

***Council of Europe contribution for the 15<sup>th</sup> UPR session  
regarding Montenegro***

**Prevention of Torture**

On 9 March 2010, the Council of Europe's Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) published the report on its 2008 visit to Montenegro, together with the Montenegrin authorities' response. Both documents are attached below.

During the visit, the CPT's delegation received numerous allegations of deliberate physical ill-treatment of persons deprived of their liberty by the police and observed, in some cases, physical marks consistent with allegations made. Particular attention was paid to the manner in which investigations were being carried out into cases involving allegations of ill-treatment. The report concludes that the effectiveness of such investigations needs to be improved. Further, the Committee has made a series of recommendations aimed at strengthening legal safeguards against ill-treatment. In their response, the Montenegrin authorities refer to steps taken to improve training for police officers.

At the Remand Prison in Podgorica (part of the "Spuz Prison Complex"), the delegation received several allegations of physical ill-treatment of prisoners by staff, some of which were supported by medical evidence. The CPT has recommended that the authorities deliver to prison staff a firm message that physical ill-treatment and verbal abuse of inmates are not acceptable and will be dealt with severely.

A number of improvements were noted as regards material conditions for sentenced prisoners in Podgorica as compared to the situation found during a visit in 2004. However, the conditions in which remand prisoners were being held had deteriorated, due to the alarming level of overcrowding. The situation was exacerbated by the fact that remand prisoners remained for 23 hours or more a day inside their cells, in some cases for several years.

The majority of patients at the Dobrota Special Psychiatric Hospital spoke positively about the attitude of the staff and the atmosphere was relaxed. However, in the hospital's forensic psychiatric unit, the CPT's delegation heard a number of allegations of physical ill-treatment of patients by private security guards. After the visit, the Montenegrin authorities informed the Committee that they had established a protocol defining the rights and responsibilities of the security service and that special training was being provided to security staff. As regards material conditions at the hospital, most wards had benefitted from thorough refurbishment.

At the Komanski Most Institution for People with Special Needs, the extremely low number of staff was at the core of the Institution's inability to provide adequate protection, care, hygiene and regime for the residents. Material conditions were appalling, and the CPT's delegation found residents fixated to beds or other furniture, mostly with torn strips of cloth but also by chains and padlocks. The Committee called upon the Montenegrin authorities to carry out a comprehensive review of the situation and to draw up a detailed action plan for reforming the Komanski Most Institution. In their response, the Montenegrin authorities refer to the recruitment of additional staff, the separation of children from adult residents, and measures to improve the hygiene and to provide better living conditions for residents.

A complete list of the CPT's recommendations, comments and requests is contained in Appendix I to the report.<sup>1</sup>

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<sup>1</sup> pp. 69-87.



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## **Fight against racism and intolerance**

### *European Commission against Racism and Intolerance (ECRI)*

On 21 February 2012, the European Commission against Racism and Intolerance (ECRI) published its first report on Montenegro. The report which includes Government observations is attached below.<sup>2</sup>

ECRI's Chair ad interim, François Sant'Angelo, said that, while there are positive developments, there are also issues of concern, such as the extreme poverty and hardship faced by a substantial part of the Roma, Ashkali and Egyptian population and the legal status of "displaced" and "internally displaced" persons.

Montenegro has ratified the vast majority of international legal instruments relevant to ECRI's mandate, including Protocol No. 12 to the European Convention on Human Rights which provides for a general prohibition of discrimination. Comprehensive protection of national/ethnic minorities is enshrined in the Constitution and the Law on Minority Rights and Freedoms. The Law on the Prohibition of Discrimination establishes the Protector of Human Rights and Freedoms as the anti-discrimination body. The Government adopted the Strategy for the improvement of the position of the Roma, Ashkali and Egyptian population.

However, the legal status of "displaced" and "internally displaced" persons remains problematic. The procedure established to resolve this issue is complex and many people will not be able to meet the requirements. Some risk de facto statelessness. There is no authentic representation of national/ethnic minorities in Parliament and no proportionate representation in public services, state bodies and local self-government. Many Roma, Ashkali and Egyptians are not legally registered and do not have any personal documents, which hinders access to their rights, and their children suffer discrimination in access to education and in the school environment. The Konik camp constitutes de facto segregation and living conditions there are inhuman and hazardous.

