

III quarterly report on the state of human rights in Montenegro 2010

I Previous information

Youth Initiative for Human Rights (YIHR) collected information for the third quarterly report, from July 1 to September 30, 2010. Areas that were researched in this period were legislation and institutional framework, freedom of expression, politically motivated violence, facing past, torture, minority rights, discrimination, status of displaced persons and economic and social rights. YIHR team, composed of six members, worked on researching and reporting, with multiple assistance of Civil Rights Defenders (former Swedish Helsinki Committee). Techniques of researching on the terrain, monitoring of press, legal analysis, SOS phone line were used.

During the monitored period, Montenegro continued fulfilling of obligations on its road to membership in the European Union and NATO. The Government of Montenegro sent on September 6, 2010, Factual report on all implemented activities since the submission of additional answers from the EU Questionnaire to September.

Court for Human Rights in Strasburg delivered two verdicts against Montenegro on September 22. This is the third verdict delivered by the Court until nowadays, and citizens of Montenegro sent more than 600 applications to this Court.

Several reports on the state of human rights were published in this quarter. The Report of Foreign Policy Organization, (www.foreignpolicy.com/articles/2010/06/21/2010_failed_states_index_interactive_map_and_rankings) published at the beginning of August, said that Montenegro was the most stable country in the region. Methodology of this organization also assess the state of human rights, problems refugees and displaced persons face with, problems of groups, unequal economic development, security, and the quality of public services.

The report of State Department (www.state.gov/g/drl/rls/afdr/2010/eur/129784.htm) on progress of democracy and freedom, said that Montenegro generally respected human rights, however, there were still concerning areas. Those areas were police torture, freedom of media, trafficking, minority discrimination – especially of Roma, status of internally displaced persons and religious freedom. The report also stated that the problem of independence of courts was still emphasized.

Global Policy Forum published the analysis in July (www.globalpolicy.org/nations-a-states/political-integration-and-national-sovereignty-3-22/49348-balkan-accession-slow-andd-steady-progress.html) on the movement of Balkan countries towards the European Union. The analysis said that in Montenegro existed the consensus related to the EU integrations while the problems of corruption and organized crime were emphasized.

Institute for Economics and Peace put Montenegro on 88th place on the global Index for Peace for 2010 (www.visionofhumanity.org/gpi-data/#/2010/scor/ME/detail), which was the worst position in the region jointly Serbia which was on 99th place. According to this Index, Montenegro received good assessments because of absence of foreign and internal conflicts and good relations with countries in the region. Freedom of media was one of the most important problems.

The report on progress of nongovernmental organization in Euro-Asia (www.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/2009/complete_document.pdf) published by US Agency for International Development (USAID) noted that 4.500 NGOs were registered in Montenegro, while only several hundreds of them are active. The report also stated that negative impact of the country on work of NGOs was enlarged and was reflected through rhetoric and accusations against NGO activists. Violation of freedom of expression was also emphasized through accusations for defamation.

According to German Organization Bertelsmann Stiftung's Index of Transition for 2010, out of 128 countries, Montenegro was placed on 25th place, with 7,35 mark. Croatia, Macedonia, and Serbia took positions before Montenegro, while Albania and Bosnia and Herzegovina were after Montenegro.

II Legislation and Institutional framework in human rights area

Legislation - The Parliament of Montenegro adopted the Law on prohibition of discrimination on July 27, 2010. Therefore, Montenegro is the last country in the region that has adopted this Law. Although, adoption of Law on prohibition of discrimination is encouraging, yet, the Law shall not be implemented immediately, because objections of civil sector and other participants in public debate were not adopted. YIHR's proposal related to adoption of the Law, jointly with the set of laws on human rights that are in preparation, was not adopted. This is especially related to Law on free legal aid and Law on Protector of human rights and freedoms - Ombudsman. According to Law on prohibition of discrimination, Ombudsman is responsible for surveillance over implementation of the Law. However, according to the current Law on Ombudsman, he does not have these competences thus, Law on prohibition of discrimination shall not be applicable until adoption of new Law on Protector of human rights and freedoms.

