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### UNIVERSAL PERIODIC REVIEW

#### Report of the Working Group on the Universal Periodic Review \*

#### Montenegro

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**CONTENTS**

	<i>Paragraphs</i>	<i>Page</i>
Introduction.....	1 - 4	3
I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS ...	5 - 65	3
A. Presentation by the State under review.....	5 - 21	3
B. Interactive dialogue and responses by the State under review.....	22 - 65	6
II. CONCLUSIONS AND/OR RECOMMENDATIONS.....	66 - 68	16

**Annex**

Composition of the delegation.....	20
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## **Introduction**

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its third session from 1 to 15 December 2008. The review of Montenegro was held at the 6th meeting, on 3 December 2008. The delegation of Montenegro was headed by H.E. Mr. Miras Radovic, Minister for Justice. At its meeting on 5 December 2008, the Working Group adopted the present report.
2. On 8 September 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review: Brazil, China and the Russian Federation.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Montenegro:
  - (a) A national report submitted / written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/3/MNE/1);
  - (b) A compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/3/MNE/2);
  - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/3/MNE/3).
4. A list of questions prepared in advance by the Czech Republic, the United Kingdom of Great Britain and Northern Ireland, Denmark, the Netherlands and Sweden was transmitted to Montenegro through the troika. These questions are available on the extranet of the universal periodic review.

## **I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS**

### **A. Presentation by the State under review**

5. At the sixth meeting, on 3 December 2008, H.E. Mr. Miras Radovic, Minister for Justice, introduced the national report. Montenegro reported that, after gaining independence in the referendum held on 21 May 2006, comprehensive reforms of its legal system were initiated. The reforms were based on the decision of Montenegrin citizens to live in a State based on the values of freedom, peace, tolerance, respect of human rights and freedoms, multiculturalism, democracy and the rule of law. The delegation pointed out the huge efforts made in creating a Constitution that included human rights and freedoms of international instruments, which Montenegro acceded to as an independent State. The Constitution classifies rights and freedoms into personal, political, economic, social and cultural. International agreements and generally accepted rules of international law are an integral part of the internal legal order and have supremacy over the directly applicable national legislation.
6. The delegation noted as highly significant the provisions of the Constitution governing special minority rights, guaranteeing full protection of national, cultural, linguistic and religious identity to the members of minority peoples. The rights to adequate representation in representative bodies and State authorities are set at the same level. An additional guarantee is that the Constitution prohibits forced assimilation of minority peoples.

7. Referring to a significant new feature in the new Constitution, the delegation reported on the introduction of independent bodies, the Ombudsman and the Judicial Council to ensure the independence and sovereignty of courts and judges.

8. The delegation reported that, alongside its traditional role to control constitutionality, the Constitutional Court has the authority to decide on the compliance of laws and other enactments with ratified international agreements. The Constitution introduced the institute of constitutional complaint as legal redress, with anyone entitled to submit a constitutional complaint after legal remedies before other State bodies have been exhausted.

9. The delegation stated that Montenegro had recently participated in the session of the Committee against Torture, members of which expressed their positive impressions of the progress made. Referring to the results of the visit of the Committee for the Prevention of Torture of the Council of Europe in September 2008, the delegation noted that the State's commitment to act in line with its recommendation is confirmed by the development of a plan of action for the prevention of torture, which is in progress.

10. The delegation reported on several strategies towards the establishment of a reliable legal system, including a strategy for the reform of the judiciary for the period 2007-2012 and the plan of action. Particular emphasis is placed on the promotion of the sovereignty and independence of the judiciary. With a view to improving the efficiency of courts and avoiding significant delays in trials, a law on the protection of the right to trial within a reasonable time was adopted, which provides for protection, inter alia, through action for fair reparation in the case of violation of this right. The Supreme Court acts upon such actions. The draft criminal procedure code will be adopted by the Government by the end of 2008. The code will transfer the powers of investigation from the courts to the Office of the Prosecutor while guaranteeing all rights to persons subject to a criminal procedure. Judicial authorities are dealing with a backlog of cases, and the delegation noted outstanding results in 2008. In order to reduce the workload of courts, a centre for mediation was established to promote mediation in civil and criminal matters. Montenegro reported on the Law on Training of Judges and Prosecutors and a training centre, which has cooperated for many years with the Council of Europe in implementing training programmes. Training for all judges will be organized in 2009 with experts from the Council of Europe and trainers from Montenegro. The training centre also has partnerships with national and international non-governmental organizations.

11. With regard to combating corruption and organized crime, the delegation explained that Parliament adopted a resolution on combating corruption and organized crime and had expressed its willingness to prepare national anti-corruption legislation. The Government adopted the innovated Action Plan for the Implementation of the Programme for Combating Corruption and Organized Crime for the period 2008-2009, with activities to be implemented in the political system, legislation, police, State administration, public finance, media and economic system. The delegation stated that the report on implementation for the first six months of 2008 showed satisfactory results. The powers of the directorate for anti-corruption initiatives have been strengthened, with key activities including prevention and public campaigns. Analyses of the level of compliance of legislation with international standards have been carried out, as have training programmes for judges, prosecutors and civil servants.

12. Montenegro stated that the fight against corruption and organized crime is defined also in its strategy for the reform of the judiciary. Specialized divisions have been established in two high courts for the crimes of corruption, organized crime, terrorism and war crimes, and the

prosecution of perpetrators of these crimes is conducted by a special unit within the Supreme State Prosecutor's Office. This organizational change since September 2008 has already had positive effects in practice.

13. The delegation stated that Montenegrin courts are working intensively on four war-crime cases. In three cases, quality international legal cooperation has been established. Indictments have been brought in two cases, and the trials will commence in the near future. With regard to the third case, the investigation has been extended to persons who held high-ranking positions in security bodies at the time of the crimes. In the fourth case, the course of events will depend on the efficiency of international legal assistance with the neighbouring country.

