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Summary record of the 3109th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 15 October 2014, at 10 a.m.

Chairperson: Mr. Flinterman

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Initial report of Montenegro (continued) (CCPR/C/MNE/1; CCPR/C/MNE/Q/1 and Add.1; HRI/CORE/MNE/2012)

1. *At the invitation of the Chairperson, the delegation of Montenegro took places at the Committee table.*
2. **Mr. Ben Achour**, noting that Montenegro was taking a multifaceted approach to implementing recommendations made by international bodies on combating trafficking in persons, asked how the Office for the Fight against Trafficking in Human Beings was funded and how much money was allocated to non-governmental organizations (NGOs) that provided direct assistance to trafficking victims. Additional information on the practical results of the measures taken would also be welcome. The delegation should clarify the relationship between the State and religious institutions as well as the Government's position in the conflict between the Serbian Orthodox Church and the Montenegrin Orthodox Church. It might also wish to indicate whether the rules governing registration applied equally to all religious institutions. He asked the delegation to provide examples of cases involving attacks against lesbian, gay, bisexual or transgender (LGBT) persons or organizations that had resulted in convictions. The delegation might wish to comment on allegations by some NGOs claiming there was a gap between the law and its implementation in practice, citing the absence of any serious investigations and convictions following the violence that had occurred at the Gay Pride parades in Budva and Podgorica in 2013. He wished to know whether the measures taken to protect journalists, as described in paragraphs 121 ff of the State party's written replies to the list of issues, had had an impact on relations between the authorities and journalists. The delegation should indicate whether the new law on the right to strike had entered into force and should provide examples of court judgements issued pursuant to article 228 of the Criminal Code on the abuse of the right to strike. He asked whether the article was in conformity with the State party's Constitution, noting that it did not define the "other grave consequences" of a strike that might justify the criminal conviction of its organizers.
3. **Mr. Rodríguez-Rescia** said that the laws and regulations on granting refugee status and those on granting permanent residence should be better harmonized. He wished to know whether the Government intended to take measures to permit a judicial review of decisions taken by the Refugee Appeals Board, which did not seem to enjoy the level of independence required under the Covenant. More detailed information on initiatives to facilitate refugees' access to work would be welcome. With regard to the Roma, Ashkali and Egyptian communities, it would be useful to know what measures the Government intended to take to shut down the Konik camp and find new housing solutions for the occupants. He found it regrettable that there was a lack of accurate data on the representation of ethnic minorities in society and that there were no representatives of those communities in national political institutions. He would welcome information about the results of the Government's strategies on integration and voluntary return assistance for displaced persons and about any difficulties encountered in implementing those strategies. He asked the delegation to comment on the case of displaced persons who had been residing in the country for more than two years but, in the absence of official documents to prove it, did not have the right to vote. It should also provide information on the activities of the mobile biometric team referred to in paragraph 109 of the State party's replies to the list of issues and on any plans to expand those activities to cover the whole country.
4. He asked whether any measures were planned to retroactively register children born outside health-care facilities and to establish a system to prevent unregistered births. He

urged the Government to institutionalize efforts to raise awareness about that issue. With regard to early marriage, he asked the delegation to clarify the circumstances under which a court might exceptionally authorize the marriage of a minor over 16 years of age.

5. With regard to minority rights and the fight against discrimination, he asked whether any solutions were planned to prevent the hard-wall accommodation built for the Roma, Ashkali and Egyptian communities from turning into ghettos. He wished to know about the results of the programme to increase school enrolment among Roma children by providing Roma tutors in schools, and about measures planned to strengthen that programme, given that there were not enough people from the Roma community with the skills necessary to perform that role. The delegation should also provide additional information on measures taken to combat discrimination in hiring and to encourage the employment of members of the Roma, Ashkali and Egyptian communities, who faced particularly high unemployment rates. Lastly, he asked whether the State party had ratified or planned to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which it had signed in 2006.

6. **Ms. Waterval** said that she wished to know the age of criminal responsibility in Montenegro and asked the delegation to elaborate on the impact of the implementation of the Law on the Treatment of Juveniles in Criminal Proceedings and on the results of the “Justice for Children” project financed under the European Commission Instrument for Pre-Accession Assistance. Data on the number of minors in detention and on the number of juvenile judges would also be helpful.

7. **Mr. Vardzelashvili** requested further details about the nature of the data that the authorities collected by monitoring communications. Noting that, until 2011, telecommunications operators had provided information to the police without the consent of a judge, he asked whether those illegally obtained data had been retained and, if so, under what circumstances, and he suggested that the Criminal Code should be amended to prevent the continuation of such practices. The delegation should indicate whether any steps had been taken or would be taken to strengthen internal control measures and parliamentary and judicial oversight of surveillance.

