

Joint Submission to the Committee Against Torture

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Montenegro

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Human Rights Action
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Joint Submission for the 73rd session of the Committee against Torture on the rights of stateless persons and human rights challenges pertaining to statelessness

Montenegro

Introduction

1. Civic Alliance,¹ Human Rights Action,² Phiren Amenca,³ and the European Network on Statelessness ('ENS'),⁴ welcome the opportunity to make this submission to the Committee against Torture (hereinafter the 'Committee'), on the rights of stateless people and human rights challenges in Montenegro pertaining to statelessness, including cruel, inhumane or degrading treatment. The submission focuses on two issues:
 - I. Statelessness determination and the rights of stateless persons
 - II. Children's right to a nationality and discrimination in accessing birth registration
2. This submission provides additional information ahead of the consideration of Montenegro's third periodic report at the Committee's 73rd Session, particularly as it relates to and affects stateless people and the right to a nationality, taking into account the list of issues and Montenegro's reply to the list of issues. The information in this submission is drawn from ENS's Statelessness Index, which covers Montenegro,⁵ as well as from the casework of Civic Alliance, Human Rights Action, and Phiren Amenca.
3. In light of Montenegro's obligations under the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (hereinafter 'Convention against Torture' or 'CAT'), and the importance of eradicating statelessness as expressed by UNHCR's #IBelong campaign,⁶ the submitting organisations hope the Committee will raise these longstanding matters and address relevant recommendations to Montenegro.

Montenegro's international obligations

4. Montenegro is party to the CAT and to most of the core international human rights treaties. It therefore has clear obligations to protect and effectively implement the rights of stateless people on its territory, including the right to universal birth registration, the right to a nationality,⁷ the prohibition of refoulement, the prohibition of torture and cruel, inhuman, or degrading treatment or punishment, the right to liberty and security of the person as well as the principle of non-discrimination.

5. Montenegro is also party to the 1954 Convention Relating to the Status of Stateless Persons ('1954 Convention'), the 1961 Convention on the Reduction of Statelessness ('1961 Convention'), the 1997 European Convention on Nationality ('ECN') and the 2006 Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession ('CASRSS'). Rights must be accorded to stateless persons in line with these instruments for States to live up to their commitments under CAT and other international human rights obligations.
6. Through several recommendations made to Montenegro (see paras. 11-12), the Committee has demonstrated the importance of considering the impact of statelessness and nationality in assessing international obligations under CAT. The **right to a nationality** is also enshrined in Article 15 of the UDHR, and in international treaties that Montenegro is a party to, including the Convention on the Rights of the Child ('CRC', Article 7), the International Covenant on Civil and Political Rights (ICCPR, Article 24), the International Covenant on Economic, Social and Cultural Rights (ICESCR, Articles 2.2 and 3), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, Article 9), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD, Article 5(d)(iii)), and the Convention on the Rights of Persons with Disabilities (CRPD, Article 18).
7. The **right to birth registration** is enshrined in Article 24(2) of the ICCPR as well as Article 7 of the CRC. As the UN Human Rights Council noted, birth registration is a foundational right: "it establishes the existence of a person under law and lays the foundation for safeguarding civil, political, economic, social, and cultural rights".⁸
8. The **prohibition against torture or other inhuman and degrading treatment**, as established in the CAT, is also enshrined in the UDHR (Article 5), the ICCPR (Article 7), the CRC (Article 37(a)), the ECHR (Article 3), and the Geneva Conventions (Common Article 3). The **right to liberty and security of the person** is enshrined in Articles 3 and 9 of the UDHR, Article 9(1) of the ICCPR, Article 37 of the CRC, Article 16(1) of the CRMW, Article 14 of the CRPD, and Article 5 of the ECHR, among others.
9. The Committee has asserted that **prohibition against discrimination** is a "basic and general principle in the protection of human rights and fundamental to the interpretation and application of the Convention".⁹ This principle forms part of the definition of torture in Article 1 of the CAT, where it is stipulated that specified acts are prohibited when they are carried out for "any reason based on discrimination of any kind".¹⁰ The Committee further clarifies that "the discriminatory use of mental or physical violence or abuse is an important factor in determining whether an act constitutes torture."¹¹ Preventing the ill treatment of minoritized communities especially at risk of torture is therefore an integral part of the obligation to prevent torture and ill-treatment.¹² This includes ensuring that, as far as obligations under the Convention are concerned, laws should be applied to everyone, regardless of race, ethnicity, reasons for which the person is detained (including asylum seekers, refugees and others under international protection), among others.¹³ Moreover, this requires States to "take active measures of prevention and protection".¹⁴ Montenegro's obligations to eliminate racial discrimination in the enjoyment of the right to a nationality is further enshrined in Article 5 ICERD while its obligation

to grant women equal rights as men to acquire, change or retain their nationality is enshrined in CEDAW, Article 9 and General Recommendation no. 32.¹⁵

