



Civil Society Monitoring

on the Implementation of the National Roma Integration Strategy
and Decade Action Plan in

MONTENEGRO

in 2012 and 2013

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Prepared by a civil society coalition comprising the following organizations

Civic Alliance (lead organisation) ■ Association of Egyptians
Centre for Roma Initiatives ■ Forum MNE ■ NGO "RUŽA"



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Coordinated by

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This report was prepared by a civil society coalition comprising the following organisations: Association of Egyptians, Centre for Roma Initiatives, Civic Alliance (lead organization), Forum MNE, NGO "RUZA".

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In the reports, civil society coalitions supplement or present alternative information to Decade Progress Reports submitted by Participating Governments in the Decade of Roma Inclusion and to any reports submitted by State parties to the European Commission on implementation of their NRIS. These reports are not meant to substitute for quantitative monitoring and evaluation by State authorities but to channel local knowledge into national and European policy processes and reflect on the real social impact of government measures. The civil society reports provide additional data to official ones, proxy data where there is not official data, or alternative interpretation of published data.

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EXECUTIVE SUMMARY

Structural Requirements

Montenegro has established a basic policy design and implementation system for Roma inclusion, comprising a legal framework and governmental bodies to perform planning and policy coordination tasks. The Department for the Advancement and Protection of the Rights of the Roma and Egyptian population was established in the Ministry for Human and Minority Rights in 2009. The Department has been given limited authority to act as a coordinating body in the implementation of Roma-related policies. Although the Ministry maintains regular contact with international treaty bodies and is involved in several multisectoral working groups, the Department itself is hardly involved in these activities. The cooperation between this Department and other line ministries is also underdeveloped. The lack of knowledge of the English language, along with limited human resources, prevents this Department from exerting more pressure in planning and expenditure of IPA funds. There is an evident need to build the Department's policy implementation and monitoring capacity through providing greater funding and human resources to the unit. The unit should employ Roma and Egyptians experienced in policy design and implementation.

The Constitution of Montenegro and the Law on Minority Rights and Freedoms stipulate the rights of national minority groups in participating in decision-making, including the adoption of central and local level regulations. The National Roma Integration Strategy 2012–2016 ("NRIS") has been developed in compliance with the participation principle of the EU Framework for National Roma Strategies up to 2020; key Roma stakeholders have been involved in its design. The development of this NRIS was not based on proper assessment of the results of the previous one, nonetheless, it encompasses well-defined measures and verifiable indicators to measure progress achieved in the future. Local Action Plans, adopted in seven municipalities, may serve as an important participation venue for the local Roma communities.

The government has established a Commission for Monitoring the Implementation of NRIS. However, one of the main weaknesses of the policy implementation mechanisms remains a lack of robust monitoring and assessment measures. Unavailability of ethnically disaggregated data also makes it difficult to track and evaluate progress in implementation. Therefore, the government needs to improve the capacity for collecting accurate statistics and increase the use of administrative data. Adequate implementing and monitoring mechanisms with strong civil society participation are yet to be enacted in the municipalities possessing Local Action Plans.

Limited budgetary funds also constitute a major constraint to efficient implementation of Roma inclusion policies. The total amount of funds devoted in the state budget of Montenegro for the purpose of NRIS implementation will depend on the available resources defined by the annual budget laws and the ability to absorb IPA funds. Although these figures remain unknown for now, it is known that the allocated public funds in the current annual budget cycle are not comparable with the scope of the objectives of the NRIS. Financing local inclusion strategies is limited by the fiscal deficit of local self-governments. For example, the Municipality of Nikšić has allocated no funds for the implementation of its Local Action Plan in 2014.

Anti-Discrimination

Although an anti-discrimination policy framework is in place, its effective implementation is missing; there are no enforceable judgments in discrimination cases to date, and a lack of precise records on registered

and processed cases of discrimination. One of the major issues of the protection of minority rights is the political representation of Roma. There is no authentic representation of Roma and Egyptians in the Parliament of Montenegro or in local assemblies. However, this right is ensured for all other national communities. Despite the amendments of the Law on Minority Rights and Freedoms and the Law on the Election of councillors and MPs,¹ the electoral system does not allow for minority representation of Roma through guaranteed mandates as is the case of a Croatian minority, nor does it enable them to exert any influence on legislative bodies.² The Action Plan for Chapter 23 contains no specific measures in this regard.

The lack of registration and identity papers still represents an issue of paramount importance for Roma and Egyptians living in Montenegro. Problems in obtaining any legal status are particularly evident for Roma Internally Displaced Persons (IDPs) who are not registered in birth registers at all or need to be re-registered, because birth registers were either destroyed or lost during the 1999 conflict in Kosovo. Another problem is the registration of Roma and Egyptian children who were born in Montenegro, outside of health facilities. Children whose parents are Roma and Egyptian IDPs without regulated legal status, as well as children born outside of health institutions, are under particular risk of statelessness and have difficulties accessing fundamental rights.

Education

Evident progress has been made in the field of Roma and Egyptian educational inclusion through the provision of textbooks and transportation services for primary school pupils and scholarships for secondary school and university students. The number of Roma and Egyptian children in kindergartens has increased over the years, as well as the number of Roma and Egyptian students at higher levels. Activities for the preparation of the first Romani dictionaries have been initiated with the aim to foster Roma literacy. However, educational outcomes of Roma and Egyptian pupils are still very low, especially among IDPs. The segregation of Roma pupils is still present in the special branch of the primary school organised in the IDP settlement in Podgorica (Konik Camp).³ The coverage of children in pre-school education is still half the national average (26.65%). Free-of-charge textbooks are provided only for children up to the third grade, which affects the drop-out in higher grades. In addition, there are considerable delays in providing those textbooks, sometimes up to 2 months. The free-of-charge transportation is mainly functioning only in two municipalities, Podgorica and Tivat.

Systemic solutions to prevent girls' drop-out and ensure attendance to compulsory primary education are still missing. However, a Commission to monitor and combat drop-out of Roma and Egyptian children has been created upon the initiative of the CSO "Institute for Social Inclusion." Out of 81 Roma high school pupils in 2013/14 only three have dropped out of school in the first half of this school year. Roma mediators and educational assistants have yet to be fully integrated at all levels in the education system. There are no current regulations defining the number of persons from these communities that may enrol in different levels of education, including higher education, based on the principle of affirmative action. This year, scholarship programs for Roma and Egyptian students will be implemented with the support of the Roma Education Fund (REF), which will provide funds and mentoring to students, with the aim of preventing drop-out and measuring their educational achievements.

- 1 Law on the Election of Councilors and MPs (Official Gazette of Montenegro, No. 46/11), regulating political participation of minorities and minority ethnic communities in representative bodies was adopted on 8 September 2011 and entered into force on 24 September 2011, but has brought no increase in Roma political representation.
- 2 Article 79 of the Constitution guarantees the right to authentic representation in the Parliament of Montenegro and parliaments of local self-governments in which minorities constitute a significant part of the population pursuant to the principle of affirmative action. The right to authentic representation of minorities is also specified by the Law on the Election of councillors and MPs in article 94. Please also see *Lund Recommendations for the effective participation of national minorities in public life*, 1999, OSCE High Commissioner on National Minorities, related to electoral legislation and concerning ethno-national minorities.
- 3 Konik Camp is the largest Roma settlement in the Western Balkans region. It is situated nearby Podgorica with approx. 1,500 persons of Roma and Egyptian origins, most of whom settled in Konik following the war in Kosovo in 1999.

Employment

After many years of efforts to integrate Roma in the education system, there is now a new generation of skilled and educated Roma in the country. However, their labour market integration still remains very difficult. This generation seems to face similar problems as their parents did twenty years ago: stigma, discrimination, and a lack of personal documents and citizenship status are the main barriers for the Roma and Egyptian population (re)entering the labour market. It is telling that those who finish high school are mostly employed in Public Communal Services, far below their qualifications.

The lack of ethnic disaggregated data in official statistics creates challenges in designing and evaluating policy measures specifically on Roma and Egyptian integration. Based on voluntary self-identification, the Registry of the Employment Agency estimates that in December 2013, Roma and Egyptians accounted for 3.21% of total unemployed people, more than three times their share in the population as a whole. Due to their overall status, discrimination and the level of education, the Employment Agency classifies members of the Roma and Egyptian communities as “hard to employ,” which is the lowest employability category. According to data by the State Employment Agency in December 2013, only 5% of registered unemployed Roma and Egyptians were employed on a fixed term beforehand and only 10% of those registered are involved in active employment policy programs. The latter figure shows great fluctuation year by year.

During 2013, the Employment Agency managed to find employment for 5% of registered unemployed Roma and Egyptians. Through the project “Creating equal access to job positions for Roma and Egyptian population,” which was initiated in 2010/2011 for 55 persons, 48 beneficiaries completed vocational training as chambermaids, hygienists, street cleaners/waste collectors, ceramicists and assistant workers in fruit harvesting and viticulture. Eventually, 18 of them became employed. In spite of initial successes, most training and reintegration programs function on a project basis and with long breaks between project cycles that can last for almost a year, until new funds from donors are secured. Most recent pilot programs initiated by CSOs, including women’s organizations, have not been sustainable due to the lack of financial support.

There are experiments in integrating the Roma and Egyptians in public works. For example, the national “Let it be clean” project, and the “Assistant on classes for Roma children” implemented in Podgorica and Nikšić involved a few dozen Roma and Egyptians. In December 2013, the Council for Qualifications adopted two new positions: Organizer of Social Inclusion Work and Social Inclusion Assistant with the aim of encouraging the employability of Roma and Egyptians. New vocational training programs for these positions have been developed.

The state employment agency also provides support to employers through mediation, job advertising, youth employment assistance, development of entrepreneurship, delivering of labour licenses for foreigners, stimulating employment of disabled persons, and legal advice and consulting services. To date, programs for supporting small and medium enterprises in the country have never reached any Roma and Egyptian citizens.

Health Care

In the field of health care, the law guarantees that Roma and Egyptians, including displaced persons (DPs) and IDPs, have continued access to the scope and content of medical services equal to other citizens of Montenegro. However, precise data on access to health care does not exist, as records are not disaggregated by ethnicity. The health system reform introduced a system of general practitioners (GPs) – selected doctors for primary health care. Each patient has to select his/her GP. The Health Insurance Act envisages special protection for socially vulnerable categories, such as unemployed people, children, women during pregnancy and a year after giving birth, elderly people over the age of 65 and people suffering from infectious diseases. These people are exempt from covering the costs of medical treatment and these regulations are applicable to Roma and Egyptians as well. A child can be delivered in any hospital in Montenegro. It is free of charge for all those who have health insurance. Within Konik Camp, a medical centre for children

and adults is provided. Particular attention is being paid to reproductive health and childbirth, thanks to the strong involvement of Roma and Egyptian CSOs, primarily the Roma Network "PRVA" and the Centre for Roma Initiatives (CRI). Roma and Egyptians are targeted with health-oriented campaigns and there is a high percentage of immunisation coverage.

In terms of social care, the lack of statistical breakdown by ethnicity further affects the evaluation of social policy measures and their impact on Roma/Egyptian integration. Moreover, the new Law on Social and Child Care from 2013 has introduced certain restrictive criteria for accessing social services and subsistence. Although it is too early to estimate the impact of this Law on Roma and Egyptian households, it is likely that many domiciled Roma and Egyptians will be denied access to social benefits, due to the high property threshold and lack of information and time limits (social subsistence is limited to nine months). In addition, the application of this law is not effective yet, due to the lack of secondary legislation (six by-laws need to be adopted as soon as possible in order to closely regulate access to social services and incentives). While this Law recognised, for the first time, the category of IDPs and DPs as persons who are entitled to these benefits Roma and Egyptian IDPs without regulated legal status cannot benefit from these provisions.

Housing

Few Roma and Egyptians have access to sanitation and adequate housing. Although the Law on Social Housing recognises Roma and Egyptians as one of its priority target groups, its application is questionable due to the severe lack of financial resources and capacity of local self-governments to implement social housing programmes, o. Although the Law recognises homeless people as one of the target groups, it does not entail obligatory measures to prevent homelessness by establishing proper reception centres. The Law on the Legalization of Informal Buildings that would allow the legalisation of informal housing facilities, which are predominantly inhabited by Roma, has not been yet adopted.

Conditions for solving residential problems of displaced persons residing in collective centres have been created within the Regional Housing Program (Sarajevo process), through the provision of locations for the construction of residential buildings in the municipalities of Nikšić, Pljevlja, Berane, Herceg Novi and Podgorica. The local parliament of the Capital City – Podgorica adopted a general and detailed urban plan, "Konik – Vrela Ribnička II," thus creating preconditions for the implementation of the project "Identification of durable solutions for internally displaced persons and residents of Konik camp – Phase I."

RECOMMENDATIONS

Although Montenegro undertook a number of measures to integrate the Roma and Egyptian population in society, their status is still very difficult and alarming. This population still lives in inhuman conditions that are below Montenegrin and European standards; they are not integrated in terms of employment and education and additional activities are important for adequate health protection and housing. Roma and Egyptians face discrimination in a large number of areas. For that reason, Montenegro has to undertake measures aiming at their full integration in society.

Short-Term Recommendations

The Government

- Intensify the implementation of affirmative action measures intended to increase the employment of Roma and Egyptians, especially of those with high school and university degrees who are currently working in less-qualified jobs. Recruit more Roma in the public sector through programmes for acquisition of the initial qualification to enter the public sector, internship programs for undergraduates and career development programs for university graduates.
- Redraft the Law on Legalisation of Informal Buildings in accordance with international standards and examples of good practice, and provide conditions for its effective implementation, without delay.

Ministry of Education

- Urgently and without delay, introduce appropriate mechanisms to successfully put children into elementary school programmes and strengthen inter-sector cooperation to create conditions and capacities, so that all Roma and Egyptian children in all municipalities are covered by pre-school education.
- Ensure the continuation of awareness raising campaigns and education programmes for parents about the importance of children attending pre-school and elementary education, and particularly for girls.
- Strengthen the capacity of the Commission to monitor the dropout of children from elementary schools and extend their scope of jurisdiction to the national level.
- Intensify awareness-raising campaigns on the importance of integration of Roma and Egyptian children in the regular educational system.
- Provide free-of-charge transport services to school for all Roma and Egyptian children.
- The desegregation process should be continued and monitored so as to increase the number of children enrolled in the city schools (Podgorica).
- Stronger and more sustainable support and increased scholarships for Romani and Egyptian pupils and students should be provided from the next school year. The timetable for scholarship payments should be harmonised with the school calendar, instead of the financial (budget) year in order to reduce gaps between instalments and make this measure more effective.
- It is crucial to implement the mechanisms for monitoring school classes, particularly assessing the work and relations of school staff towards Romani and Egyptian pupils. The prejudice from school staff and direct discrimination registered by NGO Coalition members is unacceptable, as is the fact that the school administration and Ministry does not have information on this.

Ministry of Labour and Social Welfare

- Conduct baseline research to compile precise data about the settlements and buildings where Roma and Egyptians live, especially about informal buildings that fall under minimal standards of safety housing and are not eligible for legalisation.
- Ensure conditions for the proper implementation of the Law on Social Housing, by supporting the development of the General Programme on Social Housing that is being led by the Ministry of Tourism and Sustainable Development and facilitating the involvement of Roma and Egyptian stakeholders in that process.
- Incorporate legal guarantees for the alternative accommodation for all people in need who do not meet the conditions for social housing (e.g. non-regulated legal status is a precondition to access this right), so as to protect such people from living in unsafe tenure as well as from forced eviction, without any alternative housing available.

Ministry of Health

- Promote and organise preventive check-ups of Romani and Egyptian women.
- Develop relevant indicators for monitoring the health protection of Roma and Egyptians and standardise the health mediator profession.
- Maintain regular vaccinations of all children, regular systematic check-ups and provide information and education about health protection.
- Develop mechanisms for organised preventive activities in the frame of health protection, aiming at preventing diseases and epidemics in all isolated settlements.

State Employment Agency of Montenegro

- Expand the existing active employment policy programs and their outreach, and develop new ones as necessary, while keeping precise statistics about those who participate.
- Develop programmes that have a clear link with future job opportunities and known employers, in order to foster Roma employability and eradicate the stigma and prejudices of employers related to employment of the Roma and Egyptian population.
- Develop programmes to improve the supply of employable Roma and increase the demand for them, by increasing Roma participation in seasonal employment and vocational training, designing ads for work posts related to social inclusion, providing easily-accessible incentives for employers and developing special employment programs to support Roma self-employment and female Roma/family businesses.

Local Self-Governments

- Develop and implement local social housing programs based on a comprehensive needs assessment.
- Start resolving the problems and revise the contracts for the purchase of apartments signed between the companies founded by the municipalities and the local Roma as employees in these companies (particularly urgent is a case of four Roma families from Herceg Novi).
- Address the situation in informal settlements where Roma and Egyptians live and relocate them as appropriate (traffic related safety risks in the settlement of Ribarevina, municipality Bijelo Polje and families facing forced eviction in the settlement of "Zverinjak", municipality Nikšić) with the involvement of all relevant stakeholders.
- Designate representatives of the Roma communities in local self-governments that have adopted local action plans for integration of Roma, to act as contact person who will work on the collection and exchange of information regarding the implementation of local action plans, and NRIS implementation at the local level.

Long-Term Recommendations

As according to the Constitution of Montenegro, prime responsibility for the implementation of laws, by-laws and strategies remains within the Government as the executive branch of power, thus a significant number of recommendations are addressed to the Government and its respective ministries:

Government

- Create conditions for better coordination between state authorities, local authorities and civil society in the Instrument for Pre-Accession Assistance (IPA) process, especially when it comes to sectoral priority settings, so as to ensure clear linkages between IPA operational documents and Roma-related strategies and avoid possible overlap or failure to ensure necessary funding for the implementation of these policies. Special attention should be paid to the timely preparation for the implementation of the Operational Program for IPA component IV, so as to ensure adequate inclusion of Romani and Egyptian representatives in the implementation and monitoring of the foreseen grant schemes.
- Put into practice and promote affirmative action for the employment of Roma and Egyptians, at the level of the relevant ministries. Regular budgetary funds for the employment of Roma and Egyptians should be ensured following the same methodology as education incentives.
- Intensify efforts on putting into function the two occupational standards – social inclusion mediator for Roma and Egyptians, in order to ensure effective and equal access to the educational system, employment, health and social protection. Provide a regular means of financing these standardised occupational positions in close cooperation with the Roma National Council and the Roma and non-Roma NGOs, in particular with Roma and Egyptian female NGOs.
- Encourage the establishment of new Roma NGOs through the provision of institutional support services from public funds for newly established Roma organisations. Provide co-funding from the Fund for minority funds, to the amount of 15% of the total project budget, for CSO projects dealing with social inclusion.
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural rights, which Montenegro signed on 25 December 2009 and thus enable the Committee on Economic, Social and Cultural Rights to decide on individual complaints regarding violations of this kind of human rights by state authorities.

Ministry of Education

- Systematically regulate the role of Roma and Egyptian mediators in education.
- Ensure continuing support for the education of Roma and Egyptians, through regular provision of scholarships, education incentives, free textbooks and school supplies, for all levels of education, particularly for pre-school and high school education. Efforts should be made to leverage free travel services for Roma and Egyptians living in all cities.
- Regulate the implementation of the principle of affirmative action in regards to access to higher education, by designing a proper rulebook on access to faculties, in close cooperation with relevant stakeholders including Romani and Egyptian students.
- Encourage the higher education of Romani and Egyptian pupils, by ensuring regular scholarships and increasing their amounts.
- Introduce mechanisms to measure and evaluate the educational achievements of Romani and Egyptian pupils.
- Ensure the consistent implementation of the case management system to identify and prevent early school leaving as well as to address concrete dropout cases. Support the work and financing of the Inter-sector Committee for the prevention of dropout that currently operates on a project basis only.
- A separate fund should be established to finance activities aimed at raising the motivation of Romani and Egyptian female pupils who are at greater risk of dropping out, from the 5th grade onwards.
- Continue education of staff in schools to prevent discrimination in education and strengthen professional school services (e.g. learning support services) to facilitate progress and enable greater access to education for Romani and Egyptian children.

- Organise workshops with parents to continually raise their awareness and provide support to Roma and Egyptian families to foster a family-friendly environment in education and prevent Roma and Egyptian pupils from dropping out.
- Develop additional programs for the education of elderly Romani and Egyptian women and keep precise statistics on the number of persons who participate in these programs.

Ministry of Labour and Social Welfare

- Develop and implement a clear program of research and analysis related to the indicators of social exclusion, in cooperation with MONSTAT and international organisations, as part of the overall harmonisation of statistics with EU requirements.
- Ensure monitoring and evaluation of the concrete effects and impact of social policy measures on Roma and Egyptians, including the assessment of key statistical indicators, such as the activity rate and the employment rate, based on ethnicity. Close cooperation with representatives of Roma, Egyptians and NGOs should be used in order to ensure respect for the principles of self-declaration in collecting this type of data.
- Adopt the missing secondary legislation that should enable the effective implementation of the Law on Social and Child Protection that was adopted in 2013.
- Develop and implement anti-discrimination programs and professional training programs for staff working in social care institutions.
- The Law on Social Entrepreneurship should be adopted to create additional employment opportunities for Roma and Egyptians by using the modern concept of social economy.
- Devise workable and sustainable long-term solutions to the problem of Roma housing in a manner that prevents segregation and allows mobility between Roma settlements and other parts of the town. In this respect, a mid-term Strategy for addressing social housing needs and priorities should be developed and appropriate measures designed in close cooperation with local Roma communities.

Ministry of Agriculture and Rural Development

- Develop programmes for Roma and Egyptian dealing with agriculture and cattle breeding, by allowing them to use state-owned land under favourable conditions.

Ministry of Interior

- Amend the Law on Registers so as to specify procedures of post-birth registration of Roma and Egyptian children and ensure uniformity of practice within registry offices.

Ministry of Health

- Ensure opportunities for the active participation of Roma and Egyptian people in the design, implementation, monitoring and evaluation of health programmes.
- Develop programmes for educating Roma and Egyptians, and continue information campaigns for displaced and internally displaced persons on their rights to access health protection and the ways these rights are being exercised in practice.
- Conduct regular informational programs for health care staff about the needs and specificities of Roma and Egyptian population, the rights of displaced and internally displaced persons as well as on the implementation of the health-related rights.
- Ensure the full independence and transparency of the work of Protectors of rights of patients; ensure that this mechanism is more available and accessible to vulnerable categories of populations and that it serves as an effective remedy mechanism for combating the violation of health-related rights.
- Improve the mechanisms for the control of private health institutions, and ensure that they introduce the Protector of rights of patients as required by law.
- Continue activities aimed at raising the awareness of Romani and Egyptian women about reproductive health and related rights.

- Implement activities with the aim to provide information and identify persons without health documents and ensure that their situation is solved promptly so that their access to health services is guaranteed.
- Develop continual cooperation with interested NGOs, especially Roma, in terms of providing services to the Roma and Egyptian population.
- Regularly conduct campaigns to inform citizens about corruption in the health care sector and the mechanisms available to individuals and organisations to report such corruption cases and obtain redress for the violations of their rights.
- Conduct comprehensive and nationwide research at the national level about the health conditions of the Roma and Egyptian population and their access to health care, especially Romani and Egyptian women (most frequent illnesses, life expectancy, rate of mortality, morbidity data concerning both communicable and non-communicable diseases, number of births, number of abortions, number of HIV positive persons, SBP, obstacles in access to health services, frequency of use of health services).
- Create training programs and define standards for the health mediator profession and ensure its official recognition, scaling-up and long-term sustainability including appropriate remuneration. Organise training for Romani and Egyptian women to enable them to apply for the profession of health mediator.

Health Care Centres

- Conduct informational campaigns targeting Roma and Egyptian communities about the services they provide to citizens (e.g. counselling centres, pregnancy school, etc.)
- Conduct awareness-raising campaigns on the importance of health protection of Roma and Egyptian women in all municipalities where this population live.
- Conduct educational programs for Romani and Egyptian women about the importance of protecting reproductive health and modalities to exercise reproductive health rights.

State Employment Agency of Montenegro

- The long-term active employment policy framework should entail a wide scope of diversified support measures, such as tax exemption and subsidies for employers who employ Roma and Egyptians, as well as incentives for Roma self-employment and female entrepreneurship in the field of independent crafts and agriculture.
- Activities aimed at the elimination of de facto discrimination in the labour market should be intensified through the promotion of best practices in inclusive employment of Roma and Egyptians, the promotion of tax incentives in order to increase the number of Romani and Egyptian employees, as well as through regular inspections to control access to employment and prevent Roma/Egyptian discrimination and exploitation.
- Initiate activities to introduce to Roma and Egyptians, particularly women, the possibilities and importance of their presence at the labour market, with available job positions and openings, and introduce them with rights and duties in the employment area, to overcome the trend that registering at the Bureau is solely for the purpose of receiving health insurance.
- Create guidelines for the appropriate distribution of available job positions that would be offered to representatives of Roma and Egyptian population through programmes of seasonal employment, taking into account the needs of women in terms of their family obligations (e.g. the geographical distance between the home and the workplace).
- Conduct education of employees at employment services in order to increase the level of their sensitivity for dealing with unemployed Roma and Egyptians.
- Proactive interventions tailored to the needs and educational opportunities of Roma should be designed and implemented, including additional subsidised training programs, combined training and advisory services, support services to help newly hired Roma and Egyptian employees and interns, as well as through developing services to support Roma and Egyptian entrepreneurial initiatives.
- Engage Roma and Egyptian assistants who will assist in finding jobs for Roma and Egyptians and act as an intermediary between the State Employment Agency and the Roma community.

- Strengthen the capacities of Romani and Egyptian women to participate in the labour market (communication with employer, strengthening self-confidence, preparation of CV and motivation letter, creating plans for self-employment).
- Regularly organise trainings for additional qualifications and prequalification for Roma and Egyptians, particularly for women, for professions that in demand on the labour market.
- Organise educational activities for Romani and Egyptian men about the importance of the employment of women.
- Establish local teams for professional assistance and counselling centres for representatives of the Roma and Egyptian population who are entrepreneurs.

The Parliament of Montenegro

Following the insufficient role of the Parliament in monitoring and evaluating the Roma integration processes at the local and national level, greater political involvement of and support from MPs and parliamentary committees should take place. Following this line of reasoning, the Parliament of Montenegro should take stock to create a more favourable environment for political participation of Roma and Egyptians.

- Make supportive political statements, organise parliamentary sessions, public debates and promotional events aimed at raising key issues pertinent to Roma inclusion issues and ensuring key political processes that are of relevance for Roma integration, while falling within the scope of the Parliament jurisdiction.
- Make amendments to Electoral Law to enable the Roma and Egyptian population to have an authentic representative in the Parliament, like all other minorities.
- Relevant parliamentary committees, such as the Committee for Human Rights and Freedoms, the Committee for European Integration and the Committee for Health, Labour and Social Welfare should expand their cooperation with Roma and non-Roma NGOs *vis-à-vis* implementation and monitoring of National strategy for improving the situation of Roma and Egyptians in Montenegro 2012–2016 and should initiate more frequent control hearings of the government officials from line ministries in respect of different inclusion issues, ranking from legal documentation, to education, housing and employment.

