. In accordance with the *Action Plan*, this change in status was

¹ It also granted this status to a small number of people from other countries during this period, of which 24 are still registered (20 from Slovenia, 2 from elsewhere, and 2 from undeclared countries).

² 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). Their accurate number is unknown but it could be some 1,600 persons based on UNHCR 2010 survey.

³ 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).

made possible by the adoption of the *Law on Amending the Law on Foreigners* in October 2009.

Displacement is a problem of national, social and international significance and consensus and political will are necessary to solve it. The complex nature of this problem is beyond the capacities of the existing institutions in Montenegro, acting on their own. To solve it successfully, there must be program engagement of the Montenegrin state institutions, countries from the region, the international community, international organizations, non-government organizations, DP and IDP associations, and other relevant institutions. By drafting this Strategy the Government of Montenegro, in cooperation with international partners, is hoping to create conditions for permanent and sustainable solution of issues regarding DPs and IDPs residing in Montenegro.

UNHCR will consider IDPs and DPs who acquire the status of foreigner to be under its mandate until their local integration through effective access to rights.

With the adoption of the Strategy the 2009 Action Plan for Resolving the Status of Displaced Persons from Former Yugoslav Republics and Internally Displaced Persons from Kosovo residing in Montenegro ceases to be valid and all outstanding issues from the Action plan will be incorporated in the Strategy

2. THE GOAL OF THE STRATEGY

The overall goal of the Strategy is to solve the issue of DPs and IDPs in a permanent and sustainable manner, in cooperation with International Community and in accordance with international standards and principles.

Respecting the personal choice of DPs and IDPs, the Strategy defines two possible solutions to this issue: **Local integration and Voluntary return.**

In order to reach the overall goal, this strategy defines a number of sub goals. Details of the initiatives to reach these sub goals will be described in the annual action plans.

I) VOLUNTARY RETURN: The Government together with UNHCR aims at facilitating and supporting the return of all I/DPs who decide to opt for return, throughout the period.

Sub Goal:

a) The Principle of Voluntary Return:

The Government recognizes that return will be fully voluntary, that return should be based on proper information of the situation in the country of origin, and that no I/DPs will be deported. The Government will avoid creating situations or conditions that may induce return in situations where the conditions of return in the home country are not conducive. Organized voluntary return will take place within the international recognized framework and with the assistance available through international organizations, donors and countries of origin.

II) LOCAL INTEGRATION: The Government will offer local integration of all DPs and IDPs who wish to stay in the country and who decide not to return to the country of origin.

Sub goals:

a) Legal Status: A proper legal status is the requirement for local integration. The Government will work to ensure that all “*displaced persons*” and “*internally displaced persons*” who wish to stay in the country will receive a legal status, either by granting the status of foreigner with permanent residence, or through naturalization for individuals who meet the requirement for citizenship of Montenegro. Particular attention will be paid to vulnerable groups who are unable to acquire the documents needed to apply for the status especially the majority of residents in Konik camps I and II as well as I/DPs with special needs or those living below the poverty line.

b) Harmonization of National Legislation: National legislation will be harmonised with the *Law on Amendments to the Law on Foreigners*, to ensure that I/DPs who obtain permanent or temporary residence have access to the same rights as citizens (with the exemption of voting rights and the right to be elected to political positions). All work to harmonize the legislation will be done in consultations with UNHCR and EU Delegation to Montenegro.

c) Accommodation: Adequate accommodation is a key element for the integration. By using the regional initiatives, international donations, favorable credits, and its own resources the Government will provide accommodation for 1,247 families who are considered vulnerable according to UNHCR vulnerability criteria and who live in sub standard accommodation (Konik I and II, unofficial collective centres and temporary settlements). Montenegro would primarily contribute in terms of providing land and the primary infrastructure, but will also provide financial support.

d) Education: The Government will ensure that “*displaced persons*”, “*internally displaced persons*” and foreigners with temporary or permanent residence will have equal access as citizens to attend state owned kindergartens, primary and secondary schools and state university. Programmes and activities will be launched to increase social integration and school attendance, in particular among the RAE children. Vocational training programmes will be offered for illiterate adolescents and adults who need training to increase their chance in the labour market.

e) Health: The Government aims at increasing the DPs’, IDPs’ and foreigners with temporary or permanent residence inclusion in the national health system, through information campaigns to increase the DPs and IDPs awareness of their rights to access the health system and by ensuring that they are targeted in national health campaigns.

f) Employment: The Government aims at increasing the DPs’, IDPs’ and foreigners with temporary or permanent residence employment and self employment. To support economic improvement of the displaced working population, programs of additional education, skill trainings, and self-employment programs through a mini credit line will be initiated. These initiatives will also be aimed at part of the domicile population.

g) Social assistance: The Government will ensure that DPs, IDPs and foreigners with temporary or permanent residence will have full access to the social assistance system in accordance with Montenegrin regulations. The need for additional social measures for the particularly vulnerable will be explored.

3. LEGAL FRAMEWORK

Along with becoming a UN member in 2006, Montenegro succeeded to all UN treaties ratified by its preceding countries as of 3 June 2006, including the *1951 Refugee Convention and its 1967 Protocol*, as well as the *1954 Convention Relating to the Status of Stateless Persons*. In 2007, Montenegro joined the Council of Europe and on 11 May 2007 signed the *Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession*, which was eventually ratified on 2 March 2010, together with the *1997 European Convention on Nationality* (with the reservation on the Article 16, as Montenegro is restrictive on dual citizenship).

Montenegro's application for the status of EU candidate country was accepted on 9 November 2010. The EU conditioned the opening of negotiations with the meeting of 7 benchmarks, including the resolution of legal status of displaced persons and internally displaced persons, in particular Roma, Ashkali and Egyptians, and ensuring respect for their rights. This will include the adoption and implementation of a sustainable strategy for the closure of the Konik camp.

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

The Law on Foreigners was updated by the *Law on Amending the Law on Foreigners* which entered into force on 7 November 2009. *The Law on Amending the Law on Foreigners* specifically provides for the integration of "*displaced persons*" and "*internally displaced persons*" through privileged access to permanent residence in Montenegro. 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* was adopted on 8 July 2010 to guarantee these persons full access to rights, previously limited, until the acquisition of the new legal status of foreigner with permanent residence. This temporary measure foresees the concerned persons to exercise their rights in the areas of health care, education, employment, pension and social and child protection as Montenegrin citizens until 7 January 2012.

A whole range of laws and by-laws defines criteria for enjoyment of rights attached to the status of foreigner and some of them still have to be harmonized with the *Law on Amending the Law on Foreigners* in order to enable access to procedure for DPs and IDPs and full enjoyment of rights guaranteed by the Law. The **most important laws** that need further amendment/harmonization are:

- **The Law on Civil Registries** ("OGM", no. 47/08, and 41/10) – Under the Law on Civil Registries, the subsequent registration in the birth registry book will be done following a procedure of determining facts of birth by a MoI Branch office clerk. The Law does not define the procedure of subsequent registration, and more importantly, the evidence required in order to comply with this procedure. The absence of rules and criteria results in a varied practice which opens the possibility for arbitrary decision making. Ministry of Interior,

Ministry of Health, Ministry of Labour and Social Welfare and Ministry of Justice, with the legal, technical and expert assistance of EUD and UNHCR, will prepare amendments to the current legislation or create new legal act that will define the procedure of registration and subsequent registration in the birth registries of the children born in Montenegro outside of the health facility, respecting legislation and practice of the EU.

- **The General Law on Education** ("OGRM", no. 64/02, 31/05 and 49/07 and "OGM", no. 45/10) - The 2010 amendments to the General Law on Education introduced citizenship as a requirement for employment as a teacher in the educational system of Montenegro. The Ministry of Education will amend the Law **in order to open the possibility for foreigners with permanent and temporary residence to be employed in the educational system of Montenegro;**

- **The Rulebook on criteria, manner, conditions, and compensation for exercise of rights to accommodation and food in the student dormitory, student credit, scholarships and transport participation** ("OGRM", no. 12/07, 16/07) will be amended before September **in order to open access to the rights arising from student's standard for the foreigners with permanent residence.**

- **The Law on Social and Child Care** ("OGRM", no 78/05) – The Law provisions foresee that only holders of Montenegrin citizenship can benefit from the rights in the area of social and child care. **The Law will be amended to enable those who acquire the status of foreigner with permanent or temporary residence to have an effective access to social and child care.**

UNHCR and the EU Delegation in Montenegro will be duly informed about changing and amending of the relevant legislation and will be invited to be members of working groups which will work on these changes, before adoption of the draft laws/by-laws by the Government.