Ministry for human and minority rights works on proposal of Law on Protector of human rights and freedoms. Public debate was conducted in June, and YIHR submitted all comments on the proposal of Law to all MP clubs, in order to initiate its changes before adoption. YIHR considers that, according to the new law, Protector of human rights and freedoms should have following competences: to act in cases when discrimination occurs in private sector; to process cases of human rights violations before judicial bodies through submitting criminal charges; to act after anonymous complaints, to specify cooperation with NGOs and media according to the law, to submit reports to the Parliament twice a year. YIHR also considers that, before adoption of the Law, opinion of relevant international organizations should be required on the content of the Law Proposals. MP Snežana Jonica said that the budget of Ombudsman's office for this year was smaller than last year, which would additionally endanger implementation of new competences.

Government of Montenegro submitted Proposal of Law on amendments of Law on free access to information to the Parliament of Montenegro, which prescribes that a submitter of request for access to information from now on, will have to explain their request in cases when information belong to information with limited access or if it is required to make decision on requirement immediately for the purpose of protecting life and freedom of a person. Numerous organizations criticized announced amendments as the limited ones for freedom of expression.

Development of Law on free legal aid is in progress. First Public debate on the Draft version of the Law took place on May 7, 2010 and was organized by Ministry of justice, UNDP, and OSCE. YIHR participated in this debate providing its suggestions on provisions anticipating that only registered lawyers shall deal with provision of free legal, which excludes participation of NGOs and other organizations that have been already and successfully dealing with provision of these services. Furthermore, draft version prescribes too complicated process of achieving conditions for receiving free legal aid, as well as limiting the scope of this right only on those persons with lowest standard of living. YIHR also gave its proposal related to financing provision of free legal aid, which suggests the Law should be adopted jointly with Law on prohibition of discrimination and Law on Protector of human rights and freedoms, that would, in that aim presume establishing of Fund of free legal aid from punishments that are prescribed for discrimination, that might be widened by part of funds from incomes from games of fortune. Ministry of justice assessed these proposals as correct, explaining that, unfortunately, our country does not have enough funds for implementation of these ideas. The Fourth public debate on Draft version of Law on free legal aid took place on June 17, in Podgorica. YIHR was one of organizers jointly with Ministry of justice, UNDP, and Council of Europe Office in Montenegro. The Fourth public debate presented recommendations of experts from Council of Europe and analysis of gender sensitivity of the Draft version of the Law.

YIHR still provides free legal aid through provision of legal advises, provision of general legal information, legal aid in composing letters. YIHR also delivers free legal aid through representation before court, public bodies, and other bodies deciding on rights, obligations, and legal interests. Except YIHR, other NGOs, political parties, trade unions, associations, provided proposals and expressed critics and some of them are dealing with provision of free legal aid. Among others, free legal aid is being provided by NGO Legal center, Shelter for women and children, SOS

line for women and children victims of family violence, Lighthouse, Union of Free Trade unions, political parties SNP, SDP, and PzP, and others. Types of free legal aid provided by other entities in Montenegro vary from providing general legal information, over providing legal advices, composing letters (applications, complaints, letters...), contracts, to representation before court. Frequency of requesting assistance is from 2 or 3 to 600 interventions a month. Unofficial statistic shows there is large interest of both providers and recipients of free legal aid services, thus, the argument of civil sector and other participants in public debate on possibility of including other entities for providing free legal aid was justifiable. Law on free legal aid is still in Government's procedure.

Law on election of councilors and MPs, harmonized with the Constitution, has not been adopted yet. Work group finished harmonization, but the opposition did not adopt proposed solution but it gave their Proposal of the Law. Numerous invitations for agreements, meetings and statements of political parties via media on September 21, when Parliamentary assembly discussed on the proposal of electoral legislation, have not resulted in adoption of Proposal of the Law. Deadline for harmonization of the Law with the Constitution is the end of the year 2010. Political representatives of Albanian community in Montenegro were not satisfied with the current proposals, saying that Albanians lose achieved rights after this proposal.