10. In order to evaluate how effective State measures are in terms of preventing discrimination, this Committee has consistently recommended that “States parties provide data disaggregated by age, gender, and other key factors” to allow for the evaluation of the implementation of the Convention.¹⁶

Previous recommendations by human rights bodies

11. The Committee has already made recommendations to Montenegro in its previous periodic reports for the prevention and reduction of statelessness. In the second periodic report, the Committee noted that obstacles to birth registration, in particular for Roma, Ashkali and Egyptian communities, put individuals at risk of statelessness and recommended the establishment of a simplified and accessible procedure for birth registration. This is supported by recommendations made by several States during the Universal Periodic Review in 2013, which Montenegro accepted, to ensure effective birth registration of all children, and especially of children from ethnic minorities.¹⁷ In 2018, the Committee on the Elimination of Racial Discrimination (CERD) further called for effective implementation of “a simplified procedure for birth registration, including by further sensitizing Roma, Ashkali and Egyptian parents to the importance of birth registration and to the existence of such a procedure”. CERD also called on Montenegro to “[e]nsure the registration of children in cases where the mother is unknown or lacks an identification document and continue efforts to provide them with identification documents and with legal aid, when necessary, for birth registration”.¹⁸ Similar recommendations were reiterated by the Committee on the Rights of the Child, with a special focus on Roma, Ashkali and Egyptian children, children who were abandoned after birth, and children born to refugees.¹⁹
12. CERD previously also called on Montenegro to “fully implement the 1961 Convention on the Reduction of Statelessness, address the shortcomings in the new statelessness determination procedure and ensure it is well known by those seeking international protection, in particular the remaining stateless persons of the Roma, Ashkali and Egyptian communities”.²⁰ At the occasion of the third UPR, Montenegro also accepted a recommendation to “introduce into law a mechanism to expedite the determination of statelessness”.²¹

Statelessness in Montenegro

13. The last census to take place in Montenegro, in 2011, recorded 4,312 individuals with 'no nationality' of which 3,471 stated they were born in Montenegro. These numbers are not accepted by the Ministry of the Interior.²² In November 2017, the Government and UNHCR jointly carried out an exercise to map refugees from the Former Yugoslavia in Montenegro, which covered 2,318 people. The mapping confirmed that lack of documentation remains widespread, especially among Roma and Egyptian communities, and identified at least 450 people at risk of statelessness.²³
14. Statelessness in Montenegro mostly affects Roma and Egyptian communities, many of whom originated from Kosovo having migrated to Montenegro between 1960 and 1980. The phased separation of Montenegro from the Federal Republic of Yugoslavia (FRY) and, later, from the State Union of Serbia and Montenegro, together with changes in nationality legislation, have made it very challenging for some Roma and Egyptians, who were born outside Montenegro, to prove an entitlement to Montenegrin or any other nationality. Poor cooperation between successor States in the Balkans has further slowed progress. Their lack of documentation and/or their statelessness is in many cases being passed on to their children, creating intergenerational exclusion and perpetuating the risk of statelessness.²⁴ Surveys conducted by UNHCR and UNICEF of Roma and Egyptians in Montenegro in 2009 found that nearly 40% of those surveyed (more than half of whom were children) had incomplete personal documentation, and needed to initiate a legal procedure to resolve this.²⁵ 2013 data showed that the average birth registration rate in Montenegro of 99.4% drops to 94.5% for children under five living in Romani communities.²⁶ Deep rooted antigypsyism continues to be one of the main hurdles to reducing statelessness among these communities.²⁷
15. In response to the fact that statelessness in Montenegro often has a historical cross-border dimension, Montenegro and Kosovo signed an Agreement on the Late Registration of Internally Displaced Persons from Kosovo Residing in Montenegro in the Birth and National Registry of the Republic of Kosovo in 2011. Since 2014, around 1,380 people were provided support to acquire essential documents from Kosovo or Montenegro. Montenegro is also working to address the lack of documentation for individuals born in Serbia with the assistance of UNHCR.
16. Although there remain challenges in the prevention and reduction of statelessness in Montenegro and ensuring respect for every child's right to acquire a nationality, some legislative steps have been taken - and political commitments made - in recent years to find solutions to address statelessness. The introduction of a statelessness determination procedure (SDP) in February 2018, through the 'Law on Foreigners',²⁸ represented a major positive development to address statelessness in the migratory context. In November 2018, Montenegro adopted the bylaw 'Rulebook on the Procedure Initiated upon Request for Statelessness Determination' ('the Rulebook'),²⁹ which detailed how to operationalise the procedure, submit a request for statelessness status determination, submit a request for a travel document for a stateless person, as well as the format and content of the travel document. However, so far, only nine individuals have been recognised as stateless and 13 applications are pending.³⁰ Although the adoption of the SDP is a positive development, there