4. STATISTICAL OVERVIEW OF THE CURRENT SITUATION

Through a public call in March 2009 and repeated public calls in summer 2010 the Ministry of Interior, together with UNHCR, called DPs from Croatia and Bosnia and Herzegovina to approach the Ministry in order to reconfirm "*displaced persons*" status in Montenegro. Re-registration was conducted in the period between 30 March and 31 July 2009, and resulted in some 5,500 persons re-registered in MoI database as "*displaced persons*". This number represents a decrease of some 3,000 DPs in the period between the two re-registrations (2004-2009). For those who did not respond to the public call and did not approach the Ministry, the Ministry revoked their DP status by the Decisions of June 2010.

Some DPs were rejected during 2004 re-registration exercise and initiated an appeals procedure. As their appeals had never been formally adjudicated these persons responded to the public call and approached MoI receiving notification on this. The Asylum Office on behalf of the MOI and in cooperation with UNHCR, will reconsider each request of DPs whose status had been annulled or ceased in 2004 and who responded to the public call of the Asylum Office in 2009 and submitted request either for recognition of permanent residence or temporary stay, or for issuance of a certificate on registration with the Asylum Office, or will

submit request by 31 December 2011; the Asylum Office will afterwards submit the Information with the proposed conclusions to the Government of Montenegro;

With regards to “*internally displaced persons*” from Kosovo, a re-registration was conducted by BCR and MoI between 14 September 2009 and 14 February 2010. The exercise resulted with the confirmation of the status of some 11,000 persons. Re-registration of IDPs from Kosovo was based on the Government’s Conclusion from 19 June 2008, tasking BCR and MoI to conduct re-registration of “*internally displaced persons*” from Kosovo in Montenegro, whose status had been recognized by the former Commisariat for Displaced Persons. The re-registration resulted in a decrease of some 5,000 IDPs between two re-registrations (2003-2009). UNHCR objected to the re-registration as BCR had no competency to decide on applications of cases made to BCR between the two re-registrations (2003-2009) and initiated procedure for recognition of IDP status. Moreover, the whole exercise was based on the BCR database from the 2003 re-registration and did not give the possibility to appeal for persons rejected in the re-registration, as rejection was without notification. As a result a situation has been created where there are families where some family members are re-registered while some are rejected and some persons are rejected although they are still in need of protection.

BCR and UNHCR recorded several hundred of these cases. **UNHCR, BCR and MoI will establish a joint commission to deal with this issue.** The commission will be tasked to reconsider applications of individual cases that were rejected in the 2009 re-registration to determine whether they are entitled to re-registration due to a continued need for protection, for family unity reasons, or based on other compelling grounds. The commission will be established by September, whereas the applications will be re-considered by the end of December 2011.

As of 30 June 2011 the Government of Montenegro reports that 4,867 persons from Croatia and Bosnia and Herzegovina still hold DP status and that 10,472 persons from Kosovo still hold IDP status. At the same time 677 DPs and 719 IDPs have acquired the status of foreigner with permanent residence while 1 IDP acquired the status of foreigner with temporary residence. The breakdown per municipality is:

Municipality	Still holding displaced person status			Granted status of foreigner with permanent residence		
	B&H	Croatia	Total	B&H	Croatia	Total
Andrijevica	8	2	10	0	0	0
Bar	387	279	666	43	64	107
Berane	111	18	129	4	1	5
Bijelo Polje	18	3	21	2	0	2
Budva	283	101	384	39	13	52
Cetinje	10	10	20	1	0	1
Danilovgrad	53	28	81	18	1	19
Herzeg Novi	869	220	1,089	164	38	202
Kolasin	57	13	70	4	4	8
Kotor	147	70	217	13	7	20
Mojkovac	6	2	8	0	0	0
Niksic	390	32	422	33	3	36
Plav	30	0	30	0	0	0
Pluzine	1	0	1	0	0	0
Pljevlja	97	14	111	5	0	5
Podgorica	804	268	1,072	134	38	172

Rozaje	14	0	14	0	0	0
Savnik	2	0	2	0	0	0
Tivat	284	139	423	22	19	41
Ulcinj	74	22	96	7	0	7
Zabljak	1	0	1	0	0	0
Total	3,646	1,221	4,867	489	188	677

Municipality	Still holding internally displaced person status	Granted status of foreigner with permanent residence
Andrijevica	263	2
Bar	1139	99
Berane	1409	18
Bijelo Polje	171	8
Budva	336	40
Cetinje	8	0
Danilovgrad	273	26
Herzeg Novi	262	30
Kolasin	99	0
Kotor	103	8
Mojkovac	38	1
Niksic	318	8
Plav	420	3
Pluzine	1	0
Pljevlja	57	1
Podgorica	4907	435
Rozaje	203	6
Savnik	0	0
Tivat	262	19
Ulcinj	203	15
Zabljak	0	0
Total	10,472	719

5. LOCAL INTEGRATION

5.1. Regulation of legal status of displaced and internally displaced persons

The Government of Montenegro adopted the *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*, on 17 September 2009. The *Action Plan* creates a mechanism for “displaced persons” and “internally displaced persons” to have privileged access to the status of foreigner with permanent residence. This status provides the full spectrum of rights as Montenegrin citizens with the exception to the right to vote. In accordance with the *Action Plan*, this change in status was made possible by the adoption of the *Law on Amending the Law on Foreigners* on 23 October 2009.

In order to obtain the permanent resident status, “displaced persons” in the records of Ministry of Interior (MoI) Asylum Office and re-registered “internally displaced persons” should submit applications to the MoI. They are exempted from requirements of secured

health insurance, income, and accommodation, but they must provide the following documents:

- Certified copy of a valid travel document issued by the country of origin
- Certified copy of I/DPs ID card
- Certificate issued by the Asylum office/BCR proving that s/he had valid I/DP status on the day 7 November 2009
- A proof that s/he did not receive a final and enforceable sentence in Montenegro for a criminal offence which is subject of an *ex officio* prosecution, or that procedure for such a criminal offence has been initiated
- Birth certificate
- Citizenship certificate.

On 7 July 2010 the GoM 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*. This measure guarantees the access of “displaced” and “internally displaced persons” to health care, education, employment, pension, as well as social and child protection like Montenegrin citizens, until 7 January 2012.

The Government of Montenegro decreased administrative taxes by amending the *Law on Improvement of Working Environment* as published in the Official Gazette of Montenegro 40/2010 on 22 July. The decrease of taxes from 200 to 10 euros per issued permanent/temporary residence permit removes a significant procedural obstacle that has hindered the access of many “displaced” and “internally displaced persons” to the new status.

“Displaced persons” and “internally displaced persons” unable to access the status of permanent residence for foreigners within two years from the entry into force of the *Law on Amending the Law on Foreigners* (hence, within 7 November 2011) will be considered as foreigners unlawfully staying in Montenegro.

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 resident. At the end of the three years of temporary residence, those who will not be able to acquire permanent residence will be considered as foreigners unlawfully staying in Montenegro.

By mid – July 2011, MoI had issued 2,180 permanent residence permits out of 4,190 applications. Three applications were rejected due to the information received from the Agency for the National Security (ANS) that these persons represent a threat to the national security of Montenegro. After a review, it has been decided to grant the status of foreigner to these persons. One application was rejected because legal requirements were not met.

5.2. Access to citizenship of Montenegro

The 2008 *Law on Montenegrin Citizenship* does not include provisions to facilitate local integration of the displaced populations from Croatia and Bosnia and Herzegovina, as well as from Kosovo, through their naturalization. The by-law on the *Criteria on Establishing*

Conditions for Acquiring Montenegrin Citizenship recognizes the stay of “displaced persons” in Montenegro as lawful residence; internally displaced persons did not cross internationally recognized border at the moment of their arrival to Montenegro from Kosovo, since Serbia, and therefore Kosovo, at that time were part of the State Union with Montenegro. The Bureau for the Care of Refugees (at that time Montenegrin Commissariat for Displaced Persons) registered them as “internally displaced persons” (IDP) under an *ad hoc* administrative measure responding to the emergency situation.

The law requires that the residence in Montenegro is uninterrupted. According to the aforementioned by-law, many “displaced persons” from Bosnia and Herzegovina and Croatia will have interrupted their lawful residence in Montenegro by frequent travel, extended stay, or by procuring personal documents in their country of origin. Also, “displaced persons” should meet the requirement for accommodation and a guaranteed source of income.

”Displaced” and “internally displaced persons” who acquire the status of foreigner with permanent residence under the *Law on Foreigners* will have access to Montenegrin citizenship after ten years of lawful residence as permanent residents. Citizenship can also be obtained after three years of marriage to a Montenegrin citizen and five years of lawful and uninterrupted residence in Montenegro. From May 2008 to July 2011, some 600 DPs from Bosnia and Croatia have acquired citizenship of Montenegro, in many cases through marriage with Montenegrin citizens.

