



REFERENCE:GH/fup-124

8 November 2018

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 7, 9, and 18 of the concluding observations on the report submitted by Montenegro ([CCPR/C/MNE/CO/1](#)), adopted by the Committee at its 112th session in October 2014.

On 26 October 2016, the Committee received the reply of the State party. At its 124th session (8 October-2 November 2018), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Report on follow-up to concluding observations (see [CCPR/C/124/2](#)). I hereby attach a copy of the relevant section of the said report (advance unedited version).

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. Given that the State party accepted the simplified reporting procedure (LOIPR), the additional information requested by the Committee will be included, as appropriate, in the list of issues prior to submission of the second periodic report of the State party.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.

Mauro Politi  
Special Rapporteur for Follow-up to Concluding Observations  
Human Rights Committee

His Excellency Mr. Milorad Scepanovic  
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**Report on follow-up to concluding observations of the Human Rights Committee,  
[CCPR/C/124/2](#):**

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**Assessment of replies<sup>1</sup>**

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- A Reply/action largely satisfactory:** The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.
  - B Reply/action partially satisfactory:** The State party has taken steps towards the implementation of the recommendation, but additional information or action remains necessary.
  - C Reply/action not satisfactory:** A response has been received, but action taken or information provided by the State party is not relevant or does not implement the recommendation.
  - D No cooperation with the Committee:** No follow-up report has been received after the reminder(s).
  - E Information or measures taken are contrary to or reflect rejection of the recommendation**
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*Montenegro*

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Concluding observations:	<a href="#">CCPR/C/MNE/CO/1</a> , 28 October 2014
Follow-up paragraphs:	7, 9 and 18
Follow-up reply:	<a href="#">CCPR/C/MNE/CO/1/Add.1</a> , 26 October 2016
Committee's evaluation:	Additional information required on paragraphs 7[B], 9[C][B] and 18[C]

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**Paragraph 7: National human rights institutions**

**The State party should enhance the capacity of the national human rights institution to implement a broad human rights mandate, and provide it with adequate resources, in line with the Paris Principles.**

**Summary of State party's reply**

A new workspace for the functioning of the national preventive mechanism was provided, cooperation with civil society increased and efforts to strengthen the Ombudsman's mandate continue. The State party stresses that the Ombudsman's office's staff significantly increased and comprised 32 employees by the end of October 2016. Employees undergo continuous training and attend workshops, lectures and judicial visits as part of capacity-building projects.

The State party stresses the Ombudsman's adoption of the guidelines for handling discrimination cases and announces the commencement of a two-year project entitled "Support to the National Institutions in Preventing Discrimination".

In May 2016, the Ombudsman was accredited B status and was granted a total budget of €685,782 for the year.

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<sup>1</sup> The full assessment criteria are available at [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1\\_Global/INT\\_CCPR\\_FGD\\_8108\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/INT_CCPR_FGD_8108_E.pdf).

### Committee's evaluation

[B]: The Committee appreciates the information provided by the State party on the increase in staff numbers at the Ombudsman's office, their designation to thematic fields, its efforts to provide training and education projects, as well as the information received concerning its budget. While the Committee welcomes the accreditation of B status to the Ombudsman, it requires further information on: (a) the measures it envisages to bring the Ombudsman's office completely into line with principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) with the aim of achieving A status; (b) the frequency of training sessions attended by staff; and (c) the impact that the two-year project has had so far.

### Paragraph 9: Accountability for past human rights violations

**The Committee recalls that the State party has an obligation to fully investigate all cases of alleged violations of articles 6 and 7 of the Covenant, and that article 15 permits the State party to employ retroactive criminal statutes to bring those responsible for such violations to trial when the acts were criminal according to the general principles of law recognized by the community of nations at the time when they were committed. The State party should take immediate and effective steps to investigate all unresolved cases of missing persons and bring the perpetrators to justice. It should ensure that the relatives of disappeared persons have access to information about the fate of the victims.**

### Summary of State party's reply

In 2015, the Supreme State Prosecutor's Office adopted a Strategy for War Crimes and established the Special State Prosecutor's Office, which is responsible for investigating and prosecuting war crimes. The Strategy prescribes the steps to be taken in order to fight impunity in this regard, focusing on the identification of events and potential Montenegrin citizens who may have been involved in the commission of war crimes. Four final judgments have been rendered, and another eight cases on war crimes and seven on crimes allegedly committed on the territory of Montenegro or neighbouring States are in their pretrial investigation phase.

The State party explains that the Appellate Court of Montenegro revised the judgment rendered by the High Court in Bijelo Polje in the *Bukovica* case, acquitting the defendant of charges in accordance with article 373 (1) of the Criminal Procedure Code, rather than paragraph (2), since the offence with which the defendant was charged did not constitute a criminal offence. The Court made such a decision on the basis that, in the indictment, the defendant was charged with violations of international law during the period between 1992 and 1995, under article 7 (2) of the Rome Statute. The Court found that, because crimes with blanket provisions, such as article 427 of the Criminal Code on crimes against humanity, require a referral to applicable norms in the indictment, the Rome Statute could not amend the blanket provision as it only entered into force on 1 July 2002 and was thus not applicable at the time. The Court therefore based its decision on article 369 (1) of the Code.

