



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2269th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 5 February 2014, at 3 p.m.

Chairperson: Mr. Calí Tzay
later: Mr. Avtonomov (Vice-Chairperson)
later: Mr. Calí Tzay (Chairperson)

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Second and third periodic reports of Montenegro (CERD/C/MNE/2-3; CERD/C/MNE/Q/2-3; HRI/CORE/MNE/2012)

1. *At the invitation of the Chairperson, the delegation of Montenegro took places at the Committee table.*
2. **Mr. Numanović** (Montenegro) said that the report, which covered the period from 2007 to mid-2011, had been prepared in accordance with the Committee's guidelines. Since the presentation of its initial report, Montenegro had made significant progress in consolidating democracy and the rule of law and strengthening the independence and efficiency of the judicial system. It had enhanced its cooperation with international entities, including the European Court of Human Rights. A web portal that gave the public access to the jurisprudence of the national courts and the judgements of the European Court of Human Rights had been built and a system of free legal aid had been set up. In July 2013, the parliament had adopted constitutional amendments related to the composition of the Judicial Council, the appointment of the President of the Supreme Court, the reasons for the dismissal of judges and public prosecutors, and the composition of and method of appointing judges to the Constitutional Court. The Criminal Code had been amended in 2010, 2011 and 2013. Under the most recent amendments to the Code, provision was made for racially aggravated offences. Article 443 of the Criminal Code, which dealt with racial and other forms of discrimination, had been amended to cover abuse of authority, riots and racially motivated violence.
3. One of the biggest steps taken in the fight against racial discrimination had been the adoption in 2010 of the Law on Prohibition of Discrimination and the Law on the Protector of Human Rights and Freedoms. As part of the implementation plan for the Law on Prohibition of Discrimination, seminars and workshops were organized every year for civil servants, judges, prosecutors, local government officials and other persons who dealt with discrimination cases. In 2011, an ambitious media campaign had been conducted to promote anti-discrimination and protect the most vulnerable groups. The establishment of an Anti-Discrimination Council had helped in the fight against discrimination and the implementation of policies in that area. The members of the Council, which was chaired by the Prime Minister, included the Minister of Human and Minority Rights and Minister of Justice and representatives of non-governmental organizations. According to extensive surveys conducted in 2011 and 2013 in order to evaluate the effectiveness of public policy to combat discrimination, the activities conducted in that area, particularly those targeting vulnerable groups, had yielded positive results.
4. In 2013, the Ministry of Human and Minority Rights had proposed to the parliament that amendments should be introduced to the Law on Prohibition of Discrimination to include an article that singled out racial discrimination as a specific form of discrimination, in line with general policy recommendation No. 7 of the European Commission against Racism and Intolerance. Anti-discrimination law had been fleshed out and the powers vested in the Protector of Human Rights and Freedoms to end discrimination had been clarified. Furthermore, amendments had been made to the Law on the Protector of Human Rights and Freedoms in order to make the appointment procedure more transparent and increase the institution's financial independence. The Constitution, the Law on Minority Rights and Freedoms and the international instruments to which Montenegro was a party formed the regulatory framework for the protection of national minority and ethnic groups. In order to increase the number of minorities in public office, the parliament had adopted legislation to amend the law on elections to city councils and the parliament in September

2011, which made provision for affirmative action measures for minorities. According to a number of successive studies on the composition of public service staff, there had been an increase in the level of representation of minorities, which could be put down to the fact that heads of public service bodies were duty-bound during recruitment processes to take candidates' ethnic background into account.

5. In April 2012, the Government had adopted the 2012–2016 Strategy for the Improvement of the Position of the Roma and Egyptian Population in Montenegro, which set out a wide range of measures for the advancement of those minorities in such fields as education, employment, health care and housing. One element of the strategy focused specifically on combating violence against women from those minorities, including awareness-raising campaigns to prevent forced and early marriages. Since June 2013, Montenegro had presided over the 2005–2015 Decade of Roma Inclusion initiative and, in that capacity, had endeavoured to promote the exchange of experience and best practices between participating States. As a result of the armed conflicts and instability experienced in the region since the early 1990s, Montenegro faced the complex challenge of dealing with displaced persons from the former Yugoslavia. In July 2011, the Government had adopted a strategy for 2011–2015 to address the situation of refugees and internally displaced persons in Montenegro on a long-term basis and, in September 2011, it had set up a coordinating committee to monitor the implementation of the strategy. Under the Law on Amendments to the Law on Foreigners, which had entered into force in November 2009, displaced persons living in Montenegro could obtain permanent or temporary residence permits. The deadline for submission of applications, which had initially been set for 7 November 2011, had been extended several times and was now set for 31 December 2014. Montenegro was among the States to participate in a regional housing programme within the framework of the initiative known as the Sarajevo process, which sought to resettle 1,177 displaced families living in substandard conditions and, ultimately, to close the Konik camp and other accommodation facilities for displaced persons. Under the 2011 Law on Free Legal Aid, which had entered into force in 2012, everyone enjoyed access to free legal aid, regardless of their ethnic or racial origin, skin colour, language or any other characteristic. As part of the implementation of that law, legal aid offices had been set up in 15 courts.