Local Self-Governments

- Local self-governments should strengthen capacities and regularly conduct monitoring of the use of apartments of solidarity, intended for inhabitants who are in social need, to ensure access and create conditions so that those in greatest need can use them.
- Provide the conditions for the implementation of Plans for the integration of the Roma and Egyptian population; in municipalities without local action plans and in which this population lives such plans should be adopted and conditions created for their implementation.
- Encourage the establishment of institutional mechanisms for the active participation of the Roma and Egyptian population in decision-making and implementation of the decisions at the local level. This institutional mechanism should also serve to monitor and evaluate the implementation of local inclusion strategies as well.
- Develop initiatives to foster proportional representation of Roma and Egyptians in the local labour market, particularly through internship programs for Roma and Egyptians in the local administration, additional incentives for entrepreneurs who are employing Roma and Egyptians as well as by introducing incentives to support Roma/Egyptian self-employment and entrepreneurship.
- Strengthen project-related and fundraising activities for the benefit of Roma and Egyptian (domiciled and IDPs) inclusion, by supporting and facilitating greater partnership development and access of local self-governments to IPA funds and other donations.
- Ensure the diversification of social policy measures for Roma and Egyptians. Intensify the development of social and child protection at the local level, through de-institutionalisation of social services available to Roma and strengthening cooperation with potential service providers and Roma/Egyptian NGOs, in accordance with the Law on Social and Child Protection. Special attention should be paid to supporting the development of guardianship and foster care policy, in accordance with the best interest of the child.

- Develop and implement local social housing programmes, based on the General Programme on Social Housing, by using the methodology that has already proven effective in the Open Society Foundations' Local Development Municipal Initiative pilot project in Herceg Novi. Ensure the participation of Roma and Egyptian representatives in this process.
- Provide adequate state/local funding for the implementation of the Law on Social Housing and social housing programs. Use match funds from donors where possible, to support the implementation process.
- Start the process of desegregating Roma and Egyptian settlements, in close dialogue with Roma and Egyptian community representatives, state officials and local authorities. Use the support of Roma and Egyptian NGOs to reach out to communities, especially in remote parts of the country.

Judicial Stakeholders (Supreme Court of Montenegro, Supreme State's Prosecutor Office and Judicial Training Centre)

- Given the role of judicial authorities in protecting the rights of Roma and Egyptians, the following recommendations may be addressed to key judicial institutions with respect to Roma and Egyptian judicial protection from discrimination.
- Intensify training for immigration and other officials in the field of law enforcement for the early detection of (potential) victims of trafficking, with special emphasis on women and girls who are particularly vulnerable to trafficking.
- Effectively investigate, prosecute in court and legally punish cases of forced and early marriages among the Roma and Egyptian population consistent with Article 74 of the Constitution as well as articles 3, 16 and 18 of the Family Law.
- Provide official interpreters for Roma language in courts.
- Ensure the effective implementation of Anti-discrimination Law, particularly Article 9 relating to the prohibition of segregation.
- Improve the performance of institutions in preventing begging by underage Romani and Egyptian children through consistent implementation of the Law on Public Peace and Order and the Family Law.

European Commission/EU Delegation to Montenegro

In order to ensure proper implementation of adopted Roma-related policy documents as well as human rights standards, key EU stakeholders, the European Commission and the Delegation of the EU to Montenegro, should use the framework and mechanisms of the EU accession process to monitor more closely the implementation of measures, indicators and benchmarks set in the action plans for chapter 23 and 24. In more concrete terms, these stakeholders should draw on the findings and recommendations that come from civil society organisations taking the lead in Roma inclusion and should use them in their annual Progress report, so as to support the objectives and concerns raised therein as well as to point to policy and implementation gaps to be effectively addressed by state authorities. Thus, the following recommendations may be addressed to the European Commission, in particular to the Enlargement Directorate – General, as well as to the EU Delegation to Montenegro:

- Enhance the participation of Roma and non-Roma NGOs in the process of IPA planning and implementation, by promoting and supporting the involvement of Roma civil society representatives and experts in the field of social inclusion, in the working groups for the preparation of planning and implementation of IPA operational documents.
- Simplify the conditions under which Roma NGOs can apply for EU funds, in terms of prescribing less restrictive conditions regarding the annual turnover of the organisation, number of employees, previous experience, and duration of existence.
- Influence the design of specific calls for project proposals, within the existing IPA components and instruments, intended to empower Roma civil society or marginalised groups as a whole, where one of the required or recommended elements is a partnership between a municipality and at least one NGO (Roma and non-Roma) which deals with the integration of the Roma community. As an alternative to this proposal, within the relevant calls, participation of Roma organisations in the project may be prescribed as added value.

- Provide conditions to improve the way that Roma civil society is informed about funding opportunities provided by the pre-accession funds, especially in terms of adapting methods and forms of informing Roma users and strengthening the capacity of Roma NGOs to transmit information and experiences at the community level.
- Increase the visibility of the EU Delegation's work regarding disclosure of information and the composition of evaluation committees after the completion of the evaluation process.
- Ensure continuity in the organisation of consultations with civil society so as to provide the testability of data provided by the public authorities, especially when it comes to the preparation of the European Commission Montenegro Progress Report.
- Apart from the identification of the situation and addressing the problems, in the reports, strengthen the approach of proposing solutions for the improvement of the situation, based on the consultations carried out with NGOs and the Government.

Roma Civil Society Organizations

- Use partnership forums, cross-border interventions and people-to-people initiatives to intensify networking with the wider community of Roma stakeholders, including non-Roma actors, media, NGO watchdog groups and think tanks working on social inclusion at the local, national and regional level.
- Establish regular and effective channels of communication with EU stakeholders, notably with the DG Enlargement and EU Delegation to Montenegro, in order to establish a practice of continuing information sharing, inter alia, for the preparation of yearly Country Progress Reports. Case studies should be used to support the findings and objections presented to the EU stakeholders. Broader coalitions among Roma NGOs should be established and fostered in pursuit of this goal.
- Intensify efforts to promote IPA benefits, principles and opportunities to local authorities, in order to encourage their networking with regard to solving problems faced by the Roma community, as well as for the purposes of the preparation and implementation of projects that are focused on the integration of Roma and Egyptian population at the local level. Special focus should be placed upon participation in the preparation of the final Country Strategy Paper, as well as on the promotion of multi-sectoral partnering projects, as well as by assisting local authorities to design and carry out projects on Roma inclusion.

LIST OF ABBREVIATIONS

AMARE	Active Measures for Active Roma and Egyptians
AP	Action Plan
CA	Civic Alliance
CEDEM	Centre for Democracy and Human Rights
CERD	Committee on the Elimination of Racial Discrimination
CHERI	Challenging Education for Roma
CoE	Council of Europe
CRI	Centre for Roma Initiatives
CSF	Civil Society Facility
CSP	Country Strategy Paper
DG	Directorate-General
DP	Displaced persons
EC	European Commission
ECRI	European Commission against Racism and Intolerance
EIDHR	The European Instrument for Democracy and Human Rights
EU	European Union
GDP	Gross Domestic Product
GP	General practitioners
GRETA	Group of Experts on Action against Trafficking in Human Beings
HRMA	Human Resources Management Authority
ICC	International Coordination Committee
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on Elimination of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDP	Internally displaced persons
IOM	International Organization for Migration
IPA	International Police Association
LAP	Local Roma inclusion action plans
MDD	Montenegro Development Directions
MHMR	Ministry of Human and Minority rights
Minority Fund	Fund for the Enforcement and Protection of Minority Rights and Freedoms

MoI	Ministry of interior
MONSTAT	National statistics agency
MP	Member of Parliament
NGO	Non-governmental Organizations
NRIS	National Roma Implementation Strategy
OSCE	Organization for Security and Co-operation in Europe
PCS	Public Communal Services
RAE	Roma, Ashkali and Egyptian population
RCD	Refugee Care Directorate
RE	Roma and Egyptian population
REF	Roma Education Fond
RHP	Regional Housing Program
SEA	State Employment Agency
SEE 2020	South East Europe 2020
TASCO	Technical Assistance for Civil Society Organizations
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations International Children's Emergency Fund
UNHCR	The UN Refugee Agency
USAID	United States Agency for International Development

INTRODUCTION

Montenegro became independent in 2006 and in the same year was accepted as the 192nd member state of the United Nations (UN) and the 47th member state of the Council of Europe. A Stabilisation and Association Agreement was signed with the European Union (EU) in 2007. Montenegro presented its official application for membership to the EU in 2008. It was awarded the status of candidate country in December 2010. The prospect of EU membership initiated reforms aimed to absorb the 35 chapters of the *acquis* into national legislation. Montenegro belongs to a group of countries labelled as those that are in the efficiency-driven stage of development with Gross Domestic Product (GDP) per capita of 6,882 USD in 2012.⁴ The Montenegrin economy is burdened by a high unemployment rate and grey economy. According to the 2011 Population Census, Montenegro has 620,029 inhabitants, of whom 63% live in urban settlements. The most densely populated is the capital of Montenegro, Podgorica, which accommodates 30% of the entire population.

A regional conference “Roma in expanded Europe: challenges for future” was hosted by the Hungarian Government and held in Budapest in June 2003. The Montenegrin delegation at this conference vouched to realise the project “Decade of Roma Inclusion: 2005–2015”. Each member country that participated at the conference vouched to develop, promote and implement policy of Roma integration under the framework of national economic and social policy in order to tackle the extreme poverty and exclusion faced by the Roma and Egyptian (RE) population.

At the beginning of the implementation of Decade in Montenegro there was an assumption that around 20,000 Roma lived in the country. The latest data from national statistics agency MONSTAT show that there are 6,251 Roma and 2,054 Egyptians living in Montenegro. The majority lived in extremely difficult conditions at the beginning of Decade, and an equally hard situation today.

The aim of the research project “Civil Society Monitoring of the Implementation of National Roma Integration Strategies and Decade Action Plans in Montenegro” was to establish if the undertaken measures envisaged by the National Roma Inclusion Strategy and its Action Plan have contributed, and to what extent, to Roma and Egyptians integration in Montenegrin society. At the same time, the realisation of this project had an aim to develop the capacities of NGOs for monitoring, particularly those active at the local level. The Coalition has thus reflected this in its very membership by gathering organisations active at the local and national level, gathering Roma and Egyptian organisations, as well as those non-RE NGOs that are in everyday contact and working with this population to resolve numerous issues.

The research was complex and had two levels. The first level comprised of analyses of legislation framework. These comparative analyses were of domestic (the Constitution, the Law on minority rights and freedoms, the Law on local self-governance, the Law on the election of board members and members of parliament, as well as the regulations and acts of local parliaments) and international regulations (documents of the Council of Europe and European Union, as well as relevant UN Conventions). The analyses also included a detailed review of numerous strategies, action plans, reports on realisation of action plans, independent reports and other relevant documents related to the process of integration of the RE community that were initiated under the Decade framework. The other level of research comprised the field research, which focused on analyses of situation regarding education, employment, health care and housing. There was a particular focus on the registration of new-born children, rights of RE women, youth and participation

4 World Economic Forum, *The Global Competitiveness Report 2013–2014*, (Geneva, 2013).

of RE in political and public life. The field research was conducted in six municipalities in which Roma and Egyptians mostly inhabit. Namely, Roma live in Podgorica (3988), Nikšić (483), Bijelo Polje (334), Berane (531) and Herceg Novi (258); while Egyptians live in: Podgorica (685), Nikšić (446), Berane (170) and Tivat (335). Two focus groups (with females and males separately) were held with members of RE community in each municipality. The research also included measuring the perception of Roma and Egyptians about their status and the perception of others about RE status in the areas defined by NRIS and Action plan. Finally, for the purpose of research, more than 30 interviews with relevant stakeholders were held.

A particular problem that Coalition members, researchers and authors of the report have faced is the lack of precise and desegregated data that would allow a profound assessment of measures undertaken. Another problem lies in the fact that each progress report related to implementation of NRIS and Action Plans displays the same format with only numbers changing from year to year and with no effort made to assess the impact of measures taken, recognise trends or analyse the developments, which does not allow for evaluating and measuring success or for future policy planning and implementation.

1. STRUCTURAL REQUIREMENTS

Coordination of the Roma Inclusion Work in the Central Government

According to Article 24 of the *Regulation on the Organisation and Operation of Public Administration*,⁵ the Ministry for Human and Minority Rights (hereinafter: MHMR) is responsible for monitoring the enforcement of rights of national and ethnic minorities and other minority communities. The Department for Advancement and Protection of the Rights of Roma and Egyptian population was established in 2009. According to Article 7 of the *Rulebook on the internal organisation and systematisation of MHMR*,⁶ this Department undertakes activities to protect the rights of Roma and Egyptians; provides administrative capacity support to fulfil obligations arising from UN and CoE membership; monitors the protection of cultural, educational, linguistic, religious and other rights relating to the position of Roma and Egyptians; prepares and implements Roma-related strategic documents.

According to the Rulebook, two working places have been systematised in this Department and only one of them is filled at the moment:⁷

- *Head of the Department* with at least three years of work experience at the managerial position (performs duties of internal coordination and cooperation with state and local authorities, international organisations and agencies in order to design and implement measures for improving the situation of Roma and Egyptians, drafts reports on the implementation of international documents relating to the protection and promotion of the rights of Roma and Egyptians, etc.).
- *Senior Advisor II*, with at least two years of work experience (monitors the enforcement of Roma and Egyptian rights; gathers relevant; cooperates with governmental and non-governmental organizations dealing with Roma inclusion).

The annual budget of MHMR was 1 307 602,36 EUR in 2012 and 1 206 646, 63 EUR in 2013.⁸ Due to the *programme budgeting*, it is difficult to single out the budget of the Department, since costs are not presented per departments as budget units, but per MHMR program areas. For the Programme: Advancing RAE Rights, the amount of 256 028, 30 EUR has been planned in 2012 and 228 700, 74 EUR for 2013.⁹ For 2014, this amount is 853,822.46 EUR (for the RAE Program: 180,198.63 EUR).¹⁰ However, it is hard to clearly distin-

5 Official Gazette of Montenegro, No. 25/12, 61/12 i 20/13.

6 Ministry for Human and Minority Rights, *Rulebook on the internal organization and systematization of MHMR*, available at: www.mmp.gov.me/biblioteka/pravilnici?alphabet=lat.

7 Compared to the previous Rulebook from 8 December 2011, no additional working places have been introduced in this Department. The only amendment to the current Rulebook has been made in relation to the managing position of the Head of the Department (the previous rulebook prescribed two working places: Advisor and Senior Advisor III, both with high level education portfolio). Hence, it is clear that this Department does not constitute a priority for the Government, despite the fact that obvious capacity constraints prevent it from assuming an important role within the Decade and EU accession framework. The fact that the Head of the Department (National Decade Coordinator) recently left MHMR has additionally weakened the position and the capacity of the Department.

8 Law on the Budget of Montenegro 2013, available at: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7BEC389181-20B4-49F9-AD27-456EDD639A6E%7D>, http://www.skupstina.me/~skupcg/skupstina//cms/site_data/DOC24/728/728-ZAKON.pdf.

9 After rebalancing the budget, MHMR was vested with 955 094,49 EUR (out of which 179 928, 92 EUR was planned for RAE Program and 174 850 EUR was allocated, according to the Law on the final bill of the budget for 2012, adopted by the Parliament on 10 December 2013 (contracted services: 155 928, 91) available at: <http://www.skupstina.me/index.php/me/sjednice/sjednice-skupstine>. The data for 2013 will not be available till the adoption of the final budget bill for 2013.

10 Law on the Budget of Montenegro 2013, available at: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B8A9638202-DEB5-40DE-BA84-D90F3D3CAAC0%7D>.

guish the purpose of these funds. For example, out of 256028,30 EUR intended for this Programme in 2012, contracting services (projects and tenders aimed at NRIS implementation, inter alia) constitute 250,450,00 EUR and for 2013, this amount is 200 497,10 EUR. Therefore, the constant decrease of the allocations for RAE Program is noticeable, encompassing the general fiscal deficit of the country.

According to the *Annual Programme of MHMR for 2014*,¹¹ out of 81 commitments of the MHMR for 2014, the Department for Roma and Egyptians comprises 13, including regular activities within the Decade; active participation in standardising the Romani language and organising thematic round tables on Roma anti-discrimination. Also, the Department prepares annual reports on the implementation of the National Roma Inclusion Strategy (hereinafter: NRIS) as well as annual action plans for the implementation of NRIS.

However, the Department has been given limited competencies to act as a coordinating body in the implementation of Roma-related policy. Though the Department is responsible for coordinating Roma inclusion measures, it is still not as influential and visible as it should be. Unlike some other Roma-specific bodies specialised for NRIS implementation, with all-Roma staff fully engaged,¹² this Department has been established as an internal organisation MHMR unit, without the necessary political weight and with a limited number of permanent staff and the lack of specific expertise in monitoring Roma-related policies. Its coordination role is being mainly exhausted through the preparation of reports for the Government and treaty bodies, but it is far from coordinating activities at inter-sectoral level. In addition, the only Romani person who works in this Department deals with technical issues and has very limited influence on MHMR policy and general Roma inclusion policy. For these reasons, the role of the Department is not seen as influential and impactful by professional public and the EU stakeholders, or from the standpoint of Roma NGOs.

Although MHMR maintains regular contact with treaty bodies, the involvement of the RE Department is almost missing, even when it comes to contacts with ECRI and CERD. Linkages between this Department (MHMR, in general) and the authorities managing EU funds are very poor. The lack of knowledge of English language and limited human resources prevent this Department from participating more actively in IPA planning and programming. MHMR participated in several EU-funded projects,¹³ led by the Ministry of Labour and Social Care and the Ministry of Education, but only as a partner with modest enrolment.¹⁴ Although employees of the Department passed trainings on EU Project Cycle Management within the project: *Strengthening Capacities of RAE Department*, funded by the Open Society Institute, they have not prepared, nor autonomously implemented even one single EU-funded project so far, due to language barriers, *inter alia*.

Cooperation with civil society is being performed at the level of information-exchange and more or less regular meetings. MHMR and the Department act as an associate in several NGO projects dealing with Roma inclusion. Although this cooperation has been fostered within Montenegro's presidency over the Decade, it is still far from building sustainable public-private partnerships to address Roma inclusion challenges. Hence, considerable efforts are needed to build the Department's human and technical capacity,¹⁵ through employing more Roma and Egyptians experienced in policy making and implementation and providing greater capacity-building support and funding, notably for the management of IPA funds and the implementation of the Action Plan for Chapter 23.

11 Available at: www.minmanj.gov.me.

12 The case of the Republic of Macedonia, where three Roma-specific bodies exist: the National Coordinating Body, the specialised Unit at the Ministry for Social Care and the National Decade Coordinator at the Cabinet of the Minister without Portfolio, acting at a much higher political and influential level.

13 *Supporting Social Inclusion Process (IPA 2010), SIMPLE – Be different campaign (ADRIATIC IPA), Reform of the social protection and care of children: Improvement of social inclusion (IPA 2010).*

14 To date, MHMR led only one project: Gender Equality (total value: 700,000 € – IPA 2010).

15 According to the Rulebook, MHMR should have 27 officers and employees, but during 2012, all tasks have been performed by the Minister and 13 employees, *Report on the protection and enforcement of minority rights in 2012, Government of Montenegro, April 2013*, page 4: http://192.185.34.202/~skupcg/skupstina/cms/site_data/DOC25/ZAKONI%20I%20IZVJESTAJI/221/221_0.pdf.

Involvement of Roma Civil Society in the Design, Implementation and Monitoring of the NRIS or Decade Action Plans

Certain improvements have been noticed in relation to involving Roma civil society in the design, implementation and monitoring of NRIS. The NRIS 2012–2016 has been developed on a participatory basis, in compliance with the EU Framework for National Roma Strategies up to 2020 (COM(2011)0173) and key Roma stakeholders have been involved in its design, through workshops for drafting the Strategy. However, the lack of impact evaluation of the previous Strategy affected the development of the new one, which, however, encompasses well-defined measures and verifiable indicators to measure the progress achieved.

The Government of Montenegro established a Commission for Monitoring the implementation of NRIS 2012–2016. The Commission consists of 13 representatives of respective institutions (MHMR, Ministry of Education, Ministry of Sustainable Development and Tourism, Ministry of Culture, Ministry of Health, Ministry of Labour and Social Welfare, Ministry of Interior, Ministry of Finance, the Directorate for the Care of Refugees, State Employment Agency and local self-governments (Capital City of Podgorica), as well as of representatives of the Roma Council and Roma and Egyptian NGOs, appointed on the basis of a public tender. The set-up of the Commission points to an insufficient number of local self-governments (representatives of at least two other municipalities inhabited by Roma – Berane and Nikšić – should partake or at least one representative of the Union of Municipalities of Montenegro). The participation of Romani stakeholders, however, reflects the appropriate diversity of Roma representation attributes, in terms of gender equality and subject areas covered.

The Commission's tasks are to coordinate activities in implementing NRIS 2012–2016, draft annual action plans, allocate funding and most importantly, to supervise the implementation of NRIS, prepare reports for the Government, evaluate the results and propose measures to address shortcomings in NRIS implementation. So far, the Government adopted the *first two Reports on the implementation of NRIS, for 2012 and 2013*.¹⁶ The reports accentuate the continuity in regulating the legal status of IDP/DP Roma and undertaking anti-discrimination campaigns as well as social and health care measures and desegregation measures in education. They also point to the regulation of the Konik Camp situation and the development of local Roma inclusion action plans. The Report also states that the MHMR has joined the campaign for the elimination of minor and forced marriages, led by NGOs dealing with the protection of female Roma and Egyptians.

In regard to participation in the decision-making process, the *Constitution of Montenegro*¹⁷ guarantees the following rights to minority nations and other minority national communities:

1. authentic representation in central and local election bodies;
2. proportionate representation in public administration and local governments;
3. the right to establish minority councils in accordance with the law.¹⁸

The *Law on Minority Rights and Freedoms*¹⁹ stipulates the right of members of minority nations to participate in proposing and adopting central and local level regulations of interest for the enforcement of minority rights and freedoms. This participation is closely defined by the *Decree on Terms and Procedures for Cooperation between State Administration and Non-governmental Organizations*²⁰ and the *Decree on Terms and Procedures for Conduct of Public Hearing in Law Preparation*, as well as with *municipal decisions on terms and procedure of the participation of local citizens in public affairs*. One of the rights Roma NGOs are entitled to is the "empty chair institute", regulated by municipal statutes, allowing Roma to attend sessions of the local assembly and participate in its work, without the voting right.

16 Government of Montenegro, *The Report on the implementation of NRIS*, (March 2013), available at: www.gov.me/.../FileDownload.aspx?rld=126674...2.

17 *Official Gazette of Montenegro*, No.1/07, Article 79, available at: <http://legislationline.org/download/action/download/id/929/file/b4b8702679c8b42794267c691488.htm/preview>.

18 Montenegro, *Law on Minority Rights and Freedoms*, 7, available at: www.mmp.gov.me.

19 *Official Gazette of Montenegro*, No. 2/2011, articles 26, 28, available at: <http://www.minmanj.gov.me/biblioteka/zakoni>.

20 *Ibid.* 07/12.

The Law on Minority Rights and Freedoms also regulates the establishment of the Fund for the Enforcement and Protection of Minority Rights and Freedoms (hereinafter: Minority Fund), to support activities important for the preservation and development of national, ethnic and cultural specificities of minority national communities. It was established by the Parliament of Montenegro.²¹ The Law also entitles all minority communities to form a single minority council at the central level, while obliging municipalities inhabited by significant minority populations to form local minority councils so as to enable minority participation in local decision-making, while introducing, in their local plans, specific provisions for ensuring proper minority representation. The National Commission for Monitoring of the Action Plan for the Achievement of Gender Equality was established in 2011 as well as local commissions for the implementation of local gender equality action plans which facilitate gender representation of Romani women, inter alia.²²

NRIS 2012–2016 and its accompanying Action Plan for 2012 also elaborate on the issue of Roma participation in public and political life of the country, entailing measures for the political education of Roma and Egyptians, equitable representation of Romani and Egyptian men and women as well as affirmative measures for employing Roma in public administration bodies at the central and local level. The aforementioned Commission for Monitoring of the implementation of NRIS represents the most direct mechanism for Roma participation in the development, implementation and monitoring of NRIS.

Roma participation in local decision-making is envisaged by the local Roma inclusion action plans (hereinafter: LAPs). Although such action plans now exist in seven municipalities (Berane, Ulcinj, Bijelo Polje, Nikšić, Kotor, Tivat, Herceg Novi), their implementation is not efficient, due to insufficient funding and the lack of adequate implementing and overseeing mechanisms. Namely, these plans envisage local commissions as Roma participation mechanisms in LAPs implementation, but most of them have not been yet established (in municipalities where LAPs have been recently adopted, such as in Berane), while in others (Nikšić), the commission does not provide regular monitoring reports on LAP implementation, mainly due to the lack of capacities of Roma NGOs to act as municipal-level focal points. Therefore, the functioning of this mechanism is still greatly dependable on the degree of local self-government engagement, but also on the capacity of local Roma NGOs to invest in the implementation, monitoring and evaluation of LAPs. However, some good practices of Roma and Egyptian participation have been noticed as, such as the development of local action plans in municipalities Herceg Novi (Roma NGO: Young Roma) and Nikšić (Roma NGO Početak).²³ Finally, the fact that the Capital City of Podgorica, which is inhabited by 3988 Roma and 685 Egyptians (3,98 % of the general population in Podgorica)²⁴ still does not have a local Roma Inclusion platform, constitutes an important concern in terms of local Roma policies.²⁵

Roma Inclusion and National Reform Programmes within the Europe 2020 Framework

In order to align National Reform Programmes with Europe 2020 objectives, in March 2013, the Government developed a document named Montenegro Development Directions (MDD) 2013–2016, which recognises Roma and Egyptians as one of the target groups.²⁶ Taking inspiration from the Europe 2020 Strategy, MDD envisages, inter alia, active employment policy measures for the integration of long-term unemployed persons, including Roma and Egyptians; permanent solution of the status of refugees and IDPs; better enrolment of Roma and Egyptians in the education system and social support to the poorest

21 *Ibid.*, No. 13/08, 64/11.

22 Local commissions for the implementation of LAPs on gender equality; the National Commission for Monitoring of the Action Plan for the Achievement of Gender Equality, established in 2011.

23 OSCE/ODIHR, BPRI Project, *Regional Report on Anti-discrimination and participation of Roma in Local Decision-Making*, (March 2013) available at: <http://www.osce.org/odihr/102083>.

24 Population census, breakdown per municipalities/ethnic origin, available at: <http://www.monstat.org/cg/page.php?id=535&page-id=322>.

25 The Capital City has recently adopted the Local Plan on Social Inclusion (available at www.podgorica.me) – the development of social services 2014–2018, but it does not recognise Roma and Egyptians as a target group, nor does it encompass targeted measures to tackle specific problems of Roma and Egyptians residing in its territory.

26 Available at: <http://www.gov.me/en/search/128212/Montenegro-Development-Directions-2013-2016.html>.

households, including Roma and Egyptian ones. The implementation of MDD will be monitored by the Parliament of Montenegro and the Coordination Committee²⁷ through annual reports, mid-term review and a final evaluation.

Montenegro also participates in the South East Europe 2020 (SEE 2020) Strategy. Modelled on Europe 2020, this regional initiative seeks to foster the economic development of the region by stimulating key long-term drivers of integrated, smart, sustainable and inclusive growth – innovation, skills and trade integration. Targets to be achieved by 2020 include greater employability and skills development of Roma and other marginalised groups.