### Committee's evaluation

[C]: The Committee notes the information provided in relation to the *Bukovica* case, and requires additional information on the revised judgment in the *Bukovica* case and clarification whether there is any plan to reopen the case to bring those responsible for violations to trial.

The Committee regrets that the State party has not provided any information with regard to the measures taken to ensure that the relatives of disappeared persons have access to information about the fate of the victims.

The Committee reiterates its recommendation.

[B]: The Committee takes note of the information provided on the Strategy for War Crimes, the establishment of the Special State Prosecutor's Office, which is responsible for investigating and prosecuting war crimes, as well as the information on pending cases or investigations. The Committee requires further information on: (a) the exact steps taken and the progress made by the Strategy for War Crimes in fighting impunity for such crimes; (b) the dates and sentences rendered in the four final judgments mentioned in its report; and (c) the progress made in the eight cases on war crimes and seven cases for crimes allegedly committed on the territory of Montenegro or neighbouring States.

**Paragraph 18: Rights of minorities, birth registration, refugees, internally displaced persons and early marriage**

**The State party should pursue its efforts to facilitate access by displaced persons and refugees to the procedure for obtaining permanent residence status and to ensure equal access to social and economic opportunities in the State party. It should also adopt and implement a sustainable strategy, in consultation with Roma, Ashkali and Egyptians living in camps, to improve their living conditions and access to basic services. The State party is reminded that any relocation must be carried out in a non-discriminatory manner and must comply with international human rights standards, including the rights of individuals concerned to be fully informed and consulted, to an effective remedy, and the provision of adequate alternative housing.**

**Summary of State party's reply**

The Law on Amendments to the Law on Foreigners 2009 aimed to facilitate the procedure to resolve the legal status of refugees and internally displaced persons from the former Yugoslav republics, by recognizing their right to temporary or permanent residence.

In order to permanently resolve the situation of refugees and displaced persons, all persons who failed to exercise their right to submit a request for permanent or temporary residence of up to three years from 1 January 2015 are considered as illegally residing in Montenegro. In the period between the entry into force of the Law on Amendments, that is 7 November 2009, and 1 September 2016, a total of 14,167 requests for permanent residence and temporary stays of up to three years were filed by displaced persons, of which 13,451 have been resolved (1,060 persons received Montenegrin citizenship) and 716 are still being processed.

The State party stresses that it has been addressing the issues of refugees and displaced persons through the adoption of the Strategy for Durable Solutions of the Status of Displaced and Internally Displaced Persons 2011–2015. Action plans for the implementation of activities envisaged by the Strategy have been adopted annually. It is intended to extend the Strategy until the end of 2018 to allow for the termination of certain projects. Such projects are mainly funded by donors (namely, the European Union and other countries) and focus on the housing needs of refugees and displaced persons, especially the Konik Camp, as well as the construction of housing units.

The Ministry of Labour and Social Welfare is responsible for the implementation of the Regional Housing Programme, the aim of which is to provide housing solutions for 74,000 refugees and internally displaced persons. The National Housing Programme for Montenegro envisages the provision of funds for 907 housing units for 6,063 persons, comprising the most vulnerable categories of refugees. Donors have also approved funds for the construction of a multipurpose centre (a project office and a place to work with children and youth) and additional residential units in Konik to finalize the subproject enabling the closure of Konik Camp II.

**Committee's evaluation**

[C]: The Committee appreciates the information provided on the steps taken to facilitate the procedure to resolve the legal status of refugees and internally displaced persons from the former Yugoslav republics, the specific number of persons granted citizenship and the requests resolved and pending, as well as the completed and ongoing projects to provide

housing for refugees and internally displaced persons. However, it notes with concern that no information was provided on consultations with Roma, Ashkali and Egyptians living in camps for a sustainable strategy and that all persons who failed to exercise their right to submit a request for permanent or temporary residence of up to three years from 1 January 2015 are now considered to be residing illegally in Montenegro. The State party provided no information on the guarantees or the procedures in place to ensure that relocations were carried out in a non-discriminatory manner in compliance with international human rights standards, including the rights to be fully informed and consulted, to an effective remedy and to adequate alternative housing, as recommended by the Committee.

The Committee requires information on: (a) the measures taken to ensure that those who have obtained an identity card for foreigners will enjoy the full range of rights without discrimination with regard to their permanent but foreign status; (b) the measures taken to facilitate access by displaced persons and refugees to the procedure for obtaining permanent residence status, including in cases in which they did not apply during the three-year period specified by the State party and are now considered to be illegally residing in Montenegro; (c) the measures taken to improve the living standards of the most vulnerable refugees as well as those of Roma, Ashkali and Egyptians living in camps by engaging in consultations with them; (d) any guarantees or procedures in place to ensure the compliance of relocations with international human rights standards; and (e) how the National Housing Programme for Montenegro ensures a non-discriminatory determination of a refugee's vulnerability when determining their access to adequate housing.

**Recommended action:** A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested will be included, as appropriate, in the list of issues prior to submission of the second periodic report of Montenegro.

**Next periodic report:** 31 October 2020.

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