



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to submission of the second periodic report of Montenegro*

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on measures taken to implement the recommendations contained in the Committee's previous concluding observations (CCPR/C/MNE/CO/1). Please indicate which procedures are in place for the implementation of the Committee's Views under the Optional Protocol and provide information on measures taken to raise awareness about the Optional Protocol, in particular among those who believe that their human rights under the Covenant may have been violated.
2. Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations.

B. Specific information on the implementation of articles 1–27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (art. 2)

3. With reference to the previous concluding observations (para. 5),¹ please report on measures taken to raise awareness of the Covenant among judges, prosecutors, lawyers and parliamentarians, and provide examples of cases in which the provisions of the Covenant have been invoked in domestic litigation or legislation processes.

Anti-corruption measures (arts. 2 and 25)

4. Please report on measures taken to combat corruption effectively, including corruption of senior officials and in the judiciary, cronyism and patronage. Please outline the steps taken to strengthen the institutional and operational capacity of prosecutors, judges and police to fight corruption, and comment on the reported ineffectiveness and lack of sufficient independence of the Anti-Corruption Agency, the low rate of prosecution of officials implicated in corruption, including the limited criminal law response against high-level corruption.

* Adopted by the Committee at its 128th session (2–27 March 2020).

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the Committee's previous concluding observations.



Accountability for past human rights violations and the right to an effective remedy (arts. 2, 6, 7, 14–16 and 26)

5. With reference to the previous concluding observations (para. 9) and the Committee's evaluation of the State party's follow-up information (CCPR/C/124/2), please respond to concerns that little progress has been made towards fighting impunity for war crimes and crimes against humanity, reportedly owing to a restrictive interpretation of the law, and provide information, inter alia, on:

(a) The revised judgment in the *Bukovica* case, and a clarification as to whether there are any plans to reopen the case to bring those responsible to trial;

(b) The status of proceedings related to the eight cases of war crimes and crimes against humanity and the seven cases of war crimes allegedly committed on the territory of Montenegro or neighbouring States (CCPR/C/MNE/CO/1/Add.1, para. 6);

(c) The dates and sentences rendered in the four final judgments referred to in the State party's follow-up information (CCPR/C/MNE/CO/1/Add.1, para. 7);

(d) The current status of the Strategy for Investigating War Crimes adopted by the Supreme State Prosecutor in 2015 and any new investigations into alleged war crimes initiated since 2016, as well as any investigation outcomes;

(e) Measures taken and progress achieved towards:

(i) Criminalizing enforced disappearance in accordance with international standards;

(ii) Clarifying the fate and whereabouts of persons who went missing during the war, some of whom may have been victims of enforced disappearance, informing victims' families regularly about the status and outcome of investigations, bringing perpetrators to justice and providing full reparation to victims.

6. With reference to the previous concluding observations (para. 6), please report on any comprehensive reparation programme for victims of war crimes, and clarify whether, in addition to compensation, it entails measures of restitution, satisfaction, rehabilitation and guarantees of non-recurrence. Please provide information on the number of victims or their families who have been granted reparation by domestic courts, and on the number of rejected claims, withdrawn claims and discontinued proceedings with an indication of the grounds.

Non-discrimination, rights of minorities and prohibition of advocacy of national, racial or religious hatred (arts. 2, 20, 26 and 27)

7. With reference to the previous concluding observations (para. 19), please report on measures taken and progress achieved in relation to combating effectively the continued discrimination against Roma, Ashkali and Egyptians, particularly in access to employment, education, housing, health care, social security and public services, as well as to enhancing their participation in political and public life.

8. With reference to the previous concluding observations (para. 8), please outline the measures taken to combat discrimination and prejudice against lesbian, gay, bisexual, transgender and intersex persons and to address the reported rise in hate crime and hate speech towards them and the insufficient prosecution of such acts. Please also report on the status of the draft law on civil partnership.

Equality between men and women (arts. 2, 3 and 23–25)

9. Please comment on the reportedly limited progress in achieving gender equality, and report, inter alia, on measures taken to address effectively: (a) the deeply rooted gender stereotypes and patriarchal attitudes; (b) the reported persistence of child marriage within the Roma, Ashkali and Egyptian communities; and (c) the practice of sex-selective abortions. With reference to the previous concluding observations (para. 10), please outline the progress made in achieving equitable representation of women in political and public

life, including in Parliament, executive bodies and the judiciary, especially in high-level decision-making positions.

Violence against women and children, including domestic violence (arts. 2, 3, 6, 7, 24 and 26)

10. With reference to the previous concluding observations (para. 11), please report on measures taken, and their impact, in relation to tackling effectively the persistence of domestic violence. Among other things, please outline the steps taken to address the high level of tolerance towards violence against women as well as the social norms and attitudes condoning gender-based violence and the factors discouraging victims from reporting offences, including: (a) lack of impartial response of law enforcement officials to cases of domestic violence; and (b) referral of victims to other forms of dispute resolution such as mediation, the use of counselling as an alternative to criminal complaints, delays in handling domestic violence cases, treating gender-based violence cases as misdemeanour cases, and imposing lenient sentences on perpetrators. Please report on the status of proposed amendments to the Law on Protection from Domestic Violence. Please provide information on measures taken to ensure effective access to free legal aid for all forms of violence against women, as well as effective and adequately funded victim support services, including shelters and counselling centres.