14. Montenegro considered that its cooperation with other States is in accordance with international conventions, and stated that the Law on International Legal Assistance in Criminal Matters has been adopted. The Law on Cooperation with the International Criminal Court has been prepared. The delegation noted that Montenegro cooperates fully with the International Criminal Tribunal for the Former Yugoslavia.

15. With regard to the adopted Law on Asylum, the delegation referred to the forthcoming construction of a centre for asylum-seekers, and that, in November 2008, the Government adopted a draft law on foreigners, harmonized with the Schengen agreement.

16. The delegation noted that tens of thousands of displaced persons from Bosnia and Herzegovina and Croatia, as well as internally displaced persons from Kosovo, had found shelter in Montenegro. After independence, Montenegro decided to allow internally displaced persons to temporarily keep their status, and established the Bureau for the Care of Refugees. The delegation stated that activities are conducted to re-examine the status of displaced persons and establish bilateral cooperation with countries of origin in order to resolve this problem. Where circumstances allow, the status of these individuals will be determined in accordance with the provisions of the Law on Asylum, the Law on Citizenship and the Law on Foreign Nationals.

17. Montenegro stated that the extent of pluralism in the media proves that the country has created a favourable setting for freedom of expression. The implementation of media laws has shown that certain legal provisions of the Law on Public Broadcast Services must undergo significant changes in its provisions governing the model of management structures and funding.

18. The delegation stated that the constitutional ban on discrimination on any grounds is elaborated further in recently adopted laws, including the Law on Gender Equality. The Government established the Office for Gender Equality to implement its policy of gender equality, which is fully expressed in its plan for 2008-2012, drafted in cooperation with women's non-governmental organizations.

19. The delegation referred to the continuous growth of GDP in recent years as a result of adequate economic and social policies. The drop of the unemployment rate from more than 30 per cent to 10.6 per cent in the last two years is further testimony to efforts to strengthen the quality of economic and social rights.

20. Montenegro pointed out that it had made a full contribution to preserving harmony among ethnic, confessional and cultural entities in the country. The delegation referred to it as the only State in the territory of former Yugoslavia that succeeded in avoiding war and ethnic conflicts on its territory; this places an even greater responsibility on Montenegro to preserve this heritage. The normative framework is in place for the appointment of the Minority Council, with

six such councils already elected. The Minority Fund, which has been allocated over 400,000 Euros for 2008, supports activities aimed at the preservation and development of specific characteristics of minorities. The Government's Minority Policy Strategy was drafted with the participation of representatives of non-governmental organizations and experts.

21. The delegation provided information that in January 2005, Montenegro adopted the Action Plan for the Decade of Roma Inclusion 2005-2015, with the goal to use projects envisaged to break the vicious circle of poverty and exclusion of Roma from social life. The activities aim at the full integration of Roma into Montenegrin society. The Government adopted a strategy for the improvement of status of the Roma, Ashkali and Egyptian populations in Montenegro 2008-2012, which includes a set of measures and activities in the areas of social care, urban planning and utility services, education, culture and health care.

### **B. Interactive dialogue and responses by the State under review**

22. During the interactive dialogue, statements were made by 30 delegations, a number of which praised Montenegro for the high quality of its presentation and its national report. Many countries noted that, since its emergence as an independent country in 2006, Montenegro has demonstrated its resolve to promote and protect human rights and freedoms, acceded to a range of international human rights treaties, adopted legislative and policy reforms, and established an ombudsman institution for the protection of human rights. A number of countries welcomed the fact that the Montenegro Constitution adopted in 2007 enshrines fundamental rights and freedoms, and commended the Montenegrin authorities for the legislative and policy reforms adopted and its cooperation with international human rights mechanisms.

23. The United Kingdom of Great Britain and Northern Ireland was pleased with the State's response to the report of the Commissioner for Human Rights of the Council of Europe following his visit to Montenegro in June 2008 and the establishment of an interdepartmental committee to look into the recommendations of the resulting report. Further work was needed to improve the implementation of legislation and consolidate effective human rights protection, including regarding the situation of refugees and internally displaced persons, the freedom of the media, children's rights, the rights of persons with disabilities and improvements in relation to the judiciary and police behaviour. The delegation noted the increased efforts made to tackle some concerns raised regarding the situation of the Roma population. It recommended that this level of effort be maintained and that priority be given to implementing the 2007 strategy for improvement of the situation of the Roma population. The delegation stated that a lack of effective investigations and prosecutions for certain crimes, including war crimes, are impediments to the effective implementation of human rights standards. The United Kingdom recommended that Montenegro continue its work in implementing the judicial reform action plan.

24. Luxembourg was pleased to be a partner to Montenegro in the fight against poverty in the most disadvantaged regions in the north-east of the country. It welcomed the striking progress made with the new Constitution of 2007 in terms of judicial independence, abolition of the death penalty and the status of the ombudsman, and welcomed legislative efforts made to combat trafficking in persons. It asked about problems encountered in implementing the anti-trafficking strategy. Luxembourg noted that, despite measures announced by the Government to improve the general situation of the Roma and their social integration, real enjoyment of the basic human rights of this community remains problematic, particularly with regard to the rights to education, health, work and housing. Luxembourg requested information on the budget allocated to the plan

of action for the implementation of the project “Decade for integration of the Roma 2005-2015”. Luxembourg recommended that the authorities develop reliable statistics on the number of children belonging to the Roma, Ashkali and Egyptian minorities in the Montenegrin school system.

25. Albania noted the closer cooperation and climate of trust between Montenegro and Albania. By way of illustration, two joint projects were referred to. Albania noted the huge progress made by Montenegro and encouraged it to continue on this irreversible path, advancing in the protection and promotion of human rights and fundamental freedoms.

