



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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COMMITTEE AGAINST TORTURE  
Forty-first session  
Geneva, 3 – 21 November 2008

**List of issues to be considered during the examination of the  
initial report of Montenegro (CAT/C/MNE/1)**

**Article 1**

1. The Committee notes that article 28 of the new Constitution of Montenegro prohibits torture or inhuman or degrading treatment. Please provide information on the definition of torture in domestic law and whether it is in conformity with article 1 of the Convention. Please inform the Committee if the Convention can be invoked before national courts.

**Article 2**

2. Please provide further information on the rights of persons detained in police custody, in particular their right of notification of custody, access to a medical doctor of their choice and their right to inform a person of their choice about their detention from the first hours of their detention.

3. While noting that the Law on Criminal Proceedings has general provisions (articles 88 and 89) stipulating the manner in which police interrogations should be conducted, the Committee wishes to be informed whether the State party has adopted the Code of Police Ethics to which it refers in paragraph 97. If not, please explain the reasons for such delay.

4. Does the State party's domestic law specifically provide that no exceptional circumstances whatsoever or order from a superior officer or a public authority may be invoked as a justification of torture? Please cite examples, if any, of its application by courts in Montenegro.

**Article 3**

5. Please indicate whether the State party seeks assurances, including diplomatic assurances, before extraditing or returning an individual to another State as a way of preventing the return to a country where he or she would be in danger of torture. Please provide examples of cases in

which the authorities were not able to extradite, return or expel individuals because there was a risk that they may be tortured. Please also inform the Committee whether other States have ever requested Montenegro for diplomatic assurances. If so, please kindly provide examples.

6. Please provide information on legislation regarding asylum and refugee status determination. Please also provide statistical data, disaggregated by age, sex and nationality for the last three years on the number of:

- (a) asylum requests registered;
- (b) requests granted;
- (c) applicants whose requests were granted because they had been tortured or because they were at risk of torture if returned to their country of origin.

#### **Article 4**

7. Please provide information on the number and nature of cases in which the criminal legislation concerning offences such as attempted acts of torture, the commission of torture or the order to commit torture by a person in authority have been applied in the last three years. Please indicate the penalties imposed for any of these offences, including disciplinary measures.

#### **Article 5-6-7**

8. Please provide information on whether domestic legislation provides for the establishment of universal jurisdiction for the crime of torture. Please inform on any application of this jurisdiction by courts in Montenegro, and if any is based on the principle *aut dedere aut punire*. Please provide information about the cooperation regime between the State party and the International Criminal Tribunal for the Former Yugoslavia.

#### **Article 10**

9. The Committee noted the various workshops and trainings indicated in the State party's report. Please clarify whether training is systematically provided for law enforcement officials, staff of the penitentiary system and other public officials with respect to human rights and specifically the treatment of detainees and measures for the prevention of torture and cruel, inhuman or degrading treatment or punishment.

10. Please indicate whether there are programmes to train medical personnel who are assigned to identify and document cases of torture and assist in the rehabilitation of victims. Furthermore, please provide information on the status of the draft law on the protection of mental health patients.

#### **Article 11**

11. Please also provide information on the delivery of timely and adequate health care, including mental health care for detained persons.

12. Following its visit to the Republic of Montenegro (Serbia and Montenegro) in September 2004, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment expressed concern at the fact that food was not usually provided to persons placed in police custody, mainly due to lack of budget allocation, unless family

members/friends brought it to the police station. Please provide information on the measures taken to address this issue.

13. Please provide updated information on the number of imprisoned persons disaggregated by age, sex and nationality, and the occupancy rate of the accommodation capacities for 2006 and 2007. In particular, please inform the Committee on the measures taken to address overcrowding in prisons.

14. Please provide information on the current situation in relation to the separation of juveniles from adults in prison wards.

15. Please inform the Committee of measures taken to protect and guarantee the rights of vulnerable persons deprived of their liberty, including women, persons suffering from mental illness and children.

### **Articles 12 and 13**

16. Please provide information on measures taken to ensure that competent authorities proceed with a prompt and impartial investigation wherever there is a reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

17. Please provide further information on the State party's efforts to ensure that the monitoring of detention facilities is effective and independent. In particular, provide information on the bodies empowered to visit police establishments in the State party. Please also clarify whether the Office of the Ombudsman is empowered to carry out such visits.

18. Please clarify the role and mandate of the Ombudsperson, and notably its power to investigate alleged abuse of power or excessive use of force by law enforcement officials. In case where a violation has been found, how binding are the Ombudsperson's decisions for the authorities and what kind of follow-up is given to its recommendations?

### **Article 14**

19. Please provide statistical data on compensation provided to victims of torture or cruel, inhuman or degrading treatment that occurred in Montenegro in the last three years.

20. Please indicate whether the State party provides physical, psychological and social services to victims.

### **Article 15**

21. Please specify the practice relating to the prohibition of using a statement obtained under torture as element of proof. Furthermore, please provide information on cases in which the law was applied.

### **Article 16**

22. Please provide information on the number of proceedings initiated and convictions in relation to trafficking in women and children. In this respect, please indicate if any instances of complicity by public officials in trafficking occurred, and if so, if they were they investigated and sanctioned.

23. Please provide information on legislative and other measures undertaken by the State party to protect minority groups, in particular Roma, from cruel, inhuman or degrading treatment.

24. Please clarify whether the use of corporal punishment has been formally abolished in all settings (in the home and family, in school and educational settings, in care and justice institutions, both as a form of discipline and as punishment).

#### **Other**

25. Please indicate whether there is legislation in the State party aimed at preventing or prohibiting the production, trade, export and use of equipment specifically designed to inflict torture or cruel, inhuman or degrading treatment. If so, please provide information about its content or implementation. If not, please indicate whether the adoption of such legislation is being considered.

26. Does Montenegro envisage ratifying the Optional Protocol to the Convention against Torture? If so, has it established or designated a national mechanism to conduct periodic visits to places of detention in order to prevent torture or other cruel, inhuman or degrading treatment?

27. Please provide information on the legislative, administrative and other measures that the Government has taken to respond to the threats of terrorism, and please describe if and how these measures have affected human rights safeguards in law and in practice.

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