8. According to information from NGOs, persisting prejudice against the Roma among police officers and social workers was undermining the effectiveness of measures taken to identify and assist Roma child victims of trafficking. It would be interesting to hear the delegation’s views on that matter. In the light of several reports of Roma women being sold into domestic slavery or forced marriage, including outside Montenegro, information about the measures taken to combat such practices would be welcome. It would also be useful to know what measures the State party had taken or intended to take to strengthen prevention of child labour among Roma and Egyptian children — who were particularly susceptible to the practice even though it was prohibited by law — and to punish parents who perpetuated it.

9. **Mr. Zlatescu**, noting that more than 50 per cent of Roma lived below the poverty line and that the unemployment rate among Roma was as high as 40 per cent, asked what the State party was doing to address that tragic situation and whether it had any short or longer-term plans to improve access to education and vocational training for Roma. He also wished to know whether, in addition to its commitment to build social housing for Roma, Ashkali and Egyptian communities living in unhealthy conditions in informal settlements, the State party had taken any measures to put an end to evictions of inhabitants of those settlements and to ensure their access to basic services. In view of the large number of Roma, Ashkali and Egyptians who did not possess identity documents and could not obtain them because of the complex procedures set out in the new Montenegrin Citizenship Act, he asked whether any measures had been taken to identify the persons affected and make it easier for them to obtain such documents, especially for those who were originally from

Kosovo. Given that fewer than 10 per cent of Roma children attended school regularly and that those who did were marginalized because they spoke neither Serbian nor Montenegrin, it would be interesting to know whether special education measures, including measures focused on language training, were being taken to promote the integration of Roma children. Lastly, it would be useful to have information on the steps taken since the adoption of the new strategy for the integration of the Roma, Ashkali and Egyptian minorities in 2012 to ensure better representation for those groups in the civil service and in politics, from which they were currently almost completely excluded.

10. Mr. Shany said that he wished to hear the delegation's views on the concerns expressed by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in his April 2014 report (A/HRC/26/30/Add.1) regarding the continued State ownership of the daily newspaper *Pobjeda* in violation of the Media Law, which stipulated that print media should be part of the private sector, and the State's obvious influence on the newspaper's editorial content. He asked whether any steps had been taken to privatize the newspaper.

11. The Chairperson suggested briefly suspending the meeting to allow the delegation to prepare its replies to the questions just asked.

The meeting was suspended at 11.20 a.m. and resumed at 11.40 a.m.

12. **Mr. Ulama** (Montenegro) said that in 2012 his country had adopted a multifaceted anti-trafficking strategy that would remain in force until 2018. The strategy focused on six key areas – prevention and awareness-raising, victim identification, protection and rehabilitation for victims, the prosecution of offenders, international cooperation and coordination at the national level. It also included a section on combating organized crime, drug trafficking and illegal immigration, which were closely linked to human trafficking. Montenegro had concluded cooperation agreements with several countries in the region to deal with those issues. The strategy was supplemented by action plans specifically targeting the Roma, Ashkali and Egyptian communities, including children belonging to those minority groups, who were particularly vulnerable to trafficking. The main role of the Office for the Fight against Trafficking in Human Beings was to coordinate the action of government institutions, civil society organizations and international organizations involved in the fight against trafficking. Its current budget was roughly €170,000. The various ministries concerned also helped to finance the activities carried out under the anti-trafficking strategy, while the Office funded projects carried out by NGOs. For example, it covered the operating costs, including staffing costs, of a shelter for trafficking victims run by an NGO. Mindful of the fact that its future accession to the European Union could attract migrants in search of a better life, all of whom were potential victims of trafficking, Montenegro was working to build capacity among police officers, judges, social workers and other professionals involved in the fight against trafficking, particularly through specialized training. Following a joint study conducted by the Office for the Fight against Trafficking in Human Beings and the Ombudsman (Protector of Human Rights and Freedoms) in 2013, which showed that Roma children who begged on the streets were often exploited by their own parents, the Government had realized that the only way to effectively assist those children was by intervening directly with their parents. Information and awareness-raising campaigns targeting them had therefore been developed. It should nevertheless be noted that most children who begged on the streets in Montenegro were not from the long-established Roma communities in the country; rather, they came in large part from Serbia and Kosovo.

13. **Ms. Rabrenović** (Montenegro) said that the separation of Church and State was enshrined in the Constitution and that the Government did not in any way hinder the establishment of new religious communities. On the contrary, it encouraged tolerance and dialogue among religious communities. Registration was compulsory only for recently

established religious organizations; long-established religious communities were exempt from the requirement.

14. **Ms. Radošević-Marović** (Montenegro) said that the new bill on freedom of religion, which was set to replace the Act of 1977 currently in force, set new criteria for the registration of religious organizations and clarified the legal status of churches. Given the vigorous debate over the bill, it was unclear whether it would be adopted in the near future.

15. **Ms. Kalezić** (Montenegro) said that in 2014 the courts had heard four cases involving attacks against members of the LGBT community. In one of those cases, the perpetrator had been sentenced to 1 month's imprisonment for disrupting public security. That decision had been appealed, and the case therefore remained pending. In March 2014, the Government had signed a memorandum of understanding providing for the start of training and awareness-raising on LGBT rights for members of the judiciary.

