



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventy-fourth session
16 February-6 March 2009

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

MONTENEGRO

1. The Committee considered the initial report of Montenegro (CERD/C/MNE/1), at its 1924th and 1925th meetings (CERD/C/SR.1924 and 1925) held on 2 and 3 March 2009. At its 1930th and 1931st meetings (CERD/C/SR.1930 and 1931), held on 5 and 6 March 2009, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the initial report submitted by Montenegro as well as the written replies to its list of issues in due time before the session, supplemented by the comprehensive answers and explanations provided in response to the Committee's questions. The Committee expresses appreciation for the presence of a high-level delegation from Montenegro during its consideration of the report and the frank and constructive dialogue between the Committee and the delegation.

B. Positive aspects

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

(a) The new Constitution in 2007, which incorporates a broad prohibition of discrimination by banning direct and indirect discrimination based on any ground, provides for positive measures as well as provides that international treaties have precedence over domestic law;

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

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

4. The Committee welcomes the establishment of a range of institutions for the promotion and protection of human rights, including the Ministry for Human and Minority Rights Protection and the Office of the Protector of Human Rights and Freedoms (Ombudsman).

5. The Committee welcomes the adoption of the Judicial Reform Strategy for the period 2007-2012 with the objective of improving its independence and autonomy and building its efficiency, as well as the training programmes for law-enforcement officials, prison staff, judges and prosecutors.

6. The Committee notes with satisfaction the adoption of the action plan for the implementation of the “Decade of Roma Inclusion 2005-2015”, as well as the “Strategy for the Improvement of the Position of Roma, Ashkali and Egyptian Populations (RAE) in Montenegro for the period 2008-2012”.

7. The Committee takes note with appreciation that Montenegro has succeeded to all of the international human rights instruments previously binding upon Serbia and Montenegro. The Committee also notes the ratification of the Rome Statue of the International Criminal Court in October 2006 as well as ILO Convention No. 111 on Discrimination (Employment and Occupation) in 2006.

C. Concerns and recommendations

8. While the Committee welcomes the information contained in the initial report on statistics relating to the ethnic composition of the State party, the Committee notes the limitations in the 2003 census and wishes to receive additional information on the characteristics and particular situation of the various ethnic minorities.

In keeping with its general recommendation 8 (1990) and with paragraphs 10 to 12 of the guidelines for the CERD-specific reports to be submitted by State parties under article 9, paragraph 1, of the Convention (CERD/C/2007/1), the Committee requests the State party to include in its next periodic report disaggregated data on educational, social, economic and employment levels.

9. The Committee takes note of the continued lack of a general law aimed to give effect more specifically to the provisions of article 2, paragraph 1, of the Convention, though it is encouraged by the information provided that the State party is in the process of finalizing such legislation (art. 2).

The Committee urges the State party to expedite its efforts to adopt the law on non-discrimination embodying all the provisions of article 2 of the Convention.

10. The Committee is concerned at the slow pace of harmonization of existing laws with the more forward-looking 2007 Constitution (art. 2).

The Committee urges the State party to accelerate its efforts in bringing its internal laws, such as the 2006 Law on Minority Rights and Freedoms in accordance with the provisions of the 2007 Constitution and the Convention.

11. The Committee has noted the lack of reference to the Convention in Montenegrin human rights jurisprudence, and of public applications for redress under the Convention's provisions. This may be due to the fact that the Convention is not well known among public and people responsible for applying the law, including the judiciary (arts. 2, 6 and 7).

The Committee recommends that the State party intensify its efforts to make the Convention better known to the public and the public administration, particularly the judiciary, and promote the application of its provisions and redress mechanisms through the Montenegrin courts and administrative system, as appropriate.

12. The Committee notes that the report submitted by the State party does not contain sufficient information on the practical implementation of the legislative and administrative measures adopted to eliminate racial discrimination covered by the Convention (art. 2).

The Committee requests the State party to prepare its next periodic report in accordance with the guidelines for the CERD-specific document adopted by the Committee at its seventy-first session (CERD/C/2007/1) and to include in it information on progress made and obstacles encountered, in implementing the rights enshrined in the Convention.