are many gaps in the procedure that need to be addressed, including harmonising the varying practices in its implementation, introducing adequate procedural guarantees, and ensuring access to a dedicated protection status that includes a right to reside, route to naturalisation, and all other rights under the 1954 Convention for those determined to be stateless (see Issue 1).

17. Upon the request of the Montenegrin Government, UNHCR issued observations to draft amendments to the Law on Foreigners in February 2022. In its observations, UNHCR makes recommendations related to access to procedures, procedural guarantees, the rights of applicants during the procedure and upon recognition as stateless, and additional operational guidance that is currently lacking.³¹ These recommendations address issues listed under Issue 1 below.
18. In October 2019, at UNHCR's High Level Segment on Statelessness, Montenegro pledged to strengthen its capacity for the effective implementation of the SDP, secure access to basic rights for stateless persons, and further strengthen its birth registration procedure. Montenegro has not yet taken sufficient steps to implement these pledges, but their implementation could have a significant impact on reducing statelessness.
19. In 2021, Montenegro adopted a Strategy for Social Inclusion of Roma and Egyptians 2021-2025³² which includes an operational objective to "improve the position of Roma and Egyptian communities by resolving the issue of civil status and personal ownership documents". It also adopted a Strategy on Migration and Reintegration of Returnees in Montenegro 2021-2025³³ which includes two relevant objectives to "resolve the legal status of internally displaced persons (IDPs) as well as other persons who are not registered in the basic registers and registers of citizens in Montenegro and in the surrounding countries", and "resolve the legal status of persons at risk of statelessness and creating conditions for effective access to rights for persons with recognised status of stateless persons". The accompanying Action Plan to these strategies includes an action point to tackle antigypsyism, a first step towards tackling discrimination of Roma and Egyptian communities in the country, and actions to address civil registration and statelessness issues.³⁴
20. As follow-up from the 2019 Poznan Declaration on Roma integration in the EU Enlargement Process, Montenegro joined other Western Balkan countries in committing to ensuring universal civil registration and ending Roma statelessness. In the 'Conclusions of the Second Ministerial Meeting on Roma Integration' in 2021, Montenegro confirmed that the roadmap for ending Roma statelessness was finalised and will be incorporated in the new strategies for Roma integration (see para. 19).³⁵

ISSUE 1 – Statelessness determination procedure and the rights of stateless people

Identification of stateless people and statelessness determination

21. In several recommendations made to other States, the Committee has demonstrated the importance of determining statelessness to ensure that States respect their international obligations under the CAT. For example, the Committee recommended that Bolivia should establish a framework to determine whether a person is stateless in order to ensure that the State is fulfilling the international commitments assumed under the 1954 Convention,³⁶ that Romania consider establishing a statelessness determination procedure,³⁷ and that North Macedonia and New Zealand adopt measures to ensure that stateless persons whose asylum claims have been refused are not held in detention indefinitely.³⁸
22. Additionally, this Committee asked Montenegro in the List of issues prior to submission (LOIPS) of the third periodic report of Montenegro, to:
*“provide information on the measures taken to prevent the risk of refoulement among refugees from the former Federal Republic of Yugoslavia who did not regularize their situation by obtaining a “status of foreigner” with permanent residence by 2015. Please also indicate the measures taken [...] to establish a status determination procedure for stateless people.”*³⁹
23. This recommendation has only been partially implemented. Although Montenegro introduced an SDP in 2018, which is a positive and welcome step towards better identification of stateless people in a migratory context, the procedure has many shortcomings both in law and in practice and does not automatically lead to protection.
24. Applications for statelessness determination should be submitted via regional units of the Ministry of Interior in the applicant’s place of residence, and must be made in writing on a prescribed form in an official language, with the help of a designated official and the assistance of a translator (if needed). Positively, there are no legal residence requirements or time limits for accessing the SDP. However, people who have applied for international protection, or have been granted refugee status or subsidiary protection, are excluded from applying. It is notable that only nine people have been recognised as stateless under the SDP since it was operationalised in November 2018.
25. Procedural and practical issues make the SDP difficult to access. In practice, the procedure is implemented inconsistently by the different regional units and there is a lack of harmonisation on how registration, issuing of certificates, and scheduling interviews take place. There is a lack of information available to potential applicants regarding the procedure, the application requirements are inflexible, and evidentiary rules to assess whether a person is stateless are not yet determined in law. Although authorities are obliged to consider all applications within a given timeframe, in most municipalities, the competent authority will not assess an application unless or until the applicant submits at least a birth certificate, which is not required by law and may be a requirement that is impossible to meet for potential applicants due to the