The second most recent document within the Europe 2020 framework is the Country Strategy Paper (CSP)²⁸ that will serve as a basis for IPA programming for the period 2014–2020. In order to define priorities for EU financial assistance for the next seven years, CSP sets objectives and indicative financial allocations, identifies key actors and indicates how progress will be measured. CSP will be reviewed at mid-term or at any time by the initiative of the European Commission (EC). CSP recognizes MDD as an overarching strategic document and is aligned to specific sectoral strategies as well, including NRIS.²⁹

However, the implementation of these strategies is greatly affected by the lack of coordination between different governing lawyers involved in Roma-related policy, including agenda setting, implementation and reporting. The data vary from one body to another, no centralised entity is responsible for gathering, maintaining and analysing data referring to Roma and Egyptians.³⁰

NRIS/Decade of the Roma and Other Relevant Sector-Specific Strategies

There are no major conceptual differences between the objectives and measures of NRIS, Decade of Roma National Action Plan and local inclusion action plans on one side and relevant sector-specific strategies on the other. Given that NRIS was adopted in 2012, after obtaining the EU candidacy status, it had to follow the Action Plan on the implementation of recommendations to obtain candidacy status.³¹ However, given the estimated number of over 80 sector strategies in Montenegro, most of which have an impact on Roma and Egyptians, it is very hard to ensure their implementation in a coherent and integrated fashion. There are strategic documents, such as the new *Strategy for the Reduction of Poverty 2007–2011*, which has expired and the new one should be adopted in conformity with the NRIS priorities. Also, the *Strategy for the development of social and child care 2013–2017* is not aligned with the new Law on Social and Child Care, as it was adopted before the enforcement of this law.

This situation is also affected by the fact that many of these strategies, except national development and EU Integration programs, are adopted without the frequent and meaningful policy debate that should accompany their adoption. Although the Government organises public hearings on draft laws and strategies, the level of interest and contribution of stakeholders, most notably of Roma CSOs, is insufficient to ensure that all sectoral objectives and targets are closely correlated with NRIS. However, the legitimacy of these objectives at the policy level is not disputable, since Roma issues constitute an integral part of the acquis Montenegro needs to incorporate in its legal system within the EU accession process.

27 The Committee will be established from representatives of responsible ministries and will function at the level of Prime Minister Office.

28 The CSP has not yet been adopted. The last version of the Paper, dated 13.11.2013, served for consultations with stakeholders. The next version is expected on 20 February 2014.

29 There is an evident financial gap of 565.38 million EUR (3.7% of average GDP), between the required investments in MDD and projected public funds for 2013–2016, meaning that required measures are more than two times higher than the envisaged scope of available public funds in the following four-year period.

30 This has been also proven in the recent example relating to the first *Report on the implementation of the Action Plan for the Chapter 23*, available at: www.mvpei.gov.me/en/library/document.

31 *Opinion of the European Commission on the request of Montenegro for EU membership*, Brussels, 9.11. 2010, COM (2010) 670.

Monitoring and Evaluation of the Development and Implementation NRIS or Decade Action Plans

In terms of the overall policymaking and coordination, Montenegro has established a basic policy management system, comprising a legal framework and bodies to perform planning and policy coordination tasks. The main weaknesses include the lack of formal, medium-term horizontal planning and the absence of requirements to ensure that policy implementation is followed up by monitoring and analysis. Local governments face the same problems as central bodies in ensuring effective and participatory policy processes.

Where Roma-related policies are concerned, notably the NRIS, the Government has established the Commission for Monitoring of the Implementation of NRIS. The Working Group for monitoring the implementation of Montenegro's commitments under the presidency of the Decade was established on 25 September 2013 with the aim to perform monitoring and evaluation tasks relating to the Decade. It is consisted of representatives of the Coalition "Roma and Egyptians Together", NGO Coalition "Roma Circle", Institute for Social Inclusion, Centre for Roma Initiatives, NGO Roma Hope, NGO E-Roma, NGO Roma Dream, NGO Young Roma (focal point for the Decade) and NGO "UM RAE". However, despite certain progress, there has been virtually no robust monitoring mechanism and no evidence of a thorough and continuous NRIS progress evaluation. Although this monitoring task remains the prime responsibility of the Government, NGO reports that could provide independent and verifiable information related to NRIS and contribute to a more effective monitoring process are missing.

The fact that the Government has not distinguished policy implementation and coordination from monitoring may be also seen from the MHMR Rulebook, which envisages the Department as both coordination and monitoring body. However, the Department does not perform monitoring on the implementation of NRIS commitments, except at the level of MHMR. Instead, it simply gathers information for the purposes of treaty body reports and for compiling reports on the implementation of NRIS, but does not invest additional efforts to promote the Decade agenda in other ministries. At the same time, separate monitoring bodies, such as the Working Group around the Decade and the Commission for monitoring NRIS implementation, does not have full functional and financial autonomy. Sufficient financial and technical means are needed for these bodies to assume their tasks effectively.

Another problem that greatly affects the efficiency of monitoring is the lack of statistical information as an important crosscutting element that allows informed decision-making and evaluation of the impact of implemented measures. Because of the lack of ethnically segregated data (all data are being collected and maintained in aggregate manner, according to non-discrimination principle), it is very hard to track and evaluate if progress has been achieved and to what extent. Therefore, the state needs to increase the use of administrative data, improve the capacity for collecting accurate statistics and better coordinate various data administrators.

Financing of NRIS/Decade Action Plan and Support to Roma Organizations

Limited budgetary funds have constituted one of the key constraints to the implementation of Roma-related inclusion policies. For the purposes of NRIS implementation for 2008–2012, a total value of 1,700,000.00 EUR was invested (for a total of 65 projects).³² According to the Law on the Budget of Montenegro for 2012, the Government provided funding of 473,080.00 EUR for NRIS, of which 230,000.00 EUR is provided by MHMR, through its budget unit, while the remaining funds have been allocated through other budget units, according to the type of activity envisaged by NRIS Action Plan for 2012.³³ The total amount of funds to be drawn from the state budget for NRIS implementation, will depend on the available resources defined by the annual budget laws, but also on the ability to withdraw IPA funds, as it is already clear that

32 Montenegro, *NRIS 2012–2016*, 5.

33 *Action Plan for the implementation of the National Roma Inclusion Strategy*, available at: http://www.romadecade.org/cms/upload/file/9276_file12_report-progress-me.pdf.

available public funds are insufficient to address targeted problems. Financing local inclusion strategies is also questionable and greatly depends of fiscal deficit of local self – governments.³⁴

According to the database of EU-funded projects in Montenegro, the EU granted a total amount of 9,373,028.00 EUR for the implementation of projects in the area of economic and social inclusion of Roma. Project beneficiaries have co-financed these projects in the amount of 1,081,946.00 EUR, what makes the total value of 10,454,974.00 EUR. These data refer to the governmental and non-governmental sector.³⁵ In addition, 9,600,000.00 EUR has been allocated for regional EU projects,³⁶ including a regional program for voluntary return and providing lasting solutions for refugees and internally displaced persons in the Western Balkan countries. Projects are mainly focused on housing and education. However, the lack of clear vision of EU support, poor linkages between sector strategies and the over-ambitious projection of results, affected the limited utilisation of IPA I 2007–2014 for the benefit of Roma integration. In addition, problems of the domestic Roma population were largely neglected in the process of the EU support strategic planning.

The limited involvement of MHMR in IPA planning and programming should also be highlighted. The apparent lack of capacity and interest in this process, alongside language barriers, have caused quite a superficial approach from MHMR in defining funding priorities in the field of human and minority rights. However, as the jurisdiction of MHMR overlaps with the jurisdiction of the Ministry of Labour and Social Welfare, social inclusion has been included as a clear priority in the *Strategic Coherence Framework*, the draft CSP as well as in *IPA Operational Programmes*.³⁷

Nevertheless, the situation in this respect is slowly changing, as it is clear that the Ministry needs to become more aware of IPA funds that will be available and their importance in terms of consistency between domestic and EU policies. Therefore, expanding the number of staff in MHMR and delivering training to existing staff should be a key priority for the next period. However, the specific results of those measures will not be visible before the start of the programming process in 2015, as the programming process for IPA 2013 and 2014 allocations has been already completed.³⁸

The programming process for IPA 2014 is quite centralised and vague at this stage and is being dealt with by state institutions and the EC. Since technical details of IPA II planning are still not precisely defined, the involvement of NGOs in this process will greatly depend on the recommendations of the EC.³⁹ However, this issue deserves more attention from all stakeholders, considering the very low level of NGO participation in IPA planning to date.⁴⁰ At this stage, it can be said that NGOs, including Roma NGOs, have been involved in the consultation process during the preparation of the draft CSP, organised by the EU Delegation to Montenegro from July to October 2013. Greater involvement of NGOs and other stakeholders is expected in the next period, following the feedback received from the EC when broader consultations on the final CSP will be launched, jointly by the Delegation, the Government and TACSO Office in Montenegro.

As far as the capacity building of Roma civil society is concerned, several projects have been implemented:

- NO to Charity, YES to the Fight for Human Rights of REA Disabled Children in Montenegro, NGO Humanitarac, EIDHR 2009, total project value: 33,147.00 EUR.
- Increasing Internal Displaced Persons Association's Participation in IDP Related Public Policy Development, NGO Kosmet, NGO – Association of the Displaced, Refugees and Expelled Persons in Montenegro, IPA 2009, total project value: 109,166.00 EUR.

34 For example, the Municipality of Nikšić has allocated no funds for the implementation of LAP in 2014.

35 <http://www.cedem.me/en/publications/viewdownload/48-publikacije-eng/444-study-on-effects-of-eu-support-for-social-inclusion-of-roma-in-montenegro.html>.

36 http://ec.europa.eu/enlargement/instruments/multi-beneficiary-programme/index_en.htm.

37 Available at the official web site of Ministry of Foreign Affairs and European Integration of Montenegro.

38 For projects from the IPA 2012 and IPA 2013 programs the contracting process had not still begun, while contracting for projects from IPA 2011 program is in the first phase.

39 *Draft Regulation for European Council and European Parliament regarding Instrument for Pre-Accession Assistance for the period 2014–2020 (IPA II)*, Brussels, 7.12.2011, COM(2011) 838 final 2011/0404 (COD).

40 Written note of the Ministry of Foreign Affairs and the European Integration, 31 January 2014.

- Challenging Education for Roma Inclusion – CHERI, Pedagogical Centre of Montenegro, IPA 2007 CSF, total project value: 145,436.00 EUR.⁴¹

The most recent project granted by the EU and managed by the Delegation of the EU to Montenegro is the AMARE (Active Measures for Active Roma and Egyptians) Project, implemented by NGO Coalition “Roma Circle” and NGO Humanitarac, in cooperation with MHMR and municipalities Berane, Nikšić and Herceg Novi.⁴² The overall goal of the project is to foster Roma participation in local decision-making and employment. The total value of the project is 70,858.20 EUR (EU funding: 66,606.00 EUR; co-funding: 4,251.50 EUR, EIDHR 2013).

Financial Viability of NRIS and Other Roma Inclusion Policies

Montenegro is currently at an early stage of sector coordination, planning and management. Medium-term budget planning and tools for sector monitoring are not yet in place. Part of the IPA funds will be used to supplement the state budget so as to directly support the implementation of certain sectoral priorities and underpin institutional development, such as the development of a public finance management system and a performance assessment framework.⁴³ In line with the new approach in negotiations between the EU and Montenegro,⁴⁴ IPA II will provide support, inter alia, for sector 2 of Justice, Home Affairs and Fundamental Rights and sector 7: Employment, Social Policies and Human Resource Development, both of which provide good prospects for Roma inclusion interventions. In addition, IPA II will also support cross-cutting issues, such as civil society capacity – building, gender mainstreaming and integration of Roma and Egyptian communities⁴⁵ to support on-going reforms and investments.

IPA planning for the period 2014–2020⁴⁶ seeks to support the implementation of national strategies in line with the priorities identified in CSP and in the MDD 2013–2016. As may be seen from this document, the amount will remain at the level of IPA support in previous years (*approximately 35 million EUR with additional support through regional support programmes and the EU programmes*).

Given the difficulties in setting priorities for the next period, sector policy strategies and detailed action plans that are in place will be given priority and will serve to define more focused reform and development plans for each respective policy area. Moreover, the EC will continue to monitor the progress in this field even more strongly, as Roma inclusion has been considered a horizontal issue (minorities and vulnerable groups) across all sectors and represents an integral part of the project description for IPA II. Given the limited absorption capacity of IPA beneficiaries, their weak capacity for policy design as well as the scope of priorities to be financed, the state will use part of IPA funds through direct budgetary support, in addition to project financing, what will make these funds more accessible, thus adding to the financial viability of possible Roma inclusion interventions.

During the financial period 2014–2020, the EU will support only those sector priorities defined within CSP. In addition, this document will be adopted by the EC and its revision will be only possible in the middle of the programming period – mid-2017. In accordance with the CSP and MDD, almost all activities in the field of Roma inclusion will be implemented through Action Plans for Chapters 23 and 24, which were adopted by the Montenegrin Government on 27 June 2013. These plans comply with NRIS and other relevant strategies and actions plans in the field of Roma inclusion. They will serve to address the recommendations from Screening Reports for these two chapters, and will constitute benchmarks for opening and closing

41 *Ibid.*

42 <http://www.berane.me/index.php?IDSP=962&jezik=lat>, <http://pgf.co.me/index.php/me/20-kbkb>.

43 *Draft Country Strategy Paper*, available at: <http://www.mvpei.gov.me/ministarstvo>.

44 *Accession Negotiations with Montenegro – General EU Position*, available at: <http://glb.bos.rs/progovori-o-pregovorima/uploaded/Montenegro-negotiating-framework.pdf>.

45 *Ibid.*

46 IPA II pursues the following objectives: (a) support for political reforms, (b) support for economic, social and territorial development, (c) strengthening the ability of the beneficiary country to fulfil the obligations stemming from EU membership, (d) strengthening regional integration and territorial cooperation.

negotiations in these areas. The plans cover areas under the sector of Justice, Home Affairs and Fundamental Rights. In addition to the new IPA II approach, the implementation of these plans is expected to increase the level of harmonisation between EU and national policies and among national policies as well, especially given the coordination of strategic planning of the EU support at the national level, but also to secure funding of measures that have been prioritised. However, more intermediaries (Roma NGOs and individuals) should be involved in this process to ensure the proper implementation of envisaged measures.

Given the scope of socio-economic problems exacerbated for groups with a history of social exclusion, such as Roma and Egyptians, operational programs under IPA Component IV bring special grant schemes for the supporting employment and social inclusion of Roma and Egyptians. The NRIS is also recognised by these operational documents and will serve to draw priorities in terms of employability and human resource development of Roma and Egyptians. Operational Programme for IPA component IV envisages the amount of 5.583.000 EUR (national co-financing: 985.235). This makes the total funding support of 6.568.235 EUR. The Priority Axis 3: Improving social inclusion – Measure 3.1. Supporting greater access to the labour market for persons with disabilities and members of Roma and Egyptian population should be highlighted (the total value of this allocation is 1,313,648 EUR national co-funding: 197,048 EUR).⁴⁷

EU Funds to Support Roma Inclusion Stakeholders

In respect to ensuring the accessibility of EU funds for small NGO projects targeting Roma inclusion, not much has been done by the state. On the contrary, support for Roma NGO projects has been questionable so far, meaning that there have been significant deficiencies in the allocation of funds by the Minority Fund and the Commission for the allocation of lottery funds.⁴⁸ These deficiencies entail the conflict of interest and the lack of transparency and accountability during both decision-making and distribution of funds, as confirmed by the decisions of the Administrative Court of Montenegro.⁴⁹ The key denominator of all objections from NGOs, including Roma NGOs, is that specific criteria for allocation as well as project evaluation, decision-making and monitoring procedures are not adequately regulated, leaving a significant space for misuse.

Bearing in mind these shortcomings, the Government has prepared a draft Decree on the composition, criteria for election and procedure of nomination of the members of the Commission for Allocation of the Funds to NGOs. Its adoption has been postponed until the final adoption of the new Law on NGOs. The Draft Decree on more detailed criteria for assessment of projects, i.e. NGO programs, has been prepared and its adoption postponed until the adoption of the new Law on Games of Chance. In addition, an analysis of the legislative framework for the operation of the Minority Fund will be conducted in February 2014.⁵⁰

The Government has also amended the *Decree on the criteria for determining the users and the manner of distribution of revenues from the games of chance*⁵¹ allowing NGOs to apply for matching funds for EU projects, so as to enable even small NGOs to apply for IPA funds. However, in practice the Commission grants less funding than stipulated by stated regulations (*the Commission is obliged to support 75% of the total value of the approved project*). The amount granted is much lesser than this percentage and leads to a situation where NGOs count on these matching funds when applying for EU funds, while being left without state support in the implementation phase. This greatly demotivates smaller NGOs to apply for IPA funding. On the other hand, sub-granting is now considered highly commendable by the EU Delegation during the evaluation of project proposals. Yet, this orientation cannot be attributed to the Government, but to NGO advocacy actions directed towards the EU Delegation.

47 Operational Program 2012–2013 under IPA Component IV: <http://www.mvpei.gov.me/ministarstvo>.

48 The budget of the Minority Fund in 2012 was 910,000.00 EUR (895,173.33 EUR was allocated in 2012, according to the final balance sheet) and for 2013 it was 900,300.00 EUR. The budget of the Commission for allocation of lottery funds is approximately 1 to 1.2 million EUR.

49 For more details, please see open letter of the Civic Alliance submitted to MPs, available at: <http://www.gamn.org/index.php/mn/novosti/108-otvoreno-pismo-o-presudi-upravnog-suda-o-fondu-za-zastitu-i-ostvarivanje-manjinskih-prava>.

50 Action Plan for Chapter 23, Measure 3.10.1.8.

51 Official Gazette of Montenegro, No.42/11.

2. ANTI-DISCRIMINATION

The Communication stresses that measures for social inclusion must be underpinned by a rights-based approach and calls on all Member States to “fight discrimination convincingly” to ensure that Roma are not discriminated against but treated like all other persons with equal access to all fundamental rights as enshrined in the EU Charter of Fundamental Rights. Member States were urged to prioritise the following:

- ensure that all Roma are registered with the appropriate authorities;
- step up the fight against racism and discrimination including multiple discrimination;
- build public understanding of the common benefits of Roma inclusion;
- fight child labour and address trafficking in human beings more effectively, including by international cooperation.

State Efforts in Relation to Regulation of the Legal Status of Roma IDPs

The lack of registration and identity papers still represents an issue of paramount importance for Roma and Egyptians living in Montenegro. According to data from April 2013, 2689 displaced persons (DPs) from the former Yugoslav republics and 8233 internally displaced persons (IDPs) from Kosovo reside in Montenegro.⁵² According to the *Report on the implementation of NRIS Action Plan for 2012*, out of 8,902 submitted requests⁵³ to obtain the status of foreigner with permanent residence status, 5,374 requests were positively resolved, while 3,500 were still in progress.⁵⁴ During the same period, displaced and internally displaced persons submitted 353 applications to obtain the status of a foreigner with temporary residence. Of this number, 102 requests were positively resolved, while 251 were still in process.⁵⁵ No updated data are accessible at the moment. According to the stated report, seven information campaigns at the municipal level have been organised, entailing 150 persons, to provide the necessary information on the regulation of legal status and prevent the risk of statelessness. In addition to these activities, state employees in respective ministries provide on-going support to persons willing to regulate their status.⁵⁶

However, despite significant efforts from the Government, UNDP and local Roma NGOs, this process has not been yet completed. By simply comparing the number of IDPs and the number of those who have acquired the status of a foreigner or whose requests are still in process, it is clear that the estimated number of persons without regulated status is still significant and prevents them from enjoying fundamental rights. Taking this into account, the Government has delayed the deadline for submission of requests to obtain the status of foreigners, several times. The first deadline was 7 November 2011. By amending the Law on Foreigners, this deadline was first prolonged until the end of 2012 and then the end of 2013. With the latest amendments from December 2013, the deadline has been extended until 31 December 2014.⁵⁷

52 Action Plan for Chapter 23, p. 246.

53 3,689 DPs and 5,213 IDPs.

54 Information as of December 2012.

55 Information as of December 2012.

56 *Report on the development and protection of the rights of minority nations and other minority national communities*, available at: http://192.185.34.202/~skupcg/skupstina/cms/site_data/DOC25/ZAKONI%20I%20IZVJESTAJI/221/221_0.pdf.

57 http://www.mup.gov.me/ministarstvo/Javne_rasprave/134444/Poziv-za-javnu-raspravu-o-Nacrtu-zakona-o-strancima.html.

Roma and Egyptians still face a number of difficulties that affect the delay of the procedure for status regulation. In this regard, it is particularly important to point out the problem of Roma IDPs who are not registered in birth registers at all or needed to be subsequently registered, because birth registers were either destroyed or lost during the 1999 conflict in Kosovo. Obtaining the necessary documentation in these cases involves a trip to the local government in South Serbia or in Kosovo, imposing additional costs and difficulties in obtaining a birth certificate to apply for the status of a foreigner.⁵⁸

Another problem is the registration of Roma and Egyptian children who were born in Montenegro, outside health facilities. It is partially addressed by the *Law on Registers*,⁵⁹ by introducing the procedure of subsequent registration led by the local Mol units as well as through organising transport and travel compensations for IDPs who want to register their children. However, the conditions for the registration of children born outside of health facilities, as well as the procedure to determine the facts of the birth (such as the time and the place of birth, and the names of parents) are not adequately regulated. Hence, it is necessary to amend the Law on Non-Contested Procedure⁶⁰ and regulate the procedure of subsequent registration of children in those cases where relevant facts cannot be determined in administrative proceedings.⁶¹ In addition, the Government will carry out an analysis of legislation regarding the regulation of permanent residence of children born in Montenegro, where one or both parents are foreign citizens residing in Montenegro, and will amend the Law on citizens in line with the recommendations from the Analysis.⁶²

Fight Against Anti-Roma Discrimination and Racism

Following the regaining of independence in 2006, Montenegro has ratified almost all international and regional human rights instruments,⁶³ including the International Convention on Elimination of Racial Discrimination (ICERD), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), European Convention on Human Rights, Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.

According to Article 9 of the *Constitution of Montenegro*⁶⁴ international treaties and generally accepted international standards represent an integral part of the domestic legal system, have supremacy over domestic law and are directly applicable when an issue is regulated differently by the national legislation. The Constitution explicitly prohibits the incitement of hatred or intolerance of any kind as well as any direct and indirect discrimination on any ground, safeguarding a set of civic, political, economic, social and cultural rights and freedoms to members of minority nations and other minority communities. In respect of the guaranteed rights, the Constitution prescribes limitation of dissemination of information and ideas through mass media only if necessary, inter alia, to prevent propagation of war or incitement to violence or criminal acts; to prevent the propagation of racial, ethnic and religious hatred or discrimination. The Constitution also prohibits all forms of forced assimilation of minorities (Articles 79–80). Guaranteed human rights and freedoms may be restricted by law to the extent permitted by the Constitution and international standards, to the extent that is necessary in a democratic society. Restrictions may not be imposed for pur-

58 *Strategy for Durable Solution to the Issue of Displaced and Internally Displaced Persons, with special emphasis on the Konik site 2011–2015*: “The personal documentation of displaced persons from Kosovo and Metohija, if not destroyed in war operations, is situated in cities of central and south-eastern Serbia (Kragujevac, Kraljevo, Kruševac, etc.). The problem is that the citizenship certificate, which is necessary in order to get any other document, is obtained on the basis of father’s birth, and the parents of almost all domicile, DP and IDP Roma were born in Kosovo. Hence, this document is very difficult and expensive to get”.

59 Official Gazette of Montenegro, No. 47/08, 41/10.

60 Official Gazette of Montenegro, br.27/06.

61 A similar solution is envisaged by the legislation of the Republic of Serbia. It allows child registration on the basis of a statement of two adult witnesses who must have identification documents. The statement needs to be made in line with the Law on Administrative Procedure, elaborating the reasons for untimely registration of child birth.

62 AP for Chapter 23, Measure: 3.10.2.1.

63 Based on the successor statement dated 23 October 2006, Montenegro was recognised as a successor for 49 conventions and protocols.

64 Official Gazette of Montenegro, No.1/07.

poses other than those for which they were prescribed. The *Law on Minority Rights and Freedoms*⁶⁵ regulates and safeguards a set of minority rights and freedoms, including the preservation of the national identity,⁶⁶ protection from discrimination, equal access to rights and effective participation in public life.

In addition to a constitutional and legal proclamation of equality regardless of any specificity or personal characteristics, the Government of Montenegro adopted the *Law on the Prohibition of Discrimination* on 27 July 2010⁶⁷ to combat discrimination on the grounds of any personal characteristic, including race, national or ethnic origin, social status or other personal attribute, including health status, sexual orientation and gender. Social relations that are protected by this law are the following: employment and labour, political action, health, access to public services and facilities, education and vocational training, marital and family relations. The Law also contains provisions on protection of persons who provide information or testify about the occurrence of discrimination (protection from victimisation) as well as the principle by which the consent of the discriminated person does not relieve of liability the person who discriminates against that person or encourages discrimination. The principle of affirmative action is stipulated by this Law, meaning that special measures may be imposed by state administration bodies, local self-governments, public enterprises and other natural and legal persons in order to facilitate and foster national, gender and overall equality and protection of persons in an unequal position, based on any of the grounds.

When claiming violation of the right to equal treatment, anyone who claims discrimination may file a complaint to the Protector of Human Rights and Freedoms. The complaint can be also submitted by organisations or individuals that deal with human rights protection, with the consent of the discriminated person or a group of persons who claim discrimination (*in regards of actio popularis please see section 2.6*). Anyone who believes they have been discriminated against is entitled to judicial protection as well, and may submit a lawsuit to the court within 90 days⁶⁸ of the moment he/she discovered discrimination, seeking:

1. determination of discrimination of the defendant toward the plaintiff;
2. prohibition of an act of discrimination and the act that threatens to be discriminatory;
3. prohibition of the repetition of discrimination;
4. determination of the damage due to discrimination as well as compensation in accordance with law;
5. publication of the determination of discrimination at the expense of the defendant/media, if discrimination is carried out by the media.

The territorial jurisdiction of the court is based on the plaintiff's place of residence. The lawsuit can also be filed by individuals and organisations with the written consent of the discriminated person. It is not necessary to prove the intent of the alleged perpetrator of discrimination, as the Law prohibits all forms of discrimination, including direct and indirect, intentional and unintentional, de jure and de facto discrimination, as well as the failure to take measures to prevent and suppress discrimination. The burden of proof is on the defendant, not on the victim. In other words, the plaintiff only needs to report discrimination and show it is probable that the act of discrimination occurred, while the defendant must prove that his/her act does not constitute discrimination.