Since August 26, implementation of the new Criminal Procedure Code has started, and according to the Code, Prosecutor shall conduct investigations. Also, new decisions give important role to officers in suppressing organized crime, corruption, war crimes, and corruption of Police Directorate that will have only four hours to send suspects after apprehension to competent prosecutor, who conducts investigation and makes decision on detention.

Institutional framework: *Ministry for human and minority rights* – Work of the Ministry is organized through Department for promotion and protection of minority rights and other minority communities and Department for promotion and protection of human rights. Departments for gender equality and department for promotion and protection of rights of RAE population act in the frame of the Ministry. According to information published on the website of this Ministry, in this period, the Ministry conducted activities in the area of gender equality while activities in the area of minority rights failed to take place. In September, Ministry stated they should work on defining of national structure of employees in public administration, until the end of the year.

Office of Protector of human rights and freedoms (Ombudsman) – is independent and autonomous institution whose mission is to protect and promote human rights and freedoms when offended by an act, activity or inappropriate action of bodies of public authorities. Citizens may address the office of Ombudsman if their rights are violated by public bodies. According to adopted Law on prohibition of discrimination, office of Ombudsman was appointed for monitoring and implementation of this Law. After the initiative sent by YIHR to Ombudsman Šučko Baković, for assessment of Minister Ferhat Dinoša's homophobic statements, he said that all citizens of Montenegro are equal regardless of their personal characteristics. Baković said that not any person in Montenegro should feel happy or unhappy if somebody belongs to any minority community or LGBT population, and added that Ombudsman's Office and Ministry for human and minority rights were invited to protect rights of LGBT population, as well.

Parliament of Montenegro – Parliamentary Board for human rights and freedoms held four sessions and a public debate in this quarter. At the Assembly which took place on September 21, the Board considered and adopted the report of Fund for minorities. The Fund for minorities was established by Parliament of Montenegro. Mandate of the Fund is to support activities important for preservation and development of national or ethnic characteristics of minority population, and other minority communities and their representatives in areas of national, ethnical, cultural, language and religious identity.



III Freedom of expression

Article 47 of the Constitution of Montenegro guarantees freedom of expression by speech, written words, image, or in any other manner. According to the Constitution, right to expression may be limited only by the right of others on dignity, reputation and honor, and if public moral or security of Montenegro is being violated.

European Convention for Protection of Human Rights and Freedoms guarantees freedom of expression for everybody, by which this right includes freedom of having its own opinion, accepting and publishing information and ideas without interference of public authority. Convention stipulates important limitations of this right in democratic society in the interest of national security, territorial integrity or public security, for the sake of preventing violence and crime, protection of health or moral, protection of right and reputation of others, prevention of revealing information received in confidence, or for the purpose of protecting authority and impartiality of judiciary. European Court for human rights envisaged that, in practice, politicians and others who perform public functions have to sustain higher level of criticism than other citizens.

Law on media in Montenegro prescribes that media are free while censorship of media is prohibited, and Montenegro guarantees freedom of informing at the level of standards that are contained in international documents on human rights and freedoms.

Criminal Code of Montenegro is limiting freedom of expression through the act of defamation for which the fine of 14,000 EUR is prescribed, which is not in accordance with European standards and recommendations prescribing that fines for defamation have to be proportional to economic standard and financial soundness, in order not to bring in issue further functioning and existence among media and journalists. This is especially important if it is taken into account that courts in previous period delivered fines of up to 20,000 EUR after complaints of politicians and public functionaries who would have to suffer more serious critics.

Freedom of expression was at concerning level in the third quarter. In this quarter, YIHR did not register acquittal verdict after complaints for defamation. High financial requests defined by previous verdicts still represent significant limitation to the work of media and freedom of expression. Further text introduces registered cases of violating freedom of expression.

Establishers and columnists of independent daily 'Vijesti' and TV station 'Vijesti', Željko Ivanović, Slavoljub Šćekić, Ljubiša Mitrović, Balša Brković, and Milan Popović, received threatening letters saying: "You are finished, you are next". They said they had expected the police should estimate security risk and provide safely environment for perform their job. The police said they have been undertaking intensive activities in a view of identifying individual who wrote and sent a letter. Police Directorate took letters and sent them on analysis in Forensic center. According to the manuscript, they think that letters were written by the same person.

