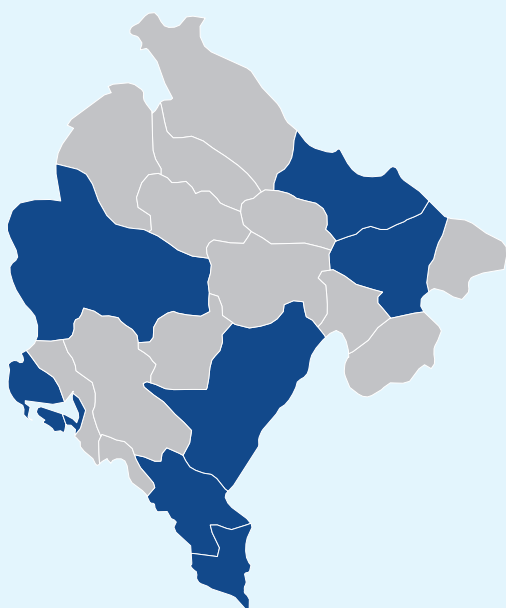
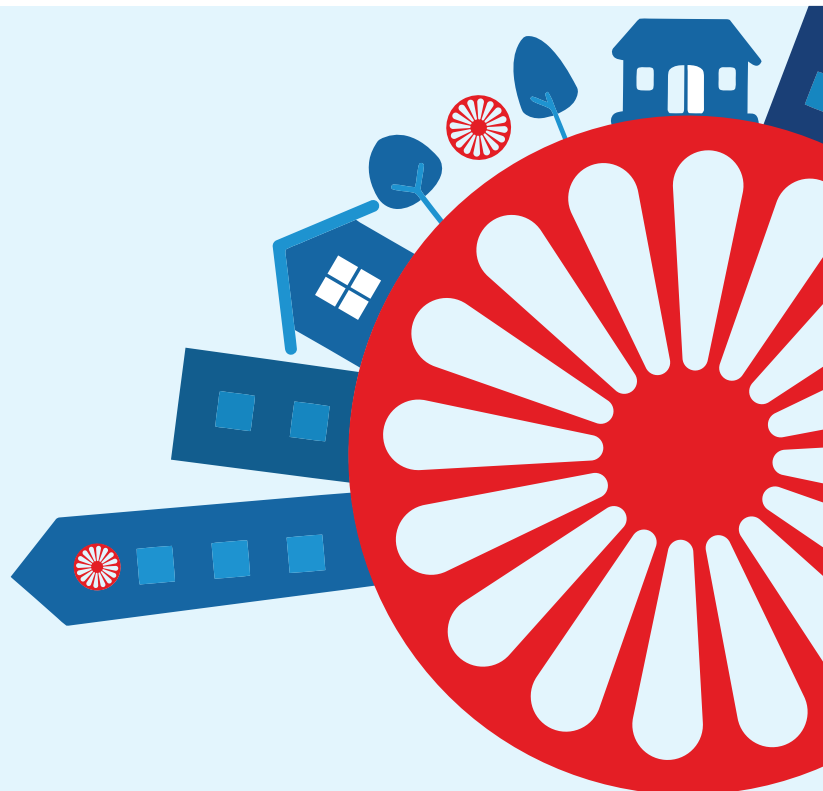


ROMA ACTED

*Promoting good governance
and Roma empowerment
at local level*



Montenegro



Analysis of Legal and Institutional Mechanisms for the Provision of Roma and Egyptian Social Integration Services in Montenegro, with Analysis of Lacking Competences and Support Services

Promoting Good Governance And Roma Empowerment At Local Level

Funded
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PROVISION OF ROMA AND EGYPTIAN SOCIAL INTEGRATION
SERVICES IN MONTENEGRO, WITH ANALYSIS OF LACKING
COMPETENCES AND SUPPORT SERVICES**

ROMACTED Programme

Promoting Good Governance And Roma Empowerment At Local Level

A European Union and Council of Europe Joint Programme

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List of Abbreviations

AVMS	Audiovisual Media Services
CEKUM	Centre for Preservation and Development of the Cultures of National Minorities in Montenegro
UNICEF	United Nations Children's Fund
ECRI	European Commission against Racism and Intolerance
EU	European Union
EP	European Parliament
ECHR	European Court of Human Rights
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
ILO	International Labour Organization
IDPs	Internally displaced persons
RTCG	Public Service Broadcaster of Radio and Television of Montenegro
ODIHR	Office for Democratic Institutions and Human Rights
CERD	Committee on the Elimination of Racial Discrimination
CSCE	Conference on Security and Co-operation in Europe
LSG	Local self-government
CEDEM	NGO Centre for Democracy and Human Rights
OSCE	Organization for Security and Co-operation in Europe
PREDIM	Council of Europe Project: Support to the national institutions in preventing discrimination in Montenegro
RE	Roma and Egyptians
REF	Roma Education Fund
UN	United Nations
MONSTAT	Montenegro Statistical Office
UNHCR	United Nations High Commissioner for Refugees

I Introduction

According to the data from the Census of Population, Households and Dwellings in Montenegro (2011), 6,251 persons self-declared as Roma (1.01% of the total population), while the population of Egyptians included 2,054 persons (0.33%). 5,169 persons spoke Romani as their native language.¹

The European Commission's reports on Montenegro's progress in the process of EU integration have highlighted, from one year to the next, the importance of protecting the rights of Roma and Egyptians and the need to improve their situation, primarily by means of consistent application of the existing legal provisions. The 2019 Montenegro Report² states that Roma remain the most vulnerable and most discriminated community in Montenegro. Despite certain progress, achieved primarily in the fields of housing and health care, the Report notes that Roma and Egyptians, especially those belonging to the domicile population, have restricted access to various spheres of life, while women are exposed to double discrimination. Almost all the marginalised Roma and Egyptians in Montenegro (94%) are facing severe material deprivation, against 49% of non-Roma living in their vicinity (p. 31).

This analysis of the legal and institutional mechanisms for the provision of Roma and Egyptian social integration services³ aims to identify and analyse the regulations that directly or indirectly regulate the rights and obligations of Roma and Egyptians, as well as to identify the existing (and potential) legal gaps and areas not adequately regulated through the competences of both national and local institutions. As such, the analysis represents an important contribution in advocating for more efficient legal protection of Roma and Egyptians, as the most discriminated and socially marginalised community.

The analysis of the legal and institutional mechanisms for the provision of Roma and Egyptian social integration services in Montenegro includes a review of the relevant international and regional standards related to the protection and exercise of Roma and Egyptians' rights and an analysis of the contents of Montenegrin regulations concerning protection against discrimination and exercise of rights against the UN, Council of Europe and EU standards.

The analysis covers the key provisions of the Constitution, laws, strategies, action plans, bylaws and other national and local regulations, as well as the reports and documents on the situation of Roma and Egyptians in Montenegro, including the reports on implementation of the national Strategy for Social Inclusion of Roma and Egyptians in Montenegro, reports of the European Commission and the Council of Europe bodies', reports of the NGO's involved in protection of Roma and Egyptians' rights in Montenegro. In addition, it contains an analysis of the relevant institutional setup, with descriptions of the key competences and social inclusion services provided by the institutions.

1 Most Roma live at the territory of Podgorica (3,988), followed by Berane (531), Niksic (483), Bijelo Polje (334) and Herceg Novi (258), while most of the Egyptians live in Podgorica (685), Niksic (446), Tivat (335) and Berane (170). Statistical Office of Montenegro (MONSTAT), <https://www.monstat.org/cg/page.php?id=322&pageid=322>

2 <http://www.gov.me/vijesti/201861/lzvjestaj-Evropske-komisije-o-Crnoj-Gori-za-2019-godinu.html>

3 The analysis is prepared for the project ROMACTED: "Promoting good governance and Roma empowerment at local level", a joint programme of the European Union and the Council of Europe implemented by the Council of Europe's Roma and Travellers Team and the Office of the Directorate General of Programmes in Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Kosovo and Serbia. The programme is financed by the European Union and the Council of Europe. The programme in Montenegro started in April 2018 and is being implemented in cooperation of the Council of Europe's Programme Office in Podgorica and NGO "Mladi Romi".

II General conclusion and recommendation

The key findings of the Analysis prompt the general conclusion that a certain step forward has been made with regard to the social integration of Roma and Egyptians, especially in terms of strengthening the legislative (regulatory) safeguards for equality and protection against discrimination. The practice, however, unambiguously shows that the influence of such regulatory safeguards on Roma and Egyptians is limited, in particular at the level of the system, rather than the individual (with regard to individuals or members of certain groups within this community).

The findings of the Analysis indicate that there are three key factors determining the success (or lack of success) in the implementation of the Roma and Egyptian social inclusion policy, regardless of the progress achieved in the field of legislation:

1. The development of inclusive policies and action documents is not based on evidence-based policy making, or that is only partially the case. Namely, the research conducted for the needs of development of this Analysis indicated the unavailability and lack of networking of the data on Roma and Egyptians, even at the local level, the one closest to the community. In such conditions and without clear targeting of needs on site, it is not possible to adopt quality policies which will be efficiently implemented and will render desired effects, despite all the practical difficulties related to data collection.
2. Due to the lack of quality exchange/networking of the data available to institutions and the civil sector levels, but also due to the lack of precise data in many sectors, it is not possible to establish efficient mechanisms for coordination of policies of social integration of Roma and Egyptians. The concept of division of competences between the national and local levels in many areas of social integrations, yet without full implementation of the principle of decentralisation, adds to this. Such semi-centralised model, although based on the principles of coordination, actually leads to the responsibilities being shifted from one level to the other, preventing the local stakeholders from taking an active role in solving the problems of Roma and Egyptians.⁴ This conclusion can clearly be illustrated by the work of members of the Committee for monitoring the implementation of the Strategy for Social Inclusion of Roma and Egyptians, who neither possess the full set of data related to the Strategy nor exchange data among themselves, as has been confirmed by the authors of the Analysis in the course of several meetings with them.
3. The method of financing and impact assessment of institutional mechanisms, including the coordination mechanisms, represents another important factor in addition to the ones previously mentioned. This primarily refers to the inadequate allocation of funds used to finance the issues of social integration of Roma and Egyptians (budgetary resources and donations), which are substantial yet inadequately allocated, bearing in mind that they are not based on clear projections and precise identification of the beneficiaries' needs. Impact assessments are implemented, but not in the way that could provide an insight into the actual contribution of a specific mechanism to prevention or elimination of a specific issue (e.g. drop-out).

Bearing in mind these conclusions, pointed out also in the European Commission's reports on Montenegro, the authors' general recommendation is that the first priority is to improve the qual-

⁴ The limited financial capacities of the local self-governments definitely contribute to this, as many of them are facing serious budget deficits.

ity of public policies (meaning in particular the strategies and action plans directly targeting beneficiaries' needs) through adequate data collection and usage in the decision-making process. It is specifically recommended to conduct, prior to the adoption of any national or local-level strategy (or during the first year following its adoption), thorough data collection and identification of the genuine problems and needs of the Roma and Egyptian population in Montenegro, before starting implementation of any of the planned measures.

The steps forward made during the recent years will be discussed to more detail below, as well as the persistent problems and challenges accompanying the process of integration of Roma and Egyptian population in Montenegro.

III International standards in the field of social integration of Roma and Egyptians

- Protection of Roma and Egyptians' rights within the UN system

Basic documents:

UN Charter (1945)

Universal Declaration of Human Rights (1948)

International Covenant on Economic, Social and Cultural Rights (1966)⁵

International Covenant on Civil and Political Rights (1966)

General Comment of the Human Rights Committee 15(27)c/1986 on the position of aliens under the Covenant (1986)

General Comment of the Human Rights Committee regarding Covenant article 26 (1989)

General Comment of the Human Rights Committee regarding Covenant article 27 (1994)

Optional Protocol to the International Covenant on Civil and Political Rights (1966)

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)

International treaties concluded under the UN auspices:

Convention on the Prevention and Punishment of the Crime of Genocide (1948)

Convention relating to the Status of Refugees (1951)

Convention relating to the Status of Stateless Persons (1954)

ILO Convention 111 concerning Discrimination in Respect of Employment and Occupation (1958)

UNESCO Convention against Discrimination in Education (1960)

ILO Convention 122 Employment Policy (1964)

International Convention on the Elimination of all Forms of Racial Discrimination (1965)

General Recommendation no. 8 of the Committee on the Elimination of Racial Discrimination (CERD): on Identification with a Particular Racial or Ethnic Group (1990)

General Recommendation no. 27 of the Committee on the Elimination of Racial Discrimination (CERD) on Discrimination against Roma (2000)

CERD General Recommendation on discrimination based on origin (2002)

International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)

ILO Convention 169 on the indigenous and tribal peoples in Independent Countries (1989)

UN Convention on the Rights of the Child (1989)

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)

Rome Statute of the International Criminal Court (1998)

Other relevant documents of the UN and its specialised agencies:

UN Declaration on the Elimination of all Forms of Racial Discrimination (1963)

UNESCO Declaration on Race and Racial Prejudice (1978)

UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

UNESCO Declaration of Principles on Tolerance (1995)

⁵ In 2013, Montenegro adopted the Law on Ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Protocol enables citizens of Montenegro to demand protection of the rights under the Covenant at international level, before the UN Committee, after exhausting all national legal remedies; these include the rights to social security: right to decent housing conditions and nutrition – water and food, right to social security, family protection, health care, after using all means of legal protection within the country.

UN Millennium Declaration (2000)
UNESCO Universal Declaration on Cultural Diversity (2001)
Human Rights Committee Resolution 2002/57 (2002)

The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), as the most important universal international document in this field, lays down the states' obligation to protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, and to encourage the conditions for the promotion of that identity and to adopt the appropriate legislative and other measure to achieve those ends (Article 1).

Article 2 guarantees the following rights to the members of minorities:

- right to their own culture,
- right to their religion,
- right to their own rites and the right to use their language in private and in public,
- right to participate effectively in cultural, religious, social, economic and public life,
- right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live,
- right to establish and maintain their own associations,
- right to establish and maintain free and peaceful contacts with citizens of other states to whom they are related by national or ethnic, religious or linguistic ties.

The above mentioned "catalogue" of rights from the Declaration is more complete than that guaranteed by the most important international document of universal significance – the International Covenant on Civil and Political Rights, whose Article 27 reads:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

The significance of Article 27 which, however, only refers to three rights, is that it implies that the state needs to act to achieve its goals. The state must take appropriate measures (establish minorities' cultural and educational institutions, support their efforts to build their religious organisations' facilities and provide the means for public use of the minority languages).

Article 2 paragraph 1 of the International Covenant on Economic, Social and Cultural Rights lays down that each State party to the Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the Covenant by all appropriate means, including particularly the adoption of legislative measures. In addition, the States parties of the Covenant undertake to guarantee that the rights enunciated in the Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Article 2 paragraph 2). Under Article 16, the States parties undertake to submit reports on the achieved results in the exercise of the rights recognised by the Covenant to the Committee on Economic, Social and Cultural Rights.

- Protection of Roma and Egyptians' rights under the Council of Europe⁶

The Convention for the Protection of Human Rights and Fundamental Freedoms (1950), also known as the European Convention on Human Rights, supplemented by its 13 protocols (adopted

⁶ In addition to the mentioned conventions, it is important to mention the recommendations of the Parliamentary Assembly on the protection of minorities, as well as the recommendation of the Committee of Ministers (e.g. on education of Roma children, hate speech etc.).

between 1952 and 2002) specifying the substantive-law, procedural and other issues, represents the most important document for the protection of human rights and freedoms. Article 14 of the Convention generally prohibits discrimination on any grounds, including racial, linguistic, religious, national origin or affiliation with a national minority. Application of the Convention is secured by the actions of the **European Court of Human Rights** as the permanent judicial authority established by the Convention and situated in Strasbourg.

The European Charter for Regional or Minority Languages (1992) represents a specific document dedicated to the protection of regional and minority languages; it provides, *inter alia*, the definition of the term regional and minority language, the obligations that States parties may undertake, and the goals and principles on which States parties are required to build their policies, legislation and practice. The third part of the Charter contains a set of strict provisions on the use of minority languages in education, judiciary, media, culture, economic and social life (Articles 8 -14).

The Framework Convention for the Protection of National Minorities (1995) addresses the rights of members of minority national communities. The importance of the Convention is that it defines numerous principles and goals that signatories should implement nationally by means of appropriate public policy measures, based on the specific circumstances in the given country. Countries that ratified the Convention are obliged to deliver the first report to the Council of Europe Secretary General within one year; the report needs to include full information on legislative and other measures implemented to put the principles of the Convention into practice. After that, the country is obliged to submit its reports periodically, every five years. The Committee of Ministers may also ask for ad hoc reports. Based on the reports, the Committee of Ministers brings the conclusions on implementation of the Convention and adopts appropriate recommendations.

The Strasbourg Declaration on Roma (2010)⁷ points out the social and economic marginalisation of Roma in Europe and encourages the Council of Europe member states to take a coordinated, inter-agency approach in solving Roma issues. The Declaration also recommends to the member states to consider the relevant judgments of the European Court of Human Rights and the decisions of the European Committee on Social Rights when drafting their policies on Roma. The Declaration contains a non-exhaustive list of priorities, including:

- Non-discrimination;
- Effective implementation of the criminal legislation against racially motivated crimes against Roma;
- Taking effective measures to avoid statelessness and granting Roma legally residing in the national territories of the Council of Europe's member states access to identification papers;
- Putting in place effective measures to respect, protect and promote gender equality of Roma girls and women within their communities and in society as a whole;
- Promoting effective participation of Roma in social, political and civic life;
- Ensuring equal and effective access to the justice system and affordable legal aid services;
- Ensuring timely and effective investigations and due legal process in cases of alleged racial violence or other offences against Roma;
- Provision of appropriate and targeted training to judicial and police services;
- Intensifying efforts in the fight against stigmatisation and hate speech and trafficking;
- Ensuring effective and equal access of Roma children to educational system, employment and housing;
- Taking measures to foster knowledge of the culture, history and languages of Roma and understanding thereof.

7 Council of Europe High Level Meeting on Roma, Strasbourg, 20 October 2010, available at: http://unipd-centrodirittiumani.it/public/docs/the_strasbourg_declaration_on_roma.pdf

In practice, a special place in the discussion on the protection of minority rights belongs to the **Office for Democratic Institutions and Human Rights** (ODIHR, 1990) and the **High Commissioner on National Minorities** (1992).

- Protection of Roma and Egyptian rights under the Organization for Security and Co-operation in Europe (OSCE)

OSCE basic documents:

Helsinki Final Act (1975)

Concluding Document of the Madrid Conference on Security and Co-operation in Europe (CSCE) (1983)

Concluding Document of the Vienna Conference on Security and Co-operation in Europe (1989)

Document II of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Copenhagen, 1990)

The Charter of Paris for a New Europe (1990)

Report of the CSCE Meeting of Experts on National Minorities (Geneva, 1991)

Document III of the Moscow Meeting of the Conference on the Human Dimension of the CSCE (Moscow, 1991)

CSCE Helsinki Document (1992)

Document of the Third Meeting of the CSCE Council (Stockholm, 1992)

Document of the Fourth Meeting of the CSCE Council Document (Rome, 1993)

CSCE Budapest Summit (1994)

Lisbon Document (1996)

Charter for European Security (Istanbul, 1999)

Istanbul Summit Declaration (1999)

Documents of the High Commissioner on National Minorities:

Report on Roma (1993)

Hague Recommendations Regarding the Education Rights of National Minorities (1996)

Oslo Recommendations regarding the Linguistic Rights of National Minorities (1998)

Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999)

Report on the Linguistic Rights of Persons Belonging to National Minorities in the OSCE Area (1999)

Report on the Situation of Roma and Sinti in the OSCE Area (2000)

The Hague Recommendations Regarding the Education Rights of National Minorities from 1996 emphasise the importance of education of minorities in their native language, starting from the fact that education is a significant factor for preservation of national minorities' identity. Countries are recommended to adopt specific measures "where required" in order to realise the active right to education. It is recommended, *inter alia*, that the curriculum should encompass not only studies of their native languages, but also of minorities' culture, traditions and history.

- Protection of Roma and Egyptians' rights within the European Union (EU)

Basic documents:

Treaty on European Union (1992)

Treaty establishing the European Community (1997)

Charter of Fundamental Rights of the European Union (2000)

Documents of the European Council:

Declaration on Racism and Xenophobia (1991)

Declaration by the Council and the Representatives of the Governments of the Member States on respecting diversity and combating racism and xenophobia (1997)

Council Directive 2000/78/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (2000)

Council Directive 2000/750/EC Establishing a General Framework for Equal Treatment in Employment and Occupation (2000)

Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (2000)

Council Decision 2000/750/EC establishing a Community action programme to combat discrimination (2000)

Resolutions of the European Parliament:

Resolution on a Community Charter of Regional Languages and Cultures and on a Charter of Rights of Ethnic Minorities (1981)

Resolution on measures in favour of minority languages and cultures (1983)

Resolution on the languages and cultures of regional and ethnic minorities in the European Community (1987)

Resolution on Linguistic and Cultural Minorities in the European Community (1994)

Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (1995)

Resolution on Racism, Xenophobia and anti-Semitism and on further steps to combat racial discrimination (1998)

Resolution on Regional and Lesser-Used European Languages (2001);

European Parliament Resolution of 15th April 2015 on the occasion of International Roma Day – anti-Gypsyism in Europe and EU recognition of the Memorial Day of the Roma genocide during World War II⁸

The Maastricht Treaty on European Union specifies that the principles of freedom, democracy, respect for human rights and fundamental freedoms and the rule of law are common to all member states (in line with the Copenhagen criteria which, inter alia, relate to the stability of institutions ensuring democracy, rule of law and respect for human rights).

Furthermore, the preamble to the Charter of Fundamental Rights of the European Union from 2000 states that this document, with the respect for the principle of subsidiarity, reaffirms the human rights as a result of constitutional traditions and international obligations of the member states, the Treaty on European Union, and the Community Treaties. The following provisions of the Charter are of special importance for the regime of protection of Roma and Egyptians' and minority rights in general:

- Article 20, defining equality before the law;
- Article 21, prohibiting any form of discrimination, including discrimination based on nationality and membership of an ethnic minority;
- Article 22, prescribing that the Union shall respect cultural, religious and linguistic diversity.

It is particularly important to mention the **EU Framework for National Roma Integration Strategies up to 2020**⁹, which represents an addendum to the existing EU laws and policies in the domain of non-discrimination, fundamental human rights, right to free movement and child rights. It additionally highlights the marginalised position of Roma and encourages the member states to develop a comprehensive approach to Roma integration, and to use the national, regional and local integration policies clearly and specifically aimed at Roma to ensure that they are treated as all oth-

8 *European Parliament resolution of 15 April 2015 on the occasion of International Roma Day – anti-Gypsyism in Europe and EU recognition of the memorial day of the Roma genocide during World War II* (2015/2615(RSP)), http://www.europarl.europa.eu/doceo/document/TA-8-2015-0095_EN.html?redirect

9 https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/tackling-discrimination_en

er EU citizens, with equal access to all rights as proposed in the European Charter of Fundamental Rights. Besides defining integration policies, the European Framework highlights the importance of establishing appropriate lines of financing from the national budget, as well as application of effective methods of monitoring and impact assessment of implemented activities, based on close cooperation and constant dialogue with the Roma civil sector, regional and local authorities.

With regard to the above, it is also important to mention the **European Parliament Resolution of 12th February 2019 on the need for a strengthened post-2020 Strategic EU Framework for National Roma Inclusion Strategies and stepping up the fight against anti-Gypsyism**¹⁰ in which the Parliament repeats its stance, calls and recommendations from the 2017 Resolution on Fundamental Rights Aspects in Roma Integration in the EU: Fighting anti-Gypsyism and expresses regret that only limited measures were implemented on the basis of recommendations from that Resolution.

The Parliament also calls on the EU member states to take the following steps:

- To prepare their Strategic National Roma Inclusion Strategies for the post-2020 period with a wide set of priority areas, clear and binding targets, timelines and indicators for monitoring and addressing the specific challenges and reflecting the diversity of their Roma communities, and to allocate substantial public funds to this end;
- To follow a bottom-up approach and involve Roma representatives, communities, NGOs and equality bodies in the design of their Strategic National Roma Inclusion Strategies (Strategies), and to enable their meaningful participation in the implementation, monitoring and evaluation of these Strategies;
- To place the fight against anti-Gypsyism at the heart of their Strategies, in addition to one of the manifestations of anti-Gypsyism, social and economic exclusion; to develop targeted strategies and concrete actions to fight anti-Gypsyism, such as investigating current and past racist attacks against Roma; and to encourage equitable representation of Roma in all spheres of life, including in media, public institutions and political bodies;
- To ensure that multiple and intersectional discrimination, gender mainstreaming and a child-sensitive approach are properly addressed in their Strategies;
- To explicitly consider children as a priority when programming and implementing their Strategic National Roma integration strategies;
- To strengthen the NRCs in terms of their mandate, institutional capacity, human resources and budget and to ensure appropriate positioning of NRCs within the structure of their public administrations in order to enable them to carry out their work through effective cross-sectoral coordination;
- To pay attention to specific groups within the Roma population in their Strategies, such as EU Roma exercising their right to freedom of movement, and non-EU nationals, including Roma from accession countries;
- To utilise the available EU Structural Funds to improve the living conditions and life chances of Roma; to investigate the current and past misuse of relevant EU funds to secure the absorption of all the funds targeting Roma communities.

The EU goals for Integration of Roma include, in proportion to the size of the Roma population, four basic areas: access to education, employment, health care and housing, within which the minimum standards based on common, comparable and reliable indicators harmonised with the framework goals of the **EU Strategy 2020**¹¹ are defined.

