



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Information received from Montenegro on follow-up to the
concluding observations on its combined fourth to sixth
periodic reports***

Addendum

[Date received: 5 July 2021]

* The present document is being issued without formal editing.



I. Follow-up information relating to paragraph 15(e) of the concluding observations (CERD/C/MNE/CO/4-6)

1. The Committee notes the State party's reply and welcomes the information contained in its response to paragraph 15 (f) of the Concluding Observations (CERD/C/MNE/CO/4-6) on the production of a brochure on infant registration which instructs parents on the procedure and steps they need to take to register their child with the Birth Registry immediately after birth. It also notes information about the translation of this brochure into Albanian and Roma languages. The Committee requests further information on steps taken by the State party to conduct awareness raising campaigns among Roma, Ashkali and Egyptian parents to inform them about the existence of the brochure and about the importance of birth registration. The Committee considers this recommendation partially satisfactory and regrets the absence of information on the effective implementation of a simplified procedure for birth registration. The Committee reiterates its request that the State Party share, in its next periodic report, detailed information on this issue.

2. Relating the paragraph 15 (e) of the concluding observations (CERD/C/MNE/CO/4-6) on the development of brochures for the registration of infants in the birth register, Ministry of Justice, Human and Minority Rights, The Ministry of Interior, in cooperation with the UNHCR, as well as with the support of the NGO "Roditelj.me", produced brochures on the registration of infants, which instructs parents on the procedure and steps to take to register their child in the registry born immediately after birth, and distributed the same to the above categories. UNHCR is provided support for the printing and translation of brochures into Albanian and Romani.

3. Also, in cooperation with NGO "Roditelj.me", workshops were organized, which were open to the public as well as to all citizens, and on which occasion citizens, even vulnerable categories within them, could be informed about the procedure of registration in the birth register, as and status resolution options.

4. UNHCR in Montenegro is continuously cooperating with Ministry of Interior, Ministry of Justice, Human and Minority Rights of Montenegro and other relevant institutions in order to strengthen the procedures for registration of all categories.

II. Follow-up information relating to paragraph 15(f) of the concluding observations

5. The Committee welcomes the information provided by the State party regarding the Law on Birth Registry and notes that in cases in which a negative decision has been brought on the registration of a child with the Birth Registry pursuant to the Law on Administrative Proceeding a party has the right to a judicial protection pursuant to the Law on Extrajudicial Proceedings. The Committee requests the State party to clarify how the right to a judicial protection pursuant to the Law on Extrajudicial Proceedings can guarantee the birth registration of a child. The Committee also welcomes the information provided on the means pursued for establishing the facts in cases where the mother does not possess an identification document. It however requests further information on concrete measures taken when the facts cannot be established. The Committee regrets the absence of information on the State party's continued efforts to provide mothers who lack an identification document with such documents and with legal aid, when necessary, for birth registration. The Committee considers this recommendation not satisfactorily addressed and recommends that the State party provide in its next periodic report, updated information on measures taken to ensure the registration of all children in cases where the mother is unknown or lacks an identification document and on further efforts to provide them with identification documents and with legal aid, when necessary, for birth registration.

6. Regarding paragraph 15 (f), the concluding observation of CERD, which relate to the legislation on registration of children in the birth register, the regulations within the competence of the Ministry of Justice, Human and Minority rights are the Law on Out-of-

Court Procedure which implements the procedure of regulating the time and place of birth of a child as well as the procedure of determining paternity and maternity prescribed by the Family Law.

7. Montenegro is provided the right of universal registration of birth registration, for all children without exception, as well as for Roma and Egyptian children; children of refugees and displaced persons and internally displaced persons; children abandoned by mothers; children born in a health care institution as well as children born outside a health care institution. Also in cases when it comes to the registration of children in the birth register when the mother is unknown or she lacks an identification document.

8. Pursuant to the provisions of the Law on Birth Registry, the birth of a child in a maternity hospital or other health care institution is obligatory for the health care institution, without exception.

9. Subsequent registration of the child's birth will be performed after the expiration of the period of 30 days from the day when the child was born, and is not entered in the birth register, after the procedure of establishing the facts related to the birth. If it is determined in the conducted procedure that there are no grounds for enrollment, it will issue a decision rejecting the application for enrollment.