Following the adoption of the Law on the Prohibition of Discrimination, a *Rulebook on contents and manner of keeping records on reported cases of discrimination*⁶⁹ has been adopted, obliging public institutions to keep evidence on discrimination and send it to the Ombudsman. Also, MHMR has drawn up a *Plan of implementation of the Law on the Prohibition of Discrimination*, as well as an *Education and Media Plan* to promote anti-discrimination legislation. The education plan targets civil servants, judicial officials, NGOs and inde-

65 Official Gazette of Montenegro, No. 31/06, 51/06, 38/07, 2/11.

66 According to the law, a minority nation (and other minority national community) represents a group of citizens of Montenegro, numerically smaller than the rest of the prevailing population, which shares ethnic, religious or linguistic characteristics, different from the rest of the population, and which is historically tied to Montenegro and motivated by the desire to express and preserve its national, ethnic, cultural, linguistic and religious identity.

67 Official Gazette of Montenegro, No. 46/10: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7BD6457034-F84F-40E2-9422-F8E05FFA3590%7D>.

68 This deadline is longer in some legislation, such as in Slovakia, where it is up to 3 years.

69 *Rulebook on contents and manner of keeping records on reported cases of discrimination*, available at: <http://www.mmp.gov.me/biblioteka/pravilnici>.

pendent agencies dealing with discrimination. Promoting anti-discriminatory behaviour also constitutes a continuing activity of MHMR.

The process of harmonising the Law on the Prohibition of Discrimination⁷⁰ with the EU acquis has started. Proposed amendments to the Law on the Prohibition of Discrimination explicitly prohibit sexual harassment and discrimination of persons on the grounds of their gender identity and sexual orientation. The scope of complaints, based on which it is possible to ask for judicial protection from discrimination, has been extended so as to entail a request for removing the consequences of discriminatory behaviour as well. The prohibition of racial discrimination has been defined on the grounds of faith and belief, race, colour of skin, language, religion, nationality or national or ethnic origin. Assisting in carrying out a discriminatory act as well as the announcement of discriminatory behaviour constitutes discrimination as well.⁷¹ The Law introduces a system of judicial protection from discrimination, allowing victims of discrimination to file a lawsuit on the grounds of discrimination.⁷² However, proposed amendments to the Law neither cover a negative definition of discrimination, nor hate speech.⁷³ There is no provision pursuant to which someone can be found guilty for discrimination if he/she discriminates based on wrongful perception (e.g. individual can be discriminated on the bases of "looking as if they're Roma or looking as if they're homosexual" even though he/she is not really of that ethnic origin or sexual orientation). Discrimination against children as a separate form of discrimination is also lacking.

In addition to this systemic anti-discrimination law, discrimination is covered by criminal legislation as well. The *Criminal Code of Montenegro*⁷⁴ encompasses several criminal offences against freedoms and rights of individuals, including genocide, war crime against civilians and crimes against humanity. The following crimes are particularly relevant for the prohibition of discrimination: *Infringement of the right to use language and alphabet* (Article 158); *Infringement of the right to expression of national or ethnic affiliation or culture* (Article 160); *Infringement of equality in employment* (Article 231) and *Infringement of rights pertinent to temporary unemployment* (Article 269). The Criminal Code also envisages the criminal offence: *Inciting to national, racial or religious hatred* which refers to anyone who publicly incites violence or hatred toward a group or a member of a group, on the basis of race, religion, origin, national or ethnic affiliation (Article 370). Pursuant to Article 443 of the Criminal Code, *criminal offence of racial and other discrimination* refers to persons who violate fundamental human rights and freedoms of individual, on grounds of a difference in race, colour of skin, national affiliation or some other personal characteristic.

Recent amendments to the Criminal Code⁷⁵ envisage a stricter punishment for criminal offences committed out of hate. If these crimes are motivated by someone's belonging to a certain race, religion, national or ethnic group, sexual orientation or gender identity, that motivation will be regarded as aggravating circumstance when defining criminal responsibility, unless it is prescribed as the characteristic of a basic or serious crime.⁷⁶ The Law also prescribes sanctions for spreading the idea of superiority of one race over another; promoting hatred or intolerance on race, sex, disability, sexual orientation, gender identity or other personal characteristic; as well as encouraging racial or other discrimination. A qualified form of this criminal offence is prescribed if it is committed by the abuse of a position or if a disorder or violence occurred as a consequence of its enforcement.⁷⁷ Hatred caused by personal characteristics such as a health condition,

70 Public call for the public hearing on the Draft Law on Amendments to the Law on Prohibition of Discrimination, available at: <http://www.minmanj.gov.me/vijesti/127481/JAVNI-POZIV.html>.

71 Situation report on Chapter 23, CRNVO, page 35, available at: <http://www.cedem.me/en/publications/finish/48-publikacije-eng/451-situation-report-in-the-area-of-judicial-reform-and-human-rights-chapter-23-in-montenegro-in-the-period-from-10-october-2012-to-1-october-2013.htm>.

72 The person may require the following with the lawsuit: 1) Establishment of the fact that the respondent has acted in a discriminatory way towards the plaintiff; 2). Prohibition of the activity that bears a potential threat of discrimination, i.e. Prohibition of repetition of discrimination activity; 3) Compensation of damage, in accordance with the law; 4) In case discrimination is performed in the media, publication in the media of the judgment establishing discrimination, on the expenses of respondent.

73 Hate speech is regulated by Article 19 of the Law on Public Law and Order (Official Gazette of Montenegro, 64/2011) as a misdemeanor for which a financial penalty may be imposed between 250 and 1500 EUR, or up to 60 days imprisonment.

74 Official Gazette of Montenegro, No. br.70/03, 13/04, 47/06, 40/08, 25/10, 73/10, 32/11, 64/11, 40/13.

75 Official Gazette, No.40/13.

76 Comments of the Human Rights Action and Juventas to the Draft Criminal Code, available at: http://www.hraccion.org/wp-content/uploads/HRA-JUVENTAS-usvojeni-predlozi-u-predlogu-Zakona-o-izmjenama-i-dopunama-KZ-a_april-2013.godine.pdf.

77 *Ibid.*, 34.

disability, political or other belief, education or social position, has not been recognised as aggravating circumstance in the enforcement of criminal offences, while the Criminal Code still does not prescribe the existence of qualified forms in case certain crimes are committed out of hatred, such as light bodily harm, abuse, torture, rape and particularly cruel murder.

Awareness-Raising on Anti-Discrimination of Roma

In terms of *rights awareness* among Romani citizens, MHMR is tasked with conducting continuous anti-discrimination campaigns. There are several information programmes on public and private broadcasters, presenting themes of the Decade of Roma Inclusion. Eight programs of printed and electronic media have been co-financed by the Ministry of Culture in the last four years. Four video clips relating to the Decade have been filmed and broadcasted, as well as 24 collage TV shows named "Stretch out your hand".⁷⁸ The most important information activity is being carried out through Roma radio, which started on 8 April 2011.

The most comprehensive anti-discrimination awareness-raising campaign implemented by MHMR, so far, began on 27 May 2011 with the publication of advertisements in all three daily newspapers "Pobjeda", "Vijesti" and "Dan". A network of 64 billboards and city lights covered the whole territory of Montenegro, especially on the most frequent roads and locations. Broadcasting of television adverts and radio jingles started between 15 June and 15 July 2011, including all television and radio stations that have coverage throughout the territory of Montenegro.⁷⁹ Several other campaigns have also been implemented by the government bodies, such as the campaign "Turn the page" aimed at promoting the right to education of Romani children, in cooperation with UNHCR, the distribution of Children Rights Almanac among Roma and Egyptian pupils and the campaign "Step-by-Step-CHANGE" aimed at raising parental skills and promoting the right to peaceful family environment, in cooperation with UNESCO.⁸⁰

According to the first *Report on the implementation of NRIS Action Plan for 2012*, MHMR published and distributed a brochure "Arranged marriages: confessions of female Roma and Egyptians in Montenegro". The National Radio Broadcaster made 24 news programmes called "The Voice of Roma", while the National TV Broadcaster transmitted five programmes dedicated to Roma.⁸¹ Through continuous media presentation of the Decade of Roma Inclusion, the rights of Roma and Egyptians are being promoted and fostered. In 2012, MHMR co-financed the development of two TV adverts dedicated to the importance and the ways of regulating legal status, translated the Law on Free Access to Information into the Romani language and broadcasted a film "King of CDs" related to the rights of IDPs in the Konik Camp.

However, there are no specific and targeted campaigns to prevent or sanction discrimination against Roma and Egyptians, despite the fact that they remain the most discriminated minority community in the country. Public survey results prove that the previous campaigns have had a very modest effect on decreasing discrimination against Roma and Egyptians. The average value of ethnic distance towards Roma people is over 46%, meaning that every second citizen of Montenegro shows very high distance from the Roma population. According to the same research conducted in 2004, the average value of the distance towards Roma was even lower: 45.9%.⁸² In addition to actions by the Ombudsman and positive, but sporadic statements from the Minister of Human and Minority Rights, the attitudes and actions of politicians and

78 For more details, please see the *Second State Party Report on the Implementation of the Framework Convention on the Protection of National Minorities*, July 2012, page 23, available at: http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_2nd_SR_Montenegro_en.pdf.

79 For more details please see the *Second and Third State Party Report on ICERD Implementation* prepared by the Government of Montenegro in September 2012, available at: <http://www.cedem.me/en/component/jdownloads/finish/12-odeljenje-za-ljudska-prava/477-mne-state-reportcerd.html> (The Report was considered at the 84th Session of CERD (3-21 February 2014.)). Also please see CEDEM/YIHR /Shadow Report , available at: http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/MNE/INT_CERD_NGO_MNE_16162_E.pdf.

80 *Ibid.*, 12.

81 *Ibid.*, 5.

82 CEDEM, *Ethnic distance 2012*, December 2013, available at: <http://www.cedem.me/en/publications/viewdownload/48-publikacije-eng/458-ethnic-distance-2013.html>.

high-level officials often do not serve as role models in promoting respect for Roma rights; at least, they are not proactive. On the contrary, there have been several statements from officials containing elements of hate speech against Roma, such as the statement of the Mayor of the Capital City of Podgorica pointing to criminalisation of the Roma population and labelling Roma as potential thieves.⁸³ However, the recent initiative of the leaders of the political party *Positive Montenegro* who submitted amendments to the Law on the election of Councillors and MPs to provide systematic solutions for Roma authentic representation in Montenegrin Parliament, represent a positive example.

Measures to Address Institutional Racism and Discrimination Against Roma

According to the EC Opinion on Montenegro's application for membership in the European Union from 2010⁸⁴ "*Montenegro's legal and policy framework regulating human rights and the respect for and protection of minorities is largely in place and broadly corresponds to European and international standards. The institutional framework is largely adequate.*" However, despite comprehensive anti-discrimination legislation, encompassing both judicial and administrative protection, the State has failed to provide effective and consistent enforcement. The main problems refer to the lack of effective investigations, mainly due to Public Prosecution Office unresponsiveness, the unequal and incoherent behaviour of responsible bodies, and the lack of precise records on registered and processed cases. Special rules of behaviour of responsible bodies towards discrimination victims have not been developed, which puts them at the risk of additional victimisation. There are no enforceable judgements in discrimination cases; responsible bodies react mainly to individual cases and mostly upon NGO reactions, followed by the media. On the other hand, according to the European Convention on Human Rights and the Protocol 12, the state has a positive obligation to ensure effective, timely and fair investigations and prosecution of all cases of human rights violations.

One of the major issues of the protection of minority rights is the political representation of Roma. There is no authentic representation of Roma and Egyptians in the Parliament of Montenegro, or in local assemblies. On the other hand, this right is ensured for all other national communities. Despite the amendments of the Law on Minority Rights and Freedoms and the Law on the Election of councillors and MPs,⁸⁵ the electoral system does not allow for minority representation of Roma through guaranteed mandates as in the case of the Croatian minority, nor does it enable them to exert any influence on legislative bodies.⁸⁶ The Action Plan for Chapter 23 contains no specific measures in this regard.

The Strategy of minority politics which was adopted by the Government of Montenegro in 2008 for a ten-year period, also proclaims the general prohibition of discrimination and highlights several priority areas to eliminate institutional discrimination towards minority communities, including Roma and Egyptians:

1. authentic political representation (electoral legislation);
2. Representation in state bodies and bodies of local self-government;
3. Procedural rights of members of minorities (use of own language in court proceedings before and in municipalities with significant minority population).

83 Press clipping related to Mr. Mugosa's statement, available at: <http://www.pcnen.com/portal/2011/11/05/mugosin-odnos-pre-ma-romima>.

84 European Commission, *Opinion on Montenegro's application for membership of the European Union*, 9 November 2010, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mn_rapport_2010_en.pdf.

85 The Law on the Election of Councilors and MPs (Official Gazette of Montenegro, No. 46/11), regulating political participation of minorities and minority ethnic communities in representative bodies was adopted on 8 September 2011 and entered into force on 24 September 2011, but has brought no improvements in terms of Roma political representation.

86 Article 79 of the Constitution guarantees the right to authentic representation in the Parliament of Montenegro and parliaments of local self-governments in which minorities constitute a significant part of the population pursuant to the principle of affirmative action. The right to authentic representation of minorities is also specified by the Law on the Election of councillors and MPs in article 94. Please also see *Lund Recommendations for the effective participation of national minorities in public life*, 1999, OSCE High Commissioner on National Minorities, related to electoral legislation and concerning ethno-national minorities.

There is evident progress in terms of Roma and Egyptian education inclusion⁸⁷ through the provision of free textbooks,⁸⁸ organisation of free transport and the provision of scholarships to secondary school and university students.⁸⁹ The number of Roma and Egyptian children in kindergarten has increased over the years.⁹⁰ In the 2012/2013 school year, the total number of Roma and Egyptian students was 1853. The coverage of children in primary education is 13.81% which is half the national average (26.65%). The number of high school students is 75. In 2012/2013, 14 Roma and Egyptian students were enrolled in faculties in Montenegro through affirmative action. A multi-sector *Commission for monitoring the involvement in education and combating the drop out of Roma and Egyptian children* has been established by the Institute for Social Inclusion, so as to ensure better coordination between responsible institutions. Despite these figures, the educational achievements of Roma and Egyptian children are still low, especially among IDPs.⁹¹ Efficient measures to prevent girls from dropping out are not applied in all schools.⁹² Scholarship programmes function, but with serious delays. A sustainable model of continuous support and regular payment of scholarships is missing; support should follow the course of the school year, not only the calendar year. Faculty management teams are not sufficiently informed about the measures of affirmative action towards Roma and Egyptians. There are no regulations defining the right and number of persons from these communities who are enabled to enrol different levels of education. There are still no systemic solutions to Roma mediators in education (they are mostly engaged through NGO projects).⁹³

According to data from the State Employment Agency (SEA), dated 31 December 2013, there were 1118 unemployed persons who declared themselves as Roma and Egyptians (471 women, 42.12%).⁹⁴ On the same date, only 56 persons (12.5% women) had ever been employed – only 5% of the total number of registered unemployed Roma and Egyptians. The unemployment rate among this population counts as 3.21% of the total unemployment rate. Regarding qualifications, the majority have no occupation or qualification: 94.38% (women: 42.27 %), followed by those with secondary education: Vocational Education of III grades 3.04 % (23.52 % of women) and those with Vocational and General High School of IV grades: 1.42 % (60% of women) and only 0.1 % (two people) with a university degree, one of whom is a woman (0.08 %). In the period 01/01/2013 – 31/12/2013, an additional 90 persons declared as Roma and Egyptians registered at SEA, 46% of whom were women – only one had completed the fourth grade, while the rest had no professional qualifications. The category of young people, aged 15 to 25 years, constitutes 36.40% (179 women or 43.98%) of unemployed Roma and Egyptians. There are no normative barriers to access work, however there is a huge mismatch between the Roma and Egyptian skills and the needs of the labour market exists.

On the other hand, out of approximately 1000 registered unemployed Roma and Egyptians on an annual basis, only 100 of them are involved in active employment policy programs. In 2013, 39 persons (17.94 % of women), i.e. 3.4% of the total number of unemployed Roma and Egyptians, were involved in these measures, while in 2012, it was 88 (29.5%).⁹⁵ Thirty-one Roma and Egyptians were involved in seasonal jobs

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- 87 The number of Roma and Egyptian children in primary and secondary schools in the academic year 2012/2013 was three times higher compared to 2001/2002. In line with the principle of affirmative action, there are five students enrolled in the faculties in Montenegro, while accommodation and food have been provided in student dormitories in Podgorica. Within the Project Assistance Program for the Integration of RE and other IDPs in Konik Camp implemented by the NGO Institute for Social Inclusion, under the patronage of CARE international, several Roma and Egyptian persons have been engaged as teaching assistants.
- 88 The state secured 882 sets of textbooks, for the first grade 298, 327 for the second grade and 257 for the third grade. The total value of the activity is 46,841.00 EUR: *Report on NRIS implementation*, page 4.
- 89 Within the process of closing segregated classes in Konik Camp II, there is no enrolment of children in the first grade since this year.
- 90 There are no precise data on Roma and Egyptian enrolment in pre-school education. The Report on NRIS implementation from March 2013 does not contain such data either.
- 91 Of the total number of IDPs from Kosovo, more than 50% are illiterate. Representatives of other communities of IDPs are literate – 97.3%. Currently, there are three students in secondary schools, while only one at the faculty, of Roma IDPs from Kosovo. Data from the Institute for Social Inclusion: <http://www.cedem.me/en/publications/finish/48-publikacije-eng/451-situation-report-in-the-area-of-judicial-reform-and-human-rights-chapter-23-in-montenegro-in-the-period-from-10-october-2012-to-1-october-2013.html>, 47.
- 92 For the prevention of school drop-out, mechanisms for detecting and managing cases are being used in eight pilot schools (4 in Podgorica, Niksic 2, one in Tivat and Berane). The project entails training for education staff, direct monitoring of schools and cooperation with parents to establish mechanisms to recognise children who are at risk of dropping out.
- 93 The Institute for Social Inclusion is working with the Centre for Vocational Education on developing and accrediting the program for Roma mediators, this initiative is in progress at the moment.
- 94 CEDEM: *Draft Analysis of the accessibility of social care for Roma and Egyptians in Montenegro, Podgorica*, January 2013, 57–58.
- 95 *Ibid.*, page 59.

during 2013, in 2012, this number was 53 (20 female). Very few Roma and Egyptian representatives are involved in the programmes of prequalification, additional qualification and vocational training according to the demands of the labour market.

The proportional representation of Roma and Egyptians in public administration and local self-government bodies constitutes another serious concern. In 2011, this Ministry prepared the *Information on the representation of minority nations and other minority national communities in public services, public authorities and local self-government bodies in Montenegro*.⁹⁶ According to this information, out of 13,787 questionnaires, in national terms, employees declared themselves as: Montenegrins 8,297 (60.18%), Serbs 2644 (19.18%), Albanians, 531 (3.85%), 836 Bosnians (6.06%), Muslims, 337 (2.44%), Roma 4 (0.03%), Croats, 118 (0.86%), other 125 (0.91%), not declared 175 (1.27%) and no data 720 (5.22%). Within institutions of education, out of a total of 7,981 respondents, only one person declared themselves as Roma 1 (0.01%). In health care institutions, of a total of 5,137 questionnaires, three were Roma employees (0.06%). In social and child care institutions, out of a total of 669 questionnaires, not a single person declared himself or herself as Roma or Egyptian.⁹⁷ According to the most recent data, in the past six months, there was no one who claimed to be of Roma or Egyptian nationality during employment in public administration, local self-governance and public services.⁹⁸ Also, there are no Roma or Egyptians working in police forces.⁹⁹ However, according to the AP for Chapter 23, the Government plans to establish human resource registers in public administration bodies, local government and public services to provide a full update of the central human resources records (measure 3.10.1.5), but also to conduct periodic surveys on minority representation and thus ensure the respect for affirmative action (measure 3.10.1.33.). In addition, the proposed amendments to the Law on Foreigners¹⁰⁰ enable a foreigner to work without work permission, in specified circumstances, allowing him/her free access to the labour market.¹⁰¹

In the field of health and social care, Roma and Egyptians, including DPs and IDPs, have continuing access to the scope and content of medical services as other citizens do. However, precise data do not exist, as records are not kept by ethnicity. Health system reform introduced a selected doctor for the area of primary health care. The Health Insurance Act envisages special protection of socially vulnerable categories, such as unemployed persons, children, women during pregnancy and one year after giving birth, elderly people over the age of 65 and suffering from infectious diseases, who do not participate in the cost of treatment. These regulations are applicable to Roma and Egyptians as well. A child can be delivered in any hospital in Montenegro. Within Konik Camp, appropriate medical centre for both children and adults is provided, in addition to other health facilities. Particular attention is being paid to reproductive and sexual health and childbirth, due to great involvement of Roma NGOs, inter alia. Roma and Egyptians are targeted with health-oriented campaigns; there is a high percentage of immunisation coverage (for the particular disease up to 98%).¹⁰²

On the other hand, the new *Law on Social and Child Care* from 2013 has introduced some restrictive criteria for accessing the rights to social services and subsistence. Namely, this Law recognised in legal terms, for the first time, the category of IDPs and DPs as persons who are entitled to these rights, according to the legislation pertinent to foreigners.¹⁰³ However, Roma IDPs without regulated legal status cannot benefit from

96 Note: For the purpose of data collection, a standardised anonymous questionnaire was used, available at: www.gov.me.

97 In October 2012, the Ministry of Labour and Social Welfare and the OESC signed a Cooperation Agreement within the Project "Best Practices for Roma Integration", specifying the involvement of Roma mediators in expert teams in the centres for social work and other social welfare institutions.

98 Report on the implementation of AP for Chapter 23, page 131: www.mvpei.gov.me/en/library/document.

99 In his reports, the Ombudsman has urged intensified consultation between the National Councils, minority self-government bodies and the Government, so as increase the number of professional members of minorities in the police force.

100 *Draft Law on Foreigners*, available at: http://www.mup.gov.me/ministarstvo/Javne_rasprave/134444/Poziv-za-javnu-raspravu-o-Nacrtu-zakona-o-strancima.html

101 These exceptions apply to persons who have the status of foreigner with permanent residence, refugees, persons provided with additional protection, persons with a temporary residence permit on humanitarian grounds (victims of human trafficking, criminal offenses or organised crime).

102 For prevention of various diseases for children belonging to the Roma and Egyptian population, who have not chosen a paediatrician and who do not go to school, vaccinations are carried out in their living neighbourhood. Report on NRIS implementation, page 12.

103 The Law on Foreigners has been recently amended. The draft proposal of amendments prolongs the deadline for obtaining the status of a foreigner till the end of 2014, see http://www.mup.gov.me/ministarstvo/Javne_rasprave/134444/Poziv-za-javnu-raspravu-o-Nacrtu-zakona-o-strancima.html.

these rights.¹⁰⁴ In addition, although it is too early to estimate the impact of this Law on Roma and Egyptian households, it is likely that many domicile Roma and Egyptians will be denied access to social benefits, due to high property threshold, lack of information and time limitation (social subsistence is limited up to nine months). In 2014, the enforcement of so-called activation provisions of this Law, aimed at increasing the labour force of people with disabilities, refugees and DPs/IDPs, by improving the coordination between social centres and the SEA, is expected. However, the data in this area are largely missing, due to the lack of statistical breakdown per ethnicity.

Exercising the right to adequate housing represents a significant problem for Roma and Egyptians. A limited number of this population have access to sanitation and safe housing. Several Roma families have faced the possibility of being forcibly removed from their tenure, mostly in situations where they have built informal buildings on the state-owned property or on the land of the private owner. Such is the case of the Roma settlement “Zverinjak” in Nikšić, where several Roma families live on the reinstated land of the private owner. The resolution of this problem has been postponed till February 2015, when the final agreement between the owner of the land, the Roma families and the authorities is to be found. Conditions are created to solve residential problems of displaced persons residing in collective centres, through the provision of locations for the construction of residential buildings in the municipalities of Nikšić, Pljevlja, Berane, Herceg Novi and Podgorica within Sarajevo process. The Assembly of the Capital City – Podgorica adopted a general and detailed urban plan “Konik – Vrela Ribnička II”,¹⁰⁵ thus creating preconditions for the implementation of the project *Identification of durable solutions for internally displaced persons and residents of Konik camp – Phase I*, which amounts to 3.000.000, 00 EUR. This project envisages building 90 housing units in Konik, as well as funds for education and employment of its residents.

The *Law on Social Housing*¹⁰⁶ defines the conditions for meeting the housing needs of individuals and groups who are not able access open housing market, creating a legal basis for building social housing units in Konik Camp. Although the Law recognises Roma and Egyptians as one of its priority target groups, its application is questionable due to the severe lack of capacities in local self-government to implement social housing programmes they have been obliged to according to this Law. In addition, quality financial basis for this Law has not been developed, so the financing of the Law largely depends on donor funding. Although this Law recognises homeless people¹⁰⁷ as one of the categories, it does not prescribe the obligatory establishment of reception centres, despite the lack of institutionalised care for these persons. The support and care for these persons thus depend exclusively on the capacities of local self-governments.¹⁰⁸

A proposal for a *Law on the Legalisation of Non-formal Buildings* has been developed, but it has short deadlines to submit requests and start the procedure to exercise the rights prescribed by law, while the right to alternative accommodation is not specifically guaranteed.¹⁰⁹

The issue of Romani language should also be highlighted. Namely, there are no results in the standardisation of Roma language. Due to the lack of a permanent court interpreter for the Roma language, the case

104 This deficiency has also been recognised by ECRI in its first and only report on Montenegro (February 2012), stating that very few Roma and Egyptians have access to public services and social welfare (<http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/montenegro/MNE-CbC-IV-2012-005-ENG.pdf>) as well as in the Second State Party Report on the Implementation of the *Framework Convention for the Protection of National Minorities*, stating that very few Roma and Egyptian household use social benefits, due to the lack of personal documents (http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_2nd_SR_Montenegro_mt.pdf).

105 Following a fire in Konik in July 2012, 210 containers for 156 families (792 people), were promised with donor support in November 2012. The total value of the project is 1,322,972.00 EUR. *Report on NRIS implementation*, 14.

106 Official Gazette of Montenegro, No. 35/12, available at: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B0AAAAD66-7423-4BF1-ADD5-1657A24AF12C%7D>.

107 Despite the lack of precise data on homeless Roma and Egyptians, anecdotal evidence and observation indicate that a large number of homeless people are from this population.

108 Press release of the Human Rights Action, available at: <http://www.hraccion.org/?p=3176>.

109 Draft Law on the Legalization of Non-formal Buildings, available at: http://www.skupstina.me/~skupcg/skupstina/cms/site_data/DOC24/945/1_PREDLOG%20ZAKONA%200%20LEGALIZACIJI%20NEFORMALNIH%20OBJEKATA.pdf. Also see the *Recommendations for amendments to the Proposal for a Law on Legalization of by the means of amendments (27-1/12-2 EPA 945)*, CEDEM, June 2013.

of a ship "MIS PAT" that sank 13 years ago, in which, according to the indictment 35 Roma died, has still not been processed by the court.¹¹⁰

Equal Treatment/Anti-Discrimination Body Required by EU Law

According to national legislation, the Protector of Human Rights and Freedom (hereafter: Ombudsman) has been designated the institutional mechanism for protection from discrimination (*anti-discrimination body*).¹¹¹ The Constitution defines the Ombudsman as an independent and autonomous body which takes measures to protect human rights and freedoms. The Ombudsman acts upon the Constitution, laws and ratified international agreements, guided by the principles of justice and fairness. It is important to emphasise that the national anti-discrimination body, the Ombudsman, has competencies not only towards public administration, but also towards courts, to a certain extent, as well as towards other legal and natural persons.¹¹²

According to the law, the Ombudsman may undertake the following actions:

1. provide free legal aid to a plaintiff that claims discrimination, i.e. necessary information the about plaintiff's rights and obligations, as well as the possibility of for judicial protection;
2. conduct conciliation proceeding and conclude a court settlement with the consent of the plaintiff, in accordance with regulations on court mediation;
3. consider the complaint of the plaintiff and recommend that authorities take measures to eliminate discrimination against the plaintiff within the given deadline;¹¹³
4. inform the public about incidences of discrimination;
5. conduct research in the field of discrimination;
6. keep records on complaints regarding discrimination;
7. collect and analyse statistical data on discrimination cases; and
8. undertake activities to raise awareness on issues related to discrimination.