All applicants for Montenegrin citizenship, even recognized refugees, with the exception of applicants married to Montenegrin citizens, need to prove renunciation of former citizenship.

Thus, Displaced persons can regulate their status in Montenegro through admission into the citizenship of Montenegro if they meet criteria foreseen with the law, or through privileged access to the status of foreigner with permanent residence, while internally displaced persons can regulate their status through privileged access to the status of foreigner with permanent residence only.

The implementation of the *Amended Law on Foreigners* proved that many categories among DPs and IDPs face obstacles in meeting the established procedural requirements for the status of foreigner and will not be able to apply before present deadline, 7 November 2011.

5.3. Measures to overcome identified challenges for DPs and IDPs in obtaining the new legal status of foreigner with permanent residence

5.3.1. Assistance to vulnerable individuals facing financial obstacles in obtaining required documents

DPs and IDPs indicate that the amount of administrative taxes for obtaining of documents from country of origin is too high, which represent one of the obstacles for obtaining of documents needed for regulating their status in Montenegro.

The Government will, in cooperation with EUD and UNHCR, continue to seek the cooperation of the countries of origin through the Civil Documentation Working Group in the framework of the Belgrade Initiative to reduce applicable taxes for obtaining of personal documents, in particular passports to DPs/IDPs residing in Montenegro.

5.3.2. Review of cases of IDPs and DPs whose re-registration was rejected in 2009

Some IDPs, who did not return to Kosovo or move to Serbia, and had failed to re-register in previous re-registrations for justified reasons were rejected by BCR during 2009 re-registration exercise.

Although some have lived continuously in Montenegro since their arrival, the re-registration was denied based on data recorded in the BCR database, and without legal possibilities to file a complaint. Lack of valid IDP status now prevents these individuals from submitting a request for the status of foreigner with permanent residence in Montenegro.

To respect the principle of family unity and to allow access to the status of foreigner with permanent residence to all persons whose family members have IDP status reconfirmed during the 2009 re-registration exercise, as well as to guarantee that all IDPs who have not interrupted their stay in Montenegro have access to the status of foreigner, **BCR in cooperation with UNHCR will re-examine the cases of persons whose re-registration was rejected in 2009.**

In a similar manner, the Asylum Office on behalf of MOI and in cooperation with UNHCR, will reconsider each request of DPs whose status had been annulled or ceased in 2004, and who responded to the public call of the Asylum Office in 2009 and who submitted request either for recognition of permanent residence or temporary stay, or for issuance of a certificate on registration with the Asylum Office, or will submit request by 31 December 2011; the Asylum Office will afterwards submit the Information with the proposed conclusions to the Government of Montenegro;

5.3.3. Processing of citizenship applications of DPs from Croatia and Bosnia and Herzegovina

Some DPs from Croatia and Bosnia and Herzegovina meet the requirements for the citizenship of Montenegro and initiated the related procedures since the *Law on Montenegrin Citizenship* entered into force in 2008. It can be expected that some of these persons will be rejected as they do not meet criteria for citizenship of Montenegro. To ensure that these individuals can submit their application for the status of foreigner with permanent residence before the deadline is reached **MoI** decided upon the requests of DPs for obtaining Montenegrin citizenship. 616 persons were granted the citizenship of Montenegro. The remaining 200 pending requests will be solved within the law-stipulated deadline.

5.3.4. Review of cases of children born in Montenegro and registered in the citizenship registry books before 1 January 2009

Before 1 January 2010 the registry books were under the jurisdiction of municipalities in Montenegro. In some municipalities (Bar, Cetinje, Rozaje, Bijelo Polje) children born in Montenegro to parents with DP/IDP status were automatically registered in the citizenship registry books as citizens of Montenegro based on the fact that they were born in Montenegro. For this reason it is possible that some of those children have not been registered in I/DPs database on the basis of the status of their parents. As of 1 January 2010, the registry books were centralized in Ministry of Interior. The registered children were deleted from the citizenship registry books as their registration was without a legal base. **As there might be cases that are without any status due to the above mentioned reason, MoI will review all**

cases that approach the Ministry to ensure all concerned individuals are granted the status of their parents, without additional requirements for documents.

5.3.5. Issuance of personal documents to persons with reduced mobility and those accommodated in specialized institutions

Persons with disabilities and persons accommodated in specialized institutions such as the orphanage in Bijela, the elderly home in Risan or the psychiatric hospital in Kotor are not able to obtain the necessary documents required for the status of a foreigner in Montenegro without assistance.

Also, there are many families with physically and mentally challenged members in several collective settlements unable to obtain documents required for the new status.

Centers for social welfare, in cooperation with the Ministry of Labour and Social Welfare will ensure that if any of these persons are without legal capacity a legal guardian will be appointed to him/her, to obtain the personal documents required to apply for the status of foreigner with permanent residence. Those with legal capacity but unable to approach authorities to obtain documents and apply for the status, a legal representative will be appointed to facilitate access to the status and will transport them to MoI branch offices to obtain the required biometric data.

Should personal documents not be issued to a person through the established cooperation with the countries of origin, the, Ministry of Labour and Social Welfare, Ministry of Interior of Montenegro will review the individual cases in cooperation with UNHCR and EUD enabling these needy individuals to apply for the status of foreigner with permanent residence through simplified procedures.

5.3.6. Facilitation of personal documents to IDPs and DPs without basic identity documents

Obtaining a valid travel document from the country of origin is a serious obstacle to persons who lack basic identity documents and are unable to prove their citizenship. This particularly affects Roma, Ashkali and Egyptians, due to either never being registered at birth or having their records destroyed during the 1999 conflict in Kosovo.

It should be noted that in some municipalities in Kosovo, especially in the Pec/Peja region, birth and other civil registries were destroyed or dislocated to Serbia. At present, some of these registries are located in the municipalities of southern Serbia, in the Dislocated Registry Offices. The social and economic marginalization and the lack of identity documents create difficulties for RAE to travel to Serbia and approach these offices.

On 29 June 2011 the Government of Montenegro and the Government of Kosovo signed *The Agreement on Subsequent Registration in Basic Registries and Citizenship Registry of the Republic of Kosovo for Internally Displaced Persons from Kosovo Residing in Montenegro*. This agreement aims at facilitating late registration of non documented persons in the registries in Kosovo and refers to current legislation relevant to civil registration.

The Ministry of Foreign Affairs and European Integrations, Bureau for the Care of Refugees, Ministry of Interior and Ministry of Labour and Social Welfare, with the technical and expert

assistance of UNHCR and EUD, and in cooperation with countries of origin, will secure an appropriate solution enabling access to the status of foreigner with permanent residence for all persons who are not registered in birth registries.

5.3.7. Facilitation of travel to the country of origin and obtaining of documents required for the new status

DPs and IDPs lacking basic identity documents and /or valid travel document cannot travel to their places of origin to obtain the required documents. In addition, procedures for obtaining passports are long and many I/DPs have indicated them to be too costly.

The embassies of Croatia and Bosnia and Herzegovina do not issue passports to DPs residing in Montenegro, but only one-way travel documents. Citizens of these countries will need to travel to their places of origin in order to obtain passports.

The Serbian embassy in Montenegro will issue passports; however, valid birth and citizenship certificates (issued within the past 12 months) must be submitted. Birth and citizenship certificates can be obtained through the Embassy itself, but due to the length (approximately 6 months) of the procedure many may opt to travel to the registry office in Serbia. In addition, identification document (i.e. old ID card, passport or drivers license) issued by the state of Serbia must be submitted. The Embassy also issues one way travel documents.

While Montenegro recognized Kosovo in 2008, there is still no diplomatic representation in Montenegro where an “internally displaced person” could obtain a valid travel document.

The Embassy of Albania is authorized to deal only with persons able to prove their Albanian citizenship, which is a problem for a number of ethnic Serbs and Montenegrins who fled Albania in 1991 and were recognized as refugees by the Interior Ministry of the former SFR Yugoslavia. The citizenship can be proven with any identity document issued by the Albanian authorities, regardless whether it is valid or not, as the Embassy forwards it to Tirana for verification. It is not possible to obtain a new Albanian passport through the Embassy.

At the first meeting of the Regional Working Group on Civil documentation on 11 May 2011, established in the framework of the Belgrade Initiative and chaired by Montenegro, it was suggested that an open border policy should be implemented to enable I/DPs in Montenegro travel to their countries of origin to obtain personal document required for the status of foreigner with permanent residence. Additionally, during the second meeting of the Working Group held on 15 July 2011, Croatia indicated that a possibility will be opened for Croatian DPs residing in Montenegro in possession of birth and citizenship certificates to submit a request for issuance of passport at the Embassy of the Republic of Croatia in Podgorica and in the Croatian General Consulate in Kotor. This possibility would be available from July to December 2011.

