



**Montenegro**  
**GOVERNMENT OF MONTENEGRO**

**Introductory remarks**  
**on the occasion of the 73<sup>rd</sup> session of the Committee against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment that will consider the Third Periodic Report of Montenegro**

Distinguished Chairman,

Distinguished members of the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

In accordance with paragraph 29 of the Concluding Observations of the Committee against Torture on the Second Periodic Report of Montenegro on the application of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/MNE/CO/2), the State of Montenegro is required to submit its Third Periodic Report. Bearing in mind that Montenegro has accepted the simplified reporting procedure, the Committee against Torture has submitted a list of questions, and responses to the submitted list of questions will constitute Montenegro's Third Periodic Report in accordance with Article 19 of the Convention. The responses took into account the comments of the Committee against Torture regarding the information submitted by Montenegro in July 2015 on the application of certain recommendations contained in the Committee's Concluding Observations on the Second Periodic Report of Montenegro, as well as General Comment No. 4 (2017) on the implementation of article 3 of the Convention in the context of article 22, replacing General Comment No. 1 which was adopted in 1997. The following participated in the preparation of the CAT's Third Periodic Report: Ministry of Justice, Ministry of Human and Minority Rights, Ministry of the Interior (Police Directorate and National Office for Combating Trafficking in Human Beings), Ministry of Labour and Social Welfare, Ministry of Education, Ministry of Health, Ministry of Foreign Affairs, Supreme Court of Montenegro, Supreme State Prosecution Service, Protector of Human Rights and Freedoms, Institute for the Execution of Criminal Sanctions, Police Academy, and Judicial and Prosecutorial Training Centre. The Third Periodic Report was adopted by the Government of Montenegro by way of its Conclusion no. 07-2696 of 24 May 2018. It was supposed to be considered at the 69<sup>th</sup> session of the United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, scheduled for 22-23 April 2020. However, the 69<sup>th</sup> session was not held due to the COVID-19 pandemic.

Bearing in mind the passage of time between the 69<sup>th</sup> session and the upcoming 73<sup>rd</sup> session, we would like to particularly underline progress in the areas that are specifically protected by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette of SFRY – International Treaties, no. 9/91) and the Additional Protocol to the Convention (Official Gazette of Montenegro – International Treaties, no. 9/08).

To explain, we would like to point out that the Draft Law on Amendments to the Criminal Code of Montenegro has been aligned with the 2018 UN recommendation on the Universal Periodic Review on the non-applicability of statutory limitations to torture and ill-treatment. It is prescribed that the criminal prosecution and execution of a sentence are not subject to the statute of

limitations for criminal offences of torture. It also introduced the mandatory imposition of the security measure of *disqualification from a profession, activity or duty* of officials punished for criminal offences of torture committed with wrongful intent, and prevented the possibility of imposing warning measures for criminal offences of torture committed with wrongful intent on officials punished for such crimes. It is worth noting that Article 9 of the Constitution of Montenegro stipulates that 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 apply directly when relations are regulated differently from national legislation, so that the judicial authorities give priority to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in said proceedings. Work is under way to amend the Law on Legal Aid, which will recognize victims of torture, inhuman or degrading treatment or punishment as privileged beneficiaries of the right to legal aid.

The Law on Amendments to the Criminal Code of Montenegro, which was adopted on 30 December 2021, prescribes stricter penalties for criminal offences of domestic violence or extended family violence. We are currently in the process of setting up a body to take special care of persons who have been victims of domestic violence. The committees of the Parliament of Montenegro have discussed this topic several times, and the Government of Montenegro has also appealed to the prosecutor's office, as well as to other institutions, to do everything to make the fight against domestic violence as effective as possible.

