

THE WALL OF ANTI-GYPSYISM



PHOTO: ENIS ABDULLAHU

ROMA IN MONTENEGRO

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ABBREVIATIONS AND ACRONYMS

CAHROM _____ Ad Hoc Committee of Experts on Roma Issues

CRD _____ Civil Rights Defenders

ERRC _____ European Roma Rights Center

EU _____ European Union

IDP _____ Internally Displaced Persons

NGO _____ Non-governmental organisation

OSCE _____ Organisation for Security and Co-operation in Europe

UNDP _____ United Nations Development Programme

UNHCR _____ United Nations High Commissioner for Refugees



PHOTO: LJUBA MARICIC, SERBIA

1. ROMA IN MONTENEGRO: OVERVIEW

1.1. DEMOGRAPHICS

According to the 2011 census results, 6,251 Roma (1.01%) and 2,054 Egyptians (0.33%) live in Montenegro. Large communities of Roma can be found in Podgorica (3,988), Niksic (483), Bijelo Polje (334), Berane (531) and Herceg Novi (258), while the largest Egyptian communities are in Podgorica (685), Niksic (446), Tivat (335) and Berane (170).¹ In the census, 5,619 persons declared Romani as their mother tongue.² Council of Europe estimates that up to 25,000 Roma (and Egyptians) live in Montenegro.³

Montenegro hosts a large number of Roma, Ashkali and Egyptians who fled the war in Kosovo and could not return. For years, the Roma, Ashkali and Egyptians expelled from Kosovo could not regulate their status and have lived in a legal limbo which made it difficult for them to access labour market, education system and health and social care. In the meantime, the legislation allowed for them to regulate their status, however, a significant number of persons has not started or finalised this process yet.

1.2. ANTI-GYPSYISM AND CUMULATIVE DISCRIMINATION

Anti-Gypsyism, cumulative discrimination and prejudices towards and wrong perceptions of Roma prevail in Montenegro as in all other countries in Europe. Anti-Gypsyism and cumulative and systematic discrimination constitute the root-causes while high unemployment rates, low education enrolment and attainment rates and the deplorable living conditions of the majority are the symptoms of their situation.⁴ The repercussions of the wars, in particular the expulsion of thousands of Roma and Egyptians from Kosovo to Montenegro, further aggravated the situation.

In general, Roma in Montenegro and in particular the displaced Roma, Ashkali and Egyptians from Kosovo, face discrimination and exclusion from the general public life. However, the Ombudsperson notes that the community is reluctant to file complaints. In 2015, not a single Roma or Egyptian has filed a complaint for ill-treatment or discrimination based on ethnicity.

1 Civil society monitoring on the implementation of the National Roma Integration Strategy and Decade Action Plan in Montenegro in 2012 and 2013

2 Government of Montenegro, Ministry of Human and Minority Rights, the Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020

3 Council of Europe, Estimates of Roma population. Retrieved on March 23, 2017 from: <http://www.coe.int/de/web/portal/roma/>

4 For a discussion on Anti-Gypsyism and cumulative discrimination see the overview paper Roma in the Western Balkans 2017

1.3. GENERAL LEGAL AND POLICY FRAMEWORK

Roma and Egyptians are not explicitly recognised as national minorities within the Constitution of Montenegro. The preamble of the Constitution states that Montenegro is the state of the nationalities and national minorities of Montenegro such as “Montenegrins, Serbs, Bosniaks, Albanians, Muslims, Croats and the others”.⁵

The Constitution of Montenegro and the Law on Minority Rights and Freedoms stipulate the rights of national minority groups to participate in decision-making. Minority groups winning less than 3% of the vote or constituting less than 15% of the population should be represented in the Parliament. At a municipal level, the law provides for the possibility of allocating seats to minorities constituting 1.5% to 15% of the population. However, Roma and Egyptians are not represented either in the National Parliament or in the municipal assemblies.⁶

Numerous national laws, strategies, policy documents and international obligations determine the situation and the policy towards Roma and Egyptians in Montenegro. In addition to more general documents such as the Law on Prohibition of Discrimination,⁷ the relevant sectoral laws and policies (in particular concerning social inclusion) contain Roma-specific policies.

In 2016, the Government of Montenegro adopted the new “Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020”, together with the 2016 Action Plan which includes the following chapters: housing, education, health care, employment, legal status, social status and family care, culture, language and identity.⁸ In March 2017, the Action Plan for 2017 was adopted, with the same chapters as the previous Action Plan, and a budget for its implementation was assigned.

2. SECURITY AND FREEDOM FROM TORTURE

2.1. LAW AND POLICY REVIEW

The Criminal Code of Montenegro recognises two relevant particularly aggravating circumstances: if criminal offences were motivated by hatred and if offences defined by the Code were committed by an official person while performing official duties.⁹

The Office of the State Prosecutor does not collect ethnically disaggregated data and therefore it does not possess evidence for the cases of Roma or Egyptians victims of hate crime, violence attacks and hate speech including the number of respective indictments.¹⁰ The High State Prosecutor stated that he does not possess evidence of any case with criminal charge for racially or ethnically motivated attacks and violence against Roma and Egyptians filed in the period 2013-2016.¹¹

2.2. CURRENT SITUATION

Appropriate procedural and institutional frameworks for tackling violence and harassment against minorities are still missing. According to the ERRC, the absence of the framework and in particular the unduly burdensome procedures for victims to report and substantiate hate crimes, equal to institutional racism against Roma.¹²

Despite the lack of official data, there have been some incidents of violence motivated by hatred against Roma which were reported by civil society and media. The most notable incident occurred in May 2016 and it was recorded and published on social media by perpetrators themselves. In the video, two men have brutally beaten a young Roma man. Only after the reaction of the civil society, political parties, and media, the police launched investigation and identified the perpetrators. They were eventually sentenced for six and seven months in prison.¹³

5 Constitution of Montenegro. Retrieved on March 23, 2017 from <http://www.skupstina.me/images/dokumenti/ustav-crne-gore.pdf>

6 U.S. Department of State, Country Reports on Human Rights Practices for 2016. Montenegro. Retrieved on March 24, 2017 from <https://www.state.gov/documents/organization/265666.pdf>

7 Official Gazette of Montenegro, Nos. 46/10, 18/2014

8 Ministry of Human and Minority Rights of Montenegro, the Strategy for Social Inclusion of Roma and Egyptians in Montenegro in 2016-2020, 2016, p. 79. As the document's title suggests, the Strategy does not cover Ashkali. Data given in the study sometimes refer to Roma only, sometimes to Roma and Egyptians, depending on the source of the data.