In the same meeting Serbia opened a possibility for UNHCR to submit request for issuance of birth and citizenship certificates of the Republic of Serbia for all IDPs with their consent. These documents would be issued ex officio and without a fee. Serbia will also give priority to all requests for personal documents submitted through the Embassy of the Republic of Serbia in Podgorica or General Consulate of the Republic of Serbia in Herceg Novi.

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The Government of Montenegro continues to seek the co-operation of the countries of origin to simplify process for issuing of required personal documents, in particular passports to DPs/IDPs residing in Montenegro. The Government of Montenegro will seek to implement the initial proposal for an open border policy for all IDPs and DPs without valid travel documents wishing to travel to countries of origin to obtain personal documents, discussed in the framework of the Civil Status Working Group constituted within the Belgrade Initiative.

To ensure that all vulnerable individuals have effective access to the status of foreigner with permanent residence, the Government of Montenegro will facilitate the travel to countries of origin and bear the costs of the transport.

5.3.8. Extension of the deadline to enable access to the status

By mid – July 2011, MoI had issued 2180 permanent residence permits out of 4190 applications. The number of applications is still very low with only some 30% of all IDPs and DPs having applied. The Government recognizes that many I/DPs will not be able to apply for the status of foreigner before the present deadline of 7 November 2011.

To ensure all IDPs and DPs wishing to locally integrate in Montenegro have effective access to the status of foreigner with permanent residence the Government of Montenegro will take all necessary measures to address the above identified obstacles and extend the deadline for applications, through the amendments to the Law on Foreigners, in cooperation with UNHCR and EUD. The deadline for adoption of the Law is the end of October 2011.

Accordingly, the validity of the 2010 “*Decree on the Manner of Exercising Rights of Displaced Persons from the former Yugoslav Republics and Internally Displaced Persons from Kosovo*” will be extended to guarantee the temporary access to rights until acquisition of the new legal status of foreigner with permanent residence.

5.3.9 Simplified procedures on humanitarian grounds

To ensure the access to the status of foreigner with permanent residence of all I/DPs opting for local integration, the government of Montenegro will, on humanitarian grounds, establish a simplified procedure for those extremely vulnerable I/DPs unable to meet the procedural requirements or obtain required personal documents despite the specific measures and activities proposed in the strategy to which, in regular procedure, legal representative is determined, in order to overcome identified obstacles in obtaining the status of foreigner with permanent residence.

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6. ACCESS TO RIGHTS

Access to rights of DPs was first regulated by the 1992 Decree, which mentioned that they had access to all social and economic rights, but the relevant laws did not recognize them as beneficiary population. Consequently, their access to certain rights was very limited. IDPs were in the same situation. The situation has been improved by the adoption of the “*Decree on the Manner of Exercising Rights of Displaced Persons from the former Yugoslav Republics and Internally Displaced Persons from Kosovo*” (“Official Gazette of Montenegro”, no. 45/10) adopted in July 2010.

However, due to lack of documentation and lack of clear instructions to different state and municipal institutions on implementation of the *Decree*, these persons face challenges in exercising certain rights.

6.1. Social and child protection

“The barriers to social inclusion faced by the RAE are significant and include high rates of poverty, unemployment, limited access to education, vocational training, etc. (...) According to the Survey, displaced persons from B&H, Croatia and Kosovo are more than three times poorer than domicile population, and poorer than the rest of the vulnerable groups that are the subject of this chapter with the exception of RAE. Thirty-four percent (34%) live below the poverty line and 8% of their households are socially excluded.”⁴

The aim of social and child protection is to ensure the protection of a family, individual, children at risk, and persons in social need i.e. social exclusion. DPs and IDPs have been entitled to rights in the field of social and child protection related to counselling and specific services linked with legal procedures (recommendation for custody of children in divorce cases, legal custody of children without parental care, dealing with adoption cases, counselling and recommendations in cases of juvenile delinquency and similar). However, the DPs, and later IDPs did not have the right to any sort of financial assistance as part of social and child protection (family social allowance, child allowance, allowance for another person’s care, disability allowance).

On the basis of the agreement between UNHCR and the Ministry of Labour and Social Welfare, which was first signed in 2005, 139 families (467 members, out of 405 IDPs from Kosovo) are now entitled to financial compensation, equivalent to the family social allowance, applying the criteria stipulated by the Law on Social and Child Care, the same amount as the citizens of Montenegro. As most DPs and IDPs cannot obtain all the documents needed for application for family social allowance, this system has been implemented using reports of social workers from their home visits to the applicants.

Accommodation in social and child care institutions is provided for 53 persons, applying the same system of processing the requests as for the local population.

According to the aforementioned *Decree* the right to family allowance is provided for 29 families with 75 members, while one person was eligible for care and assistance of another person. The obstacles for DPs and IDPs to exercise rights pertaining to social and child protection relate to the ability to obtain documents supporting their application. Some of the documents and certificates have to be obtained in their countries of origin, which is a problem due to financial, administrative and/or health reasons. Additionally, many persons who would apply for social allowances do not have the capacity to obtain the documents and would need guidance and assistance in this process. RAE IDPs are especially at risk, as most of them are illiterate and have no knowledge of administrative procedures. Although this possibility exists in the Law on Social and Child Care, the Centres for Social Welfare do not provide assistance in obtaining the required documents for persons who cannot obtain them themselves.

⁴ “National Human Development Report– 2009 – Montenegro: Society for All”, UNDP, 2009

The Law on Social and Child Care **will be amended to provide full access to social rights for I/DPs who acquire the status of foreigner with permanent or temporary residence** (See 3. *Legislative Framework*). Moreover, the ongoing reform of social and child protection system will bring changes in managing the cases, providing shelters and various types of counselling, which are now not available. The requirements for supporting documentation in the application process for social allowance will be revised to ensure effective access of I/DPs and foreigners with permanent or temporary residence to social and child benefits.

Specific programmes for RAE population will be identified through the National Strategy on Inclusion of Roma.

6.2. Education

„According to Survey findings, the level of literacy of DP is very high. The survey shows that 97.3% of respondents are literate. (...) The literacy rates of non-RAE IDPs from Kosovo are also high, with less than 2.8% being illiterate. (...) The research shows that 52% of RAE IDPs are illiterate and that their education level is very low“⁵.

Primary and secondary education is free-of charge in Montenegro for all pupils in terms of tuition. Government of Montenegro provides free of charge textbooks for RAE children, children without parental care and children whose families are beneficiary of family material assistance (50-90 euros per set of textbooks).

Although the primary education in Montenegro is obligatory, enrolment rates by RAE IDP children remain low. The highest drop-out rates are at the age of 10-12, when most of the RAE boys begin to work and the girls are preparing to get married. Begging, as a manifestation of social vulnerability, is another obstacle for education, and also has to be tackled by the social welfare system. Ministry of Education and Sport collects data on inclusion of I/DP children in education system. In 2010 – 2011 a total number of 478 RAE IDP children from Konik camps are enrolled in primary education – 263 in the branch division and 205 in the main school “Božidar Vuković Podgoričanin”.

RAE IDP children are enrolled in general secondary schools in which lectures are given in the Montenegrin or Albanian language, on the basis of principles of affirmative action in most cases.

Efforts are made by Ministry of Education, NGOs and international donors to include these children into the education system in Montenegro, also through provision of in kind assistance, free textbooks and school supplies and scholarships for limited number of pupils. Further systematic efforts are necessary to improve the quality of primary education and retention rate through enhanced capacities of the teachers, Montenegrin language proficiency of the children, systematic awareness raising work with the families, engagement of Roma assistants to support the children in school. The funding provided through specific donor can not ensure needed continued support.

According to the General Law on Education, a foreign citizen who has a temporary or permanent residence in Montenegro is entitled to the same education as a Montenegrin citizen, in accordance with the law governing a particular area of education.

⁵ ” *National Human Development Report – 2009 – Montenegro: Society for All*”, UNDP, 2009

A foreign citizen with special educational needs who has regulated the temporary or permanent residence permit has the right to education and upbringing in a public institution on such terms and conditions as a citizen of Montenegro. Ministry will amend the Law on General Education to enable foreigners with permanent residence to work as teaching staff and communicate this issue in future period with EUD and UNHCR.

The Law on Higher Education ("OGRM", no. 60/03 and "OGM", no. 45/10) stipulates that a foreign citizen who has been granted temporary or permanent residence in Montenegro is eligible for study programmes in Montenegro under the same conditions as the citizens of Montenegro who pay tuition on a competitive basis in accordance with the law and the statute of institution of higher education, if not regulated otherwise by an international treaty. The Ministry of Education and Sport The Ministry of Education and Sport will amend the Law on Higher Education to provide IDPs, DPs and foreigners with permanent residence with the right to higher education as Montenegrin citizens. Tuition at the state university amounts from 250 euros per semester, with the exception of the study programmes on arts. The Law on Higher Education prescribes that all students can exercise their rights, regardless whether they are self-financed or their tuition is covered by the Budget. Therefore, students with the status of foreigner with permanent residence are entitled to exercise the right to accommodation in the student's dormitory, scholarships and student loans. The Rulebook that regulates the criteria to exercise student's rights, will be revised accordingly by the end of August 2011. For the first time, students from private higher education institutions are entitled to the same rights.