11. Please report on measures taken to tackle the reportedly high prevalence of violence against children, including domestic and sexual violence, and on the effectiveness of the Strategy for the Prevention and Protection of Children from Violence (2017–2021) in that regard.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and treatment of persons deprived of their liberty (arts. 7 and 10)

12. In connection with the previous concluding observations (para. 12), please report on measures taken to: (a) prevent and combat ill-treatment of persons deprived of their liberty and the excessive use of force by law enforcement officials, including in the context of protests, and provide relevant information on the number of prosecutions and their outcome, including on compensation granted to victims; (b) address the reported delays in investigating and prosecuting such allegations and the mild sanctions imposed; (c) review the practice of using prolonged restraint and fixation of inmates.

13. Please report on measures taken to address: (a) the overcrowding in the Dubrota psychiatric hospital; (b) the overcrowding and poor material conditions in prisons, in particular in Podgorica Prison, and the inadequate health care for, and rehabilitation and resocialization of, prisoners.

Trafficking in persons (art. 8)

14. With reference to the previous concluding observations (para. 14), please respond to reports of trafficking in persons, including for the purposes of sexual exploitation, labour exploitation, domestic servitude and begging, and report on measures taken to: (a) improve the identification of victims or potential victims among groups in situations of vulnerability, including migrants in transit, asylum seekers, Roma, Ashkali and Egyptians; (b) ensure effective prosecutions and convictions for trafficking, and provide relevant data; (c) establish an efficient system of assistance and support for victims, including specialized and adequately funded shelters for victims of trafficking operating on a permanent basis; and (d) facilitate victim access to adequate compensation.

Treatment of aliens, including migrants, refugees and asylum seekers (arts. 7 and 13)

15. Please report on adequate safeguards against refoulement, including when expelling asylum seekers to European “safe third countries”, as well as on measures taken to: (a) ensure effective access to asylum procedures for all who intend to seek asylum in the State party; (b) guarantee that asylum applications are assessed within a reasonable time frame on an individual basis, and with full respect for due process; and (c) prevent and investigate

promptly any allegations of use of force and ill-treatment by border authorities in the context of pushbacks.

Independence of the judiciary, administration of justice and fair trial (art. 14)

16. In connection with the previous concluding observations (para. 15), please report on measures taken to ensure the full independence of the judiciary, including measures to strengthen the independence of the Judicial Council from undue political interference, clarifying, *inter alia*, whether its membership comprises mostly judges, whether the Minister of Justice was removed from *ex officio* participation in the Council and whether objective criteria have been established for selecting the non-judicial members of Council. Please respond to concerns related to the reappointment of five court presidents by the Judicial Council for at least a third term despite the maximum two terms provided for by law. Please outline any progress made in reviewing the disciplinary framework for judges. Please report on measures taken to improve the efficiency of the judiciary, to address effectively the backlog of cases and to improve the enforcement of court decisions.

17. With reference to the previous concluding observations (para. 16), please report on measures taken to raise awareness about the free legal aid system and to ensure effective access to such legal aid, particularly for those in situations of vulnerability, including to all children in conflict with the law, without discrimination.

Right to privacy (art. 17)

18. Please report on the progress made in adopting a new data protection law, and on the compliance of any draft or adopted legislation with the Covenant. Please also provide information on measures taken to strengthen further the capacity of the Agency for Personal Data Protection and Free Access to Information to enable it to perform its mandate effectively.

Freedom of conscience and religious belief (arts. 2, 18 and 26)

19. Please provide information on the implementation of the Law on Freedom of Religion or Beliefs and the Legal Status of Religious Communities adopted on 27 December 2019, particularly as regards the procedure for ascertaining ownership of religious property by religious communities and the transfer of such property to the State, as well as on its impact on the freedom of religion of members of concerned religious communities, including on their ability to pursue their religious activities.

Freedom of expression (art. 19)

20. With reference to the previous concluding observations (para. 21), please report on measures taken to ensure the safety of journalists and protect them against attacks and intimidation, including arrest, detention and criminal charges, and on the progress made regarding investigations and prosecutions of cases of violence against journalists since 2015, and please include relevant statistics. Please respond to reports of continued political interference in the national public broadcaster RTCG (Radio Televizija Crne Gore) and the Agency for Electronic Media, including replacement of RTCG Council members, and report on measures taken to strengthen the independence of the public broadcaster and the media regulator. Please also outline the steps taken to support the establishment of effective self-regulatory mechanisms. Please provide information on draft laws regulating different forms of media that are under preparation, and on their compatibility with the Covenant.

21. Please provide information on the status and content of proposed amendments to the Law on Free Access to Information, including on criteria under which information can be withheld. Please comment on the reported growing practice of declaring requested information classified without justification or as a result of a broad interpretation of the rules, and also outline the steps taken to further reduce the administrative silence.

Freedom of association and participation in public affairs (arts. 22 and 25)

22. Please respond to reports of pressure on non-governmental organizations investigating corruption or criticizing the government. Please comment on dismissals of

representatives of non-governmental organizations from key State institutions and from regulatory and watchdog bodies while related legal proceedings were ongoing, and on media campaigns discrediting representatives of non-governmental organizations.

23. Please report on the status and contents of the reform of the electoral legal framework. Please outline the measures taken to:

- (a) Strengthen the impartiality of the State Electoral Commission;
 - (b) Address the gaps and ambiguities in the law regarding the use of loans and party resources to finance the election campaign, and the allegations of illegal political party financing in the run-up to the 2016 parliamentary elections (“envelope affair”);
 - (c) Review the undue restrictions on the right to vote based on length of residence and the blanket denial of the right to vote to persons declared incompetent by a court on the grounds of intellectual disability;
 - (d) Address the alleged electoral violations during the presidential elections of 2018, including placing pressure on employees to attend rallies, the buying of votes, placing pressure on voters to support the ruling party candidate, and collecting identification documents to prevent voters from voting.
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