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Montenegro Submission to the UN Universal Periodic Review

**Third session of the UPR Working Group of the
Human Rights Council
December 2008**



Executive summary

In this submission, Amnesty International provides information under sections B, C and D as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*:¹

Under section B, Amnesty International raises concern over the lack of clarity over what is defined by Montenegrin law as a “national minority” and the lack of clearly defined minority protection standards.

In section C, Amnesty International describes concerns related to impunity for war crimes, the situation of Montenegro’s Roma population and unresolved cases of killing and physical abuse of human rights defenders.

In section D, Amnesty International makes a number of recommendations for action by the government.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

Montenegro

Amnesty International submission to the UN Universal Periodic Review

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B. Normative and institutional framework of the State

The new Montenegrin Constitution, adopted on 19 October 2007, fails to fully satisfy the recommendations of the Council of Europe's Venice Commission on compatibility with the European Convention on Human Rights (ECHR). In December 2007, the Venice Commission again expressed its concerns in relation to the independence of the judiciary, access to a legal remedy at the European Court of Human Rights and the restrictive definition of the term "minorities", which provides inadequate protection against discrimination.²

The new Constitution does not mention the term "national minorities", but uses the term "minority national communities" whereas a pre-independence Law on Minority Rights and Freedoms, 2006, does use the term "minority". However, there is no community in Montenegro representing a majority in absolute terms, which makes defining "minorities" or "minority national communities" difficult.

The Law on Minority Rights and Freedoms, adopted on 10 May 2006, had envisaged positive discrimination with regard to election rights of minorities; however, on 11 July 2006 the Montenegrin Constitutional Court subsequently annulled those articles of the law. The reason given, at the time, was that those articles were not in line with the Constitution which was in force then. The new Constitution does envisage affirmative action and representation of minorities in national and local state administrative bodies. However, these provisions still have to be implemented in national legislation providing effective protection against discrimination of minorities and their representation. A harmonization of the Law on Minority Rights and Freedoms and the new Constitution is still due, especially given Montenegro's ethnically diverse society, in which none of the various national groups (Montenegrins, Serbs, Bosniaks, Albanians, Croats, and Roma) forms the majority.

C. Promotion and protection of human rights on the ground

Impunity for war crimes

There has been no progress in the criminal proceedings against six police officers indicted in February 2006 for the enforced disappearance of at least 83 Bosniak civilians from Montenegro to Bosnia-Herzegovina, where they were handed over to the Bosnian Serb army and subsequently extra-judicially executed.

In related civil proceedings brought by the victims' families, in 25 out of 38 first instance decisions, the state was found responsible for the enforced disappearances or deaths of the Bosniak civilians, and compensation

² See the Venice Commission's opinion on [http://www.venice.coe.int/docs/2007/CDL-AD\(2007\)047-e.asp](http://www.venice.coe.int/docs/2007/CDL-AD(2007)047-e.asp)

was awarded to the survivors of the deportation or to family members for the deaths of their relatives. The state appealed each decision. The appeal court rejected the finding that the authorities had violated the relatives' right under Article 3 of the ECHR in failing to provide information on the fate and the whereabouts of the disappeared.

Amnesty International is concerned over both the degree of political obstruction in this case and the inefficiency of the court proceedings.

Sixteen years on, impunity for this crime continues. Given the slow speed with which the government dealt with another war crime falling under its jurisdiction,³ Amnesty International remains seriously concerned about the continuing impunity for this crime.

The prosecutor's office in Podgorica did begin criminal proceedings against six police officers alleged to have been directly involved in the enforced disappearances. However, no charges were filed against more senior figures widely believed to also have been involved. A police officer, who held a senior position in the Herceg Novi Security Centre in 1992, and who had reportedly opposed the deportation of the Bosniaks, has pointed out repeatedly that the police officers acted on orders from the then Police Minister, Pavle Bulatović. A written document reportedly instructed staff at the Security Centre "to arrest Muslims between the age of seven and 70 and to hand them over to the Republika Srpska authorities".

In another case, the District Court in Bijelo Polje opened an investigation in February 2007 into the actions of 12 officers and soldiers of the Podgorica Corps of the former Yugoslav Army suspected of killing at least 20 ethnic Albanian refugees from Kosovo, among them a child and an elderly woman, in Kaluđerski Laz and other villages near Rožaje during the 1999 NATO intervention.