Further efforts are required to ensure RAE IDPs and foreigners with permanent residence benefit from the **Law on Adult Education** and the **Law on National Vocational Qualifications**.

Law on Adult Education stipulates that adult education may be acquired by publicly valid educational curricula of primary, secondary and vocational education, tailor-made curriculum or its part, as well as different programmes of adult education realised by licenced adult education organisers.

Law on National Vocational Qualifications ensures education to persons who have attended educational programmes of vocational schools and who abandoned full-time education for obtaining a professional qualification, if they have successfully completed a part of the programme that corresponds to the occupation standard.

This Strategy aims to enhance the inclusion of DP and IDP population in educational system, with a special attention to RAE population. The Government will continue to collect detailed information on how many children among DP and IDP population are included already, in collaboration with the counterparts in the field of social and health protection, identify those who are not and implement affirmative measures to include them.

In order to keep the children in the educational system, the Government will support their families in terms of providing textbooks for socially vulnerable pupils, scholarships, include additional assistance to RAE pupils in educational system (Roma assistants, language classes, homework support, scholarships...) and continuously improve capacity of teachers and other professionals in educational system. The

educational system will work closely with the social care system dealing with the overall situation of RAE pupils.

6.3. Health Care and Insurance

"According to the Survey, 90% of respondents have health insurance, mostly provided by the state⁶ (59%), through a family member (24%), through their employer (9%), or through private insurance companies (3%). However, there are still about 10% of those who have no health insurance, while the majority (69%) does not have it because of an unclear legal status. This is the highest percentage among all socially vulnerable groups, followed by RAE respondents (5.7%) who do not have insurance because of unresolved citizenship status."⁷

At present only 329 I/DPs have registered with the employment office and are therefore entitled to a valid health card like the citizens of Montenegro. All other I/DPs registered with the Health Insurance Fund have a health card (different from the one that Montenegrin citizens have) on the basis of which they can avail of certain health care services.

DPs and IDPs who obtain the status of foreigner with permanent residence can be insured, and get the same health booklet as Montenegrin citizens, providing the full scope of rights, through: employment, registration with the Employment Bureau, benefiting from some of the social allowances, pension, or being a family member of insured person. According to health care regulations, and the Decree on the Exercising the Rights of DPs and IDPs this population is entitled to health protection in the same manner as Montenegrin citizens, through the prescribed procedures, until regulation of their status in line with the Law on Foreigners. However, although these regulations guarantee equal access to health services, DPs and IDPs may still face certain difficulties in exercising this right, mainly due to lack of knowledge or different interpretation of the provisions by authorities implementing health regulations. With the aim to implement the legislation, the IDPs, DPs and foreigners will need to be further informed and sensitized on law-stipulated rights and procedures to access them. It is also necessary to inform health workers on the guaranteed rights.

The Government will systematically inform DPs and IDPs about the ways to get health insurance and thus the health booklet, because many think that once they obtain the status of foreigner with permanent residence, they will automatically lose the health insurance. On the contrary, once they regulate their status in line with the Law on Foreigners, due to wide range of health insurance grounds, almost whole population will be covered by insurance system (employment, unemployment, family material assistance, pension, insurance through family member, personal insurance). Intersectoral cooperation, as well as cooperation and understanding of countries of origin will be necessary for exercise of rights of a small part of this population (for example health insurance for person over the age of 65 who receive pension from their countries of origin and are not able to travel there to de-register).

Very important part of activities aimed at informing DPs and IDPs on the rights regarding health care system is informing them on the importance and advantages of the use of services of supporting centers within health care facilities, where prevention, protection and improvement of health are carried out.

⁶ Insurance provided by the state in the context of DPs and IDPs is the insurance through the health cards provided by the Health Insurance Fund, issued based on valid DP/IDP card.

⁷ "National Human Development Report – 2009 – Montenegro: Society for All", UNDP, 2009

The Government will take specific measures to inform RAE population in the way appropriate for them on health care system and health. For the purpose of protection of mother and child health, there is need for mediators who will, through direct contact with this population, pass over necessary information on importance and improvement of reproductive health, in understandable and appropriate manner for them.

According to the Health Insurance Fund of Montenegro, in 2009 for the purpose of providing health services to these persons, € 2.8 million was spent, while in 2010 € 2.6 million was spent.

According to the weekly records of the Ministry of Health, about 1,300 persons exercise the right to health care in health institutions at all levels of health care.

In order to provide accessible health care, in Podgorica, Konik, where a large number of RAE is settled in Camp I, daily ambulance work is organized two hours a day.

The Institute for Public Health organises occasional vaccination campaigns for RAE children in Konik area, which results in high percentage of coverage (for particular diseases up to 98%).

The Ministry of Health will ensure that all I/DPs can access health services, including those undocumented who possess I/DP card, until they obtain the status of foreigner, those whose applications for the status of foreigner are pending and new born children of parents with either I/DP or foreigner status. The cases of persons facing obstacles in exercising their right to health care will be individually addressed in co-operation with UNHCR and EUD.

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6.4. Employment

As per the *Decree on the Manner of Exercising the Rights of Displaced Persons from former Yugoslav Republics and Internally Displaced Persons from Kosovo Residing in Montenegro* IDPs and DPs exercise rights to work and employment and the right to unemployment insurance in accordance with the rules in the area of labor and employment, under the same conditions as Montenegrin citizens, unless a special law stipulates Montenegrin citizenship as a condition.

Since the implementation of the *Decree* the Employment Office registered as unemployed persons a total of 325 displaced and internally displaced persons (223 displaced and 102 internally displaced persons) out of which 26 persons are RAE. However, this is not the real situation regarding the number of unemployed persons from this category, given that the Employment Office keeps records only of persons who are active in seeking employment..

After obtaining the status of foreigner with permanent residence these persons will be able to obtain a personal work permit for an indefinite period, in accordance with the *Law on Employment and Work of Foreigners*. A foreigner with personal work permit has free access to the labour market and may be employed under the same conditions as Montenegrin citizens. In addition, he can be registered in the Employment Office as an unemployed person and enjoy unemployment benefits as foreseen for citizens of Montenegro.

Through the Amendments to the Law on Employment and Work of Foreigners, DPs and IDPs with temporary residence in Montenegro are provided with the right to work and rights arising from unemployment, in the manner foreseen for foreigners with permanent residence. They will be able to obtain personal work permit for a definite period of time, during validity of temporary residence approval, through the Employment Agency procedures.

The Employment Office believes that the main obstacles to the full inclusion of DPs and IDPs in the labour market, after acquiring the status of foreigner are:

- insufficient information on their rights arising from unemployment;
- the lack of knowledge and skills required in the labour market;
- the lack of funds aimed at financing the program of active employment policy which would include these persons in the labour market (vocational training, vocational retraining, additional training, specialization, special knowledge and skills etc.).

The General Law on Education introduced citizenship as a requirement for employment as a teacher in the educational system of Montenegro. In future communication with UNHCR and EUD the Ministry of Education and Sport will amend this law in a way that foreigners with permanent residence can work as teachers.

The Government of Montenegro, through the *Decree on Subvention for Employment of Certain Categories of Persons* adopted in March 2011, has defined members of RAE population as one of the categories difficult to employ, and their employment shall be subvented. **Concerning the aforementioned, the Employment Office will promote subvention measures with employees in the following period, by the date of cessation of the validity of the Decree**

A special attention will be paid to employing female RAE since there is a very low level of them looking for a job. The Employment Office will take measures to inform RAE women about employment possibilities and about their vocational education for certain jobs.

6.5. Housing

The unresolved issue of housing still remains an obstacle for displaced and internally displaced persons who wish to be integrated in Montenegro.

“Most of these persons do not have enough funds to purchase property in Montenegro, or rent adequate housing, and housing remains one of their most urgent needs. Almost half of the IDP lives in their own accommodation. Many of them live in collective accommodation built with support from international agencies and local self-governments. Only 7.7% live in rented accommodation. Majority of internally displaced persons of RAE population (61.2%) live in their own accommodation without legal ownership, 11.1% live in collective accommodation, while almost one fifth (19.4%) claimed to have housing with regulated legal ownership. Those renting accommodation pay monthly rent, which is on average 40 €. Accommodation facilities are in most cases (60.8%) of extremely poor quality”⁸. “The household lives in an average living space of 29 m², with an average of 6 members. Local government in the past had a role in housing and residential construction in which a significant number of apartments was built

⁸ “National Human Development Report – 2009 – Montenegro: Society for All”, UNDP, 2009

*especially for populations in social need, combining their resources, cooperation with the NGO sector and credit commitment with banks*⁹.