16. **Ms. Pešić** (Montenegro) said that, since the adoption in 2013 of the Law on Amending the Criminal Code, the fact of hate speech being based on the sexual orientation or gender identity of the person it targeted constituted an aggravating circumstance, and such statements carried a penalty of 3 years' imprisonment.

17. **Ms. Đonaj** (Montenegro) said that since 2008 the national police force had been working with LGBT organizations and that awareness-raising activities and training seminars had been organized in cooperation with those organizations. Gay Pride parades had been held in June and October 2013, and the security measures taken by the police had proved to be very effective, as none of the participants had reported any injuries.

18. **Mr. Kojić** (Montenegro) said that the right to strike was enshrined in article 66 of the Constitution and that article 227 of the Criminal Code established criminal liability for anyone who prevented a person from exercising that right. The Criminal Code also criminalized abuse of the right to strike, which carried a penalty of 3 years' imprisonment. That article had never been invoked before the courts, and thus far its constitutionality had not been contested.

19. **Ms. Samaradžić** (Montenegro) said that police officers and prosecutors were extremely cautious when using evidence gathered by the secret service, including evidence obtained through wiretapping. In accordance with the Criminal Code, such information could be collected only as part of investigations into serious offences, such as corruption or organized crime, and the evidence could not be used during court proceedings. Confidentiality was respected and, once the proceedings had finished, the evidence was destroyed in the presence of the judge and the prosecutor and the person concerned was informed that such action had been taken.

20. **Ms. Pešić** (Montenegro) said that the age of criminal responsibility was 14 years and that national legislation contained provisions on the treatment of juveniles in conflict with the law. All judges who heard cases involving minors must attend a training course on the rights of the child. There were currently no minors in detention in the country.

21. **Ms. Kalezić** (Montenegro) said that the situation regarding juvenile delinquency was reviewed annually. Teams composed of experts, psychologists and social workers had been formed to assist courts that heard cases involving minors in conflict with the law.

22. **Ms. Rabrenović** (Montenegro) said, with regard to the observations made by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in his report on his visit to Montenegro (A/HRC/26/30/Add.1), that the Government wanted to privatize the *Pobjeda* newspaper and had invited tenders in 2007, 2008 and 2011, but without success. There were plans to begin bankruptcy proceedings for the newspaper.

23. **Mr. Vukčević** (Montenegro) said that the authorities had taken measures to monitor efforts to combat corruption and organized crime and to protect investigators who handled such cases. In recent months, the authorities had initiated proceedings in six cases of violence against journalists. Two persons had been accused of assaulting journalists from the *Vijesti* daily newspaper and one person had been convicted of threatening the editor-in-chief of the *Monitor* newspaper. The Government had adopted a report on measures to be taken to protect journalists and had established a committee to monitor the activities of the authorities responsible for investigating cases involving attacks against or intimidation or murder of media professionals. Currently, two journalists who had received threats were under police protection.

24. Lastly, he said that mobile biometric teams had visited the Konik camp three times to issue identity documents to displaced persons living there and that two further visits were planned.

25. **Ms. Đonaj** (Montenegro) said that, in the late 1990s, Montenegro had welcomed large numbers of people fleeing the conflict in the former Yugoslavia. Displaced persons currently made up one quarter of the Montenegrin population. The Government had launched an action plan for the period 2011–2015 that particularly targeted displaced persons living in the Konik camp.

26. **Ms. Radošević-Marović** (Montenegro) said that a pilot project had been launched in 2010 to promote inclusive education in preschools and primary schools and enrolment among Roma children. As a result, more children were attending preschool, which gave them the opportunity to improve their language skills and to better prepare for entry into primary school. Textbooks had been developed with input from Roma mediators. During the 2013/14 school year, a school bus line had been established between the Konik camp and primary schools in Podgorica, making it possible for 200 children from the camp to attend mixed schools. In addition, Roma mediators had assisted the children in the classroom, so as to help them keep up with the schoolwork and to prevent them from dropping out. Some of the children would enter secondary school and would receive scholarships. An affirmative action programme had been developed to assist young Roma who wished to pursue their studies at the university level, and, thanks to that initiative, 11 Roma students had obtained university degrees. The Ministry for Human and Minority Rights had published a textbook for learning the Roma language and was working towards publishing a Roma dictionary.

27. The Employment Agency of Montenegro ran an employment programme for Roma that mainly targeted unemployed Roma with no training or education. They were provided with vocational training courses to help them enter the labour market.

28. **Ms. Pešić** (Montenegro) said that forced or arranged marriages were now prohibited in Montenegro. The 2013 Law on Amending the Criminal Code established penalties for entering into a marriage with a minor or forcing a person to marry.

29. **The Chairperson** thanked the delegation for the information provided orally and asked it to submit any additional replies to the Committee in writing within 48 hours so that they could be reflected in the concluding observations.

The meeting rose at 1 p.m.