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**COMPILATION PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER  
FOR HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (B) OF THE  
ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1**

**Montenegro<sup>1</sup>**

This report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The periodicity of the review for the first cycle being four years, most documents are dated after 1 January 2004. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

## I. BACKGROUND AND FRAMEWORK

### A. Scope of international obligations<sup>2</sup>

<i>Core universal human rights treaties<sup>3</sup></i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	23 Oct 2006	No	Individual complaints (art. 14): Yes
ICESCR	23 Oct 2006	No	-
ICCPR	23 Oct 2006	No	Inter-State complaints (art. 41): No
ICCPR-OP 1	23 Oct 2006	No	-
ICCPR-OP 2	23 Oct 2006	No	-
CEDAW	23 Oct 2006	No	-
OP-CEDAW	23 Oct 2006	No	Inquiry procedure (arts. 8 and 9): Yes
CAT	23 Oct 2006	No	Inter-State complaints (art. 21): Yes Individual complaints (art. 22): Yes Inquiry procedure (art. 20): Yes
CRC	23 Oct 2006	No	-
OP-CRC-AC	2 May 2007	Declaration (art. 3 (2))	-
OP-CRC-SC	23 Oct 2006	No	-
<i>Core treaties to which Montenegro is not a party: OP-CAT (signature only, 2006), ICRMW (signature only, 2006), CPD and CPD-OP (signature only, 2007) CED (signature only, 2007).</i>			
<i>Other main relevant international instruments</i>		<i>Ratification, accession or succession</i>	
Convention on the Prevention and Punishment of the Crime of Genocide		Yes	
Rome Statute of the International Criminal Court		Yes	
Palermo Protocol <sup>4</sup>		Yes	
Refugees and stateless persons <sup>5</sup>		Yes, except 1961 Convention on the Reduction of Statelessness	
Geneva Conventions of 12 August 1949 and Additional Protocols thereto <sup>6</sup>		Yes, except AP III	
ILO fundamental conventions <sup>7</sup>		Yes	
UNESCO Convention against Discrimination in Education		Yes	

### B. Institutional and human rights infrastructure

1. In 2004, the Human Rights Committee (HR Committee) and in 2005, the Committee on Economic, Social and Cultural Rights (CESCR) welcomed the establishment of an Ombudsperson institution in the Republic of Montenegro.<sup>8</sup>

## II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

### A. Cooperation with human rights mechanisms

#### 1. Cooperation with treaty bodies

<i>Treaty body<sup>9</sup></i>	<i>Latest report considered</i>	<i>Latest concluding observations<sup>10</sup></i>	<i>Follow-up response</i>	<i>Reporting status<sup>11</sup></i>
CERD	1997 <sup>12</sup>	Mar. 1998 <sup>13</sup>	-	Initial report of Montenegro was submitted on 6 December 2007
CESCR	2003 <sup>14</sup>	May 2005 <sup>15</sup>	-	Initial report of Montenegro overdue since 30 June 2008

<i>Treaty body</i> <sup>9</sup>	<i>Latest report considered</i>	<i>Latest concluding observations</i> <sup>10</sup>	<i>Follow-up response</i>	<i>Reporting status</i> <sup>11</sup>
HR Committee	2003 <sup>16</sup>	July 2004 <sup>17</sup>	Received in July 2005 <sup>18</sup>	Initial report of Montenegro overdue since 23 October 2007
CEDAW	1993 <sup>19</sup>	Feb. 1994 <sup>20</sup>	-	Initial report of Montenegro overdue since 22 November 2007 <sup>21</sup>
CAT	1998 <sup>22</sup>	Nov. 1998 <sup>23</sup>	-	Initial report of Montenegro was received on 3 May 2006
CRC	1994 <sup>24</sup>	Jan. 1996 <sup>25</sup>	-	Initial report of Montenegro due on 23 November 2008
OP-CRC-AC	-	-	-	Initial report of Montenegro due on 2 June 2009
OP-CRC-SC	-	-	-	Initial report of Montenegro due on 23 November 2008

2. The Committee against Torture (CAT) established a confidential inquiry under article 20 of the Convention against Torture and visited [Serbia and] Montenegro from 8 to 19 July 2002 and issued its findings in its annual report in 2004.<sup>26</sup> CAT found violations of the Convention in six individual cases concerning Serbia and Montenegro;<sup>27</sup> as part of its follow-up procedure CAT has written to both the Republics requesting which State would take responsibility for three of those cases.<sup>28</sup> To date only Montenegro has responded, noting that the cases fall under the responsibility of Serbia.<sup>29</sup> Montenegro replied to case No. 161/2000, *Hajrizi Dzemajl et al. v. Yugoslavia*, which concerned the burning and destruction of houses of Roma by non-Roma in April 1995. In the decision adopted on this case on 21 November 2002, CAT found violations of articles 16 (1), 12 and 13 of the Convention and recommended that a proper investigation into the facts be conducted, that the persons responsible for those acts be prosecuted and punished and that the complainants be provided with redress, including fair and adequate compensation. The Rapporteur of CAT wrote to the State party expressing satisfaction with the State party's intention to provide compensation but recalled that, in order to fully implement the decision, the State party was also requested to prosecute the persons responsible and asked to receive further information in this regard. On 6 May 2004, the State party responded that it had provided compensation to the complainants and therefore all obligations arising from the Committee's decision had been fulfilled by the Government of Montenegro.<sup>30</sup>