10 *European Parliament resolution of 12 February 2019 on the need for a strengthened post-2020 Strategic EU Framework for National Roma Inclusion Strategies and stepping up the fight against anti-Gypsyism* (2019/2509(RSP)) http://www.europarl.europa.eu/doceo/document/TA-8-2019-0075_EN.html?redirect

11 https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester/framework/europe-2020-strategy_en

Based on the following sources of law within the UN, Council of Europe and EU systems, the rights of Roma and Egyptians under the international legal protection may be systematised as follows:

- Right to survival,
- Right to identity,
- Right to equality and non-discrimination,
- Right to use native language,
- Specific educational rights,
- Right to cherish own culture and tradition,
- Right to effective participation in community life,
- Right to international contacts and cooperation,
- Right to effective protection of guaranteed rights

IV Analysis of the relevant legal framework in Montenegro – protection against discrimination and access to civil, economic and social rights

The Montenegrin regulatory framework that addresses the issue of Roma and Egyptians' inclusion is a combination of international and national legislation developed in line with international conventions and primary and secondary sources of EU law, pursuant to the Stabilization and Accession Agreement and the priorities of the European partnership. Montenegro ratified all the principal international agreements on human rights, including the European Convention on Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination against Women, Convention on the Elimination of all Forms of Racial Discrimination, Convention on the Rights of the Child, as well as ILO conventions. The main instruments of the Council of Europe on minority rights have also been ratified, including the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities.¹²

Besides the mentioned international sources of law, the pace of the EU integration process and Montenegro's commitment to make a systemic contribution to the resolution of the issue of Roma and Egyptians' social integration were critical for the establishment of a positive legislative framework. Following the example of other European countries (Bulgaria, Czech Republic, Hungary, Macedonia, Romania, Slovakia, Croatia and Serbia), the Government of Montenegro joined the **"Decade of Roma Inclusion 2005 – 2015"** in 2005 and adopted the National Action Plan for implementation of this initiative in the fields of education, employment, housing and health care. The Strategy for Improving the Position of RAE Population in Montenegro 2008-2012 was adopted at the end of 2007, followed by the Strategy for Improving the Position of Roma and Egyptians in Montenegro 2012-2016 and the **Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020**, drafted in line with the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Framework for National Roma Integration Strategies up to 2020.

- Constitutional and statutory provisions on protection against discrimination

Article 8 of the **Constitution of Montenegro**¹³ contains a general prohibition of direct or indirect discrimination »on any grounds«, while Article 7 prescribes that "infliction or encouragement of hatred or intolerance on any grounds shall be prohibited".¹⁴

Guarantees of equality before the law regarding protection of rights and freedoms, irrespective of any distinction or personal feature, are contained in Articles 17 and 19. Article 55 prohibits the

12 According to the Constitution of Montenegro, international treaties are directly applicable in Montenegro. Article 9 of the Constitution prescribes that the ratified and published international agreements and generally accepted rules of international law make an integral part of the internal legal order, have supremacy over national legislation and are directly applicable when they regulate relations differently from the national legislation.

13 Official Gazette of Montenegro 1/2007 and 38/2013 - Amendments I-XVI.

14 The importance of protection against discrimination is also indicated in Article 25 of the Constitution, which reads: "During the proclaimed state of war or emergency, the exercise of certain human rights and freedoms may be limited, to the necessary extent. **The limitations shall not be introduced on the grounds of sex, nationality, race, religion, language, ethnic or social origin, political or other beliefs, financial standing or any other personal feature. There shall be no abolishment of the prohibition of: inflicting or encouraging hatred or intolerance; discrimination; trial and conviction twice for one and the same criminal offence (ne bis in idem); forced assimilation.**"

operation of political and other organisations directed towards forceful destruction of the constitutional order, infringement of the territorial integrity of Montenegro, violation of guaranteed freedoms and rights or instigation of national, racial, religious and other hatred and intolerance. Article 80 prohibits forceful assimilation of members of minority nations and other minority national communities.

Article 8 of the Constitution prescribes that regulations or introduction of special measures aimed at creating the conditions for the exercise of national, gender and overall equality and protection of persons who are in an unequal position on any grounds are not to be considered discrimination, thus enshrining affirmative action measures as a constitutional category serving the purpose of achieving overall equality.

The Constitution specifically guarantees the rights of minority national communities (Article 79):

- the right to exercise, protect, develop and publicly express national, ethnic, cultural and religious particularities;
- the right to choose, use and publicly post national symbols and to celebrate national holidays;
- the right to use their own language and alphabet in private, public and official use;
- the right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of the persons belonging to minority nations and other minority national communities;
- the right, in the areas with significant share in the total population, to have the local self-government authorities, state and court authorities carry out the proceedings in the language of minority nations and other minority national communities;
- the right to establish educational, cultural and religious associations, with the material support of the state;
- the right to write and use their own name and surname in their own language and alphabet in the official documents;
- the right, in the areas with significant share in population, to have traditional local terms, names of streets and settlements, as well as topographic signs written in the language of minority nations and other minority national communities;
- the right to authentic representation in the Parliament of Montenegro and in the assemblies of the local self-government units in which they represent a significant share in the population, according to the principle of affirmative action;
- the right to proportionate representation in public services, state authorities and local self-government bodies;
- the right to information in their own language;
- the right to establish and maintain contacts with the citizens and associations outside of Montenegro, with whom they have common national and ethnic background, cultural and historic heritage, as well as religious beliefs;
- the right to establish councils for the protection and promotion of special rights.

It arises from the mentioned provisions that constitutional protection against discrimination in Montenegro is set very broadly, as it includes a potentially unlimited list of grounds for discrimination. However, mindful of the relatively small number of cases, the courts are yet to build the case-law with regard to interpretation of prohibited grounds for discrimination, relying, inter alia, on the case-law of the Constitutional Court of Montenegro. It should also be noted that, even though Montenegro defined in its Law on Ratification of European Charter for Regional or Minority Languages that it applies to the use of Albanian and Romani language, according to the text of the Constitution of Montenegro Romani language is not included in the group of languages in official use.

- General legal framework pertaining to protection against discrimination and exercise of rights

The Law on Prohibition of Discrimination¹⁵ prohibits any form of discrimination on any ground and identifies the mechanisms for protection against discrimination, including the proceedings upon complaint lodged with the Protector of Human Rights and Freedoms (Ombudsman) and court redress in the proceedings launched *ex officio*. The grounds of discrimination explicitly stated in this Law include race, colour of skin, national affiliation, social or ethnic origin, affiliation to a minority nation or minority national community, language, religion or belief, political or other opinion, gender, gender identity, sexual orientation, health condition, disability, age, financial status, marital or family status, membership in a group or assumed membership in a group, political party or other organisation (Article 2 paragraph 2). This provision also leaves room for interpreting »other personal characteristics« as grounds for discriminations; this represents a very broad scope of protection. The right to protection against discrimination belongs to every physical and legal person to whom the regulations of Montenegro apply, i.e. to everyone under the state's jurisdiction, and applies both to public and private sector.

Harassment/sexual harassment; segregation; mobbing; discrimination in use of facilities/buildings and areas in public use; discrimination in access to public assets or to services in the public or private sector or goods, as well as various forms of discrimination in the field of labour, upbringing, education and professional training, racial discrimination, discrimination on the grounds of health condition and age (Articles 7- 20) are all recognised as special forms of discrimination. Article 21 defines the severe forms of discrimination, namely multiple, repetitive and extended discrimination, discrimination disseminated through public media and discrimination which has particularly grave consequences for the discriminated person (or group of persons) and his/her (their) property. National discrimination, i.e. discrimination on the grounds of national or ethnic origin is not defined a special form of discrimination, except in the context of general prohibition of discrimination (Article 2) and definition of racial discrimination¹⁶ (Article 17). The Law does not differentiate between national and ethnic minority.¹⁷ Discrimination in the exercise of rights of access to the assets and services in the public and private sector is recognised as a special form of discrimination.¹⁸

According to Article 5 of this Law, the regulations and special measures aimed at creating the conditions for the achievement of national, gender and overall equality and protection of person who are in unequal position on any grounds may be adopted, i.e. introduced and implemented by state authorities, state administration authorities, local self-government authorities, public enterprises and other legal persons exercising public authorities and by other legal and physical persons, within the scope of their individual competences and authorities.

The Law on Prohibition of Discrimination prescribes that incitement, aiding, giving instructions and announced intention to discriminate some person or group of persons on any of the prohib-

15 Official Gazette of Montenegro 046/10 of 06 Aug 2010, 040/11 of 08 Aug 2011, 018/14 of 11 April 2014, 042/17 of 30 June 2017.

16 In the Amendments to the Law on Prohibition of Discrimination from 2014, the definition of "racial discrimination" was modified, in line with ECRI recommendations, by splitting the provision that used to regulate racial and religious discrimination into two provisions which separately address "**racial discrimination**" and "**discrimination on the grounds of religion and belief**". Regarding protection from discrimination on the grounds of racial origin, special emphasis was given to the protection against discrimination in the fields of education, work, employment and selection of occupation, professional training, social protection and social benefits, health care and housing. **The obligation of keeping records on every case of discrimination that had previously applied to courts, misdemeanour authorities and inspections was expanded to include the prosecution service and the police.**

17 In the context of the Law on Minority Rights and Freedoms, an ethnic group comprised of persons belonging to the minorities or other minority communities is defined as any group of citizens which is smaller in number than the predominant population and shares common ethnic, religious or linguistic characteristics.

18 This subject is additionally regulated by the Law on Services (Official Gazette of Montenegro 71/17) aimed at the regime of service provision, adopted by the Parliament of Montenegro on 16th October 2017. The Law prohibits discrimination in the issuance of service provision permits (Article 12) and selection of candidates (Article 15); it will apply upon Montenegro's full accession to the EU.

ited grounds for discrimination is also considered discrimination (Article 2 paragraph 5).¹⁹ In relation to the above, Article 370 paragraph 1 of the Criminal Code of Montenegro²⁰ prohibits incitement to discrimination in all walks of life, while Article 24 paragraph 1 of the Criminal Code prescribes that anyone intentionally inciting someone to commit a criminal offence will be punished as if s/he has committed it by himself/herself. The attempt to commit this criminal offence is also punishable.

The Criminal Code of Montenegro incriminates every infringement of equality of citizens due to their nation or ethnicity, race or religion or absence of such an affiliation, or due to their political or other beliefs, sex, language, education, social status, social origin or another personal characteristic (Article 159). In addition, Article 443 in the Criminal Code's section on crimes against humanity and other goods protected under international law was amended so as to include the criminal offence of racial and other discrimination, thus incriminating any spreading of ideas of racial superiority or promotion of hatred or intolerance on the grounds of race, sex, disability, sexual orientation or other personal characteristics, as well as incitement to racial or any other form of discrimination.

The Law on Free Legal Aid²¹ (Article 8) defines the procedure and conditions for granting free legal aid to any physical person whose financial standing prevents him/her to exercise the right to court redress without endangering the necessary subsistence of that person or his/her family. The Law prescribes that exercise and use of the right to free legal aid in line with this Law must be provided without any discrimination on the grounds of ethnic origin, race, colour of skin, language, religious or political belief, sex, sexual orientation, health condition, disability or any other personal characteristic.

According to the text of the Law, free legal aid implies provision of the resources required for full or partial coverage of the costs of legal counselling, drafting of writs, representation in proceedings before the court, the State Prosecution Service and the Constitutional Court of Montenegro and any procedure for out-of-court dispute settlement and any proceeding before private bailiffs.

The right to free legal aid under the conditions stipulated by this Law are granted to: 1) Montenegrin nationals; 2) stateless persons lawfully residing in Montenegro and persons seeking asylum in Montenegro; 3) aliens with permanent residence or approved temporary residence and other persons legally residing in Montenegro; and 4) other persons in line with the ratified and published international treaties (Article 12).

The following persons have priority access to free legal aid: 1) recipients of cash benefit pursuant to the law governing social and child protection; 2) children without parental care; 3) persons with disabilities; 4) victims of the criminal offence of domestic violence or victims of trafficking in human beings, as well as victims of domestic violence pursuant to the law governing protection against domestic violence; 5) persons of poor financial standing. The fact that legal representation as a form of legal aid may only be used in court proceedings or in out-of-court dispute settlement procedures, but not in administrative proceedings (except in the proceedings before the Administrative Court of Montenegro in connection with the decision on expulsion, pursuant to Article 113 of the Law on Foreigners) poses a major limitation to the application of this law. In that regard, we note that the 2017 ECRI report recommended considering the possibility of amendments to the

19 By adopting the concept of full prohibition of incitement to discrimination Montenegrin legislation goes beyond the requirements of the Equality Directive, since the term "incitement" has broader meaning than the term "instruction".

20 Official Gazette of the Republic of Montenegro 070/03 of 25 Dec 2003, 013/04 of 26 Feb 2004, 047/06 of 25 July 2006, Official Gazette of Montenegro 040/08 of 27 June 2008, 025/10 of 05 Oct 2010, 073/10 of 10 Dec 2010, 032/11 of 01 July 2011, 064/11 of 29 Dec 2011, 040/13 of 13 Aug 2013, 056/13 of 06 Dec 2013, 014/15 of 26 March 2015, 042/15 of 29 July 2015, 058/15 of 09 Oct 2015, 044/17 of 06 July 2017, 049/18 of 17 July 2018.

21 Official Gazette of Montenegro 020/11 of 15 April 2011, 020/15 of 24 April 2015.

Law on Free Legal Aid in order to enable Roma who were at risk of statelessness to benefit from free legal aid during the subsequent birth registration procedure.²²

The Law on Minority Rights and Freedoms²³ prescribes a set of minority rights and mechanisms for their protection, in particular in relation to achieving equality with other communities, preserving minorities' national identity and their effective participation in public life. Article 39 paragraph 2 of the Law prohibits any direct or indirect discrimination on any ground, including race, colour, sex, nationality, social origin, birth or similar status, religion, political or other belief, financial status, culture, language, age and mental or physical disability.

This Law defines that the members of minority nations and other minority national communities exercise their rights and enjoy freedoms individually or in community with others (Article 3), and that they are equal to other citizens and enjoy equal legal protection (Article 4 paragraph 1). Any violation of the rights of minority nations and other minority national communities is unlawful and punishable (Article 4 paragraph 2). Protection of the rights of minority nations and other minority national communities is provided by the courts and the national and local self-government authorities.

Amendments to this Law²⁴ regulate the legal issues related to the legal positioning of the Centre for Preservation and Development of the Cultures of National Minorities in Montenegro (CEKUM) and the work of the Fund for Protection and Exercising of Minority Rights. In addition, they contain the legal definition of the term "significant share" of population, which is set as a prerequisite for a minority to access the set of rights guaranteed by the Constitution and this Law, including the right to the official use of the minority language in the local self-government units where minority members constitute a majority or a significant share of population.²⁵ The new rules for selection of council members of minority nations or other minority national communities²⁶ were also adopted, in accordance with the updated text of the Law.

In addition, the Government of Montenegro adopted the new **Decree on the manner of exercising the rights by displaced persons from the former Yugoslav republics and internally displaced persons from Kosovo residing in Montenegro**,²⁷ which entered into force on 11th July 2015 and was effective until 30th June 2017, with its effectiveness subsequently extended by the end of 2019. The Decree defines the manner of exercising the rights in the domain of social and child protection, education, health care and pension and disability insurance for those who applied for the status of foreigners with temporary or permanent residence.

The Law on Prohibition of Discrimination of Persons with Disabilities²⁸ defines discrimination as "any legal or factual, direct or indirect, intentional or unintentional distinction or unequal treatment, or failing to act toward a person or group of persons with disabilities compared to other persons, as well as excluding, limiting or giving preference to one person compared to a person with disabilities, because of what the person with disabilities is hindered or denied a recognition, enjoyment or exercise of human rights and freedoms in civil and political, educational, economic, social, cultural, sports, civil and other areas of public and private life."

The above prompts the conclusion that the existing anti-discrimination legal framework provides a broad scope of protection against discrimination, both with regard to prohibited grounds for dis-

22 P. 36 of the Report, (Recommendation No. 11, paragraph 62), available at: <http://www.statewatch.org/news/2017/sep/ecri-report-montenegro-9-17.pdf>

23 Official Gazette of the Republic of Montenegro 031/06 of 12 May 2006, 051/06 of 04 Aug 2006, 038/07 of 22 June 2007, Official Gazette of Montenegro 002/11 of 12 Jan 2011, 008/11 of 04 Feb 2011, 031/17 of 12 May 2017).

24 Official Gazette of Montenegro 31/2017.

25 "At least 5% of total population, according to the results of the previous two censuses".

26 Official Gazette of Montenegro 58/2017.

27 Official Gazette of Montenegro 45/10, 64/11, 34/13, 32/14 and 36/15.

28 Official Gazette of Montenegro 35/2015.

crimination (which may relate to any personal characteristic) and the forms of discrimination. The systemic Law on Prohibition of Discrimination incorporates all the important anti-discrimination standards, including the standard by which consent of a person to be discriminated against does not relieve of responsibility the person exercising discrimination; the reversed burden of proof (which shifts from the plaintiff onto the respondent in case the plaintiff proves the likelihood of the respondent's commission of the act of discrimination) and protection against victimisation of the conscientious individuals reporting discrimination. The possibility of filing a lawsuit to directly test the application of the rules on prohibition of discrimination is also envisaged.²⁹

Besides this Law, protection against discrimination is also provided through criminal legislation and through the provisions of other laws regulating prohibition of discrimination on specific grounds or concerning the exercise of certain rights (unless they contradict the umbrella law). Such comprehensive anti-discrimination framework, however, implies also certain risks, primarily related to the capacities and instruments for practical implementation of adopted legislative standards.³⁰

- Civil status

The unequal opportunities available to Roma and Egyptians with regard to participation in the labour market, together with limited access to social protection and health care and education have largely resulted from their unregulated civil status, making them particularly exposed to the risk of statelessness.³¹

According to the 2011 Population Census, there were 4,312 persons in Montenegro who claimed to have no citizenship. Out of that number, 3,471 persons claimed to be born in the country, while the rest were refugees and internally displaced persons. Between 07th November 2009 (the date when the Law on Amending the Law on Foreigners entered into force) and 01st January, internally displaced persons filed in total 10,130 applications for permanent residence and temporary residence of up to three years. Out of that number, 9,901 applications were decided upon, with 229 pending. Out of the 9,901 solved cases, 7,781 persons had their applications granted and obtained permanent or temporary residence of up to three years; 257 applications were declined, while 1,863 cases were dismissed/suspended (duplicate or incomplete applications).³²

According to the 2016 Ombudsman Report,³³ from 2014 to 2016, 1,339 persons received assistance in order to obtain Kosovo passports or to regulate their status in accordance with Montenegrin legislation.³⁴ The Strategy for Social Inclusion of Roma and Egyptians 2016 - 2020 envisages numerous measures aimed at solving the civil status and accelerating the registration procedure for children born in Montenegro outside health care institutions, in accordance with the Strategy for Durable Solution of the Issue of Displaced and Internally Displaced Persons in Montenegro.

²⁹ Evidence thus obtained may be submitted in court, but their evaluation is at the discretionary of the sitting judge.

³⁰ See: Venice Commission Comments on the Draft Law on Prohibition of Discrimination, <http://www.minmanj.gov.me/biblioteka?query=venecijanska%20komisija&sortDirection=Desc>

³¹ In 2011, the Governments of Montenegro and Kosovo signed the Agreement on Subsequent Registration of Internally Displaced Persons from Kosovo residing in Montenegro in Birth, Marriage and Death Registers, and Register of Kosovo Citizens. With the support of the UNHCR and OSCE, the Governments of Montenegro and Kosovo provided support to regulation of status of IDPs from the territory of Kosovo and Metohija through their mobile teams. By the end of September 2016, 1,339 persons who obtained Kosovo passports or obtained legal status in Montenegro used this form of support, while 681 persons did not regulate their status due to missing the deadlines or failing to register the birth facts. **There is a concern that 300 persons belonging to Roma and Egyptian population born outside of health care institution in Montenegro and Kosovo failed to regulate their status.** *Shadow Report of the NGO Coalition on Social Integration of Roma and Egyptians for 2016*, NGO "Mladi Romi", Podgorica, p. 6. Note: The Coalition "Together for the Inclusion of Roma through transparent and sustainable public policies" was established by the NGO "Mladi Romi", and its work is supported by the Open Society Foundation and the European Union.

³² Report on the Implementation of the Strategy for Social Integration of Roma and Egyptians in 2018, p. 24.

³³ *Ibidem*, pp. 128-183

³⁴ Montenegrin legislation recognises two categories of legal status: persons with Montenegrin citizenship and persons with foreigner status (*a person with another country's' citizenship or stateless person*) with temporary residence or permanent residence who enjoys the same rights as the citizens of Montenegro (except the right to cast vote and the right to Montenegrin passport). Official Gazette of Montenegro 56/2014, 20/2015, 40/2016 and 37/2017.

The method and conditions of civil status regulation are defined in the Law on Montenegrin Citizenship, Foreigners Law, Law on Civil Registers and in the Law on General Administrative Procedure,³⁵ which prescribes administrative proceedings and complete establishment of facts of importance for status regulation, and in the Law on Non-Contentious Proceedings.³⁶

The Law on Montenegrin Citizenship³⁷ regulates the method of and conditions for acquisition and loss of Montenegrin citizenship, as well as the method of keeping the register of Montenegrin citizens. The Law prescribes that Montenegrin citizenship may be acquired: 1) by origin;³⁸ 2) by birth on the territory of Montenegro; 3) by admittance; 4) based on international treaties and agreements (Article 2). Montenegrin citizenship is lost by release, at the request of a Montenegrin citizen, by virtue of law or on the basis of international treaties and agreements.

The Law on Foreigners³⁹ regulates the conditions for entry, exit, movement, stay and work of foreigners in Montenegro. A foreigner's stay in Montenegro, under this Law, is: 1) Sojourn of up to 90 days; 2) temporary residence, or 3) permanent residence (Article 33). Temporary residence may be granted to a foreigner intending to stay in Montenegro for a period longer than 90 days for the purpose of: 1) family reunification; 2) education; 3) participation in international student exchange programmes or other youth programmes; 4) specialisation, vocational training and practical training; 5) scientific-and-research activity; 6) medical treatment; 7) humanitarian reasons; 8) exercising and disposing with the rights over real estates he/she owns in Montenegro; 9) performing religious service; 10) performing volunteer work under the European Voluntary Service; 11) residence of stateless persons; 12) work; 13) other cases in line with the Law and international agreement.

Article 55 of the Law regulates protection of foreigners who have been granted residence for humanitarian reasons, prescribing that a foreigner who has been issued the temporary residence permit for humanitarian reasons may not be forcibly removed because of illegal entry or stay in Montenegro. Article 116 prohibits expulsion of foreigners. There is prohibition against forcible removal of a foreign national to a state where his or her life or freedom are in danger on account of his or her race, religion or nationality, membership in a particular social group or political opinion or where he or she might be subject to torture or inhuman and degrading treatment or punishment or death penalty, or where the return to another country would pose a risk of forcible removal to the country of origin.

The 2018 Foreigners Law also regulated **the procedure for determining the status of stateless persons and issuing of travel documents for such persons** in accordance with the recommen-

35 Official Gazette of Montenegro 56/2014, 20/2015, 40/2016 and 37/2017.

36 Until the adoption of the Foreigners Law in 2014 the issue of legal status of refugees and IDPs was not regulated adequately or with uniformity. The adoption of that Law provided refugees and IDPs the opportunity to arrange their legal status in Montenegro by gaining the status of foreigners with permanent or temporary residence in Montenegro. In order to provide support to this Roma and Egyptian population to regulate their status, the Ministry of Interior of Montenegro, Ministry of Labour and Social Welfare and UNHCR concluded the Memorandum of Cooperation in 2014. The Ministry of Interior also enabled displaced or internally displaced persons residing in Montenegro to apply solely on the basis of their identification documents. In case they were late to submit their personal IDs from their country of origin, they were granted temporary residence in Montenegro for up to three years. If they acquired travel documents from their country of origin, they acquired the legal status of foreigners with permanent residence in Montenegro.

37 Official Gazette of Montenegro 013/08 of 26 Feb 2008, 040/10 of 22 July 2010, 028/11 of 10 June 2011, 046/11 of 16 Sept 2011, 020/14 of 25 April 2014, 054/16 of 15 Aug 2016.

38 Montenegrin citizenship by origin shall be acquired by a child: 1) whose both parents are Montenegrin citizens at the moment of the child's birth; 2) born on the territory of Montenegro, one of whose parents is a Montenegrin citizen at the moment of the child's birth; 3) born on the territory of another state, one of whose parents is a Montenegrin citizen at the moment of the child's birth, the other being unknown, of unknown citizenship or stateless; 4) born on the territory of another state, one of whose parents is a Montenegrin citizen at the moment of the child's birth. **A child born or found on the territory of Montenegro shall acquire Montenegrin citizenship if both of his or her parents are unknown, if their citizenship is unknown, if they are stateless or if a child will remain without citizenship (Article 7). A person born in Montenegro and a person born in another state, and before turning the age of 18 has lawful and uninterrupted residence in Montenegro, may be granted Montenegrin citizenship if he or she fulfils the requirements for acquisition of citizenship by admittance (Article 15 in relation to Article 8).**

39 Official Gazette of Montenegro 012/18 of 23 Feb 2018, 003/19 of 15 Jan 2019.

dations of the Protector of Human Rights and Freedoms of Montenegro (Ombudsman).⁴⁰ The application for establishing whether the applicant is a stateless person should be filed to the Ministry of Interior in person, at the place of residence, on the prescribed form, whereof a certificate is issued (application may not be filed by a foreigner who has filed an application for international protection in Montenegro or who has been granted refugee status or subsidiary protection in accordance with the law regulating international and temporary protection of foreigners). Applications will be rejected if it is established in the conducted procedure that the applicant is a citizen of a particular state or that he or she may acquire the citizenship of another state according to the laws of such state; also, if required due to the reasons of national security (an appeal may be lodged against the decision rejecting the application). The person whose statelessness is established in the conducted procedure is issued a travel document for a stateless person, with a validity period of one year (Article 59).

A stateless person may be issued a temporary residence permit and a temporary residence-and-work permit if: 1) he/she possesses sufficient funds to support him/herself; 2) he/she has accommodation; 3) he/she holds health insurance; 4) he/she holds either a valid foreign travel document or identity card issued by another country's competent authority, the validity period of which must exceed by at least three months the period of his/her granted stay, or a stateless person's travel document; 5) he/she has not been imposed an entry and stay ban in Montenegro; 6) he/she has not been pronounced a final judgment, in Montenegro, sentencing him/her to an effective imprisonment term longer than six months, for a criminal offence that is prosecuted ex officio, or if the legal consequences of conviction have lapsed; 7) he/she has not been pronounced a final judgment, in his/her country of origin, sentencing him/her to an effective imprisonment term longer than six months, for a criminal offence that is prosecuted ex officio, or if the legal consequences of conviction have lapsed; 8) national i.e. internal security or public health-related impediments do not exist; 9) he/she has submitted evidence supporting his/her permit application.

This person must also submit evidence that he/ she has been actually residing in Montenegro for at least three years prior to application and that he/she intends to continue his/her stay in Montenegro. A stateless person to whom residence has been granted on this ground may stay in Montenegro on the basis of a travel document for a stateless person or a temporary residence permit (Article 60 of the Law).