26. France noted the adoption of a bill prohibiting discrimination with a view addressing the absence of exhaustive legislation in this regard. It requested further information on the timetable set by the Government for the adoption of this bill. Noting that the Roma community is encountering various forms of discrimination, France asked for further information on the national plan of action for Roma, on the means available under the plan, and the progress already made. It observed that there is still de facto gender-based discrimination, particularly in the labour market, and recommended that Montenegro adopt all necessary measures to fully ensure equality between men and women in all circumstances. It observed that the criminal proceedings instituted against police officers accused of ill-treating witnesses are not faring well and enquired about steps taken to combat impunity to ensure that officials who have committed human rights violations will be prosecuted. While recognizing that Montenegro benefits from a climate favourable to freedom of expression, France noted a number of convictions of journalists for slander and an attack on the editor of a daily newspaper. France therefore recommended that Montenegro adopt all necessary measures to ensure that journalists have the freedom to practise their profession in line with existing international standards.

27. Algeria noted that the national report described the efforts made by the Government to ensure full implementation of the rights of women. While recommending that Montenegro continue its efforts within this framework, it requested further information on the difficulties encountered in practice when implementing the plan of activities for achieving equality between men and women in 2008-2009. It welcomed the inclusion in the Constitution of the concern of the Government to protect the environment. It recommended that Montenegro continue its efforts in this regard, including through the implementation of the Environment Act adopted in July 2008 and that it envisage sharing this experience with concerned countries. Algeria noted the contrast between the optimistic presentation of the situation of the Roma in the national report and the description given by the Human Rights Committee, the United Nations Development Programme (UNDP) and non-governmental organizations, who referred to the worrying situation of the Roma as victims of generalized discrimination and poverty. According to the sources, refugees and displaced Roma are particularly vulnerable to mistreatment. Given the absence of reliable statistics, Algeria recommended the elaboration of a census, in conjunction with UNDP, the Office of the United Nations High Commissioner for Refugees (UNHCR) and civil society on the number of Roma, in particular refugees and displaced Roma. It also recommended an evaluation of access by the various categories of Roma to education, jobs and social protection. Algeria was encouraged by the commitments made by Montenegro, when it was a candidate for the Human Rights Council, including with respect to the establishment of a system of rapid reaction in the event of crisis. Algeria requested further information on the content and framework for such a commitment.

28. Germany welcomed the measures taken to improve the participation of Roma children in primary education and asked for further information on the impact of these measures and on

actions to improve the participation of the Roma community at different educational levels. Although it welcomed some positive results towards improving the observance of international standards in the judiciary, it noted that further efforts were needed to improve their judicial enforcement. With regard to the situation of human rights defenders and journalists, Germany recommended that Montenegro effectively address politically motivated attacks or attacks from organized crime against journalists and other human rights defenders, including by undertaking prompt, thorough and impartial investigations into these crimes and by bringing those responsible to justice.

29. Chile recommended that cooperation be continued with the International Criminal Tribunal for the Former Yugoslavia until the facts of the serious violations of human rights that occurred in the region during the 1990s are clarified. It was concerned about the situation of discrimination affecting the Roma population, particularly women and children. Chile recommended that the measures and relevant programmes described by the delegation be adopted in order to provide opportunities and give access to social services that are conducive to ensuring the integration of these groups in the political and social life of the country. Lastly, Chile asked about the state of progress for the ratification of the Convention on the Rights of Persons with Disabilities.

30. Austria welcomed the recent adoption of a minority policy strategy and a national strategy to improve the overall situation of minorities, in particular the Roma population. However, it noted that not all implementing measures were fully effective and operational and that harmonization of the existing law on minority rights and freedom with the new Constitution was still to be undertaken. Austria recommended that Montenegro keep up its efforts by making the mechanisms for implementing the policy strategies fully operational and it ensure that the definition of minorities used in all laws provides for full protection against any discrimination. Austria welcomed the provisions of the new Constitution representing a general guarantee of the protection of human rights and noted that a general anti-discrimination bill had been drafted but not adopted. Austria recommended continuing the work on the general anti-discrimination bill and that it be adopted as soon as possible. Austria noted that the effectiveness of the judiciary was still a major concern and welcomed the ongoing efforts of the Government to reform the judicial system, emphasizing the importance of impartial judges, lawyers and prosecutors for a functioning judicial system, and recommended that Montenegro conclude all necessary political decisions for setting up an independent and effective appointment system for the judiciary.

31. The Netherlands noted that the Constitution guarantees members of minority groups and other national minority communities rights and freedoms, including the right to be authentically represented in Parliament and local councils where minorities make up a significant proportion of the population, and the right to proportional representation in public services, government and local bodies. The Netherlands recommended that these guarantees provided in the Constitution to effectively protect the rights of national minorities and equal representation of members of national minorities be sufficiently safeguarded in relevant legislation.

32. Greece welcomed the adoption of the Plan of Activities on Achieving of Gender Equality in Montenegro for the period 2008-2012 and recommended that all appropriate measures be taken to ensure implementation of the afore-mentioned Plan of Action. Greece also welcomed the intention to pass a law on protection against domestic violence and recommended that it do so as soon as possible. Notwithstanding the efforts made to deal with the challenge of having a large number of refugees and internally displaced persons on its territory, Greece recommended



that the Government take all necessary measures to ensure the social and economic rights of those persons, including by adopting specific anti-discrimination policies.

33. Italy welcomed the progress made in strengthening the legislative framework for minority protection but noted that implementation was lagging, in particular with regard to the Roma, Ashkali and Egyptian populations. It recommended that Montenegro take all necessary measures to guarantee full access to education to children from those communities and support their social inclusion. Italy welcomed the law on gender equality passed in 2007; however, it noted that discrimination still exists and that domestic violence against women was recently described by the European Commission as widespread. Italy recommended that Montenegro take effective measures to strengthen its domestic legislation concerning domestic violence against women. Montenegro's legislation on freedom of religion was not fully in line with standards enshrined in article 9 of the European Convention on Human Rights and the relevant case law of the European Court of Human Rights. In this respect, Italy recommended that Montenegro take all adequate measures to guarantee the protection and promotion of religious freedom, including by adopting legislation with regard to the recognition of churches and the property rights of religious communities.