The right to legal aid, in accordance with the Law on Legal Aid, may be exercised by nationals of Montenegro; stateless persons legally residing in Montenegro and persons seeking asylum in Montenegro; foreigners with permanent residence or approved temporary residence and other persons legally residing in Montenegro; as well as other persons in accordance with ratified and published international treaties. At its session of 10 March 2022, the Government of Montenegro adopted the *Decision granting temporary protection to persons from Ukraine for a period of one year*, which covers nationals of Ukraine, stateless persons whose last residence was in Ukraine and persons to whom Ukraine granted international protection, who cannot return to Ukraine/their country of origin as they were forced to leave it due to armed conflicts. In order to supervise the implementation of this Decision, the Government of Montenegro will establish a coordination body.

Furthermore, amendments to the Criminal Procedure Code will create legal preconditions for presenting before domestic courts evidence presented before the International Criminal Tribunal for the Former Yugoslavia. That will improve cooperation with the residual mechanism in The Hague, but also enable the initiation of proceedings and the issuance of convictions for war crimes in the territory of the former Yugoslavia.

Montenegro pays special attention to resolving the issue of missing persons during armed conflicts, as a humanitarian issue of immeasurable importance to the families of missing persons, but also a political issue – as an important indicator of true democratisation of society and the state and their readiness to face the consequences of human rights violations. Respecting international and regional efforts to resolve the issue of missing persons, the Committee for Missing Persons of the Government of Montenegro has been established with a mandate to resolve the issue of missing persons during armed conflicts in the former Yugoslavia. The task of the Committee is to monitor, study and determine proposals for resolving the issue of missing persons from the territory of Montenegro in armed conflicts in the former Yugoslavia, fulfilment of obligations arising from international treaties and agreements related to resolving the issue of missing persons, coordination of competent bodies and their organisation in the process of searching for missing persons, exhumation and identification of mortal remains, cooperation with the competent authorities, families and associations of missing persons in order to resolve status and humanitarian issues of their families. In the previous period, the Committee resolved a number of cases and engaged in the handover of the mortal remains of 33 persons who were citizens of Montenegro at the time of their disappearance or whose disappearance was reported by those who were citizens of Montenegro at that time.

The police resolved all attacks on journalists and media outlets in 2021, however, an issue remains as regards several old cases. The Government of Montenegro is investing additional efforts and expresses its readiness to do everything that is necessary to have these cases resolved. Let us remind that, at the end of December 2013, the Government of Montenegro made a decision to establish a Committee for the monitoring of operation of competent authorities in investigating old and recent cases of threats and violence against journalists and the murder of journalists. The commission has agreed on the list of priority investigations it will deal with during its mandate. Working teams have also been formed in order to shed light on events that are considered particularly complex events, comprising of those with a good record in their previous work. Pursuant to Article 12 paragraph 3 of the Decree on the Government of Montenegro ("Official Gazette of Montenegro", No. 80/08, 14/17 and 28/18), at its session of 22 April 2021, the Government of Montenegro adopted a Decision on the establishment of a new Commission for the monitoring of operation of competent authorities in investigating the cases of threats and violence against journalists, murders of journalists and attacks on media property. In addition to representatives of the media and media associations, the new Commission also includes representatives of the Ministry of the Interior, the Police Administration, the National Security Agency and the State Prosecutor's Office. The drafting of the Media Strategy, as well as of the media legislative framework are under way. In addition, an amendment was made to the Criminal Code of Montenegro, with the aim of enabling stronger criminal law protection of media freedoms and freedom of expression as values that occupy a high place on the scale of values in any democratic society.

In order to reduce overcrowding in prisons and improve the conditions of stay of persons deprived of liberty, under the Criminal Sanctions Execution Strategy (2017-2021) and the 2017-2021 Action Plan for the Implementation of the Criminal Sanctions Execution Strategy, it is planned to build 4 new facilities: special health facility, multifunctional facility, reception office and open department, as well as to construct the prison for the northern region of Montenegro in the municipality of Mojkovac. On 2 December 2019, the Financial Agreement for IPA 2018 between the European Commission and Montenegro entered into force, committing €13,516,733 for the EU project on improving access to justice and fundamental rights, which will fund the construction of these four facilities in the amount of €4,378,311.00. The detailed design for four facilities: special health facility, multifunctional facility, reception office and open department, was completed. The expected start of construction of these four facilities is December 2022, and the expected duration of works is 24 months.