In addition to the mentioned regulations on the conditions for acquisition and loss of Montenegrin citizenship and the regime of residence in the country for foreign and stateless persons, application of the Law on Civil Registers and the Law on Non-Contentious Proceedings, in particular the section on the registration of children born outside of health care institutions, are also very important for civil status regulation of Roma and Egyptians.

The Law on Civil Registers⁴¹ regulates registration of births, marriages, deaths and other statutory data on the personal and family status of Montenegrin citizens in Montenegro and other countries, and of the citizens of other countries and stateless persons, generated in Montenegro. Data registered in the birth registers are considered true until a statutory procedure proves other-

40 In the annual report for 2017 the Protector indicated the need for a more precise regulation of the conditions, methods and procedures for determining the status of stateless persons (through Foreigners Law or other specific law), change and termination of status and rights and obligations of these persons, in line with the Constitution of Montenegro and the Convention relating to the Status of Stateless Persons. The Protector also indicated in the report that, according to the information received from the UNHCR Office in Montenegro, there were 516 children with no status residing in Montenegro, who had been born in Montenegro and had been living in Montenegro for a prolonged period of time without regulated residence. **The problem that was also noted concerned the regulation of the permanent residence permit for the underage children of parents from former Yugoslav republics who had not been granted the status of foreigners with permanent residence due to the lack of personal documents from their respective countries of origin.** With regard to that, the Protector recommended continuation of activities of birth registration in order to protect children from statelessness, p. 74 and 126 of the Report, http://www.ombudsman.co.me/docs/1522665383_final-izvjestaj-za-2017.pdf

41 Official Gazette of Montenegro 047/08 of 07 Aug 2008, 041/10 of 23 July 2010, 040/11 of 08 Aug 2011, 055/16 of 17 Aug 2016.

wise.⁴² Persons applying for a change of personal status are obliged to state truthful data in their applications.⁴³

Birth or death may be reported to the Ministry, in any municipality, regardless of the person's place of birth/death. According to the Article 18 of the Law, birth is registered in the birth register of the municipality where the child was born, within 3 (three) days from the day of birth (Article 21 paragraph 1). Exceptionally, if the child's personal name could not be registered within the defined deadline due to justified reasons, the persons obliged to determine the child's personal name may register the name with the official person not later than 30 days from the day the child was born or found. In case the birth is not registered within the set deadline, the procedure for subsequent birth registration is launched. Birth of a child whose parents are unknown is registered in the birth register of the municipality in which the child was found. Birth of a child in a maternity ward or other health care institution is to be reported electronically by the health care institution. Birth of a child outside of health care institution is to be reported by the child's father or mother, if capable of doing so.

The Law on Non-Contentious Proceedings⁴⁴ determines the rules of non-contentious proceedings for to courts to follow and decide on the personal, family, property, and other legal matters which are to be decided in non-contentious proceedings according to the law. In the non-contentious proceedings, the court is required, *ex officio*, to take particular care to protect the rights and legal interests of minors who are without parental care, and of other persons who are incapable of protecting their own rights and legal interests (Article 5). Where the court ruling changes the party's personal or family status or rights and duties, the legal consequences of the ruling ensue when such ruling, which is delivered to the authority in charge of civil registers, becomes final and enforceable.⁴⁵

The Law contains specific provisions (Articles 70a – 70i) on establishing the time and place of birth of persons whose birth has not been recorded in the birth register and on subsequent birth registration of children born outside health care institutions whose time and place of birth may not be established in line with the Law on Civil Registers, with a view to the regulation of civil status of such persons. These novelties in the Law on Non-Contentious Proceedings received positive comments in the abovementioned ECRI Report published on 19th September 2017; still, the Report also states ECRI's concern that Roma might not benefit sufficiently from these new arrangements, given the limited possibilities for accessing free legal aid in administrative matters.⁴⁶

The proceedings⁴⁷ may be instigated by a person whose time and place of birth are being established, a person who holds an immediate legal interest, a custodial authority or, for a child born outside health care institution, by other persons in line with the law governing civil registers (a person who delivered the child or witnessed the birth, or a person in whose home the child was born).⁴⁸

42 Birth register shall, inter alia, contain: 1) general entry: birth data – first name and surname, maiden name and gender, day, month, year, hour and place and municipality of birth; data on parents – first name and surname (mother's maiden name), date and place of birth, citizenship and personal identification number; 2) acknowledgement, identification or contesting paternity or maternity, late marriage in case the child was born before it was concluded, adoption, cessation of adoption, custody and cessation of custody, extension and deprivation of parental right, change of personal name of the child and parents, adopting parent or custodians, change of sex, change of citizenship, conclusion and divorce of a marriage, cancellation of a marriage, death and declaration of a person as deceased. Birth registers are kept in Montenegrin language, yet **personal name of a member of minority nation or other minority national community shall be entered into birth registers in his/her own language and letter** (Article 3).

43 Article 43 of the Law prescribes fines in the amount of 500 to 5,000 euros for the legal person, in case of: 1) entering false data in the application for registering into birth register; 2) not reporting the birth of a child in a defined timeframe; 3) not reporting personal name of the child in a defined timeframe; physical person may be imposed a fine from 100 to 500 euros for the same offence.

44 Official Gazette of the Republic of Montenegro 027/06 of 27 April 2006, Official Gazette of Montenegro 073/10 of 10 Dec 2010, 020/15 of 24 April 2015, 075/18 of 23 Nov 2018.

45 The final and enforceable ruling from the non-contentious proceedings does not preclude access to litigation or proceedings before another authorised body.

46 <https://rm.coe.int/second-report-on-montenegro-montenegrin-translation/-/16808b5944>, str. 22 i 23.

47 **The petitioners shall be exempt from court fees, and expert witnesses' costs shall be borne by the court's budget** (Article 70f).

48 From the day of the Law on Non-contentious Proceedings entering into force in May 2015 until March 2018, the NGO Legal Centre instigated 124 proceedings before the Basic Courts in Montenegro for determining the time and date of birth, out of which 95 resulted in a positive outcome: Report on Implementation of the Strategy for Social Inclusion of Roma and Egyptians for 2017, p. 34.

The petition to establish the time and place of birth for a person not entered in birth register must contain data on the person whose time and place of birth is being established, if known, proofs that support or make facts probable, as well as other facts that may be relevant for establishing the time and place of birth.

The proceedings first verify whether the person has been entered in the birth register, which is conducted by obtaining the excerpt from the records of the authority responsible for the birth register. In case of any suspicion the person whose time and place of birth are being established held temporary residence in a foreign country, the court halts the proceedings until the required information from the competent authority of the given foreign state is procured through mutual legal assistance. After that, the court schedules a hearing and establishes and adduces evidence in the presence of the person who submitted the petition and the person whose time and place of birth are being established. **The court is required to hear at least two adult witnesses whose identity is established by means of inspection of personal identification documents with a photograph.**

The court ruling establishing the time and place of birth contains: the name and surname of the person whose time and place of birth are being established, their sex, day, month, year and hour of birth, place of birth, and the data on the parents, if known.⁴⁹ If the court is unable to establish the place of birth, the town or municipality which, based on the evidence adduced, may be deemed as the likely place of birth, i.e. the place where the person was found or where he/she had temporary residence at the time of the petition to establish time and place of birth. The final ruling on the time and place of birth is submitted by the court to the authority responsible for the birth register within eight days from its enforceability, for the purpose of making the entry of birth.

- Education

Article 75 of the Constitution of Montenegro guarantees the right to education under same conditions and prescribes compulsory and free-of-charge primary education.

The education process is regulated by the General Law on Education, Law on Preschool Education, Law on Primary Education, Law on Education of Children with Special Needs, Law on Gymnasium, Law on Vocational Education and Law on Adult Education, with some provisions also contained in the Law on Minority Rights and Freedoms. The abovementioned laws follow the general constitutional guarantees on the right to education and the right to education of minorities, at the level of goals and principles of education and at the level of individual provisions.

The General Law on Education⁵⁰ regulates the organisation and the conditions for conducting educational work in the areas of preschool education, primary education, general secondary education, vocational education, education of persons with special needs and adult education.

Article 2 paragraph 1 item 1 of this Law prescribes that the goal of education, inter alia, is to provide possibilities for full development of the individual, irrespective of their sex, age, disability, social and cultural origin, nationality and religion and physical and psychological make-up. Article 9 defines the equality of Montenegrin citizens in the exercise of the right to education, irrespective nationality, race, gender, language, religion, and social background, disability or another personal characteristic. Foreign citizens having temporary or permanent residence in Montenegro, as well as persons under international protection, are equal to the citizens of Montenegro in exercising

⁴⁹ If the court is unable to establish the time of birth, it is set as January 01 at 00:01 of the year which may be regarded as the probable year of birth based on the evidence adduced.

⁵⁰ Official Gazette of the Republic of Montenegro 064/02 of 28.11.2002, 031/05 of 18.05.2005, 049/07 of 10.08.2007, "Official Gazette of Montenegro", no. 004/08 of 17.2008, 021/09 of 20 March 2009, 045/10 of 04 Aug 2010, 073/10 of 10 Dec 2010, 040/11 of 08 Aug 2011, 045/11 of 09 Sept 2011, 036/13 of 26 July 2013, 039/13 of 07 Aug 2013, 044/13 of 20 Sept 2013, 047/17 of 19 July 2017.

their right to education. Article 9a prohibits abuse and neglect of children and discrimination in education.

Pursuant to the **Law on Primary Education**⁵¹ (Article 4), primary education is compulsory for all children aged 6-15. 191 children from Roma and Egyptian communities enrolled in preschool education in the academic year of 2018/19. The number of students from Roma and Egyptian communities attending mainstream primary schools in the academic year of 2018/2019 is 1,793 (936 M, 857 F), which accounts for 2,66% of the total number of children enrolled in primary schools in Montenegro. 137 students (75 M, 62 F) from Roma and Egyptian communities regularly attended secondary education during the academic year of 2018/19, accounting for 0,48% of the total number of children enrolled in secondary schools in Montenegro. According to the data of the Ministry for Human and Minority Rights, there were 14 recipients of scholarships (7 M, 7 F) from the Roma and Egyptian communities in the academic year of 2018/19.⁵²

Primary education is available to all and may not be directly or indirectly restricted on the grounds of: gender, race, skin colour, language, religion, marital status, political or other belief, national, ethnic or other origin, financial situation, disability or any other similar ground, position or circumstance (Article 2a). **Article 36 of the Law lays down the obligation of schools to report the parents of children that have not been enrolled in school to the competent inspection within 15 days from the date of expiration of the deadline for enrolment, or from the date of the cessation of the fulfilment of requirements for primary schooling.** Paragraphs 1 and 2 of Article 81 prescribe the fine in the amount of EUR100 to 1,500 if the child has not been enrolled in school or has not been attending school. If the parent fails to enrol the child in school even after being sanctioned, i.e. if the child has not been attending school, the fines may be repeated.

Article 34 of the Law Amending the Law on Primary Education⁵³ defines the right to free-of-charge primary school textbooks for students: 1) without parental care; 2) whose parent, or guardian, is recipient of the cash benefit; 3) with special educational needs; 4) placed in social and child welfare institutions; 5) placed with other families; 6) **members of Roma and Egyptian population (RE).**

The Law on Preschool Education⁵⁴ lays down the conditions and method of exercising the right to preschool education. Article 3a guarantees equal access to preschool education for every child, which may not be limited on the grounds of: gender, race, skin colour, language, religion, national, ethnic or other origin, developmental difficulties and disabilities, social background or any other personal characteristic or circumstance, in line with the specific regulation. Pursuant to Article 35, the costs of the child's meals and stay i.e. stay in the institution are covered by the parents, in accordance with the contract which defines mutual rights and obligations between the parents and the institution. By way of exception, the costs of the meals and stay in public preschool institutions of children without parental care, children whose parents are recipients of cash benefit and **children from the most vulnerable population groups** are covered by the Centre for Social Work which covers the child's i.e. the parents' place of residence (Article 35 paragraph 4).

The Law, however, **does not explicitly identify the Roma and Egyptian children as children from the most vulnerable groups of population**, but instead states that this category includes children with developmental difficulties and disabilities and children with difficulties caused by social, linguistic and cultural barriers (Article 11 paragraph 1 line 7), **which does not guarantee**

51 Official Gazette of the Republic of Montenegro 064/02 of 28 Nov2002, 049/07 of 10 Aug2007, Official Gazette of Montenegro 045/10 of 04 Aug 2010, 040/11 of 08 Aug 2011, 039/13 of 07 Aug2013, 047/17 of 19 July 2017.

52 *Report on the Implementation of the Strategy for Social Integration of Roma and Egyptians in 2018*, available at: <http://www.minmanj.gov.me/biblioteka/izvjestaji>

53 Official Gazette of Montenegro 039/13 of 07 Aug2013.

54 Official Gazette of the Republic of Montenegro 064/02 of 28 Nov2002, 049/07 of 10 Aug2007, Official Gazette of Montenegro 080/10 of 31 Dec2010, 040/11 of 08 Aug2011, 040/16 of 30 June2016, 047/17 of 19 July2017.

that this provision will necessarily apply to all Roma children who applied for enrolment or that it will not cause problems with the practical implementation of the Law. As we learned, the standard practice in this regard is for the Ministry for Human and Minority Rights to send a letter asking for the child to be exempt from payment. We cannot say to what extent local-level officials and in particular the RE population members are aware of this practice.

The Law on Prohibition of Discrimination recognises discrimination in the field of education and vocational training as a specific form of discrimination. Article 15 prescribes that discrimination in the field of education and training takes place in the events of hindrance or prevention from enrolling schools or higher-education institutions, choice of educational programme at all levels of education, expulsion from these institutions, hindrance or prevention from attending classes and participating in other educational activities, categorisation of children, pupils, participants or students, abuse or other unwarranted distinction or unequal treatment on the basis of prohibited grounds for discrimination. Article 9 of the Law defines segregation as any act, action or omission of action resulting in forceful or systematic separation or distinction on the basis of any of the prohibited grounds for discrimination.

Pursuant to the **Law on Vocational Education**,⁵⁵ vocational education is available to all and may not be, directly or indirectly, restricted on the grounds of: gender, race, skin colour, language, religion, marital or family status, political or other opinion, national, ethnic or other origin, financial situation, disability or any other personal characteristics, position or circumstance (Article 2b).

The Law on Minority Rights and Freedoms (Article 19) prescribes that, for the purpose of the full enjoyment of minority rights, the University of Montenegro, following the proposal of the Minority Council, may admit, each academic year, a certain number of students from the ranks of minorities, in accordance with the University Charter. When submitting the set of documents for admission, prospective students are required to submit the application in which they state their affiliation with a certain minority group.

Article 6 of the **Law on Higher Education**⁵⁶ defines that higher education is available to all and may not be directly or indirectly restricted on the grounds of: gender, race, marital status, skin colour, language, religion, political or other affiliation, national, ethnic or other origin, financial status, disability or other similar grounds, position or circumstances, in line with the specific law. The University Charter regulates the rules of admission and studying to more detail.

With regard to the support to education of Roma and Egyptians, the following services are implemented in practice:

- Information campaigns to promote kindergarten/school enrolment;
- Distribution of free sets of textbooks to children from Roma and Egyptian population;⁵⁷
- Organisation of free transport service to urban schools;
- Organisation of free summer/winter holidays for the best Roma and Egyptian students and organisation of Romani language summer camp;
- Scholarships and support for the secondary-school and university students from the Roma and Egyptian population⁵⁸

55 Official Gazette of Montenegro 64/2002 and Official Gazette of Montenegro 49/2007, 45/2010 39/2013 and 47/2017.

56 Official Gazette of Montenegro 044/14 of 21 Oct2014, 052/14 of 16 Dec2014, 047/15 of 18 Aug2015, 040/16 of 30 June2016, 042/17 of 30 June2017, 071/17 of 31 Oct2017, 055/18 of 01 Aug2018, 003/19 of 15 Jan2019.

57 In the past, the Ministry for Human and Minority Rights regularly allocated the funds for purchasing textbooks for I, II and III primary school grades, which they subsequently distributed to the Roma and Egyptian students in cooperation with the competent institutions, Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016 - 2020, p. 27.

58 The scholarships are paid to all secondary school and university students who meet the requirements, in the amount of 60 and 150 euros, respectively. The deadline for drafting a rulebook on the criteria and conditions for awarding scholarships for students from Roma and Egyptian population has been extended to 31st December 2019.

- Support provided by education mediators⁵⁹
- Mentoring/tutoring⁶⁰, implemented in cooperation with the Bureau for Education and Roma Education Fund (REF);
- Multi-disciplinary teams for drop-out prevention and management, acting in accordance with the Protocol on Management and Prevention of Early Drop-Outs (teams set up in the municipalities of: Podgorica, Niksic and Berane);
- 4- week preparatory kindergarten programme for the Roma and Egyptian children with no prior experience with formal education who otherwise meet the requirements for enrolment (implemented in eight towns to date: Bar, Tivat, Herceg Novi, Kotor, Cetinje, Niksic, Podgorica, Berane and Bijelo Polje);
- Teacher training and education of parents;
- Organisation of supplementary classes in cooperation with the Red Cross of Montenegro;
- Student Voluntary Services, in cooperation with the universities, Bureau for Education and Roma Council

Despite the presence of the abovementioned legal provisions and support services, the survey conducted by the Ministry for Human and Minority Rights in 2016⁶¹ pointed to a still high share of Roma and Egyptians who never attended school (37%), with 36,6% having attended but not completed primary school. Only 17% of Roma population completed primary education (compared to 98% of the general population), while 5.8% had three-year secondary school certificates, and 2.2% had four-year secondary school certificates. Only 1% of had a college degree and 1% had a university degree. According to the findings of the Study on the Obstacles to Education in Montenegro, published by UNICEF in 2013, there was a significant discrepancy in the primary and secondary school completion rates compared with the general population, where the rates were 98% and 86%, respectively.⁶²

One in four children of Roma and Egyptian nationality does not get enrolled in primary school, although that is compulsory under the law. The coverage of these children by pre-school education is 21.5% (the strategy envisaged an increase to 40%). Dropping out from primary schools is a specific problem, especially among female students (11%: 9.4% for boys and 13.8% for girls). However, **there are no precise data on the effects of work of multidisciplinary teams**, which operate in line with the Protocol on Management and Prevention of Early Drop-Outs; such data are necessary to review the results achieved in this area.

The reasons for this situation are multi-faceted: from poverty, inadequate housing conditions, lack of knowledge of Montenegrin language,⁶³ to insufficient support from parents and early marriages, to low expectations in education and ambiguous interpretation of the provisions concerning affirmative action measures in education. To a lesser degree, the lack of documents required to enrol children in pre-school institutions or schools⁶⁴ may also represent a problem. The Strategy for

59 The Centre for Vocational Education in cooperation with the Institute for Social Inclusion prepared occupational standards for the position of Mediator in the Social Inclusion of Roma and Egyptians and Organiser of Social Inclusion. They were formally introduced in the education system of Montenegro in September, academic year 2018/2019. According to the latest Report of the EU for Montenegro, published in May 2019, there were 19 education mediators in the academic year 2018/2019 (p. 31 of the Report). We point out that, in their **2017 Report, ECRI recommended to the Montenegrin authorities to institutionalise and increase the number of Roma mediators/assistants in preschool institutions and in primary schools, to ensure that the Roma children attended school and reduce the risk of drop-outs (p. 24)**. This recommendation will be subject to assessment between two regular monitoring cycles, implemented by ECRI not later than two years after publishing the said Report, i.e. in 2019)

60 The mentors are obliged to monitor students and take care of their regular attendance of classes and school success, by helping them master the subjects in which they received negative grades. A total number of 34 mentors in high schools in Montenegro were contracted in academic year 2017/2018, out of 20 envisaged in the Strategy for Social Inclusion of Roma and Egyptians 2016 - 2020, while 16 students were appointed with mentors, in comparison to 2016 when there were 14 persons with tutors: *Report on Implementation of the Strategy of Social Inclusion for 2017*, March 2018, p.13, <http://www.minmanj.gov.me/biblioteka/izvjestaji>

61 <http://www.mmp.gov.me/biblioteka/istrazivanja>

62 <https://www.unicef.org/montenegro/izvjestaji/studija-o-preprekama-u-obrazovanju-u-crnoj-gori>, p. 5

63 The Bureau for Education prepared the curriculum for "Montenegrin as non-native language" and adjusted the textbooks for students whose native language is not Montenegrin, for primary school grades I, II, IV, VI and VII. Adjustment is in progress for grades III, V, VIII and IX.

64 2013 data indicated that 22% of the Roma and Egyptian children not attending school did not have birth certificates, in contrast to 10% of the ones attending school (Study on the Obstacles in Education in Montenegro, UNICEF, p. 93).

Social Inclusion of Roma and Egyptians 2016-2020 envisaged numerous measures and indicators to measure the improvement of the situation in education, including preparatory kindergarten programmes for Roma and Egyptian children, activities of mediators and mentors, scholarships to secondary-school and university students etc.

- Health care

The Constitution of Montenegro guarantees the right to health care to all, with children, pregnant women, elderly persons and persons with disabilities entitled to health care funded from public revenues, if they do not exercise this right on some other ground (Article 69). The anti-discrimination legislation in Montenegro prohibits discrimination on the grounds of health condition.⁶⁵

The regulatory framework for exercising the right to health care is defined, inter alia, by the Law on Health Care and the Law on Health Insurance, which includes an explicit provision concerning equal access to health care.

The Law on Health Care⁶⁶ defines organisation, implementation and provision of health care services, rights and obligations of citizens in accessing health care,⁶⁷ social care for citizens' health, rights and obligations of health care professionals and assistants, quality of health care and other issues of importance for the functioning of health care. Article 10 prescribes that health care is based on the principles of comprehensiveness, continuity, accessibility, integral specialised approach to health care, as well as on the principle of constant improvement of health care quality.

Article 12 prescribes a foreigner's entitlement to health care in accordance with this Law and international agreement, while Article 13 recognises the same entitlement of asylum seekers, persons granted refugee status, persons granted subsidiary or temporary protection in Montenegro, unless otherwise arranged under an international agreement. Health care institutions and professionals are obliged to give emergency medical assistance to foreign nationals.

The Law on Health Insurance⁶⁸ regulates the rights pertaining to compulsory health insurance and the exercise of such rights, financing of compulsory health insurance, supplementary health insurance, contracting health care with health care services providers, and other issues of importance for the exercise of rights arising from health insurance. The Law prescribes that health cards issued by the Health Fund serve as proof of the status of insurance beneficiary. Socially vulnerable categories of population are exempt from payment of the costs of medical services.

In addition to the insured persons whose status stems from employment, engagement in agriculture, unemployment or other legally defined grounds, the Law prescribes that such status may also be granted to Montenegrin citizens residing in Montenegro and to foreigners with approved stay in Montenegro⁶⁹ who register with the Health Fund (under the code: "200"). This category's status is determined on the basis of an application and an identification document

65 Article 12 of the Law on Prohibition of Discrimination prescribes that preventing, restricting or hampering access to employment, work, education or any other unjustified differentiation or unequal treatment based on health conditions constitutes discrimination.

66 Official Gazette of Montenegro 003/16 of 15 Jan2016, 039/16 of 29 June2016, 002/17 of 10 Jan2017, 044/18 of 06 July2018.

67 Article 11: In accessing health care, every citizen shall be entitled to equality in the overall treatment when exercising health care and right to: 1) free choice of a medical doctor or dentist;2) information and notification on any issues related to his/her health; 3) independent decision-making (free choice); 4) compensation of damage inflicted by the provision of inadequate health care; 5) second professional opinion; 6) refuse to be the subject of scientific examination and research without his/her consent, or any other examination or medical treatment which does not serve his/her treatment; 7) privacy and confidentiality of all the data on his/her health condition; 8) diet in accordance with the principles of his/her religion during his/her stay in the health institution where he/she is being treated; 9) insight into medical documents; 10) voluntary leave of health care institution; 11) objection; as well as other rights in compliance with a special law.

68 Official Gazette of Montenegro 006/16 of 22 Jan2016, 002/17 of 10 Jan2017, 022/17 of 03 April2017, 013/18 of 28 Feb2018.

69 Access to health care is also regulated by the Decree on the manner of exercising the rights by displaced persons from the former Yugoslav republics and internally displaced persons from Kosovo (Official Gazette of Montenegro 036/15 of 10 July2015, 045/17 of 12 July2017), according to which Roma and Egyptian IDPs enjoy equal right to health care, in regulatory terms, as other insured persons.

(Article 6, paragraphs 2 and 4). **This enabled the citizens of Montenegro who are not employed or otherwise insured to exercise their right to health care at the Health Fund, no longer conditioned by being registered as unemployed with the Employment Agency.** This provided for *de iure* the most comprehensive health care insurance coverage of the persons under the state's jurisdiction.

Detailed conditions, procedure and method of exercising certain rights from compulsory health insurance, including regulation of the status of an insured person, are regulated by the Decree on the scope of rights and standards of health care from compulsory health insurance⁷⁰ and **Rulebook on detailed conditions and method of exercising certain rights from compulsory health insurance.**⁷¹

It is important to note that, pursuant to the **Law on Data Sets in the Field of Health Care**⁷², which regulates the consolidated health care statistics, there are no records based on the national, ethnic or any other affiliation of service beneficiaries. However, the categories titled «contribution payers» and «insured person status» indirectly provide an overview of the data on the extent of health care service delivery to Roma and Egyptians within the health care system of Montenegro.⁷³

Article 34 of the **Law on Social and Child Protection**⁷⁴ defines that the right to health care is provided to the beneficiaries using cash benefit, personal disability benefit, care and support allowance and accommodation services, unless they exercised this right on some other grounds.

Various support services have been established to secure equal degree of health care without discrimination; they are implemented through the cooperation of health care institutions, Health Fund of Montenegro and civil sector partners. The occupation of *Mediator in the Social Inclusion of Roma and Egyptians in Health Care* was standardised, and training was organised in cooperation with the international organisation "Help - Hilfe zur Selbsthilfe e.V." to prepare the candidates for the exam. In 2017, three mediators were employed full-time at the Podgorica public health care centre, to mediate and work with Roma population. Through a project, HELP hired two mediators for the public health care centres in Niksic and Berane until the end of January 2019. The cooperation with public health care sector and Niksic Municipality involved 15 (fifteen) members of Roma population who trained at the local health care institutions. The training programme took 9 (nine) months, ending in April 2018.

Individual municipalities organise training at health care institutions and workshops and leaflets to raise awareness among Roma and Egyptians concerning the importance of prevention, protection of health, preventive medical check-ups for pregnant women and cancer screening for women. Campaigns and on-site vaccination of children in Roma and Egyptian settlements which local health care centres have implemented for years are producing good results with regard to immunisation (up to 98% coverage).