34. Sweden welcomed, inter alia, the cooperation of Montenegro with European and international organizations. It expressed concern at the lack of independence and inefficiency of the judicial system and the reported political influence over courts and the police. It asked about specific action or programmes to combat corruption. Sweden recommended that the Government intensify its efforts to combat corruption in order to ensure the independence, effectiveness and quality of the judicial system. Sweden was also concerned by the reports of threats and brutality towards journalists, human rights defenders and members of the opposition. Sweden recommended that the Government take measures as a matter of priority to ensure that freedom of expression and freedom of press are guaranteed in accordance with international human rights standards.

35. Ukraine welcomed the State's cooperation with international human rights mechanisms and noted with satisfaction that Montenegro is a party to most international conventions. Ukraine recommended that Montenegro submit its report to the relevant treaty bodies in due time.

36. Turkey fully supported the steps taken in the area of legislative and policy reforms and welcomed the adoption of the minorities policy strategy, in line with the law on minority rights and freedoms, and requested further information on the provisions of the legislation regarding the rights of minorities to education. Turkey noted that the national report referred to certain proposals from the Ombudsman and submitted to Parliament with a view to addressing the "poor performance of some government bodies and inadequate application of regulations". It requested further information on the extent to which these proposals enjoy political and parliamentary support. Turkey encouraged Montenegro to maintain its efforts to continue reaching a higher level of human rights standards with regard to the issues of freedom of the media, functioning of the judiciary and the situation of refugees.

37. Canada stated that it has been a strong supporter of human rights in Montenegro and pledges similar support in the future. Canada welcomed the State's efforts in strengthening its judiciary, ameliorating the situation of refugees and improving freedom of the press. It stressed the need to protect the most vulnerable minorities and to uphold their rights and freedoms. Canada recommended that the Government adopt a strategy to ameliorate the living conditions of the Roma population, in particular amending legislation to ensure access to basic social

services, condemn discrimination and to register undocumented Roma refugees. Canada also recommended that the Government actively promote awareness of the Roma population in order to combat discrimination. Canada lamented the deaths and attacks on journalists who have spoken out against corruption and political ties to organized crime in Montenegro in recent years. It recommended that Montenegro open an impartial inquiry into the deaths and attacks on journalists and bring those responsible for the attacks to justice. Canada also recommended that the Criminal Code and the Constitution be amended so as to incorporate international standards of freedom of expression, as established in article 19 of the International Covenant on Civil and Political Rights. Canada believed that an inclusive democracy is one which respects the rights of all citizens, regardless of their sexual orientation. Canada recommended that Montenegro include explicit reference to sexual orientation as a protected category against discrimination in the existing laws on labour and employment, as well as in the legislation on hate speech and hate crimes.

38. Slovenia commended the adoption of the Law on Gender Equality and noted that the adoption of a new draft on the prohibition of discrimination in general was pending. Slovenia sought information about the date of adoption. In that respect, Slovenia recommended that the new legislation contain comprehensive anti-discrimination measures, including on sexual orientation and gender identity. While commending that the new labour law specifically prohibits employment discrimination based on gender, Slovenia expressed the hope for the inclusion of a provision prohibiting discrimination based on sexual orientation or gender identity and recommended that legislative provisions be accompanied by awareness-raising measures to counter existing societal stigmatization in this respect. Slovenia welcomed the scheduled adoption of a law on protection against domestic violence and requested further information about the number of safe houses for sheltering victims from domestic violence. Slovenia recommended that Montenegro meaningfully include civil society in the process of the preparation of the planned law on protection against domestic violence. Slovenia acknowledged that a very high number of refugees and displaced persons took refuge in Montenegro. With regard to refugees from neighbouring States, Slovenia recommended clarifying their legal status, with a focus on the prevention of statelessness. With the number of internally displaced persons still high (16,000), Slovenia commended the adoption of the strategy for resolving the issues of refugees and internally displaced persons in 2005 and requested further information about the legal status of internally displaced persons and the policies and measures provided for their access to social benefits, education, employment and unemployment benefits. It also enquired about the State's requirements for technical assistance in this regard.

39. Following the interventions, Montenegro noted that the majority of questions referred to the rights of minorities, with emphasis on the Roma. The delegation regarded poverty, low levels of education, low employment rate, inadequate housing, stereotypes, lack of integration and frequent moving as some of the reasons for their difficult position. Montenegro had responded to this through the Constitution and legislation, and has defined activities and funds for the implementation of a strategy. Montenegro is developing databases on the Roma and had among its priorities a solution to issues of documents, education, preserving heritage, health protection, child protection, improved housing conditions and participation, with an emphasis on gender equality.

40. The delegation stated that, in 2008, the Ministry for Human and Minority Rights Protection had allocated 400,000 Euros for financing projects, apart from other Government funds. Montenegro has established, with representatives from Roma non-governmental organizations, an inter-ministerial commission that monitors the spending of funds and

implementation. The funds are available also to local government and the non-governmental sector, including Roma organizations, with 24 projects selected in 2008. The Government envisions increasing these funds to 600,000 Euros in 2009, and coming near to having 0.2 per cent of the total national budget allocated to the Roma. A foundation implements projects related to the protection of health of the Roma, reproductive health, vaccination and the prevention of communicable diseases.