10. Abandoned children are protected by the provisions of the Family Law, which also applies to a parent who abuses parental rights or grossly neglects parental duties. The body responsible for keeping the birth register is obliged to report the birth of a child whose one or both parents are unknown to the guardianship authority, in order to take measures for its protection. Also, the state administration body in charge of social welfare affairs, undertakes actions within its competence in order to prevent abandonment, registration of abandoned children in birth registers and institutionalization of these children.

11. Also, in accordance with the Law on Birth Registry the birth of a child whose parents are unknown is entered in the registry of births in the municipality where the child was found. Registration is based on an executive decision of the guardianship authority, which contains: name, surname, gender and place of birth. The place where the child was found is entered as the place of birth. The executive decision of the guardianship authority is made on the basis of the record of the child's discovery. The record, together with the decision, shall be delivered to the official.

12. In accordance to the Law on Administrative Procedure, when conducting the procedure of registration of a child in the birth register, in cases when the mother does not have an identification document, all means suitable for establishing the factual situation may be used as evidence, which correspond to a particular case, such as documents, statements witnesses, statements of the parties, findings and opinions of experts, interpreters and investigation. Well-known facts, facts that are known to a public body and legal assumptions do not need to be proven.

13. During 2018, Former Ministry of Human and Minority Rights informed the Roma and Egyptian populations about the registration of children in the birth register through trainings and campaigns in following municipalities: Podgorica, Bar, Nikšić, Ulcinj, Berane, Bijelo Polje, Pljevlja, Herceg Novi, Tivat, Kotor, Budva and Cetinje. Furthermore, in 2019, 14 public discussion were organized about "Informing parents about the registration of children in the birth register" in 14 municipalities inhabited by the Roma and Egyptian populations, which included over 300 parents, of which 200 women.

III. Follow-up information relating to paragraph 25 of the concluding observations

14. **The Committee welcomes the information provided by the State party on the prosecutions initiated and the sanctions taken against the perpetrators of racial discrimination and related acts, but regrets the absence of statistics on complaints received and redress provided to victims of such offences. Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and the functioning of the criminal justice system, Committee reiterates**

that the absence of complaints about and legal action taken against racial discrimination may reveal poor awareness of the legal remedies available a lack of will on the part of the authorities to prosecute the perpetrators of such acts, a lack of trust in the criminal justice system, or a fear of reprisals against victims. The Committee while noting the State party's willingness to support awareness raising campaigns, also regrets the absence of information on measures taken to intensify such campaigns among the population, in particular Roma, Ashkali and Egyptian communities, refugees, asylum seekers and IDP-s especially regarding the legal remedies available. The Committee considers that the response of the State party is partially satisfactory and requests the State party to include in its next periodic report, information on all complaints received, investigations carried out, prosecutions initiated, sanctions taken by the State party against the perpetrators of such offences and the redress provided to victims of racial discrimination, as well as information on measures taken to intensify awareness-raising campaign related to racial discrimination, in particular regarding the legal remedies available.

15. The Police Directorate of Montenegro takes all necessary measures and actions within its competence in order to prosecute persons in whose actions elements of a criminal act have been acquired, regardless of the criminal act in question and thus the criminal act incriminated in the Criminal Code of Montenegro penalizing human rights and freedoms violations guaranteed by international ratified treaties and rules of international law on the grounds of race or other personal characteristics – racial and other discrimination, Article 443.

16. In order to empower administrative capacity, the Police Directorate is involved in various project activities both on national and international level – by participating in trainings, seminars and other forms of education.

17. The trainings are aimed at raising the level of knowledge, skills and values of human rights. They affirm the responsibility both of the institution and the individual to respect, protect and promote the human rights of all people regardless of race, sex, age, ethnicity and nationality and beliefs, in the spirit of the principles and values of the United Nations.

18. For the criminal offence of infringement of equality referred to in Article 159 of the Criminal Code of Montenegro, during 2020, 20 criminal complaints were filed with the Basic State Prosecutor's Office in Podgorica, 19 decisions rejecting criminal complaints were issued, while 1 case was transferred to the competent state prosecutor's office.

19. For the criminal offence of causing national, racial and religious hatred referred to in Article 370 of the Criminal Code of Montenegro, 8 criminal complaints were filed with the Basic State Prosecutor's Office in Podgorica, 5 cases were transferred to the Competent State Prosecutor's Office, 3 cases are under preliminary investigation, while there were no cases formed on grounds of racial discrimination in other state prosecutor's offices.