Out of some 3,000 internally displaced persons with RAE ethnic background, about 1,500 live in extremely poor conditions in camps Konik I and II in Podgorica. In addition, 134 of these families (840 persons) live in illegal settlements around the camps. In 10 municipalities in Montenegro, 19 settlements so far have been built with 433 housing units for permanent accommodation of these persons. In addition, there are 507 housing units for temporary accommodation of these persons, for a total of 940 residential units.

According to the research carried out in partnership with UN agencies, it has been estimated that app. 1,200 families of DP and IDP with app. 6,000 members are in need of resolving their housing issue.

Through different projects mostly financed by EU, UNHCR and other agencies, DPs and IDPs have the possibility to receive construction material for new construction or renovation of existing buildings. The condition for granting of construction materials is the possession of land and building permits.

Under the Law on Property Relations a foreigner can own movable property on the same basis as citizens. A foreigner can own immovable property if it is a house, and with it up to but not exceeding 5,000 square meters of land. A foreigner can also purchase an apartment in a building, on an equal basis as citizens.

The Government has agreed to remove obstacles to receiving humanitarian aid (construction materials to construct individual housing regardless of the donors). However in order to allow for meaningful integration, the possibility of access to land ownership or use for foreigners with permanent and temporary residence will be considered in cooperation with municipalities.

The Law does not allow the possibility for foreigners to purchase land without building on the land. **The Government will ensure that this potential obstacle for participation in the individual housing program that Montenegro is hoping to implement in cooperation with CEB, through Belgrade Initiative Process, is removed.**

For a more comprehensive access to housing rights, it is vital to ensure:

- Adoption of adequate legislation and by-laws (legal framework);
- Strengthening the role of state authorities and local government authorities (institutional framework);
- Improvement of maintenance of the housing fund (maintenance of the housing fund);
- Improvement of access to housing facilities by constructing new housing units (improve an access to housing facilities).

With regard to the construction of social welfare apartments intended for sale or rent, it is necessary to resolve the issue of decrease in construction prices which are based on market principles. By granting certain subsidies to contractors, the state i.e. the local government can influence the decrease in prices (by granting land free of charge or at a lower price, or by

⁹ "National Human Development Report – 2009 – Montenegro: Society for All", UNDP, 2009

partially or fully exempting investors from the payment of public utility fees) or by introducing tax policy measures directed at constructors.

So far we had positive practice of cooperation with local self-governments regarding provision of accommodation for specific target groups. Namely, vast majority of municipalities allocated land for construction of housing units, and very often exempted them from paying utility fees. In addition to this, local self-governments, in cooperation with international institutions, constructed significant number of housing units for particularly vulnerable groups.

In the future five years, it is planned to continue with construction of around 400 housing units for the purpose of solving accommodation issue of particularly vulnerable categories, through the National Strategy on Accommodation which is expected to be adopted at the end of the third quarter of 2011.

The Government will increase efforts in finding solutions on how to legalise the ownership of accommodation owned by IDPs with special attention on IDPs who are living in illegal/informal settlements. Planned legalisation and urbanisation of all illegal settlements will cover I/DP houses whenever this is possible by the law.

7. VOLUNTARY RETURN

The Government of Montenegro guarantees that DP and IDP return to their countries of origin is based on the principles of voluntary return and dignity.

UNHCR continues to facilitate the voluntary repatriation of refugees to Bosnia and Herzegovina and Croatia and to provide these people with legal assistance in the property restitution process and in accessing other rights. While a considerable number of “displaced persons” have returned to their places of origin since 1996, the repatriation potential of the remaining caseload seems to have been largely exhausted. Only thirty-five (35) refugees returned from Montenegro to Bosnia and Herzegovina and Croatia in 2006, nine (9) returned in 2007, five (5) in 2008, ten (10) in 2009, twelve (12) in 2010 and six (6) until June 2011. With some additional efforts in creating an environment conducive to sustainable return and full re-integration, especially with the resolution of property-related issues in Croatia, more returns might take place, however still in very limited numbers.

Lack of available land and housing solutions in addition to generally limited conditions for reintegration continue to affect the prospects for sustainable voluntary return of refugees from Kosovo. Many IDPs have exhausted their financial means during their 12-year stay in Montenegro, paying rent without effective access to labor market. Unsolved property issues for IDP caseload residing in Montenegro is still a challenge and many would require assistance to repossess their illegally occupied property while those whose property is destroyed do not have access to compensation or restitution.

The total number of returnees from Montenegro to Kosovo since the end of the conflict remains low. Not more than 1,300 displaced persons, mostly RAE, have returned to Kosovo through organized return programs since 2001, of whom 94 returned in 2008, 161 returned in 2009, 177 in 2010, and 16 since the beginning of 2011. While spontaneous returns are difficult to measure, it does not appear that they have been significant.

To ensure IDPs have access to full information about the situation and the possibilities of exercising their rights in their country of origin and to make an informed decision on the preferred durable solution, the Government of Montenegro will take an active part in the organisation of cross border activities between Montenegro and Kosovo, such as go and see and go and inform visits.

The Montenegrin Government will seek to sign an MOU with the Kosovo Government on voluntary return during 2011, aiming at facilitating the return of those, mainly landless RAE, who have expressed their will to return but whose return is currently impeded by lack of land and housing solutions. The Government of Montenegro will support local authorities' initiatives to assist in return of interested IDPs, in particular RAE from the Konik camps. An agreement has already been reached on land allocation in the Pec municipality and co-funding for housing from Podgorica municipality. In order to ensure the gradual pace of this process and respect for human rights and voluntary return, UNHCR will also facilitate the dialogue between authorities of Kosovo and Montenegro, especially at the municipal level.

Currently 540 IDPs residing in Montenegro have expressed a willingness to return to Kosovo, with the breakdown per municipalities in Montenegro as shown:

No. of families	No. of persons	Municipality in MNE/address
29	150	Podgorica /Konik camp 1
27	142	Podgorica/Konik camp 2
8	68	Podgorica
19	86	Berane
8	46	Rozaje
3	30	Niksic
3	19	Budva
Total: 98 families	540 persons	

8. ACTIVITIES FOR DURABLE SOLUTION OF ISSUES REGARDING IDPs RESIDING IN THE CAMP KONIK I and II

In the Konik settlement comprising Camps I and II there are presently residing 244 families with 1387 members (Camp I – 191 families (1086 persons) and Camp II - 53 families (301 persons)). Additionally, in the surrounding area of the Camp, there are app. 134 families with 840 persons. Having in mind that these are members of the Roma and Egyptian population that has been concentrated in one place special attention should be drawn to resolving their issues.

In order to find permanent solutions for this population, in cooperation with experts from the EU Delegation and representatives of UN agencies, a study has been developed entitled "Study on permanent solutions for refugees and displaced persons and residents of the Camp Konik in Montenegro as well as the preparation for the IPA 2011 programme."

The Study stipulated the following permanent solutions:

- Integration which means achieving legal status and access to rights of: residence, education, health care, social and child protection, employment;
- Voluntary return to the country of origin.

Resolving the problems of the Konik settlement in the initial phase involves the following:

- Removing Camp II
- Construction of residential facilities with ancillary facilities in the area of Camp I within the urban planning scheme for the area

It is estimated that it is necessary to provide about 360 residential units for accommodation of the persons concerned in three phases.

On the basis of the Study, the inter-sectoral working group has in cooperation with the representatives of the EU Delegation in Montenegro defined the project proposal – “project fiche” - “Identification of permanent solutions for IDPs and residents of the Camp Konik” under IPA 2011, which represents the first phase in settling the issue regarding Konik. The project proposal defines the following components:

- Construction of 90 residential units
- Construction of multi/purpose centre
- Voluntary return
- Employment,
- Education
- Social issues including access to documentation
- Technical support

The estimated value of the activities planned within this project amounts to about € 3.000.000,00 of which EU shall provide € 2.500.000,00, and the Government of Montenegro shall cofinance 20% of the aforementioned amount.

The project implementation period shall be from 18 to 24 months, starting from the beginning of 2012. Modalities of co-financing certain components of the project shall be the subject of future agreements with the EU Delegation in Podgorica.

The EU IPA Fiche notes that there is a timeframe to be followed in resolving the issues of the displaced in Montenegro and acknowledges the fact that resolving the problems of the residents of the Konik settlement represents one of the major hurdles. However it is understood that activities under IPA will be the first phase in a multi-annual indicative plan which will seek to involve all partners to finally resolve the problems of the displaced in an equitable and internationally- recognised manner.