In addition to its annual reports which contain the section "*Discrimination on the basis of ethnicity and language*", the Ombudsman prepares separate reports on anti-discrimination, proposes amendments to anti-discrimination legislation, makes recommendations and measures to be taken by public and private bodies in order to combat discrimination and informs the Parliament of Montenegro on the implementation of anti-discrimination legislation.

In the first (and only) separate Report on Discrimination from 2011, the Ombudsman states that that the situation of Roma in Montenegro has not significantly improved. The fact is that an insufficient number of Romani and Egyptian children successfully complete primary and secondary school; dropout is still present, especially among female pupils. Proportional representation has not been achieved; there are no Romani employees in local self-governments. The Ombudsman also pledged to intensify activities to raise awareness among Roma and Egyptians to recognise and combat discrimination. According to the Annual Report for 2012,¹¹⁴ the Ombudsman acted upon 63 complaints, out of which 51 have been resolved and 13

110 The *European Charter for Regional and Minority Languages* specially stipulates the use of the official and minority languages and alphabets in the communications of state authorities, local government, public services and other holders of public authority with citizens, as well as by the parties in the proceedings before authorities (administrative, judicial): <http://conventions.coe.int/Treaty/en/Treaties/Html/148.htm>.

111 Official Gazette of Montenegro, No.42/11, available at: <http://www.ombudsman.co.me/propisi.php>.

112 In addition, competent inspection authorities, as part of the state administration, have the right and obligation to act in relation to reported cases of discrimination in the area of labour and employment, workplace safety, health care, education and other areas when they perform the inspection activities in these areas, in accordance with the specific law (misdemeanour proceedings).

113 The Ombudsman acts upon complaints related to discriminatory treatment committed not only by public bodies, but by individuals as well. These entities are obliged to inform the Protector about the measures taken to eliminate or prevent discrimination, within the given deadline. If they fail to do so, the Protector is entitled to inform the Parliament and the general public about that failure.

114 Ombudsman, *Annual Report 2012*, (March 2013), available at: http://www.ombudsman.co.me/docs/izvjestaji/Final_Izvjestaj_za_2013_310320131450.pdf.

cases are still in progress. Most of these cases related to discrimination on the grounds of: national origin (21 cases), gender (12), belonging to a certain group (seven), disability (five), sexual orientation and gender identity (three), health (two), political affiliation (four), religion or belief (one), language (one) and other personal characteristics (five). The Ombudsman also filed four lawsuits to the Basic Court in Podgorica and submitted one initiative to the Parliament, relating to political representation of Roma.

According to data obtained from the courts, 12 lawsuits against discrimination were filed in 2012, as follows: Basic Court in Pljevlja (five), Basic Court in Podgorica (four), Basic Court in Niksic (one) and Basic Court in Kotor (two). In addition, the Police Directorate received 18 complaints on the ground of discrimination, while the Misdemeanour Council of Montenegro acted upon two cases of discrimination on the basis of sexual orientation, both of which were resolved during the reporting period.

The Report for 2013 was published in April 2014. For the purposes of this report, we present Roma-related cases the Ombudsman acted upon in 2013:

1. The institution of the Ombudsman filed a complaint along with the NGO Centre for Roma Initiatives, on behalf of S. Š. from Niksic, in relation to the judgment of the Basic Court in Niksic on the eviction from the house where S.Š. and his family were placed as refugees. Given that this case involves both children and elderly persons in social need, the Ombudsman requested a statement from the Municipality of Niksic as well as of the Centre for Social Work Niksic. At the same time, the Ombudsman presented S.Š. the opportunity to demand a delay of the execution of the court decision.
2. The NGO Institute for Social Inclusion filed a complaint to the Ombudsman, in relation to the case of S. F. from Niksic, in relation to enrolment at the Faculty of Tourism and Hotel Management in Kotor. The Protector asked from the Dean of the faculty to consider entry of these candidates, if it meets the requirements of the competition, in accordance with the principles of affirmative action in education.
3. The Roma National Council approached the Ombudsman with an initiative concerning necessary legislative improvements to ensure the authentic representation of Roma in the Parliament. Acting upon this request, the Ombudsman submitted an initiative to amend the Law on the Election of councillors and MPs to the Parliament of Montenegro.

The Ombudsman has developed cooperation with NGOs and his work is recognised and respected by civil society. The Ombudsman also has established cooperation with UN and the Council of Europe bodies and submits required reports to these bodies. However, guarantees of functional and financial independence of the Protector have not been yet provided (he/she is still elected by simple majority; recently adopted constitutional amendments from July 2013 do not prescribe qualified majority for his/her election).¹¹⁵ The Protector still does not have sufficient human and technical capacity. Due to these shortcomings, the process of Accreditation by the International Coordination Committee (ICC) for obtaining the "A status", meaning full compliance with the Paris Principles¹¹⁶ is still in an early phase of translating the documentation needed for the accreditation.¹¹⁷

According to the recent amendments to the *Law on Protector of Human Rights and Freedoms*, the Ombudsman has been given competencies to act upon complaints related to the work of the courts, perform internal allocation of tasks within his/her Office and seek the documentation related to the complaint concerned, even when the documentation has a reference to certain level of secrecy. In addition, unlike the current solution, this proposal allows the Ombudsman to autonomously dispose allocated funds, without obtaining consent from other bodies.¹¹⁸

115 See the *Joint Opinion of the Venice Commission and ODIHR on the Law on the Protector of Human Rights and Freedoms*, No. 637/2011: www.legislationline.org/documents/id/16665.

116 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>. For more details please see the *Joint Opinion of the Venice Commission and ODIHR on the Law on the Protector of Human Rights and Freedoms*, No. 637/2011: www.legislationline.org/documents/id/16665.

117 Report on the implementation of AP for Chapter 23, 77.

118 <http://www.minmanj.gov.me/vijesti/127481/JAVNI-POZIV.html>.

The Council for Protection against Discrimination that was established by the Government of Montenegro, by the *Decision on the Council for Protection against Discrimination*, should also be mentioned.¹¹⁹ The Council acts as a high-level body consisting of the Prime Minister, Minister of Human and Minority Rights, Minister of Justice, Minister of Labour and Social Welfare, Health, Education and Sports, Adviser to the Prime Minister for human rights and protection from discrimination and four representatives of human rights-based NGOs, with a view to monitoring the implementation of anti-discrimination provisions, providing recommendations to amend existing anti-discrimination policy as well as to foster dialogue between the public and civil sector in regards to protection from discrimination. However, the Council is still not fully operational and its impact still needs to be evaluated.

Complaint Mechanisms and the European Court of Human Rights

As previously stated, there are no enforceable court decisions on the grounds of discrimination against Roma and Egyptians. Consequently, there are no judgments of the European Court of Human Rights against Montenegro in this regard.¹²⁰ According to official records of the European Court Secretariat, stated in the *Annual Report of Montenegro's State Agent before the European Court for 2012*, by the end of 2012, 849 petitions had been filed against Montenegro by individuals and NGOs.¹²¹ In three cases, applicants claimed violation of rights under Article 14 of the Convention and Article 1 of the Protocol 12, which prohibits discrimination in the implementation of rights under the national legislation, none of which referred to Roma. For the purposes of this Report, we point to certain cases of the European Court, which may be relevant for Montenegrin context.¹²²

According to Article 56 of the Constitution, everyone has the right to approach international institutions for the protection of their constitutionally guaranteed freedoms and rights, as well as the right to a legal remedy against any decision on his/her rights or lawful interests. Anyone who claims that his/her constitutional rights and freedoms have been violated by the individual act of state authorities, local self-government or organisations performing public duties is entitled to submit a constitutional appeal to the Constitutional Court of Montenegro, within 30 days from the individual act. Prior to that, all effective legal remedies provided by law need to be exhausted. The appeal may be also submitted by an organisation or a public body responsible for monitoring and promoting human rights and freedoms, on behalf of the person who claims the violation of rights, based on his/her consent. If an individual act violated the human rights and freedoms of individuals and only some of them filed a constitutional appeal, the decision of the Constitutional Court also applies to those who have not filed the appeal, provided that they are in the same legal situation as those who filed the appeal. If the Constitutional Court finds a violation of rights or freedoms due to the contested individual act, the Court will annul that act, in whole or in part, and remand the case to the authority that issued the repealed act. However, it should be stated that the effectiveness and availability of the constitutional appeal as a main legal means to remedy human rights violations has been contested by the European Court in several cases against Montenegro.¹²³

119 Official Gazette of Montenegro, No. 50/11, 53/11.

120 Montenegro became a CoE full-fledged member on 11 May 2007. The European Convention, and thus the jurisdiction of the European Court in relation to Montenegro, extends retroactively to 3 March 2004, allowing all legal entities under the jurisdiction of Montenegro to file individual petitions to Court. Judgments against Montenegro may be seen at: <http://sudovi.me/vrhs/evropski-sud-esljp/odluke-protiv-crne-gore>.

121 *Annual Report of Montenegro's State Agent before the European Court for 2012*, available at: www.gov.me/.../FileDownload.aspx?rld=134518...2 www.gov.me/.../FileDownload.aspx?rld=134518...2.

122 “[A]s a result of their turbulent history and constant uprooting the Roma have become a specific type of disadvantaged and vulnerable minority . . . As the Court has noted in previous cases, they therefore require special protection . . .” (*D.H. and Others v. Czech Republic*, application n° 57325/00, Grand Chamber judgment of 13 November 2007, § 182). “[W]hereas Article 14 of the [European] Convention [on Human Rights] prohibits discrimination in the enjoyment of ‘the rights and freedoms set forth in [the] Convention; Article 1 of Protocol No. 12 [to the Convention] extends the scope of protection to ‘any right set forth by law’. It thus introduces a general prohibition of discrimination.” (*Sejdić and Finci v. Bosnia and Herzegovina*, Grand Chamber judgment of 22 December, § 53): *Factsheet – Roma and Travellers, European Court of Human Rights*, available at: http://www.echr.coe.int/Documents/FS_Roma_ENG.pdf. Also see *Yordanova and Others v. Bulgaria*, 24 April 2012, *Oršuš and Others v. Croatia*, 16 March 2011, *Petrapoulou-Tsakiris vs. Greece*, 6 December 2007, *Šečić v. Croatia*, 31 May 2007: <http://www.airecentre.org/pages/discrimination.html>.

123 The Court pointed to the lack of compensational effectiveness component and limited competencies of the Constitutional Court. See the cases *A.I.B. against Montenegro*, judgment, 5 March, 2013, para. 62 and *Stakić against Montenegro*, 2 October 2012, para. 55–60.

As far as *actio popularis* is concerned, the Constitution stipulates that anyone may initiate the review of the constitutionality and legality of acts within the legal system. However, the proceedings for the review of constitutionality and legality before the Constitutional Court may be initiated by the court, another state body and local authorities as well as by 5MPs or *ex officio* by the Constitutional Court itself. During the proceeding, the Constitutional Court may order the suspension of the execution of the reviewed act or action whose constitutionality or legality is under review, if their execution would cause irreparable harm. According to Article 56 of the *Law on Constitutional Court*,¹²⁴ anyone who claims that his/her rights and freedoms have been violated by a final individual act that is adopted by law or by other regulation, is entitled to request the competent authority change that act, if the Constitutional Court finds that such an act is not compliant with the Constitution and ratified international agreements. However, there are doubts whether these provisions should be interpreted so as to allow citizens to initiate the control of constitutionality and legality in terms of *actio popularis* (meaning that every individual should have the right to initiate the review of the constitutionality and legality) or whether the Constitution only gives the possibility to citizens to contact the authorities listed above to address the Constitutional Court directly.¹²⁵

As far as the implementation of the “EU Race Directive” is concerned, it should be said that the valid Law on the Prohibition of Discrimination is not fully aligned with this directive. Namely, the existing definition of direct and indirect discrimination should be repelled from the Law, as the law does not allow for any justification of discrimination whatsoever. Furthermore, the Law does not clearly distinguish the forms of discriminatory behaviour from grounds of discrimination, which should be separated within specific chapters. Although the Law explicitly prohibits discrimination against individuals on the basis of their gender identity and sexual orientation (Article 19), its provisions do not determine the meaning of these terms. Racial discrimination is not recognised as a particular form of discrimination. A list of the claims based on which it is possible to seek judicial protection under Article 26 of the Law, should be supplemented with a request to remove the consequences of discriminatory actions. Instead of imposing the institute of testers, the legislature opted for an indirect guarantee of this institute, stipulating the consent of the victim of discrimination with being subject to discrimination does not relieve the one who has committed discrimination.

The Protection of Rights of Roma Children

Nearly two-thirds of children from Roma settlements live below the poverty line.¹²⁶ Child begging is particularly common, while the enforcement of sanctions against parents for neglecting and abusing children has still not been effective. According to data obtained from the Supreme State Prosecutor, during 2012/2013, there were only two criminal complaints submitted, pursuant to Article 219 of the Criminal Code, against these persons. None of the complaints resulted in a sentence. In 2012 and 2013 Social Welfare Centre did not initiate any procedures against parents, due to the violation of Article 27 of the Law on Public Order and Article 219 of the Criminal Code.¹²⁷

The Report of the Protector of Human Rights and Freedoms on the protection of children from all forms of exploitation also indicates that the majority of children who are caught begging come from Roma and Egyptian communities. According to this report, 19.4% of children who have been exposed to sexual exploitation are Roma.¹²⁸ Limited progress has been noted in terms of conducting official actions in cases of violating the rights of the child, through combating begging and forced juvenile labour and exploitation. According to data from the Police Directorate, via two actions: “*Beggar*” and “*Stop begging*” in the period 1/01/2012 – 31/05/2013/, pursuant to the Law on Public Law and Order, 19 requests for initiating a misdemeanour

124 Official Gazette of Montenegro, No. 64/2008.

125 *Comments of the Venice Commission regarding Montenegrin Constitution*, available at: <file:///D:/PODACI/Downloads/1bdb02da95b58b-be0b3c657f946d.pdf>.

126 *National Human Development Report – 2009 – Montenegro: Society for All*, (UNDP, 2009) <http://www.un.org.me/uploads/Documents/NHDR%20MNE.pdf>.

127 CRNVO, *Situation Report in judiciary, anti-corruption and fundamental rights*, (October 2013) 38, available at: <http://www.cedem.me/en/publications/finish/48-publikacije-eng/451-situation-report-in-the-area-of-judicial-reform-and-human-rights-chapter-23-in-montenegro-in-the-period-from-10-october-2012-to-1-october-2013.html>.

128 http://www.ombudsman.co.me/djeca/docs/110420133_kompilacija_izvjestaja%20konacna.pdf.

procedure against the perpetrators of begging were submitted.¹²⁹ The progress in the field of education is noticeable (please see the Answer 3). MHMR is carrying out activities in the area of improvement of the status of the Roma population, which include encouraging children to join the education system through financial incentives (for primary school children 50 EUR, for secondary school pupils 75 EUR, and for university students 150 EUR per person per month). MHMR also finances an SOS Hotline, which is anonymous, free of charge and available 24/7, for children of the Roma community who find themselves in a threatening situation. The SOS Hotline is operated by the NGO "Roma Alliance", reporting to the Police Directorate.¹³⁰ There are two on-going projects in cooperation with the Roma Education Fund, and the "School clubs help RE Children" – in school "Bozidar Vukovic Podgoričanin", targeting children from the Konik Camp, providing extracurricular activities for these children. The second project "Emergency support the early development of RE Children" takes place in kindergarten, "Đina Vrbica" and entails socio-educational activities for an additional group of 90 children.

However, it should be noted that the Constitution of Montenegro does not define the term "child". The Law on the prohibition of Discrimination does not recognise child discrimination as a specific form of discrimination. Children whose parents are Roma and Egyptian IDPs without regulated legal status, as well as children born outside of health institutions, are under particular risk of statelessness and have difficulties accessing fundamental rights (*see more detail under the Answer 1*). However, the draft of the new Law on Foreigners allows a child where both parents have been granted permanent residence at the time of its birth, a child where one parent is a citizen of Montenegro and the other has permanent residence in Montenegro or a child where one parent has been granted permanent residence in Montenegro and the other is unknown or has died, to get residence automatically, according to the principle of family unification, meaning that no proceedings for getting residence are needed, which is not the case at the moment. This will greatly help protect children whose parents are Roma IDPs and prevent the risk of statelessness among them.

Protection of Roma Women from Discrimination

Clear political will is missing regarding efficient implementation of gender equality policies, in general. A favourable environment has not been created for the participation of Romani and Egyptian in political, public or economic life. Violence against women and domestic violence, as well as other types of violence based on gender and national origin, is still accompanied by a policy of mild penalties and inadequate response from the institution.¹³¹ Roma and Egyptian women in local communities are doubly marginalised – by the fact that they are woman inside patriarchal minority communities, which, in comparison to the majority population, are socially marginalised at all levels: spatial, political, cultural and educational. In such circumstances, violence against women occurs and implies beliefs that a man has an absolute right to dispose of a woman by any means.

The maintenance of classified statistics based on gender has not happened in all areas, especially in the area of labour and employment of women. A free national SOS line for violence victims has not been established, and there are no individual support plans and services to victims and witnesses of violence, especially to those exposed to sexual violence. Such services have been provided by non-governmental organisations financed on a project basis and which, due to the absence of so-called gender budgeting, depend on donations from international organisations. According to available data, at least 30 so-called

129 The response of the Police Directorate to the request for the access to information – documentation of the Institute for Social Inclusion – July 2013. More information available in the Study: *Montenegro (does not) combat begging – the crisis of a social justice state*.

130 http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2012_9_FGR_MNE_en.pdf.

131 "As regards the Roma community, women still don't recognise forms of violence, patriarchy is widespread in the Roma family, and women suffer psychological and physical violence on a daily basis. Roma women are uneducated, unemployed, have a lot of children...girls are married early and can be sold...then they become slaves in the house...": extract from interviews with Roma women, , UNDP and CEED Consulting, *Study on domestic violence and violence against women in Montenegro 2012* 86, available at: <http://www.undp.org/content/dam/montenegro/docs/publications/si/Gender/Study%20on%20Family%20Violence%20and%20Violence%20against%20Women.pdf>.

secure places are missing which should be provided in order for Montenegro to fulfil the obligatory recommendations of the Working group of the Council of Europe for fighting violence against women and domestic violence.¹³² The system of prevention of early and forced marriages has not been developed; public prosecution has not processed any such cases to date.

In relation to these cases, we need to stress that marriages between children are not part of Roma and Egyptian culture. Unfortunately, Roma and Egyptians live in isolated Roma settlements, where traditional customs based on patriarchal principles have the strength of a law. The life of Roma and Egyptian women is under the absolute control of men: fathers, brothers, and husbands. The patriarchal upbringing of female children gives male members of Roma and Egyptian families' power and control over women. This control and power leads to a population that holds on to negative aspects of tradition, which mostly damage women and have negative consequences. From the fifth grade, most Romani and Egyptian girls are not allowed to continue in education, so their parents can arrange marriages and they can enter into marriage as virgins.

Because of patriarchal values and the lack of education of Romani and Egyptian women, they do not have the right to decide on their lives independently, pushing them into marriage. Forced marriages mean that girls lose the possibility of personal development and progress. Although mentally and physically immature, in early marriages they become mothers and develop specific perceptions about their role in marriage as well as mechanisms of surviving as exemplary housewives, mothers and wives. This hinders the possibility for the fulfilment of their personal needs, while exposing them to health, mental and physical risks. Consequently, this greatly affects the health situation of Romani and Egyptian women. Instead of being solved, the causes of these problems are become more and more complex, day-to-day, thus contributing to secondary victimisation and on-going domestic violence among Roma and Egyptians, as well as among the general population.

However, the CRI has very good cooperation with the MHMR Gender Equality Department. Together with this Department, CRI members drafted the Action Plan for improving the position of Roma and Egyptian women 2012–2014,¹³³ but this initiative has not been adopted by the Government. CRI also participated in the creation of NRIS 2012–2016, as well as in the working group for drafting a National Strategy for Reproductive Health 2013–2020. In 2012, MHMR joined the campaign of Roma women's organisations against early and forced marriages. Interviews with eight women from four municipalities in Montenegro were conducted, covering personal experiences of early and forced marriages. The results were compiled in the publication *“Arranged marriages – Confessions Roma and Egyptians in Montenegro”* and distributed to all elementary schools in the country.¹³⁴

Measures to Tackle Trafficking in Human Beings

Montenegro has almost completed its institutional and regulatory framework that addresses human trafficking in all its forms, starting from the discovery of the perpetrators of the crime, prosecuting each case, to the punishment of perpetrators and providing assistance to victims. However, from the perspective of the Government, human trafficking is not seen as a widespread phenomenon in the country and is being dealt with in individual cases. The first strategy for the fight against human trafficking was adopted in 2003, as a basis for further action in the area of combating this type of organised crime, consisted of the prevention, prosecution and protection of victims of trafficking. In order to achieve the objectives set out in the aforementioned document, strategies have been adopted and four Action Plans have been implemented (2003, 2006, 2009 and 2010.) In early 2004, the Government of Montenegro, in cooperation with IOM and OSCE, established a shelter for victims of trafficking. The NGO selected to run the Shelter was the “Montenegrin Women's Lobby”. An Office for Combating Trafficking in Human Beings was established as well as a Working Group for Monitoring and Implementation of the Strategy.

132 *Ibid.*,45.

133 CRI, *Action Plan for improving the position of female Roma and Egyptian women 2012–2014*, available at: <http://www.crink.me/okrugli-sto-za-prezentaciju-nacrta-nap-a-za-romkinje-i-egipcanke>.

134 Report on NRIS implementation, 4.

In order to provide timely and efficient protection of victims of trafficking, a Memorandum of Understanding was signed between government institutions and NGOs. The agreement was signed by representatives of the Supreme Court, the Public Support Centre for Children and Families, the Ministry of Interior, the Red Cross of Montenegro, the Ministry of Labour and Social Welfare and the Ministry of Health, on one side, and NGOs: Montenegrin Women's Lobby, Women's Safe House and the Roma Scholarship Foundation on the other. The signatories of the Memorandum of Co-operation are obliged to file a report in line with Article 227 of the Code of Criminal Procedure if they deem that there is a suspicion that a criminal offence related to trafficking has been committed. In all cases, the police and the state prosecutor must be informed of the presence of a potential victim of human trafficking, in order to file criminal charges against traffickers.

The legislative framework dealing with the problem of human trafficking consists of the Criminal Code, the Criminal Procedure Code and the Law on the State Prosecutor, the Law on Witness Protection, the Law on Police and the Law on the Agency for National Security. The Law on Ratification of the Council of Europe Convention on the Compensation of Victims of Violent Crimes¹³⁵ came into force in Montenegro on 1 July 2010. Since Montenegrin legislation has been partially aligned with the *Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings 2004/80/EZ* and *Council Directive on compensation to victims of crime*, with regard to the protection of victims in criminal proceedings, and given the recommendations of *Group of Experts on Action Against Trafficking in Human Beings (GRETA)*,¹³⁶ the Criminal Code was amended in 2013 so as to define the term 'victim'.¹³⁷ A draft Law on the Compensation of Victims of Crime has been developed. Two new criminal offences of "trafficking in human body parts" and "advertising the trade in human body parts" have been introduced by these amendments and, along with the criminal offence "illegal border crossing and smuggling of human beings" have been defined (Article 405 of the Criminal Code). A legal description of the crime of trafficking in persons (Article 444 of the Criminal Code) was extended introducing slavery and the slave trade.¹³⁸ Severe sanctions are now envisaged if the offence is committed by a public official, especially if committed against a minor. Child trafficking for adoption (Article 445) was extended to minors between 14 and 18.

The *National Strategy against Trafficking in Human Beings 2012–2018*¹³⁹ from June 2012 links to NRIS as well as to other relevant sector strategies, encompassing measures aimed at providing support and assistance to victims of Romani origin. According to data presented in this document, there have been 62 cases of trafficking in Montenegro to date. The competent courts processed a total of 14 cases of human trafficking, of which 13 have been solved (in 11 cases the accused were found guilty – 27 persons in total, awarded a penalty between one and six years in prison – while in two cases the accused was acquitted of the charges. A decreasing number of indictments have been noted in the last couple of years. In 2010, proceedings were initiated against 22 people, and 14 people were sentenced; in 2011, investigations were launched in three cases of human trafficking. In 2012, there has been only one victim of human trafficking; in 2013 no victims have been identified.¹⁴⁰

According to data from the Montenegrin Women's Lobby,¹⁴¹ the number of identified victims is changing from year to year. In 2011, two Roma victims were placed in the shelter; in 2012 there were 10, with only one victim in 2013. The victims were born between 1994 and 2000 year and most of them come from Kosovo (out of 13 cases registered in the shelter; in four cases the victim was from Montenegro and in one

135 Official Gazette of Montenegro – International Treaties, No. 6/ 09.

136 Montenegro is a signatory party to the Council of Europe Convention for Combating Trafficking in Human Beings and therefore has an obligation to fulfil the recommendations of the Expert Group GRETA for monitoring implementation of the Convention in accordance with Article 36 of the same.

137 A person to whom an unlawful act which the law defined as a criminal act, caused physical or mental pain or suffering, property damage or violation of human rights and freedoms.

138 So far the advantages of this de facto slavery have been a hidden and concurrent driving force fostering trafficking in human beings: <http://www.osce.org/cthb/109731>.

139 Available at: www.antitrafficking.gov.me.

140 Unlike most countries in the region where the process of identification of potential victims is being performed by representatives of the Centres for Social Work and NGOs, formal victim identification is still under the jurisdiction of the police. This may affect the identification of victims and perpetrators of this crime.

141 Information obtained through the questionnaire, 5 February 2014.

case from Serbia). GRETA also paid increased attention to preventive measures among vulnerable groups, notably among Roma, IDPs and children without parental care, residing in institutions.¹⁴²

The main problem is still the inefficiency in terms of either formal or informal identification of potential victims of trafficking, resulting in a decreasing number of victims and indictment over the years.¹⁴³ Bearing in mind the way in which victims are mistreated and the conditions they face during the identification process, it is necessary to direct victims to a safe place, where they will be provided appropriate care and a beneficial environment. In pursuit of this objective, it is necessary to provide continuous support and funding to shelters and NGOs dealing with victims of trafficking, as planned by the Action Plan for Chapter 24 (measure 6.2.78).