3. The HR Committee in 2004 requested Serbia and Montenegro to forward information within 12 months on the implementation of the Committee's recommendations regarding cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) (para. 11); torture and ill-treatment (para. 14); and internally displaced persons (para. 18).<sup>31</sup> In July 2005, the State provided information on the issues raised by the Committee, including by providing further details of the Government of Montenegro's policy on IDPs.<sup>32</sup>

## 2. Cooperation with special procedures

<i>Standing invitation issued</i>	Yes
<i>Latest visits or mission reports</i>	Special Rapporteur on freedom of expression or opinion, Mission to the State Union of Serbia and Montenegro, 10-20 October 2004. <sup>33</sup> Representative of the Secretary-General on internally displaced persons, Mission to Serbia and Montenegro, 16-24 June 2005. <sup>34</sup>
<i>Visits agreed upon in principle</i>	None
<i>Visits requested and not yet agreed upon</i>	None

<i>Facilitation/cooperation during missions</i>	<p>The Special Rapporteur on freedom of expression or opinion thanked the State Union of Serbia and Montenegro for its openness and for guaranteeing unhindered access to any location; he underlined that he was in a position to carry out his mission in an effective way, without any prejudice.<sup>35</sup></p> <p>The Representative of the Secretary-General on internally displaced persons expressed his gratitude for and recognition of the full cooperation of all the authorities in all regions of Serbia and Montenegro.<sup>36</sup></p>
<i>Follow-up to visits</i>	None
<i>Responses to letters of allegations and urgent appeals</i>	<p>A total of three communications were sent to the Government of Montenegro between 3 June 2006 and 30 June 2008. In addition to communications sent for particular groups, three men were covered by these communications. Between 3 June 2006 and 30 June 2008, the Government replied to one communication, representing replies to 33 per cent of communications sent.</p> <p>In addition, a total of three communications were sent to the Government of the State Union of Serbia and Montenegro relating to allegations which took place on the territory of the Republic of Montenegro between 1 July 2004 and 30 June 2006. In addition to communications sent for particular groups, six individuals, including one woman, were covered by these communications. Between 1 July 2004 and 30 June 2006, the Government of the State Union of Serbia and Montenegro responded to three communications relating to events which took place on the territory of the Republic of Montenegro, which represents replies to 100 per cent of communications.</p>
<i>Responses to questionnaires on thematic issues<sup>37</sup></i>	<p>The State Union of Serbia and Montenegro responded to 1 of the 12 questionnaires sent by special procedures mandate-holders<sup>38</sup> between 1 July 2004 and 30 June 2008, within the deadlines.<sup>39</sup></p> <p>Montenegro responded to none of the 12 questionnaires sent by special procedures mandate-holders<sup>40</sup> between 1 July 2004 and 30 June 2008, within the deadlines.</p>

### 3. Cooperation with the Office of the High Commissioner for Human Rights

4. The OHCHR field presence in Montenegro was closed in 2005.<sup>41</sup> In 2008, Montenegro made for the first time a financial contribution to the work of the Office.<sup>42</sup>

#### B. Implementation of international human rights obligations

##### 1. Equality and non-discrimination

5. In 2005, CESCR was concerned that there was no systematic and comprehensive anti-discrimination legislation at the level of the Republics or the then State Union of Serbia and Montenegro.<sup>43</sup> This concern was also raised by the HR Committee in 2004.<sup>44</sup> CESCR called on the State to adopt specific anti-discrimination framework legislation and to increase awareness about international anti-discrimination standards among judges and other members of the legal profession. It was recommended that the State ensure wide participation of the civil society in the adoption of such legislation.<sup>45</sup>

6. In 2004, the HR Committee expressed concern that the practical enjoyment by members of ethnic, religious and linguistic minorities of their rights under the Covenant on Civil and Political Rights still required improvement.<sup>46</sup> The Committee also expressed concern that widespread discrimination against the Roma persists with regard to all areas of life, particularly regarding the deplorable social and economic situation of this minority, including access to health services, social

assistance, education and employment which has a negative impact on the full enjoyment of their rights under the Covenant. The Committee recommended that the State take all necessary measures to ensure the practical enjoyment by the Roma of their rights under the Covenant, by urgently implementing all strategies and plans to address discrimination and the serious social situation of the Roma.<sup>47</sup> CESCR further recommended adequate participation of Roma representatives in the implementation of the plans of action adopted or envisaged by both Republics with regard to non-discrimination, gender equality, employment, social protection, housing, health and education of Roma, and to allocate sufficient funds to these and other relevant programmes.<sup>48</sup>

7. The HR Committee further recommended that the State establish mechanisms to receive complaints from victims and ensure investigation and prosecution of cases of racial violence and incitement to racial hatred, and ensure access to adequate remedies and compensation.<sup>49</sup> CESCR also urged the State to take all necessary measures to raise awareness of the dimensions of ethnic discrimination and intolerance among local authorities and the general public.<sup>50</sup>