Despite the abovementioned provisions, laws and services available in practice, available data indicate that Roma and Egyptians do not fully use their rights in the field of health care. Namely, the survey conducted in 2016 by the Ministry for Human and Minority Rights indicated that 40% of respondents - adult Roma and Egyptians - had no valid health-cards, either as a consequence of unregulated status or lack of awareness concerning access to free health care.

70 Official Gazette of the Republic of Montenegro 79/05 and Official Gazette of Montenegro 18/13.

71 Official Gazette of the Republic of Montenegro 69/06; Official Gazette of Montenegro 45/08, 34/15, 12/18 and 42/18.

72 Official Gazette of Montenegro 080/08 of 26 Dec2008, 040/11 of 08 Aug2011.

73 http://www.mmp.gov.me/organizacija/OUZ_RAE/146140/Promocija-vaznosti-redovne-zdravstvene-zastite.html.

74 Official Gazette of Montenegro 027/13 of 11 June2013, 001/15 of 05 Jan2015, 042/15 of 29 July2015, 047/15 of 18 Aug2015, 056/16 of 23 Aug2016, 066/16 of 20 Oct2016, 001/17 of 09 Jan2017, 031/17 of 12 May2017, 042/17 of 30 June2017, 050/17 of 31 July2017.

- Social protection and family status

The Constitution defines Montenegro as the state of social justice and lays down compulsory social insurance of the employed. The state provides for those who are not fit for work and have no livelihood (Article 67). Special protection is guaranteed to persons with disabilities (Article 68) and mother and child (Article 73).

The Law on Social and Child Protection⁷⁵ regulates the rights pertaining to social and child protection and the performance of affairs of social and child protection as activities of public interest. This regulation is important because it defines, for the first time, the right to social services as a specific right. The Law prescribes protection of children, youth, adults and the elderly, including those who are victims of abuse, neglect, domestic violence and human trafficking, or those at risk of becoming victims, and those who, due to special circumstances and social risk, require appropriate form of social protection (Article 4). One of the key principles in the provision of social and child protection is the principle of non-discrimination, i.e. prohibition of discrimination of beneficiaries on the grounds of their race, gender, age, national affiliation, social background, sexual orientation, religion, political, trade-union or other affiliation, financial status, culture, language, disability, nature of social exclusion, belonging to a certain social group or other personal characteristics when exercising the right on social protection; another one is the principle of individual approach to beneficiaries and their active involvement in design, selection and use of social and child protection rights.

Article 11 of the Law prescribes the following rights in the field of social and child protection: (1) basic financial support; (2) social and child protection services.⁷⁶ The activities of social and child protection are carried out by the social and child protection institutions, either public or private (Article 13 paragraph 1). The rights in accordance with this Law are available to Montenegrin citizens with the permanent place of residence within the territory of the state; foreign persons with granted temporary or permanent residence in the country; asylum seekers and foreign persons under subsidiary protection, and, exceptionally, persons who, due to special circumstances and social risk, require appropriate form of protection and who have the right to one-off financial assistance and temporary accommodation (Article 5).

Articles 62 and 63 of the Law define the use of the support services for life in community (61) and the counselling-therapy and social-educational services (counselling, mediation, use of SOS telephone for women and children victims of domestic violence).

Adoption of this Law introduced the possibility for different organisations to provide a range of social protection services, as well as the mechanisms for sustaining and upgrading the quality system, and regulatory mechanisms enabling the functioning of that system (standards of social protection services; licencing of organisations providing social protection services; licencing of professionals who provide such services, and accreditation of training programmes and programmes for provision of social protection services).

The Rulebook on detailed conditions for accessing basic financial support in the field of social and child protection⁷⁷ recognises those who are granted the status of internally displaced

75 Official Gazette 027/13 of 11 June 2013, 001/15 of 05 Jan 2015, 042/15 of 29 July 2015, 047/15 of 18 Aug 2015, 056/16 of 23 Aug 2016, 066/16 of 20 Oct 2016, 001/17 of 09 Jan 2017, 031/17 of 12 May 2017, 042/17 of 30 June 2017, 050/17 of 31 July 2017.

76 The procedures and criteria for financial and professional support in provision of community-based services were developed and piloted in nine Montenegrin municipalities within the IPA 2010 project *Reform of the Social and Child Protection System: Enhancing Social Inclusion*, implemented by the Ministry of Labour and Social Welfare and the Ministry of Education, with technical assistance of the UNDP and UNICEF and financial support of the European Union. 23 social protection services were supported through this project, which were used by almost 2,000 persons (elderly, persons with disabilities, victims of violence, single parents and users of psychoactive substances): Employment and Social Policy Reform Programme 2015 - 2020, p.50.

77 Official Gazette of Montenegro 040/13 of 13 Aug 2013, 068/15 of 08 Dec 2015, 020/16 of 18 March 2016, 088/17 of 26 Dec 2017.

and displaced persons, and asylum seekers, those with refugee status and granted subsidiary protection as being entitled to basic cash transfers in the field of social and child protection in Montenegro (cash benefit, personal disability benefit, care-and-support allowance, health care, costs of funeral and one-off financial assistance). This helped create the regulatory assumptions for the Roma and Egyptians with IDP status to become beneficiaries of social protection in Montenegro.

The Rulebook on the content of the database and the content and method of record-keeping in social and child protection⁷⁸ prescribes that data sets on service providers contain: title, number of the decision of the competent authority on registration into the appropriate register, date of establishment, data on the authorised person at the service provider (personal name, personal identification number, temporary or permanent residence address), type of services provided, beneficiaries of social and child protection services and capacity- number of beneficiaries (Article 6). Similarly to the health care system, the social and child protection system keeps no records on ethnicity or nationality.

The Rulebook on the content and form of the individual activation plan and method of implementation of the measures of social inclusion of able-bodied recipients of cash benefit⁷⁹ defines the form of individual activation plan, implemented jointly by the Centre for Social Work and cash benefit recipient, with a view to overcoming the recipient's disadvantaged situation.

The following list of social services stems from the legislation on social and child protection and the data obtained from practice:

1. Cash benefit;
2. Personal disability benefit;
3. Care and support allowance;
4. Provision of health care;
5. Funeral cost coverage;
6. One-off financial assistance;⁸⁰
7. In-kind assistance - food, clothes, footwear, medical supplies, firewood, etc.;
8. Allowance to parent or guardian of recipient of personal disability benefit;
9. Newborn allowance/newborn kits;
10. Reimbursement of salary during maternity/parental leave;
11. Costs related to assistance in education and upbringing of children and youth with special educational needs (e.g. financial assistance for purchasing textbooks and school material);
12. Provision of free meals (in soup kitchens);
13. Allocation of public housing to use⁸¹
14. Assessment and planning;
15. Personal assistance, home assistance;
16. Support for life in community (for adults with development difficulties and children and youth without parental care about to complete schooling);⁸²
17. Counselling-therapy and social-educational services (learning assistance, mediation; SOS telephone for women and children victims of domestic violence on local level);

78 Official Gazette of Montenegro 58/13 and 7/16.

79 Official Gazette of Montenegro 071/18 of 05 Nov2018.

80 CEDEM's survey on the *Social Position and Social Inclusion of Roma and Egyptians in Montenegro* suggested that 76% of them did not use the services or assistance of Centres for Social Work, while only 19% used these services. The most used services were financial support (8.4%), with social aid in 61% of cases, while less than 1% of respondents use other forms of aid such as food, clothes, footwear, medical materials etc. 82% of respondents never used one-off financial assistance, 92% never used free meals provided by local self-government. Only 3.4% used personal disability allowance. 77.5% of respondents stated that they had never used newborn allowance. p. 28, <http://www.cedem.me/programi/istrzivanja/ostala-istrzivanja/category/31-ostala-istrzivanja>.

81 CEDEM's survey indicated that in 68% of cases Roma and Egyptian population members had never been allocated public housing (flat) to use, while 29.4% of respondents had been, *Supra, (Ibidem, p. 36)*.

82 Out of the support services for life in community, only supported housing is available (two services – in Podgorica and Bijelo Polje), exclusively to young people without parental care.

18. Emergency interventions;
19. Provision of free summer/winter holidays for social and child protection service beneficiaries in holiday and leisure facilities;
20. Day centres to support at risk children;⁸³
21. Day care centres for children with physical and mental development difficulties;
22. Day centres and clubs for the elderly;
23. Family placement (with the exception of kinship foster care, which is present in most of the local self-governments);
24. Specialised foster care for children and youth with disability and behavioural disorders;
25. Centres for support to users of psychoactive substances;
26. Institutional care (service which implies family placement/ foster care or residence in a social institution, e.g. home for the elderly);⁸⁴
27. Temporary accommodation and reception centres (shelters for the homeless⁸⁵);
28. Shelter for trafficking victims;
29. Shelter for the reception and accommodation of women and children victims of domestic violence;
30. Support teams for the prevention of forced marriages on local level.

The Family Law⁸⁶ defines the state's obligation with respect to protecting children from neglect, physical, sexual and emotional abuse. The Family Law strictly prohibits corporal punishment or any other cruel, inhuman or degrading treatment;⁸⁷ however, no sanctions are envisaged. The Ombudsman Office warns of the lack of a code of conduct that would clearly outline the competences, actions and cooperation in case of children found begging.⁸⁸

The Law on International and Temporary Protection of Foreign Persons⁸⁹ governs the principles, conditions and procedures for granting temporary protection to a foreigner seeking international protection. The Law contains provisions relevant for the protection of trafficking victims, as a vulnerable group. Article 15 of the Law defines that in the procedures conducted under this Law, due consideration is to be given to the best interests of a minor, in particular where there is an indication of the minor being a trafficking victim.

Regarding the fight against trafficking in human beings and protection of victims, Article 444 of the **Criminal Code of Montenegro** defines the criminal offence: anyone who, by force or threat, deceit or keeping in delusion, by abuse of authority, trust, relationship of dependency, difficult position of another person or by keeping, taking or destroying identification papers, counterfeiting identification papers, acquiring or making false identification papers or by giving or receiving money or other benefit for the purpose of obtaining consent of a person having control over another, recruits, transports, transfers, hands over, sells, buys, mediates in sale, hides or keeps another person for exploitation of work, forced work, submission to servitude, slavery or position similar to slavery, commission of crimes, prostitution or other forms of sexual exploitation, begging, por-

83 Day centre for providing support to children at risk exists within the Centre for the Rights of the Child of Montenegro in Podgorica. The services they provide aim to improve the quality of life of children, enable satisfaction of their needs, remove or mitigate the risks, gaps or unacceptable behaviours, encourage developmental potentials of children for life in community etc. Also, this service aims to help the parents to overcome difficulties in raising their children.

84 Data indicate that the respondents mostly used hospital and/or psychiatric institutions care (27.7%), followed by the homes for elderly persons (4.9%), home for children without parental care (3.9%) and correctional institutions (3.6%), *Ibidem*, p. 37.

85 The first shelter for the homeless persons was launched in April 2017, in the Capital City of Podgorica (worked until 2019), in the vicinity of soup kitchen, with the capacity to host 12 persons and possibility to expand to host 15, with 119 m² of usable area. The shelter could accommodate persons exposed to vulnerability and in state of social need who required housing urgently according to the professional assessment of social workers. During their stay at the shelter, beneficiaries were assisted in contacting their relatives, taking back control of their own lives and securing financial autonomy after leaving the shelter. Report of the Protector of Human Rights and Freedoms for 2017, p. 117. http://www.ombudsman.co.me/docs/1522665383_final-izvjestaj-za-2017.pdf

86 Official Gazette of the Republic of Montenegro 1/2007 and Official Gazette of Montenegro 53/2016

87 The prohibition refers to parents, guardians and any other person taking care of the child or contacting with the child.

88 Report of the Protector of Human Rights and Freedoms for 2017, p. 136 – 137.

89 Official Gazette of Montenegro 2/2017.

nographic use, conclusion of unlawful marriage,⁹⁰ taking away a body part for transplantation or for use in armed conflicts. The imprisonment sentence for this offence ranges from six months to twelve years - if heavy bodily harm was inflicted due to commission of this criminal offence, i.e. not less than ten years - in the event of death of one or more persons.

Montenegro adopted the **Law on Compensation of Victims of Violent Crimes**⁹¹ in 2015, which enables the victims to directly claim damage from the state. This Law prescribes the conditions, method and procedure for exercising the right to compensation of damage to the victims of violent crimes, including trafficking in human beings; its application has been postponed until Montenegro's accession to the European Union.

With regard to protection of children from neglect and abuse and sanctioning of economic exploitation of children, Article 219 of the Criminal Code stipulates criminal liability of a parent, adoptive parent, a guardian or any other person who, by gross negligence of his/her duty to care for and bring up a minor, neglects or forces a minor to excessive labour or labour not suited to his/her age or to mendicity or for gain leads him/her into doing other acts detrimental for his/her development. The imprisonment sentence ranges from three months to five years.⁹²

With regard to the incrimination of domestic violence, Article 220 of the Criminal Code stipulates the criminal liability of anyone who, by use of violence, endangers physical or mental integrity of members of their family. The range of envisaged imprisonment sentence is from three months to twenty years (in case of death of a family member due to the commission of this criminal offence).

In order to effectively combat trafficking and domestic violence, the Government of Montenegro adopted the **Strategy for Prevention and Protection of Children from Violence 2017–2021** in 2016. The Strategy refers to all children aged 0–18, irrespective of their gender, nationality, degree of functional capabilities or sexual orientation. The Strategy defines the measures for intensified work to protect and assist children and adolescents who suffered violence or sexual abuse. **The Strategy for Combating Trafficking in Human Beings 2019 – 2024 was also adopted**, with the Action Plan for its implementation in 2019. This Strategy recognises the challenges concerning the need for stronger pro-active approach in victim identification, especially among illegal migrants, foreigners seeking international protection, children involved in begging, and girls and women at risk of becoming victims of unlawful marriage or domestic violence.

The novelties introduced under the **Law on Misdemeanours**⁹³ allow for the double amount of the maximum statutory fine to be imposed, inter alia, for misdemeanours that fall under domestic violence.

In addition, pursuant to Article 10 of the **Convention of the Council of Europe on Preventing and Combating Violence Against Women and Domestic Violence** (Istanbul Convention), in May 2017 Montenegro set up the Coordination Committee for coordination, implementation,

90 Under the amendments to the criminal legislation implemented in 2013-2015, conclusion of unlawful/forced marriage is defined as a form of trafficking in human beings from Article 444 of the Criminal Code. In the previously mentioned Report ECRI reminds that girls are especially vulnerable when it comes to access to education, because of gender and poverty issues, and points out that the authorities should take effective measures to fight gender stereotypes and prevent early marriages. Sector analysis for determining proposals of priority areas of public interest and the resources for financing projects and programmes of NGOs from the national budget in 2018 (Ministry for Human and Minority Rights) states: *The fact that child, forced and arranged marriages still represent an important problem in Roma and Egyptian communities is confirmed by the following data: in 59.1% cases the decision on concluding the marriage is brought by the parents, in 52% of cases female respondents claimed that they did not get to choose their partners or the time of marriage, but that their parents, relatives and council of elders made those decisions for them, while up to 44.2% of girls had not even known their future husband prior to marriage. The fact that the research confirmed that up to 72.4% girl respondents entered marriage before reaching the age of 18 (aged 12 -17) is a cause for concern.* p. 3. <http://www.mmp.gov.me/biblioteka/dokument?pagerIndex=3>

91 Official Gazette of Montenegro 035/15 of 07 July 2015.

92 The 2017 Report stated that the Protector had not received any complaints concerning any form of abuse, neglect or exploitation of children for that year, yet that it was evident that children were being neglected in various ways by their parents/guardians, as confirmed by the still present scenes of children begging in almost every town of Montenegro (p. 135 of the Report).

93 Official Gazette of Montenegro. 51/2017.

monitoring and assessment of policies and measures for prevention and combating all forms of violence covered by the Convention. The Committee prepared the first report on implementation of this Convention. In accordance with the Strategy for Protection Against Domestic Violence 2016-2020 and Articles 20 and 22 of the Istanbul Convention, the Ministry of Labour and Social Welfare reviews the need for establishment of the most urgent services for domestic violence victims envisaged in the Istanbul Convention; two national plans for improvement of general and specialist support services to the victims of violence in accordance with the Istanbul Convention and recommendations of the Council of Europe's Study on Minimum Standards for Specialist Services.

The Group of Experts of the Council of Europe on Action against Violence against Women and Domestic Violence – GREVIO, in the first report on situation assessment in Montenegro⁹⁴ regarding implementation of the Istanbul Convention, welcomes the improvement of the legal framework on domestic violence and violence against women, but also points to the whole set of structural problems resulting in insufficient protection of domestic violence victims. GREVIO states attempts to diminish the gravity of violence, instructions to seek alternative dispute settlements in cases of domestic violence, delays in handling of domestic violence cases and lack of readiness to order protective measures. GREVIO especially points out the presence of violence against Roma and Egyptian women and the necessity to completely eliminate the discrimination they are faced with when seeking protection. With regard to access to services, GREVIO appeals to Montenegrin authorities to establish a sufficient number of reference centres for rape and/or sexual violence and to provide adequate training to the professionals who provide victim support services.

in addition, the Committee on Economic, Social and Cultural Rights, in the Concluding Observations on the Preliminary Report of Montenegro (E/K.12/MNE/1) states that **the social allowances, including those for the unemployed, elderly and persons with disabilities, are not sufficient to provide an adequate standard of life** to these persons and their families, stating that in its next periodical report **Montenegro should provide information on social insurance coverage** disaggregated by sex/gender, urban/rural population, residence and national/ethnic origin. **The Committee points to the obligation of conducting surveys on poverty** which would serve as a basis for quality planning of support programmes for families with children facing poverty.⁹⁵

- Employment

The Montenegrin Employment Agency records include, as an annual average, some 1,000 persons⁹⁶ who declare themselves as members of Roma and Egyptian population, with women accounting for around 40% of that number. The share of this particular population in the overall registered unemployment is 3 - 4%. The Employment Agency of Montenegro does not keep records on the ethnicity of the unemployed; however, the application was modified for the purpose of the Decade of Roma Inclusion to enable such a search of the database. The unemployed persons are not required to declare their ethnicity, only to do it voluntarily.

Employment and exercising of the right to work are regulated by a set of laws, decrees and rule-books, such as the Labour Law, Law on Employment and Exercising Rights from Unemployment Insurance, and the Decree on subsidies for the employment of certain categories of unemployed persons. The strategic framework comprises the National Strategy for Employment and Human

94 <https://rm.coe.int/grevio-report-montenegro/16808e5614>

95 <http://www.minradiss.gov.me/pretraga/144502/Komitet-za-ekonomska-socijalna-i-kulturna-prava-Ujedinjenih-nacija.html>

96 *From 1st January 2017 to 20th December 2017, 177 Roma and Egyptians (45.19 % women) registered at the Employment Agency of Montenegro. Most of the newly-registered persons were from the territory of Podgorica – 69% (40.67% women), Niksic 13.45% (52.17% women) and Herceg Novi – 8.18% (64.28% women). Out of the total number of newly-registered, 162 (one hundred sixty-two) persons were without professional occupation and qualifications (75 women), the rest were persons with III and IV degree of professional qualifications. On the 20th December 2017 there were 928 self-declared members of the Roma and Egyptian population in the records of the Employment Agency (508 women / 54.74%) who were actively seeking employment. Report on Implementation of the Strategy for Social Inclusion for 2017, p. 18.*

Resources Development 2016 - 2020 and the annual employment action plans, which identify the measures and activities to achieve the goals set in the National Strategy that address integration of socially vulnerable groups in the labour market. Insufficient participation of socially vulnerable groups in the labour market is also recognised in the Operational Programme for the Education, Employment and Social Policies Sector; as well as in the Employment and Social Reform Programme 2015 - 2020.

The Strategy for Social Inclusion of Roma and Egyptians 2016 - 2020 also aims to increase participation of Roma and Egyptians in the labour market and envisages a range of activities related to the active employment policy and increased skills of Roma and Egyptians: subsidies for employers, grant schemes to incentivise employment, literacy programmes, training, and programmes for earning initial qualifications.

The Labour Law⁹⁷ regulates the rights and obligations of employees arising from employment, the method and procedure for their implementation, fostering of employment and facilitation of labour market flexibility, and applies to work at the employer's, but also to the employment in state bodies, local government authorities and public services, unless otherwise prescribed by a specific law.⁹⁸

The Law contains explicit prohibition of discrimination of employees and persons seeking employment on the grounds of gender, birth, language, race, religion, colour of skin, age, pregnancy, health condition, or disability, nationality, marital status, family responsibilities, sexual orientation, political affiliation or belief, social background, financial status, membership in political and trade union organisations, in accordance with the EU Directives on employment (Articles 5, 6, 7, 8 and 9 of the Law).⁹⁹ Article 5 of the Law prescribes that the prohibition of direct and indirect discrimination also applies to education, professional training and development. Articles 8 and 8a explicitly prohibit (sexual) harassment and mobbing, i.e. abuse at workplace which is intended to or actually constitutes violation of dignity, reputation, personal and professional integrity, position of the employee, generating intimidating, hostile, degrading, embarrassing or offensive environment, aggravating work conditions or leading to isolation or termination of employment contract of an employee/group of employees.

The Law governing employment in the public sector is **the Law on the Civil Servants and State Employees**.¹⁰⁰ This Law only contains prohibition of discrimination without further elaboration.

In the aim of protecting equal access to employment, Article 225 of the Criminal Code of Montenegro prescribes a fine or an imprisonment sentence of up to one year for anyone who, by means of deliberately violating regulations or in another unlawful manner, denies or restricts the right to free employment on equal terms within the territory of Montenegro.

The specific aspects of discrimination related to work and employment are regulated by the special **Law on Professional Rehabilitation and Employment of Persons with Disabilities**,¹⁰¹ which prohibits direct and indirect discrimination of persons with disabilities in relation to profes-

97 Official Gazette of Montenegro 049/08 of 15 Aug2008, 026/09 of 10 April2009, 088/09 of 31 Dec2009, 026/10 of 07 May2010, 059/11 of 14 Dec2011, 066/12 of 31 Dec2012, 031/14 of 24 July2014, 053/14 of 19 Dec2014, 004/18 of 26 Jan2018.

98 **General labour legislation recognises only work regulated by contract and refers to those working for employers, so it does not cover self-employment.**

99 The Law on Labour and the Law on Prohibition of Discrimination envisage positive discrimination (affirmative actions) in two situations: 1) when the nature of the job or conditions for performing it are such that characteristics related to particular grounds for discrimination constitute a genuine and determining requirement for a position and the purpose to be achieved is legitimate; 2) provisions of the law, collective agreement and contract of employment relating to special protection and assistance for specific categories of employees, and in particular those governing the protection of persons with disabilities, women during pregnancy and maternity leave, as well as provisions relating to special rights for parents, adoptive parents, guardians or foster parents, are not to be considered as discrimination.

100 Official Gazette of Montenegro 035/15 of 07 July2015)

101 Official Gazette of Montenegro 049/08 of 15 Aug2008, 073/10 of 10 Dec2010, 039/11 of 04 Aug2011, 055/16 of 17 Aug2016

sional rehabilitation, recruitment and employment, while regulations on health insurance specify the exercising of the right to leave due to sickness or workplace injury.

The Law on Social and Child Protection also contains the provisions relevant for the exercise of the right to work and rights arising from work. Namely, paragraphs 1 and 2 of Article 27 of the Law on Social and Child Protection prescribe that an individual who is capable of work, in accordance with the regulations regulating to more detail labour relations and pension and disability insurance, or professional rehabilitation and employment of persons with disability, has the right and duty to participate in activities that enable him/her to overcome the disadvantaged situation, i.e. in implementation of measures that ensure social inclusion. To that end, the Centres for Social Work, in cooperation with the Employment Agency and the beneficiary who is fit for work, develop and implement individual activation plan which outlines inclusion in the appropriate programmes of the active employment policy.

With regard to the exercise of the right arising from work, Article 11 of the Labour Law prescribes the right of an employee to an adequate salary, safety and protection of life and health at work and professional training. Special protection is granted to employed women during pregnancy and delivery, maternity leave and care for the child, as well as protection of persons with disabilities, under Articles 103 - 108.

The Law on Employment and Exercising the Rights pertaining to Unemployment Insurance¹⁰² regulates the exercise of the right to employment and rights from unemployment insurance¹⁰³ and applies to unemployed persons,¹⁰⁴ employers and persons seeking employment or participation in active employment policy measures. The exercising of these rights is based on the principle of prohibition of discrimination and principle of affirmative action towards hard-to-employ persons (Article 5). The Employment Agency of Montenegro and other employment agencies are in charge of implementation of the Law. According to this Law, records on active jobseekers cease to be kept if he/she refuses to participate in the active employment policy programmes, refuses suitable employment, is not available for employment or acts contrary to labour regulations.

¹⁰⁵

Articles 23 and 24 of the Law prescribe the rights and obligations of unemployed persons. Unemployed persons have the right to: 1) be informed by the Employment Agency and agencies about employment opportunities and conditions; 2) use services of the Employment Agency and the agencies free of charge; 3) determine an individual employment plan with the Employment Agency and agencies; 4) participate in the active employment policy programmes and measures, in accordance with individual employment plan; 5) receive unemployment benefit in accordance with the Law; 6) receive financial assistance during education, training and vocational rehabilitation of hard-to-employ persons, and involvement in other measures aimed at increasing employment or reducing unemployment. Unemployed persons who find employment on an open-ended basis outside their place of residence are entitled to one-time cash assistance in compensation of travel and relocation costs.

102 Official Gazette of Montenegro 014/10 of 17 March 2010, 039/11 of 04 Aug 2011, 040/11 of 08 Aug 2011, 045/12 of 17 Aug 2012, 061/13 of 30 Dec 2013, 020/15 of 24 April 2015, 052/16 of 09 Aug 2016.

103 Unemployment insurance implies participation of an employed person and employer in the provision of funds for exercising unemployment rights through payment of contributions.

104 A person from 15 to 67 years of age who is a Montenegrin citizen or a foreigner with permanent residence, recognised refugee status or granted subsidiary protection, who is registered at the Employment Agency of Montenegro, capable of work or partially disabled, who has not signed an employment contract and is actively seeking employment (Article 3).