9 Official Gazette of Montenegro, Nos. 70/03, 13/04, 47/06, 40/08, 25/10, 32/11, 64/11, 40/13, 56/13

10 Interview with the Office of the State Prosecutor in Podgorica, May 19, 2017.

11 Information obtained in interview on May 24

12 <http://www.errc.org/article/alkovi%C4%87-v-montenegro-third-party-intervention-pending/4484>.

13 <http://www.vijesti.me/vijesti/perunicicu-i-kovacevicu-robija-zbog-zlostavljanja-903685>

Another case concerning an incident of harassment of a Roma Muslim man and his family by non-Roma from May 2009 is currently pending at the ECtHR.¹⁴

The Youth Initiative for Human Rights has been recording testimonies of incidents with abuses, degrading treatment and physical torture by guards in prison.¹⁵

Another relevant case even dates back to summer 1999 when the ship “Miss Pat” sank in Montenegrin territorial waters, trying to cross the sea to Italy and 35 people died, most of them Roma. The ship was registered to carry maximum six persons and two crew members, however, at the moment of sinking almost 70 people were on board. Seven suspects were accused for promising transportation to Italy to displaced Roma from Kosovo and receiving financial compensation for that.

The Prosecutor’s Office did not conduct an urgent, independent, and efficient investigation in this case and only in May 2017 the Appellate Court ruled sentences between 6 and 8 years for four of the culprits.

According to the Strategy for Social Inclusion of Roma and Egyptians (2016), Roma and Egyptians are particularly at risk of becoming victims of trafficking.¹⁶

An obvious lack of security and respective state response prevails with regard to gender-based or domestic violence as well.

The ERRC research conducted in 2016 pointed out that 10% of interviewed Roma, Ashkali, and Egyptian women have experienced discriminatory treatment, including verbal abuse by their gynaecologists. However, a significant percentage of these incidents went unreported (47.6) mainly because of the fear of facing repercussions.¹⁷

In 2014, according to the research of the Centre for Roma Initiatives, in four municipalities in Montenegro: Niksic, Podgorica, Berane and Ulcinj, Romani and Egyptian women were facing systematic domestic violence. The research, which was ordered and funded by the Ministry of Human and Minority Rights, found out that the most commonly reported reasons for domestic violence were: tradition 32.4%, alcohol 18.4%, poverty 6.5%, narcotics 2.2%, and low educational level 1.6%.¹⁸

14 ECtHR, *Alkovic v. Montenegro*, November 9, 2010, available at: <http://hudoc.echr.coe.int/eng?i=001-160014#%22fulltext%22:%2266895/10%22,%22itemid%22:%22001-160014%22>]. See also, ERRC, third party submission, May 2016, available at: <http://www.errc.org/article/alkovi%C4%87-v-montenegro-third-party-intervention-pending/4484>.

15 <http://freeoftorture.net/images/docs/mne/Prava-lica-lisenih-slobode-u-zatvorskom-sistemu-cg-i-drugim-zatvorenim-institucijama.pdf>

16 Ministry of Human and Minority Rights of Montenegro, the Strategy for Social Inclusion of Roma and Egyptians in Montenegro in 2016-2020, 2016, p. 79.

17 ERRC, Research on reproductive rights of Roma, Ashkali, and Egyptian women in Montenegro, 2016 (unpublished). Main findings are available at: <http://www.errc.org/cms/upload/file/montenegro-submission-7-november-2016.pdf>.

18 Ministry of Human and Minority Rights of Montenegro, the Strategy for Social Inclusion of Roma and Egyptians in Montenegro in 2016-2020, 2016, p. 75.



3. PERSONAL DOCUMENTS

3.1. LAW AND POLICY REVIEW

The Law on Citizenship and bylaws are defining the criteria for gaining citizenship on the basis of residence and marriage.¹⁹ The IDPs from Kosovo cannot gain citizenship just on the basis of residence time and/or marriage with a citizen of Montenegro which is allowed to IDPs from Bosnia and Herzegovina and Croatia.

The Law on Civil Registry Books defines the procedures and requirements for the actual registration.²⁰ The 2010 version of the law did not adequately define the procedures and requirements for subsequent birth registration. This has led to inconsistent practices among branch offices of the Ministry of Interior, which are responsible for registering births. The law was revised in 2011 and 2016²¹ and some of the provisions were expected to be initiated as of July 1, 2017.²² However, there were no changes that could have significantly influenced the procedure for subsequent birth registration.

Following amendments to the Law on Non-Contentious Proceedings, the basic courts started to issue positive decisions on the date and place of birth of persons born outside Montenegro's health system in order to allow for their registration.²³ Civil society organisations were successfully using this law to initiate registering dozens of children in the birth register. The law regulates the procedure for determining the time and place of birth in order to regulate the status of persons who are not registered in the civil registry and persons born outside health institutions.

In December 2014, Montenegro enacted a new Law on Foreigners which has been revised in 2015 and undergoing revision in 2017.²⁴ The law in particular refers to displaced persons from Kosovo and Article 142 states that persons who have not submitted an application for residence status or whose application has been rejected "shall be considered to be the persons who are illegally residing

19 Official Gazette of Montenegro, Nos. 13/08, 40/10, 28/11, 46/11, 20/14

20 Official Gazette of Montenegro, Nos. 47/08, 41/10

21 Official Gazette of Montenegro, Nos. 40/11, 55/16

22 Official Gazette of Montenegro, Nos. 40/11, 55/16

23 Progress Report 2016

24 Official Gazette of Montenegro, No. 56/14

in Montenegro".²⁵ By the previous Law on Foreigners (Art. 105a, para. 2) and its amendment in 2009, it has been enabled for the displaced persons from Kosovo to apply for permanent residence status in Montenegro.²⁶

In 2011, the governments of both Montenegro and Kosovo signed the Memorandum of Understanding on Civil Status Registration between Kosovo and Montenegro. In the framework of the Memorandum, in close cooperation with the UNHCR, both authorities addressed the situation of displaced Roma from Kosovo.