## **2. Right to life, liberty and security of the person**

8. Following the declaration of independence of Montenegro in 2006, the Working Group on Enforced or Involuntary Disappearances decided to address to the newly formed Government of Montenegro 15 outstanding cases of disappearances that had reportedly occurred between 1992 and 2000 on the territory of Montenegro, but had been listed under Serbia and Montenegro.<sup>51</sup> Most of the cases occurred in 1999 and 2000 and include the disappearance of a group of men who were allegedly detained in 1999 while travelling by bus through Montenegro and the disappearance of the Chairperson of the Kosovo-Albanian Women's League. Another case which occurred in 1992 concerned a man who was allegedly arrested by officers from the police headquarters of Bar, and was last seen entering a police car and being driven away to an unknown location.<sup>52</sup> In addition, it was alleged that the Montenegrin authorities had failed to ensure reparation to the victims and families of victims of disappearances that occurred in 1992, and failed to ensure the prompt initiation of an independent and impartial investigation or to bring to justice those responsible for the alleged disappearance of 83 Bosnian Muslim civilians.<sup>53</sup> Other allegations include delay in three civil cases for reparation, and that the initiation of criminal investigations had been used as a pretext to delay the progress in proceedings for reparations in civil courts; no response was received from the Government regarding these allegations.<sup>54</sup>

9. In 2002, CAT, in findings under its inquiry procedure concerning Serbia and Montenegro provided for under article 20 of the Convention, noted that none of the Committee's interlocutors described the use of torture in the Republic of Montenegro as systematic, either in the past or at the present time.<sup>55</sup> CAT also reported, inter alia, that victims who file complaints very often find themselves being prosecuted for obstructing a law enforcement officer in the performance of his duty, and investigating judges do not inform prosecutors of allegations of torture or ill-treatment made by detainees.<sup>56</sup> CAT recommended, inter alia, that measures should be taken to ensure that the police internal oversight mechanisms function promptly and are independent and effective; an independent complaints authority with wide powers of oversight and intervention should be created within the police force.<sup>57</sup> In its replies to the Committee on 13 October 2003, the State reported on the steps taken,<sup>58</sup> including that in the Republic of Montenegro a new draft Police Law had been submitted to Parliament and a Code of Conduct was being drawn up. The law promoted a new concept of public administration and its relationship with the public that implies full transparency, openness and cooperation.<sup>59</sup>

10. In 2004, the Special Rapporteur on torture sent a communication relating to an individual who tried to intervene in an altercation with three policemen, and who was thereafter allegedly

ill-treated by the police on his way to the police station and in the police station itself.<sup>60</sup> In 2004, the HR Committee raised concern about continued allegations of ill-treatment of persons by law enforcement officials and noted that insufficient concrete steps had been taken to investigate such cases, punish those responsible and provide compensation to victims. The Committee recommended that the State should take firm measures to eradicate all forms of ill-treatment by law enforcement officials, and to ensure prompt, thorough, independent and impartial investigations into all allegations of torture and ill-treatment, prosecute and punish perpetrators, and provide effective remedies to the victims.<sup>61</sup>

11. In 2004, the HR Committee expressed concern at reports of high rates of domestic violence and recommended that the State should adopt the necessary policy and legal framework to effectively combat domestic violence. It also recommended in particular that the State establish crisis-centre hotlines and victim support centres equipped with medical, psychological and legal support, including shelters for battered spouses and children. In order to raise public awareness, the State should disseminate information on this issue through the media.<sup>62</sup> In 2005, CESCR made similar recommendations and urged the State to take effective measures to ensure the immediate protection and long-term rehabilitation of abused children<sup>63</sup> and also requested the State to provide assistance to victims of physical and sexual violence and other traumatizing experience related to armed conflict, in particular women and children.<sup>64</sup>

12. In 2004, while welcoming the efforts made and the measures taken to address the situation regarding trafficking in women and children, including the establishment of national teams to combat trafficking in Montenegro, as well as the introduction of a criminal offence in the criminal codes of Montenegro, concerns remained for the HR Committee about the definition of trafficking, the lack of effective witness protection mechanisms and the apparent lack of awareness about trafficking in women and children on the part of law enforcement officials, prosecutors and judges.<sup>65</sup> In 2005, CESCR also expressed its deep concern about the high numbers of trafficked women and children including for purposes of sexual exploitation, as well as about reported incidents of police involvement. The Committee urged the State to prosecute and punish perpetrators and corrupted law enforcement officials involved in trafficking, to provide medical, psychological and legal support to victims and to raise awareness about the dimension of the crime among law enforcement officials.<sup>66</sup>

13. In 2005, the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children and the Special Rapporteur on violence against women, its causes and consequences sent a communication concerning a Moldovan woman, who had allegedly been trafficked into Montenegro and was forcibly made to work as a prostitute for over three years. It was reported that she suffered horrendous physical and sexual abuse resulting in several injuries. It was also alleged that Montenegrin politicians, judges, police and civil servants had tortured and raped her, along with other East European women, also trafficked and held as sex slaves. It was reported that a criminal investigation had been opened into the case and that four people, including the Deputy State Prosecutor, were arrested on suspicion of being involved in trafficking. The case was dropped, ostensibly for lack of evidence. It was reported that a team of experts from the Organization of Security and Cooperation in Europe (OSCE) and from the Council of Europe visited Montenegro to review the investigations on the case and presented to the authorities a report about the shortcomings of the investigations by the police. The Government of Montenegro set up a commission to independently investigate the actions of the police and the judicial authorities. Reportedly, the OSCE was dissatisfied with the findings of the Commission.<sup>67</sup> In its response, the Government provided information on the investigation that had taken place, the charges filed, and the dismissal of charges due to insufficient evidence.<sup>68</sup> The Government also provided information that following an Independent Experts' report, which concluded that the proceedings should be

reinstated, the Deputy State Prosecutor and another Prosecutor had been dismissed and efforts had been undertaken to gather new evidence. The Government was unable to establish contact with the victim, who had moved to Canada, but noted that it was possible to reopen the case.<sup>69</sup>

