

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**Concluding observations of the Committee against Torture**  
*(Extracts for follow-up of CAT/C/MNE/CO/2)*

**MONTENEGRO**

(...)

**C. Principal subjects of concern and recommendations**

(...)

**Fundamental legal safeguards**

7. The Committee is concerned that, in practice, persons deprived of their liberty are not always afforded all fundamental legal safeguards from the very outset of their deprivation of liberty, including the right to have access to an independent lawyer and an independent doctor of their choice, and to contact a relative. The Committee expresses its concern at the requirement for an order by the public prosecutor prior to medical examinations of arrested and detained persons being carried out, under article 268 of the Criminal Procedure Code. (art. 2)

**In the light of the Committee's general comment No. 2 on the implementation of article 2 by States parties, the State party should take all necessary measures to ensure that all persons deprived of their liberty are afforded, in law and in practice, fundamental legal safeguards from the very outset of deprivation of liberty, including the right of access to an independent lawyer and to an independent doctor, preferably of their own choice, without conditioning such access on the permission or request of officials, and the right to contact a relative.**

(...)

**Impunity for war crimes and remedy for victims**

13. The Committee is deeply concerned at the impunity enjoyed by perpetrators of crimes under international law, in view of the absence of final convictions in proceedings in domestic courts. Regarding the four war crimes cases, namely Kaluderski Laz, Morinj, Deportation of Muslims, and Bukovica, there is a concern that the court failed to fully apply domestic criminal law and to comply with relevant international legal standards. The Committee expresses its concern that the majority of victims of violations of war crimes in Montenegro have yet to be afforded the right to reparation. (arts. 12, 14 and 16)

**The State party should intensify its efforts to fight impunity for war crimes by:**

- (a) Ensuring that relevant domestic criminal law is fully applied and that decisions by the domestic courts on war crimes cases are in line with international humanitarian law, including the jurisprudence of the International Criminal Tribunal for the Former Yugoslavia;**
- (b) Completing its investigation of all allegations of wartime crimes, and prosecuting the perpetrators and punishing them with appropriate penalties commensurate with the grave nature of the crimes;**
- (c) Ensuring access to justice and reparations for victims, in the light of the Committee's general comment No. 3 on the implementation of article 14 by States parties.**

### **Investigations**

14. The Committee takes note of the work of the Division for Internal Control of the Police, under the Ministry of the Interior, as well as of article 11 of the Criminal Procedure Code which prohibits the threatening or the exerting of violence against a suspect or accused person in order to extract a confession. However, the Committee remains concerned at consistent reports about (a) physical ill-treatment of detainees and the exertion of pressure on them by the police at the time of questioning with a view to extracting confessions or obtaining information and (b) the State party's failure to investigate allegations of torture, ill-treatment or excessive use of force by the police and to prosecute and punish perpetrators. (art. 12)

**The State party should:**

- (a) Improve criminal investigation methods so as to put an end to practices whereby confession is relied on as the primary and central element of proof in criminal prosecution;**
- (b) Ensure prompt, impartial and effective investigation into all allegations of torture, ill-treatment and excessive use of force by the police, and prosecute and punish those responsible with appropriate penalties. Such investigations should not be conducted by the police or under the authority of the police but by an independent body;**
- (c) Ensure that persons under investigation acts of torture or ill-treatment are immediately suspended from their duties and remain so throughout the investigation.**

(...)

28. The Committee requests the State party to provide, by 23 May 2015, follow-up information in response to the Committee's recommendations relating to (a) ensuring or strengthening legal safeguards for detained persons; (b) conducting prompt, impartial and effective investigations and (c) prosecuting suspects and

sanctioning perpetrators of torture or ill-treatment, in accordance with paragraphs 7, 13 and 14 of the present concluding observations.

(...)

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