41. Montenegro reported on measures to integrate Roma in the formal education system, and has provided text books to all Roma children in primary school. Montenegro organized for Roma individuals in university studies to become teachers, and introduced Roma assistants for Roma pre-school and school children, removing language barriers. Special databases are established to follow the achievement on Roma children and the number of children going to school. All Roma attending high school and university are granted scholarships. The Statistics Office collected data on gender, education, health and housing; according to preliminary results, there are about 10,500 Roma in Montenegro. The delegation noted that databases are being established in the employment agency, and the Government gives tax reliefs to employers who employ Roma.

42. The delegation expected the Parliamentary elections in early 2009 to be held according to new electoral legislation under preparation, while Montenegro is trying to find the best way to ensure adequate representation of minorities. Of the 81 members of Parliament, there are five Albanians, eight Bosniaks, one Muslim and two ethnic Croats, indicating that, currently, the number of their representatives is proportionally higher than their share of the population.

43. The delegation noted that, while equality before the law and prohibition of direct and indirect discrimination are regulated by a set of laws, the Government wants to develop and adopt before the end of 2008 an anti-discriminatory general law. The delegation noted that the law gives a clear definition of discrimination, forms and fields of discrimination, including sexual orientation and gender identity. The draft law envisions setting up a body to monitor discrimination on all grounds.

44. In response to several questions on refugees, Montenegro recalled that, in 1999, there were over 130,000 refugees in Montenegro and that at one stage there were 70 collective centres. In 2008, Montenegro has 23,000 refugees, which is 4 per cent of the domestic population. The Government signed the Sarajevo Declaration, which aims to find solutions. In referring to the Government's action plan, Montenegro considered that unfortunately the efforts had not given proper results in tackling local integration and repatriation. Montenegro has started to integrate these individuals socially and economically and has built over 450 apartments, without discrimination on any grounds. Mechanisms of return were encouraged, and in the case of Kosovo opportunities were used in concluding bilateral agreements. The delegation acknowledged that, despite activities, a high number has not returned, including some 2,000 Roma. Montenegro referred to efforts made through international partners to find solutions for these people, and added that many partners have not expressed much interest.

45. The international community often insists that people have a status, but many wonder about what they should expect if they return to their countries of origin and if their economic rights will be protected. Montenegro has adopted a law on citizenship, a law on asylum and is about to adopt a law on foreigners. Internally displaced persons from Kosovo are allowed to keep their current status or settle their status in accordance with these laws and international instruments. In re-examining the status of refugees and internally displaced persons, Montenegro will reregister them. The delegation referred to a number of different categories of internally

displaced persons, and noted activities with international institutions to find funds to settle these issues. Montenegro has to date received six applications by asylum-seekers, and the delegation referred to Montenegro as an attractive destination for asylum-seekers and that it is also seen as a transit country.

46. With regard to questions on gender equality and the protection from domestic violence, the delegation stated that the Constitution guarantees equal rights for men and women, gender equality and equal opportunities. The law on equality and the plan on achieving gender equality have been developed according to international documents, including the Millennium Declaration and resolution 1325 (2000) of the Security Council. The delegation noted laws which deal with labour relations, all of which prohibit discrimination on the grounds of gender. Montenegro reported on activities to reach a level of employment of women equal to that of men, complete with equal pay. Domestic violence is dealt with by the criminal courts. By the end of 2008, a draft law on preventing domestic violence will be adopted.

47. Poland, while recognizing that corruption remained a serious problem in Montenegro, noted with appreciation the measures taken to combat corruption and sought clarifications about the concrete results achieved. Poland recommended that Montenegro continue and further strengthen its anti-corruption policy. Poland commended the Government for measures taken to address the issue of trafficking in women and children and enquired about specific actions and programmes to provide assistance exclusively for the child victims of trafficking, including those for the purposes of sexual exploitation.

48. The Czech Republic thanked Montenegro for the information provided on the training centre for judges and prosecutors and enquired about the training on human rights for the police. The delegation recommended the introduction of specific education programmes and awareness-raising training for all relevant judicial and police personnel aimed specifically at the protection of the human rights of non-governmental organization activists and members of minorities, including national minorities and persons of minority sexual orientation and gender identity. While underlining the importance of measures for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, the Czech Republic recommended the prompt ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the establishment of its effective national preventive mechanisms accordingly. The Czech Republic requested further information about protecting the right to freedom of expression and the safety of journalists and other human rights defenders. It recommended that Montenegro adopt further measures to ensure prompt, thorough and impartial investigation of all politically motivated attacks against journalists and human rights defenders and to ensure punishment of the persons responsible for these attacks.

49. Ireland welcomed the planned ratification of a law on protection against domestic violence. However, it noted reports suggesting that domestic violence is a cause of serious concern and recommended that Montenegro comply with the recommendations of the Human Rights Committee on adopting the necessary policy and legal framework to effectively combat domestic violence. It commended the Government for measures taken so far to address the issue of threats and intimidation of the media and human rights defenders. However, it noted that reports suggest that some journalists and human rights defenders continue to be threatened. Ireland therefore requested information on the specific actions taken to ensure an end to such threats and recommended that the Government put in place adequate measures to ensure respect for freedom of expression, and ensure that cases of alleged violence against journalists and human rights defenders are fully investigated.

50. The Russian Federation noted that the national report reflects the progress achieved by Montenegro, especially within a short time period. It noted that most of the human rights issues that are being addressed at present by the Government are faced by virtually all States. It requested information about the measures taken to ensure the independence of the judiciary. Noting that prison overcrowding is a widespread problem, including in developed societies, it asked how acute this problem was in Montenegro and about any national programme to address it. Regarding the efforts made by the Government to protect the rights of national minorities and the legislative measures taken, the Russian Federation requested further details on the obstacles encountered in this area and on the specific programmes and projects funded by the minorities fund.