### **3. Administration of justice and the rule of law**

14. In 2002, CAT recommended that the State should fully ensure the independence of the judiciary and the procuracy.<sup>70</sup>

15. The Special Rapporteur on freedom of opinion and expression noted at the time of his visit in 2004, that the office of the Ombudsperson in Montenegro which commenced its activities in December 2003 had received approximately 500 cases, 200 of which had been solved. He highlighted that 67 per cent of the complaints related to Court cases, in particular about delays concerning the conclusion of judicial proceedings.<sup>71</sup>

16. From 1996 to 2004, four treaty bodies recommended cooperation by the State with the International Criminal Tribunal for the Former Yugoslavia (ICTY), in order to ensure that all persons suspected of grave human rights violations, are brought to trial.<sup>72</sup> In 2004, the HR Committee expressed concern at the persistence of impunity for serious human rights violations and regretted the scarcity of serious investigations leading to prosecutions and sentences commensurate with the gravity of the crimes committed. The Committee referred to the State's obligation to investigate fully all cases of alleged violations of human rights and to bring to trial those persons who are suspected of involvement in such violations and to ensure that victims and their families receive adequate compensation for violations. Persons alleged to have committed serious violations should be suspended from official duties during the investigation of allegations and, if found guilty, dismissed from public service in addition to any other punishment.<sup>73</sup>

### **4. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

17. In 2004, the HR Committee raised concern at the high number of proceedings initiated against journalists in particular as a result of complaints filed by political personalities who felt that they had been subject to defamation.<sup>74</sup> The Special Rapporteur on freedom of expression and opinion noted the adoption of a defamation law which excluded prison sentences in favour of the imposition of fines, but commented that defamation unfortunately remained part of criminal law and that fines could be high.<sup>75</sup> The HR Committee recommended that the State, in its application of the law on criminal defamation, should take into consideration on the one hand the principle that the limits for acceptable criticism for public figures are wider than for private individuals, and on the other hand the provisions of article 19 (3), which do not allow restrictions to freedom of expression for political purposes.<sup>76</sup>

18. The Special Rapporteur on freedom of expression and opinion, following his visit to the State Union of Serbia Montenegro in 2004, referred to the killing in spring 2004 of Mr. Jovanovic, editor-in-chief of the daily newspaper *Dan*, and highlighted that authorities were still investigating this killing. He also reported that journalists, in several cases, had been expelled from press conferences without reason, and that a number of them had no access to information that other media seemed to obtain easily. In this connection, it was felt that the Parliament should adopt a law on the supervision of police and secret services in order to make sure that they respect the law and, in particular, that access to information held by these bodies is impartially guaranteed.<sup>77</sup> The Special Rapporteur sent a communication in 2004 regarding the situation of five journalists, including one foreigner: it was reported that criminal charges were brought against the foreign journalist, for

“harming the image of Montenegro” through an article that appeared in a British newspaper; he was actively sought by the police. The other four were arrested, being accused of “harming the image of Montenegro” with a “fabricated report” on child trafficking in the region. It was alleged that if found guilty, they could have faced up to three years in prison.<sup>78</sup>

19. On 11 May 2007, the Special Representative of the Secretary-General on human rights defenders sent a communication to the Government of Montenegro concerning a member of the Council for Civic Control of the Police in Montenegro and human rights researcher, who was involved in investigating allegations of police torture during the “Eagles Fight” anti-terrorism campaign in the country. It was alleged that he had received threatening calls, stating inter alia that he faced imminent assassination. He was provided with police protection. However, it was alleged that no investigation had been initiated and that he had not received any information regarding the measures taken to identify the author of the threats. Grave concern was expressed for the physical and psychological integrity of the individual and other members of the Council for Civic Control of the Police in Montenegro, and that the authorities had reportedly failed to take action in this case because of his human rights work.<sup>79</sup> The Government replied indicating that the individual had not wished to file a written complaint, which was a precondition for launching an official investigation; later, following the filing of an official complaint, the police undertook a series of actions, including in relation to allegations about the involvement of specific police officers.<sup>80</sup> The Special Representative remained concerned for situations in which a human rights defender comes under direct threat and police involvement is suspected and hoped that the Government would continue its efforts to conclude this investigation.<sup>81</sup>

20. A 2005 UNDP report noted that the participation of women in ministerial positions in the Government of the Republic of Montenegro was 12.5 per cent, while the participation of women in sub-ministerial positions was 30.95 per cent.<sup>82</sup>

## **5. Right to work and to just and favourable conditions of work**

21. In 2005, CESCR recommended that the State remove from its legislation any unjustified registration requirements and grounds for dissolving trade unions; it requested that the State limit the scope of its definition of “essential services” and ensure that the exercise of the right to strike does not lead to the suspension of social security rights.<sup>83</sup>