nature of their statelessness. Similarly, although the Rulebook stipulates that an interview should be provided within 15 days of the submission of the application, in practice this does not occur.⁴⁰ Ad hoc training is organised by the Ministry of Interior and UNHCR for public officials who are in direct contact with stateless persons, but there is currently no formal training for judges and lawyers on statelessness.

26. The Committee also asked Montenegro in the LOIPS to evidence the measures that have been taken to “[p]rovide for effective access to free legal aid in administrative proceedings, particularly to asylum seekers, refugees and persons at risk of statelessness”, in line with obligations under Article 2.⁴¹ Applicants under the SDP are still unable to access free legal aid, as it is not available in any administrative procedure in Montenegro,⁴² even though free legal aid is recommended by UNHCR and is a key safeguard to ensure that all stateless persons can access the protection they are due under the 1954 Convention without discrimination.⁴³

Access to protection and the rights of stateless people

27. Crucially, recognition as a stateless person under the SDP does not result in automatic permission to stay in Montenegro or a renewable residence permit, nor does it ensure access to all other rights as stipulated in the 1954 Convention and in UNHCR guidance.⁴⁴ The Ministry of Interior issues travel documents to persons recognised as stateless upon request, which grants permission to stay and provides some rights, but does not constitute a dedicated statelessness status in law. The travel document is valid for up to one year, must be renewed each year, and, in practice, the renewal procedure is often delayed, leaving individuals without documents during the renewal period.⁴⁵ Moreover, there have been cases of people recognised as stateless waiting more than a year for a travel document.
28. A temporary residence permit is only accessible to stateless people if they can meet the general conditions, which are stringent and include an income, accommodation, health insurance, identity documents, and no entry ban or criminal convictions carrying more than a six-month prison sentence.⁴⁶ The person must also present evidence that they have resided in Montenegro for at least three years prior to the SDP application and that they intend to continue their stay in Montenegro.⁴⁷ These requirements are likely to be impossible to meet for stateless persons, due to the nature of their statelessness.
29. In its 'Observations on the Amendments to the Law on Foreigners of Montenegro', UNHCR made specific recommendations to amend the law to improve access to the procedure, enhance the procedural guarantees afforded to applicants, and to ensure that applicants are protected pending a decision on their application, including having a right to reside and access to identity documents, healthcare, education, work, legal advice and legal aid. UNHCR also made recommendations to change the law so that persons recognised as stateless have an automatic right to reside and certain economic and social rights, free legal aid, travel documents and a facilitated route to naturalisation.⁴⁸

Risk of arbitrary detention

30. As seen above, many improvements still need to be made in law and in practice to ensure that the SDP is fair, effective, and accessible and leads to international protection in line with Montenegro's international obligations. The limited access to the SDP in Montenegro, and the lack of adequate protection for people recognised as stateless or applying for statelessness status, means that stateless people in Montenegro continue to face a risk of arbitrary detention and deportation. This is especially concerning because stateless people face a heightened risk of arbitrary detention, particularly where procedural safeguards to identify and determine statelessness and related barriers to removal are lacking.⁴⁹
31. Moreover, arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed,⁵⁰ and specific safeguards to prevent stateless people from being and remaining detained are also still lacking in Montenegro. Statelessness is not juridically relevant in decisions to place individuals in immigration detention and there is no procedure to identify statelessness in the decision to detain. There is no possibility of referring someone in immigration detention to the SDP. If released from detention, stateless persons will not be granted a temporary residence permit and are not entitled to any protection.