In January 2013, the government adopted a second Action Plan to implement the 2011–2015 Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons in Montenegro, with Special Emphasis on the Konik Area, including annual or bi-annual Action Plans for its implementation (most recent Action Plan is for the period 2016–2017).²⁷

In May 2013, the Minister of Labour and Social Welfare established the Coordination Committee for monitoring the implementation of the Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons, with Special Emphasis on the Konik Area.²⁸

3.2. CURRENT SITUATION

For several reasons, Roma and Egyptians in Montenegro still lack registration and identity papers or are stateless: (i) persons who were not registered in birth registers at all or need to be re-registered, because birth registers were either destroyed or lost during the war in Kosovo; (ii) children of parents who lack registration due to the reason mentioned above, (iii) children who were born in Montenegro, but outside of health facilities and therefore were not registered.

In the last years, owing to the significant efforts of the government, UNHCR, OSCE and local NGOs, the situation has improved, but the process of facilitating the registration has not been completed yet.

The government introduced legal changes and for several times extended the deadline for submissions of requests to regulate the status of persons who were displaced from Kosovo to Montenegro (the first deadline was November 7, 2011, later on extended until December 31, 2014).²⁹

With the submission, displaced persons from Kosovo could either apply for the "status of a foreigner with permanent residence status" or for the "status of a foreigner with temporary residence". As of September 30, 2016, there were 12,346 IDPs legally residing in Montenegro. There were 10,930 who have already obtained a "permanent residence status" and 442 with a "temporary residence status". In April 2013, 8,233 IDPs from Kosovo were registered in Montenegro.

A survey in 2011 among Roma, Ashkali and Egyptians (primarily IDPs) living in the Konik area revealed that out of 3,642 people interviewed in these settlements, there were 542 persons not registered in the birth and citizenship registries, out of which 508 were displaced from Kosovo and 34 were from Montenegro.³⁰

In the framework of the Memorandum between Montenegro and Kosovo, the authorities of both countries facilitated access to documents for Roma displaced from Kosovo to Montenegro. The Kosovo Civil Registration Agency within the Ministry of Internal Affairs provided its direct assistance to displaced Kosovo Roma, Ashkali and Egyptians in Montenegro, *inter alia*, through mobile teams visiting Montenegro and facilitating the issuance of birth

25 Additional bylaws are regulating the criteria for travel documents. The NGO "Legal Centre" and UNHCR are advocating for provision on stateless persons in the Law on Foreigners, in order to resolve the issue for IDPs from Kosovo.

26 Official Gazette of Montenegro, Nos. 82/08, 72/09, 56/14

27 Government of Montenegro, Ministry of Labour and Social Welfare, the Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons, with Special Emphasis on the Konik Area, Podgorica 2011. Retrieved on July 19, 2017 from: <http://www.un.org.me/Library/Refugees-Asylum-Seekers-and-Statelessness/8a%20Strategy%20for%20Durable%20Solutions%20of%20Issues%20regarding%20DPs%20and%20IDPs%20in%20Montenegro.pdf>; Government of Montenegro, the Coordination Committee for monitoring the implementation of the Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons, with Special Emphasis on the Konik Area, Integrated Action Plan for the Implementation of the Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons in Montenegro, with Special Emphasis on the Konik Area

28 See the 2014 Action Plan of the Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons in Montenegro

29 Amendment to the Law on Foreigners, Official Gazette of Montenegro No. 12/12. Retrieved on March 22, 2017 from http://www.mup.gov.me/ministarstvo/Javne_rasprave/134444/Poziv-za-javnu-raspravu-o-Nacrtu-zakona-o-strancima.html

30 Government of Montenegro, UNHCR, Report on the legal status of persons living in the area of the Konik camp with recommendations for its improvement. Retrieved on March 24, 2017 from: http://www.un.org.me/uploads/Documents/2013/ENG_The%20Report%20on%20the%20Legal%20Status%20of%20Persons%20Living%20in%20the%20Area%20of%20the%20Konik%20Camp%20with%20Recommendation%20for%20its%20Improvement.pdf

extracts, ID cards and passports which also constituted a requirement to apply for the “permanent residence status” in Montenegro.³¹

In addition, legal amendments allowed for establishing the date and place of birth of persons born outside the hospital system in Montenegro. However, according to UNHCR an estimated 300 persons who were born outside Kosovo or Montenegro hospital systems cannot receive documents, since they are neither covered by the legal amendment nor by the Memorandum between Montenegro and Kosovo.³²

Despite these efforts, many people remained unregistered and could not regulate their status in the past years. According to the European Union Progress Report 2016, 1,352 applications are still pending and 250 minors are not registered yet.³³

According to the data from the NGO “Legal Centre”, 940 persons have initiated the procedure for regulating the status of a foreigner in 2017. Among them, 250 are Roma that face significant problems as they do not have any data or documents.

STATELESSNESS

With regard to statelessness, the available data are very conflicting. In reference to UNHCR, the U.S. State Department Report on Human Rights states that there were 3,262 stateless persons in the country without any citizenship at the end of 2015. According to the EU Progress Report 2016, 486 people in Montenegro consider themselves stateless, in particular due to the failure of Montenegro to establish the procedure for determining statelessness.³⁴

According to the 2011 census, 4,312 persons reported that they did not have any citizenship, and out of them 1,649 were Roma and Egyptians.

The 2011 survey among Roma, Ashkali and Egyptians (primarily IDPs) living in the Konik area revealed that 1,360 did not have the citizenship of any state; and out of these, 820 were born in Montenegro and 451 in Kosovo.³⁵

During a two-month drive in 2014, the government registered 486 persons who applied for being recognised as stateless, but the Ministry of Interior recognised only seven of them as stateless persons. At the end of 2016, one of the seven persons gained citizenship, one gained residence permit and one was issued travel documents for stateless persons.³⁶

The Report on implementation of the Strategy for Improving Position of Roma and Egyptians in Montenegro (2012-2016) identified that 1,100 IDPs have gained Montenegrin citizenship, while approximately 3,400 IDPs have not filed a request for regulating their legal status in Montenegro. In addition, the government has issued 134 guarantees to IDPs that they will gain Montenegrin citizenship upon bringing documents that confirm they are no longer citizens of another country; another 122 respective requests were in progress.

