



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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REFERENCE: Follow-up/CAT

10 June 2015

Your Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the second periodic report of Montenegro (CAT/C/MNE/2) by this Committee, at its 52nd session, held from 28 April to 23 May 2014. At the end of that session, the Committee's concluding observations (CAT/C/MNE/CO/2) were transmitted to your Permanent Mission. In paragraph 28 of those concluding observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year, by 23 May 2015, further information regarding areas of particular concern identified by the Committee in paragraphs 7, 13 and 14 (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's concluding observations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. A Word electronic version of the reply should be sent to the Secretariat of the Committee against Torture (cat@ohchr.org). Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Montenegro on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Your Excellency, the assurances of my highest consideration.


Jens Modvig

Rapporteur for Follow-up on Concluding Observations
Committee against Torture

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**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.

(...)