Data collection

32. Collecting accurate, disaggregated data on statelessness and the risk thereof is crucial to be able to implement and review policies and developing practice. Collecting disaggregated data is central to preventing discrimination, as reiterated by this Committee.⁵¹
33. Montenegro has undertaken some positive steps in the collection of data on the stateless population, but shortcomings also remain. In November 2017, jointly with the Ministry of Interior and the Ministry of Labour and Social Work, UNHCR carried out a field verification of all refugees from the Former Yugoslavia with unresolved status issues, including those at potential risk of statelessness. The exercise confirmed that documentation problems as a result of the dissolution of the former Yugoslavia remained widespread, particularly among Roma and Egyptian communities. Based on the results, some 605 persons were identified as being at risk of statelessness, of which at least 145 were without birth registration. After targeted follow-up following the verification, as of the end of July 2021, the number of people identified to be at risk of statelessness was 450. However, the data available through the verification exercise does not reflect all persons affected by statelessness in Montenegro, as it is incomplete, does not cover the entire stateless (and at risk) population, and is not disaggregated by age, gender and other key factors. Although this verification exercise and follow up actions have improved registration levels, the verification did not take into account all groups who face issues with legal status and documentation in Montenegro. For example, the exercise overlooked the Roma population born in Montenegro who do not have regulated legal status and have been returned under a readmission agreement, and internally displaced persons from Serbia and Kosovo. A new field verification is planned for autumn 2022.⁵²

34. Additionally, in the latest 2021 report on protection against discrimination, as in previous reports, the Protector of Human Rights and Freedoms of Montenegro again emphasised “the need to establish and operationalize a standardized data collection system related to this area and provide access to the Protector for a comprehensive analysis of the situation in the field of discrimination”.⁵³
35. Nevertheless, despite the Law on Foreigners requiring records on stateless people to be held electronically, these are still only held in handwritten files, making it difficult to access data.⁵⁴

Recommendations:

- 1) Take concrete steps to facilitate access to the statelessness determination procedure (SDP) for all stateless persons in Montenegro, regardless of their residence status, and ensure its implementation is harmonised across the territory and in line with UNHCR guidance and good practice.**
- 2) Amend the Law on Foreigners to allow for persons recognised as stateless to be automatically granted a residence permit and all rights protected under the 1954 Convention relating to the Status of Stateless Persons.**
- 3) Improve the recording of statelessness, namely by harmonising quantitative data on stateless persons and those at risk of statelessness, ensuring that statistical data covers the entire population affected by statelessness, and publish annual reliable, transparent, disaggregated and comparable statistics on statelessness determination, immigration detention and removal procedures.**

ISSUE 2 – Discrimination in birth registration

36. The prohibition on discrimination is pivotal to the CAT. This Committee has, in prior recommendations, recognised discrimination against Roma, Ashkali, and Egyptian communities in matters related to civil registration and birth registration. Furthermore, in the LOIPS, this Committee has asked Montenegro several questions related to minoritized groups' access to Convention rights. Firstly, in respect of Article 16 of the Convention:

“With reference to the Committee’s previous concluding observations (para. 22), please provide information on measures taken to protect ethnic minorities, in particular Roma, Ashkali and Egyptians, from discriminatory treatment, including through increased awareness-raising and information campaigns, as well as by promoting the local integration and social and economic inclusion of vulnerable refugees, particularly residents in the Konik area.”⁵⁵

Additionally, in relation to Article 3 of the CAT, the Committee also asked Montenegro to “indicate the measures taken to facilitate and promote the civil registration of and documentation for all persons born in the State party’s territory, in particular those of Roma ethnicity [...]”⁵⁶

Finally, this Committee also recommended the “establishment of a simplified and accessible procedure for birth registration” in order to prevent statelessness.