## **6. Right to social security and to an adequate standard of living**

22. CESCR in 2005 noted with concern that 12.2 per cent of the Montenegrin population lived below the poverty line.<sup>84</sup> A 2007 World Bank report mentioned that in Serbia and Montenegro, 70 per cent of disabled people were poor and only 13 per cent have access to employment.<sup>85</sup> CESCR also expressed its concern about the high unemployment rate in Serbia and Montenegro especially among women, persons with disabilities, Roma and internally displaced persons.<sup>86</sup> CESCR recommended the increase of unemployment benefit coverage so as to ensure an adequate standard of living for unemployed workers and their families.<sup>87</sup> Additionally, the Committee recommended the full integration of economic, social and cultural rights into the Poverty Reduction Strategy and that the State ensure and allocate sufficient funds for the implementation of the Strategy; and that, in applying this Strategy, special measures should be taken to alleviate the extent of poverty among older persons and among Roma.<sup>88</sup> The Committee further urged the State to ensure, by legalizing and improving the infrastructure of existing settlements or through social housing programmes, that Roma have access to adequate and affordable housing with legal security of tenure, safe drinking water, adequate sanitation, electricity and other essential services;<sup>89</sup> it also urged the State to ensure that adequate alternative housing is provided whenever forced evictions take place.<sup>90</sup>



23. In 1996, CRC recommended that the State accord greater attention and consideration to the development of a strong primary health-care system, which would accord due attention to developing a culture of nutrition, hygiene and sanitation education, transmitting health skills to parents, and enhancing participatory approaches to the distribution and use of resources throughout the health-care system.<sup>91</sup> Additionally, CESCR in 2005 recommended that the State should ensure universal access to affordable primary health care, i.e. by increasing the number of family doctors and community health centres, and include all members of society, including refugees, internally displaced persons and Roma, in the compulsory health insurance scheme.<sup>92</sup> The State should intensify its anti-smoking and healthy diet campaigns with a view to combating the causes of cardiovascular diseases.<sup>93</sup>

### **7. Right to education and to participate in the cultural life of the community**

24. In 2005, CESCR urged the State to take effective measures to promote school attendance by Roma children and children belonging to other minority groups, as well as refugee and internally displaced children, by increasing subsidies, scholarships and the number of teachers instructing in minority languages.<sup>94</sup> A 2004 UNDP report noted that 30 per cent of Roma children have never attended primary school in Serbia and Montenegro.<sup>95</sup> A 2005 report underlined that access to education for members of the Roma population, refugees and IDPs was of particular concern, noting that there was no detailed data on the educational standards of Roma and other minorities, except information on the children of refugees and internally displaced persons. It was noted that the Roma population, as part of the internally displaced population, was facing considerable difficulties. It was also noted that according to estimates, the Roma population makes up the main part of the total of 1,200 primary-school-age children who do not go to school and that data about Roma enrolment in secondary schools and universities is not available.<sup>96</sup>

25. In 2005, CESCR also urged the State to eradicate ethnically discriminatory attitudes by taking effective measures in the fields of teaching, education, culture and information, in order to promote understanding, tolerance and mutual respect among all ethnic groups living on its territory.<sup>97</sup>

### **8. Migrants, refugees, asylum-seekers and internally displaced persons**

26. In a 2007 report, UNHCR noted that durable solutions for refugees from Bosnia and Herzegovina, Kosovo and Croatia residing in Montenegro would be identified by pursuing voluntary repatriation, including clarifying their legal status with a focus on the prevention of statelessness.<sup>98</sup> A 2006 UNHCR report noted that with the adoption of a new asylum law in May 2006 UNHCR is granted access at all stages of the procedure.<sup>99</sup> It was also noted that the number of displaced from Kosovo is still high with 16,000 in Montenegro.<sup>100</sup> In June 2005, following a visit to the State Union of Serbia Montenegro the Representative of the Secretary-General on the human rights of internally displaced persons noted that there was no specific law on IDPs.<sup>101</sup> He commended the adoption in April 2005 of the Strategy for Resolving the Issues of Refugees and IDPs, which explicitly acknowledged integration as one form of durable solution besides return and reintegration,<sup>102</sup> and noted the Montenegrin Commissariat for Displaced Persons which was responsible for organizing assistance, housing and return efforts for refugees and IDPs.<sup>103</sup> He noted that it was nonetheless unclear to what extent integration and resettlement were options for IDPs.<sup>104</sup>

27. The Representative of the Secretary-General on internally displaced persons explained that IDPs in Montenegro were caught between two different administrative logics: that of the Montenegrin authorities who considered them as Serbian nationals, and that of the Serbian

authorities, who did not consider them as their particular responsibility since they were not resident in the Republic of Serbia. The Representative noted that this was particularly worrying since the laws for citizenship in Montenegro changed in 2001, after IDPs had fled there from Kosovo, with the result that they were almost ineligible for citizenship.<sup>105</sup>

28. The Representative noted that the discrimination against non-Montenegrin citizens made it difficult for IDPs to integrate in the formal economy, as IDPs only received temporary residency cards; in addition, as temporary residents IDPs were subjected to higher tax obligations and do not have access to services other than basic health and basic education; the Representative stated that the combined effect of these measures on IDPs was discriminatory.<sup>106</sup> Finally, he noted that Roma, Ashkali and Egyptian IDPs were subjected to the same administrative obstacles as other IDPs from Kosovo, but with even less support and help to overcome these obstacles, and were suffering from appalling living conditions in unofficial collective centres. The Representative noted that it was regrettable that the National Strategy for Refugees and IDPs of April 2005 did not contain specific measures to address the situation of these minorities.<sup>107</sup> Similar concerns were expressed by CESCR in 2005<sup>108</sup> and by the HR Committee in 2004.<sup>109</sup> Moreover, the HR Committee recommended that internally displaced persons should be afforded full and effective access to social services, educational facilities, unemployment assistance, adequate housing and personal documents, in accordance with the principle of non-discrimination.<sup>110</sup>