As regards the construction of a prison for the northern region, the project application of the Ministry of Justice was accepted. The Western Balkan Investment Framework (WBIF) provided a TA grant of 100% amounting to €1,200,000, and part of its funds was used to develop engineering documents for the construction of a prison accommodating 200 persons deprived of liberty and 120 employees. The 2021 Decision on Borrowing of Montenegro stipulates that the state of Montenegro is to borrow funds from the Council of Europe Development Bank (CEB), for the needs of the Ministry of Justice, Human and Minority Rights, for the construction of a capital facility - prison in Mojkovac, in the amount of up to EUR 15,000,000.00. Also, in the reporting period, the Ministry of Justice, Human and Minority Rights was granted approval to the conceptual architectural design. The presentation of the detailed design was held on 10 November 2021.

In the context of improving the living conditions of persons deprived of liberty, the Department for Juveniles was put into operation in 2020. This facility has a total area of 170 sqm. In addition to accommodation facilities, it is furnished with equipment for cultural, sports and educational activities. This new juvenile prison meets all international standards for the accommodation of juvenile delinquents.

We wish to underline that Montenegro has one of the most modern legislative frameworks for the protection of the rights of minority peoples and other minority communities and it is the only state of the former Yugoslavia that did not suffer ethnic and other national conflicts. Nevertheless, there are still some issues in terms of Roma exercising their rights, primarily as regards the

protection and exercise of social and economic rights as general human rights. In September 2021, the Government of Montenegro adopted the 2021-2025 Strategy for Social Inclusion of Roma and Egyptians in Montenegro and the 2021 Action Plan for the Implementation of the Strategy. The key objective of the 2021-2025 Strategy for Social Inclusion of Roma and Egyptians is to improve the socio-economic and legal position of Roma and Egyptians in Montenegro, by building an inclusive and open society based on the fight and elimination of all forms of discrimination, anti-gypsyism and poverty. The Strategy is aligned both with the EU Roma strategic framework for equality, inclusion and participation for 2020-2030 and with the objectives set out in the Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement Process. This strategic document also commits the Government of Montenegro that the future amendment of electoral legislation will enable a lower electoral threshold for potential Roma and Egyptian political parties, thus making sure that Roma and Egyptians are represented in the Parliament of Montenegro, aiming at increasing the level of authentic political representation of the Roma and Egyptian communities. Regarding interfaith and religious tensions, it is undeniable that they peaked during the inauguration of the Metropolitan of Montenegro and Littoral of the Serbian Orthodox Church in Cetinje, however, the incident ultimately passed without larger societal consequences. In our opinion, the police reacted professionally during the events in Cetinje. This issue was particularly sensitive not only from a political point of view, but also from the point of view of the enjoyment of the right to freedom of religion of church dignitaries and believers on the one hand and to freedom of assembly of all those citizens who opposed the act, of the other. However, after the police reaction, as well as the completion of the act of inauguration, we did not witness similar interfaith tensions in Montenegro.

With the new Law on the Prohibition of Discrimination, the drafting of which is in progress, Montenegro continues to amend and harmonise laws and by-laws with the Law on Life Partnership of Persons of the Same Sex adopted by the Parliament of Montenegro on 1 July 2020. Since the Law on Life Partnership of Persons of the Same Sex came into force, a total of 8 life partnerships have been concluded in Montenegro, making us the only state in this part of Europe that is not an EU member in which that is possible.

The minister of the interior has established a coordination body for monitoring the *Protocol on the actions of bodies, institutions and organizations with regard to children living and working on the streets*, and the Ministry of the Interior has coordinated the process of revising the text of the Protocol. This Protocol provides guidance for action by all actors dealing with children, but also with the family, so that they can jointly take actions and measures to protect children living and working on the streets, in accordance with the guaranteed rights of the child.