



HUMAN RIGHTS ACTION | AKCIJA ZA LJUDSKA PRAVA

Statement for the UPR Pre-session on Montenegro

5 April 2023, Geneva

(Slide 1)

Thank you for your interest in Montenegro. It is a small country but also seeing serious human rights violations.

Human Rights Action is for almost 20 years striving for effective human rights protection in Montenegro. We have learned early that this goal is predetermined by the level of independence and integrity of judges and prosecutors. I will therefore focus on judicial reform, and in connection speak about the need to end impunity for war crimes, torture and attacks against journalists.

(Slide 2) ISSUE 1: *INDEPENDENCE OF JUDICIARY*

Montenegro still lacks tools to provide for judicial system capable of safeguarding the rule of law. After 25 years of judicial reform there is still a strong need for strengthening guarantees of independence, integrity, accountability and professionalism of judges and prosecutors.

In the latest UPR cycle, Montenegro accepted five related recommendations, which remain either non-implemented or insufficiently implemented (you should see them on the screen).

(Slide 3)

Legal framework fails to incorporate all necessary recommendations from the Council of Europe's GRECO and Venice Commission to provide for independence and accountability of judges and prosecutors.

Thanks to data delivered by EUROPOL, criminal proceedings were initiated in 2022 against four judicial officials for corruption and ties to organized crime - president of the Supreme Court, president of the Commercial Court, Special state prosecutor, a Basic state prosecutor - indicating widespread corruption in the judiciary. Also, unlawful allocation of housing aid by Government to several [judges](#) and [prosecutors](#) was revealed in 2021.

However, only 1 prosecutor and 3 judges were held disciplinary liable for failure to perform their functions since 2018.

There are long-pending high-level judicial appointments due to parliamentary deadlock - 3 members of the Judicial Council not appointed for 5 years, the Supreme State Prosecutor for 3 years, the president of the Supreme Court for 2 years and 4 judges of the Constitutional Court for 2 years.

Continuing impunity for torture, war crimes, murder and other attacks on journalists is enabled by ineffective investigations, which are the responsibility of prosecutors lacking independence, integrity, accountability and professionalism.

Perception of Montenegro: "[judiciary remains susceptible to \(political\) pressure from the DPS](#)" (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, 2023).

(Slide 4)

Montenegro should:

- Ensure effective independence and accountability of the judiciary by addressing outstanding recommendations from the UN and the Council of Europe;
- Consider vetting of all judges and prosecutors;
- Introduce anti-deadlock mechanisms for judicial appointments.
- Enhance education on international human rights standards, particularly regarding conducting effective investigations of torture, war crimes, attacks on journalists and hate crimes.

(Slide 5) ISSUE 2: PROHIBITION OF TORTURE

There is continuing impunity for acts of torture.

Recommendations relating to reform of legal framework have been insufficiently implemented or not implemented.

Professional trainings for law enforcement officials were insufficient.

There is no effective investigation of torture in all cases.

Thorough medical examinations in line with the Istanbul Protocol are still lacking.

(Slide 6)

- A quarter of detainees interviewed in 2022 by the European Committee for the Prevention of Torture complained of ill-treatment by the police;
- Legal reform remains insufficient - only a third of the CAT's recommendations from 2014 were implemented;
- Over 50 state officers were sanctioned for acts of torture in the last 10 years by suspended sentences only and continue working in the state system;
- At least 22 documented and reported cases of extortion of testimonies by police officers in 2020 and 2021 had not been effectively investigated;
- There is continued failure to suspend state agents under investigation for torture.

(Slide 7)

Montenegro should:

- Provide for effective investigations by an independent body; increase penalties; exclude statute of limitations.
- Ensure suspected perpetrators are immediately suspended from official duties.
- Ensure thorough medical screenings in line with the Istanbul Protocol.

(Slide 8)

ISSUE III: **WAR CRIMES**

The recommendation to investigate perpetrators holding command positions at the time of the conflict was not implemented.

(Slide 9)

There is no proactive investigating of crimes from the wars of the 1990ies in the former Yugoslavia. Only 2 persons were prosecuted in the last eight years in cases handed over to Montenegro by other states.

Redress of victims was precluded by statute of limitation in cases not prosecuted or ending in acquittals.

(Slide 10)

Montenegro should:

- Proactively investigate all war crimes allegations and raise issues of command responsibility.
- Review old cases not prosecuted in line with international and domestic law.
- Ensure all victims of war crimes and their family members obtain redress for their suffering regardless of criminal proceedings.

THANK YOU!