The Ministry of Interior continues to deny the access to citizenship to the IDPs from Kosovo on the basis of marriage with a Montenegrin citizen and on the basis of residence. The NGO “Legal Centre” challenged these decisions at the Administrative Court several times.³⁷

31 See press release from UNHCR on April 9, 2015, “UNHCR supports provision of civil status documents to displaced persons in Montenegro”. Retrieved on March 22, 2017 from: <http://unhcr.org/en/unhcr-supports-provision-civil-status-documents-displaced-persons-montenegro>

32 U.S. Department of State, Country Reports on Human Rights Practices for 2016. Montenegro. Retrieved on March 24, 2017 from <https://www.state.gov/documents/organization/265666.pdf>

33 Progress Report 2016

34 Progress Report 2016

35 Government of Montenegro, UNHCR, Report on the legal status of persons living in the area of the Konik camp with recommendations for its improvement. Retrieved on March 24, 2017 from: http://www.un.org.me/uploads/Documents/2013/ENG_The%20Report%20on%20the%20Legal%20Status%20of%20Persons%20Living%20in%20the%20Area%20of%20the%20Konik%20Camp%20with%20Recommendation%20for%20its%20Improvement.pdf

36 Information obtained through Free Access to Information Act on May 26, 2017.

37 Information received from the NGO “Legal Centre”. Email of June 7, 2017

4. EMPLOYMENT

4.1. LAW AND POLICY REVIEW

The crucial policy document of the employment policy in Montenegro is the National Strategy for Employment and Human Resources Development 2016-2020.³⁸ The Strategy provides for the inclusion of socially vulnerable groups in the labour market by increasing their employability and employment.

Law on Employment and Realisation of Rights from Insurance against Unemployment envisages active labour market measures, including employment subsidies.³⁹ Article 2 of the Regulation on Subsidies for the Employment of Certain Categories of Unemployed Persons defines that employers can realise subsidies when employing Roma and Egyptians⁴⁰. However, in practice employers are reluctant to make use of this possibility.

According to the Law on Minority Rights and Freedoms (Art. 25), minorities “shall have the right to proportional representation in public services, state bodies and local self-government bodies”; however, these provisions are not implemented.⁴¹

4.2. CURRENT SITUATION

The National Strategy defines a number of obstacles to employment that the members of the two communities experience, emphasising the lack of education and educational opportunities as well as discrimination and lack of acceptance by non-Roma and employers as the biggest obstacles.⁴² In addition, it identifies a number of other obstacles such as lack of personal documents, difficult economic and social situation or lack of information.

The Montenegrin Employment Agency does not collect ethnically disaggregated data. Persons could state their ethnicity on the basis of the voluntary self-declaration. In average, over the last years annually ca. 1,000 Roma and Egyptians were registered with the Employment Agency,

making up between 3–4% of all job-seekers. There are 95% of the registered Roma and Egyptians who do not have any professional qualifications and are long-term unemployed persons. This data demonstrate that only a small share of the registered persons from the two communities actually managed to find employment through the Employment Agency.⁴³

Most of the training and reintegration programmes, very often implemented by NGOs, function on a project basis with long breaks between project cycles until new funds from donors are secured, which makes these initiatives hardly sustainable.

The progress made in the education sector also created challenges to integrate Roma or Egyptians who finished secondary schools into the labour market. According to the Decade Civil Society Monitoring Report 2014, their inclusion is still difficult and “those who finish high school mostly get employed in Public Utilities Services, far below their qualifications”.⁴⁴

With regard to the public sector, Montenegro initiated some public work programmes (e.g. “Let it be clean” programme) which included a few Roma and Egyptians. In December 2013, two new positions have been established and classified in job organisation: an organizer of social inclusion work and a social inclusion assistant with the aim of encouraging the employability of Roma and Egyptians. In addition, there is also a position of Romani health mediators.

However, only five Roma and Egyptians are employed in state institutions (the Ministry of European Integration, the Ministry of Human and Minority Rights, the Military of Montenegro, the Office for Fight against Trafficking in Human Beings and Center for Social Work Herceg Novi). Other Roma and Egyptians are employed in positions such as health mediators.

38 Government of Montenegro, Ministry of Labour and Social Welfare, National Strategy for Employment and Human Resources Development 2016-2020

39 Official Gazette of Montenegro, Nos. 14/10, 39/11, 40/11, 45/12, 61/13; 20/15, 52/16

40 Official Gazette of Montenegro Nos. 80/15, 77/16

41 <http://www.minoritycentre.org/sites/default/files/law-minority-rights-me.pdf>; see also Dusana Tomovic, *Montenegro Lags in Giving Minorities State Jobs*, published in Balkan Insight, August 24, 2015. Retrieved on October 6, 2017 from: <http://www.balkaninsight.com/en/article/montenegro-government-lags-in-hiring-minorities-08-21-2015>

42 National Strategy, p. 54

43 National Strategy

44 Civil Society Monitoring on the Implementation of the National Roma Integration Strategy and Decade Action Plan in Montenegro in 2012 and 2013

On the other hand, until recently programmes supporting small and medium enterprises did not reach out to Roma and Egyptians. New vocational training programs for these positions have been developed.⁴⁵

Due to the limited access to the official labour market, many Roma and Egyptians are forced to find employment in the informal labour market.⁴⁶

Table 1: Selected data on the employment situation of the Roma in Montenegro (2011)⁴⁷

| Montenegro | Men | | Women | | Total | |
|---------------------------|------|----------|-------|----------|-------|----------|
| | Roma | Non-Roma | Roma | Non-Roma | Roma | Non-Roma |
| Employment rate (15-64) | 47% | 54% | 8% | 31% | 27% | 42% |
| Employment rate (15-24) | 34% | 24% | 4% | 21% | 19% | 22% |
| Unemployment rate (15-64) | 34% | 26% | 70% | 36% | 44% | 30% |
| Unemployment rate (15-24) | 45% | 54% | 83% | 43% | 56% | 49% |
| Activity rate (15-64) | 71% | 73% | 26% | 48% | 48% | 60% |

45 Civil Society Monitoring on the Implementation of the National Roma Integration Strategy and Decade Action Plan in Montenegro (2012-2013), the Coalition of NGOs from Montenegro and Decade of Roma Inclusion Secretariat Foundation, http://gamn.org/images/docs/en/civil-society-monitoring-report_en.pdf