Private enterprise has expressed an interest and willingness to develop the site now covered by Konik although this relies on the adoption of amendments to the Law on Spatial Planning and Facilities Construction by the Parliament of Montenegro. Under GUP Podgorica an area of 130 000m² for settlement of the issue regarding Camp Konik I and II as a prerequisite for the realization of this project is projected. The Government of Montenegro has allocated the amount of 100,000 € for the preparation and design of the construction project which shall be implemented through the Directorate of Public Works.

Likewise, the Government of Montenegro is obliged to appoint the holder of the title of the newly built facilities, define the manner of use (lease) as well as determining the manner of maintenance.

Moreover, relevant by-laws will be adapted to be in line with the new Law on the Status of Foreigners with Temporary or Permanent Residence. Without complementarity between statutes (and implementation) of laws at both central and local level then the entire effort to resolve the issue of the displaced will fail.

The relevant authorities responsible for determining accurate information about the missing documentation of those persons who need to determine their status are co-operating with the appropriate UN agencies. Based on the data acquired there shall be defined clear modalities to help these persons in obtaining the missing documentation in the countries of origin as soon as possible. Indeed the EU funded IPA programme foresees the resolution of the documentation problem as a cornerstone to the resolution of the problems of the displaced currently resident in Montenegro. Monitoring of the documentation problem shall set the benchmarks for success.

Activities to assist the closure of Konik

This will be carried out in 2 phases

Phase 1. IPA 2011 assistance

It is foreseen that there will be four main activities supported under the IPA 2011 assistance. All four activities will be complementary so that the results of each build on the final overall outcome. Indeed it should be said that with this cumulative effort the results of each activity will be maximised. Therefore each activity will be monitored so that the expected results are achieved.

Activity 1. Urban and housing Development

A durable and sustainable living environment for RAE IDP population is foreseen in a new urban development for social housing in the Konik area of Podgorica including proper infrastructure and a community centre. This development will be based on the general planning concept adopted by Podgorica municipality for zones A (former Konik camp 1) and B (Konik camp 2 and Shanty Town – larger area) of the Konik settlement and a formal change of the Detailed Urban Plan (DUP) for Zone A,

The first phase under IPA 2011, will commence in mid 2012 when 90 housing units will be built to rehouse those in the Konik settlement area and the eligible local socially disadvantaged. The target beneficiaries will be eligible RAE IDP households from Konik 2 and Konik 1 and other low-income population from the surrounds. In parallel, the project will support establishing capacities of relevant public institutions in implementation of social housing programmes through detailed planning, effective beneficiary selection, property management and introduction of housing subsidy mechanisms.

Activity 2. Social Integration including Documentation; Employment/access to the labour market and Education

These activities are vital to the sustainability of the rehousing effort. The relevant GoM authorities (Ministry of Interior, Ministry of Education, Ministry of Labour and Social Welfare) will do their utmost to support the integration of the beneficiaries of the IPA 2011 assistance. In addition, appropriate media coverage will accompany each part of the social integration of the displaced so that stigmatisation is minimised and the newly integrated can be seen as part of the future of Montenegro.

The RAE IDPs have lived in the Konik area in camps that were temporarily set up to deal with the needs of the IDPs when they fled to Montenegro in 1999. The government of Montenegro realises that most of this population will remain in the country and need appropriate living conditions for full integration. Social measures will be needed to accompany the construction activities and form the basis of a social and cultural shift. The direct target groups are initially the 55 families from Konik 2, and 25 families from Konik 1 and 10 socially vulnerable Montenegrin families. The social measures will be extended to new beneficiaries as the redevelopment of the Konik area continues.

These social integration activities will focus on several areas ensuring that RAE adults and children have adapted to their new conditions. Beneficiary families will be trained in civic education, rights, rules/procedures and obligations and will be helped to register with the Employment Agency and Social Welfare Centre. This of course presupposes that beneficiaries will have applied for 'foreigner status' so that they are entitled to social welfare support. In addition civic education will lay emphasis on 'disaster readiness' with a view to ensuring residents of the new social housing units are aware of their responsibilities in terms of the upkeep of their environment and are ready to be mobilised in co-operation with local authorities in terms of response to natural environmental calamities such as floods, etc.

Documentation

The RAE population need to be able to access their rights in all areas and this can only be done if they have access to proper documentation. Prior to social integration and indeed as a prerequisite for such a process to develop the displaced currently resident in Montenegro must acquire appropriate documentation. Whilst lack of documentation may affect many of the displaced it is particularly prevalent among the displaced RAE communities from Kosovo. Without a recognised birth certificate it is virtually impossible to obtain other documents that establish the legal status of the individual therefore ruling out access to various rights guaranteed to those who have a recognised status. Thus, social integration begins with a process of regularising the status of the potential beneficiaries and facilitating the provision of documents that formally establish their 'identity'.

With this in mind this project will provide legal services on a caseload basis to displaced persons from Konik. The project will seek to address the issue of registration in other jurisdictions where applicable. Procedures will be initiated for those displaced that were never registered in birth/citizenship registries or whose entries in registration books may have been destroyed during conflict. This activity will address both those who were never registered most notably the RAE and those who were registered but whose records were destroyed or displaced. This activity will reduce the risk of statelessness for the DPs/IDPs. The amended Law on Foreigners in Montenegro foresees that DPs from Croatia and BiH and IDPs from Kosovo will change their legal status. Many of the current caseload of DPs/IDPs will fall short of the requirements to achieve the new status. Thus there is a need to work on mitigating

potential setbacks during the application process and enhance monitoring and advocacy with relevant authorities.

Employment – access to labour market

Despite the lack of ‘permanent’ jobs for the RAE from Konik they are active in public works, construction development as unskilled workers, and mostly as collectors of recyclable materials and other small entrepreneurial activities. These trading skills can be further developed and in conjunction with the Employment Agency job opportunities can be created in the private sector. The project will focus on facilitating employment through ensuring proper documentation and registration, training and retraining and seeking to help beneficiaries identify viable economic opportunities for them to pursue. SME development will focus on providing beneficiaries with the necessary start up inputs to develop their business ideas in their local environment.

Education

The RAE children from Konik camp 1 and 2 and the existing apartment block on the site of Konik 1 house comprise 932 children in the following age groups: 651 age group 5-17 and 281 age group 0-4¹⁰. These children need adequate preparation for school, they need support with Montenegrin language skills and they need to learn how to do their homework and all other demands made on them in the school environment. Teachers also need to understand the specific needs of RAE population and take this into account in the classroom and in extra-curricular activities. Special measures within the terms of this project will seek to ensure that the number of RAE drop-outs decreases and literacy increases. Training of trainers and RAE teaching assistants will help facilitate the change in attitude towards education and training among the RAE and success stories among RAE children in school will be disseminated through the media to encourage more to develop their educational attainments.

Activity 3. Voluntary Return

There is an expressed desire to return to Kosovo from some of the RAE displaced in Konik. The facility for return should be maintained with all partners taking an active role. Pressure should be brought to bear on the authorities in Pristina to encourage local authorities in Kosovo to facilitate an atmosphere conducive to return. According to BCR some 40 RAE IDP families choose voluntarily return to Kosovo each year. This process is facilitated by UNHCR and supported by the Montenegrin government. Go and see visits are organised, financial and material packages prepared and legal assistance provided. In addition, bi-monthly meetings between relevant authorities in Montenegro and Kosovo will be facilitated. This would include the relevant Montenegrin authorities, the EU as donor and its implementing partners,

Memoranda of understanding will be signed to initiate the process of return for those choosing the option. Without a memorandum of understanding between all these partners return will not take place or will not be sustainable. The international community can play an important role in lobbying for the right to return of those who would like to do so. All stakeholders need to be involved at an early stage and potential beneficiaries need to be kept up to date on latest developments to ensure their full cooperation. In addition return packages should be appropriate to the needs of the individual returning family. Return under IPA 2011

¹⁰ Montenegrin Red Cross, January 2011

could generate greater interest especially given the commitment of donor funding up to 2015. This additional support might well make the difference between a few returns and a sustainable return process where individuals return in peace and security. The challenge for the GoM and its international partners is to support the process and to assist civil society in bringing about a realistic returns process. Return remains a difficult option but is not impossible given sustained and reliable support from the international community and government authorities in the sending and receiving areas.

Activity 4. Technical Assistance

All of the above activities will require clear and accurate coordination which can be established under the 2011 IPA project and continued afterwards. Technical Assistance will be provided to the Project Unit at government level for coordination and financial reporting, supervision of the construction project and other relevant activities. The technical expertise from the PU should also provide guidance and advice to the implementing partners. A Steering Committee consisting of representatives of relevant stakeholders including ministries, Podgorica municipality, the RAE target community, and others will be set up.