6. **Mr. Kemal** (Country Rapporteur) welcomed the timeliness of the report, but noted that it exceeded the suggested page limit for periodic reports by 20 pages and that some of the information provided would have been more appropriately included in the common core document. He asked the delegation to update the information provided in paragraph 18 of the report currently under review, concerning follow-up to the Committee's concluding observations on the State party's initial report (CERD/C/MNE/CO/1), and to provide data on the population broken down by educational, social, economic and employment levels. He would welcome information on the evaluation of the effectiveness of the training and specialization mentioned in paragraph 53 of the report and asked why the Protector of Human Rights and Freedoms had received only seven complaints relating to discrimination since the entry into force of the relevant law in 2010. He asked whether the Protector of Human Rights and Freedoms now had sufficient resources to provide effective assistance to persons who submitted complaints of discrimination and, at the same time, to act as the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He wished to know whether the Protector of Human Rights and Freedoms intended to apply for accreditation to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

7. Noting that the State party's decision not to collect data on the ethnic origin of the population prevented it from assessing the results of policies to stop discrimination against minorities and hindered its capacity to implement the Law on Minority Rights and

Freedoms properly, he encouraged Montenegro to find a way of collecting such data anonymously. He wished to know more about birth registration procedures for refugees and displaced persons, the official number of stateless persons and the extent to which procedures for recognizing the status of displaced persons complied with the Convention relating to the Status of Refugees. Noting that literacy programmes for the Roma and other measures to facilitate their integration had appeared to fall short of expectations, he encouraged the State party to make a greater effort to improve the situation of the Roma and Ashkali, if necessary by requesting technical and financial assistance from the European Union. He would be interested to know how persons of African and Asian descent were treated, whether cases of police brutality were taken seriously by the judicial authorities, and whether steps were taken to improve the administration of justice and combat the resurgence of neo-Nazi groups. Lastly, he would welcome information on the progress of the investigations into war crimes.

8. **Mr. Avtonomov** asked whether Muslims were considered to be a national or a religious community. He would welcome further information on the ethnic composition of the country, particularly on the results of the 2011 census, even if they were only provisional. He asked whether the State party had taken measures to bring about a change in attitudes by challenging the common stereotype that Roma women were not “cut out for work”. Lastly, he asked about the proportion of prisoners with ethnic minority backgrounds.

9. **Mr. Yeung Sik Yuen** asked whether the refugee reception centre was now open and whether a new electoral law had been drafted to make the Law on Minority Rights and Freedoms compatible with the constitutional provisions guaranteeing the right to free and democratic elections.

10. **Mr. Diaconu**, noting with concern that more than 2,500 Roma were stateless, asked whether the State party intended to take measures to formalize their status and provide them with the necessary services, particularly as part of the strategy to improve the situation of the Roma, Ashkalis and Egyptians. He also wished to know whether the Convention had ever been directly referred to by the courts. He pointed out that the definition of segregation included in the Law on Prohibition of Discrimination was not in line with the Convention. Furthermore, the prohibition of organizations that incited racial hatred should be expressly set out in national law, in accordance with article 4 of the Convention. He asked whether persons who considered that they were the victims of discrimination could lodge complaints directly with a judge or whether they had to go through a prosecutor, who decided whether to prosecute or not. Lastly, he wondered whether there were plans to create a national human rights institution that was in compliance with the Paris Principles.

11. **Mr. Bossuyt** asked why the Law on Minority Rights and Freedoms had been deemed contrary to the Constitution and how the drafting of a new electoral law would resolve the issue. He wished to know how many asylum seekers and displaced persons had been admitted into the country in 2013, what were the conditions of their accommodation and care and what were the reasons for their leaving their countries of origin. The delegation should indicate which ethnic group accounted for the majority of displaced persons, what citizens of the former Yugoslav republics had to do in order to obtain Montenegrin nationality and whether it was readily granted to them. The existence of such a large number of grounds of discrimination listed in the Law on Prohibition of Discrimination was a source of confusion. He wished to know whether there were plans to standardize and simplify anti-discrimination law by retaining a more limited, but sufficient, number of grounds of discrimination. He would also welcome further details of the court decision to acquit the persons involved in Operation Eagle’s Flight. Lastly, he requested further information on the country’s official languages, particularly the language used in the courts.

12. **Mr. Kut** asked whether the burden of proof in discrimination cases was carried by the perpetrator or the victim. He requested clarification of the remit and role of the Protector of Human Rights and Freedoms. He would welcome updated information on the number of discrimination cases before the courts and on the number of members of the judiciary and the police who, since 2011, had received training on how to deal with such cases. He asked why the State party continued to make a distinction between “internally displaced persons” and “displaced persons” and would be interested to know more about their legal status. Lastly, he asked whether the strategy to improve the situation of the Roma, Ashkali and Egyptians in Montenegro had produced the desired results and whether steps had been taken to close the Konik refugee camp.

