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**Resolution CM/ResCMN(2015)2
on the implementation of the Framework Convention for the Protection of National Minorities
by Montenegro**

*(Adopted by the Committee of Ministers on 4 March 2015
at the 1221st meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Articles 24 to 26 of the Framework Convention for the Protection of National Minorities (hereinafter referred to as "the Framework Convention"),

Having regard to Resolution Res(97)10 of 17 September 1997 setting out rules adopted by the Committee of Ministers on the monitoring arrangements under Articles 24 to 26 of the Framework Convention;

Having regard to the voting rule adopted in the context of adopting Resolution Res(97)10;^[1]

Having regard to the decision of the Committee of Ministers dated 14 June 2006, in which it agreed that Montenegro was a party to the Framework Convention with effect from 6 June 2006, the date of notification of succession by Montenegro;

Recalling that the Government of Montenegro transmitted its State report in respect of the second monitoring cycle under the Framework Convention on 12 September 2012;

Having examined the Advisory Committee's second opinion adopted on 19 June 2013, as well as the written comments of the Government of Montenegro received on 24 February 2014;

Having also taken note of comments by other governments,

1. Adopts the following conclusions in respect of Montenegro:

a) Positive developments

Montenegro has pursued a constructive approach towards the monitoring process and has taken useful steps to disseminate the results of the first cycle of monitoring. The authorities have maintained an inclusive approach in practice in the communication with representatives of national minorities. Important changes to legal provisions and administrative practice have been introduced to implement further the Framework Convention.

Although the official approach is that the personal scope of the Framework Convention extends to citizens only, it has to be noted that, in practice, the Montenegrin authorities' position is more open and flexible. It is to be welcomed that the authorities continue to consider, where appropriate, the inclusion of persons without citizenship of Montenegro in the application of the Framework Convention on an article-by-article basis.

The adoption in 2010 of the Law on the Prohibition of Discrimination and the establishment of the Council for the Protection against Discrimination strengthened the existing hitherto legal provisions on prohibition of discrimination. The reversal of the burden of proof in cases of discrimination and the provision allowing participation of non-profit public interest organisations in litigation are to be welcomed. In addition, a new Law on the Protector of Human Rights, which addressed a number of shortcomings identified earlier, was adopted in 2011.

The census conducted in 2011 in accordance with European and international standards provided useful data on population disaggregated by nationality, religion and mother tongue. The establishment of the Personal Data Protection Agency in 2010 and the amendments to Personal Data Protection Law of 2012 allowed the harmonisation of the legislation of Montenegro with the EU standards and strengthening of the guarantees for the protection of personal data.

The authorities continue to provide various forms of assistance in the field of cultural expression to persons belonging to national minorities. The Law on Monuments and the Law on Culture, both adopted in 2008, aim to establish standards for the protection and the promotion of culture based on the freedom of expression, respect for cultural rights, with equal preservation of all cultural identities and respect for cultural diversity. The Centre for the Preservation and Development of Minority Cultures, established in 2009, actively engages in promoting minority cultures by organising various events in languages of national minorities.

The Law on Electronic Media, which was adopted in 2010, obliges public broadcasters to produce and broadcast programmes expressing cultural identity of all segments of society, including national minorities, and to produce and broadcast programmes in languages of national minorities in the areas inhabited by such groups. Public television and radio continue to broadcast a wide variety of programmes addressed to persons belonging to national minorities, including in their minority languages.

The Law on Personal Names, adopted in 2008, entitles applicants to have personal names entered upon request into record books or registries in one of the languages in official use in Montenegro, namely Albanian, Bosnian, Croatian, Montenegrin or Serbian languages. Furthermore, in conformity with the Law on Identity Card, applicants may request that data in an identity document be entered in one of the languages in official use in Montenegro. Finally, the Law on Record Books entitles applicants to receive certified copies from the record books in the language of the minority to which the applicant declares to belong to.

New curricula in the field of language and literature, including elements of Serbian, Bosnian and Croatian language and literature in the language courses at the primary and secondary level, have been developed. "Civic education", promoting human rights, democracy and multicultural society, has been introduced as a compulsory subject at the primary school level and as an elective subject at the secondary school level. Teaching in minority languages is organised at the primary and secondary level in the municipalities inhabited by persons belonging to the Albanian minority. The Croatian language is taught at the primary school level in Tivat and Kotor.

Numerous initiatives have been undertaken by the Ministry of Human and Minority Rights, together with the Ministry of Education and the Roma Minority Council, to assist Roma students in the education process. These include special scholarships, dormitories, transportation and tuition support for Roma children attending secondary and tertiary education, financing of Roma educational assistants and special measures entitling Roma students to enrol at the Podgorica University regardless of grades.

Electoral legislation was amended in 2011 and 2012 to create more favourable conditions for election of national minority deputies. At the municipal level, in particular where persons belonging to national minorities constitute the majority, they participate actively in local public affairs and hold posts of responsibility such as mayors, school principals and heads of police.

Minority Councils representing the Albanian, Bosniak, Croat, Muslim, Roma and Serb national minorities have been established. The councils are entitled to propose amendments to legislation and other acts which regulate the rights of persons of national minorities and to address the President of

Montenegro not to promulgate a law which the council considers to infringe on national minority rights. In addition, the councils can establish educational institutions and provide opinions on the national minority-related issues reflected in the school curricula.

b) Issues of concern

In as much as the adoption of the Law on the Prohibition of Discrimination is a positive development, it has to be noted that the law did not establish a specialised body dealing with discrimination (specifically racial and ethnic discrimination) capable of providing independent assistance to victims of discrimination in pursuing their complaints, conducting independent surveys concerning discrimination, and publishing independent reports. Also, the definition of discrimination contained in the law does not fully comply with international standards.

