

# HUMAN RIGHTS IN MONTENEGRO

**HUMAN RIGHTS ACTION (HRA)**

# Situation in Montenegro

## Issue I: Independence and Accountability of the Judiciary

- Independent, accountable and professional judicial system is central to the protection of human rights. After two decades of judicial reform, Montenegro still lacks adequate tools to provide for such system.

### Implementation of previous recommendations (5)

#### NOT IMPLEMENTED (4):

- Continue judicial reform to eliminate political influence on the judiciary (***Austria***) and guarantee its independence and impartiality (***Italy, Estonia***); promote the independence of the Judicial Council and develop a disciplinary framework for judges and prosecutors (***Islamic Republic of Iran***); implement anti-corruption policies to strengthen the independence and effective functioning of judiciary (***Estonia***).

#### INSUFFICIENTLY IMPLEMENTED (1):

- Continue taking the necessary measures to ensure compliance within the national judicial system, including incorporating international human rights and anti-corruption standards into the capacity-building curricula for judicial officials (***Azerbaijan***).

# Situation in Montenegro

## Issue I: Independence and Accountability of the Judiciary

### New developments:

- Legal framework insufficiently provides for independence and accountability, recommendations of the Council of Europe's GRECO and Venice Commission partially implemented.
- Criminal proceedings for corruption against 4 judicial officials (3 high-level) indicate widespread corruption in judicial system. Unlawful allocation of financial housing aid by Government to judges and prosecutors revealed in 2021.
- Only 1 prosecutor and 3 judges held disciplinary liable for failure in performing their functions (2018-2022).
- Long-pending high-level judicial appointments due to parliamentary deadlock.
- Impunity for torture, war crimes, attacks on journalists, corruption and hate speech enabled by ineffective investigations – caused by prosecutors lacking independence, integrity, accountability and professionalism.
- “Judiciary remains susceptible to political pressure” (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, 2022).

# Recommendations

## Issue I: Independence and Accountability of the Judiciary

### Montenegro should:

- Ensure effective independence and accountability of the judiciary by addressing all outstanding recommendations from the UPR and the Council of Europe's GRECO and Venice Commission's detailed advice;
- Review the disciplinary and ethical framework for judges and state prosecutors to strengthen their objectivity and effectiveness;
- Consider vetting of all judges and prosecutors; Prosecute all responsible for illegal contracts providing state-sponsored housing aid; nullify contracts and compensate the state for damages.
- Introduce anti-deadlock mechanisms for judicial appointments.
- Enhance education of prosecutors and judges on international human rights standards, particularly regarding conducting effective investigations of torture, war crimes, attacks on journalists and hate crimes.

# Situation in Montenegro

## Issue II: Prohibition of torture and ill-treatment

- Continuing impunity for acts of torture fails to prevent further violations.

### Implementation of previous recommendations (8)

#### INSUFFICIENTLY IMPLEMENTED (5):

- Continue working to eradicate torture and strengthen the effective implementation of the Convention against Torture (**Chile**), by adopting a definition of torture under the Convention, ensuring that the penalties are proportionate to the gravity of the crime (**Côte d'Ivoire, Netherlands**); Provide professional trainings for law enforcement officials in order to prevent cases of torture, ill-treatment and excessive use of force (**Russian Federation, Indonesia**).

#### NOT IMPLEMENTED (3):

- Provide effective investigation of all allegations of torture (**Ghana, Belarus, Russian Federation**); Ensure that all prisoners receive a thorough medical examination and have the right of access to health-care services (**Islamic Republic of Iran**).

# Situation in Montenegro

## Issue II: Prohibition of torture and ill-treatment

### New developments

- 1/4 of detainees interviewed by the European Committee for the Prevention of Torture (CPT) in 2022 complained of ill-treatment by the police;
- Only 1/3 of the Committee against Torture's (CAT) recommendations from 2014 implemented, mostly ineffectively.
- Over 50 state officers sanctioned for acts of torture since 2014 by suspended sentences only and continue working in the state system.
- At least 22 documented cases of extortion of testimonies by police officers in 2020 and 2021, none effectively investigated; failure of medical doctors to document injuries in accordance with the Istanbul Protocol.
- Continued failure to conduct effective investigations and suspend state agents under investigation (CAT).
- Draft Laws on Criminal Code and Criminal Procedure Code fail to incorporate CAT and CPT recommendations.

# Recommendations

## Issue II: Prohibition of torture and ill-treatment

### Montenegro should:

- Fulfil all outstanding recommendations of the UPR, CAT and CPT: provide for prompt and effective investigations of torture complaints by an independent body; increase penalties for torture; exclude statute of limitations.
- Ensure suspected perpetrators of torture are immediately suspended from official duties and for the duration of the investigation.
- Ensure thorough medical screening of victims in accordance with the Istanbul Protocol.

# Situation in Montenegro

## Issue III: Domestic handling of war crimes

### Implementation of previous recommendations

**PARTIALLY IMPLEMENTED:** Provide the Special State Prosecutor's Office with adequate resources and training on so as to bring perpetrators to justice (**Republic of Korea**).

**NOT IMPLEMENTED:** Deepen investigative and sanctioning measures for perpetrators of war crimes, in particular those who held command positions at the time of the conflict (**Argentina**).



# Situation in Montenegro

## Issue III: Domestic handling of war crimes

### **New developments**

- Not a single investigation upon Montenegrin prosecutor's own initiative since 2006. In the last 8 years, only 2 persons prosecuted in two cases handed over by neighbouring states.
- No investigations on the basis of command responsibility, complicity, aiding, and abetting.
- Redress of victims precluded by statute of limitation in cases of crimes not prosecuted or ending in acquittals.

# Recommendations

## Issue III: Domestic handling of war crimes

### **Montenegro should:**

- Proactively investigate all war crimes allegations (CAT) and raise issues of command responsibility, aiding and abetting (European Commission);
- Review old cases that were not prosecuted in line with international humanitarian law as well as domestic law (European Commission);
- Ensure all victims and their family members obtain redress and/or administrative compensation for suffering (CAT).



**THANK YOU !**