In December 2007, the same court in Bijelo Polje opened an investigation into accusations that seven former Montenegrin military and police members committed war crimes against Bosniaks in 1992 and 1993 in the region of Bukovica, at the border with Bosnia-Herzegovina.

According to the head of an organization in Bukovica, which campaigns for the investigation of war crimes in the region, six people were killed, 74 were tortured and 24 out of the 39 villages in the region were ethnically cleansed. Hundreds were forced to flee Bukovica, never to return again, after homes were torched, and three mosques robbed and set on fire.

In June 2008, both investigations were completed. It is now up to the State Prosecutor's Office to decide if indictments will be issued.

Another unresolved chapter of Montenegro's wartime legacy of crimes against civilians is linked to the events in the Morinj and Kumbor camps, just outside Herceg Novi. Between October 1991 and at least May 1992, the Yugoslav People's Army held over 300 Croatian prisoners there, almost all of them civilians. Eight of them died, allegedly as a consequence of torture or from hunger. The Dubrovnik Court in neighbouring Croatia issued ten arrest warrants, some of them for Montenegrin citizens, in connection with these events. However, despite a cooperation agreement between the Croatian and the Montenegrin State Prosecutors after Montenegrin independence in 2006, no progress has been made on the arrests and extradition of these individuals.

³ In the Štrpci case only one man was found guilty, and this in 2002, almost ten years after the actual crime had been committed. On 27 February 1993, at Štrpci railway station, at least 20 mainly Muslim passengers were taken off a train, travelling from Belgrade in Serbia to Bar in Montenegro, where the line briefly passes through Bosnia-Herzegovina, now within Republika Srpska. Armed, uniformed men entered the train and took away the passengers, none of whom have been seen again.

Discrimination of Roma

Article 7 of the Law on Minority Rights and Freedoms stipulates that Roma are not sufficiently integrated into the social and political life of Montenegro and that the government should therefore adopt a strategy aimed at promoting decent living conditions as well as the full integration of Roma in the social and political life of the Republic.

Yet, with regard to its achievements in the field of Roma integration, in 2007 Montenegro figured last in the ranking of countries participating in the regional initiative "Decade of Roma Inclusion".

The situation of the Roma in Montenegro remains dire. Their basic human rights, including economic and social rights, are violated more than any other national group. A large number of Roma houses and sheds in settlements in Podgorica, Nikšić, Berane and Bijelo Polje have no electricity, water supply or sewage system.

In 2007, the Nikšić local authorities demolished two sheds inhabited by 32 Montenegrin Roma, of which 22 were children. There was no plan as to where to accommodate the citizens after the demolition. The Red Cross eventually provided them with tents, which were set up on the site of the previous settlement; however, the authorities warned them twice to remove the tents. The group continues to live in derelict sheds near the former settlement, which do not provide the most basic living conditions.

A very small number of Montenegrin Roma are educated or employed; those Roma who do have work mostly have poorly paid jobs.

The situation of Roma who came to Montenegro as refugees from Kosovo is particularly worrying. According to UNHCR figures from June 2008, some 4,300 Roma, Ashkali, and Egyptian refugees are still living in Montenegro. They are caught in a legal limbo in which they have no citizenship. The main problem for refugees in Montenegro is their lack of legal status. Refugees displaced from Kosovo have the status of internally displaced persons in Montenegro.

According to the UNHCR, a small percentage of those remaining in Montenegro are still considering voluntary repatriation to Kosovo. However, the vast majority would prefer to be integrated in Montenegro due to their long-term residence in the country. However, because of their current status they do not enjoy full and free access to employment and social welfare, which presents a serious obstacle to their full integration. Despite the 'Strategy for Resolving the Issues of Displaced Persons in Montenegro, 2005', and the continued efforts of the international community to promote integration, the authorities have so far largely failed in issuing the refugees with personal documentation to ensure that they have access to social, economic, civil and political rights.

Politically motivated violations of the right to freedom of expression

Well-known journalists have been physically attacked since the second half of 2007, and the 2004 killing of the editor of *Dan* newspaper and the 2006 killing of the bodyguard of the writer Jevrem Brković remain unsolved.

On 1 September 2007, Željko Ivanović, the director of Podgorica daily *Vijesti*, was assaulted and seriously injured reportedly by three persons in downtown Podgorica. After the attack, Željko Ivanović told reporters that he believed it was a politically motivated attack, in response for *Vijesti's* negative coverage of alleged government corruption and mafia influence.