51. Slovakia welcomed many positive developments and achievements in Montenegro, in particular that it is a party to the Rome Statute of the International Criminal Court. It highlighted the adoption of the new Constitution in 2007, which stipulates that international treaties have supremacy over national legislation. It underlined the importance of the principle of the rule of law during the process of the building of its institutions and of laying down the principles for their proper functioning. While welcoming the establishment of a national commission to monitor the plan of action and strategy for the fight against corruption, Slovakia recommended that Montenegro take further comprehensive measures to address the issue of corruption, in particular in the police force. It recommended that Montenegro guarantee the full independence of the judiciary in accordance with Basic Principles on the Independence of the Judiciary, laid down by the General Assembly in its resolution 40/146, and establish an independent monitoring mechanism of courts proceedings in order to enhance the independence of the judiciary.

52. Mexico congratulated Montenegro on the adoption of legislation intended to provide comprehensive and innovative protection for the exercise of individual and collective freedoms in the case of minority groups and requested further information about the measures identified to end discriminatory practices and segregation affecting minorities, and what safeguards had been introduced in the field of housing, employment and health. Mexico recommended that, when implementing public policies, consideration should be given to the characteristics, needs and aspirations of the beneficiaries in order to ensure the exercise of their rights, particularly economic, social and cultural rights. Mexico requested further information about, inter alia, the measures taken to eliminate censorship and provide effective protection to journalists. Mexico recommended that Montenegro review its legislation and public policies to safeguard the exercise of freedom of expression and decriminalize the offences of defamation, libel and slander, and adopt measures to protect journalists, including effective investigations into attacks of members of the profession. Mexico appreciated the efforts made to guarantee the rights of persons with disabilities and recommended that serious consideration be given to the ratification of the Convention on the Rights of Persons with Disabilities.

53. Azerbaijan noted with appreciation the Plan of Activities for Achieving Gender Equality in Montenegro for the period 2008-2012, the "Book of Change", the Strategy of Civic Education and Civic Upbringing in primary and secondary schools for the period 2007-2010, the planned construction of the centre for asylum-seekers and other achievements. Noting the difficulties faced in human rights protection, Azerbaijan asked what practical measures were being implemented by the Government for the efficient prevention of human trafficking. It also asked for further information on the legal guarantees being provided for a full integration of national minorities into Montenegrin society.

54. Croatia acknowledged the creation of numerous institutions in the country for the promotion and protection of human rights and commended Montenegro for the self-criticism expressed in the national report, such as the mention of the less privileged status of women compared to men, of registered cases in which journalists received threats or the fact that they have been physically assaulted or that the socio-economic conditions in the country are not favourable for the development of civil society and the activities of non-governmental organizations. It encouraged Montenegro to make further headway towards democratic standards in general. It called upon the State to ratify the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, as well as the Optional Protocol to the Convention against Torture, or in the case of their recent ratification, it called for their proper implementation. It recommended that Montenegro enact new measures against discrimination of the Roma population as well as for combating trafficking in women and children for the purposes of sexual exploitation. It also recommended the incorporation of international human rights treaties in national law. It called on the Montenegrin authorities to provide information on possible new developments regarding several Montenegrin citizens for whom the Dubrovnik Court issued arrest warrants because of their involvement with crimes against civilians linked to the events in the Morinj and Kumbor camps. Croatia noted that there has not been much progress in this regard to date.

55. Japan commended the Government for adopting labour legislation to prohibit gender discrimination and sexual harassment in the workplace. However, Japan noted that the Government of Montenegro has pointed out that there are unresolved issues surrounding women's rights in the workplace, specifically a lack of measures related to maternity leave and support for pregnant women and new mothers. It requested information on what is being done to address this problem. While Japan applauded the policies implemented to combat discrimination against the Roma minority, it also noted that a report by the Human Rights Committee described prejudice and discrimination against the Roma as a continuing and deep-rooted problem and requested that more measures be developed to address the situation. Japan asked for information about any active discussions on legal reform or enforcement of current laws in order to solve this problem. It also applauded the ratification of the code of police ethics and asked for more information about human rights training for the police.

56. Spain requested information about what specific measures had been planned with respect to the recent and alarming cases of harassment, physical aggression, defamation and attempted murders of journalists and human rights activists. Spain also requested information about plans to ratify the European Social Charter. Concerning the Roma population, Spain requested further information about the plans concerning the promotion and protection of this community.

57. Bangladesh welcomed some of the concrete steps taken by the Government since the independence of Montenegro in 2006. However, it expressed its concern at the situation of the Roma community, particularly with regard to access to education and health services. While noting the measures taken to improve their situation, Bangladesh stated that a comprehensive anti-discrimination legislation, as suggested by some treaty bodies, could make a positive difference, and expressed its hope that such a bill would be adopted as soon as possible. Bangladesh noted that the high incidence of trafficking in women and children for the purpose of sexual exploitation was a serious concern. It asked the Government to look into this issue seriously and bring perpetrators to justice. It recommended that Montenegro deal with the issue of trafficking in persons, particularly women and children for sexual exploitation, with the full cooperation of countries in the trafficking chain. It also recommended that effective measures be

taken for the full enjoyment of human rights of the Roma, Ashkali, and Egyptian minorities, especially to guarantee their economic, social and cultural rights.

58. Bosnia and Herzegovina noted that Montenegro is a party to most core human rights treaties and encouraged the Government to continue its efforts towards ratification of any outstanding human rights treaties and asked for more information about the steps taken in this regard, in particular regarding the Government's plan to ratify the Convention on the Rights of Persons with Disabilities and to harmonize the strategy on inclusion of persons with the provisions of the Convention. It noted, *inter alia*, the establishment of the Ministry of Human Rights and Minority Rights, the recent adoption of the law on gender equality, the Plan of Activities for Achieving Gender Equality and welcomed the self-critical approach shown in the report in relation to the lack of *de facto* improvements in the field of distribution of power between men and women. In this regard, the delegation encouraged the Government to continue efforts to eliminate stereotypes and raise social awareness of gender equality and the human rights of women and to continue the implementation of priorities in this field. Montenegro was asked about its planned activities as a new member of the Executive Committee of UNHCR.