As regards children as potential victims of trafficking, according to the Montenegrin authorities, the Police contact the competent Social Welfare Centre to provide the child with necessary administrative, legal and socio-psychological support. In the absence of a specialised shelter for child victims of trafficking, such children are housed in existing social care facilities used to accommodate children without parental care, or in the shelter for trafficking victims run by Women's Lobby. Pursuant to the Family Law, everyone needs to act in the best interests of the child in all child-related activities, and the State should take all necessary measures to protect the child from neglect, abuse and exploitation. Montenegrin law also provides for the appointment of a legal guardian by a custodial body. The particular vulnerability to trafficking of children from the Roma and Egyptian population of internally displaced persons, many of whom have lived for years in inadequate conditions in the camp Konik, has been also highlighted by the NGO Save the Children.¹⁴⁴

As for the trafficking of women, we present two illustrative cases from the Archive of the Centre for Roma Initiatives (CRI).¹⁴⁵

A 16-year-old Egyptian girl and a 14-year-old Romani girl stated that they had been sold to men according to Roma and Egyptian customs and reported this case to non-governmental organisations dealing with domestic violence as well as to the Office for the fight against trafficking. Parents of two juvenile girls, who were forcibly married, were suspected of receiving money for these marriages. Namely, as the Daily newspaper found out, one of them was a 14-year-old old Romani girl, whose father withdrew her from school and sold her to a 34-year-old man in Kosovo for 300 EUR. Her father was violent while she lived with him, but afterwards she was maltreated by the family she lived with after being forcibly married. The girl escaped from the new family, returned to her parents, but three months later, her father decided to bring her back to her husband. For almost three months, the young Romani girl took shelter in the premises of an NGO. Another girl, as the Daily newspaper found out, was a 16-year-old Egyptian, who was also forcibly married when she was 14 years old, to a minor boy, who lived in Podgorica. Being abused in the most severe manner, she escaped and reported herself as a victim of family violence. What is especially concerning is that the victims were not aware that what had happened was unjust, so they did not even try to oppose the decisions of their families.

142 GRETA Report, September 2012, page 21 http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2012_9_FGR_MNE_en.pdf.

143 Pursuant to the Criminal Procedure Code, the potential victim has the status of an "injured party" and is considered to be a potential victim of human trafficking until a valid court sentence is declared which finds the offenders guilty of a human trafficking criminal offence. According to Montenegrin authorities, persons assumed to be potential victims of trafficking are informed by the Police of their rights, in a language they understand, in order to be able to make a decision favourable to their interests, regardless of whether they want to testify or not.

144 Montenegro Save the Children, *Children Speak out: Trafficking risk and resilience in Southeast Europe*, 2007, available at: <http://resourcecentre.savethechildren.se/library/children-speak-out-trafficking-risk-and-resilience-southeast-europe-montenegro-report>.

145 There are no records in Montenegro that show the extent of risk for women migrants to experience violence and trafficking in comparison to women who have citizenship, or the experience of women migrants who suffered discrimination through the behaviour and attitudes of public officers when they report violence or ask for help. However, individual experiences of women migrants recorded by NGOs show those women migrants who suffer violence are more reluctant to ask for help from institutions than non-migrants. The reasons are numerous: they often don't know the system or language and they are faced with racism and numerous barriers when it comes to accessing protection from violence. Very often, violence against women members of minority groups and migrants is not treated as a violation of human rights, but as a matter of unsolved residential status. Thus, the fact that a woman has no legal residence in the country becomes more important than her protection from violence. See: <http://www.undp.org/content/dam/montenegro/docs/publications/si/Gender/Study%20on%20Family%20Violence%20and%20Violence%20against%20Women.pdf>.

The Public Prosecution Office was contacted in regards to both cases, as well as the Office for the fight against trafficking. Mr Ulama, Head of the Office for the fight against trafficking told the Daily newspaper that, after talking with members of the NGO that sheltered the girls, he believed there were elements of the criminal offence of human trafficking and he offered them assistance and protection. Mr Ulama emphasised that, along with other countries in the region, Montenegro has to work on increasing awareness among the RE population on the prohibition of forced and early marriages, and about the harmful effects these marriages have on the mental and physical health of girls. Since this offence was hard to prove, the Prosecutor's office initiated the proceeding of separation from the spouse, due to the criminal offence non-marital union with a minor. These two cases illustrate the need to work on raising awareness on the prevention and suppression of these phenomena both among potential victims and perpetrators, as well as among professionals, so as to change traditional patterns and eliminate possibilities of eventual institutional discrimination in such cases.

Non-Discrimination and Free Movement of Roma, Including Roma EU Residents

EU residents of Roma origin are entitled to freedom of movement in Montenegro, in accordance with the Constitution and other applicable regulations, as well as all other citizens of the EU member states, regardless of their nationality.¹⁴⁶ According to recent amendments to the Criminal Code, a security measure – *Expulsion of foreigners from the country* – may not be prescribed anymore to a perpetrator who is at risk of being exposed to torture or inhuman and degrading treatment in the expulsion country, or to a person who is protected in some other way in accordance with confirmed international treaties.¹⁴⁷

As of early 2008, the Ministry of Foreign Affairs and European Integration, in cooperation with other competent bodies, started to apply the *White Schengen List*, harmonising the issuance of visas to foreigners for their entry, transit and stay in Montenegro. With a view to preventing illegal migration, the Montenegrin authorities limited the issuing of visas at border crossings and introduced more stringent procedures for the issuance of visas to citizens from the so-called 'black lists' (countries at risk). The procedure for issuing visas requires the submission of documents which are forwarded by the Ministry of Foreign Affairs and European Integration to inspectors for foreigners at the Police Directorate, who give their opinion as to whether the applicant should be permitted to enter and stay in Montenegro. A brochure entitled "*Essential information for foreign citizens coming to Montenegro*" has been produced by the Montenegrin authorities, with assistance from the EU; it contains; inter alia, the number of an SOS line for victims of human trafficking.

The entry of a foreigner into the country is regulated by the Law on Foreigners, Law on Border Control and the Criminal Code. Foreigners who cannot be immediately and forcibly removed or whose identity is not determined or possible to determine, are being restricted in their freedom of movement, placed in the Centre for the Reception of Foreigners and provided with accommodation and subsistence.¹⁴⁸ Exceptionally, a foreigner who has medical or other special needs or reasons will be provided other appropriate accommodation. The foreigner has the right to contest the decision on the irregular stay, by submitting an appeal to the Mol. However, the appeal does not suspend the execution of the decision.

However, state legislation is not aligned with *2009/50/EZ Directive on conditions of entry and residence of third- countries for the purpose of highly qualified employment workforce* and *Directive 2011/98/EU of a single procedure for issuing a single permit for third-country nationals stay and work in the territory of a Member State*, given a common set of workers' rights of third countries who legally reside in the country. At the same time, the legislation is not aligned with the *Directive 2008/115/EC European Parliament on common standards and procedures in Member States for the return of third country nationals due to irregular stay*.¹⁴⁹

146 There are no data and track-record on discriminatory actions in relation to EU residents of Romani origin.

147 Official Gazette of Montenegro, No. 40/13.

148 Information on the opening of the Centre for the Reception of Foreigners, available at: http://www.pobjeda.me/2013/12/14/otvoreno-prihvataliste-za-strance-u-spuzu-sistem-azila-u-fokusu-pregovora-sa-eu/#.UvPbk_IdWSo.

149 http://ec.europa.eu/enlargement/pdf/montenegro/screening_reports/20130218_screening_report_montenegro_ch24.pdf.

Measures to Prevent and Prohibit Discrimination Against Immigrants of Romani Origin

Montenegrin Asylum and Migration Policy primarily consists of the Law on Foreigners, Law on Border Control and the Law on Asylum, as well as the Strategy for Integrated Border Management, and partially of the National Strategy for the Permanent Resolution of Refugee and Internally Displaced Persons with a special emphasis on Konik Camp, which provides three solutions: repatriation, local integration and transfer to third countries. The Policy does not make any difference respective of nationality. According to data from the Asylum Directorate, this Directorate has not dealt with immigrants of Romani origin.¹⁵⁰

There is no unique electronic biometric database on asylum seekers and migrants, or any special building to accommodate juvenile illegal migrants. Strong improvements are needed in terms of current alternative accommodation, especially regarding the provision of food and effective access to primary health care. No established efficient system of providing free legal assistance exists; problems are evident in terms providing a sufficient number of interpreters. Although the Council of Europe Convention on the Prevention and Fight against Violence against Women and Domestic Violence contains comprehensive provisions related to the prohibition of discrimination of female migrants and refugees, female migrants are at greater risk of violence from their partner or employer, in comparison to with those with a regulated legal status, especially if their status, residence or work depends on the partner or employment status. This problem is particularly evident regarding female migrants from the Roma community, who don't have personal documents or a legally registered residence as a basis to use services and, as a consequence are often deprived of access to public services.¹⁵¹

The temporary reception solutions require alignment with minimum standards, especially with regard to health care; risks remain regarding the exposure of the persons hosted there to smugglers and to illegal activities. Further efforts are required to ensure full alignment with the *acquis* in the field of legal migrations and to raise the authorities' awareness of the issue of mixed migration, integration of migrants and the protection of vulnerable groups in this area.¹⁵²

Montenegro adopted the *Strategy on Reintegration of Persons returned by the readmission agreements 2011–2015*, as well as the Action plan for Implementation of the Strategy for 2013/2014. Montenegro also signed the Readmission Agreement with the European Union on 18 November 2007, as well as with the Republic of Albania and the Republic of Kosovo, from where a large number of Romani migrants arrive in an attempt to reach EU member states. However, the implementation of these agreements is very modest, only a few cases in relation to Albania have been implemented to date and none with Kosovo.¹⁵³ Despite these deficiencies, the Action Plan for Chapter 23 does not envisage any particular measures in this regard. The state does not have a programme for voluntary return of illegal migrants to the country of origin. A Memorandum of Understanding with International Organization for Migrations (IOM) was signed three years ago, but due to the lack of available funds and undeveloped administrative capacity, progress has not been achieved.¹⁵⁴ However, according to data from the Refugee Care Directorate which keeps records on persons who have exercised their right to voluntary return, as well as persons who would like to return to Kosovo, so far, this right was used by 2,700 people. In 2012, 38 persons used this option, of which 34 were in Kosovo and four in Bosnia and Herzegovina.¹⁵⁵

150 Response of the Asylum Directorate, dated 30 January 2014.

151 Records of SOS phone for women and children violence victims, the Institute for Social Inclusion and CRI.

152 http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/montenegro_2013.pdf.

153 <http://www.cedem.me/en/publications/viewdownload/48-publikacije-eng/464-policy-report-key-challenges-in-the-area-of-migrations-and-asylum-in-montenegro.html>.

154 CEDEM/Civic Alliance, *Policy Report on Key Challenges in the area of Asylum and Migrations in Montenegro*, December 2013, available at: <http://www.cedem.me/en/publications/viewdownload/48-publikacije-eng/464-policy-report-key-challenges-in-the-area-of-migrations-and-asylum-in-montenegro.html>.

155 Government of Montenegro, *Third Report on the implementation of the Strategy for Durable Solution to the Issue of Displaced and Internally Displaced Persons, with special emphasis on the Konik site*, December 2012.

Sustainable Solutions for Stateless, Refugee, and Internally Displaced Persons of Roma Origin

In cooperation with the EC/UNHCR, the Government has undertaken certain measures to tackle the issue of Roma DPs and IDPs in a sustainable manner, through the recognition of the status of foreigners with permanent residence. In April 2005, the Government adopted the National Strategy for Durable Solutions for Refugees and Internally Displaced Persons in Montenegro. In 2009, the Government of Montenegro, in cooperation with UNHCR and EU Delegation to Montenegro, adopted the Action Plan for Resolving the Status of Displaced Persons from Former Yugoslav Republics and Internally Displaced Persons from Kosovo residing in Montenegro. The Action Plan created a mechanism for DPs and IDPs to have privileged access to the status of foreigner with permanent residence.

In that respect, the *Law on Amendments to the Law on Foreigners*¹⁵⁶ was adopted in 2008 and enforced on 7 November 2009.¹⁵⁷ According to this Law, these persons may be approved with permanent residence if they are recorded as displaced or internally displaced persons on 7 November 2009.¹⁵⁸ Unlike other foreigners in Montenegro, DPs and IDPs, most of which are Roma and Egyptians, exercise this right in certain favourable conditions to permanent residence in Montenegro.¹⁵⁹ If a Roma IDP does not possess a valid passport of the state of origin, he/she can exercise the right to temporary residence up to three years on the territory of Montenegro.¹⁶⁰ If he/she manages to gain a valid passport of the state of origin in these three years, he/she may then submit a request for the approval of permanent residence in Montenegro. From the moment that permanent residence is approved, this person may enjoy all the rights¹⁶¹ of Montenegrin citizens, except voting rights. While they are in the process of obtaining the status, DPs and IDPs may exercise these rights as Montenegrin citizens in accordance with the *Decree on the manner of exercising rights for displaced persons from former Yugoslav Republics and IDPs from Kosovo residing in Montenegro*.¹⁶² The Decree was amended to prolong its validity until June 2014.

When it comes to addressing the situation in Konik Camp, in July 2011 the Government adopted the Strategy for Durable Solution to the Issue of Displaced and Internally Displaced Persons, with special emphasis on the Konik site 2011–2015, and developed an Action plan encompassing measures relating to legal status and access to socio-economic rights. The Coordination Committee for monitoring of its implementation was established in October 2011. However, since December 2012, there have been no working meetings of the Coordination Committee. The Ministry of the Interior (Mol) opened the Office for receiving applications for permanent and temporary residence in the Konik Camp in September 2011. In addition, in June 2011, the Government signed the Agreement with the Republic of Kosovo on the subsequent regis-

156 Official Gazette of Montenegro, No. 82/08, 72/09, 32/11, 53 /11 and 27/13.

157 This status provides access to the same rights as Montenegrin citizens with the exception of the right to vote and the right to be elected to political positions.

158 With regards to “internally displaced persons” from Kosovo, a re-registration was conducted by RCD and Mol between 14 September 2009 and 14 February 2010. The exercise resulted in the confirmation of the status of some 11,000 persons. Re-registration of IDPs from Kosovo was based on the Government’s Conclusion from 19 June 2008, tasking RCD and Mol to conduct re-registration of “internally displaced persons” from Kosovo in Montenegro, whose status had been recognised by the former Commissariat for Displaced Persons. The re-registration resulted in a decrease of some 5,000 IDPs between two re-registrations (2003–2009). UNHCR objected to the re-registration as RCD had no competency to decide on applications of cases made to RCD between the two re-registrations (2003–2009) and initiated procedure for recognition of IDP status.

159 They are not obliged to provide proof of available funds for subsistence, accommodation and health insurance, which is the legal obligation for all other foreigners when applying for permanent residence, but to provide these six documents: copy of a valid travel document, certificate from the Asylum Office that he/she is in the record of displaced persons, i.e. the certificate of the Refugee Care Directorate that the person is in the records of internally displaced persons; a copy of ID of the displaced or internally displaced person; birth certificate; citizenship certificate and proof that no criminal procedure is being conducted against that person in Montenegro.

160 According to the Law on Foreigners, DPs and IDPs who acquire the status of foreigner with permanent residence should have access to Montenegrin citizenship after 10 years of legal residence as a permanent resident or after three years of marriage to a Montenegrin citizen and five years of legal and uninterrupted residence in Montenegro. Affirmative action is being applied here. Namely, these persons are obliged to bring only certificate issued by the National Council of Roma and Egyptians in Montenegro as a proof that they have provided accommodation and a steady source of income, as one of the conditions for acquiring the Montenegrin citizenship prescribed in Article 8, paragraph 1, item 4 of the Law on Montenegrin citizenship.

161 Right to work and employment; right to education and vocational training; right to recognition of diploma and certificate; right to social assistance, health and pension insurance; right to tax alleviations; access to market of goods and services; freedom of association

162 Official Gazette of Montenegro, No. 45/2010 i 64/2011.

tration of internally displaced persons from Kosovo residing in Montenegro, in the register of citizens of the Republic of Kosovo, in order to assist them to obtain the required documentation. However, despite these efforts, there are still Roma IDPs who have not entered the process of regulating their legal status. One of the reasons lies in the fact that some of them have not been properly informed about the consequences they will face if they do not regulate their legal status by the end of this year, as they will be then treated as persons who are residing unlawfully in Montenegro and will be expelled from the country. One of the reasons for not entering the procedure of regulating status is that they have not been provided with adequate support and assistance in obtaining the documents and undertaking necessary procedural steps. More tailored support on a case-by-case basis is needed in order to inform these people of their rights and possible consequences of losing the status of IDP, as well as on the benefits of the regulated status and the procedures that need to be undertaken to obtain documents and submit a request for permanent / temporary residence.

With the support of UNHCR/ OSCE Mission to Montenegro, the Government organises regular bus visits to municipalities in Kosovo and Serbia¹⁶³ to enable socially endangered Roma and Egyptians without regulated status, to obtain the documentation needed.¹⁶⁴ Serious obstacles to obtaining status remain, including: problems with subsequent birth registration; the cost of obtaining documents; the situation of extremely vulnerable people. In addition, confusion over the legal provisions on the number of years in different residence categories which can be counted towards Montenegrin citizenship is present in practice. Some 58% of this group have applied for permanent or temporary residence, of which 37% acquired permanent residence.¹⁶⁵ During 2012/2013, 22 bus visits were organised¹⁶⁶ involving 847 passengers¹⁶⁷ and more than 3000 documents (approximately three to four documents per person) obtained. According to statements from the Refugee Directorate, the overall costs include travel costs, costs for taxes (which have now decreased to 50,00 EUR, instead of 100,00 EUR) and accommodation costs, where needed.¹⁶⁸ Mol does not keep a record of the ethnicity of persons applying for the status of foreigners with permanent or temporary residence, that enables collection of data on the number of approved or rejected requests. Based on information received from UNHCR, as of 31 December 2013, 540 Roma persons had received the status of foreigner with permanent residence or temporary residence.¹⁶⁹ UNHCR does not possess information to show that any internally displaced persons has acquired Montenegrin citizenship so far, given that a person with the status of IDP is not considered being legally and without interruption in Montenegro, which is one of the conditions for acquiring Montenegrin citizenship, according to Article 8, paragraph 1, item 3 of the Law on citizenship.

163 41 RE IDPs travelled to municipalities in the Republic of Serbia.

164 DPs and IDPs lacking basic identity documents and /or valid travel document cannot travel to their places of origin to obtain the required documents. In addition, procedures for obtaining passports are long and many I/DPs have indicated them to be too costly: *Strategy for Durable Solution to the Issue of Displaced and Internally Displaced Persons, with special emphasis to the Konik site*, page 15.

165 European Commission, *Montenegro Progress report 2013*, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/montenegro_2013.pdf, 43.

166 547 persons in 2012 and 259 in 2013.

167 According to data from the UNHCR, the number of persons is 812. According to the response of the Refugee Directorate gathered through free access to information, this number is 847. However, these numbers are not equitable to the number of persons, as some of them travelled for several times.

168 Received through freedom of information, on 20 January 2014.

169 Information dated 28 January 2014.

3. EDUCATION

General School Attendance and School Desegregation

Progress has been made regarding school desegregation. Namely, support has been provided to pupils into be involved in regular educational processes at elementary schools in Podgorica, where segregated classes existed. However, such support is only the beginning of improving conditions for the continuation of regular education. A number of programmes were established in 2013 and 2014. Namely, transport to schools in Podgorica for pupils in elementary schools was provided; workshops and trainings for mothers about the early development of children took place; there was a support programme for literacy intended for mothers in order to support their children to continue education and a toy library was opened in Konik, in Podgorica, aimed at recreation and education of the youngest children with the use of learning methodology through play, etc. There are also programmes intended to support young people, who are out of regular educational system, to continue education at schools through additional classes and in institutions for education of adults (University for workers). The largest part of these activities is financed through donations and based on previous experience related to similar projects, once they finish the matter of ownership and sustainability will come as an issue to be faced in near future.

The language barrier represents one of very important difficulties that is noted among Romani and Egyptian children at schools (illiteracy in the Montenegrin language), which slows down and complicates their work and progression in education. In addition to this, major obstacles to education of children in desegregated schools are a lack of material conditions and poor living conditions generally, as well as securing transport of all children to get to schools.

The school-based segregation of Romani and Egyptian children in a separate class – a branch of the elementary school exclusively attended by Romani children – only exists in Podgorica. In other municipalities children are involved in schools with children from other communities. The number of children in the separate class “Camp 2” has been reduced in comparison with previous years, because the process of desegregation and inclusion of children in other schools started last year. From school year 2013/2014 enrolment of first graders in this separate branch class of elementary school “Bozidar Vukovic Podgoricanin” in Konik stopped. Transport and enrolment in other schools was provided for Romani and Egyptian children who started their primary education in 2013/2014. Children from camps Konik I and II (camps for internally displaced persons from Kosovo) have been enrolled in six schools by the project implementers, Help and Roma Education Fund (REF) in cooperation with Ministry of Education, since 2013/2014. Transport costs were covered by the Ministry of Education and the Ministry for Human and Minority Rights. The Government announced that these were gradual activities intended to close the segregated branch class of elementary school “Bozidar Vukovic Podgoricanin”, which was attended only by Romani and Egyptian children.¹⁷⁰ The Government also announced that 969 free sets of books were provided for RE children and that six RE mediators have been engaged to work on an everyday basis to contribute to regular attendance of classes and improved success of children and to cooperate with teachers and other professional staff at schools for the school year 2013/2014.

Data on education are not based on ethnic affiliation and it is hard to define the concrete number of Romani pupils and in this regard, data on their educational performances.¹⁷¹ However, some available data

170 The Report on implementation of Strategy for improvement of status of Roma and Egyptians in Montenegro 2012–2016 in 2013. http://www.gov.me/sjednice_vlade/63.

171 *Ibid.*

show that 270 Roma and Egyptian children were in the branch class of elementary school “Bozidar Vukovic Podgoricanin” in 2012/13, and 168 pupils in 2013/14.¹⁷² The overall number of RE children who attended this elementary school during the school year 2013/2014 was 547.¹⁷³ In all Montenegrin schools in 2013/2014 there were 1,583 pupils of Roma and Egyptian nationality.¹⁷⁴ The number of first grade pupils enrolled in integrated schools was 62. Overall, 13.81% RE children were in preschool institutions which is half the number of children at the national level (26,65%).¹⁷⁵

Education inspection filed criminal charges against parents of 19 pupils for not assuring their regular attendance of obligatory elementary schools, and has been collecting documentations related to possible charges for 34 parents.¹⁷⁶ After charges, six pupils started to attend classes while 34 pupils were at risk of leaving school.¹⁷⁷

Inclusive Education

Several projects that support inclusive education have been implemented or their implementation is in course. Namely, the project “*Support to the full process of social inclusion*” supported through the IPA 2010 programme has dealt with the improvement of mechanisms for collection of data and their use; developing models of preparatory kindergarten: defining the manner for the engagement and identification of means for RE assistants and preventative measures to stop children leaving schools in eight pilot schools. Instead of the two groups originally planned (totally 30 in Niksic and Podgorica) many more children were included – 161 children in seven groups (two in Niksic and five in Podgorica) in response to huge interest from children and families to be involved. All children were enrolled in the first class of elementary school. The Guidebook for future preparatory kindergartens and the Teaching plan and program for preparatory kindergartens has been adopted by the National Council for Education. The mechanisms for engagement of RE assistants have been defined for the needs of the project, as well as a description of their job positions that primarily has to make a distinction between the RE mediator and assistant. Mechanisms of detection and case management were developed for the purpose of preventing dropout. The project took place in eight pilot schools (in four schools in Podgorica, two in Niksic, one in Tivat and one in Berane). Through the system of professional advancement of teachers, training for employees regularly take place, new skills are implemented in schools through direct monitoring of work, and forms – samples are developing in cooperation with employees, which will help in establishing mechanisms for recognising children that are in risk of leaving the school or helping prolong their stay in school. During the implementation of the pilot project, assistants in classrooms made significant progress in acquiring knowledge of pupils who previously needed additional work and support in class lessons. A lack of continuity in the implementation of this programme does not contribute to progress and will not lead to a systematic improvement of conditions for receiving education.

According to a Government report two projects, in cooperation with Roma Educational Fund and Help, have been realised. One project was named “*School clubs for assistance to RE children*” at the school “Bozidar Vukovic Podgoricanin”. In the framework of this project, workshops on dance, sport and art were organised for children from the Konik Camp, as well as similar activities. Another project “*Urgent support for the early development of RE children*” took place in kindergarten “Djina Vrbica” in a building in Konik suburb, with social and educational activities for an additional group of 90 children. The Centre for Professional Education implemented a project named “*Step by step – Change*”, supported by UNESCO, for the purpose of understanding the role of parents in the process of raising and educating children. A programme of basic education was attended by 392 adults; another 20 attendants finished the programme of elementary functional literacy while 47 attendants finished the programme qualifying for crafts. In addition, the IPA

172 Answer received according to Law on free access to information from Elementary school “Bozidar Vukovic Podgoricanin” on 28 April 2014.

173 *Ibid.*

174 Data received from NGO “Institute for Social Inclusion”.

175 *Ibid.*

176 *Ibid.*

177 *Ibid.*

project “*Support for the integration and voluntary return of RE and other IDP/s from Konik*” made a significant effort to enrol and prevent the dropping out of children from Konik camps by introducing a moratorium on first grade enrolment in branch school of “B.V.P.Odgoricanin” school and enrolling all 62 first graders into integrated schools in 2013/2014 school year. The model of desegregation, which Roma Education Fund also launched in other Decade countries, was successful in insuring regular attendance of first graders as well as support to higher-grade pupils in integrated schools as well as support to branch schools.

Almost 72 students from the faculty of philosophy volunteered in 2013 and helped RE children to overcome language barriers and improve success at school for 220 children who attended the branch class at the Elementary school “Bozidar Vukovic Podgoricanin” and for 120 children who attended other schools in town.¹⁷⁸ However, if this activity fails to be introduced systematically, in the form of obligatory attendance of students of teaching faculties or similar professions, its sustainability is questionable. In the school years 2012/2013 and 2013/2014 a total of 132 students came and worked with children before or after classes to improve their language and other skills, as well as to support their achievements in the branch school in the Camp.

In accordance with activities defined by structural reforms in the area of education and upbringing, an evaluation of the subject programmes for elementary education was implemented and according to the results and experiences of their previous implementation, a revision was conducted aimed at establishing permanent and applicable knowledge of pupils. Principles of civic education and humanitarian values in the spirit of tradition, culture and history of minorities will be mainstreamed and affirmed in teaching and the educational content in the first three grades of primary school, and then particularly in classes on Civic education and similar subjects. The National Council for Education adopted those changes and they will be implemented from school year 2014/2015.

According to information received from Roma and Egyptians NGOs, the history of Roma and Egyptians has not been introduced into schoolbooks.

Discrimination in Access to Education

Structural treatment of the problem of discrimination in access to education still does not exist. There are, however, individual cases at the level of schools where preventive measures and measures against discrimination are actively taken. Trainings for teachers have been conducted and in some schools various activities and workshops for pupils about violence at school have been implemented. Psychological and pedagogical services are working to establish additional trainings, while pupils’ parliaments discuss the topic of discrimination and similar.