13. **Mr. Murillo Martínez** asked whether the State party kept statistics on the number and ethnic origin of victims of trafficking or other contemporary forms of slavery who passed through Montenegro. He would welcome additional information on the projects and measures subsidized by the Fund for Minorities.

14. **Mr. Lindgren Alves** asked the delegation to explain why, according to the State party report, Muslims were treated as a separate nationality, in the same way as Bosniaks or Albanians. Was it not then possible to belong to both the Bosniak and Muslim national minority in Montenegro? Noting that there was no mention of Kosovans in the report, he asked whether they were included in the category of “Muslims” or “Albanians”. He regretted that the data collected in the 2011 census had not been incorporated into the report even though they appeared in the common core document (HRI/CORE/MNE/2012). He recommended that the State party should correct paragraph 8 of the common core document to read that Montenegro had lost its statehood after the First World War rather than the Second World War. Referring to paragraph 79 of the periodic report, he wondered whether the Appellate Court had shown too much leniency when it quashed the judgement handed down in May 2010 by the Higher Court of Podgorica against six members of the former Yugoslav National Army accused of war crimes against prisoners of war and civilians from the Dubrovnik area.

15. **Mr. Lahiri**, speaking as the former Country Rapporteur for Montenegro, said that the State party had fully implemented the recommendations made by the Committee following its consideration of its initial report in 2009.

16. *Mr. Avtonomov (Vice-Chairperson) took the Chair.*

17. **Mr. Numanović** (Montenegro) said that, indeed, his country had lost its independence in 1918 and not in 1945. Montenegro was a multi-ethnic and multilingual country that attached the utmost importance to diversity and tolerance. After regaining its independence in 2006, Montenegro had opened its borders to all refugees from neighbouring territories and had taken in up to 150,000 refugees and displaced persons, which was a sizeable number for such a small country. Some of those refugees and displaced persons still lived in Montenegro. The Law on the Amendment of the Law on Minority Rights and Freedoms, adopted in 2010, was of great importance as it covered all the other laws on minorities. The Office of the Protector of Human Rights and Freedoms (Ombudsman) did all that it could to live up to European standards and the national authorities were aware that they would have to allocate additional human and technical resources to the Office to ensure that it was able to fulfil its mandate.

18. *Mr. Calí Tzay resumed the Chair.*

19. **Mr. Delić** (Montenegro) said that the most recent census had been conducted in April 2011, but the State party had not had time to analyse all the data in order to include them in the report. However, the results of the census were available on the website of the Statistical Office of Montenegro and could be transmitted to the Committee. The majority of Montenegrins were Orthodox Christians, but there were also Catholics, Muslims and

Buddhists in the country. Religion and mother tongue were very important to Montenegrins and everyone was free to speak his or her own language and to identify with the religious community or national group of his or her choosing. Up until 2010, protection against discrimination had been guaranteed under the Constitution and anti-discrimination laws in the fields of education, employment and health care, for example. However, Montenegro had decided to follow the recommendations of the Committee and in 2011 had enacted the Law on Prohibition of Discrimination. The international human rights instruments ratified by Montenegro took precedence over national law and were well known to Montenegrin judges. The Ombudsman was required to follow up all complaints of discrimination received and to inform the parliament of the action taken. The Office of the Ombudsman had a larger budget than the Ministry of Human Rights and Minorities; the Ombudsman could also, if necessary, call on the services of outside experts, lawyers or psychologists. Replying to Mr. Lindgren Alves's question on the classification of Muslims as a nationality, he said that, in the former Yugoslavia, persons who declared that they were of the Muslim religion were automatically classified as "Muslim" by nationality. That term had been retained when the country had regained its independence. Thirty per cent of the Montenegrin population identified themselves as Muslims, which they took to mean affiliation with a national rather than a religious group.

20. Any political party representing a minority community could hold seats in the parliament if it obtained a 3 per cent share of the vote. Albanians were represented in the parliament by a number of political parties and held 7.41 per cent of the seats. There were currently more deputies from minority communities in the parliament than in 2009, and three government ministers belonged to minorities – a Bosniak, a Muslim and a Croatian. Overall, there were more minorities in public office than before, but the Government of Montenegro recognized that more needed to be done to increase the level of minority representation. It had thus decided to take special measures to increase the share of minorities in public services. It envisaged doing the same for women to ensure that they were fairly represented in public life. Roma women faced dual discrimination, as women and as Roma. They were often forced, by their parents or other family members, to marry at the age of 12 or 13, which was in violation of Montenegrin law, under which the minimum age for marriage was 16. Intensive information campaigns had been conducted in Roma communities and pamphlets on the issue had been distributed to all schools and social service centres. Montenegrin was the official language used in the courts, which did not have the technical capacity to provide interpretation services in minority languages. However, the courts in areas with large ethnic minorities were free to conduct proceedings in the language spoken by the majority of the population. In any case, the Bosnian, Serbian and Croatian languages were very similar to Montenegrin. Under article 29 of the Law on Prohibition of Discrimination, the burden of proof in judicial proceedings related to discrimination was carried by the defendant rather than the injured party.

The meeting rose at 6 p.m.