46 U.S. Department of State, Country Reports on Human Rights Practices for 2016. Montenegro. Retrieved on March 24, 2017 from <https://www.state.gov/documents/organization/265666.pdf>

47 See the results of the UNDP survey. Retrieved on August 26, 2016 from: <http://www.eurasia.undp.org/content/rbec/en/home/ourwork/sustainable-development/development-planning-and-inclusive-sustainable-growth/roma-in-central-and-southeast-europe/roma-data/>



PHOTO: ENIS ABDULLAHU, KOSOVO

5. EDUCATION

5.1. LAW AND POLICY REVIEW

The Ministry of Education and Sports is responsible for planning, implementing and updating education policy. The education system is defined by the [General Law on Education](#) and by a number of more specific sectoral laws and sectoral strategies.⁴⁸

Montenegro defines the goal of its education system through developing the country as a knowledge-based society with education as a key factor for economic and social development. The education system is financed from the state budget with about 4.3% of GDP.

Montenegro has a compulsory education system of nine years. Compulsory education is followed by two alternative paths. One such path consists of four years of general secondary education concluded by a general exam (“Matura”), which allows access to university; about a third of the pupils follow this path. Two thirds of the pupils choose the alternative track of three or four years of vocational education, which includes a vocational exam. The curriculum for the four-year vocational education contains elements of both general and vocational education.

Passing the exam after 4-year vocational cycle gives access to post-secondary vocational education as well as to university education, depending on the admission rules of each university. Out of all secondary graduates, 70% enrol in universities; only 40% of university students are graduates of general secondary schools, while about 60% come from vocational schools.

According to Article 4 of the [Law on Primary Education](#), primary education is compulsory for all children from age six to fifteen, regardless of gender, race, religion, social background or any other personal characteristic, which creates obligations on behalf of the state of Montenegro to ensure attendance for all.⁴⁹

The chapter on education in the Action Plan for 2017 for the Implementation of the Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016–2020 aims at increasing the level of school enrolment and reducing early school leaving. The Action Plan also envisages support activities such as provision of free textbooks, support in the form of scholarships, encouraging enrolment in

48 Official Gazette of the Republic of Montenegro, No. 64/02, Official Gazette of Montenegro, Nos. 49/07, 45/10, 40/11, 45/11, 39/13, 44/13

49 Official Gazette of Montenegro, Nos. 64/02, 49/07, 45/10, 40/11 and 39/13

secondary schools and universities, with a special emphasis on girls and young women, escorting Roma pupils to kindergartens and schools or organising mentor support.

5.2. CURRENT SITUATION

Despite certain progress, all available data – though sometimes conflicting – demonstrate the disadvantaged position of Roma and Egyptian children in the education system.

Although according to the latest census conducted in 2011, 95% of all children of school-going age were attending school, for the Roma and Egyptian population the attendance rate in primary schools was drastically lower (51% and 54%, respectively). Unofficial estimates set the primary enrolment rate of Roma and Egyptian children at 25.2%, the completion rate of the first cycle of compulsory education at 32% (compared to 98% for the general population) and the corresponding rate for the second cycle at 7% (compared to 86% of the general population).⁵⁰ According to the 2016 National Strategy, 21.5% of the Roma and Egyptian children attend pre-school institutions (boys: 20.6%; girls: 22.4%) which would constitute a considerable increase compared to the UNDP survey in 2011 which found that 11% of the Roma children (boys: 8%; girls 14%) were attending pre-school (see table below).

In 2016, according to the government, the enrolment rate in primary education was 76%, though primary school education in Montenegro is mandatory and the attainment

rate was only 68%. This data reflects the high drop-out rate of Roma and Egyptian children as 11% of the children drop out of primary school (boys: 9.4%; girls: 13.8%).⁵¹

There are 49% of the Roma children (boys: 52%; girls 44%) who enrol in secondary education while the transition rate to secondary education of those who finish primary school is around 80%.

The government provided for affirmative measures such as scholarships and mentoring programme in order to increase the enrolment and attainment rate in secondary schools and universities. According to the Strategy, the number of students from the Roma and Egyptian communities attending secondary education increased from 75 persons in the school year 2012/2013 to 99 persons in school year 2015/2016. In the same period the number of university students increased from nine (9) to twenty (20) persons.⁵²

The Government Strategy provided data on the number of Roma and Egyptian children in primary schools which demonstrated a nearly 10% decrease in the number of children from these communities in primary schools (from 1.582 children to 1.438 children) due to migration from the school year 2013/2014 to 2015/2016.

The UNDP survey from 2011, comparing Roma and majority population living in close proximity to Roma, provided the following data:

Table 3: Selected data on educational situation of the Roma in Montenegro (2011)⁵³

| Montenegro | Men | | Women | | Total | |
|--|------|----------|-------|----------|-------|----------|
| | Roma | Non-Roma | Roma | Non-Roma | Roma | Non-Roma |
| Literacy rate (16+) | 84% | 99% | 62% | 99% | 73% | 99% |
| Literacy rate (16-24) | 86% | 100% | 69% | 100% | 77% | 100% |
| Pre-school enrolment rate (3-6) | 8% | 14% | 14% | 21% | 11% | 17% |
| Gross enrolment rate in compulsory education (7-15) | 54% | 97% | 55% | 91% | 55% | 94% |
| Gross enrolment rate (Upper-secondary education 16-19) | 14% | 59% | 12% | 65% | 13% | 61% |
| Average years of education (25-64) | 5.0 | 11.0 | 2.6 | 10.2 | 3.8 | 10.6 |
| Average years of education (16-24) | 5.2 | 10.6 | 3.9 | 11.1 | 4.5 | 10.9 |

50 Montenegro After the Crisis: Towards a Smaller and More Efficient Government, Public Expenditure and Institutional Review, Main Report, World Bank, October 2011

51 National Strategy

52 National Strategy

53 See the results of the UNDP survey. Retrieved on August 26, 2016 from: <http://www.eurasia.undp.org/content/rbec/en/home/ourwork/sustainable-development/development-planning-and-inclusive-sustainable-growth/roma-in-central-and-southeast-europe/roma-data/>

Table 4: School attendance of Romani and Egyptian children⁵⁴

| Roma and Egyptians in desegregated education | School year 2013/14 | School year 2014/15 | School year 2015/16 | School year 2016/17 |
|--|---------------------|---------------------|---------------------|---------------------|
| Preschool | 87 | 108 | 224 | 103 |
| Primary school | 1,582 (726 female) | 1,538 (722 female) | 1,438 (666 female) | 1,617 |
| High school | 81 | 69 | 99 (49 F) | 112 |
| University students | 15 | 17 | 20 | 20 |

SPECIAL SCHOOLS

The practice of sending Romani children without disabilities to special schools does not prevail in Montenegro. According to available data, there are 13 Romani children (11 boys and 2 girls) as pupils in the public institution “June 1” – Podgorica, the Resource Center for Children and People with Intellectual Disabilities and Autism⁵⁵.