### **III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS**

29. In 2005, CESCR noted with appreciation the considerable legislative and policy reforms which had been adopted in particular in the Republic of Montenegro, with a view to achieving the enjoyment of economic, social and cultural rights by all, including by disadvantaged and marginalized persons.<sup>111</sup>

### **IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS**

#### **Specific recommendations for follow-up**

30. The Representative of the Secretary-General on the human rights of internally displaced persons following his June 2005 visit recommended the following measures: (i) the provision of the possibility of integration as one form of durable solution besides return and resettlement to third countries to internally displaced persons; (ii) the provision of access to secondary health care and social welfare also to IDPs without permanent residency; (iii) the abolition of higher tax obligations for such IDPs as well as the requirement for employers to pay a special fee for employing them; (iv) the adoption of a national strategy that would reach out to Roma, Ashkali and Egyptian IDPs and other minorities, and to provide particular support in the areas of housing, access to livelihoods, and education to, in particular, those living in irregular settlements, by taking into consideration the size of their families and their particular cultural needs.<sup>112</sup>

### **V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE**

31. The United Nations Office on Drugs and Crime (UNODC) indicated that it provides technical assistance to Montenegro in the field of drug law enforcement, organized crime including trafficking in human beings capacity-building projects. It also provides assistance in the implementation of programmes related to legal assistance, anti-corruption and HIV.<sup>113</sup>

Notes

<sup>1</sup> Information in this note has been compiled in order to assist the reader in understanding the history of the legal personality of Montenegro in the membership of the United Nations. The former Yugoslavia (Socialist Federal Republic of Yugoslavia) was an original Member of the United Nations, the Charter having been signed and ratified on its behalf on 26 June 1945, and 19 October 1945, respectively. The following republics constituting the former Yugoslavia declared their independence on the dates indicated: Slovenia (25 June 1991), the former Yugoslav Republic of Macedonia (17 November 1991), Croatia (8 October 1991) and Bosnia and Herzegovina (6 March 1992). Yugoslavia came into being on 27 April 1992 following the promulgation of the constitution of the Federal Republic of Yugoslavia on that day. Yugoslavia nevertheless advised the Secretary-General on 27 April 1992 that it claimed to continue the international legal personality of the former Yugoslavia. Between 27 April 1992 and 1 November 2000, Yugoslavia undertook numerous treaty actions with respect to treaties deposited with the Secretary-General. The General Assembly admitted the Federal Republic of Yugoslavia (Yugoslavia) to membership by its resolution A/RES/55/12 on 1 November 2000. At the same time, Yugoslavia renounced its claim to have continued the international legal personality of the former Yugoslavia. In a communication dated 4 February 2003, the Government of the Federal Republic of Yugoslavia informed the Secretary-General that: "... the name of the State of the Federal Republic of Yugoslavia was changed to 'Serbia and Montenegro'". In a letter dated 3 June 2006, the President of the Republic of Serbia informed the Secretary-General that the membership of Serbia and Montenegro was being continued by the Republic of Serbia, following Montenegro's declaration of independence. On 21 May 2006 Montenegro held a referendum and declared itself independent from Serbia on 3 June. On 28 June 2006 Montenegro was accepted as a United Nations Member State by General Assembly resolution A/RES/60/264. Sources: <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/historicalinfo.asp>; A/RES/55/12, A/RES/60/264 and <http://www.un.org/members/list.shtml>.

<sup>2</sup> Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://untreaty.un.org/>.

<sup>3</sup> The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CPD	Convention on the Rights of Persons with Disabilities
OP-CPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities
CED	International Convention for the Protection of All Persons from Enforced Disappearance

<sup>4</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>5</sup> 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

<sup>6</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention);

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at [www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html](http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html).

<sup>7</sup> International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

<sup>8</sup> HR Committee, concluding observations to Serbia and Montenegro (CCPR/CO/81/SEMO, para. 7); CESCR, concluding observations to Serbia and Montenegro (E/C.12/1/Add.108, para. 5).

<sup>9</sup> The following abbreviations have been used in this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child

<sup>10</sup> Unless otherwise indicated, concerns and recommendations issued by human rights treaty bodies relevant to Montenegro have been extracted from the reports concerning the States parties of Serbia and Montenegro, the Federal Republic of Yugoslavia, and Yugoslavia and have been referenced accordingly in the notes that follow.

<sup>11</sup> Following Montenegro's declaration of independence in 2006, the existing reporting sequencing to treaty bodies was interrupted; the various committees decided to consider new submissions from Montenegro as initial reports.

<sup>12</sup> Eleventh-fourteenth periodic reports of Yugoslavia (CERD/C/299/Add.17).

<sup>13</sup> CERD, concluding observations to Yugoslavia (A/53/18, paras. 190-214).

<sup>14</sup> CESCR, initial report of Serbia and Montenegro (E/1990/5/Add.61).

<sup>15</sup> *Ibid.*, concluding observations (E/C.12/1/Add.108).

<sup>16</sup> HR Committee, initial report of Serbia and Montenegro (CCPR/C/SEMO/2003/1).

<sup>17</sup> HR Committee, concluding observations (CCPR/CO/81/SEMO).