105 The new Law on Health Insurance enables the records on unemployed persons to include only those who require special services of the Employment Agency, i.e. those who actively seek employment, and not those who only used registration to access health insurance. Besides, Centres for Social Work and the Employment Agency are obliged to exchange information on any changes regarding unemployed person, i.e. beneficiary of financial assistance, for example if they find employment, refuse offered employment or professional training, re-training or additional training. That allows for keeping more accurate records on the persons fit for work and active job seekers.

Unemployed persons are obliged to: 1) actively seek employment; 2) perform the obligations set forth in the individual employment plan; 3) participate in active employment policy measures;¹⁰⁶ 4) accept suitable employment, in accordance with the law and individual employment plan; 5) stay in contact with the Employment Agency, for information on employment opportunities and intermediation, upon invitation of the Agency and at least once in two months (once a month for recipients of unemployment benefits); 6) notify the Agency of any changes affecting the regime of rights or obligations under this Law no later than eight days after the change.

The active measures of inclusion of Roma and Egyptians in the labour market include:

1. Dissemination of information on employment opportunities and conditions;¹⁰⁷
2. Intermediation in employment (individual/group counselling; development of individual employment plan; mediation; motivation of employers to employ Roma and Egyptians);
3. Vocational counselling and career guidance;
4. Introduction into the system of assistants to social inclusion of Roma and Egyptians in the field of employment;¹⁰⁸
5. Financing of trainee salaries;
6. Support to self-employment;
7. Subsidies for employment;¹⁰⁹
8. Education and training of adults (training for the initial occupation, re-training, additional training, refreshment courses, acquisition of new skills);¹¹⁰
9. Professional rehabilitation of hard-to-employ persons;
10. Stimulation of seasonal employment to mitigate open unemployment;
11. Scholarship provision;
12. Public works programme;¹¹¹
13. Training programmes for a specific employer;
14. Self-employment programmes;¹¹²
15. Other programmes for hard-to-employ persons (e.g. activation of cash benefit recipients).

The precondition for implementation of the active employment measures is good multisectoral cooperation that meets the needs of the beneficiaries; this primarily refers to the cooperation between Centres for Social Work, the Employment Agency, NGOs, employers and the community itself in implementing measures for social inclusion of the cash benefit recipients who are fit for work. The applicable legislative framework envisages the mechanisms for establishing

¹⁰⁶ Active employment policy includes plans, programmes and measures aimed at increasing employment/reducing unemployment. **Hard-to-employ persons are assigned priority in implementation of active employment policy measures.**

¹⁰⁷ As a rule, all newly-registered persons belonging to Roma and Egyptian population are covered by the active employment policy measure "Dissemination of information on employment opportunities and conditions", implemented through discussions, while information-motivation seminars (workshops) are organised as required.

¹⁰⁸ In March 2017 the education programme for acquiring professional qualification "Mediator in the Social Inclusion of Roma and Egyptians" was adopted by the National Council for Education, which made this occupation part of the nonformal education system. The Employment Agency defined the code for this professional qualification and thus enabled registration of individuals with this occupation.

¹⁰⁹ The Decree on subsidies for the employment of some categories of unemployed persons, as broader measure of active employment policy, envisages subsidies for legal persons and entrepreneurs who employ certain categories of unemployed persons, including Roma and Egyptians, registered at the Employment Agency. The employer, pursuant to the Decree, is exempt from paying the contribution for compulsory social insurance (contribution for pension and disability insurance, contribution for health insurance and contribution for unemployment insurance), contribution to Labour Fund and personal income tax. The Decree on subsidies entered into force on 31st December 2015, and applied from 1st January 2016 to 31st December 2017. Proposal for a **Decree amending the Decree on Subsidies for employment of some categories of unemployed persons** was adopted at the Government session held on 30th November 2017, proposing extension of the application of the Decree to 31st December 2018.

¹¹⁰ As a rule, in case of Roma and Egyptians these are low-skilled auxiliary occupations.

¹¹¹ Public works do not include solving the status of long-term employment of hard-to-employ persons, but it has two goals: preservation and improvement of their work capacity and achievement of special public interest. One of the rights exercised by the unemployed persons is the right to unemployment benefit. However, this right is only guaranteed to persons who were previously employed, or have continuous insurance of at least 12 months or intermittently over the previous 18 months. The Agency's budget for implementation of its Work Programme for 2017, included €40,000.00 for public works programmes for Roma and Egyptian population. During the mentioned period, 39 (thirty-nine) members of Roma and Egyptian population, of whom only five women, were involved in the public works programmes.

¹¹² This is implemented, besides grant schemes, through the work of counsellors on loans and career advice and their training for work with RE population. The applicant, among other requirements, must have loan security, which is a major limitation for Roma and Egyptians wishing to start a business. There are no special lines intended only for self-employment of Roma and Egyptians, nor can they obtain self-employment loans due to lack of loan security.

cooperation between the Centres for Social Work and the Employment Agency where the centres are required to notify the Agency of an unemployed person for work being granted cash benefit within eight days from the date of the decision to that effect. On the other hand, the Employment Agency is required to notify the centre, within eight days, if a cash benefit recipient for work finds employment, refuses offered employment or professional training, re-training or additional training.

Despite the lack of precise data, it is evident that a significant number of Roma and Egyptians capable of work are engaged in informal work, especially non-standardised work without legal protection (such as collection of secondary raw materials). In line with the procedures for development of programmes for acquisition of professional qualifications, design of the professional qualification “Collector of secondary raw materials” should be enabled, as planned in 2018.¹¹³

With regard to opportunities for social entrepreneurship to provide employment to Roma and Egyptians, Montenegrin legislation does not recognise the type of company that would be established with a social mission, but solely for-profit companies, which practically means that it is not possible to start a social enterprise using one of the existing company formats. Current laws do not envisage direct incentives, subsidies or other forms of support to companies investing part of their profit/income in the society (except the option for up to 3.5% of the funds donated by the company for statutory social purposes to be shown as expenditure, pursuant to the Law on Corporate Income Tax.¹¹⁴

Despite the abovementioned measures, the data from the survey conducted by CEDEM together with the Ministry for Human and Minority Rights indicate that the highest degree of discrimination exists in the field of work and employment (52%) and that this field remains the most discriminatory one, with very mild progress achieved in comparison to previous years.¹¹⁵ Data indicate that 83% of Roma and Egyptians are unemployed, and that a large share of that group declare themselves as not seeking employment (33%).

The employment rate among Roma and Egyptians in 2017 was only 15% (compared to 38% for the non-Roma living in their vicinity).¹¹⁶ The worrying fact is that more than 90% of registered unemployed members of Roma and Egyptian population do not have any professional qualifications. The percentage of Roma and Egyptians working in the public administration is still alarmingly low. The Ministry for Human and Minority Rights in cooperation with the Human Resources Management Authority is running a survey to collect data for the reports on the representation of minority nations and other minority national communities in state authorities, state administration, Office of the President of Montenegro, Parliament of Montenegro, Government of Montenegro, courts, State Prosecution Service and local self-government authorities. According to the available information, in the 51 state administration authorities covered by the survey, the share of Roma is 0.03%, with no Roma and Egyptians employed at the judicial authorities or misdemeanour authorities.¹¹⁷

113 Report on the current status of social inclusion in Montenegro, with an emphasis on inclusion of persons with disabilities and Roma and Egyptians, prepared for the project *Cooperation between the Employment Agency of Montenegro and Centres for Social Work*, Podgorica, June 2016, <http://www.csrcg.me/images/Novosti/PA/Izvje%C5%A1taj%20o%20sada%C5%A1njem%20stanju%20u%20sektoru%20socialne%20inkluzije%20u%20CG.pdf>

114 The work of social enterprises is to an extent possible through the work of NGOs, yet with the limitation prescribed by the Law on NGOs concerning the threshold of registered commercial activities of EUR4,000 in annual turnover, or 20% of the NGO's total annual budget for the previous year.

115 Note: The survey was conducted for the project *Support to the National Institutions in Preventing Discrimination in Montenegro (PREDIM)*, financed by the Council of Europe and European Union, <http://www.cedem.me/en/publications/studies-and-public-politics/send/69-studije-i-javne-politike/1899-analiticki-izvjestaj-obraci-diskriminacije-2018>

116 2019 European Commission Report on Montenegro, p.31, <http://www.gov.me/vijesti/201861/Izvjestaj-Evropske-komisije-o-Crnoj-Gori-za-2019-godinu.html>

117 *Report on the representation of minority nations and other minority national communities in state authorities, state administration authorities, local self-government authorities, courts, and state prosecution service*, 2017, p. 21 and 26, <http://www.mmp.gov.me/biblioteka/izvjestaji?pagerIndex=3>

- Housing

The national legislation does not recognise explicitly discrimination in relation to housing, i.e. equal access to housing, as formulated in the Racial Equality Directive. There is no significant anti-discrimination case-law on the right of access to housing for members of Roma and Egyptian communities. However, the Law on Prohibition of Discrimination recognises segregations as a special form of discrimination which is prohibited.¹¹⁸

According to the Ministry for Human and Minority Rights survey (2016), most of the Roma and Egyptian population (around 77%) live in segregated settlements, predominantly in three municipalities - Podgorica (57% of total Roma and Egyptian population), Niksic (11%) and Berane (9%). Out of the total number of housing facilities used by Roma and Egyptians, some 60% are legalised structures owned by one of the family members. It is noted that the regional internal mobility of Roma and Egyptians has led to formation of new segregated Roma and Egyptian settlements in the municipalities of Tivat, Ulcinj and Herceg Novi.¹¹⁹

The Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016 – 2020 recommends identification of these settlements and of informal structures where Roma and Egyptians live, as well as active support of local self-government through affirmative action in the course of legalisation, ad hoc support to solving urgent housing issues, and amendments to detailed urban plans to address the issues of segregated settlements. Relocation of Roma and Egyptian settlements should be planned in the cases where legalisation is not possible.

The Social Housing Law¹²⁰ regulates the conditions and method of exercising the right to social housing, which is available to natural persons who do not own residential unit or that unit is substandard and who cannot secure residential unit from the income they earn, to Montenegrin citizens with residence within the territory of Montenegro, foreign citizens and stateless persons whose status is regulated in line with the law, i.e. international agreement (Article 3).

Article 4 of this Law assigns priority in the exercise of this right to single parents i.e. guardians, persons with disabilities, persons over 67 years of age, young people who used to be children without parental care, families with children with disabilities, **Roma and Egyptians, displaced persons, internally displaced persons from Kosovo who reside in Montenegro, foreigners with permanent residence or temporary residence who had the status of displaced or internally displaced persons** and victims of family violence. Article 8 paragraph 2 of the Law prescribes that detailed criteria for exercising the right to social housing for persons within the groups of people defined according to the social housing programme will be determined by the Government, i.e. local self-government regulation.

The Decision on more detailed criteria for exercising the right to social housing for displaced persons, which specifies the criteria for solving the housing needs of Roma and Egyptians through social housing programmes was adopted in December 2015, pursuant to the mentioned Law.¹²¹

Pursuant to the **Social Housing Law**, the Government of Montenegro adopts the Social Housing Programme, based on which local self-governments create and implement local social housing programmes, in line with their financial capacities.¹²² This is one of the key problems related to implementation of this regulation. It is estimated that, because of the unsolved legal issues concern-

118 Segregation is every act, activity or failure to perform an activity, whereby forced or systemic separation or differentiation of persons is carried out on any grounds. (Article 9 Paragraph 2 of the Law on Prohibition of Discrimination).

119 Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016 - 2020, pp. 14 and 15.

120 Official Gazette of Montenegro 35/13 of 23 July 2013.

121 <http://www.gov.me/biblioteka/odluke>

122 The Social Housing Programme for 2017 – 2020 was adopted at the Government meeting held on 14th September 2017: it defines and provides recommendations for local self-governments concerning adoption of local social housing programmes and decisions on allocation and control of allocated housing units to the persons in state of social need.

ing ownership and legalisation, some 170 families on the Montenegrin coast are at risk of eviction (90% of such cases refer to domicile population).¹²³

The Law on Spatial Planning and Construction¹²⁴ governs the system of spatial planning, manner and requirements for construction of structures, legalisation of illegal structures, and other matters of importance for spatial planning and construction. The Law prescribes that after the decision to develop a planning document and preparing its concept, the Ministry of Sustainable Development is required to organise presentation of the objectives of that planning document and possible options to the interested public.

Article 112 prescribes the procedure of demolition of the structure whose stability is found to be jeopardised, due to dilapidation, deficiencies or major damage, and which pose an immediate threat to human lives and health, to the adjacent structures and traffic safety; such demolition is executed upon the order of the competent inspection authority, *ex officio* or at the request of an interested party. The Law governs erecting of, i.e. construction of temporary structures which are not subject to planning documents, and the types of such structures and the conditions for their erection/construction.

Article 152 regulates the legalisation of irregular structures¹²⁵ built contrary to regulations and which, at the time of building, required building permit. Legalisation decisions are issued by the competent local administration authority, in the procedure initiated by submitting the application for legalisation. Within eight days from the date of enforceability, the competent administrative authority submits the legalisation decision to the competent inspection authority and the Cadastre Office for the purpose of entering the data from the legalisation decision into the Real Estate Cadastre. The costs of legalisation of an irregular structure are borne by the owner of the structure (Article 154). Legalisation of irregular structures in the territory of local self-government units on the Montenegrin coast entails calculation and charging of a special fee, in accordance with the law governing the regional water supply of the Montenegrin coast (Article 165).

In the case of demolition of an irregular structure which serves as primary residence, a local self-government unit is required to provide **alternative accommodation** to the owner and his/her household members by leasing an apartment, covering rent and otherwise, pursuant to the regulation of the local self-government unit (Article 171 paragraphs 1 and 2).

The abovementioned regulations were significant for the completion of the legal framework on the construction of social housing units and implementation of the **Regional Housing Programme**, which addresses issues of return and local integration of refugees and internally displaced persons, in particular vulnerable displaced individuals and their families, including residents of Camp Konik.¹²⁶ The Regional Housing Project is being implemented in more than 13 municipalities: Berane, Andrijevica, Podgorica, Ulcinj, Niksic, Budva, Rozaje, Plav, Herceg Novi, Bar, Danilovgrad, Tivat and Pljevlja. The Programme, however, does not target the housing needs of members of the domicile Roma and Egyptian population.¹²⁷

123 Shadow Report of the NGO Coalition - Annex on housing.

124 Official Gazette of Montenegro 064/17 of 06 Oct2017, 044/18 of 06 July2018, 063/18 of 28 Sept2018, 011/19 of 19 Feb2019.

125 Article 244 of the Law on Spatial Planning and Construction of Structures prescribes that as of the day of entry into force of the Law, the Law on Regularisation of Informal Structures (Official Gazette of Montenegro 56/16, 13/17 and 47/17), which was adopted in 2016 and whose implementation was postponed initially for 2017, and later on for 2018, shall be repealed.

126 Construction of 120 housing units of total value of € 7,374,135.00 was envisaged for the residents of Camp Konik in Podgorica within the Regional Housing Programme. The funds for construction of social housing units were provided from international donations, and Montenegrin institutions provided the urban plan and the required construction permits. This Programme also included the construction of social housing units in Niksic and Berane. The improvement due to the construction of the mentioned social housing units was confirmed in the 2017 ECRI Report, with a recommendation to ensure the involvement of Roma in the decision-making process concerning housing allocation and construction (p. 36).

127 Shadow Report of the NGO Coalition – Annex on housing.

- Culture, identity and information

The importance of culture and identity protection and exercise of the right to information within the Roma and Egyptian communities is specified in the Strategy for Social Inclusion of Roma and Egyptians 2016 - 2020. The Strategy recognised the risk of poor awareness of personal identity as one of the key problems, as well as the lack of effective mechanisms for identity protection. Additionally, the self-identification of members of the Roma population is negative in most cases, contrary to the general population (p. 84 of the Strategy).

Aimed at development and strengthening of Roma culture and identity and creation of affirmative attitudes on Roma and Egyptian population and de-stereotyping, the Strategy envisages a whole set of measures towards reduction of discrimination and ethnic and social distance towards Roma on the basis of promoting identity and positive values of Roma culture.

The principles of generation of culture on the basis of freedom of creativity and respect for the right to culture, with equal preservation of all cultural identities and respect for cultural diversities are defined in the Constitution of Montenegro, guaranteeing the freedom of scientific, cultural and artistic creation (Article 76) and the right of minorities to information (Article 79). They are also defined in the Law on Culture, Media Law, Law on Public Broadcasting, Electronic Media Law and Law on the Ratification of European Convention on Transfrontier Television.

The Law on Culture¹²⁸ governs the work of institutions of culture, as well as the status of rights of artists and experts in culture, encouragement and support to development of culture, financing of cultural activities and other issues of importance for culture. Article 3 of the Law prescribes that culture is generated and based on the principles of freedom of creativity and respect for the right to culture; commitment of the state and local self-government to encourage and help the development of cultural and artistic creation and protection and preservation of cultural heritage; and equal preservation of all cultural identities and respect for cultural diversities. Article 5, which defines public interest in culture, enumerates inter alia preservation of original and traditional cultural and ethno-cultural characteristics, yet without explicitly referring to the particularities and traditions of minority nations and minority national communities. To encourage the development of culture, the Law envisages co-financing of projects of importance for the achievement of public interest in culture from the national and municipal budgets, via public tenders (Article 68 and 70).¹²⁹ The right to co-financing of projects is guaranteed to the entities registered for cultural activities, besides NGOs and public institutions and other entities whose work is financed from the national/local budget.

The Media Law¹³⁰ (Article 1) guarantees freedom of information pursuant to international documents on human rights and freedoms, especially the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms and practice of the European Court of Human Rights. Free establishment of media outlets is guaranteed, as well as their unimpeded work based on the freedom of expression; freedom to investigate, collect, disseminate, publicise and receive information; free access to all sources of information; protection of one's personality and dignity, and free flow of information (Article 2 paragraph 1).

Towards realisation of the right to information without any discrimination, as granted by the Constitution and the law, the state co-funds the programmes that encourage development of science,

128 Official Gazette of Montenegro 049/08 of 15 Aug2008, 016/11 of 22 March2011, 040/11 of 08 Aug2011, 038/12 of 19 July2012.

129 As exception from the rule on public tender, the Ministry of Culture, i.e. the competent local authority may, without publishing a public tender, co-finance a project of capital importance for: 1) Montenegrin culture; 2) establishing international cooperation; 3) equal cultural development of Montenegro, i.e. municipality (Article 70, paragraph 5).

130 Official Gazette of the Republic of Montenegro 051/02 of 23 Sept2002, 062/02 of 15 Nov2002, Official Gazette of Montenegro no. 046/10 of 06 Aug2010, 073/10 of 10 Dec2010, 040/11 of 08 Aug2011.

education and culture, information of people with hearing and sight impairments, and contents in Albanian and languages of other national and ethnic groups (Article 3).¹³¹

The Law defines the rights and duties of the media, and the responsibility for published programme contents. If a media outlet broadcasts something that violates the legally protected interest of the person referred to in such contents or offends the honour or integrity of individual, gives or conveys untrue statements about their life, knowledge and abilities, or insults their dignity in any other way, that person is entitled to bring legal action before the competent court against the author and founder of the media outlet for the compensation of damage (Article 20 paragraph 2). The obligation of the media to protect the rights of minors is especially highlighted.

Pursuant to Article 23 of the Law, it is forbidden to publicise information and opinions that instigate discrimination, hatred or violence against persons or group of persons based on their belonging or not belonging to a certain race, religion, nation, ethnic group, sex or sexual orientation, unless the published information and opinions are a part of scientific or authored work on the subject-matter which is a public issue and were publicised without intention to instigate discrimination, hatred or violence, i.e. were a part of an objective news report, intended to criticise discrimination, hatred or violence or any phenomena which represent or might represent instigation to such behaviour.¹³²

The Electronic Media Law¹³³ additionally regulates the rights, obligations and responsibilities of legal and natural persons performing the activity of production and provision of audiovisual media services (AVM services) and electronic publication services through electronic communications networks, and the competencies, status and sources of funding of the Agency for Electronic Media to prevent unauthorised media concentration. The provision of AVM services is based, inter alia, on the principle of objectivity, prohibition of discrimination and transparency (Article 3 Paragraph 1 Item 7). An AVM service must not incite, enable incitement or spread hatred or discrimination on the grounds of race, ethnic background, skin colour, sex, language, religion, political or other belief, national or social background, financial standing, trade union membership, education, social status, marital or family status, age, health status, disability, genetic heritage, gender identity or sexual orientation. The publication of information revealing the identity of a minor under 18 years of age involved in any case of violence, regardless of whether being a witness, a victim or an offender, or disclosing any particulars of the family relations and private life of a child is prohibited (Article 48).

Article 74 of this Law defines the obligations of public broadcasters as providers of public services of production and transmission of radio and/or television programmes, ensuring the exercise of rights and interests of citizens and other entities in the information sector. In the sense of this article of the Law, public services include production and transmission of programmes intended for different groups in society, free of discrimination, particularly taking into account specific societal groups such as children and the young, members of minority nations and other minority communities, persons with disabilities, socially and health disadvantaged groups, etc.; production and transmission of programmes expressing **Montenegrin national and cultural identity, and**

131 The Public Service Broadcaster (Radio Television Montenegro) is producing and broadcasting a series on the Roma and Egyptian communities. The activities to support publishing in Romani language are also implemented. However, the 2016 survey of the Ministry for Human and Minority Rights suggested that in 33% of households only Romani language is spoken. Almost 40% of Roma are not proficient enough in Montenegrin language. In addition, more than 45% cannot read or write Montenegrin, and 20% of those who can still face some difficulties. With respect to information, the data indicate that less than 15% of Roma are able to identify TV contents in Romani language broadcast on the national service: Strategy for Social Inclusion of Roma and Egyptians in Montenegro, p. 84 (*Ibidem*)

132 The Law also contains penalty provisions, with a fine from 1,000 to 6,000 euros that may be imposed to a legal person for the offence of publishing information and opinions contrary to the mentioned provisions of the Law. Physical persons/responsible person at the legal person may be imposed a fine from 100 to 600 euros for the same offence, and an entrepreneur may be fined in the amount of 300 to 2,000 euros.

133 Official Gazette of Montenegro 046/10 of 06 Aug2010, 040/11 of 08 Aug2011, 053/11 of 11 Nov2011, 006/13 of 31 Jan2013, 055/16 of 17 Aug2016, 092/17 of 30 Dec2017.

cultural and ethnic identity of minority nations and other minority communities; as well as production and transmission of programmes in languages of minority nations and other minority national communities within the areas where they reside.

Despite the existence of the abovementioned legal guarantees, data from the Shadow Report of the NGO Coalition led by the NGO “Young Roma” (“Mladi Romi”) indicate that around 20-25% of media reports convey negative connotations with regard to perceptions of the Roma way of life, mainly in the form of stereotypes concerning their habits and traditions. The Ministry for Human and Minority Rights survey from 2016 indicated that 84% never saw a TV programme or commercial promoting the rights of Roma, against 14% who saw such TV contents; 76% never heard a commercial or a radio show promoting the rights of Roma, against only 4% of those who did. Also, data from the survey on discrimination and ethnic distance indicate that almost one in two citizens of Montenegro has a very high degree of distance in relation to Roma and Egyptian community; on the other hand, 72.5% think that the rights of this population should be more effectively protected.¹³⁴

134 Shapes, Forms and Degree of Discrimination in Montenegro - Trends and Analysis, CEDEM, Podgorica, March 2018.
<http://www.cedem.me/en/publications/studies-and-public-politics/category/69-studije-i-javne-politike>

V Analysis of the local self-government regulations and individual documents in the municipalities covered by the project

This section presents the local regulatory framework for the social integration of Roma and Egyptians, consisting of the relevant municipal regulations and individual local self-government decisions and local action plans for the integration of Roma and Egyptians. The analysis covers the Capital City of Podgorica and the Municipalities of Herceg Novi, Tivat, Bar, Ulcinj, Niksic, Bijelo Polje and Berane. In addition to the individual documents directly addressing the exercise of rights of Roma and Egyptians and the action plans for social inclusion and integration of Roma and Egyptians,¹³⁵ the analysis to an extent covers also other aspects of operation of local self-governments, such as citizen participation in local decision-making, issues of coordination of the work of national- and local-level institutions.

The Law on Local Self-Government¹³⁶ regulates the performance - by citizens and local self-government authorities - of the local self-government functions which are of direct and common interest for the local population.¹³⁷ In the course of performing its functions, the municipality ensures equal protection of rights and statutory legal interests of the local population, legal persons and other entities, in line with the law (Article 6 paragraph 3). In addition to the Law, the operation of the municipality is regulated by the Charter and other general acts of the local self-government. Article 27 paragraph 1 items 15 and 16 provide participation of the municipality, in line with its capacities, in facilitating and improving health care, education, social and child protection, employment and other areas of interest for the local population. Municipality also exercises the rights and duties of the founder of the institutions established in the mentioned areas, in line with the law. It regulates and meets the housing needs of the persons in the state of social need and persons with disabilities, and assists the work of charities and NGOs active in these fields.

The Law also envisages some modalities of citizen participation in the performance of the functions falling within the competences of local self-government. The forms of direct citizen participation in the statement of positions and in decision-making are as follows: initiative; civil initiative; citizen meetings; referendum (at the level of the local neighbourhood or municipal), and other forms as defined in the Charter. The method and procedure for local population's participation in the statement of positions and in decision-making concerning the issues of common interest are regulated to more detail by the Charter, in line with the law (Article 158). Citizens are entitled to submit initiatives to the competent municipal authorities in the aim of consideration and decision on the specific issues of interest to the local population (159). Everyone is entitled to file a civil complaint or a petition to local self-government authorities, as well as to ask from them information from their purview. Citizens are also entitled to launch civil initiatives to propose adoption or amendments to documents governing major issues form the scope of competences of local self-government.

Pursuant to Article 166 of the Law, the Local Council – aiming at local population participation in making the decisions of direct and common interest – issues a specific decision on the method

¹³⁵ Municipalities of Tivat, Bijelo Polje and Niksic have local action plans; Herceg Novi, Berane, Bar and Ulcinj do not have them, while Podgorica has a local action plan for social inclusion which covers the vulnerable groups of population.

¹³⁶ Official Gazette of MNE 2/2018.