SEGREGATED SCHOOLING

For many years, children from the IDPs camps were attending segregated education, if they attended school at all. At beginning of the school year 2013/14, a desegregation process was initiated for the children from the camps in Konik 1 and Konik 2. In the school year 2016/17, all children were attending desegregated education.

Children are regularly transported to city schools and mediators are employed. However, these initiatives were primarily implemented in the framework of projects. In its annual work plan, the Ministry of Education has envisaged that the Ministry will engage twenty mediators starting from September 2017.

Many of the children have Romani or Albanian as their first language. In the desegregation process, schools also used the newly developed curriculum and new textbooks for Montenegrin language as a second language.⁵⁶

6. HOUSING

6.1. LAW AND POLICY REVIEW

The Law on Social Housing recognises Roma and Egyptians as priority target groups.⁵⁸ However, its application remains limited due to the severe lack of financial resources and the lack of capacity of local self-governments to implement social

ROMANI LANGUAGE AND ROMANI IDENTITY AND CULTURE

According to the latest census (2011), 6,251 person identified themselves as Roma and 5,169 stated Romani as their mother tongue. Montenegro is a signatory of the European Charter on Minority and Regional Languages, however, Romani is not an official language in Montenegro and therefore not included in the education system as a minority language. The justification, as explained in the first and second report on the implementation of the Framework Convention and the Charter for Regional or Minority Languages, is found in lack of standardisation for Romani language and lack of educated teaching staff that could provide lessons in Romani language.

Research of the Ministry of Human and Minority Rights in 2016 established that 33% of the Romani households exclusively use Romani language and that only 40% of the Roma population speaks Montenegrin language satisfactorily. In addition, over 45% of Roma cannot read or write in Montenegrin language.⁵⁷ Therefore, the National Strategy foresees a number of measures to strengthen the position of Romani language. The Strategy, however, does not foresee any measures regarding the introduction of Romani language in the education system.

housing programs. The law is also vague on urging authorities to prevent homelessness (for example, by establishing reception centres), despite the fact that the law recognises homeless people as a vulnerable group eligible for social housing.

54 Government of Montenegro, Ministry for Human and Minority Rights, Report on implementation of Strategy for improving the position of Roma and Egyptians in Montenegro 2012-2016

55 Data as of May 2017

56 National Strategy

57 National Strategy

58 Official Gazette of Montenegro, No. 35/13

Although the government adopted the Draft Law on Legalisation of Informal Structures in July 2012, the law has been enacted only in 2016. The law envisages legalisation of informal housing facilities or, for the cases when that is not possible, securing alternative accommodation.⁵⁹ There are no fees to be paid for legalisation of objects which are meant for living as the primary purpose. However, the experts estimate that even with the adoption and implementation of this law, the housing problem of Roma and Egyptians will persist.⁶⁰

There are three ministries in Montenegro with a mandate to tackle the housing situation of Roma and Egyptians – the Ministry of Labour and Social Welfare, the Ministry of Sustainable Development and Tourism and the Ministry of Finance. Provisions on social housing are mainly within the responsibility of local self-governments. According to the Government's Strategy for Roma integration, the key instrument to improve the housing situation is the Local Programme for Social Housing.⁶¹

Within the framework of the Sarajevo Process (2005), the Regional Housing Programme has been announced in 13 Montenegrin municipalities, financially supported by international organisations. In total, 120 housing units were planned in the Konik camp in Podgorica, 63 housing units in Niksic and 94 in Berane. The government officially stated that this program will significantly contribute to the closing of the Konik and other Roma IDPs camps.⁶²

6.2. CURRENT SITUATION

According to the Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016–2020, housing and sanitation conditions of “a large number of members of the population are particularly bad and extremely worrying [...] the problem is primarily about surviving – the

de facto right to life – as a result of the unavailability or lack of clean drinking water, the fact that their homes are of a temporary nature, often from poor, insufficiently solid material, of small area, without sanitation and sewerage, often located near the municipal waste landfills.”⁶³

Based on the research of the Ministry of Human and Minority Rights (2016), 77% of Roma and Egyptians lives in segregated settlements, predominantly in three municipalities, Podgorica (57% of Roma and Egyptian population in total), Niksic (11%) and Berane (9%). About 60% live in legalised housing, the remaining households are not legalised and the government argues that “in many cases there is no legal way to perform legalization.”⁶⁴

As for the quality of housing conditions, the Strategy points out that 60% of Roma households belong to “inadequate structures”. Some 30% of Roma live in “barracks”, 37% in “tin objects”, and about 3% in “structures of other materials”. Only 47% of Roma households have bathroom and 39% is connected to sewerage. Reportedly, 81.7% of Roma households are supplied with electricity.⁶⁵ The women and children situation is of particular concern too. Especially in the Konik camps where 54% of the women live in informal housing (containers) since on average 7 people share a 10-20m² of living space here.⁶⁶

However, progress is being made in addressing the residential problems of displaced persons (see the data above on construction in the framework of the Sarajevo Process). There are 62 completed houses in Niksic while in Konik the construction process has started as well as the bidding process in Berane.⁶⁷ Other housing projects for socially vulnerable people are in the planning process.

59 The Law on the Legalization of Informal Buildings, the Official Gazette of Montenegro, Nos. 56/16, 13/17

60 See also Strategy, 2016, pp. 14 and 21-22.

61 Ministry of Human and Minority Rights of Montenegro, the Strategy for Social Inclusion of Roma and Egyptians in Montenegro in 2016-2020, 2016, p. 19.