<sup>18</sup> *Ibid.*, Annual report (A/60/40 (Vol. I), p. 145).

<sup>19</sup> CEDAW, Report of the Federal Republic of Yugoslavia (Serbia and Montenegro) submitted on an exceptional basis (CEDAW/C/YUG/SP.1).

<sup>20</sup> *Ibid.*, Annual report (A/49/38, paras. 758-766).

<sup>21</sup> The initial report of Serbia and Montenegro was received on 5 May 2006 prior to the independence of Montenegro. The report was considered as Serbia's initial report (CEDAW/C/SCG/1). Information concerning Montenegro (Part II) was not referred to in the concluding observations (CEDAW/C/SCG/CO/1).

<sup>22</sup> CAT, initial report of Yugoslavia (CAT/C/16/Add.2).

<sup>23</sup> *Ibid.*, Annual report (A/54/44, paras. 35-52).

<sup>24</sup> CRC, initial report of the Federal Republic of Yugoslavia (Serbia and Montenegro) (CRC/C/8/Add.16).

<sup>25</sup> *Ibid.*, concluding observations to the Federal Republic of Yugoslavia (Serbia and Montenegro) (CRC/C/15/Add.49).

<sup>26</sup> CAT, Annual report (A/59/44).

- <sup>27</sup> 113/1998 *Radivoje Ristic* - Views adopted on 11 May 2001; 161/2000 *Hajrizi Dzemajl et al* - Views adopted on 21 November 2002; 171/2000 *Jovica Dimitrov* - Views adopted on 3 May 2005; 172/2000 *Danilo Dimitrijevic* - Views adopted on 16 November 2005; 207/2002 *Dragan Dimitrijevic* - Views adopted on 24 November 2004; and 174/2000 *Slobodan Nikoli and Ljiljana Nikoli* - Views adopted on 24 November 2005.
- <sup>28</sup> Note verbale of 28 May 2008, concerning communication Nos. 171/2000, 172/2000 and 207/2002, submitted on behalf of Dimitrov, Danilo Dimitrijevic and Dragan Dimitrijevic, respectively.
- <sup>29</sup> E-mail sent to OHCHR on 11 June 2008, by the Ambassador of the Permanent Mission of Montenegro in Geneva.
- <sup>30</sup> A/59/44, paras. 226 and 266-267.
- <sup>31</sup> CCPR/CO/81/SEMO, paras. 11, 14 and 18.
- <sup>32</sup> Comments by the Government of Serbia and Montenegro on the concluding observations of the HR Committee, CCPR/CO/81/SEMO/Add.1 (follow-up response by the State party).
- <sup>33</sup> Special Rapporteur on freedom of expression and opinion (E/CN.4/2005/64/Add.4).
- <sup>34</sup> Representative of the Secretary-General on internally displaced persons (E/CN.4/2006/71/Add.5).
- <sup>35</sup> E/CN.4/2005/64/Add.4, para. 3.
- <sup>36</sup> E/CN.4/2006/71/Add.5, para. 5.
- <sup>37</sup> The questionnaires included in this section are those which have been reflected in an official report by a special procedure mandate-holder.
- <sup>38</sup> See (i) Special Rapporteur on the right to education (A/HRC/4/29): questionnaire on the right to education of persons with disabilities sent in 2006; (ii) Special Rapporteur on the human rights of migrants (A/HRC/4/24): questionnaire on the impact of certain laws and administrative measures on migrants sent in 2006; (iii) Special Rapporteur on trafficking in persons, especially women and children (A/HRC/4/23): questionnaire on issues related to forced marriages and trafficking in persons sent in 2006; (iv) Special Representative of the Secretary-General on human rights defenders (E/CN.4/2006/95 and Add.5): questionnaire on the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms sent in June 2005; (v) Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15): questionnaire on the human rights of indigenous people sent in August 2007; (vi) Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67): joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation sent in July 2005; (vii) Special Rapporteur on the right to education (E/CN.4/2006/45): questionnaire on the right to education for girls sent in 2005; (viii) Working Group on mercenaries (A/61/341): questionnaire concerning its mandate and activities sent in November 2005; (ix) Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31): questionnaire on the sale of children's organs sent in July 2006; (x) Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2005/78): questionnaire on child pornography on the Internet sent in July 2004; (xi) Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/7/8): questionnaire on assistance and rehabilitation programmes for child victims of trafficking and sexual commercial exploitation sent in July 2007; (xii) Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add.3): questionnaire on human rights policies and management practices.
- <sup>39</sup> The questionnaire on child pornography on the Internet sent in July 2004 (E/CN.4/2005/78).
- <sup>40</sup> For the list of the 12 questionnaires see note 38.
- <sup>41</sup> OHCHR, Annual report 2005, p. 91.
- <sup>42</sup> Note verbale, dated 21 December 2007, from the Ambassador of the Permanent Mission of Montenegro in Geneva to OHCHR.
- <sup>43</sup> E/C.12/1/Add.108, para. 11
- <sup>44</sup> CCPR/CO/81/SEMO, para. 23.
- <sup>45</sup> E/C.12/1/Add.108, para. 39.
- <sup>46</sup> CCPR/CO/81/SEMO, para. 23.

