



OMCT E-Bulletin June 2022

73rd Session of the Committee Against Torture

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Montenegro

Impunity for War Crimes and Torture in Police Custody

During the review of Montenegro's third periodic report, the Committee mainly focused on: the legislative definition of torture; legal safeguards, detention conditions and torture in police custody; investigations into torture; asylum seekers and stateless people; impunity for war crimes; and domestic violence.

The Committee noted that the definition of torture in the Criminal code does not contain all elements of Article 1 of the Convention. Furthermore, prescribed penalties do not reflect the gravity of the offence and there is a statute of limitations in place for the crime of torture. The Committee urged the State to expedite amendments to Article 167 of the criminal code and remove the statute of limitations to prevent impunity.

Regarding asylum seekers and stateless persons, the Committee asked that the State respect the principle of non-refoulement and avoid chain refoulement. Additionally, it recommended that all expulsion decisions be subject to judicial review which have a suspensive effect on deportations, that asylum seekers have access to information on their rights in the application process and to an effective complaints' mechanism.

The Committee was concerned by the lack of progress in tackling impunity for war crimes. Since 2015, only one person has been convicted of war crimes committed in the 1990s in the West Balkans. Victims of war crimes have also not had access to reparations. The Committee urged the State to improve this situation.

The Committee noted that key legal safeguards are not effectively implemented at the beginning of detention, as the majority of violations occur within the first 24-hours after arrest. The Committee urged the State to ensure safeguards are afforded in practice. Arrested persons

should be aware of the reasons for their arrest, be able to inform family or others and be able to request a medical examination. The Committee was concerned at the persistent practice of torture and other ill-treatment in police custody as a means of extorting testimony or confessions. Investigations have been inadequate, and punishments are excessively lenient for State agents. To facilitate impartial investigations, the Committee recommended that accused parties be removed from the investigation and suspended from official duties for its duration. It also suggested training on non-coercive interrogation methods and systematic video recording of interrogations.

Detention conditions remained a concern, with inter-prisoner violence being attributed to overcrowding and understaffing. Although the development of new facilities was ongoing, the Committee expressed concern about the situation in the interim period and asked that repairs be carried out and adequate training be provided to staff. The Committee also urged the State to address concerns about the conditions of persons with psychological and intellectual disabilities in psychiatric institutions, particularly in Dobrota.

The Committee was concerned by high rates of domestic violence along with a low level of investigations and leniencies in sentencing. It acknowledged the various policy steps taken by the State to address domestic violence, including its criminalisation, but asked for increased investigations and redress for victims.

Issues for follow-up:

- ❖ Conditions of detention
- ❖ Torture and Impunity
- ❖ Investigation and prosecution of War Crimes and remedies for victims

Read more: [Concluding Observations](#), [Meeting Summary](#) and [webcast](#).