62 Strategy, p. 16.

63 Ministry of Human and Minority Rights of Montenegro, the Strategy for Social Inclusion of Roma and Egyptians in Montenegro in 2016-2020, 2016, pp. 13-14.

64 Ministry of Human and Minority Rights of Montenegro, the Strategy for Social Inclusion of Roma and Egyptians in Montenegro in 2016-2020, 2016, p. 14.

65 Strategy, pp. 15-16.

66 ERRC, Research on reproductive right of Roma, Ashkali, and Egyptian women in Montenegro, 2016 (unpublished). Main findings are available at: <http://www.errc.org/cms/upload/file/montenegro-submission-7-november-2016.pdf>.

67 Information provided by Budimirka Djukanovic, Roma Health Program National Manager for Montenegro, on June 5, 2017



PHOTO: ANXHELA ARBITI, ALBANIA

7. ACCESS TO JUSTICE

7.1. LAW AND POLICY REVIEW

The Constitution of Montenegro (Art. 9) stipulates that “the ratified and published international agreements and generally accepted rules of international law shall make an integral part of the internal legal order, shall have the supremacy over the national legislation and shall apply directly when they regulate relations differently than the national legislation”.

The anti-discrimination legal framework is based on a Constitutional provision prohibiting discrimination, and promoting equality before the law and individual rights based on the current system of human rights and freedoms.

However, legal experts argue that the Constitutional provisions lack references to the adequate implementation of laws and that in reality human rights and freedoms are mere principles that are not effectively protected by the relevant legal and administrative procedures.

The [Law on Free Legal Aid](#) was adopted in 2011 and it was revised in 2015.⁶⁸ The rights according to this Law are poverty related and citizens with some property

cannot claim free legal aid. However, all citizens receiving material support (MOP) from social welfare offices are automatically eligible for receiving free legal aid. However, this provision is not appropriately made known among Roma and Egyptians. The court fees represent a significant obstacle for equal access to justice because for filing a lawsuit before the administrative court it is required to pay a fee of 10 euro.

7.2. CURRENT SITUATION

According to the Strategy (2016), “the level of discrimination and stigmatization of Roma increased”.⁶⁹ Data demonstrate that the ethnic distance towards members of Roma population is very strong and comparatively at a much higher level than towards the members of any other ethnic community. A research on discrimination of members of minority and marginalized groups in Montenegro conducted by the Centre for Democracy and Human Rights (CEDEM) in 2013 pointed out that Roma are most likely to suffer discrimination in the country, as compared to other minorities. According to the research, 39.2% of

68 The Official Gazette of Montenegro 20/11

69 Ministry of Human and Minority Rights of Montenegro, the Strategy for Social Inclusion of Roma and Egyptians in Montenegro in 2016-2020, 2016, p. 85.

Roma reported that they have the same access to justice as non-Roma.⁷⁰

In 2015, the Ombudsman announced that none of the submitted complaints referred to the alleged ethnic discrimination against Roma and Egyptians. In 2016, the Ombudsman reportedly received 151 cases of discrimination. Seven cases explicitly regarded discrimination “on

the basis of belonging to the Roma minority and Egyptian community.”

However, despite the recommendations of the Ombudsman, there are no Roma-specific disaggregated data collected in the judicial system and therefore the authorities cannot establish the numbers of discrimination cases against Roma and Egyptians in Montenegro.

8. HEALTH

8.1. LAW AND POLICY REVIEW

The two main documents stipulating health care services in Montenegro are the [Law on Health Protection](#) and the [Law on Health Insurance](#).⁷¹

The [Law on Health Insurance](#) stipulates that the people in vulnerable situation – women during pregnancy and in the first year after delivery, people older than 65 and those suffering from infectious diseases – are entitled to free health protection. The law does not provide for the collection of ethnically disaggregated data and thus the Ministry of Health does not collect particular data on the health situation of Roma in Montenegro.⁷²

The [Decree on the manner of exercising the rights of displaced persons from the former Yugoslav republics and internally displaced persons from Kosovo residing in Montenegro](#) defines conditions by which displaced persons who are Roma and Egyptians shall receive health care.⁷³ According to the government, they are entitled with the same health care coverage as other citizens of Montenegro.⁷⁴

In 2013, the Ministry of Health introduced the programme of “Roma Health Mediators” and since then it has expanded.⁷⁵

8.2. CURRENT SITUATION

Research conducted by the Ministry of Human and Minority Rights in February 2016 demonstrated that 40% of sampled Roma and Egyptians assessed their own health status as bad or very bad. In 26% of Roma and Egyptian households there is minimum one person with serious health conditions or disability, while 6% of these 26% of households accommodate more than one person with serious health condition. Average life expectancy of members of the Roma population is 55 years while for members of the majority population it is 76 years.

Moreover, almost 12% of Roma and Egyptian households had a case of death of a new-born.⁷⁶ This figure could serve as a proof of the government’s failure to provide accessible, affordable and effective prenatal and antenatal care of Roma and Egyptian new-borns.

As much as 40% of adult Roma and Egyptians does not possess certified health card.⁷⁷ According to the Strategy (2016), a large number of Roma and Egyptians do not possess the health card because they do not have citizenship and/or birth certificate. They also do not know how the system works and/or have no information and/or do not know what specific steps to take in order to get health care.⁷⁸

70 Center for Empiric Studies, *Ethnic Distance in Montenegro*, 2013, available at: <http://www.cedem.me/publikacije/studijeijavne-politike/send/69-studije-i-javne-politike/720-etnika-distanca-2013>.

71 Law on Health: Official Gazette of Montenegro, Nos. 003/16, 039/16 and 002/17; Law on Health Insurance: Official Gazette of Montenegro, Nos. 006/16, 002/17 and 022/17

72 CAHROM, 2016, p. 39.

73 Official Gazette of Montenegro, No. 36/2015

74 CAHROM, 2016, p. 39.

75 CAHROM, 2016, p. 41.

76 Ministry of Human and Minority Rights of Montenegro, *the Strategy for Social Inclusion of Roma and Egyptians in Montenegro in 2016-2020*, 2016, p. 45.

77 Ministry of Human and Minority Rights of Montenegro, *the Strategy for Social Inclusion of Roma and Egyptians in Montenegro in 2016-2020*, 2016, p. 46.