Roma and Egyptians, (according to focus groups organised for the purpose of this report) believe that the poor economic conditions of their families, lack of parental support for children to learn and finish their school obligations, discrimination at school and language barriers are the largest problems and barriers for education. Peer violence and lack of acceptance by other pupils still are among the most important factors of RE children dropping out of education. A participant of the focus group in Podgorica stated her own example – her three children were not welcome at the beginning of the school year in the elementary school in the village of Dinoša where lessons are in the Albanian language. Namely, other children from the class made insulting comments to her children. Some participants at the focus group said they left the school due to discrimination and violence committed by other children. As one of the participants at the focus group said, even in high schools problems with peers were present, at least at the beginning of school year. From the other side, one participant mentioned an example of his classmate defending him on the first day of school, from a pupil from another class, even though he had met him for the first time that day.

However, in some schools, teachers also discriminate against RE children. As parents said, discrimination occurs in two manners – teachers call them derogatory names like “Gipsy”¹⁷⁹ or make them sit in the back rows.¹⁸⁰ Furthermore, participants at the focus group in Tivat said that on 28 February 2013 Egyptian children had a fight with other children, when one of the pupils called his father on the phone. His father came and beat the pupil from the Egyptian community. One of the parents said that the police intervened and that pupils and professors also had an informative conversation. Parents who participated in the focus group in Tivat said that professors were favouring children who did not belong to Egyptian community, accusing Egyptians of causing the fight.¹⁸¹ The sentiment that teachers contribute to discrimination was shared by participants of the focus group in Podgorica, who shared information about sporadic negative cases where teachers, more than other pupils, obviously show RE pupils that they were not welcome at school.¹⁸² From the other side, participants at this focus group also said that there were now more teachers who were ready to help children in learning and understanding the curriculum. They also said that the atmosphere at schools in Podgorica was generally good. The support at schools is provided with additional classes and through organising humanitarian actions such as collecting clothes and footwear by teachers and parents of pupils from some schools. Participants believe that the Decade of Roma improves the image of Roma through inclusion at schools and the fact that schools are not placed in Roma settlements anymore, but Roma children are integrated in the school system through inclusion in schools in the city. Today, Roma and Egyptian children are welcome, schools are more open and there are more children who want to attend school.¹⁸³

Within the project “*Support for the integration and voluntary return of RE and other IDP/s from Konik*” around 30 teachers and preschools teachers were supported to participate in two seven-day trainings and three round tables, and improve their skills in working in multicultural classrooms. A total of 162 teachers were reached through dissemination of knowledge organised by every school and preschool institution involved in these trainings. Within the same project there was a public event organised in the city cultural centre which gathered children from six integrated schools in Podgorica to promote and present inclusive education practises, respect for diversity and contribute to developing a society with equal opportunities for all.

Parents of non-Roma children also play a role in discrimination occurring in schools. One focus groups participant stated an example from elementary school when a parent of his school friend slapped him suddenly several times. After this incident, his parents came to school to find out why it had happened, but all they were told was that a parent had made a mistake and that it would never happen again.

Special Education

With the reform of the educational system and a strong move towards the inclusion of all children in regular education, the number of children referred to special educational institutions has significantly dropped. Special commissions have been set up to establish the child’s educational needs and to assess if he/she needs to be referred to special education institution. Thus, the wrongful placement of RE children in such institutions is not typical.

Compulsory Education

In order to provide the right conditions and guarantees that Romani children attend compulsory education, trainings for employees regularly take place, new skills are implemented at schools and new forms

179 The case happened in an elementary school in Niksic as reported by focus group participants.

180 The case happened in an elementary school in Tivat as reported by focus group participants.

181 Report from the Focus group in Tivat, on 28 April 2014. The Report is also in the documents of the NGO Coalition.

182 Conclusion of participants of the focus group that took place in Podgorica on 21 April 2014, with Roma and Egyptian men.

183 Report from focus groups organised for the purpose of this report.

have been developed in cooperation with employees. These forms are envisaged to help establish mechanisms for recognising children who are at risk of leaving school or to help them to prolong attendance at school. Support to children in this respect has been provided through the provision of free books and free transport to school. There are also regular scholarship programmes for high school pupils and students from the RE population. Free books, scholarship and some transport have been provided from the budget of the Ministry for Human and Minority Rights and the Ministry of Education. During the school year 2013/2014, 969 free sets of books were provided, 882 sets in 2012/2013 and 651 free sets of books in 2011/2012.¹⁸⁴ The scholarship programme faces obstacles such as harmonising the calendar and school year, because scholarships sometimes come too late in the second semester, or after several months and are usually retroactively paid after the end of school year.

The Government recognised the problem of school dropout through the Strategy for improvement of status of Roma and Egyptian in Montenegro 2012–2016. The Strategy defines specific measures for the prevention of problem such as early dropout. This problem still exists in the form of lack of finances for implementation of the Strategy and even a clear procedure for the allocation of funds does not exist. Everything is usually based on the work of NGOs, which implement projects directed towards the goals of the Strategy, through donations.

Data published by National Statistical Agency (MONSTAT)¹⁸⁵ with the support of Unicef in June 2014 indicate the existence of invisible children in the educational system. Those data show that only 51.8% of children enrol in primary education. Furthermore, 57.8% children are in primary education and there is striking drop to 5.5% when it comes to secondary education. Thus there is significant number of children who are invisible to the education system or are out of its reach.

It is hard to define a concrete number and everything else that needs to be monitored in terms of general policies towards Roma and Egyptians including education. Data about the number of Roma and Egyptian pupils are not completely clear, because data are not categorised by ethnicity, thus, the monitoring of any trends is difficult. There are specific measures, e.g. establishing the Commission for monitoring the number and dropout of Romani and Egyptian children in Podgorica, where representatives of Roma and Egyptian community are included, which contributes to easier identification and monitoring. However, these mechanisms have to be improved so that concrete and precise data are available. According to data from the Institute for Social Inclusion, the number of RE pupils in high schools and the number of RE students at universities are increasing from year to year. Since 2005, the number of high school pupils has increased significantly – from 15 (in 2005) to 91 (2013). The number of students at universities has also risen – there were no RE students in 2005, but today there are 15 students at Montenegrin universities. When it comes to elementary schools, progress has been made, from 500 pupils at the beginning of the process to 1,850 pupils nowadays.

A commission for monitoring the number and dropout of Roma and Egyptian children in Podgorica has been established and it should be formalised and spread across the whole country soon. The initiative for establishing this Commission was started by the NGO Social Inclusion Institute. The Commission is composed of representatives from the Ministry of Human and Minority Rights, Ministry of Education, Education Inspection Department, Ombudsman, Police Directorate, Roma Council, Secretariat for Social Care and Centre for social affairs, Red Cross and elementary schools “Marko Miljanov”, and “Bozidar Vukovic Podgoricanin”. The establishment of such a Commission is a success story, but since it has just started to work, it is hard to measure its results at the moment. Still, it can be reported that the Commission undertook the measures and activities prescribed by Law when initiating 19 misdemeanour charges against parents, who do not send their children to elementary school. Of 150 detected cases, almost 70 pupils were successfully returned to school.¹⁸⁶ As can be seen school dropout is still a large problem. More than 50% of those who drop out stay out of the educational system.

184 Response of Tamara Milic, from Ministry of education and sport, 30 April 2014.

185 MONSTAT, *Research on multiple indicators 2013*, Key findings, June 2014.

186 Data received from the Institute for Social Inclusion.

Preschool Education

Preschool education is still a serious problem. During 2013, regular programmes of preschool education were organised for 224 Roma and Egyptian children.¹⁸⁷ A half-day stay was organised for, on average 80 RE children per day. During 2013,¹⁸⁸ 87 children, who were not included in the systemic form of education, attended preparatory kindergartens for schools. Representatives of Roma NGOs claimed that lower number of children than the number represented by the Government, went to kindergarten. The Bureau of Education organised the training and supported mediators from Roma and Egyptian population. According to the Law, the educational programme is organised as a whole-day programme, which lasts from six to 12 hours. Roma NGOs criticised the national fund for protection and preservation of rights of minorities and said they did not recognise this important need as they persistently refused to support projects aimed at preparing children for school. NGO The Association of Egyptians from Tivat (member of the Coalition) implemented this type of project with the support of local self-government, and results show that 98% of attending Egyptian children enrolled in school, which provides evidence that such projects are relevant for other municipalities. However, to date no other programme has been initiated and the sustainability of the project of Association of Egyptians "Preschool for Egyptian children" is not ensured, so there is no real response to the need for full preparation of children for school that should last two years. Therefore, the problem of inclusion of children in regular pre-school system remains in Tivat and other municipalities in Montenegro.

On the other hand, a large number of parents have not been introduced to measures and activities taken by authorities under the educational system framework. Currently, activities with Romani parents are at a low level. Representatives of the NGO sector and parents, who participated in focus groups organised for the needs of this triangulating data for this report, told us that the number of activities organised with them was low. They said that such activities would be important to increase parents' capacities and competences that could improve their status in the labour market as well. NGOs believe that parents' eventual employment and inclusion would contribute to their improved standpoints towards pre-school and education in general. NGOs especially highlighted specific cultural samples that incline towards the discrimination and violation of the rights of children, such as marriages among minors, begging, etc. In the end, they recognised the responsibility in the state that does not react strictly, respecting the law and sanctions prescribed by law.

Implementation of National Roma Inclusion Strategy

The Government stated that a number of activities envisaged by the NRIS have been organised. Workshops with mothers from the Camp took place, in cooperation with Roma Education Fund (REF). Workshops on early development of children have been organised once in a week (a total of 103 workshops with 205 participants), and workshops on literacy (a total 98 workshops with 153 participants) with girls and mothers. Workshops with children, where mothers were present, also took place (a total of 81 with 332 children). However, and as we previously said, information we have received on the ground from parents and NGOs indicate that a large number of parents were not introduced to these workshops. Programmes attended by some parents contributed to a higher level of understanding of the importance of education for the RE population and consequently a higher level of support that parents provide to their children to be persistent in attending classes. Women who participated in these workshops were supported to show their activism and organised a public event on the day of women for around 50 female participants from partner organisations. Generally, parents are not familiar with activities implemented under the framework of strategies and the Decade. NGOs have made efforts to work with parents and children. Successful example are activities by the NGO Centre for Roma Initiatives from Niksic (member of the Coalition), which promotes human rights through education and different contents, with an accent on the rights of women and girls.

187 The Report on implementation of the Strategy for improvement of status of Roma and Egyptians in Montenegro 2012–2016 in 2013.

188 Kindergartens included in statistics were from Podgorica, Niksic, Berane, Tivat and Herceg Novi.

The Government also stated that 168 seminars were organised for directors, teachers, and professional assistants and that the Guidebook for professionals and those interested in preventing school dropout, was published.¹⁸⁹ Also, three seminars of the Department for Education for 85 teachers took place, and on topics such as the inclusion of RE children in preschool education, education for social justice – against stereotypes and prejudices and education for social justice – curriculum. NGO “Institute for social inclusion” stated that implementation of scholarship program for RE high school pupils and RE university students will start soon. This programme also implies mentors or professors whose duty will be to monitor specific number of students and to work with them. They will pass specific training for this job that will provide them access to the job in an appropriate manner. The Ministry of Education, Bureau for Education, REF from Budapest and NGO Institute for Social Inclusion will implement the project.

NGO projects strengthen capacities but also contribute to creating conditions for mediators between different types of institutions (educational institutions, institutions for social and children protection, health care institutions, Employment Bureau, etc.) and the Roma and Egyptian community. The Centre for Professional Education prepared the standards for professions of co-operators in social inclusion of Roma and Egyptians, in cooperation with the NGO Institute for Social Inclusion, intended for RE representatives who finish high school. These standards were adopted on 20 December 2013. Implementation of these standards remains the challenge, as institutions are not obliged to receive RE representatives who finish trainings for specific professions.

School transport is available for children who have been transferred from Camp 1 and 2 to other schools in the town. However, transport to schools is not provided in other towns, and lot of children are not able to attend classes for that reason. As participants at the focus group said, language barriers remain the biggest challenge for children as lots of them speak three languages and schools struggle to cope with supporting them.

189 Report on implementation of Strategy for improvement of status of Roma and Egyptians in Montenegro 2012–2016 in 2013.

4. EMPLOYMENT

Employment of Roma and Egyptians

Employment of the Roma and Egyptian population still remains a problem. Although specific results have been achieved, RE face serious problems during employment and are faced with poor condition at work, as well.

The Roma population in Montenegro faces deep social and economic exclusion. Discrimination and de-segregation prevail and often exclude Roma from full participation in society. Employment is one of the key areas for Roma integration. Rate of employment of Roma in Montenegro are significantly lower compared with the rest of population, very often due to discrimination in the labour market. A significant portion of Roma who are able to work lack the education they need to find a good job.

After years of efforts to integrate Roma in the educational system, nowadays, there is a new generation of Roma who are skilled and educated.¹⁹⁰ However, positioning in the labour market is often very difficult. Decade of Roma indicators in this area showed some success but today's generations are faced with the same problems their parents faced 20 years ago. Some individual cases are exceptions, while the population as a whole still suffers serious limitations.

In terms of employment, Roma, who participated in the focus groups organised for the purpose of this report, assessed their status as concerning. As they said, the main reasons for such status are lack of education, lack of personal documents and discrimination. In focus groups, participants presented personal experiences of workers in positions of maintaining public hygiene and other communal services, who work for more than 10 years without a labour contract or formal registration as employed.

Civil society organisations in Montenegro implemented a series of projects in the previous period that were aimed at lobbying and advocating for improved employment of vulnerable groups including the RE population. The Government and National Employment Agency said that the goal related to the RE population, refugees and displaced persons is directed towards provision of support to this population in terms of improvement of employment and in order to reduce poverty and social exclusion, so they could become active and full members of Montenegrin society.¹⁹¹ Due to their overall status, discrimination and the level of education, Employment Agency classifies their clients who declare themselves as Roma and Egyptians in the group of "hard to employ" persons, which is the lowest employability category. In December 2013, the registry of unemployed persons of the Employment Agency showed that 1,118 persons declared as Roma and Egyptians are unemployed.¹⁹²

Of the 34,514 registered unemployed persons in the Registry of Employment Agency on the 31 December 2013 those declared voluntarily as RE population formed 3,21%, which is more than three times higher than the RE population share (1,01%) in the overall population. The highest number of reported unemployed Roma and Egyptians, as registered by the Employment Agency, is in the central and southern part of the country, while a smaller number of them was reported at the north of the country. The highest number of unemployed RE representatives in the registry of the Agency are those without a profession

190 See the chapter on *Education*.

191 Information from the Employment Agency of Montenegro, 25 April 2014.

192 Declaring according to ethnical representation is optional, not obligatory.

or professional qualifications. The Employment Agency stated they had implemented a large number of activities and projects with the aim to improve employability and employment of RE population: *“Roma visible in the labour market”, “Second chance”, “Reducing endangerment of the domestic RAE population”, “Inclusion in education and qualifications of adults; Inclusion in public work; Inclusion in programmes for literacy and ‘creating equal access to job positions for RAE population”*.¹⁹³ During 2013, the Employment Agency mediated in finding employment for 56 Roma and Egyptians, or 5% of registered unemployed RE.

In programmes of an active policy of employment, 39 persons of RE population were included, or 3.4% of the overall number of unemployed representatives of this population as registered by Employment Agency during 2013.¹⁹⁴ Out of those 39, employment for a fixed period was found for 37 persons including five women in the area of public works and seasonal jobs. The other two were women educated to become hairdressers. It is important to stress that RE women are mainly employed in seasonal jobs or through public works – both very irregular and unsecure forms of employment. The data on the overall number of beneficiaries of the active policy of employment for 2013 is not yet publicly available.

Representatives of the Employment Agency stated that the RE population mostly join in lower levels of professional qualifications (professions such as assistants – assistant auto-mechanic, assistant hairdresser, assistant dressmakers, assistant chef, assistant in restaurants, assistant in ceramics, assistant in rubber manufacturing and similar), after functional literacy. Since the beginning of implementation of the project *“Functional literacy for adult Roma”* that started in 2007, 60 representatives of the RE population from Podgorica and 10 representatives from the north finished literacy courses, in cooperation with NGO Bussola. After qualifying, they received professional qualification for the first profession, which increased their employability and competence in the labour market. After the training, they had a final exam in the presence of the Centre for professional qualifications, who monitor the education of adults in Montenegro and received a certificate of finalised training, which is equal and competitive on the labour market. A programme helping women to qualify as hairdressers was organised during 2012 and 2013. This programme covered 10 representatives of the RE population. During these two years, the same programmes were organised in Podgorica.

The Institute for Media implemented a School of journalism for representatives of RE population that lasted five months during 2011. The school was supported by the Fund for Open Society, US Embassy in Podgorica, and Fund for Active Citizenship. The training was attended by ten representatives of the RE population. According to the findings of NGO the coalition, apart from one journalist, who was employed on Radio CG for the honoraria, others did not manage to find jobs in the media in Montenegro.

During 2012 and 2013, 70 representatives of the RE population found seasonal employment. Through the project *“Creating equal access to job positions for RAE population”* initiated in 2010/2011 for 55 persons, 48 representatives of this population passed the training for professions such as chambermaid, hygienist, public utility hygienist, ceramicist and assistant worker in fruit harvesting and viticulture. Out of the overall number of them, 18 were employed.¹⁹⁵

One of the problems of seasonal employment is related to distance, as job positions are in coastal towns and are usually related to cleaning. This is a serious problem for a large number of Roma and Egyptian women, because they are mothers and cannot leave their children to travel to coastal towns and stay there for couple of months to work during the season.

What causes concern are the large number of programmes and initiatives that exist only as project activities and are time limited with long breaks that last for almost a year, until the provision of new funds from donors is secured for continuation of projects. An unfortunate example is the programme initiated by NGO *“Rukatnice”* which existed for two years and ceased work due to the lack of finances. NGO *“Rukatnice”* was the first female Roma and Egyptian organisation in Montenegro. This women’s NGO organised training and hand-made crafts, and was not supported by the state to become self-sufficient.

193 Information from the Employment Agency of Montenegro, 25 April 2014.

194 The Report on implementation of Strategy for Improvement of status of Roma and Egyptians in Montenegro 2012–2016 in 2013.

195 Information from the Employment Agency 25 April 2014.

Representation of Roma in Public Administration

Almost 58,000 people work in public administration in Montenegro.¹⁹⁶ In local administration bodies, public enterprises, and public institutions in central, northern and southern part of the country, the number of employees is equal and is between 3–4,000. Almost 48% of inhabitants of Montenegro live in the central part, 28% in the north and 24% in the south.

The ethnical structure of employees does not correspond to the ethnical structure of society. Almost 80% of Montenegrins are dominantly employed in public administration, although there are 45% of them in the society. All other nations are sub-represented, but the small number of employed representatives of the RE population is especially alarming. Besides the Ministry for Human and Minority Rights, which regularly implements surveys on ethnic representation in public administration, the Ombudsman and Civic Alliance worked on this type of survey as well. Results that were received were approximate and indicated discrimination of all other nationalities except Montenegrin. National and political discrimination in the employment process is present, on both the national and local level.

The selection of candidates who apply for work in public administration is done via Human Resources Management Authority (HRMA). Criteria for adequacy for work in public administration are appropriate professional qualifications, national exam pass and mostly, but depending on the job position, knowledge of English language and computer work. At the time of publishing job advertisements, HRMA indicated it would be led by proportional national representation and would leave the option for applicants to declare their nationality. Job advertisements stated that candidates, who are representatives of minority nationalities, would have an advantage in comparison with candidates from majority population in the same conditions. However, this possibility did not give the expected results and had no impact at the time of employment according to advertisements, as it was not obligatory for managers who made the final decisions. Furthermore, the structure of employees in the public sector confirms that this rule does not contribute to a larger number of employees from the minority population.

Public Works

The Employment Agency organises Public Works as part of the active employment policy. These are local or state employment programmes organised for the implementation of social welfare programmes, educational, cultural programs, programmes for the protection of nature, utility and other programs, which are based on socially useful, non-profit work. Such public work programmes encourage job creation and raise working potential, the level of knowledge and skills of unemployed persons, while helping the development of local governments. For Roma and Egyptians public work programmes are often the only chance of employment.

Although there is no desegregated data about the number of RE employees through this programme, Roma NGOs believe they were not used enough. Representatives of the Employment Agency said that this programme, along with other factors, contributed to changing the standpoint of entrepreneurs about employing the RE population. After interviewing employers, the Employment Agency published data about the changes in standpoints from 5% (in 2010) to 19% (in 2013) in favour of employing RE. It is worth noting that one of the ways to encourage employers to take on RE representatives is the Provision on subsidies for employment of specific categories of unemployed persons which is mainly used for public works and it is not used as much by “regular” employers.

In public works “*Neka bude čisto*” (Let it be clean), 23 representatives of the RE population were included during 2012, while five of them were included in this work in 2013. Last year, 14 representatives of RE population were included in local public work in Podgorica and four representatives of RE population were included in two local public works named “*Assistant in classes for Roma children*” that were implemented in Podgorica and Niksic.

196 Plan of internal re-organisation of public sector, Podgorica, July 2013.

First Work Experience Programmes

A programme “*Professional trainings for university graduates*” has been initiated in Montenegro. Any graduate student who is not employed has the right to participate in this programme and training. It lasts for nine months and students have right to receive fees of 50% of the average net income in Montenegro. After successfully finishing their internship, students have the right to attend a professional exam. In that manner, they become competitive on the labour market. The programme was implemented in 2013 and 2014. To date, 8,000 graduates have participated in the programme. In 2013, one representative of the RE population was included in this programme. This person is a psychologist and after finishing the internship he is now unemployed. Thus the opportunity was missed to implement a mechanism of affirmative action and consequently to contribute to the integration of Roma and particularly encourage future Romani students to graduate and actively seek employment.

Barriers to (Re)Enter Labour Market

The main barriers for the Roma and Egyptian population to (re)enter the labour market are: stigma and discrimination and lack of personal documents and citizenship status.

Representatives of RE population who finished high school are mostly employed in Public Communal Services (PCS) because it is not possible to find other appropriate employment. This practice causes poor motivation for the education of RE representatives,¹⁹⁷ as they believe they should not waste time and money on education, because their only option is employment in PCS. RE participants in the focus groups added there were different forms of discrimination. Examples are different, and they said the following: “*When refugees from Kosovo arrived here, 15 people without documents were employed, and there were our people who had documents but could not be employed, they should not pay insurance and years of labour service to refugees like they should do for us, who were not refugees*”; “*I worked for 20 years in PCS and lost my job. I supported my family with that salary*”; “*I don’t have a job now because I had problems with my boss and the Director of PCS where they hated me and kicked me out of a job. They just kicked me out and left me with nothing. I know how the rule works, if I came to be left without a job, there should be a procedure for that. I received the contract and have the right to appeal but no one taught me anything about this, so I did not use that right*”; “*I have three kids and they never called any of them to attend any training, Employment Bureau never searched for a job for them. They usually told them they should only verify their employment record, because in that manner we have health insurance and social subsidies*”. The final comment highlights the question of the purpose for registering at the Employment Bureau if finding a job is not the primary goal. From the other side, representatives of the Employment Agency said they devoted special attention to cooperation with employers in terms of employment of RE, advocating the principle of affirmative action.

When it comes to the employment of displaced and internally displaced RE people, legal conditions have been made for them to apply for registration in Employment Agency, and they can be employed only if a specific law doesn’t prescribe Montenegrin citizenship as the condition. One Roma participant in the focus group said: “*We don’t have rights, if you don’t have documents, no one will employ you*.”¹⁹⁸ At the end of 2012, 42 (18 women) displaced persons of RE population were at the registry of Employment Agency, and 62 (22 women) at the end of 2013. It should be pointed out that procedures for receiving citizenship are too long. Also, while filing a request for citizenship, the test of Montenegrin language should be done, which is also very problematic if a person doing the test is illiterate. Problems can also be caused by the obligatory 50 EUR fee for the exam if a person is unemployed or has no income.

The TV show “*Pokreni se*” (Move yourself) is broadcast on public service RTCG and media articles were published in cooperation with daily “*Pobjeda*”. This TV show brings to public attention and discusses topics related to labour market. This contributes to an increasing level of awareness of public and their level of

197 Reports from focus groups organised for the purpose of this project.

198 Focus group that took place in Niksic with representatives of RE population.

informing with the aim to remove cultural and social barriers and to achieve equal job opportunities in all sectors and equal access to Montenegrin labour market for all categories of unemployed persons. Also, broadcasting positive examples contributes to strengthening awareness on the integration of marginalised social groups. However, Roma and Egyptian NGOs remark that the TV show should devote more attention to the employment of RE representatives.

Concrete measures to remove barriers for employment of RE is envisaged by the Action Plan for implementation of Strategy for improvement of status of Roma and Egyptians in Montenegro 2012–2016. The Action Plan for 2014, adopted by the Government on 3 March 2014, envisages that subsidised employment should include 19 representatives of the RE population.¹⁹⁹

Self-Employment and Entrepreneurship of RE

Although programmes for support to small and medium enterprises have been initiated in Montenegro, according to available information, representatives of RE population have not used these programmes up to now. Business incubators exist in Montenegro – in Podgorica and Bar. However, as told to researchers from the NGO coalition there were no enterprises in these incubators owned by Roma or Egyptians nor did anyone from this population express interest in this.

Microcredit programs exist but are not available to Roma and Egyptian community, which is a problem. The main reasons why RE do not meet criteria are a lack of starting capital or property that could be put under mortgage in order to get the credit to initiate a business idea.

Employment agencies provides support to employers through mediation in providing staff, advertising job positions, supporting youth employment, support to develop entrepreneurship, delivering labour licenses for foreigners, stimulating the employment of disabled persons, legal advice and consulting services.²⁰⁰ No person from RE population was a user of services provided by the Employment agency in the area of supporting the development of entrepreneurship.

Roma and Egyptians in Rural Areas

Roma in Montenegro mostly live in urban area. They also mostly collect secondary raw material or are employed in Public Communal Service company. A relatively small percentage, 19% or 1,598 out of 8,392 of RAE population live in rural areas.²⁰¹

Montenegro uses only IPA projects but still does not use the European Agricultural Fund. The Government of Montenegro supports farmers awarding them financial support and subventions. According to findings of NGO Coalition, only one representative of Roma, who is a woman, is dealing with cattle breeding in Montenegro. Researchers from the coalition interviewed her in order to receive data about the assistance that state provides. She said she faced with serious problems and barriers in dealing with this job. Apart from the assistance she received through the financial support program, she did not receive any other assistance from the country. As she said, she had a lot of problems with the sale of products and provision of cattle food and at the time of the interview, she did not even have an adequate resolution to the issue of land for pasture.

199 Action Plan for implementation of Strategy for improvement of status of Roma and Egyptians in Montenegro 2012–2016 for 2014.

200 Information of Employment Agency of Montenegro, from 25 April 2014.

201 Data provided by State Statistics Agency on 14 May 2014.

5. HEALTH CARE

Health Care

Mechanisms for organised preventative actions in the framework of health protection, such as prevention of diseases and epidemic in isolated settlements have not been developed yet. This is especially important because some Roma and Egyptian settlements lack basic living necessities such as electricity, water and sewage system.