59. Norway noted that Montenegro had made significant progress in improving the observance of international human rights law and principles. Norway shared the concerns expressed in the stakeholder report concerning politically motivated journalists attacks, and the general climate of impunity surrounding these assaults. Norway requested information on the measures taken to respond to these allegations and conclude the investigation into reported cases. Norway recommended that Montenegro address effectively and without further delay politically motivated attack against journalists, including by undertaking prompt, thorough and impartial investigations into these crimes and bringing those responsible to justice.

60. China noted that the national report gave a detailed account of the legal framework in Montenegro for the promotion and protection of human rights, as well as achievements and the challenges it faces. Montenegro has set up a fairly complete constitutional legal system, the ministry for the protection of human and minority rights and the institution of an ombudsman. It had made a lot of progress in promoting judicial justice, fighting human trafficking, protecting refugees' rights and interests, improving the standard of living, and so on. It noted that Montenegro made outstanding achievements in the issue of refugees and displaced persons, and that Montenegro is now implementing a strategy conducive to a lasting solution to the issue of refugees and displaced persons. China requested further information on the challenges in implementing this strategy and the areas in which Montenegro needs the help and support of the international community. It recommended that Montenegro call on the international community to provide technical assistance and financial support in line with its needs to implement the strategy.

61. In response to interventions made, Montenegro stated that its Constitution stipulates that everyone has the right to freedom of expression, and that it can be limited only by the rights of others or if the public interest is threatened. The delegation stated that censorship is prohibited and that Montenegro guarantees freedom of information in accordance with international standards. The delegation noted that, when rights to freedom of expression are violated, the courts use emergency procedures to process these cases. The monopoly of information services is prohibited by legislation.

62. With regard to attacks on journalists, the delegation stated that the Government had already submitted the report to the Special Rapporteur on the freedom of expression and opinion.

The delegation stated that, in two cases, it was established that the attacks were not politically motivated, which was confirmed by one of the journalists as well. Montenegro expressed its willingness to protect media freedoms and commitment to investigating fully all the cases of attacks on journalists.

63. Montenegro stated that, by the end of 2008, the Government will submit to Parliament the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto for ratification.

64. The delegation emphasized that judges are not appointed by political bodies but by the Judicial Council, an autonomous body composed mainly of judges. The financial status of judges has significantly improved, and through the Judicial Council the judges may exert influence on the designing of the budget for the work of courts.

65. Montenegro reported that, with regard to cases of prosecution of war criminals in Montenegro, agreements of cooperation have been concluded with the authorities in Croatia and Serbia. This cooperation has resulted in joint work with regard to four war-crime cases. For the case of *Morinj*, charges have been brought against 6 people for war crimes. The trial is scheduled for 26 January 2009. The second case concerns deportation and an ongoing investigation of nine people. The delegation emphasised that the highest-ranking officers from the police from that period of time are included in the indictment, including the Deputies Ministers for the Interior and Public Security at the time. The Minister was not included because he died before the prosecution started. This case is in the stage of investigation, a number of witnesses are being heard, and the delegation expected this investigation to be finished very soon. With regard to the third case, *Kaludjerski Laz*, the charges have been brought proposing that 8 people be detained for war crimes against civilians. Seven are in detention while the eighth person is in hiding, and the delegation expected the hearing to be scheduled. A fourth case, known as *Bukovica*, concerns the procedure against seven people charged with crimes against humanity. Work on this criminal case has been a result of international cooperation and legal assistance. Regarding deportations, the delegation noted that Montenegro is peacefully resolving this issue with the families of the deported individuals and expected the process to end soon and which will include compensation to the families.

## II. CONCLUSIONS AND/OR RECOMMENDATIONS

66. In the course of the interactive dialogue, the following recommendations were made to Montenegro:

1. Consider early ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the establishment of an effective national preventive mechanism accordingly (Czech Republic); ratify the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto as well as the Optional Protocol to the Convention against Torture (Croatia); give serious consideration to the ratification of the Convention on the Rights of Persons with Disabilities (Mexico);
2. Submit its reports to the relevant treaty bodies in due time (Ukraine);
3. Maintain its efforts to continue reaching a higher level of human rights standards with regard to the issues of freedom of the media, functioning of the judiciary and the situation of refugees (Turkey);



4. Continue its efforts to protect the environment, including through implementation of the environment act adopted in July 2008, and envisage sharing this experience with concerned countries (Algeria);
5. Incorporate international human rights treaties into national law (Croatia);
6. Pursue the adoption of a general anti-discrimination act and aim at its adoption as soon as possible (Austria); include in the draft legislation on the prohibition of discrimination comprehensive anti-discrimination measures, including on sexual orientation and gender identity (Slovenia);
7. Adopt all necessary measures to ensure equality between men and women fully and in all circumstances (France); continue its efforts to ensure full implementation of the rights of women (Algeria); take appropriate measures to ensure the implementation of the plan of activities to achieve gender equality in Montenegro for the period 2008-2012 (Greece);
8. Include explicit references to sexual orientation as a protected category against discrimination in the existing laws on labour and employment as well as in the legislation on hate speech and hate crimes (Canada);
9. Enact new measures to combat the trafficking in women and children for the purposes of sexual exploitation (Croatia); deal with the issue of trafficking in persons, particularly women and children for sexual exploitation, with the full cooperation of countries in the trafficking chain (Bangladesh);
10. Comply with the recommendations of the Human Rights Committee with regard to the adoption of the necessary policy and legal framework to combat domestic violence effectively (Ireland); take effective measures to reinforce its domestic legislation concerning domestic violence against women (Italy); involve meaningfully civil society in the process of the preparation of the planned law on protection against domestic violence (Slovenia); pass the intended law on protection against domestic violence as soon as possible (Greece);
11. Introduce specific education programmes and sensitivity trainings for all relevant judiciary and police personnel aimed specifically at the protection of human rights of non-governmental organization activists and members of minorities, including national minorities and persons of minority sexual orientation and gender identity (Czech Republic);
12. Continue its work in implementing the Judicial Reform Action Plan (United Kingdom); conclude all necessary decisions at the appropriate levels for setting up an independent and effective appointment system for the judiciary (Austria); guarantee the full independence of the judiciary in accordance with Basic Principles on the Independence of the Judiciary as laid down by the General Assembly in its resolution 40/146, and establish an independent monitoring mechanism of court proceeding in order to enhance the independence of the judiciary (Slovakia); intensify its efforts to combat corruption in order to ensure the independence, effectiveness and quality of the judicial system (Sweden); continue and further strengthen its anti-corruption policy (Poland); take further