¹³⁷ The municipality performs the functions devolved by law or delegated by Government regulation (Article 4 of the LLSG).

and procedure of participation in the performance of public affairs.¹³⁸ The Decision on citizen participation in the performance of public affairs refers in particular to the affairs concerning:

1. Access to information on the activities being planned and to be implemented in the municipality during the year (approval of draft municipal plans and programmes in specific fields, urban planning projects, budget and general acts regulating citizens' rights and obligations) for citizens, legal and physical persons, NGOs and other stakeholders;
2. Publication of public consultations' schedule or other forms of citizen participation in decision-making, draft plans and programmes, urban planning projects, budget and general acts regulating citizens' rights and obligations, in such a manner to make them available to all participants in the public consultations; public consultations' schedules per individual local neighbourhoods, addressing the needs of local population, in particular those related to housing, utilities, urban planning and environment, education, health and social welfare etc.;
3. Information on the method, deadlines, venue and time of public consultations, along with the necessary information on the subject-matter;
4. Obliging the local self-government authorities to consider all comments, proposals or suggestions resulting from the public consultations; summarise the comments and their incorporation or reasons for their rejection; draw-up report on the results of public consultations which will be submitted to the proposing entity together with draft municipal development plan and programme, budget and general acts specifying citizens' rights and obligations;
5. Public availability of documents, in particular their availability in the formats fit to be used by persons with disabilities.

Public consultation schedules in the municipalities where members of minority nations or other minority national communities represent the majority or a significant share of population also outlines the way of ensuring their participation in their respective languages.

The Law on Local Self-Government Finance¹³⁹ regulates the sources of funding, method of financial equalisation and financing of the functions of local self-governments, namely: municipalities; boroughs within the Capital City; the Capital City, and the Old Royal Capital (hereinafter: municipalities). Municipality's functions are funded from the municipal budget. In addition to the own-source revenues, municipalities are funded from the statutory shared revenues, Equalisation Fund and the national budget (Article 6).

Local self-governments assume a more significant role in the development of the social and child protection system. Article 39 of the **Law on Social and Child Protection** provides that a municipality may, in line with its financial capacity, provide social protection cash benefits such as: one-time allowance; children's allowance; subsidised utility bills payable by the companies founded by the municipality, and other social welfare cash benefits. Furthermore, Article 59 provides that a municipality may, in line with its financial capacity, provide cash benefits in the form of newborn allowance, school-kit allowance, and other cash benefits. The types of cash benefits, specific conditions, method and procedure for exercising these rights are laid down by the relevant municipal authority.¹⁴⁰

Local self-governments are also founders of diverse public institutions in the field of social and child protection, such as the Labour, Youth and Social Welfare Secretariat - the local administration

¹³⁸ The Decision regulates the following: forms (survey, media plans, notice boards, complaint boxes, websites, helplines, workshops in local neighbourhoods, visiting lecturers, expert gatherings and roundtables etc.), entities, procedures, deadlines and methods of local population participation in the performance of public affairs, report on the success of the procedure and other issues of relevance for local population activities in decision-making.

¹³⁹ Official Gazette of MNE 3/2019.

¹⁴⁰ Within the 2010 project Reform of the social and child protection system: enhancing social inclusion, in cooperation with the UNDP Office in Podgorica, local plans for development of social inclusion were adopted in the following municipalities: Podgorica, Cetinje, Berane, Plav, Bijelo Polje, Bar, Niksic, Savnik, Pluzine and Mojkovac. Similar plans were developed in the municipalities of Ulcinj, Pljevlja, Tivat, Budva and Kotor, with all local self-governments planned to adopt social inclusion plans. The plans provide a clear picture of the local populations' needs for various types of social services and a sound basis for further activities towards their establishment.

authority responsible for social welfare which plans and secures the funds for several activities in the field of social and child protection, or the Social Affairs Secretariat, which usually performs activities related to social inclusion and citizen participation in the performance of affairs of the public interest.

The level of services varies across municipalities; it is evident that the Capital City of Podgorica has the relatively most developed system, which includes the right to a free meal (the Capital City provides 600 meals a day at the soup kitchen at Konik; this project is allocated €550,000 each year).¹⁴¹

The analysis of the individual municipal documents results in the following categorisation of the services that are generally available to the Roma and Egyptian population:

- Right to one-time cash benefit;
- Right to in-kind support (food, clothes, heating etc.);
- Right to a newborn-kit;¹⁴²
- School-kits for primary school students;
- Right to free leisure and recreation for children (summer holiday) which includes sports and recreation, culture and entertainment and educational activities for children younger than 15;
- Assisted housing for young care leavers-former residents of the Children's Home "Mladost" in Bijela, as another social and child protection service, implemented through the Labour, Youth and Social Welfare Secretariat in partnership with the Public Institution Centre for Social Work and NGO Centre for Child Rights;
- Shelter for the homeless (only at the Capital City, launched in May 2017 in Vardarska Street at Konik, but discontinued due to the small number of beneficiaries);¹⁴³
- Domestic violence protection services (SOS helpline for women and children victims of violence).

141 Significant share of beneficiaries come from the ranks of Roma and Egyptians; however, as previously noted, the social protection system does not capture specific statistics on the nationality of beneficiaries.

142 The Capital City provides newborn-kits that include all the products indispensable upon leaving nursery; the amount allocated for this purpose annually is €100,000. Eligible beneficiaries are newborn babies if one or both of their parents have residence at the territory of the Capital City.

143 The shelter is situated in the vicinity of the Capital City's soup kitchen; this is important, as the beneficiaries receive lunch every day. The other two meals are provided thanks to the charitable donations of City's patrons. The shelter can host 12 (twelve) people, with a possibility to expand to host the maximum of 15 (fifteen). The facility has the total usable surface area of 110 m², with a large terrace and a garden. The Red Cross coordinates the work of the shelter.

VI Analysis of the institutional setup, focusing on the provision of social integration services

The social integration of Roma and Egyptians implies a multisectoral and multidisciplinary approach which is based on policy coordination and involvement of a number of relevant institutions.¹⁴⁴

Parliament of Montenegro

According to the Constitution of Montenegro, legislative power is exercised by the Parliament of Montenegro. It is composed of MPs, who are directly elected on the basis of universal and equal suffrage, by a secret ballot. The Parliament is unicameral, with 81 MPs. Its primary function is adoption of laws in line with the citizens' interests and needs and overseeing the work of the Government by means of the Parliamentary oversight instruments (vote of no-confidence, interpellation, Parliamentary inquiry, hearings and MP questions). The Parliament is also competent for adopting the budget and overseeing its execution.¹⁴⁵ It works in the course of regular and extraordinary sittings.

In the context of protection of rights and freedoms of minority national communities, the Parliamentary **Committee for Human Rights and Freedoms** deserves to be mentioned, as it is authorised to consider proposals for laws, other regulations and general acts and other issues pertaining to: freedoms and rights of the individual and the citizen, with particular emphasis on minority rights; implementation of ratified international documents concerning the exercise, protection and enhancement of such rights; monitoring of implementation of documents, measures and activities to enhance national, ethnic and other equality, in particular in the fields of education, health, information, social policy and employment; taking part in the alignment of legislation in this area with the European legislation, and working with the working bodies of other Parliaments and with NGOs.

Government of Montenegro

The Government is vested with the executive power in Montenegro. The Constitution grants it the power to run the country's internal and foreign policy; enforce laws, other regulations and general acts; issue decrees, decisions and other acts for the purpose of enforcing the law; enter into international agreements; propose the Development Plan and the Spatial Plan of Montenegro; propose the budget and the final budget account; propose the National Security Strategy and Defence Strategy; decide on the recognition of states and establishment of diplomatic and consular relations with other states; nominate ambassadors and heads of other diplomatic offices of Montenegro abroad, and perform other functions as stipulated in the Constitution or the law.¹⁴⁶ The Government consists of the Prime Minister, one or more Deputy Prime Ministers and Ministers. The Prime Minister represents the Government and leads its operation. The Government's term of office ends with the end of the Parliament's term of office, upon resignation, upon a vote of no-confidence or in case of failing to propose the budget by 31 March of the budget year.

State administration functions are performed by the ministries (and other administrative authorities), which propose to the Government the policy for development and protection of the rights

¹⁴⁴ In the opinion of citizens, the Ministry for Human and Minority Rights contributes the most to the fight against discrimination (41%), while the Parliament of Montenegro, as the supreme legislative body, contributes the least (22.6%), <http://www.cedem.me/en/publications/studies-and-public-politics/category/69-studije-i-javne-politike>

¹⁴⁵ Articles 80 – 94 of the Constitution of Montenegro (Official Gazette of Montenegro 1/2007 and 38/2013 - Amendments I-XVI).

¹⁴⁶ Articles 100 – 112 of the Constitution of Montenegro.

of minority nations and other minority national communities. The Government reports to the Parliament **on the development and protection of the rights of minority nations and other minority national communities** at least once a year.¹⁴⁷

Ministry for Human and Minority Rights

According to the Decree on the organisation and method of work of state administration (Article 18),¹⁴⁸ the Ministry for Human and Minority Rights carries out the administrative functions pertaining to the following: **protection of human rights and freedoms; protection against discrimination; monitoring the exercise and protection of the rights of members of minority nations and other minority national communities;** advancement of the mutual relations between members of minority nations and other minority national communities; advancement of interethnic tolerance in Montenegro, and establishment and maintenance of unimpeded contacts of members of minority nations and other minority national communities with the citizens and associations outside Montenegro with whom they share national and ethnic origin, cultural and historical heritage and religious beliefs; **gender equality; advancement of the position of Roma, Ashkalia and Egyptians and their integration in all areas of social life; drafting proposals for regulations concerning the protection of human rights and freedoms, protection against discrimination and protection of the rights of minority nations and other minority national organisations.**

According to the Rulebook on internal organisation and job classification adopted on 16 November 2017, the Ministry has nine organisational units, including the Directorate for promotion and protection of human rights and freedoms; **Directorate for promotion and protection of rights of minority nations and other minority national communities, and Department for promotion and protection of rights of Roma and Egyptians.**¹⁴⁹

Director General of the Directorate for protection and promotion of minority rights also acts as the national **coordinator** for monitoring implementation of the Strategy for Social Inclusion of Roma and Egyptians for 2016–2020. **The Committee for monitoring implementation of the Strategy** is composed of representatives of all the institutions involved in the implementation (line ministries and local self-governments)¹⁵⁰, as well as a representative of the Roma National Council and a representative of the NGOs involved in protection of Roma and Egyptians' rights. The Committee meets four times a year; it develops Annual Reports on Strategy implementation and Action Plans. Its Reports and Action Plans are considered and adopted by the Government. The Committee does not receive an allocation from the budget for its operation.

Fund for the Protection and Exercise of Minority Rights

The Fund is established by means of the decision of the Parliament for the purpose of supporting the activities of importance for the preservation and development of national i.e. ethnic specific characteristics of minority nations and other minority national communities and their members in the fields of national, cultural, linguistic and religious identity. The Fund has the capacity of a legal person and its competences and method of decision-making are outlined in its founding document. One of its chief functions is **financing and co-financing of projects/programmes of importance for the protection and exercise of minority rights.**¹⁵¹

147 Article 38 paragraph 1 of the Law on Minority Rights and Freedoms.

148 Official Gazette of Montenegro 087/18 of 31 Dec 2018.

149 The Department's job classification envisages five positions (head, independent advisor I, independent advisor II, independent advisor III and clerk).

150 Most of the members are senior or independent advisors, who have limited decision-making powers within their respective institutions.

151 In 2017 the Fund supported in total 190 projects worth €972,926.00. The distribution involved 21 projects addressing the Roma commu-

The Fund's bodies are the Managing Board and the Director. The Board is the governing body and is composed of three representatives of the Parliament, one representative of the Ministry, one representative of the higher-education institutions in Montenegro, one representative of each minority nation or other minority national community council, one independent expert involved in human and minority rights and one representative of the state administration authority responsible for the media.

Board members are elected and dismissed by the Parliament. The Fund submits its annual performance report to the Parliament, at the latest by 31 March of the current year for the previous year. The Parliament may ask for a special report on issues from the Fund's purview, if these are of relevance for the exercise of minority rights and freedoms or for implementation of the policy of minority rights in Montenegro.¹⁵²

Centre for Protection of Minority Culture

The Centre for Preservation and Development of the Cultures of National Minorities in Montenegro (CEKUM) is the institution set up by the Government of Montenegro on the basis of the law. Its aim is to promote minority rights in the field of culture and promote multiculturalism as a fundamental value of modern-day Montenegro. The Centre's primary activities concern promotion and advancement of minority nations' rights in the field of culture and of the cultural heritage of the minority nations living in Montenegro.

Roma National Council

The Roma Council in Montenegro was set up by means of the decision issued by the Ministry for Human and Minority Rights, pursuant to Article 34 of the Law on Minority Rights and Freedoms (Official Gazette of RMNE 31/06, 51/06 and 38/07 and Official Gazette of Montenegro 02/11) and the Rulebook on the form and method of record-keeping for the councils (Official Gazette of Montenegro 37/08). The role and function of the Roma Council concerns preservation and promotion of the national, cultural, religious and linguistic identity of Roma in Montenegro through cooperation with national and local institutions. The Council acts as an advisory body seeking to identify potential problems and report them to the relevant institutions and develop appropriate recommendations for better protection of the rights of members of Roma population.¹⁵³

Ministry of Labour and Social Welfare

According to the Decree on the organisation and method of work of state administration (Article 17), this Ministry carries out the administrative functions pertaining to the following: drafting regulations concerning labour relations, occupational health and safety, social and child protection, pension and disability insurance; labour market and employment; protection of Montenegrin citizens working abroad; authorisation for engaging in occupational health and safety activities, **adoption of adult education programmes and occupational standards; recognition of professional qualifications for engaging in regulated professions;** professional rehabilitation and employment of persons with disabilities; development of proposals for the annual quota of temporary residence and work permits for foreigners; recognition of international certificates in non-formal and formal education and keeping of a central register; **protection of persons with disabilities, protection of the elderly, domestic violence, protection from violence against children;** cash allowance to foreigners seeking international protection, asylum seekers and for-

nity (11 May%) with €97,400.00 (10%). The report on the Strategy for Social Inclusion of Roma and Egyptians for 2017, p. 48.

152 Articles 36a – 36s of the Law on Minority Rights and Freedoms.

153 Under the Law on Minority Rights and Freedoms, minority nations' or other minority national communities' councils are required to submit to the Ministry and to the appropriate working body of the Parliament their performance reports and financial reports for the previous year by 31 March of the current year, along with their work programmes for the next year.

esigners granted subsidiary protection; **family protection**; issuance of licences and keeping of the Register of licenced providers of social and child protection services.

The Ministry includes the **Directorate for social and child protection**, tasked with the analytics and supervision within the social and child protection system; cooperation with NGOs and local authorities, and regulation of institutions and other service providers in the field of social and child protection. The Directorate includes the **Department for protection of at-risk groups**, addressing the protection of individuals, families, children without parental care, children with special needs and adults with disabilities, juvenile offenders, children and adults victims of abuse and trafficking in human beings, children and adult users of psychoactive substances, homeless and internally displaced persons, pregnant women without family support and adequate living conditions. The Directorate also includes the **Department for social and child protection and supervision**, involved in the activities related to issuance, renewal, suspension and revocation of licences granted to institutions and other organisations in the field of social and child protection.

The Ministry includes the network of **Centres for Social Work**, which perform the functions of social and child protection at the local level (either as branch offices or as independent centres) and act as the first-instance bodies passing decisions on the entitlement to social and child protection services and basic financial support.

Employment Agency

Pursuant to the Law on Employment and Exercise of the Rights Pertaining to Unemployment Insurance, the Employment Agency has the capacity of a legal person and performs activities related to employment via its organisational units as identified in its Statute. The Employment Agency carries out the following activities:

1. Implementation of active employment policy measures;
2. Intermediary for citizens of Montenegro seeking employment abroad;
3. Implementation of other activities aimed at reducing unemployment;
4. Ensuring rights with respect to unemployment insurance;
5. Keeping records in the area of employment;
6. Research of movements on the labour market and preparing analytical and informational basis for determination of employment policy;
7. Cooperation with employers, educational institutions and other legal or natural persons in conducting employment activities.

The Agency's bodies are the Managing Board and the Director. The Board is appointed by the Government of Montenegro; it consists of five members, namely: 1) Board President and one member nominated by the state administration authority responsible for labour and employment; 2) one member nominated by the representative trade-union organisation; 3) one member nominated by the representative employers' association; 4) one member from the ranks of the Employment Agency staff, nominated by the Agency's Director.

Institute for Social and Child Protection

The Institute carries out the activities related to: advisory, research and expert assignments in the field of social and child protection; monitoring the quality of professional work and services in the social and child protection institutions; provision of expert supervisory support for the sake of advancing the professional work and services of social and child protection; licencing of professionals, in line with the law regulating social and child protection; professional and organisational

tasks in the procedure for accreditation of training programmes, i.e. service delivery programmes providing professional development to professionals and assistants and service providers; research into social phenomena and problems, development of **analyses and reports and proposing measures to improve social and child protection; development of a quality system in social and child protection, coordination of service standard development**; participation in the drafting, implementation, monitoring and evaluation of impacts of strategies, action plans, laws and other regulations related to development of social and child protection; **informing the expert and general public about the implementation of social and child protection**, highlighting the needs and problems of beneficiaries, in particular those from vulnerable social groups.¹⁵⁴

Ministry of Health

According to the Decree on the organisation and method of work of state administration (Article 10), the Ministry of Health carries out the administrative functions pertaining to the following: development and monitoring of regulations and monitoring the situation in the health care and health insurance system; monitoring and analysis of the key indicators of the health status of the population; **health care for the particularly sensitive and vulnerable groups of population; organisation, implementation and provision of health care, quality of health care and health services; monitoring and improvement of health status and health requirements of the population**; strengthening of public health; development of the plan of programmatic and project activities in the field of programmatic health care; cooperation with other institutions and organisations in the country and abroad, in the field of health care and health insurance; identification of requirements for establishment of health institutions; professional development and specialisation of health professionals and assistants; keeping of data sets, health records and specific registers; promotion of healthy lifestyles; cooperation with the NGOs implementing health care programmes, and harmonisation of national regulations from its purview with the EU's *acquis communautaire*.

Ministry of Education

According to the Decree on the organisation and method of work of state administration (Article 10), the Ministry of Education carries out the functions pertaining to: design, establishment and development of the educational system; requirements for establishment, operation and licencing of institutions in the field of education; organisation of work of educational institutions; regulations and standards concerning the financing of educational institutions; recognition of international educational certificates of completion of primary, secondary and higher education; adoption i.e. approval of the educational programmes for pre-school, primary, secondary, vocational education, education of children with special educational needs and adult education; admission policy of public higher-education institutions; publication of textbooks and textbook literature; supervision over the legality of work of institutions in the field of education; **implementation of educational-cultural activity of members of minority nations and other minority national communities living in Montenegro**; development and implementation of the National Qualifications Framework and alignment with the European Qualifications Framework, and implementation of international cooperation in education.

Ministry of Culture

Pursuant to Article 16 of the Decree on the organisation and method of work of state administration, the Ministry of Culture carries out the administrative functions pertaining to: development of cultural and artistic production; protection, preservation, valorisation and presentation of cultural

¹⁵⁴ Article 47 of the Decree on the organisation and method of work of state administration.

heritage; development of creative industries; realisation of public interest in culture; drafting of proposals for laws, other regulations and general acts from the field of culture; issuance of opinions to proposals for laws and other regulations governing issues related to culture; development and implementation of culture development strategies programmes; fostering the work of professional associations from the field of culture; drafting proposals for legislation on the media and cultural heritage; second-instance proceedings and supervision in the field of cultural heritage; media and broadcasting system; information via the press, television, radio and other media; **exercise of the guaranteed rights of citizens to information via programme contents of relevance for the development of science, education and culture, and in particular information of members of minority nations and other minority national communities.**

Ministry of Interior

The Ministry of Interior carries out the administrative functions pertaining to: monitoring the status and strategic planning in the fields of fighting crime, public order, road safety, and other areas of relevance for police work and operation; granting international and temporary protection to foreigners; keeping the register of residences; work and temporary stay of foreigners in Montenegro; **reception and accommodation of foreigners seeking international protection at the Reception Centre or alternative accommodation facility**; accommodation of foreigners granted asylum or subsidiary protection and assistance with integration into the society; **coordination in the exercise of the statutory rights of foreigners granted asylum or subsidiary protection; support to inclusion in the social, economic and cultural life**; implementation of national, regional and international documents addressing the issues of refugees; assistance to Montenegrin citizens returning to Montenegro with the exercise of their rights; harmonisation of regulations from its purview with the EU *acquis communautaire* (Article 4 of the Decree on the organisation and method of work of state administration).

Office for fight against trafficking in human beings

The **National Office for fight against trafficking in human beings** is an organisational unit within the Ministry of Interior. It is led by the **National Coordinator/Head of the National Office**, who runs the **Working Group for monitoring implementation of the Strategy for fighting trafficking in human beings and the individual Action Plans**. The National Office is tasked with: proposing activities of relevant state administration authorities, international and non-governmental organisations; cooperating with national and international entities in the fight against trafficking in human beings; monitoring implementation of international anti-trafficking regulations, conventions and agreements, and launching initiatives for harmonisation of national legislation with international standards.

The Police Directorate of Montenegro (Crime Police Department) set up the **Division for suppression of trafficking, smuggling and illegal migration**, which is responsible for monitoring these issues, studying crime trends and solving the criminal offences related to trafficking and illegal migration, in cooperation with the relevant prosecution offices and other state administration authorities.

Ministry of Sports and Youth

Under Article 19 of the Decree on organisation and method of work of state administration, the Ministry of Sports and Youth carries out the administrative functions pertaining to: monitoring and assessing the situation in the field of sports; drafting of development strategies and other policy actions in the field of top-class, recreational, children's, school and university sports; promotion

of Montenegro through sports activities; upgrade and implementation of the Sports Development Strategy; launching and implementing measures to improve the status in the field of sports; development of top-class sports; fostering and promoting sports among children, students and persons with disabilities; designing and upgrading youth policy; adoption of youth strategy and action plans and programmes; creation and improvement of conditions for the work of youth services and fostering proactive participation of youth in designing and implementing youth policy.

The Protector of Human Rights and Freedoms of Montenegro (Ombudsman)

The Ombudsman Office is an independent and autonomous institution undertaking measures to protect human rights and freedoms in case of infringement by an act, action or omission of state authorities, state administration authorities, local self-government and local administration authorities, public services and other holders of public powers, and measures for prevention of torture and other forms of inhuman or degrading treatment and punishment, and anti-discrimination measures.¹⁵⁵

The Ombudsman has deputies for four areas. The institution includes the Ombudsman Service, which performs the professional-research, administrative-technical and auxiliary tasks for the Ombudsman as a single organisational unit.

According to the Law on Prohibition of Discrimination, the Ombudsman is the institutional mechanism for protection against discrimination; it is, *inter alia*, responsible for handling the complaints concerning discriminatory actions of authorities, companies, other legal persons, entrepreneurs and physical persons, and for undertaking measures and actions to eliminate discrimination and protect the right of the discriminated party, unless court proceedings have been launched. According to the Ombudsman Report for 2017, this institution received 128 discrimination-related complaints.

Courts and Prosecution Service

In line with the principle of division of powers, the judiciary power in Montenegro is exercised by independent and autonomous courts adjudicating on the basis of the Constitution, laws and ratified and published international treaties (Article 118, paragraphs 1 and 2 of the Constitution of Montenegro). Courts adjudicate in panels, unless the law stipulates adjudication by a single judge. The Supreme Court is the top court in the country, ensuring uniform application of the law by the lower-instance courts.

Pursuant to Article 134 of the Constitution of Montenegro, the State Prosecution Service is a single and autonomous state authority responsible for prosecuting the perpetrators of criminal offences and other punishable offences that are prosecuted *ex officio*. Prosecution of perpetrators of criminal offences is the responsibility of Basic and High Prosecution Offices, whereas the Special Prosecution Office is responsible for prosecuting the criminal offences committed in an organised manner. The state prosecution offices are run by their respective heads, while the Special Prosecution Office is run by the Chief Special Prosecutor. By issuing binding orders or by taking direct leadership, relevant prosecutors steer the work of the police and other administrative authorities.

¹⁵⁵ The institution of the Protector of Human Rights and Freedoms of Montenegro was set up under the Law on the Protector of Human Rights and Freedoms, adopted on 10 July 2003. The Protector performs its chief function on the basis of the Constitution and the law and upholds the principles of justice and fairness in its operation.

VII Implementation of regulations in practice

Although Montenegro has a good legal and institutional framework in the field of social integration of Roma and Egyptians, the same cannot be said of its implementation in practice. **Practical implementation of endorsed standards is at a low level, which is a concern.** That has a direct impact on the quality of life of Roma and Egyptians, who are faced with extreme poverty and social marginalisation.

In order to verify how the current regulations and strategic documents are being implemented, what kind of coordination is in place among competent institution and how they cooperate with the civil sector, we conducted field research which included 8 site visits and 8 group interviews with the representatives of local self-governments and national institutions. The field research covered the following municipalities: Podgorica, Niksic, Herceg Novi, Tivat, Bar, Ulcinj, Bijelo Polje and Berane.

In the field research, we used two questionnaires that covered the following issues: civil status; education; employment; health care; housing; social protection; culture, identity and information. The first conclusion resulting from the research refers to the lack of precise and clear data and records, which hampers analysis and assessment of the implementation of adopted standards and regulations. Most data are included in the reports of the Ministry for Human and Minority Rights; on the other hand, a significant number of local civil servants are not familiar with the data, situation on site or policies being implemented in practice. Such a situation leaves room for errors in the presentation of the typology of existing services, since it was simply not possible to obtain reliable data in the course of this analysis.

There are no local-level offices or civil servants addressing solely Roma and Egyptian issues. That is typically the task of the municipal secretariats for social activities, assigned to them on top of the large number of different areas that they normally cover. Thus, RE issues usually do not get prioritised over their core functions.

In addition to the structural shortcomings, there are gaps also in the strategic approach. The regulatory framework is inadequate: local action plans are set too ambitiously, with unrealistic projections, mainly designed with the involvement of “experts” and with little involvement of the target group itself, without clear timelines or sufficient funding for implementation. The issues and problems of Roma and Egyptians are mainly addressed through NGO projects and activities of ministries of international donors; rarely and to a small extent with the use of municipal funds. There are some partial steps forward with regard to the decisions that fall within the competences of municipalities and refer to access to local infrastructure (asphalt paving of roads, lighting, fences etc.), but addressing these issues is sporadic and not always clearly prioritised, as we witnessed several instances where longstanding problems were not being addressed at all or only very slowly.