37. Although Montenegro has a relatively robust legal framework to ensure universal and immediate birth registration, in practice, issues remain and there are a number of reports from civil society highlighting specific barriers to registration, disproportionately impacting on Roma and Egyptian communities.⁵⁷

38. All births in Montenegro must be registered within three days, but different procedures apply depending on where the child was born. Children born in hospital are registered immediately after birth. Late birth registration is possible in law and practice through a procedure conducted by the Ministry of Interior, but it is subject to a fee and provision of documentation, including identity documents and proof of birth from the hospital. In the case of a child born outside a health institution whose place and date of birth cannot be determined, a non-contentious court procedure may be initiated to determine the relevant facts about the time and place of birth, parents and other relevant data.⁵⁸ The non-contentious procedure may be initiated by the person whose time and place of birth is to be determined, the person who has an immediate legal interest for such determination, a state body (centre for social care) or by other persons who may also report birth out of health institutions in accordance with the Law on Civil Records.⁵⁹ The court must hear at least two adult witnesses in the procedure and a medical examination to determine age may be requested.⁶⁰ Civil society organisations have reported that, in practice, after the court has issued a decision to register the child, birth registration is not automatic and parents may be asked to submit additional evidence.⁶¹

39. Such complex bureaucratic barriers to birth registration, when combined with antigypsyism and marginalisation, have a disproportionate impact on Roma and Egyptian communities in Montenegro, as evidenced by lower overall birth registration rates among these populations.

Although the law specifies that births can be registered even if the identity of parents is unknown or unconfirmed by documents,⁶² in practice this is not always the case.⁶³

40. There is generally a lack of training for public officials on antigypsyism and specific issues faced by Roma and Egyptian communities, as well as a prevalence of stereotypical attitudes and distrust, which further hinder equal access to birth registration.⁶⁴
41. Positively, in October 2019, the Ministry of the Interior and the Ministry of Labour and Social Welfare developed a new birth registration practice codified in the Family Law of Montenegro,⁶⁵ which creates a role for municipal centres for social care, in line with the principle of the best interests of the child. Since its establishment, UNHCR observed the implementation of the new practice in seven out of 24 municipalities.
42. Finally, it is also concerning that Montenegro does not have any guidance on how to determine the child's nationality status at birth or later. As recommended by UNHCR, States need to determine whether a child would otherwise be stateless as soon as possible so as not to prolong a child's status of undetermined nationality, and such period should not exceed five years.⁶⁶ Having a procedure to determine whether a child has a nationality is the first step to ensuring that all children born in Montenegro acquire a nationality, and end the cycle of statelessness and risk of statelessness being passed from parents on to their children. In Montenegro, the birth certificate contains a field for the child's nationality, but, in practice, parents must initiate the registration of the child's nationality in the nationality registry and sometimes authorities record a presumed nationality without confirming whether the child has acquired it.⁶⁷

Recommendations:

- 4) Ensure that policies and practices relating to birth registration take into account UNHCR guidelines and good practice and remove all practical barriers to birth registration, with a particular focus on minority groups including Roma and Egyptian communities, so that all children are registered immediately regardless of their parents' documentation or residence status.**
- 5) Ensure that children's nationality status is determined as soon as possible after birth in order to ensure that otherwise stateless children born in Montenegro acquire a nationality.**
- 6) Provide training and capacity building to frontline civil registry officials to address discriminatory and stereotypical attitudes and take steps to build trust between the authorities and Roma and Egyptian communities to facilitate access to essential services including civil registration.**
- 7) Ensure that all stateless people on the territory, including members of Roma and Egyptian communities, have access to fundamental rights in law and in practice without any discrimination.**

Recommendations

43. Based on the content of this submission, the following recommendations are made, which we hope members of this Committee will consider in urging the Montenegrin Government to:
- 1) Take concrete steps to facilitate access to the statelessness determination procedure (SDP) for all stateless persons in Montenegro, regardless of their residence status, and ensure its implementation is harmonised across the territory and in line with UNHCR guidance and good practice.
 - 2) Amend the Law on Foreigners to allow for persons recognised as stateless to be automatically granted a residence permit and all rights protected under the 1954 Convention relating to the Status of Stateless Persons.
 - 3) Improve the recording of statelessness, namely by harmonising quantitative data on stateless persons and those at risk of statelessness, ensuring that statistical data covers the entire population affected by statelessness, and publish annual reliable, transparent, disaggregated and comparable statistics on statelessness determination, immigration detention and removal procedures.
 - 4) Ensure that policies and practices relating to birth registration take into account UNHCR guidelines and good practice and remove all practical barriers to birth registration, with a particular focus on minority groups including Roma and Egyptian communities, so that all children are registered immediately regardless of their parents' documentation or residence status.
 - 5) Ensure that children's nationality status is determined as soon as possible after birth in order to ensure that otherwise stateless children born in Montenegro acquire a nationality.
 - 6) Provide training and capacity building to frontline civil registry officials to address discriminatory and stereotypical attitudes and take steps to build trust between the authorities and Roma and Egyptian communities to facilitate access to essential services including civil registration.
 - 7) Ensure that all stateless people on the territory, including members of Roma and Egyptian communities, have access to fundamental rights in law and in practice without any discrimination.