The laws governing the health care system of Montenegro recognise insured persons as the users of health care services regardless of ethnicity. The Law on health insurance²⁰² prescribes that socially vulnerable categories such as the unemployed, children up to six years old, and children in the education system until the end of high school and University, pregnant women and women in the first year after giving birth, elderly persons up to 65 years old, and persons with infective diseases, do not pay for treatment, meaning they have free health care protection. The Roma and Egyptian population who do not have Montenegrin citizenship (primarily former IDPs) have health care protection provided according to the Provision on the health care protection of foreigners. In case of obstacles in this area, each case is resolved individually and with support from NGOs, using informal mechanisms with the aim to provide appropriate health care service.²⁰³

The Ministry of Health stated they had implemented activities in the frame of the National Programme for the early prevention of malignant diseases of women.²⁰⁴ A Strategy aiming at the improvement of the reproductive health of women was adopted in 2013. Representatives of Roma NGOs participated in the work of the working group that prepared the Strategy. Also, the Ministry of Health stated that it had introduced rights for displaced and internally displaced persons to health protection, in all health care institutions, which can be exercised in accordance with provisions as citizens of Montenegro. However, there are public statements by patients and records noted by NGOs about situations where Roma women were charged 400 EUR for services when they were giving birth.

Barriers to Health Services

The lack of personal documents is a serious problem, especially for internally displaced persons from Kosovo who do not have documents. The number of displaced and internally displaced persons who still²⁰⁵ have not filed requests to regulate their status is almost 3,000. This is mostly due to the large number of those who do not have documents.²⁰⁶ Serious problems occur when Romani and Egyptian women have to give birth. Based on the experience of Centre of Roma Initiatives (a member of the Coalition) to whom women approach and ask for assistance and support, there is a significant number of Romani and Egyptian women who have tried to give birth with someone else's health card or alternatively they give birth in their

202 The Law on health insurance (Zakon o zdravstvenom osiguranju) ("Sl. list RCG", br. 39/04 od 09.04.2004, 23/05 od 12.04.2005, 29/05 od 09.05.2005 i "Sl. list Crne Gore", br. 12/07 od 14.12.2007, 13/07 od 18.12.2007, 73/10 od 10.12.2010, 39/11 od 04.08.2011, 40/11 od 08.08.2011, 14/12 od 07.03.2012, 36/13 od 26.07.2013) not available in English.

203 Response of Sokolj Beganaj, representative of Ministry for Human and Minority Rights.

204 The Report on implementation of the Strategy for improvement of status of Roma and Egyptians in Montenegro 2012–2016 in 2013.

205 Information from 20 May 2014.

206 Strategy for improvement of position of Roma and Egyptians in Montenegro 2012–2016, 5.

home. Also, one of the problems that occurs as the result of lack of personal documents is that of enrolling a child into the registry of birth. If the mother does not have documents, her children cannot enrol into the registry of birth and for that reason, they do not have a health card and are also at risk of statelessness. The state claims there are no such cases while NGOs claim there are. Concretely, the Centre of Roma Initiative has data about 15 children that are not registered in the birth registry in Niksic. However, comprehensive research has never been conducted and reliable data on the national level does not exist.

There are examples of good practice at the local level. Representatives of Egyptian and Roma community resolved the status of persons without personal documents in cooperation with the Ministry of Interior. During 2013, 15 persons from RE population in Tivat received documents after a door-to-door action organised by the Association of Egyptians (a member of the coalition) in cooperation with the Ministry of Interior. But still, the problem remains for 30 Egyptians, who do not have documents. That means that 30 persons do not have health cards as well. It has been agreed with competent bodies that these persons should receive health protection via emergency services. Representatives of the Association of Egyptians said there were some inconvenient situations when they were asked to pay for provided services. Visiting isolated RE settlements – “Lovanja” and “7 Jul” have been organised by the Primary Health Care Centre Tivat, providing services of regular vaccinations for all children. Also, the Association of Egyptians was supported through municipal grants for NGOs to realise the project “*Prevention of breast cancer in women from the Egyptian population*”.

Access to Health Services

In March 2013, the Ministry of Health signed a Memorandum of Cooperation with German NGO HELP and NGO Roma Education Fund, with the aim to implement an aid program for the integration and return of RE and other internally displaced persons, who live in the settlement Konik in Podgorica. The goal of the Memorandum is to enable representatives of the RE population to use health care and similar services through the engagement of health care mediators. This resulted in the employment of one woman as a mediator. Additionally, vaccination of all children, who live in Camps in Konik (almost 1,400 children), was organised. In cooperation with the Centre for Diagnostic Radiology of the Clinic Centre of Montenegro, free mammogram screenings were organised for 45 women or 9.3% of the women from the Roma population from the Camp in Konik. There is no data on why the scope of the action was not wider and if there will be future cycles of screening reaching more women.

The Ministry of Health also signed a Memorandum on Cooperation with two NGOs – the Centre for Roma Initiatives from Niksic, and women’s network “Prva” (The First), which is also from Niksic. The Goal of the Memorandum is to improve the health protection of Roma and Egyptian women. The NGOs assess that the MoU is an important tool for them to engage with the Ministry and contribute to positive changes, however they are dissatisfied with the lack of initiative from the Ministry of Health to implement it. CRI and “Prva” with the financial support of CARE International NWB realised seminar days in 2013 on reproductive health for 120 Roma and Egyptians from Niksic, Podgorica and Berane, carried out smear tests for 45 women, as well as with the support of USAID organising 15 training sessions in Niksic, Podgorica and Berane for 100 Roma and Egyptian women on the importance of controlling pregnancy and family planning. In 2014, supported by CARE International NWB six seminars in Niksic, Podgorica and Berane were held, three for 50 men and three for 49 women from the Roma and Egyptian population on the following topics: Health services tailored for young and equal access for all, Reproductive health – protecting the health of women and girls, Prevention of sexually transmitted diseases including HIV, Promoting health in the community – the role of youth. CRI had an initiative which is still waiting for an answer from the Ministry, asking for the approval of free medical check-ups for women from the RE population, aiming at improving reproductive health. Furthermore, CRI has organised workshops, seminars and check-ups for women from RE population for three years in a row. These activities were implemented in Niksic, Podgorica, Berane, and Ulcinj. Representatives of the Centre said that Roma women are face serious health risks, which explains data saying that out of the overall number of girls who gave birth before adulthood, one third of them were Roma (43 girls).²⁰⁷

Female participants at the focus group organised for the purpose of this report in Konik in Podgorica said that although most of them did not have health cards, a medical check-up was provided for them with the use of their old documents from Kosovo. However, half of participants said they had never had medical check-ups in any of the health care centres in Podgorica, but they did that at the containers in Camp I, where the doctor, engaged by the Red Cross, arrived to do the check-up every day during the week for one hour. However, more than 20 women often come for the check-ups, although the practice says that doctors should check five patients in one hour, which they mentioned as a serious problem. They mentioned complicated, unclear and long procedure as the main reasons for the lack of health cards.

According to the Ministry of Health, the measures above were undertaken in all municipalities where a large number of RE representatives live, but in other municipalities as well.

Discrimination in Health Care Provision

The Ministry of Health has not received any reports of cases on the grounds of discrimination and violation of rights of RE to medical information, permissions, and patient-doctor confidence related to health protection.²⁰⁸ However, the protectors of patient rights in primary health protection in first half of 2012 received 69 complaints,²⁰⁹ while in secondary health protection there were 279²¹⁰ complaints received during 2012. The researchers were not allowed access to the nature of the complaints but have received general information that in secondary health care they were primarily related to unsatisfactory relations and treatment of the patient and in the smallest number of cases related to dissatisfaction of competence of service provided, while in primary health care most of the complaints were related to unsatisfactory relations and treatment of patient, delays of doctors to come to work start receiving patients at scheduled times. However, the inefficiency of mechanisms for complaints is alarming, when used by RE population. The Association of Egyptians mediates between doctors and users of health care services at the Health Care Centre in Tivat. There were cases of lack of providing of medical check-up and other health care services that were later resolved, but mostly after the intervention of the NGO, which acts based on the MoU signed with primary health care institution. Egyptian participants in the focus group in Tivat said that discrimination still occurred, although examples of discrimination had been reduced to a minimum. For example, a doctor in an emergency centre usually does not want to receive an Egyptian patient, with the excuse that he comes often, explaining that nothing happens to him, that he does not want to measure his blood pressure and similar. Focus group participants complained about technical matters, and what often occurs is that health care professionals don't arrive after an emergency call from elderly and sick Egyptian persons. Thus, elderly and sick persons have to arrive at the Emergency premises by themselves. Emergency services sometimes transfer patients to the hospital in Risan or Kotor, but the vehicle does not wait for the patient to finish the check-up and returns immediately without them. Therefore, Egyptians are exposed to additional expenses for their return home to Tivat.

Patients' Rights

Patients in Montenegro are protected by the Law on rights of patients that was adopted in 2010, but especially by the Article 30 that defines the right to objection. The Law envisages provisions focusing on maintaining patients dignity, preventing illness, treatment, nursing and rehabilitation, equal rights to quality and continuous protection, application of services equally to citizens and foreigners, free choice of doctor and dentist, right to information and notification, the right to self-determination about everything concerning one's own health and life except when this right endangers the life and health of other persons, the entitlement to inspect medical records, the right of other expert opinions, the right to privacy and confidentiality, the right to compensation and the right to deliberately leave the hospital. Thus, the Law provides a wide

208 Response of Ministry of Health, 5 May 2014.

209 HERCEG NOVI 29, KOTOR2, BIJELO POLJE 2, ULCINJ 2, BAR 5, PLAV 1, PLJEVLJA 1, NIKŠIĆ 2, KOLAŠIN 3, PG 22.

210 PODGORICA 216, NIKŠIĆ 9, PLJEVLJA 49, BAR 1, KOTOR 4, CETINJE 0, BIJELO POLJE AND BERANE HAVE NOT PROVIDED DATA.

scope of health protection, but should be more precise in defining the independence of the protector of rights of patients. Namely, protection of patients' rights is an alarming matter due to the inadequate implementation of the Law in this part. Also concerning is the fact that Protectors are staff of the institution in which they are appointed by the director to conduct this role. Thus, protectors are not independent as they arrive from the institutions where they were appointed as Protectors of rights of patients so the question of the nature of their findings and extent to which the responsibility of medical workers is determined in those cases can be questioned. They have a legal obligation to investigate and respond to any received complaint in three days. The patients can still file a complaint on the report and findings of the Protector. As well as the mechanism of the Protector of rights of patients, who is present in each health care institution; there is also a Commission for the control of quality of services provided in all health care institutions, a national Commission for the control of quality and a General Directorate for the control of quality in the Ministry of Health, and ethical committees in health institutions. The Commissions' and Committees' members are employees of exactly those health institutions whose work they should control.

The procedure envisages that after filing the complaint, the Protector is obliged to provide an answer during the next 48 hours. The complaint can be put into a box that is set in a visible place in each health care institution or via a phone call that has been set for that purpose in each health care institution. The Civic Alliance organised monitoring of health care institutions and received information about the number of complaints and on the number of them that the Protector responded to.²¹¹ However, CA did not get any information on the promptness of getting answers or the quality of answers provided after the complaints. Responses were provided for all 69 complaints received in 2012 but there was no information about the content of them or whether the persons who complained were satisfied. The same situation applies to complaints received by protectors in secondary health protection institutions.

Professionals and managers within the health care sector are largely aware of and acquainted with provisions of the Law on patients' rights as reported by Ministry of Health to the public. However, during the same public events NGOs were challenging those saying they do not respect them strictly. One of the reasons for this is the inefficient implementation of the sanctions policy which up to now has resulted in only one doctor being sanctioned on the ground of corruption, while there are a few other cases regarding mistreatment of patients particularly with fatal consequences that are still in court procedures (some lasting over three years). What especially causes concern is that private health care institutions are in this regard disrespecting the Law and none have assigned a Protector of rights of patients. The Civic Alliance presented this fact to the Ministry of Health. After the second monitoring cycle (2013), the Minister promised he would prescribe a deadline for private health care institutions to appoint a Protector of rights of patients, and added that sanctions would be imposed unless they appointed Protectors. The private health care institutions have still not appointed Protectors.

A number of researches²¹² show that corruption is widespread in the health care sector. Official recognition on the existence of corruption was received from the Minister of Health, who explicitly admitted that corruption existed and that it should be eradicated as soon as possible, and he encouraged citizens to report corruption. Also, he prohibited parallel work of medical workers in private health care institutions, which was allowing for the unnecessary referral of patients to those private facilities. The small number of cases processed and medical workers sanctioned is alarming. An adequate sanction policy is important for prevention. When it comes to citizens, a large number of them targeted the health care sector as the most prone to corruption. The Civic Alliance conducted research in 2013 on a sample of 143 citizens within the hospital complex of the Clinic Centre and more than 50% of them said they had given a gift to a doctor and that 20% of doctors explicitly required money for intervention.

211 Civic Alliance, *Monitoring of the work of health care institutions 2013*.

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Health Awareness

The Ministry of Health stated that 20 workshops took place in Camp Konik during 2013, on the following topics: the rights and duties of patients, HIV/AIDS, scabies, hygiene of waste material, protection of reproductive health, addiction, collective accommodation – health risks, prevention of diabetes, violence in the family, promotion of health, oral health, etc. Each topic was presented in two sets of workshops.

Counselling offices function within health care centres. For example, a special counselling office works in the health care centre Tivat and is intended for pregnant women, including the Egyptian women living in this town. A school for pregnant women also works within specific Health Care Centres but there are no data about the number of RE women who attend this school or its activities. According to data received from women who have used this programme, women from the RE population were not present.

Coordination Between Sectors

The Ministry of Labour and Social Welfare, Ministry of Education and Ministry of Health signed the Protocol on cross sector cooperation on mutual work aiming at preventing the abandonment of children, on 14 April 2014 while the priority is accommodation in the family, instead of in institutions. As stated, the Protocol is directed towards the most vulnerable groups such as future mothers, newborn babies, and children up to three years old, but at the same time all measures and procedures from the Protocol are related to all the children growing up in biological families. Henceforth, measures are related to all children but are relevant also for the RE population. The Protocol was signed as one of outcomes of project “*Reform of social and children welfare system*” that Unicef is implementing through IPA1.

Through inter-sector cooperation the Ministry of Health in its area of responsibility has taken measures to raise awareness to introduce employees in the health care system on the rights of displaced and internally displaced persons to health protection, which they exercise on an equal footing with these citizens of Montenegro, in accordance with the Provision discussed above. At the same time, instructions were delivered to directors of health care institutions about the manner of informing of this population about the importance of prevention and the role of the counselling office, as well as or the use of the services of the counselling office in preservation and improvement of health.

6. HOUSING

Access to Housing

The RE population in Montenegro live in alarming housing conditions. In its Report about the implementation of the Strategy for Improving the Position of Roma and Egyptians in Montenegro 2012–2016, the Government stated there were no precise data about facilities where the Roma and Egyptian population lived and added that the conditions of most of them were under national and international housing standards.²¹³

Activities on the plan of resolving housing issues of displaced persons who live in collective centres have been intensified through the provision of locations for the construction of buildings in the municipalities of Niksic, Pljevlja, Berane, Herceg Novi and the Capital city Podgorica, in the frame of the Regional Housing Program (RHP). This means that those municipalities have found modalities to participate in the RHP and provide adequate parcels and primary infrastructure free of charge. As announced, through this regional project, Niksic will be the first municipality that will resolve housing issues for this population this year, through the construction of 62 apartments. A local study of the housing of the Roma and Egyptian population was adopted in the municipality Herceg Novi, which has been developed as a result of the project “Improvement of the integration of Roma and Egyptian population at the local level” that was implemented jointly by CEDEM, NGO Mladi Romi (Young Roma) and municipality Herceg Novi. This project was financially supported by Open Society Foundations from Budapest. A local study of housing that appeared as the result of the above mentioned project aimed at providing a detailed review of housing conditions of Roma and Egyptian population in this municipality and aimed to define recommendations based on valid and verifiable data from the ground. The study was covered by the professional analysis of a legal consultant and a construction engineer.

Through Action Plans for implementation of the Strategy the Government envisaged a large number of measures that contribute to the inclusion of RE population. A number of measures are not directly related to the Roma and Egyptian population but to the municipalities in which RE population lives. The Strategy for improvement of the status of Roma and Egyptians in Montenegro 2012–2016 and the Action Plan envisaged measures aiming to promote inclusion, desegregation and non-discriminating access to housing resources. In that manner, it has been envisaged to: adopt appropriate legal acts and bylaws that regulate the social housing area (normative framework); construct housing intended for the RE population; legalise specific buildings or whole settlements but also assisting in solving disputable cases related to the property and providing the possession and peaceful use of the property by Roma and Egyptians; connect the housing where the RE population lives with infrastructure (water supply, sewage system, electric grid, road infrastructure, etc.), provide assistance for the recovery and improvement of housing conditions in buildings constructed of weak materials where RE families live and that are problematic due to security reasons; remove settlements or landfill near the Roma and Egyptian population in accordance with spacing plan documentation; develop and nominate projects with local self-governments and Roma NGOs to international institutions and donors for receiving funds from international aid for these purposes; adopt the Law on social housing, legally define the social housing area, adopt the National programme of social housing for a three-year period, develop the Local programme of social housing, adopt the Proposal of Law on legalisation of informal buildings, provide legalisation of illegal buildings.

213 The Report about implementation of Strategy for the improvement of status Position of Roma and Egyptians in Montenegro 2012–2016 in 2013.

The development of housing intended for the RE population has started and 79 apartments have been finished (in Bijelo Polje, Berane, Niksic, Podgorica, Pljevlja). Apartments in Bijelo Polje in the settlement of Ribarevine are intended for citizens in social need and retired persons in Bijelo Polje, but according to the plan, ten apartments should be referred to Roma. Although apartments are finished and empty, Roma have not moved in yet. Tufik Bojadzic, Deputy Mayor told us this would not happen soon, and not for a month after the local elections that took place on 25 May 2014, due to the Law on election that prohibits the publishing of ads during elections and for the month after. Bojadzic also said that it would be important to create criteria for awarding apartments before publishing ads, as there were more Romani families than apartments intended for this population. As he said, the aim was to place families, who lived in settlement Rakonja near the main road, in these apartments, due to the traffic risk. Apartments comprise 60 square meters and are placed in an area where citizens of other nationalities live. However, during the construction of apartments, people who lived there organised protests and filed a petition to local authorities not to allow changes in the national structure of the settlement and to place Roma in mentioned apartments. However, municipality representatives said that apartments would be awarded to Roma. The construction of the apartments was funded by the Ministry for Human and Minority Rights provided funds for these apartments.

Also, with the funds provided by the Ministry for human and minority rights, nine apartments were constructed for RE representatives in Niksic (Ozrinici). Here also, inhabitants complained saying that connecting three buildings to the water supply network would make the water supply of the overall settlement more difficult. Regardless of the reasons stated, the atmosphere of ethnical distance is visible with the neighbours' resistance that marks each RE housing project.

Through the programme of German International Organisation HELP, apartments were secured for RE families in several other locations. Namely, there are built apartments in Podgorica in the settlement Konik, in Berane on Riverside and in Pljevlja in settlement Trlica for internally displaced representatives of the RE population. More than 60 apartment units were built and given to representatives of the RE population for housing. The construction of these apartments was financed by the Government of Germany and the EU.

NGO Young Roma from Herceg Novi informed us that a project initiated in this municipality with the aim to simplify awarding of apartments to Roma families employed in Public Communal Service Company, had caused a lot of trouble to these families in terms of paying for apartments. The company signed contracts with four Roma households for the purchase of apartments for these families under allegedly "favourable circumstances". By signing this contract, these families are not capable of paying high monthly rate of loan repayment (significantly higher than market value), due to unfavourable loan conditions that had not been explained to families properly. Representatives of NGO Young Roma filed an initiative to the Ombudsman on 9 June to revise the contracts.

On the other hand, representatives of "Mladi Romi" organisation mentioned one positive example of resolving housing issues in this municipality. Namely, in 2010, the municipality awarded land parcels to citizens in social need. Out of 17 land parcels, one was awarded to a Roma family. As this family did not have finances to build the house, municipality Herceg Novi built the house for this family in cooperation with HELP.

High expectations in this sector are from Regional housing project (RHP) to resolve housing issues for 6,063 persons living in 1,177 households.²¹⁴ This project includes the most vulnerable categories with a special emphasis on the Camp in Konik. The overall value of this project is 27.696 million EUR, the contribution of the country is 15% or 4.154 million EUR and donor funding is 23.542 million EUR. The county's contribution is reflected primarily through awarding the land and providing primary infrastructure. In the frame of RHP, in March 2013, Montenegro put forward "Pilot project – Niksic" for the construction of 62 apartment units, whose total amount was 2.780.000 EUR. Sanja Mugosa, Executive Director of PROCON, the National unit for project implementation told a coalition researcher that the preparation of tender documentation was in course and that the tender procedure should be opened by the end of June 2014 to choose a construction company. The Ministry of Labour and Social Welfare adopted the Rulebook for the selection of users and

214 *Ibid.*

established the Commission for the selection of users and defined the preliminary list of users in accordance with the public call. Ninety-two families responded to the public call and submitted their application. Out of this number, 20 were Romani families. In fact, this public call was an announcement for citizens and will be repeated when the work comes to an end as the Law on administrative proceedings allow development of the final list during the six-month period until the end of the project.

The project Camp Konik was also approved through the regional RHP program. The project envisaged constructing 120 apartment units. The overall value of the project is 7,347.135 EUR. Development of the main project is in progress, and work on construction of apartments is expected to start this year.

The project 'Institution for the elderly' in Pljevlja was approved through the RHP program. According to data we received from the Ministry of Labour and Social Welfare, 15 candidates from the RE population responded to a public call expressing formal interest for accommodation in this institution. A concrete number was not possible to determine because displaced and internally displaced persons were not obliged to declare their ethnicity. The value of the project is 2,612.407 EUR. Procedures for creating conditions for implementation of the project are in course.

Apartments that will be built through this programme, according to Law on social housing, will be in ownership of local self-governments. A revision of the right to housing will be conducted every two years. According to previous experience and media statements, this type of control was inadequately conducted in large number of municipalities that have apartments for socially vulnerable people. Due to the lack of efficient control, users of apartments stayed in some apartments longer, even though they were not socially vulnerable any more. For that reason, there is concern whether local self-governments would have capacities to implement efficient monitoring in this regard.

The Government Report on implementation of Strategy for 2012 stated that according to an IPA project that should have started in 2013, 90 apartment units would be built in the area in Konik. It also stated that a multi-purpose centre would be built and that funds for the education and employment of the RE population would be provided.²¹⁵ However, construction has not started yet. The Report for 2013 has no information related to postponing the beginning of the project. We have received information from Ministry of Labour and Social Welfare that the tender ended and that the procedure to choose a construction company would be implemented soon. There were also some changes related to the number of apartments, thus, instead of 90 planned apartments, 51 apartment units will be built. There is no reliable information as to why the number of planned apartments has been reduced. Generally, none of the construction plans of housing for Roma emphasise issues of desegregation and they continue to find solutions that lead to segregation. Additionally, all the housing projects for the RE population with status of internally displaced persons in Podgorica are planned in the Konik area, where the risk of a new form of urban segregation is emerging.

There are no contraindications between standard regional policies on apartments and goals of desegregation. The strategy for the improvement of the status of Roma and Egyptians in Montenegro 2012–2016 has been recognised in the document named "Development pathways of Montenegro" that is related to housing, so there are no incompliance in normative part. What de facto exist are informal settlements for which solutions should be found through changes of the plan documentation. It should be specifically emphasised that living conditions in these settlements are concerning because they have no infrastructure.

Access to Public Utilities

There is still large number of problems in terms of exercising the rights to adequate housing and alternative accommodation for Roma and Egyptians. There are no moves to develop a programme of local self-governments intended for social housing, according to the Law on social housing, partly due to the lack of

215 The Report on implementation of Strategy for improvement of status of Roma and Egyptians in Montenegro 2012–2016 in 2012.

capacities of local self-governments, and due to a lack of adequate financial means for their implementation. On the other hand, the Law on the legalisation of informal buildings has not been adopted yet. The Law would provide legalisation of informal buildings where representatives of this population mostly live.

Settlement “Lovanja” in Tivat, where an Egyptian population live, has a lot of problems. Homes in this settlement do not have electricity, water or a sanitary block, there is no heating during the winter, and in summer temperatures are very high. In this settlement and in settlement “7 July”, pest control and cleaning is not provided, waste is not removed regularly, there is no lighting in settlements (Lovanja has no lighting, and in settlement 7. July bulbs are not changed regularly). At the focus group, which took place in Tivat, one of the participants from Egyptian population said he had 27 years of labour service. He added he lived with nine members of family in a wooden barrack where humidity was very high and where rats and snakes constantly came in. Participants at the focus group from this settlement said that the local self-government had not visited this settlement to assess living conditions or undertake adequate measures.

Living conditions in camps I and II in Konik in Podgorica, are without electricity, sanitary block and water, which is especially concerning. The state was covering the cost of electricity at the very beginning and now those costs are the responsibility of families that are the official users of containers and barracks. However, the status of IDPs has stayed the same for 15 years and over time circumstances and arrangements for securing basic living conditions have changed. It is fair to say that those persons are stuck in the political interests of Kosovo and Montenegro, as well as neighbouring and EU countries. However, there are no official contradictions between mainstream housing and regional policies regarding IDPs.

NRIS Implementation

The NRIS predicted the adoption of appropriate laws and bylaws governing the field of social housing and residential construction intended for displaced and internally displaced persons (including Roma). The law has been adopted but is still not fully implemented, especially in areas of adoption of local social plans. Procedures related to building apartments for displaced and internally displaced persons are under development.

Urban Planning and Rural Development

It is evident that the population in Montenegro is migrating to the central and southern part of the country. Of particular concern is the abandonment of rural villages in the north of the country. The equalisation fund was established by the Law on Financing of Local Self-Government and is used as an instrument for equalise financially weaker municipalities; so far the most money from this fund has been obtained by the northern and predominantly rural municipalities.

Until the adoption of the Law on social housing, social housing was not defined by the positive regulations of Montenegro.²¹⁶ The Law on social housing was adopted on 23 July 2013. The Coalition did not receive data about the number of RE representatives who were under the impact of measures prescribed by the Law on social housing. These data were not even mentioned in the Report of the Government on implementation of the Strategy. The law on social housing recognises the RE population as a priority group, aiming at resolving the housing needs of persons who cannot satisfy these needs in the market. According to the Law, the Ministry of Sustainable Development and Tourism established a cross sector working group that works to prepare the general programme on social housing. On this basis, local programmes for social housing should be developed and implemented.

216 *Ibid.*

Involvement of Local and Regional Authorities, Local Roma and Non-Roma Community

In terms of inclusion of representatives of regional and local authorities, and local Roma and non-Roma community in the social housing area, this is mostly based on implementation of projects supported by the international institutions. The relationship of authorities with this issue is currently reflected through the adoption of the Law on social housing and the announcement of the Action Plan for 2014, the adoption of the National programme for social housing for a three-year period and development of a local programme of social housing. Authorities have not met with representatives of the RE population to include them in any manner, or other communities, in the creation of sustainable solutions in social housing.



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In the reports, civil society coalitions supplement or present alternative information to Decade Progress Reports submitted by Participating Governments in the Decade of Roma Inclusion and to any reports submitted by State parties to the European Commission on implementation of their NRIS. These reports are not meant to substitute for quantitative monitoring and evaluation by State authorities but to channel local knowledge into national and European policy processes and reflect on the real social impact of government measures. The civil society reports provide additional data to official ones, proxy data where there is not official data, or alternative interpretation of published data.

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