78 Strategy, p. 46.

The number of Romani children born outside of hospital remains significant as 16% of Romani women gave birth unattended.⁷⁹ According to CAHROM 2016 report, “infant mortality rate remains about 6 times higher for Roma than for the total population and the life expectancy for Roma remains 25 years lower than the total population.”⁸⁰

The CAHROM reports that the Institute for Public Health organised several vaccination campaigns among Roma and Egyptian children recently, which resulted in “high percentage of coverage (for certain diseases up to 98%)”, though they missed to specify which diseases were covered.⁸¹

The recent ERRC research focused on reproductive health confirming the negative indicators and revealing further problems with availability, accessibility, affordability and the quality of reproductive health services since a significant percentage of interviewed Roma and Egyptian women are without any health insurance or certified health cards (32%).⁸² Among the interviewed, 12.5 % of the women had visited a gynaecologist a very long time ago.

In addition, there is a low prevalence of contraceptives and inadequate access to sexual and reproductive health services and information, emphasising the state’s need to ensure that Roma and Egyptian women have free and adequate access to contraceptives, sexual and reproductive health services and information in accessible formats.

In comparison to other countries, a relatively small share of the Roma in Montenegro reported difficulties in purchasing prescribed medicine, however, that is still more than double in comparison to non-Roma in the country (19% vs. 8%).⁸³

With regard to the free access to health service for (formerly) displaced persons, few problems were reported, but in general – if reported – they could be solved with the assistance of UNHCR and civil society.

79 UNDP, Health, 2012, p. 58.

80 2015 Roma Inclusion Index, p. 18. http://www.romadecade.org/cms/upload/file/9810_file1_roma-inclusion-index-2015-s.pdf. CAHROM (2016) - <http://www.coe.int/nl/web/portal/cahrom>

81 CAHROM, Health, 2016, p. 39

82 ERRC, <http://www.errc.org/article/errc-submission-to-un-cedaw-on-montenegro-november-2016/4529>

83 UNDP, Health, 2012, p.42.



PHOTO: ALAUDIN FAFULOVIĆ, BIH

9. ASYLUM AND FORCED RETURN

9.1. LAW AND POLICY REVIEW

There are a number of laws relevant for the reintegration of repatriated asylum seekers. In addition to sectoral laws in the fields of education, employment, social welfare or housing which will be relevant for repatriated persons too, these are laws such as the Law on Foreigners, Law on Asylum, Law on Montenegrin Citizenship, Law on the Central Register of Population, Law on Travel Documents and Law on Border Control.⁸⁴

In April 2016, Montenegro adopted the guiding policy document, the Strategy for Reintegrating Persons Returned on the Basis of the Readmission Agreements in the Period 2016-2020 with an Action Plan for 2016.⁸⁵

In order to facilitate a better reintegration, it proposes a coordination mechanism and includes a set of reintegration measures and indicators for the monitoring process. Among other groups, the Reintegration Strategy identifies Roma,

Ashkali and Egyptians as “socially vulnerable groups” which are in need of special attention. The Reintegration Strategy further stipulates the need to work on reducing prejudices against Roma, Ashkali and Egyptians, especially involving employers in activities of combating prejudices in order to facilitate better access to labour market.

In 2007, the European Union and Montenegro signed a readmission agreement as a kind of precondition for visa-free travel of Montenegrin citizens to the European Union. In addition, Montenegro signed readmission agreements with individual countries.

9.2. CURRENT SITUATION

On the one hand, Montenegro is a country hosting a considerable number of displaced Roma, Ashkali and Egyptians from Kosovo.

⁸⁴ Law on Foreigners: Official Gazette of Montenegro, Nos. 56/2014 and 28/15, Law on Asylum: Official Gazette of the Republic of Montenegro, No. 45/06; Law on Montenegrin Citizenship: Official Gazette of Montenegro, Nos. 13/08, 40/10 and 28/11; Law on the Central Register of Population: Official Gazette of the Republic of Montenegro, No. 49/07 and Official Gazette of Montenegro No. 41/10, Law on Travel Documents: Official Gazette of Montenegro, Nos. 21/08 and 25/08; Law on Border Control: Official Gazette of Montenegro, No. 72/09

⁸⁵ Government of Montenegro, Ministry of Interior, the Strategy for Reintegrating Persons Returned on the Basis of the Readmission Agreements in the Period 2016-2020 with an Action Plan for 2016.

It took years for the Montenegrin authorities to establish both policy and practice that target their integration, accepting that the majority of them cannot and does not want to return to Kosovo. The primary policy goal of the Montenegrin authorities is still that the displaced persons should return to Kosovo. However, the overwhelming majority cannot or does not want to return.

The Directorate for Refugees data show that in the period 2012-2017 (until May) altogether 93 families or 483 individuals have returned to Kosovo. After slow start of six and nine families in 2012 and 2013 respectively, in the next three years there were 24, 27 and 25 families returning. These are official data of those returning in the framework of the existing programmes, however, in the Directorate they believe that there are some returning on their own that are not registered by the Directorate.

On the other hand, many Roma and Egyptians from Montenegro have left to Western Europe asking for asylum in recent years. Between 2008 and 2016, 11,500 persons from Montenegro applied for asylum in the European Union.⁸⁶

In the same period, around 6,000 rejected asylum seekers returned to Montenegro.

According to the Strategy for Reintegrating Persons Returned on the Basis of the Readmission Agreements in the Period 2016-2020, the majority of the asylum seekers are Roma. The data on the number of children from these communities in the education system illustrate this migration: nearly 10% less children from these communities attended primary schools in school year 2015/2016 compared to school year 2013/2014 (1,438 children out of 1,582 children).

According to the Reintegration Strategy, housing is a crucial problem for returnees, in particular for returnees from the Roma, Ashkali and Egyptian communities who often find "accommodation within non-hygienic settlements on the periphery of cities, without basic infrastructure i.e. electricity, water supply and sewerage". The lack of property documents and the informal character of many of these settlements further aggravate the problem. Other problems prevail with regard to accessing the labour market, education system and health system.

Therefore, the Reintegration Strategy emphasises the need for a comprehensive and community-based approach with regard to repatriated persons from the three communities. However, mainstream laws, e.g. in the field of employment do not recognise repatriated persons as a vulnerable category.

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