

HUMAN RIGHTS IN MONTENEGRO

HUMAN RIGHTS ACTION (HRA)

Situation in Montenegro

Issue I: Independence and Accountability of the Judiciary

- Independent, accountable and professional judicial system is central to the protection of human rights. After two decades of judicial reform, Montenegro still lacks adequate tools to provide for such system.

Implementation of previous recommendations (5)

NOT IMPLEMENTED (4):

- Continue judicial reform to eliminate political influence on the judiciary (***Austria***) and guarantee its independence and impartiality (***Italy, Estonia***); promote the independence of the Judicial Council and develop a disciplinary framework for judges and prosecutors (***Islamic Republic of Iran***); implement anti-corruption policies to strengthen the independence and effective functioning of judiciary (***Estonia***).

INSUFFICIENTLY IMPLEMENTED (1):

- Continue taking the necessary measures to ensure compliance within the national judicial system, including incorporating international human rights and anti-corruption standards into the capacity-building curricula for judicial officials (***Azerbaijan***).

Situation in Montenegro

Issue I: Independence and Accountability of the Judiciary

New developments:

- Legal framework insufficiently provides for independence and accountability, recommendations of the Council of Europe's GRECO and Venice Commission partially implemented.
- Criminal proceedings for corruption against 4 judicial officials (3 high-level) indicate widespread corruption in judicial system. Unlawful allocation of financial housing aid by Government to judges and prosecutors revealed in 2021.
- Only 1 prosecutor and 3 judges held disciplinary liable for failure in performing their functions (2018-2022).
- Long-pending high-level judicial appointments due to parliamentary deadlock.
- Impunity for torture, war crimes, attacks on journalists, corruption and hate speech enabled by ineffective investigations – caused by prosecutors lacking independence, integrity, accountability and professionalism.
- “Judiciary remains susceptible to political pressure” (Freedom House, 2023); “Implementation of key judicial reforms remains stalled” (European Commission, 2022); “Persistent delays in fulfilling key judicial appointments hinder judicial efficacy” (US State Department, 2022); “Impunity persisted for crimes under international law, torture and attacks on journalists” (Amnesty International, 2022).

Recommendations

Issue I: Independence and Accountability of the Judiciary

Montenegro should:

- Ensure effective independence and accountability of the judiciary by addressing all outstanding recommendations from the UPR and the Council of Europe's GRECO and Venice Commission's detailed advice;
- Review the disciplinary and ethical framework for judges and state prosecutors to strengthen their objectivity and effectiveness;
- Consider vetting of all judges and prosecutors; Prosecute all responsible for illegal contracts providing state-sponsored housing aid; nullify contracts and compensate the state for damages.
- Introduce anti-deadlock mechanisms for judicial appointments.
- Enhance education of prosecutors and judges on international human rights standards, particularly regarding conducting effective investigations of torture, war crimes, attacks on journalists and hate crimes.

Situation in Montenegro

Issue II: Prohibition of torture and ill-treatment

- Continuing impunity for acts of torture fails to prevent further violations.

Implementation of previous recommendations (10)

INSUFFICIENTLY IMPLEMENTED (7):

- Continue working to eradicate torture and strengthen the effective implementation of the Convention against Torture (**Chile**), by adopting a definition of torture under the Convention, ensuring that the penalties are proportionate to the gravity of the crime (**Côte d'Ivoire, Netherlands, Portugal**) and removing the statute of limitations on torture from the Criminal Code (**Portugal, Czechia**); Provide professional trainings for law enforcement officials in order to prevent cases of torture, ill-treatment and excessive use of force (**Russian Federation, Indonesia**).

NOT IMPLEMENTED (3):

- Provide effective investigation of all allegations of torture (**Ghana, Belarus, Russian Federation, Czechia**); Ensure that all prisoners receive a thorough medical examination and have the right of access to health-care services (**Islamic Republic of Iran**).

Situation in Montenegro

Issue II: Prohibition of torture and ill-treatment

New developments

- 1/4 of detainees interviewed by the European Committee for the Prevention of Torture (CPT) in 2022 complained of ill-treatment by the police;
- Only 1/3 of the Committee against Torture's (CAT) recommendations from 2014 implemented, mostly ineffectively.
- Over 50 state officers sanctioned for acts of torture since 2014 by suspended sentences only and continue working in the state system.
- At least 22 documented cases of extortion of testimonies by police officers in 2020 and 2021, none effectively investigated; failure of medical doctors to document injuries in accordance with the Istanbul Protocol.
- Continued failure to conduct effective investigations and suspend state agents under investigation (CAT).
- Draft Laws on Criminal Code and Criminal Procedure Code fail to incorporate CAT and CPT recommendations.

Recommendations

Issue II: Prohibition of torture and ill-treatment

Montenegro should:

- Fulfil all outstanding recommendations of the UPR, CAT and CPT: provide for prompt and effective investigations of torture complaints by an independent body; increase penalties for torture; exclude statute of limitations.
- Ensure suspected perpetrators of torture are immediately suspended from official duties and for the duration of the investigation.
- Ensure thorough medical screening of victims in accordance with the Istanbul Protocol.

Situation in Montenegro

Issue III: Domestic handling of war crimes

Implementation of previous recommendations

PARTIALLY IMPLEMENTED: Provide the Special State Prosecutor's Office with adequate resources and training on so as to bring perpetrators to justice (**Republic of Korea**).

NOT IMPLEMENTED: Deepen investigative and sanctioning measures for perpetrators of war crimes, in particular those who held command positions at the time of the conflict (**Argentina**).

Situation in Montenegro

Issue III: Domestic handling of war crimes

New developments

- Not a single investigation upon Montenegrin prosecutor's own initiative since 2006. In the last 8 years, only 2 persons prosecuted in two cases handed over by neighbouring states.
- No investigations on the basis of command responsibility, complicity, aiding, and abetting.
- Redress of victims precluded by statute of limitation in cases of crimes not prosecuted or ending in acquittals.

Recommendations

Issue III: Domestic handling of war crimes

Montenegro should:

- Proactively investigate all war crimes allegations (CAT) and raise issues of command responsibility, aiding and abetting (European Commission);
- Review old cases that were not prosecuted in line with international humanitarian law as well as domestic law (European Commission);
- Ensure all victims and their family members obtain redress and/or administrative compensation for suffering (CAT).



THANK YOU !