A major problem is lack of organisation of the RE communities; they often have strong leaders, who, however, lack professional and personal capacities to assess the situation and needs of the population /beneficiaries, and the capacity or will to help the communities organise in order to ensure authentic representation of their interests and enable joint implementation of at least some activities.

a) Housing

With regard to housing, the biggest progress is reflected in the results of the Regional Housing Programme. The Ministry for Human and Minority Rights report notes that the Regional Housing

Programme for Montenegro envisages funding for the purpose of solving the housing status of 6,063 people from the most vulnerable categories, with particular focus on the Konik Camp. The Programme is implemented in the following municipalities: Berane, Andrijevica, Podgorica, Ulcinj, Niksic, Budva, Rozaje, Plav, Herceg Novi, Bar, Danilovgrad, Tivat and Pljevlja. The same report also notes the plan to build, within this programme, 907 residential units, deliver construction material for 120 residential units, build 50 homes, provide 62 places at the Home for the Elderly in Pljevlja, purchase flats in the Municipality of Herceg Novi, and the possibility for of project expansion to other coastal municipalities, reconstruction of existing military facilities of Trebjesa Military Complex to build a home for the elderly and adults with disabilities in the Municipality of Niksic.

On the other hand, local self-governments tend to lack the resources and capacities to build and manage social housing systems. Social housing programmes have not been adopted in the following municipalities: Podgorica, Ulcinj, Bar, Herceg Novi and Bijelo Polje. Niksic is working on the annual social housing plans, while Berane and Tivat already have social housing programmes. When building social housing blocks, local self-governments, mainly in partnership with international organisations, allocate land plots and pass decisions waving the cost related to connections to infrastructure and utilities. Lack of precise data on the number of social housing units, lack of funding for their construction and poor oversight policy also represent a problem. The beneficiaries from the RE community often are unable to maintain such units or pay the bills for electricity, water and other utilities.

The table below shows the housing services available:

Services/activities	PG	NK	BA	HN	BP	TV	BAR	UL
1. Monitoring and assessment of the housing needs of Roma and Egyptians	Green	Green	Green	Yellow	Green	Green	Yellow	Yellow
2. Provision of legal (administrative) support to accessing the right to public housing (flats to use)	Green	Green	Green	Green	Green	Green	Green	Green
3. Allocation of social housing flats and help with maintenance and repair	Green	Green	Green	Green	Red	Green	Red	Red
4. Ad hoc assistance in emergency (fire, flooding)	Green	Green	Green	Green	Green	Green	Green	Green
5. Alternative accommodation	Green	Green	Green	Green	Green	Green	Green	Green
6. Construction of social housing flats	Green	Green	Green	Red	Red	Green	Red	Red

Key: green- available; yellow-partially available; red-not available.

Recommendations:

- Social housing flats need to be built in all the municipalities with RE population commensurate to the identified needs; distribution should be arranged in line with objective and transparent procedures;
- Put in place the preconditions for, i.e. identify the appropriate model for the maintenance of such flats.

b) Education

The Report on monitoring implementation of the Strategy notes 191 children from RE communities enrolled in pre-school education in the academic year of 2018/19, along with 1,793 RE primary school students. The Report also notes that the Ministry of Education provided transport for more than 400 RE students attending the primary schools in Podgorica.

The most significant results in the social inclusion of Roma and Egyptians have been achieved in education. We recorded 21 services available in practice in this field. The one that has particular importance is introduction of Roma and Egyptian Social Inclusion Mediators in education. Another important service and form of support is the scholarship scheme for RE secondary-school and university students. As for parental education programmes, on the occasion of the 2018 International Literacy Day, the Centre for Vocational Education organised the workshop on the importance of literacy for personal, social and economic empowerment of individuals, families and communities for the Roma and Egyptian population at Konik, which was attended by 20 Roma women.

Absence of services in each municipality remains the biggest problem, along with the limited number of beneficiaries and the number and qualifications of mediators not matching the actual needs. At this level of social integration of Roma and Egyptians in the education system, particular attention needs to be devoted to the quality of education acquired by the children in schools. It is therefore very important to re-establish tutoring and mentoring schemes for students.

The table below shows the education services available:

Services/activities	PG	NK	BA	HN	BP	TV	BAR	UL
1. RE social inclusion mediators	Green	Green	Green	Green	Green	Green	Red	Green
2. Free-of-charge textbooks	Green	Green	Green	Green	Green	Green	Green	Green
3. Extra points awarded for primary school grades to facilitate progression to secondary schools	Green	Green	Green	Green	Green	Green	Green	Green
4. Scholarships for secondary school students	Green	Green	Green	Green	Green	Green	Green	Green
5. Campaign to foster enrolment in secondary schools, with particular emphasis on girls and their parents	Green	Green	Green	Green	Red	Red	Green	Red
6. Scholarships for university students	Green	Green	Green	Green	Green	Green	Green	Green
7. Free-of-charge places in student residences	Green	Green	Green	Green	Green	Green	Green	Green
8. Free-of-charge kindergarten and meals	Green	Green	Green	Green	Green	Green	Green	Green
9. Preparatory kindergarten programme	Green	Green	Green	Green	Green	Green	Green	Yellow
10. Informing parents about the option to enrol children in the schools where teaching is organised in Albanian language	Green	Green	Green	Green	Red	Red	Green	Red
11. Free-of-charge summer/winter holidays	Green	Green	Green	Green	Green	Green	Green	Green
12. Parental education and training	Green	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
13. Multidisciplinary cooperation on the issue of drop-out	Green	Green	Green	Red	Red	Red	Red	Red
14. Free-of-charge transport	Green	Yellow	Yellow	Green	Green	Green	Green	Red
15. Tuition waiver for first-year RE university students	Green	Green	Green	Green	Green	Green	Green	Green

16. Waiver of the fee attached to the final exam for completion of the fourth grade of secondary school for external students (outside the normal course)	Green	Green	Green	Green	Green	Green	Green	Green
17. Campaign to foster enrolment in kindergartens	Green	Green	Green	Green	Red	Red	Green	Red
18. Campaign to foster enrolment in primary schools	Green	Green	Green	Green	Red	Red	Green	Red
19. Campaign to foster enrolment in secondary schools	Green	Green	Green	Green	Red	Red	Green	Red
20. Campaigns and on-site activities to motivate RE parents to take a more active role in their children's education	Green	Green	Green	Green	Red	Red	Green	Red
21. Literacy and basic education programme for adult Roma and Egyptians	Green	Green	Green	Green	Red	Red	Red	Red

Key: green- available; yellow-partially available; red-not available.

Recommendations:

- Set up adequate databases of the children not included in the education system (i.e. conduct an assessment and identify the number of pre-school and school-age children and use those data as a baseline for measuring progress in inclusion in education);
- Ensure services in all the municipalities with RE population, such as free transport, multidisciplinary drop-out teams, teaching assistants, enrolment campaigns;
- Licencing of secondary schools to train teaching assistants and mediators;
- Enable the adults and children in the readmission process to complete primary education outside the normal course;
- Greater pre-school coverage and expanded kindergarten capacities;
- Set up the mechanisms to assess achievement and improve the quality of education;
- Introduce tutors and other forms of learning assistance provided outside schools;

c) Health care

On the face of it, free-of-charge health care is available to a large number of categories of population. Thus, it is available to the socially vulnerable, unemployed, children, students, pregnant women and people older than 65. Members of RE population who have the status of displaced persons, refugees and asylum seekers are provided the same services as any other health care beneficiary. The Report on implementation of the Strategy for 2018 notes, on the basis of 2018 CEDEM survey, that 95% of domicile Roma and Egyptians and more than 75% of those with regulated status possess health-cards.

Introduction of Roma and Egyptian social inclusion mediators in health is also a positive development. The problem that remains, however, is that this position is limited and has not been introduced in all the municipalities where Roma and Egyptians reside. Mediators have been recruited in Podgorica, Berane and Niksic.

Immunisation is implemented by general practice doctors and during visits to settlements. Our researchers were told that 34 workshops had been organised in 2018 for the Roma and Egyptian population on prevention and health awareness, as well as workshops on healthy lifestyles, prevention and health protection. There are workshops on prevention of early marriage and leaflets with information on health-related activities. Preventive medical check-ups for RE women were

organised in 2018 in Podgorica, Tivat, Bijelo Polje, Niksic and Berane. The problem that remains is absence of such activities in a larger number of municipalities.

The table below shows the health care services available:

Services/activities	PG	NK	BA	HN	BP	TV	BAR	UL
1. RE social inclusion mediator	Green	Green	Red	Red	Red	Red	Red	Red
2. Free health care – children, pregnant women, elderly, persons with disabilities	Green	Green	Green	Green	Green	Green	Green	Green
3. Health care provided to beneficiaries of cash benefit- MOP, personal disability allowance, care-and-support allowance and accommodation services.	Green	Green	Green	Green	Green	Green	Green	Green
4. Educating and informing RE on the importance of prevention and health protection	Green	Green	Green	Green	Green	Green	Green	Green
5. Preventive health check-ups of pregnant women and specialist cancer screening, in particular for girls and their parents	Green	Green	Green	Green	Green	Green	Red	Red
6. Vaccination in Roma and Egyptian settlements	Green	Green	Green	Green	Green	Green	Green	Green
7. Members of RE population who have not regulated their civil status with regard to health care equalized, in the regulatory sense, with other health insurance beneficiaries	Green	Green	Green	Green	Green	Green	Green	Green
8. Persons not covered with health insurance acquire insurance upon registration with the Health Fund, which requires an application and an ID	Green	Green	Green	Green	Green	Green	Green	Green
9. Under the law, access to health care is granted also to RE who have the status of displaced persons, refugees or asylum seekers	Green	Green	Green	Green	Green	Green	Green	Green

Key: Green- available; yellow-partially available; red-not available.

Recommendations:

- Introduce social inclusion mediators in the field of health care in all the municipalities that have RE population;
- Access to preventive check-ups should be provided to all members of RE population, with particular emphasis on women and girls, and a mechanism set up to collect data on attendance of such check-ups.
- Improve the records on the access of RE population to secondary and tertiary levels of health care and to the forms of health care available through the system of private health institutions, in line with the law.

d) Employment

Members of Roma and Egyptian population usually engage in menial and temporary labour, often without legal protection. Most of them are also faced with numerous barriers to starting their own businesses. The Employment Agency records typically include 800-1,000 unemployed RE.

There is regular information and motivation efforts by the Employment Agency staff, via direct communication or the media. Projects in Niksic and Podgorica hired social inclusion mediators for employment. In 2018, active employment policy measures involved 72 RE population members formerly registered as unemployed.

The table below shows the employment services available:

Services/activities	PG	NK	BA	HN	BP	TV	BAR	UL
1. Special protection granted to working women during pregnancy and delivery, maternity leave and care for the child	Green	Green	Green	Green	Green	Green	Green	Green
2. Information provided on employment opportunities and terms	Green	Green	Green	Green	Green	Green	Green	Green
3. Intermediaries in employment/ development of individual employment plans, mediation, incentivising employers to hire RE	Green	Green	Green	Green	Green	Green	Green	Green
4. Carer advice and guidance	Green	Green	Green	Green	Green	Green	Green	Green
5. RE social inclusion mediators in the field of employment	Green	Green	Red	Red	Red	Red	Red	Red
6. Financing of trainees	Red	Green	Red	Green	Red	Red	Red	Green
7. Support to self-employment	Red	Red	Red	Red	Red	Red	Red	Red
8. Adult education and training/re-training, further training	Green	Green	Green	Green	Green	Green	Green	Green
9. Professional rehabilitation of persons with disabilities	Green	Green	Green	Green	Green	Green	Green	Green
10. Incentivising seasonal jobs	Green	Green	Green	Green	Green	Green	Green	Green
11. Scholarship schemes	Red	Red	Red	Green	Red	Red	Red	Red
12. Public works programme	Green	Green	Green	Green	Green	Green	Green	Green
13. Training for placement with a specific employer	Red	Red	Red	Red	Red	Red	Red	Red
14. Seasonal jobs	Green	Green	Green	Green	Green	Green	Green	Green

Key: green- available; yellow-partially available; red-not available.

Recommendations:

- Introduce social inclusion mediators in the municipalities with significant RE population;
- More information about employment opportunities for those not registered with the Employment Offices;
- Introduce new programmes tailor-made for RE to upgrade their qualifications and skills;
- Improve multisectoral cooperation and data exchange, in particular between Centres for Social Work and Employment Offices;
- Introduce measures to legalise informal employment;
- Scholarships for RE training for high-demand occupations;
- Improve the self-employment system for RE;
- Introduce systemic support to female entrepreneurship;
- Finance trainees after they complete secondary education.

e) Civil status

Services related to civil status regulation are provided mainly by the UNHCR and Ministry of Interior. Local self-governments do not possess a significant level of such services. Their activities tend to refer to: supporting the NGOs involved in civil status regulation, which is the case in Berane, for instance; provision of free legal aid through the appropriate office within the Secretariat for Local Self-Government; organisation of information campaigns and support to collection and submission of documents required for status regulation, and support to persons at risk of statelessness. Discussions with local self-government representatives and other local staff give rise to the conclusion that they are not familiar with the data and records on the number of persons without documents or at risk of statelessness. The following services are available at the local level, mainly provided by the UNHCR and other national institutions: organisation of info-meetings and community meetings on the conditions and method of status regulation; organisation of local campaigns on the obligation, deadlines, conditions and advantages of birth registration; support to collection and submission of documents required for status regulation; support to persons at risk of statelessness, and procedures for subsequent birth registration.

In the course of education/campaigns organised in 2018 in Ulcinj, Bar, Berane, Bijelo Polje, Pljevlja, Podgorica, Herceg Novi, Tivat, Kotor, Budva, Cetinje and Niksic, the Ministry for Human and Minority Rights presented to members of Roma and Egyptian population the options for status regulation available to domicile population and birth registration. Mixed mobile biometric teams of the Ministry of Interior of Montenegro, Agency for Civil Registration of Kosovo, UNHCR and NGO Legal Centre provided strong legal and practical assistance in 2018 to the IDPs from Kosovo residing in Montenegro. With the help of the UNHCR and OSCE, 20 visits of the Kosovo Ministry of Interior mobile teams took place in 2018, involving around 1,350 persons.

The table below shows the services available in relation to civil status:

Servisi/aktivnosti	PG	NK	BA	HN	BP	TV	BAR	UL
1. Organisation of info-meetings and community meetings on the conditions and methods of status regulation								
2. Organisation of local campaigns on the obligation, deadlines, conditions and advantages of timely birth registration								
3. Support to collection and submission of documents required for status regulation and support to those at risk of statelessness								
4. Procedures for subsequent birth registration								

Key: green- available; yellow-partially available; red-not available.

Recommendations:

- Precise data are needed on the number of persons without documents and at risk of statelessness;
- Establish regular record-keeping on the number of RE in the territory of Montenegro, in particular given frequent migrations.

f) Social status and family protection

National institutions implemented activities aimed at prevention of forced marriages in 2018. Such activities involved as partners the NGOs addressing the rights of Roma and Egyptians. The Report on implementation of the Strategy for 2018 states that the Supreme State Prosecutor and Head of Police Directorate issued the decision on 06 June 2018 setting up the Anti-Trafficking Task Force, composed of top representatives of the High Prosecution Offices from Podgorica and Bijelo Polje, representatives of Police Directorate, National Anti-Trafficking Coordinator, and other representatives of the Ministry of Interior. At the operational level, a special organisational unit was set up within the Police Directorate, namely the Division for suppression of trafficking, smuggling and illegal migration, within the Crime Police Department. The mentioned Report notes that this increased the number of staff members (8) compared to the previous period.

Activities aimed at protection from domestic violence also took place. Campaigns and awareness-raising took place in Ulcinj, Bar, Berane, Bijelo Polje, Pljevlja, Podgorica, Herceg Novi, Tivat, Kotor, Budva, Cetinje, and Niksic. Flyers were disseminated during such visits.

Action Plans for social integration of Roma and Egyptians were adopted in Tivat, Niksic and Bijelo Polje; the other towns mainly set up teams tasked with drafting local action plans.

Awareness-raising on anti-discrimination took place in Roma and Egyptian community in 2018, with special emphasis on youth and women in Tivat, Niksic and Podgorica. The workshops involved some 60 participants.

The Ministry for Human and Minority Rights funded implementation of 10 projects in 2018; one of the projects titled "Social and cultural inclusion of RE population in Niksic" was originally submitted by the NGO "RAE" Niksic.

The table below shows the services available in the field of social status and family protection:

Services/activities	PG	NK	BA	HN	BP	TV	BAR	UL
1) Cash benefit-MOP;								
2) Personal disability allowance;								
3) Care and support allowance;								
4) Provision of health care;								
5) Reimbursement of funeral costs;								
6) One-time cash allowance;								
7) In-kind assistance- food, clothes, hygiene products, heating etc;								
8) Benefit for a parent or guardian who is beneficiary of the right to personal disability allowance;								
9) Newborn allowance/newborn kits;								
10) Reimbursement of salary during maternity/parental leave;								
11) Costs attached to assistance in educating children and youth with special needs (e.g. cash allowance for purchase of textbooks and school-kits);								

12) Free meals (through the services of the soup kitchens);	Green	Red	Red	Red	Red	Red	Red	Red
13) Provision of public housing	Green	Yellow	Red	Green	Red	Green	Red	Red
14) Assessment and planning;	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
15) Personal assistance, home assistance;	Green	Green	Green	Green	Green	Green	Green	Green
16) Support to living in the community (for adults with disabilities and children and youth without parental care who are about to leave school);	Green	Green	Green	Green	Green	Green	Green	Green
17) Counselling-therapy and social-educational services (learning assistance, mediation, local SOS helpline for women and children victims of violence);	Green	Green	Green	Green	Green	Green	Green	Green
18) Emergency intervention;	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
19) Free summer/winter holiday for the beneficiaries of social and child protection at relevant facilities for leisure-recreation;	Green	Green	Green	Green	Green	Green	Green	Green
20) Day centres for support to at-risk children;	Red	Red	Red	Red	Red	Red	Red	Red
21) Day-care for children with physical and mental disabilities;	Green	Green	Green	Green	Green	Green	Green	Green
22) Day centres and clubs for the elderly;	Green	Green	Green	Green	Green	Green	Green	Green
23) Family placement (in addition to kinship foster care, which is present in most LSGs)	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
24) Specialised foster care for children and youth with behavioural disorders;	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
25) Centres for support to users of psychoactive substances;	Green	Red	Red	Red	Red	Green	Red	Red
26) Placement in social welfare institutions (service implies family placement/foster care or residence at a social welfare institution such as home for the elderly)	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
27) Temporary accommodation and shelter placement (shelter for the homeless);	Green	Red	Red	Red	Red	Red	Red	Red
28) Shelter for victims of trafficking in human beings;	Green	Red	Red	Red	Red	Red	Red	Red
29) Shelter for reception and accommodation of women and children victims of domestic violence;	Green	Green	Red	Green	Red	Red	Red	Red
30) Local teams for prevention of forced marriages.	Red	Red	Red	Red	Red	Green	Red	Red

Key: green- available; yellow-partially available; red-not available.

Recommendations:

- Set up a database disaggregated by nationality/ethnicity and sex/gender;
- Launch a soup kitchen/provide free meals in the municipalities with large numbers of materially deprived RE;
- Enable RE to apply for social housing flats in all the municipalities where they reside and provide legal and administrative support in the course of application;
- Set up assessment and planning of housing needs and activities all the municipalities where RE reside;
- Open day centres for support to at-risk children in major municipalities with significant shares of RE population, i.e. with recorded higher incidence of child begging and reported forced marriages;
- Consider the feasibility of a shelter (for the elderly or victims of trafficking in human beings or victims of domestic violence) in one or more municipalities with RE population (to work as regional reception centres);
- Set up teams for prevention of forced marriages all the municipalities where RE reside; secure adequate resources and expert assistance for their operation in order to facilitate gradual development of capacities to take action in such cases.

g) Culture, identity and information

Activities and programmes that would best portray RE culture and identity have still not been designed. Information in Romani language has still not been arranged in all of the towns where RE reside. A considerable number of activities has been organised under different projects. The Centre for Minority Culture, together with NGOs, implemented activities aimed at preservation of tradition and Roma celebrations. Within the competition for co-financing of programmes and projects in 2019, the Ministry of Culture supported the project of Handicraft Association “Plamen” Podgorica – St. George’s Days of Culture 2019 with EUR1,000.

The Public Service Broadcaster RTCG regularly airs TV and radio contents in Romani language.

The table below shows the services available in the field of culture, identity and information:

Services/activities	PG	NK	BA	HN	BP	TV	BAR	UL
1. Events dedicated to Roma culture and identity	Green	Red	Green	Green	Green	Green	Red	Red
2. Project co-financing	Green	Red	Green	Red	Red	Red	Red	Red
3. Production and broadcasting of radio and TV shows in Romani language	Green	Red	Green	Green	Red	Green	Red	Red
4. Support to active participation of Roma organisations and individuals in arts-and-culture events	Green	Green	Green	Red	Red	Green	Red	Red
5. Publishing in/translation to Romani language	Green	Green	Green	Green	Green	Green	Green	Green
6. Support to establishment of Roma cultural associations at the territory of the municipality	Yellow	Yellow	Green	Yellow	Yellow	Yellow	Yellow	Yellow

Key: green- available; yellow-partially available; red-not available.

Recommendations:

- Improve the mechanisms for protection of Roma and Egyptian identity and culture;
- Improve communication and information of RE by launching a local self-government office/bureau/representative to engage in RE information;
- Provide co-financing for projects in these fields from the municipal budget;
- Introduce, on local broadcaster services, programmes on Roma and Egyptian culture and tradition in Romani language.

VIII Overview of findings and recommendations

- Overall strategic/legal framework and institutional setup

Montenegro has in place a **comprehensive constitutional-legal framework for protection against discrimination**, which, in some elements, goes even beyond the scope of protection laid down in the relevant EU directives, and is elaborated to detail in the general Law on Protection against Discrimination and the set of laws which include anti-discrimination clauses concerning education, labour, social protection, health care and housing. In line with the principle of affirmative action, numerous provisions have been adopted to overcome the legal barriers which used to restrict access to these rights in the past. However, effective and practical implementation that the European Court of Human Rights insists upon remains a challenge. **The case-law on the protection of Roma and Egyptians from discrimination still needs to be established**; courts and other competent authorities need to provide valid interpretation of the prohibited grounds for discrimination and contribute to implementation of laws by additionally shaping the legal scene in Montenegro and ensuring a “pragmatic approach” to reducing discrimination, which the EU insists upon.

The improvement in strategic planning and needs identification is noticeable, but full implementation of the principle of “clear targeting” as defined in the EU Framework for National Roma Integration Strategies up to 2020 is still lacking. Social inclusion has been recognised as a priority across the strategic documents concerning access to human rights. The 2016-2020 strategic framework for the social inclusion of Roma and Egyptians was drafted in line with the EU strategic framework by 2020 and identifies all the relevant objectives and measures for greater impact of social inclusion of the Roma and Egyptian communities. Still, policy measures addressed mainly the IDP Roma and Egyptians, which generated and deepened the **“gap” between the domicile and the IDP populations**. We wish to note that, if the official anti-discrimination measures are not balanced enough, they may antagonise the majority population towards the minority or generate antagonism within the community itself, as a latent source of discrimination and auto-chauvinism.

Strong institutional mechanisms for protection from discrimination and implementation of the social inclusion policy have been set up at both national and local levels. There are **evident steps forward in terms of cooperation with international organisations and the Roma civil sector**. The standard of reporting on social inclusion has been raised and reporting frequency increased, along with the practice of surveys on the economic-social position of Roma and Egyptians, used largely to define and monitor social inclusion measures and assess results. However, there is the **evident need for the relevant institutions to align their data collection and processing methodologies**, in line with the Law on Prohibition of Discrimination. The Law requires all state authorities to keep electronic records on cases of discrimination and share data with the Ombudsman Office, in line with the General Policy Recommendation no. 13 on combating anti-Gypsyism and discrimination against Roma.¹⁵⁶

In terms of access to collective and individual rights, **the rights of access to water, food and housing are still not perceived as specific rights in practice**, as enshrined in the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol.

¹⁵⁶ In this context, the authorities should reinforce the collection of data on Roma equality, in particular in the fields of education, employment, housing and health, and ensure compliance with the principle of confidentiality, voluntary self-declaration and conscious consent, as described in paragraph 14 of the Recommendation 13. See: 2017 ECRI Report (p. 36).

Furthermore, the differences in organisation and financing of services across municipalities, which possess diverse financial capacities, result in **disparities with regard to access to some rights and services**, which is not in line with the international standards guaranteeing access to fundamental rights **irrespective of civil status or residence**.

We hereby remind that the state is required, irrespective of its level of economic development, to provide its citizens the minimum rights as guaranteed under the international instruments, primarily the International Covenant on Economic, Social and Cultural rights. We also wish to remind that the Committee on Economic, Social and Cultural Rights highlights that even where available funds are clearly insufficient, States parties are required to invest efforts to ensure broadest possible enjoyment of relevant rights in the given circumstances. **The obligation to constantly monitor the degree of realisation of economic, social and cultural rights and develop strategies and programmes for their promotion is by no means conditioned by limited funds.**¹⁵⁷

Strategically, **constant monitoring and updating of the existing strategic framework poses a challenge**, in particular in terms of monitoring and targeting of community needs, but also in terms of improvement of performance indicators and **assessment of impact on beneficiaries**, which ECRI insists upon in its Montenegro Report (2017).¹⁵⁸ The introduction of the ministries' practice concerning implementation of sector analyses which clearly identify the priorities and avenues of support to NGOs is commendable, provided that the allocation procedure is transparent and the results are regularly assessed.¹⁵⁹

Institutionally, the key challenges refer to further strengthening of institutional capacities, in particular those of the Centres for Social Work, Employment Agency branch-offices and local self-government, but also strengthening the cooperation with the Roma civil sector and identification of mechanisms to effectively involve Roma and Egyptian communities in the process of adoption and implementation of the policies concerning them (following the model Nothing for the Roma without the Roma).

- Civil status

With regard to civil status regulation, significant progress has been made in supporting status regulation (support to obtaining documents and legal aid with the procedural actions in the course of status regulation). Legislative progress was made with the adoption of amendments to the Law on Non-Contentious Proceedings and putting in place the preconditions for registration of birth of the Roma and Egyptian children born outside health institutions. The Law prescribes the procedure for determining the time and place of birth in order to regulate the status of those who are not included in the official civil register and those born outside health institutions. The procedure is to be launched by the application of the person not included in the civil register or any person with direct legal interest in the matter, i.e. custodial authority. In order to facilitate exercise of the right, territorial jurisdiction of each court with subject-matter jurisdiction is envisaged. Those born in health institutions but not entered in the birth register have the option of subsequent registration through the administrative proceedings before the Ministry of Interior of Montenegro.