Endnotes

¹ Civic Alliance is a non-governmental organization in Montenegro and has over 20 of its activists who are in the field every day. Its goals are to build a Montenegrin society where the rights of all its citizens are respected through the implementation of three key programs: (1) Human Rights and Justice (2) School of Political Studies and (3) Media. The legal team of Civic Alliance is engaged in work to resolve the legal status of (internally) displaced persons from the former Yugoslavia, as well as persons at risk of statelessness. For more information, see: <https://gamn.org/?lang=en>

² Human Rights Action (HRA) is a Montenegro based non-governmental organisation, founded in 2004. HRA advocates for implementation of international standards of human rights in Montenegro and promotes the culture of human rights. It advocates and litigates and acts as a reliable source of information on human rights and rule of law in Montenegro. As surveys show that Montenegrin public is uninformed about their rights, HRA aims to provide free legal advice and promote human rights education. HRA has actively challenged deficiencies in human rights protection observed through citizens' complaints, media reports and litigation. For more information, see: <https://www.hracion.org/?lang=en>

³ Roma Youth Organization "Walk with us- Phiren Amenca" is a civil society organization led by a Roma. The organisation is based in Montenegro and works on all the pressing issues for the Roma and Egyptian community: education, housing, employment, legal status, healthcare and antigypsyism. For more information, see: <http://phirenamenca.me/>

⁴ The European Network on Statelessness (ENS) is a civil society alliance of NGOs, lawyers, academics, and other independent experts committed to addressing statelessness in Europe. Based in London, it currently has over 170 members in 41 European countries. ENS organises its work around three pillars – law and policy development, awareness-raising, and capacity-building. ENS provides expert advice and support to a range of stakeholders, including governments. For more information about the European Network on Statelessness, see: www.statelessness.eu

⁵ ENS, Statelessness Index - Montenegro [forthcoming in April 2022] at: <https://index.statelessness.eu/>

⁶ UNHCR, #IBelong Campaign to End Statelessness (launched in November 2014), see: <https://www.unhcr.org/ibelong/>

⁷ Article 15 UDHR; Article 24(3) ICCPR.

⁸ Human Rights Council, Birth registration and the rights of everyone to recognition as a person before the law. Report of the United Nations High Commissioner for Human Rights, 17 June 2014, A/HCR/27/22, para. 4.

⁹ UN Committee Against Torture, General Comment No. 2: Implementation of Article 2 by States Parties, 24 January 2008, CAT/C/GC/2, para. 20.

¹⁰ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

¹¹ UN Committee Against Torture, General Comment No. 2: Implementation of Article 2 by States Parties, 24 January 2008, CAT/C/GC/2, para. 20.

¹² UN Committee Against Torture, General Comment No. 2: Implementation of Article 2 by States Parties, 24 January 2008, CAT/C/GC/2, para. 21.

¹³ Other protected characteristics include race, colour, ethnicity, age, religious belief or affiliation, political or other opinion, national or social origin, gender, sexual orientation, transgender identity, mental or other disability, health status, economic or indigenous status, reason for which the person is detained, including persons accused of political offences or terrorist acts, asylum-seekers, refugees or others under international protection, or any other status or adverse distinction. See UN Committee Against Torture, General Comment No. 2: Implementation of Article 2 by States Parties, 24 January 2008, CAT/C/GC/2, para. 21.

¹⁴ Ibid.

¹⁵ UN Committee on the Elimination of Discrimination Against Women (CEDAW), General recommendation No. 32 on the gender-related dimensions of refugee status, asylum and statelessness of women, 5 November 2014, CEDAW/C/GC/32, available at: <https://www.refworld.org/docid/54620fb54.html>

¹⁶ UN Committee Against Torture, General Comment No. 2: Implementation of Article 2 by States Parties, 24 January 2008, CAT/C/GC/2, para. 23.

¹⁷ Brazil, Mexico, Holy See in: Human Rights Council, Report of the Working Group, 21 March 2013, A/HRC/13/12, para 117.32; 119.110; 119.11.

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