comprehensive measures to address the issue of corruption, in particular in the police force (Slovakia);

13. Continue cooperation with the International Criminal Tribunal for the Former Yugoslavia until the facts of the serious violations of human rights that occurred in the region during the 1990s have been clarified (Chile);
14. Take measures as a matter of priority to ensure that the freedom of expression and freedom of press are guaranteed in accordance with international human rights standards (Sweden); amend the Criminal Code and Constitution so as to incorporate international standards of freedom of expression, as established in article 19 of the International Covenant on Civil and Political Rights (Canada); adopt all necessary measures to ensure that journalists have the freedom to practise their profession in line with existing international standards (France); review its legislation and public policies in order to safeguard the exercise of freedom of expression as well as to decriminalize defamation, libel and slander and take measures to protect journalists, including through the effective investigation of attacks on members of the profession (Mexico); effectively address and investigate attacks against journalists and human rights defenders and bring those responsible to justice (Ireland, Germany, Czech Republic, Norway, Canada); take all adequate measures to guarantee the protection and promotion of religious freedom, including by adopting legislation with regard to the recognition of churches and the property rights of religious communities (Italy);
15. Ensure that the definition of minorities used in all laws provides for full protection against any discrimination (Austria); sufficiently safeguard in relevant legislation the guarantees provided in the Constitution to effectively protect the rights of national minorities and equal representation of members of national minorities (Netherlands); make fully operational the mechanisms for implementing the minority strategy and the national Roma strategy, such as the National Minority Council and a special funding mechanism (Austria); in the implementation of public policies, give consideration to the characteristics, needs and aspirations of the beneficiaries in order to ensure the exercise of their rights, particularly economic, social and cultural rights (Mexico);
16. Maintain its level of efforts to tackle concerns raised regarding the situation of the Roma population in Montenegro, and give priority to implementing the 2007 strategy for the improvement of the position of the Roma population (United Kingdom);
17. Elaborate a census, in conjunction with UNDP, UNHCR and civil society, on the number of Roma, in particular refugees and displaced Roma (Algeria); develop reliable statistics on the number of children belonging to the Roma, Ashkali and Egyptian minorities in the Montenegrin school system (Luxembourg); evaluate the access of the various categories of Roma to education, jobs and social protection (Algeria); within the context of the National Programme of Action, adopt further measures and implement programmes to provide access and opportunities for ensuring better social and political integration of Roma groups in Montenegro (Chile); take all necessary measures to guarantee full access to education for children belonging to Roma communities and support their social

inclusion (Italy); adopt a strategy to ameliorate the living conditions of the Roma population, in particular, amending legislation to ensure access to basic social services, condemn discrimination and to register undocumented Roma refugees (Canada); take effective measures for the full enjoyment of human rights by the Roma, Ashkali and Egyptian minorities, especially to guarantee their economic, social and cultural rights (Bangladesh); actively seek to promote awareness about the Roma population in order to combat discrimination (Canada); enact new measures against the discrimination of the Roma population (Croatia);

18. Take all necessary measures to ensure the social and economic rights of internally displaced persons and refugees, including by adopting specific anti-discrimination policies (Greece);
19. Clarify the legal status of refugees from neighbouring States, with a focus on the prevention of statelessness (Slovenia);
20. Call on the international community to provide technical assistance and financial support in line with the needs of Montenegro to implement the strategy conducive to a lasting solution to refugees and internally displaced persons (China).

67. Montenegro will examine the above recommendations and will respond in due course. The responses of Montenegro will be included in the outcome report to be adopted by the Human Rights Council at its tenth session.

68. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.

**Annex**

**COMPOSITION OF THE DELEGATION**

The delegation of Montenegro was headed by H.E. Mr. Miras Radovic, Minister of Justice, and composed of 15 members:

H.E. Mr. Milomir Mihaljevic, Ambassador of Mission of Montenegro, Deputy Head of delegation;

Sabahudin Delic, Deputy, Ministry for Human and Minority Rights Protection;

Ms. Nada Vukanic, Deputy, Ministry of Interior Affairs and Public Administration;

Mr. Veselin Vuckovic, Deputy, State Prosecutor;

Mr. Zeljko Sofranac, Director, Bureau for Care for Refugees;

Ms. Smiljka Kotlica, Secretary, Ministry of Health, Labour and Social Welfare;

Mr. Nikola Saranovic, Chief of Cabinet, Ministry of Justice;

Mr. Ljulja Djonaj, High Police Commissioner, Department of Planning in the Police Directorate;

Ms. Nada Drobnjak, Director, Office for Gender Equality;

Mr. Rajko Markus, Adviser, Ministry of Culture, Sports and Media;

Mr. Pavle Bojic, First Secretary, Permanent Mission;

Ms. Maja Boskovic, Third Secretary, Ministry of Foreign Affairs;

Ms. Tamara Brajovic, Third Secretary, Ministry of Foreign Affairs;

Ms. Vesna Bulatovic, Interpreter;

Ms. Jelena Pralas, Interpreter.

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