The report contains findings and recommendations regarding the following issues:

- I. Existence and implementation of legal provisions<sup>3</sup>
- II. Discrimination in various fields including education, employment and housing<sup>4</sup>
- III. Climate of opinion and political discourse<sup>5</sup>
- IV. Racist violence<sup>6</sup>
- V. Vulnerable/target groups including national/ethnic minorities, "displaced" and "internally displaced" persons, Roma, Ashkali and Egyptians (RAE), Muslims, refugees and asylum seekers<sup>7</sup>
- VI. Conduct of law enforcement officials<sup>8</sup>
- VII. Monitoring racism and racial discrimination<sup>9</sup>
- VIII. Education and awareness raising<sup>10</sup>

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<sup>2</sup> A summary of the report can be found on pp. 7-8.

<sup>3</sup> pp. 9-14.

<sup>4</sup> pp. 15-20.

<sup>5</sup> p. 20.

<sup>6</sup> p. 21.

<sup>7</sup> pp. 21-28.

<sup>8</sup> pp. 28-29.

<sup>9</sup> pp. 29-30.

<sup>10</sup> p. 30.

ECRI selected the following two specific recommendations for which it requests priority implementation from the authorities and which it will revisit in two years' time:<sup>11</sup>

- Strengthen the initial and in-service training provided to police and judiciary on issues related to equal treatment and non-discrimination, relevant criminal law provisions and on how to recognise the racist motivation of an offence.
- Close down the Konik camp and find for its inhabitants standard accommodation all around the town or the country, following consultations with the people concerned.



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### **Protection of Minorities**

#### *Framework Convention for the Protection of National Minorities*

The Second State Report on Montenegro is due on 6 June 2012, whereafter it will be examined by the Advisory Committee on the Framework Convention for the Protection of National Minorities.

#### *European Charter for Regional or Minority Languages*

On 20 January 2010, the Council of Europe Committee of Ministers made public the first report on the situation of minority languages in Montenegro. The report drawn up by a committee of independent experts, which monitors the application of the Charter, is contained in the attachment below. It includes the Committee of Ministers' Recommendation on the application of the European Charter for Regional or Minority Languages by Montenegro.

On the basis of the report, the Committee of Ministers calls on Montenegro to take the necessary steps to promote the codification and development of written Romani, in co-operation with the speakers.

Furthermore, the authorities are encouraged to introduce teaching of the Romani language at pre-school, primary and secondary levels.

Montenegro should also strengthen teacher training in Albanian, especially for lower and upper secondary level education (third cycle of elementary school and secondary school).

Finally, the Committee of Ministers recommends that Montenegro clarify the territories where the Albanian and Romani languages are in official use and where the Charter applies.

The regional or minority languages protected under the Charter in Montenegro are Albanian and Romani.



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<sup>11</sup> p. 49.

## **Social and economic rights**

Montenegro ratified the Revised European Social Charter on 3 March 2010, accepting 66 of its 98 paragraphs.

It has not signed the Additional Protocol Providing for a System of Collective Complaints.

Montenegro submitted its first report on 11/11/2011. The respective Conclusions by the European Committee of Social Rights will be published in December 2012.

Please see attached below the fact sheet.



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## **Action against Trafficking in Human Beings**

The Group of Experts on Action against Trafficking in Human Beings (GRETA) carried out a visit to Montenegro in November 2011. GRETA's final report on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings Convention by Montenegro will be made public, together with the possible final comments by the Montenegrin authorities, most probably in early September 2012.

## **Preventing and Combating Violence against Women and Domestic Violence**

Montenegro has signed but not yet ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence. For this reason, it is not yet concerned by the monitoring procedure to be carried out by a Group of experts on action against violence against women and domestic violence (GREVIO) once the convention enters into force.

## **Council of Europe Commissioner for Human Rights**

### *Commissioner's visit June 2008*

The Council of Europe Commissioner for Human Rights visited Montenegro from 2 to 6 June 2008. The report of his visit is attached below.<sup>12</sup>

The report focuses on the following issues:

- Structural protection of Human Rights<sup>13</sup>
- Obstacles to effective implementation of human rights standard<sup>14</sup>
- Rule of Law<sup>15</sup>
- Freedom of expression and freedom of the media<sup>16</sup>

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<sup>12</sup>A summary of the report appears on p. 3.