An important starting point for successful implementation is that the RAE community is incorporated in the project. It is therefore advisable to include a representative of the RAE community in the Steering Committee. It could be a representative of the Roma NGO that will work with REF on educational issues as part of the project. Roma students can work on implementation in social and educational activities. These should be properly supervised and/or mentored by more experienced staff. Technical Assistants and or trainers from abroad should be invited to share their knowledge and monitor the effects of their trainings.

Day to day management of the camp should be gradually transferred in 2012 to the newly established structures such as the implementation unit, but also government institutions such as Housing Agency, Social Welfare Centre and the Employment Centre. However, the implementation unit will have to deal with requests for daily maintenance and support, which should be seen as an opportunity for change, i.e. provide the RAE with tools to fix the problem themselves while providing guidance.

The transition from IDP status with support from BCR, UNHCR and MRC will gradually move to requesting support from CSW, EA, Housing Agency. This change will be accompanied by legal support from the Legal Centre. Also the institutions will receive capacity building so that they can deliver the services demanded.

NGOs and/or UN agencies can provide support in facilitating the transition. However, the aim to make the former IDPs fully integrated residents of Montenegro requires that the RAE themselves avail of this opportunity to find a durable solution.

Capacity building will be provided to facilitate the change of responsibilities for management of the Konik settlement caseload to local relevant institutions and agencies such as the Housing Agency, Social Welfare Centre and the Employment Centre.

Continued EU/GoM Assistance 2012 -2015

Given that IPA 2011 assistance will address the problems of the closure of Konik 2 and some nearby local socially-disadvantaged, assistance from other donors and GoM is envisaged as building on the initial assistance to address the problems of those who most need it. The IPA 2011 funding will build 90 housing units leaving some 260 to be built under the 2012-2015 period.

Social integration cannot be achieved overnight. Rather it will be a process developed over time and will necessitate the various relevant authorities in Montenegro to provide recognition for those who have become resident in the country as a result of the wars accompanying the dissolution of the former Yugoslavia. Assistance up to 2015 is expected to ensure that the former displaced be enabled to take a full and active part in community life where they live thereby adding to social harmony and community development. Developments elsewhere in this time period may mean that some of the displaced will seek to return to their places of origin and that is to be welcomed but this does not obviate the responsibility of the GoM and its partners to redress the problems of the displaced under their sovereignty.

It is expected that the entire caseload of the displaced will be settled by 2015 although this requires goodwill on the part of all concerned including authorities in the countries of origin as well in Montenegro. The following activities will be addressed in Phase 2.

Further access to housing solutions

A further 260 housing solutions need to be found following the construction of 90 housing units under IPA 2011. The remaining families will need to be moved from emergency shelter conditions to more permanent dwellings. The Housing Agency and the City of Podgorica as well as key ministries will focus on developing suitable housing schemes as part of the social housing scheme. While the building of new housing is key there could also be an aspect of upgrading existing suitable housing.

Access to Education

There should be a focus on pre-school education and ensure that the mandatory primary and secondary education received by the RAE children is integrated. University education is another important area to consider. Opportunities for third level education will be provided based on merit and not on the financial ability to sustain the individual at university education level. There are examples from elsewhere in the world where scholarships can be provided for high achieving secondary level scholars based on their achievements. A specific bursary will be introduced and state universities will allocate a specific percentage of places to disadvantaged RAE and other DP students.

Access to employment

Employment is a vital part of socialisation. The world of work has changed and not just in the Balkans which has had to deal with a turbulent transition from a socialist based economy to a free market one. It is in the interest of any government to encourage the entry of new workers into the labour market. This helps to diminish the negative effects of the 'grey economy' and also provides a focus for the young especially those from the under privileged sections of society so that they set an example and become solid members of the community.

The challenge is for government with the aid of their international partners and private business to develop opportunities for faster inclusion of people in the labour market, through implementation of the following activities:

- Government schemes directly aimed at a target community targeted at where they live possibly related to the environment, tourism and services
- Raising awareness and knowledge of this population on the rights arising from unemployment with the Employment Agency;
- Improvement of their knowledge and skills through active employment policies, in order to meet labour market requirements (informal education that lasts shorter than formal education):
- inclusion in public works,
- seasonal employment,
- Co-financing of practitioners' salaries
- Support to self-employment

For the purpose of exercise of right to inclusion of this population in the above mentioned activities, registration with the Employment Agency is necessary.

Access to health

The health of the RAE communities living in the Konik are will be carefully monitored throughout the implementation of the strategy. Accessible health care will be provided and there will a special focus on training programs for Roma health mediators and ensuring that all females access to reproductive health care.

9. STRATEGY IMPLEMENTATION, MONITORING AND FUNDING

The strategy will cover the period of August 2011 – December 2015 and is implemented by through a maximum of 4 Action Plans. The first Action Plan will cover the period until 31 December 2012, and each of the subsequent Action Plans to be adopted will have a validity of minimum of 1 year. Annual Action Plans will be made during the last quarter of current year for the following year and will include priority measures and activities to be implemented in that year.

In order to achieve the national strategy for a permanent solution to the problem of IDPs and DPs in Montenegro, a number of institutions will be involved.

The Government of Montenegro will establish Coordination Board consisting of the representatives be of: the Ministry of Labour and Social Welfare, Ministry of Foreign Affairs and European Integrations, Ministry of Health, Ministry of Sustainable Development and Tourism, Ministry of Education and Sport, Ministry of Interior, Employment Agency, Capital City of Podgorica, Bureau for the Care of Refugees, EUD and UNHCR. In order to ensure proper implementation of the Strategy, the Prime Minister Deputy of Montenegro is appointed as the Head of the Coordination Board.

The implementation of the strategy will be co-ordinated by the Head of the Coordination Board, who will regularly communicate with the Government of Montenegro, EUD and UNHCR and inform them on the progress through quarterly reports. This Coordination board

will monitor the implementation of the Action plan and will follow the implementation of the Strategy through activities carried out in the Action Plan.

In order to monitor the implementation on the strategy and the process of local integration, the data management system will be improved to follow up on individuals and their access to rights.

The Ministry of Interior will be responsible for solving requests for recognition of permanent and temporary residence in Montenegro, as well as the rest of applications for Montenegrin citizenship. The Ministry will continue to seek cooperation with countries of origin in order to assist vulnerable I/DPs in obtaining documents needed for the status of foreigner in Montenegro

The Ministry of Health will be responsible for informative campaigns relevant for the area of health care

The Ministry of Labour and Social Welfare will be responsible for provision of access to the right from social and child protection for all I/DPs and foreigners, and will continue to seek solutions for vulnerable I/DPs with particular attention to disabled I/DPs

The Ministry of Education and Sports will carry out activities related to inclusion of I/DPs and foreigners in the education system of Montenegro.

The Ministry of Finance will provide funds for the purpose of the full integration of I/DPs and foreigners into Montenegrin society.

The Ministry of Foreign Affairs and European Integration will continue to seek cooperation with the countries of origin of I/DPs related to resolution of their legal status.

The Ministry for Human and Minority Rights will monitor the implementation of the strategy to ensure full respect of human rights of I/DPs and foreigners with the special emphasis on RAE population;

The Ministry of Sustainable Development and Tourism will implement activities aimed at finding solutions for provision of adequate living standards for I/DPs and foreigners, in cooperation with local-self-governments.

The Bureau for the Care of Refugees will continue to monitor integration of I/DPs leading to full access of their rights in Montenegro, once when they acquire status of foreigner with permanent and temporary residence in Montenegro

The Employment Office of Montenegro will create equal conditions for I/DPs and foreigners in the labor market to enhance their social inclusion and local integration.

The Red Cross of Montenegro will continue to provide assistance to the most vulnerable I/DPs and foreigners, in cooperation with other state institutions of Montenegro, in particular those residing in Konik area.

The activities from the Strategy will be financed from:

- State Budget;
- Donor funds
- Projects

The total expenses for implementation of this Strategy are not specified in this document, because the number of beneficiaries of activities foreseen with the Strategy can not be specified in many areas. The expenses will be established in annual plans.

Additional funding resulting from the Donors Conference foreseen in the Belgrade Initiative is expected to cover the estimated costs of 27 milion euros required to implement the housing projects for DPs and IDPs who are identified as vulnerable in the municipalities of Bar, Berane, Herceg Novi, Kolašin, Nikšić, Plav, Podgorica, Rožaje, Tivat and Ulcinj. The municipalities are expected to donate land for housing construction purposes.

UNHCR and UNDaO's Social Inclusion Pillar will participate in the costs of obtaining personal documents in the countries of origin for those IDPs and DPs identified through the field surveys conducted by OSCE/UNHCR in the collective DP settlements and UNDaO and the Government of Montenegro in the Konik area.