The continued existence of the Konik Camp, where over 2 000 internally displaced persons (IDPs), mainly Roma from Kosovo* have been living for over a decade in the most deplorable conditions, without electricity, running water and sanitation facilities suggests insufficient will on the part of the authorities to resolve the issue. In spite of the assistance offered by the authorities, a significant number of Roma IDPs still do not have identity documents which would enable them to legalise their status in Montenegro.

Negative stereotypes and prejudices against persons belonging to the Roma minority, in particular the IDPs from Kosovo*, continue to persist. The fact that a significant number of the IDPs have been effectively marginalised in the Konik Camp does not help in any way either to resolve the issue of IDPs itself or to combat the negative public perception of the Roma. More generally, there is a lack of awareness in society of national minorities' identities and religions, cultural and social customs and traditions. The possibility for schools to devote 20% of the curriculum to the needs and interests of persons belonging to national minorities continues to be rarely used.

There have been no changes to the legislative provisions on the modalities for implementation of the right of persons belonging to national minorities to use their language in relations with administrative authorities and to display topographical indications in minority languages. The provision of the Law on Minority Rights that these rights are to be implemented "in the local self-government units in which persons belonging to national minorities constitute a majority or a considerable part of the population according to the last census" is too vague and open to interpretation.

In spite of the authorities' efforts to improve education opportunities for Roma children, significant challenges remain to be overcome. An estimated 400 Roma children, mostly internally displaced, cannot attend schools due to the lack of identity documents. The drop-out rate of Roma children remains significantly higher than the average and the number of Roma children continuing education past primary education is unacceptably low. The situation of Roma girls and women is particularly vulnerable with regard to their right to education. The Roma educational assistants lack a clearly defined legal status and are employed on temporary contracts, making their position precarious and discouraging better qualified persons from seeking these positions. There are no classes teaching the Romani language.

The provisions of the Electoral Law create an unjustifiable distinction in treatment between candidates of the Croat minority and Roma, whose number, according to the census of 2011, is very similar. This may lead to discrimination, contrary to the provisions of Articles 4 and 15 of the Framework Convention.

The Minority Councils are perceived by large segments of Montenegrin society as vehicles for political patronage. There is no mechanism to guarantee a gender balance in their composition. Another challenge facing the councils is their vaguely defined legal status, and they are essentially considered to be non-governmental organisations, without any real decision-making powers. The situation of the councils is aggravated by the fact that each of them acts independently, and there is no institutionalised structure which would allow them to speak to the authorities with one voice on behalf of all the minorities.

2. Adopts the following recommendations in respect of Montenegro:

In addition to the measures to be taken to implement the detailed recommendations contained in sections I and II of the opinion of the Advisory Committee, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

- monitor the implementation of the Law on the Prohibition of Discrimination with a view to eliminate identified shortcomings making it fully compatible with international human rights standards; reinforce the independence as well as the financial and human resources of the Human Rights Protector to increase his ability to ensure the implementation of the law;
- continue to assist internally displaced persons (IDPs) with the acquisition of identity documents; find, in consultation with those concerned, durable solutions which would enable the closure of the Konik Camp and provide for adequate integration or return opportunities for the camp's inhabitants including by allocation of necessary resources;
- expand the measures aimed at promoting tolerance and inter-ethnic dialogue throughout Montenegro; develop school curricula to include issues of interest to national minorities; ensure that good quality textbooks are available in Albanian language, at all levels of education; increase efforts to raise public awareness of the history and cultural heritage of the various national groups;
- take specific measures to guarantee the right for education for all Roma children regardless of their status; further increase efforts to remedy other shortcomings faced by Roma children in the field of education;
- review the legislative and administrative provisions requiring the introduction of bilingual topographical signs and for the use of minority languages in dealings with the administrative authorities in the municipalities inhabited by persons belonging to national minorities and ensure that the right to use a minority language in relations with the administrative authorities, is respected in all bodies of local self-government where the law is applicable;
- take necessary measures in the framework of the electoral legislation in order to avoid any potential discriminatory impact on the Roma;
- review legal provisions and administrative practice regulating the election and functioning of the Councils of Minority Nations with a view to eliminating the identified shortcomings as regards the representativity of these organisations, their status and their co-operation with the authorities.

3. Invites the Government of Montenegro, in accordance with Resolution Res(97)10:

- a. to continue the dialogue in progress with the Advisory Committee;
- b. to keep the Advisory Committee regularly informed of the measures it has taken in response to the conclusions and recommendations set out in sections 1 and 2 above.

[1] In the context of adopting Resolution Res(97)10 on 17 September 1997, the Committee of Ministers also adopted the following rule: "Decisions pursuant to Articles 24.1 and 25.2 of the Framework Convention shall be considered to be adopted if two-thirds of the representatives of the Contracting Parties casting a vote, including a majority of the representatives of the Contracting Parties entitled to sit on the Committee of Ministers, vote in favour".

* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Related documents

▾ Meetings

1221st meeting of the Ministers' Deputies - Meetings 2015 / 04 March 2015 / *English* 

▾ Committee of Ministers; Council of Europe

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