Besides, since a number of displaced persons from former Yugoslav republics and internally displaced persons from Kosovo have still not regulated their status, the effectiveness of the Decree on the method of exercise of their rights was extended to the end of 2019. In line with the recom-

¹⁵⁷ Comment No. 3, paragraph 11.

¹⁵⁸ ECRI highlights the importance of coordinating national and local activities and the need to secure stable funding for the Strategy implementation, since the Ministry of Human and Minority Rights is the only one that expressly allocated budgetary funds for this purpose.

¹⁵⁹ Article 2 of the International Covenant on Economic, Social and Cultural Rights describes the nature of general legal obligations assumed by the states parties, namely: obligations of conduct and obligations of result (*CESCR General Comment No. 3: The Nature of States Parties' Obligations*).

recommendations provided by ECRI, the European Commission and the Ombudsman Office of Montenegro, further efforts are needed to cover the remaining share of the community with this type of assistance, especially to inform parents and identify children who have not been entered in the birth register through regular and systematic on-site assessments. The need to elaborate the legal safeguards against statelessness has also been addressed, envisaging a specific procedure for determining statelessness with a view to ensuring full legal protection of the stateless persons. This has been implemented through the Law on Foreigners. Also, in line with ECRI recommendation, **amendments to the Law on Free Legal Aid need to be considered, in order to enable those Roma and Egyptians who are at risk of statelessness to use free legal aid in the course of the procedure for subsequent birth registration.**

- Education

Development and diversification of new services are evident related to access to education, although in their provision the state still relies on project and volunteer support. Genuine conditions have been put in place for a de-segregated approach. Montenegro no longer has segregated classes in schools, and various support services are organised for the students from Roma and Egyptian settlements, along with transport to urban schools. As part of its continuous activities, the Ministry for Human and Minority Rights allocates funds each year for free textbooks for the students from Roma and Egyptian population and funds for scholarships awarded to secondary-school and university students from this population.

Local self-governments, in line with their capacities, also provide free textbooks for some categories of students (children from socially vulnerable families, Roma children, recipients of the cash benefit-MOP etc.); some local self-governments provide for all first-graders or for all Roma children up to the fourth grade. However, the practices of local self-governments are not uniform and may create an atmosphere of unequal access to education, as stated in the 2018 Ombudsman Report (p. 139).

Amendments to the Law on Preschool Education provided the legal preconditions for free-of-charge kindergarten and greater coverage of Roma and Egyptian children by preschool programmes. All the children whose parents have not secured the required documents or proper civil status are allowed to enrol primary school, with the parents obliged to deliver the documents during the academic year. Tuition-free studies are envisaged for Roma and Egyptian university students attending the first year of their studies. There is an admission quota set and they are entitled to free-of-charge stay and meals in student residences and a tuition waiver.

Progress has been made upon introduction of the occupational standard for the "Social Inclusion Mediator in Education". However, it is a fact that Roma mediators/assistants are engaged within projects, on short-term contracts, and that they work without having a clearly defined status or obligations. This occupation needs to be properly recognised in the education laws and clearly positioned within the education system, with clear sources of funding. Further promotion of this form of support within the community itself, is needed given that available data show that as many as 89% of Roma and Egyptians cannot tell what a Roma mediator is.

Despite the positive legal provisions and existing services, **the education status of Roma and Egyptians is still very unfavourable.** More impact in the field of education cannot be achieved without systemic action in the fields of employment, poverty reduction and housing. Although primary education coverage has been on a steady increase for years, real effects can be measured by comparing the number of enrolled children with the general data on the number of children from Roma and Egyptian population who did not enrol, and there are no precise data available on

this. Also, the question arises concerning the **results achieved through greater primary education coverage in the sense of learning outcomes**, given the still low level of enrolment in secondary schools. Consistent application of affirmative action is needed with regard to enrolment in secondary schools, by setting quotas for enrolment of Roma and Egyptians and waiving the costs of admission outside the normal course and of taking the final IV-year exam for those Roma and Egyptians who previously completed three-year secondary schools.

- Health care

The Law grants the status of insurance beneficiaries to Montenegrin citizens residing in Montenegro as well as to foreigners granted permanent residence in Montenegro who are not insured on any other grounds, by means of entry into the records of the Health Fund. This enables citizens of Montenegro who are unemployed to obtain health care from the Health Fund without having to be registered with the Employment Agency, which used to be a requirement in the past. That ensured de iure the greatest health care coverage of persons under the jurisdiction of the state.

However, **although free health care for members of Roma and Egyptian population exists in regulatory terms, available data show that Roma and Egyptians do not fully exercise these rights**. The survey conducted by the Ministry for Human and Minority Rights in 2016 showed that 40% of respondents – adult Roma and Egyptians – had no health cards, whether due to their status not being regulated or due to not being informed about access to free health care.

There are clear indicators that access to primary level of health care is working well, but **there is a lack of precise data on access to the secondary and tertiary levels or to the services available at private health institutions in line with the current legal possibilities**.¹⁶⁰ **Effective access needs to be secured not only to the basic, but to specialist health services as well**, including those available at the private health institutions. The role of Roma NGOs and social inclusion mediators in health is critical in this regard, in terms of information about free health care. It should, however, be accompanied by adequate financial and institutional support.

- Social protection and family status

The system of social and child protection is still centralised, with lower participation of local self-governments and local actors than planned with the introduction of the decentralisation principle, which Montenegro opted for when it adopted the Law on Social and Child Protection. The financial resources planning system is also centralised, **with current allocations being insufficient to sustain the quality of the existing services and develop new ones**. All of the rights pertaining to social and child protection are financed from the national budget, with the exception of the smaller-scale funding provided by local self-governments for the purpose of cash benefits and development of community-based services, or distribution of project-based funds to non-governmental organisations.

Comparative data and indicators on the number of people living in poverty are lacking; they would serve to measure the specific progress with regard to poverty reduction. The Committee on Economic, Social and Cultural Rights alerted to this, stating the concern over the lack of information on the number of homeless people or those in inadequate housing. The committee therefore recommends introducing the obligation to conduct surveys and publish results

¹⁶⁰ With regard to affordability of health services, the Committee on Economic, Social and Cultural Rights notes that paying for health-care services and services related to the underlying determinants of health should be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable to all, including including the socially vulnerable categories. Equity demands the poorer households should not be disproportionately burdened with health expenses compared to the richer ones (*General Comment 14: The Right to the Highest Attainable Health Standard (in relation to Article 12 of the International Covenant on Economic, Social and Cultural Rights)*).

on poverty which would serve as the basis for quality planning of support programmes to poverty-facing families with children.

The concept of integrated services has still not fully come to life, although the transition from centralised system and institutional care to locally managed services that support life in the community represents one of the major strategic directions of development of social and child protection. The services for Roma and Egyptians mainly combine counselling and therapy and advice and education, as well as social-humanitarian assistance. The sub-types of social protection services are not sufficiently developed and diverse. Support to parenting in the Roma and Egyptian population, i.e. services that would provide continuous support and support to parents and children on parenting and family relations are generally undeveloped, with the exception of educational workshops and counselling services which are limited in scope and coverage. The services to support parents in the course of birth registration of their children are lacking. Still, it is difficult, on the basis of the **desk review, to come to a clear conclusion, since there are no accurate data on the number of service beneficiaries from specific categories who used social services.**

the existing level of services in the local communities in Montenegro does not enable beneficiaries in the system of social and child protection to use the services in their immediate vicinity. This refers primarily to the services that help keep the beneficiaries in the family environment: day centres and clubs for the elderly, shelters and drop-in centres, shelters for victims of abuse and trafficking, capacities for temporary accommodation of the elderly, supported housing for adults with disabilities and children and youth without parental care once they are about to leave institutional care. There are no reception centres or temporary accommodation for the elderly in local self-governments or they are quite underdeveloped.

Although local self-governments have local social inclusion action plans and local integration plans for Roma and Egyptians, their role as coordinators of the process of planning and developing the social protection services is still not sufficiently promoted. The capacity to identify emerging needs and develop appropriate responses to them is hindered, largely by the nature of the multi-interest approach to service provision, but also by the lack of precise data to support such responses. The role of municipalities needs to be reinforced through establishment of a coordination body for social inclusion which will monitor implementation of local plans in this field and assess the quality of services provided, in line with the strategic framework for social and child protection, which often includes involvement of workers, clients and volunteers, making sure that the new services being developed and delivered match closer the needs of local communities. Working bodies, where present, are not operational enough, due to the lack of human and financial resources for planning and implementing their activities. Their role needs to be enhanced by means of establishing a coordination body that will monitor implementation of local plans for this field and assess the quality of the services provided.

One of the major reasons for this are the local self-governments' budgetary constraints. During the legal framework analysis, it was not possible to **determine the amount of funds from the local budgets spent to develop and provide services**, primarily because of the method of classification of costs in the local self-governments' budget decisions and final accounts. Given that financing of support services is directly linked with the appropriate service quality, **a stable and sustainable source of funding of local services needs to be established as soon as possible, to support the already established services and foster their further diversification.** The size of individual local self-governments (population) does not necessarily mean that social protection services are better targeted or better match the needs of the target groups.

Security Centres engage in a multidisciplinary approach with the social protection services, but there are no **continuous efficient programmes and mechanisms for prevention and protection of children exposed to domestic violence, neglect and abuse in the context of begging**. Continuous training therefore needs to be provided to the professionals on the adequate conduct in cases of suspected child abuse and neglect, at all levels. This measure is in line with the recommendations of the Committee on Social, Economic and Cultural Rights that signatory should intensify efforts to counter child labour, including systematic and efficient labour inspections and investigation, prosecution and sanctioning of the ones responsible and provision of rehabilitation and assistance to victims. Continuous awareness-raising campaigns among children and parents about the importance of education are also needed, as well as systematic collection of data on the impact assessment of social and child protection measures.

With regard to access to services, a sufficient number of reference centres for rape and/or sexual violence need to be established, in line with the GREVIO recommendations, and adequate training should be provided to the professionals delivering support services to victims.

- Employment

There are regulatory preconditions in Montenegro for an incentivising legal framework on employment of Roma and Egyptians. The labour and employment legislation explicitly prohibits discrimination, whether direct or indirect, as well as (sexual) harassment and mobbing, i.e. abuse at workplace that aims at or constitutes violation of dignity, reputation, personal and professional integrity, generates fear or hostile, degrading or offensive environment, aggravates work conditions or leads to isolation or termination of employment by an individual employee or a group of employees.

The Law on Employment and Exercise of the Rights Pertaining to Unemployment Insurance identifies the active employment policy measures; they include plans, programmes and measures to enhance employment and reduce unemployment. Hard-to-employ persons, including Roma and Egyptians, are assigned priority in the implementation of active employment policy measures, as these are implemented through subsidising employers, grants to foster employment, literacy and further training programmes and programmes for obtaining initial qualifications or upgrade of qualifications.

The education programme for obtaining the professional qualification of “Mediator in the Social Inclusion of Roma and Egyptians” was adopted in 2017 by the National Education Council; that marked incorporation of this occupation in the system of non-formal education. The Employment Agency issued a code for this professional qualification and thus enabled persons with this occupation to register with the Agency.

Despite the presence of these incentives in employment, the degree of discrimination is the highest in the field of labour and employment. It is worrying that more than 90% of registered members of RE population have no professional qualifications. The share of Roma and Egyptians working in public administration is still alarmingly low. **There are no precise data on the overall assessment of unemployment within this population**, as only the data on the Roma and Egyptians registered with the Employment Agency are recorded.

With regard to the active employment policy measures, **the scale of labour market programmes for Roma and Egyptian is very small, putting into question the overall impact on the labour market**. The coverage of the Roma and Egyptian population by these measures remains low and does not effectively target specific groups in the manner that would ensure sustainability. Namely,

the measures are not designed to lead to a long-term solution to unemployment, but rather as a response to the need to alleviate the consequences of evident unemployment and poverty. The subsidies available to employers include exemption from payment of compulsory social insurance contributions and personal income tax, but this applies only for hiring Roma over the age of 50 and the Decree's effectiveness is timed. There are no data available on the number of persons employed through the self-employment schemes. The legal requirements for starting up business with a social mission are lacking, as well as the services of resource support to the typical social enterprises (loans, equipment etc.).

The number of persons with disabilities and members of RE population in the training and re-training programmes and other labour market programmes needs to increase. Also, in line with ECRI recommendation, priority should be given to employing a proportionate number of Roma as civil servants and employees and ensure that Roma and Egyptians make equal use of the stable work conditions as the rest of the civil servants.

There are several aspects that diminish the motivation of the benefit recipients who are fit for work to engage in work, as illustrated by the on-site survey data showing that 83% of Roma and Egyptians are unemployed, and that a large share declare themselves as not actively seeking jobs (33%). The process of accessing social welfare after terminating employment is lengthy, and the beneficiaries do not have the means to cope until the first benefit payment arrives. These factors aggravate the social exclusion and dependency from benefits, which have been inherent to the Roma and Egyptian social integration system to date.

In order to ensure effective implementation of the active employment policy measures, the system for the monitoring and evaluation of achieved results needs to be improved by setting the key performance indicators and the link between employment and social welfare (e.g. breakdown by nationality and position in the labour market, surveys on the practical and cultural barriers to accessing employment, data on joining and staying within the labour force etc.).

A significant number of the Roma and Egyptians who are fit for work are still engaged in **informal non-standardised work, without legal protection** (such as collection of secondary raw materials). In line with the procedures for designing the programmes for obtaining professional qualifications, design of the professional qualification for "Collector of Secondary Raw Materials" should be enabled; this was planned for 2018.

With regard to the cooperation between Centres for Social Work and the Employment Agency, there are some overlaps in the competences related to activation of unemployed benefit recipients. In practice, the cooperation between the relevant Centres and local Employment Offices encompasses exchange of information and, to a certain extent, design of effective activation plans. It is evident that the employment Agency is facing a challenge in making this type of services available to the vulnerable groups at the labour market, as illustrated by the steady high unemployment rate for Roma and Egyptians. A possible suggestion for better cooperation is **setting up of joint teams** that would have access to all information on implementation of activation. It is also important to ensure that, within the centralised employment system, the local Employment Offices **are better able to impact policy design based on the local needs** and that they are capable of launching initiatives in response to the local situations and problems.

- Housing

Besides substandard housing, the key problems in this field refer to the legal regime of title over land and structures (structures built on privately owned land, as in Tivat Municipality, or on land

subject to restitution, as in Budva Municipality), and the large number of irregular Roma and Egyptian homes that do not comply with the required urban development standards.

Although some statistics on housing exist, their upgrade is a prerequisite for planning housing policies that will rely on clear estimates of housing needs of Roma and Egyptians (in line with the principle of “evidence-based policy” as envisaged in the EU Framework for National Roma Integration Strategies up to 2020). With regard to this, we wish to remind that effective monitoring of the situation with respect to housing is another direct obligation of the States parties to the international Covenant on Economic, Social and Cultural Rights. In order to meet that obligation, States parties need to demonstrate that they have taken all the necessary steps, whether alone or on the basis international cooperation, to ascertain the full extent of homelessness and inadequate housing within their jurisdiction.¹⁶¹

The national legislation does not recognise *explicitly* discrimination in relation to housing, i.e. equal access to housing, as phrased in the Directive on Racial Equality. There is no substantial anti-discrimination case-law on the right of access to dwelling for members of the Roma and Egyptian community. However, the Law on Prohibition of Discrimination recognises segregation as a specific and prohibited form of discrimination. Significant progress was made in this field upon adoption of the specific regulation on social housing, which put in place the legal basis for construction and allocation of flats to persons in the state of social need, with Roma and Egyptians clearly identified as a priority target group; however, this regulation needs to be consistently implemented.¹⁶² The Government adopted the Social Housing Programme and provided guidelines for development of local social housing programmes. Implementation of the Regional Housing Programme meant a significant step forward towards solving the housing issues of the IDP Roma and Egyptians.

The new Law on Spatial Planning and Construction covers also the issue of legalisation of irregular buildings and the relevant legal regime. Although this Law **includes the major safeguard of alternative accommodation in case of demolition of irregular buildings, there is no special treatment envisaged for the socially vulnerable groups**; instead, equal terms are provided for all who built irregular buildings.¹⁶³ In addition, implementation of this Law in practice requires active support of local self-governments, through affirmative action, *ad hoc* support to solve urgent housing problems (which, however, is not regulated to detail), and amendments to detailed urban plans to address segregated settlements.

The procedures related to relocation of Roma and Egyptian settlements where legalisation is not possible also need to be further improved and developed. To overcome the problems related to financing the construction of social housing, it would be advisable to consider establishment of public funds to finance social housing for all those accorded priority with regard to the right to social housing, in line with the law.

- Culture, identity and information

The regulations in the field of protection against assimilation, cultural rights and right to information guarantee regulatory equality of citizens and explicitly prohibit discrimination and hate speech. They also envisage a set of measures aimed at protecting the identity and promoting the culture of minority nations and communities. However, practice indicates that these rights are

¹⁶¹ Paragraph 13, General Comment No. 4: The Right to Adequate Housing (Article 11 paragraph 1 of the Covenant), <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/Op%C5%A1ti-komentari-Komiteta-za-ekonomska-socialna-i-kulturna-prava.pdf>

¹⁶² Recommendations from the 2017 Ombudsman Report, p. 118.

¹⁶³ The former Law on Regulation of Informal Structures envisaged a waiver of the legalisation fee only for primary residences, but the Law on Spatial Planning and Construction does not envisage any exemptions in this regard. Instead, municipalities are entitled to pass decisions on the fees, which may only be reduced, but not waived.

not being exercised sufficiently and that the media materials concerning Roma and Egyptians still tend to carry a negative connotation. On the other hand, the media contents dedicated to promotion of Roma culture and similar contents in school curricula remain quite rare. Additional support measures are needed to build a positive identity of Roma and Egyptian minority community and promote their cultural heritage.

The campaigns to reduce and prevent discrimination of Roma and Egyptians are rendering poor results in practice, given the already high and persistent degree of discrimination against this community. Prejudice against Roma continue to contribute to their marginalisation.

The institutions' efforts towards protection and realisation to date have only deepened the gap between the domicile and the IDP RE populations. Over the past period, they were perceived as a mechanism for realisation of particular interests, rather than the general interests of minority communities. They were not accompanied either by adequate measures of control and supervision of financial transparency and reporting. These preconditions were put in place by means of the revision of the Law on Minority Rights; still, it should be borne in mind that the legal positioning of institutions and existence of specific funding sources are not sufficient in themselves, but that their impact on the beneficiaries from the RE community needs to be constantly monitored and evaluated.

IX Summary

In Montenegro, there is a **comprehensive constitutional and legal framework** for protection against discrimination, which in some respects extends the scope of protection enshrined in the relevant EU directives. In line with the principle of affirmative action, many legal solutions have been adopted in recent years to overcome previous legal barriers that restricted access to human rights. However, the **effective and practical implementation of law remains a challenge**. Judicial practice regarding the protection of Roma and Egyptians from discrimination is yet to be built, in line with jurisprudence of the European Court of Human Rights; courts and other competent authorities should provide valid interpretations of the prohibited grounds of discrimination and thus contribute to better protection of human rights of Roma and Egyptians.

There is a **marked improvement in strategic planning** in all areas of inclusion in line with the “clear targeting” principle defined by the EU Framework for National Roma Integration Strategies by 2020. Social Inclusion has been recognized as a priority in all human rights access documents. The Strategy for Social Inclusion of Roma and Egyptians 2016 - 2020 has been prepared in line with the EU strategic framework by 2020 and defines all relevant goals and measures for enhancing social inclusion of Roma and Egyptian communities. The **cooperation with international organizations and the Roma civil sector** in implementing strategic priorities has **improved**. However, public policy measures remain more oriented towards IDP Roma and Egyptians, which has deepened the **“gap” between the domicile and IDP (Internally Displaced Persons) population**.

Enhanced institutional mechanisms for the protection against discrimination and the implementation of social inclusion at national and local level have been established. However, there is a **need to harmonize methodology for data collection and processing** among relevant institutions that are obliged to run records of discrimination cases, in line with the Law on Prohibition of Discrimination.

When it comes to access to collective and individual rights, **the rights to access to water, food, and housing are still not perceived in practice as particular rights**, as guaranteed by the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol. Furthermore, different models of organization and financing of support services among municipalities with different economic power may cause discrepancy in the level of access of Roma and Egyptians to certain services, which is not in line with international standards which guarantee access to fundamental rights irrespective of the status of a citizen or residence.

When it comes to **legal status**, significant progress has been made over the previous period in terms of providing support services for obtaining documentation and conducting procedural - legal actions. Progress on the legislative level was achieved through the amendments to the **Law on Non-Contentious Proceedings** which have enabled easier preconditions for **birth registration** of Roma and Egyptian children born out of the health care facilities. In accordance with recommendations of ECRI, the European Commission and Ombudsman of Montenegro, it is necessary to **expand the outreach to the community** with these support service, to help those persons who have not yet regulated their legal status, in particular by informing parents about the simplified possibilities for birth registration. The need for **further elaboration of legal safeguards against statelessness** is also needed, through further **legal elaboration of the conditions and the manner of determining the risk and status of statelessness**. ECRI also recommends **amending the Law on Free Legal Aid to enable Roma at risk of statelessness to benefit from it during the late birth registration procedure**.

In Montenegro, **there are no segregated school departments**, and for pupils from Roma and Egyptian settlements there are **various support services**, as well as transportation services to school facilities in the city area. The Ministry for Human and Minority Rights, as part of its ongoing activities, provides every year free textbooks for students and students of Roma and Egyptian populations, as well as funds for scholarships of high school students and students belonging to Roma and Egyptian population. Amendments to the **Law on Preschool Education** have created the **legal conditions for a greater attendance of pre-school programs** by children from Roma and Egyptian communities. Free education for students of Roma and Egyptian populations on the 1 year of study are also established, as well as a quota system for enrolment of Roma and Egyptian system in public high education institutions.

Progress has also been achieved through the introduction of **social inclusion mediators in education**, but Roma mediators are engaged through projects, with temporary contracts and without clearly defined status and obligations. It is necessary that this occupation is adequately recognized through education laws, clearly positioned within the educational system and with clearly defined lines of funding. Also, it is **necessary to promote the role of Roma mediators** within the community.

As it comes to health care, Montenegrin legislation provides for wide *de iure* coverage with health care and insurance. Nationals as well as foreigners with permanent or temporary residence in Montenegro, as well as IDPs, are also entitled to health care, if they are registered at the National Health Insurance Fund. However, despite of the possibilities for free health care, many Roma and Egyptians do not use them in practice effectively, except at the primary health care level, while there are no precise data on access to the secondary and tertiary levels, as well as access to services provided by the private health care institutions. The **role of Roma health care mediators** is therefore **crucial and should be further strengthened**.

The **social system is still centralised**, with a **lower level of involvement of local self-governments** than the one introduced by the decentralization model. The **concept of integrated services is still not fully established**. The Committee on Economic, Social and Cultural Rights is concerned about the **lack of available information on the number of homeless or inadequately housed people**. The existing level of service development in local communities in Montenegro does not allow beneficiaries to use services in their close surrounding. Although **local self-government** has adopted local social inclusion plans and local Roma and Egyptian integration plans, their role as coordinator of the social inclusion processes is **still not sufficiently affirmed**. **Services for Roma and Egyptians** dominantly include a combination of counselling and therapy, as well as socio-humanitarian assistance, and to a lesser account counselling and education. Support for parenting within the Roma and Egyptian populations, i.e. services that would provide continuous support to parents and children in matters of **parental care and family relationships are generally underdeveloped**, except for educational workshops. Effective programs and mechanisms for protecting children who are subjected to violence and neglect are yet to be established, especially in the field of child begging.

There are **normative preconditions for a stimulating legal framework for Roma and Egyptian employment**. The Employment Act defines active employment policy measures that include plans, programs and measures aimed at increasing employment and reducing unemployment, including Roma and Egyptians, as hard-to-employ priority category. In March 2017, a program of education for obtaining professional qualification Roma mediator in the field of employment was adopted by the National Education Council. Despite the existence of active employment measure, there are high levels of discrimination of Roma and Egyptians in the area of employment. More than 90% of registered RE members do not have any professional qualifications. There is **no**

precise data on the overall unemployment estimations within this population, as only data on Roma and Egyptians who are registered at the National Employment Agency are collected. The **percentage of Roma and Egyptians employed in public administration bodies remains worryingly low**.

As far as active employment measures are concerned, the dimensions of the labour market program for Roma and Egyptians are very small, which is why the **overall impact on the labour market is questionable**. The **coverage of the overall population of Roma and Egyptians by these measures is still low**. Namely, **measures intended at Roma and Egyptians are not designed to lead to long-term unemployment**, but rather to alleviate the consequences of open unemployment and poverty. A **significant number of working-age Roma and Egyptians are still engaged in informal jobs that are not standardized and legally protected**. The number of members of RE population in training programs and other programs on the labour market should increase. Also, in line with ECRI's recommendation, priority should be given to employing Roma and Egyptians in the positions of civil servants and employees to ensure that Roma and Egyptians equally use stable working conditions as well as other civil servants.

In the area of housing, in addition to low standard of living, the key problems are related to the **legal regime of ownership of land and buildings**; as well as for a large number of **illegal buildings** in which Roma and Egyptians live and which do not meet the required urban standards. **National legislation does not recognize explicitly discrimination in relation to housing**, i.e. equal access to housing, as it is formulated in the Directive on Racial Equality. There is **no significant anti-discriminatory jurisprudence in housing** of Roma and Egyptians. Certain progress has been made by adopting social housing legislation which has created the legal basis for building the apartments for the persons in a state of social need, by which Roma and the Egyptians are clearly recognized as the priority target group, but its **consistent application is needed**. In order to overcome problems related to the financing of social housing, it would be advisable to consider the proposal for the **establishment of public funds from which the projects for the construction of social housing** will be financed.

The regulations in protection against assimilation, cultural rights and the right to information guarantee the **normative equality of citizens and expressly prohibit discrimination and hate speech**. They also envision a series of measures that are designed to protect the identity and promote the culture of minority peoples and communities. However, **practice shows that these rights are not used to a sufficient extent and that media articles and broadcasting related to Roma and Egyptians are still often negatively intoned**. On the other hand, **media content dedicated to the promotion of Roma culture are still rare**, as are the contents of school programs. Campaigns to reduce and prevent discrimination against Roma and Egyptians give poor results in practice, given the very high and persistent degree of discrimination against this community. Additional **measures are needed to build a positive identity of the Roma and Egyptian communities** and promote their cultural heritage.

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