<sup>13</sup> Section II, paras. 9-26.

<sup>14</sup> Section III, paras. 27-35.

<sup>15</sup> Section IV, paras. 36-65.

<sup>16</sup> Section V, paras. 66-73.

- Right of persons with disabilities: access to health and psychiatric care<sup>17</sup>
- Prevention of discrimination<sup>18</sup>
- Rights of national and other minorities<sup>19</sup>
- Refugees and internally displaced persons (IDPs)<sup>20</sup>
- Rights of women and gender equality<sup>21</sup>
- Rights of the child<sup>22</sup>
- Trafficking in human beings<sup>23</sup>
- Rights of lesbians, gay bisexual and transgender persons<sup>24</sup>

A complete list of the Commissioner's recommendations is contained in the report.<sup>25</sup>

"Since its independence, Montenegro has invested considerable efforts to upgrade its legislative and institutional framework", the Commissioner said, while emphasizing the crucial need for the effective translation of these standards into practice.

With a mandate to assess the general human rights situation in Council of Europe member States, the Commissioner prioritised freedom of the media, the functioning of the judiciary and the unresolved situation of refugees in the country. Other areas highlighted in the Commissioner's talks with the country's top-officials included the situation of national minorities, in particular the Roma population, detention and imprisonment, police abuse and effective complaints mechanisms, rights of persons with disabilities and national human rights mechanisms including the Ombudsman.

"Montenegro became a refuge for people fleeing from Kosovo", the Commissioner said. "However, a number of them have no regularised status. I encourage the government to tackle this urgent problem with priority."

Besides the capital city, the Commissioner's delegation visited a series of institutions covering the whole country. The assessment included visits to mental health institutions, a shelter for women victims of domestic violence, police stations, pre-trial detention centres and the country's main prison as well as the refugee community in Berane. A special visit to Konik provided the Commissioner with first hand information on the concerns of both the resident and refugee Roma population residing there.

The Commissioner held detailed discussions with the President, the Prime Minister and the Ministers of justice, interior, human and minority rights as well as foreign affairs. Further talks were held with the Speaker of the Parliament, the parliamentary committee on human rights and other parliamentarians. Further talks included the Ombudsman, the Supreme Court President, the Prosecutor General and the National Anti-Trafficking Coordinator. The Commissioner's delegation held a roundtable meeting with civil society representatives

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<sup>17</sup> Section VI, paras. 74-73.

<sup>18</sup> Section VII, paras. 90-91.

<sup>19</sup> Section VIII, paras. 92-114.

<sup>20</sup> Section IX, paras. 115-123.

<sup>21</sup> Section X, paras. 124-131.

<sup>22</sup> Section III, paras. 132-152.

<sup>23</sup> Section XII, paras. 153-158.

<sup>24</sup> Section XIII, paras. 159-162.

<sup>25</sup> Section XIV, pp. 31-34.

Before concluding the visit, the Commissioner shared his impressions with the Prime Minister, and also discussed ways to increase civil society engagement in strategy and policy development.



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#### *Commissioner's letter addressed to the Prime Minister of Montenegro in November 2010*

On 8 December 2010, Commissioner for Human Rights, Thomas Hammarberg published a letter addressed to the Prime Minister of Montenegro, Milo Djukanovic, calling for further improvements in fighting against discrimination towards Lesbian, Gay, Bisexual and Transgender (LGBT) persons. In particular, the Commissioner encourages the authorities to broadly raise awareness on the principles contained in the Law on Anti-Discrimination adopted in July 2010 by Montenegro, which also includes a ban on discrimination on grounds of sexual orientation and gender identity.

The letter is a follow up to the Commissioner's report on Montenegro published in 2008, in which he recommended that the government ensure that LGBT persons enjoy the same human rights and fundamental freedoms as other members of society.

The letter from the Commissioner for Human Rights and the reply from the Romanian Minister are attached below.



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Djukanovic letter  
CHR.pdf

#### **European Commission for Democracy through Law (Venice Commission)**

The Venice Commission adopted between 2009 and 2012 a number of opinions on draft laws and on the constitutional situation in Montenegro. The complete list of the opinions adopted during that period, with hyperlinks to the texts of the opinions, appears below.



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