On 10 December 2007, the trial against two persons who confessed to attacking Željko Ivanović began in the Lower Court in Podgorica. One month later, they were both sentenced to four year prison sentences. However, according to eyewitnesses, these two men were not the perpetrators. Željko Ivanović is convinced that both men are innocent and were offered money for their confessions.

The court later ordered Željko Ivanović to pay 20,000 Euros to Primer Minister Milo Đukanović. Initially, the Prime Minister had demanded 1,000,000 Euros in damages for his “damaged dignity and mental suffering”, as Željko Ivanović had linked him and his family (either his “biological” or “criminal” family as the journalist put it) to the attack on him. Milo Đukanović also filed for libel against Ljubiša Mitrović, the newspaper's editor-in-chief, and Daily Press, its publisher. The *Vijesti* owners considered that the lawsuit was Đukanović's attempt to suppress freedom of expression.

On 2 November 2007, in Berane, two masked persons physically assaulted Tufik Softić, a journalist and until recently editor-in-chief of public Radio Berane, who also reported for the daily newspaper *Republika*. Tufik Softić told the media that he did not recognize his attackers. He had, however, previously reported several threats to his life. An investigation is still ongoing.

No one has yet been indicted in connection with the October 2006 murder of the bodyguard of Jevrem Brković, a prominent writer and the president of the Doclean Academy of Arts and Science. The attackers also inflicted serious injuries on Jevrem Brković. He has speculated that his most recent novel, which dealt with cigarette smuggling and the nexus between politics and organized crime, provoked the attack.

The 2004 killing of Duško Jovanović, the director and editor-in-chief of the leading opposition daily *Dan*, continues to be a concern, despite the controversial acquittal, in December 2006, of the person charged with the crime. The police official investigating Duško Jovanović's death and other unresolved killings, Slavoljub Šćekić, was himself killed in 2005. The trial of ten persons indicted for Slavoljub Šćekić's murder began on 26 March 2007 and is still ongoing.

At the end of May 2008, sport journalist Mladen Stojović was attacked in his house in Bar. Just weeks before the incident he had spoken on a TV B92 program in Belgrade about the football mafia operating in the region.

Writer Andrej Nikolaidis was ordered to pay 12,000 Euros to movie director Emir Kusturica, for calling him “the hangman's apprentice” in an article published in 2004. In this he made reference to the role Emir Kusturica allegedly played as a propaganda figure during the Milošević regime in the former Federal Republic of Yugoslavia. In a re-trial, he was found guilty of defamation and causing psychological damage to the claimant. Local human rights organizations consider the verdict to be highly politicized.

D. Recommendations for action by the State under review

Amnesty International calls on the government to:

Impunity for war crimes

- Ensure that a full, independent and impartial investigation is carried out into the abduction and the killing of at least 83 Bosniaks in 1992 with no further delay, and to ensure that it identifies the responsibility of senior political and military figures;
- Investigate all other reports of war crimes that happened on its territory or that were reportedly carried out by or against its citizens, and to bring to justice the perpetrators, in cooperation with neighbouring countries as necessary;

Discrimination against Roma and other minorities

- Clearly define the term “national minorities” and harmonize existing laws with the new Constitution to ensure effective protection of the rights of national minorities and their equal representation in public administration;

- Fully implement legislation which prohibits discrimination against Roma, including the Law on Minority Rights and Freedoms;
- Pay special attention to the full and effective integration of the Romani community and to take urgent action to ensure full respect for their human rights, including in cooperation with Roma representatives;
- Register Roma refugees and other Roma who remain outside of the system because of a lack of basic documentation;
- Amend its legislation to ensure that internally displaced persons, including Roma and others, have the same access to basic facilities as other citizens in Montenegro.

Violations of the right to freedom of expression

- Address effectively and without further delay politically motivated attacks against journalists and other human rights defenders, including by undertaking prompt, thorough and impartial investigations into these crimes and bring to justice those responsible in accordance with international standards for fair trial.

Appendix: Amnesty International documents for further reference⁴

- Amnesty International Annual Report 2008, Montenegro (AI Index: POL 10/001/2008).
- Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: January – June 2007 (AI Index: EUR 01/010/2007)
- Montenegro: The right to redress and reparation for the families of the "disappeared" (AI Index: EUR 66/001/2006)

⁴ All of these documents are available on Amnesty International's website:
<http://www.amnesty.org/en/region/europeandcentralasia/balkans/montenegro>