

Mr. Dimitrij Rupel
President of the Council of the European Union

Brussels, 14 February 2008
Our ref. B746

Dear Mr. Rupel,

Subject: Human rights concerns in Montenegro

In light of the upcoming EU-Montenegro Troika meeting on 18 February, Amnesty International would like to provide background information on three current human rights concerns in Montenegro.

New Constitution

A new Constitution was adopted in October 2007, which failed to fully satisfy the Venice Commission's previous recommendations on compatibility with rights set out in the European Convention on Human Rights (ECHR). The Venice Commission itself has expressed continued concerns about certain provisions of the new Constitution, including on the independence of the judiciary, access to a legal remedy at the European Court of Human Rights and the restrictive definition of minorities. Serb and Albanian members of parliament have also expressed fears that their communities have been disadvantaged by the new constitution.

In December 2007, European Council conclusions stated that the new Constitution should be implemented in accordance with European standards and that reforms were needed to strengthen the rule of law and combat corruption and organised crime. Amnesty International urges the EU to build on these conclusions, to ensure that Montenegro implements the new Constitution in a manner that fully satisfies the Venice Commission's recommendations.

Impunity for war crimes, including the right to redress and reparation for the families of the "disappeared"

No progress has so far been made in bringing to justice six former police officers suspected in February 2006 of the arrest and subsequent enforced disappearance of 83 Bosniak civilians, who were "deported" from Montenegro to territory under Bosnian Serb control in the Republic of Bosnia and Herzegovina (BiH) in May 1992. The State Prosecutor's Office in August 2007 denied media reports that charges had been laid against Ulcinj police chief Sreten Glendža in connection with the deportations, although earlier in the month the prosecutor had requested evidence be gathered in his case.

The European Court of Human Rights has ruled that the respondent's failure to investigate cases of missing persons has resulted in a continuing violation of the prohibition against torture and other ill-treatment set out in Article 3 of the ECHR and that "the silence of the authorities of the respondent State in the face of the real concerns of the relatives of the missing persons attained a level of severity which can only be categorised as inhuman treatment within the meaning of Article 3", (*Cyprus v Turkey*, Judgment of the European Court of Human Rights, 10 May 2001, paragraphs 136 and 156-158).

In the absence of an effective criminal investigation, civil proceedings against the government have been brought by the families of the victims of the 1992 enforced disappearances, and by the few remaining survivors. By the end of 2007, in 25 of out 38 first instance decisions Montenegro was found responsible for the deaths of the "deported" Bosniak civilians, and compensation was awarded to family members for the emotional suffering caused by the death of their relative. However, the court has rejected all claims for the violation of the relatives' rights under Article 3 of the European Convention of

Human Rights, for the pain and suffering caused by the authorities' failure to provide information as to the fate and whereabouts of their relatives. The state has nevertheless appealed each decision but, to date, no appeals have been heard.

Amnesty International encourages the EU to urge the Montenegrin authorities to take all necessary measures to conclude their investigations and bring to justice all those responsible for the 1992 enforced disappeared, and further to expedite the appeals process, so that the justice for the victims of human rights violations is not further delayed.

Torture and ill treatment, unfair trial

Allegations of torture and ill-treatment continue in Montenegro, including during arrest and detention. The non-governmental organization, the Youth Initiative for Human Rights documented 23 cases between September and October 2007 alone. Victims have often been charged with obstruction of police officers, while police officers have rarely been charged. Amnesty International is also concerned that no progress has been reported in an investigation into allegations that in 2005 special police officers had beaten detainees held in the detention unit at Spuz prison, and urges that the results of those investigations are made public as soon as possible, and any special police officers reasonably suspected of participation in the ill-treatment of prisoners are brought to justice.

Amnesty International is also concerned that a trial of 17 ethnic Albanian men is not being conducted in accordance with the criminal procedure code, or fair trial standards, including in the use of unlawfully seized evidence and the use of testimonies, which defendants stated had been extracted under duress. An internal police investigation into allegations of torture and other ill-treatment during the men's arrest and detention in September 2006 failed to identify the identity of any officers who might be reasonably suspected of the allegations set out in criminal complaints brought by seven of the men. Subsequently, in June 2007 the state prosecutor opened a criminal investigation. By November 2007, four police officers were reportedly under investigation, although lawyers for the men had not in December been informed of this development.

The 17 ethnic Albanian men, including some US citizens, were arrested during the *Orlov let* (Eagle's flight) in September 2006, and have been indicted for preparing to endanger the constitutional order and security of Montenegro. Relatives have expressed concerns for the deteriorating health of some of the detained men and at the length of proceedings.

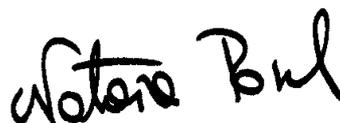
Amnesty International urges the EU to stress to the Montenegrin authorities the universal prohibition on torture and other forms of cruel, inhuman or degrading treatment or punishment, and the prohibition of the use of evidence extracted under duress. It also urges the Montenegrin authorities to conduct a prompt thorough and effective investigation into such allegations, and bring those reasonably suspected of such ill-treatment to justice.

We urge the Presidency to use the opportunity of the Troika meeting to raise these concerns with the Montenegrin authorities, and look forward to hearing from you as to the outcome of these discussions.

With best regards,



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