- <sup>47</sup> Ibid., para. 24.
- <sup>48</sup> E/C.12/1/Add.108, para. 41.
- <sup>49</sup> CCPR/CO/81/SEMO, para. 25.
- <sup>50</sup> E/C.12/1/Add.108, para. 40.
- <sup>51</sup> Working Group on Enforced or Involuntary Disappearances (A/HRC/4/41, para. 268).
- <sup>52</sup> Ibid., para. 269.
- <sup>53</sup> Working Group on Enforced or Involuntary Disappearances (A/HRC/7/2, para. 221).
- <sup>54</sup> Ibid., paras. 222 and 223.
- <sup>55</sup> A/59/44, para. 203.
- <sup>56</sup> Ibid., para. 208.
- <sup>57</sup> Ibid., para. 213 (q).
- <sup>58</sup> Ibid., paras. 215-235.
- <sup>59</sup> Ibid., para. 231.
- <sup>60</sup> Special Rapporteur on the question of torture (E/CN.4/2005/62/Add.1, para. 1446).
- <sup>61</sup> CCPR/CO/81/SEMO, para. 14.
- <sup>62</sup> Ibid., para. 17.
- <sup>63</sup> E/C.12/1/Add.108, para. 51.
- <sup>64</sup> Ibid., para. 63.
- <sup>65</sup> CCPR/CO/81/SEMO, para. 16.
- <sup>66</sup> E/C.12/1/Add.108, para. 52.
- <sup>67</sup> Special Rapporteur on trafficking in persons, especially women and children (E/CN.4/2006/62/Add.1, paras. 130 and 131).
- <sup>68</sup> Ibid., para. 132.
- <sup>69</sup> Ibid., para. 134.
- <sup>70</sup> A/59/44, para. 213 (e).
- <sup>71</sup> E/CN.4/2005/64/Add.4, paras. 12 and 13.
- <sup>72</sup> CRC/C/15/Add.49, para. 27; A/53/18, para. 212; A/59/44, para. 213 (b); and CCPR/CO/81/SEMO, para. 11.
- <sup>73</sup> CCPR/CO/81/SEMO, para. 9.
- <sup>74</sup> Ibid., para. 22.
- <sup>75</sup> E/CN.4/2005/64/Add.4, para. 37.
- <sup>76</sup> CCPR/CO/81/SEMO, para. 22.
- <sup>77</sup> E/CN.4/2005/64/Add.4, para. 31.
- <sup>78</sup> E/CN.4/2005/64/Add.1, para. 797.
- <sup>79</sup> Special Representative of the Secretary-General on human rights defenders (A/HRC/7/28/Add.1, paras. 1411-1413).
- <sup>80</sup> Ibid., paras. 1414-1416.
- <sup>81</sup> Ibid., para. 1417.
- <sup>82</sup> UNDP, Human Development Report 2005, Podgorica, September 2005, p. 43. Report available at <http://www2.undp.org.yu/montenegro/home/archive/files/Human%20Development%20%20Report.pdf>.
- <sup>83</sup> E/C.12/1/Add.108, paras. 45-46.

- <sup>84</sup> Ibid., para. 27. See also IMF, Country Report No. 06/141, Washington, April 2006, p. 118.
- <sup>85</sup> World Bank, World Development Report, “Development and the Next Generation”, Washington DC, 2007, p. 115 (*Serbia and Montenegro* is used in this report either because the event being discussed occurred prior to the independence of the Republic of Montenegro in June 2006 or because separate data for the Republic of Serbia and the Republic of Montenegro are not available).
- <sup>86</sup> E/C.12/1/Add.108, para. 16.
- <sup>87</sup> Ibid., para. 47.
- <sup>88</sup> Ibid., paras. 54-56.
- <sup>89</sup> Ibid., para. 57.
- <sup>90</sup> Ibid., para 58.
- <sup>91</sup> CRC/C/15/Add.49, para. 36.
- <sup>92</sup> E/C.12/1/Add.108, para. 60.
- <sup>93</sup> Ibid., para. 61.
- <sup>94</sup> Ibid., para. 64.
- <sup>95</sup> UNDP, Human Development Report 2004, New York, 2004, p. 6.
- <sup>96</sup> UNDP, Human Development Report 2005, Podgorica, September 2005, p. 15. For the website see note 82.
- <sup>97</sup> E/C.12/1/Add.108, para. 64.
- <sup>98</sup> UNHCR, Global Appeals 2007, Geneva, 2007, p. 258.
- <sup>99</sup> UNHCR, Global Report 2006, p. 427. Report available at <http://www.unhcr.org/home/PUBL/4666d2560.pdf>. See also UNHCR, Global Appeals 2007, Geneva, 2007, p. 258.
- <sup>100</sup> UNHCR, Global Report 2006, p. 426. For the website see note 99.
- <sup>101</sup> E/CN.4/2006/71/Add.5, para. 26.
- <sup>102</sup> Ibid., paras. 26 and 78.
- <sup>103</sup> Ibid., para. 27.
- <sup>104</sup> Ibid., para. 48.
- <sup>105</sup> Ibid., para. 49.
- <sup>106</sup> Ibid., paras. 50-52.
- <sup>107</sup> Ibid., para. 53.
- <sup>108</sup> E/C.12/1/Add.108, para. 14.
- <sup>109</sup> CCPR/CO/81/SEMO, para. 18.
- <sup>110</sup> Ibid.
- <sup>111</sup> E/C.12/1/Add.108, para. 6.
- <sup>112</sup> E/CN.4/2006/71/Add.5, para. 78.
- <sup>113</sup> UNODC submission to the UPR on Montenegro, p. 8.

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