13. The Committee is concerned at the limited human and financial resources allocated to the Protector of Human Rights and Freedoms to effectively and independently fulfil its mandate (art. 2).

The Committee recommends that the State party allocate adequate financial and human resources to enable the Protector's Office to independently and effectively carry out its mandate. It also encourages the State party to enhance its awareness-raising campaigns with regard to the Protector's functions in order to facilitate access of persons belonging to ethnic minorities to its services.

14. The Committee is concerned at the lack of disaggregated data on members of minority groups employed in the central and local State bodies, in the police force as well as the judiciary (art. 5 (c)).

The Committee recommends that the State party take the necessary measures to collect disaggregated statistical data that would allow for an assessment of the representation of the various minority groups in public bodies and institutions. The Committee requests that the State party include such information, in accordance with the guidelines for the CERD-specific document adopted by the Committee at its seventy-first session (CERD/C/2007/1), in its next periodic report.

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

The Committee recommends that the State party accelerate its efforts to resolve the uncertain legal status of "displaced persons" from Croatia and from Bosnia and Herzegovina and "internally displaced persons" from Kosovo, including through grants of citizenship, long-term residence, or

refugee status, as appropriate. The Committee recommends that the State party ratify the Convention on the Reduction of Statelessness adopted in 1961.

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

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

17. The Committee is concerned that socio-economic and living conditions of the Roma continue to be precarious and discriminatory in the spheres of education, employment, healthcare and social welfare (art. 5 (e)).

The State party should implement stronger special measures targeting the Roma community to enable them to have practical access to education, employment in the public administration, healthcare and social welfare in a non-discriminatory manner, paying due attention to general recommendation 27 (2000) on discrimination against Roma.

18. The Committee, referring to its general recommendation 31 (2005) on racial discrimination in the administration and the functioning of the system of criminal justice, remains concerned at the continued allegations of police brutality and ill-treatment and lack of prompt and impartial investigations of such cases with respect to disadvantaged ethnic groups, particularly Roma, being particularly targeted for such abuses (arts. 5 (b) and 6).

The Committee recommends that the State party ensure that all such allegations of ill-treatment and police brutality are documented, independently, promptly and thoroughly investigated and that perpetrators are prosecuted and appropriately punished.

19. The Committee notes the information provided by the State party's delegation with regard to the four war crimes cases before the Montenegrin courts (art.6).

The Committee encourages the State party to strengthen its efforts to ensure that investigations of long-standing war crimes are expeditiously completed as a demonstration of Montenegro's commitment to suppress ethnically motivated crimes.

20. The Committee, while welcoming the measures taken to foster the understanding between the ethnic groups present in the State party and to promote an environment of tolerance, including the education of public officials at all levels, remains concerned by reports of rising ethnic tensions in a neighbouring country within the former Yugoslavia. The Committee notes that, historically, ethnic tensions within the former Yugoslavia have been able to spread throughout the region (art. 7).

The Committee encourages the State party to strengthen its efforts aimed at the promotion of inter-ethnic harmony and tolerance among public at the large. In this context, the Committee recommends that the State party take all appropriate steps to ensure that any rising ethnic tensions in a neighbouring country within the former Yugoslavia do not migrate into Montenegro.

21. The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

22. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12, chap. I), when implementing the Convention in its domestic legal order, particularly as regards articles 2 to 7 of the Convention. The Committee also urges that the State party include in its next periodic report specific information on measures taken to implement the Durban Declaration and Programme of Action at the national level. The Committee also encourages the State party to continue to actively participate in the Preparatory Committee of the Durban Review Conference, as well as in the Durban Review Conference in 2009.

23. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 63/243 of 22 January 2009, in which the Assembly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

24. The Committee recommends that the State party's reports be made readily available to the public at the time of their submission and that the concluding observations of the Committee with respect to these reports be similarly publicized and disseminated in the official and national languages.
25. The Committee recommends that the State party consult with civil society organizations working in the area of human rights protection, in particular those combating racial discrimination, in connection with the preparation of its next periodic report.
26. The Committee encourages the State party to submit its common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.4).
27. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide, information within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 9, 10 and 15.
28. The Committee recommends that the State party submit its second and third periodic reports in a single document due on 3 June 2011, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations.