Supreme court of Montenegro confirmed punishment to Damir Mandić, who was sentenced to 18 years punishment, as co-perpetrator in murder of journalist of DAN, Duško Jovanović.

Higher court in Podgorica revised the verdict of Basic court by which Sead Sadiković was released of complaints of Zoran Lazović, Higher officer in Agency for National Security (ANB), for violation of honor and reputation. Higher court decided to revise the verdict of Basic court and to adopt complaint request of Lazović for compensation of non pecuniary damage for sustained mental suffering, after violation of honor and reputation. Lazović required compensation of one EUR. Sadiković announced complaint to a Court of Appeal of Montenegro.

Branka Plamenac, journalist of the weekly 'Monitor', reported on July 1, to the Police that her computer was stolen from her home. As her computer disappeared from her desk, Plamenac said she could not claim whether it was just a burglar or it was committed because of data she had in the computer. Afterwards, Plamenac found the computer in front of her house in a bag. The Police took the computer which was sent to expertise.

Trial to Ibrahim Čikić, author of the book "Where the sun does not shine" ("Gdje sunce ne grije") and daily newspaper Vijesti, after complaints of 11 persons from Bijelo Polje for compensation of damage, took place on July 6 and September 24. In his book, Čikić described torture and violations he faced with in prison in Bijelo Polje in 1994, after complaints that he had been working on establishment of the state of "Sandžak". Citizens, who prosecuted,



required 120,000 EUR for defamation. YIHR published Ćikić's book and started with it the edition DOCUMENTS whose aim is to leave written trace on crimes that were committed during '90s, during armed conflicts at the territory of former Yugoslavia.

Aida Skorupan, journalist of daily newspaper 'Vijesti', from Rožaje, reported to the police that the fire was set in her apartment in Rožaje. Skorupan doubts that the fire was set at night between July 4 and 5, 2010, because she was not at home at the time. She said that the incident could not be understood otherwise than as the warning to stop dealing with sensitive topics in Rožaje.

Milorad Mitrović, activist of NGO Breznica, held the press conference on July 8, 2010 and announced that he was the first ecology activist who was sentenced to a one month imprisonment in Bureau for enforcement of penal sanctions (ZIKS) in Podgorica, for his activities. Mitrović was accused by the President of Sport and Fishery Association Lipljan, Jugomir Soković, for counterfeiting signatures on petition for examining the work of this association. Mitrović said that the petition had 54 signatures of citizens who wanted to know, just as he did, the true on work of association Lipljan and investments of funds that were received from Ministry of Water Management of Montenegro.

Broadcasting agency announced in the middle of July that they would revoke the frequencies to every media which does not pay their debts to that institution. First media whose frequencies were revoked were TV Elmag, RTV Nikšić, RTV Pljevlja. Broadcasting agency said that the reason for cutting off was of electronic nature.

Institute for judicial medicine "Milovan Milovanović" from Belgrade made an analysis which rejected possibility that Dragan Radonjić, driver of Miomir Mugoša, Mayor of Podgorica, was injured in the incident which happened on August 5, 2009, between Mayor and journalist of Vijesti. Prosecution office accused Editor of Vijesti, Mihailo Jovović that he had seriously injured driver of Miomir Mugoša on that occasion. Jovović's lawyer, Branislav Lutovac said he had expected from Prosecution Office to treat Jovović as a damaged party and initiation of procedure against persons who falsely reported that Radonjić got serious bodily injures. However, Prosecution Office submitted proposal for supplement of investigation against Mihailo Jovović to Basic court in Podgorica, for the commission of experts from Belgrade explain the analysis, which court adopted. Ivan Brajovic, Minister of interior affairs and public administration said that the Ministry shall estimate whether Internal Control Department of Police Directorate should deal with this case, because the case had happened before the Ministry took over competences over Internal Control Department of Police Directorate.

Jovan Lončarević, American citizen originating from Berane, set the billboard in the center of Berane because he wanted to indicate on illegal waste disposal site in Berane. Before he put the billboard, Lončarević told YIHR researcher that he checked if that was in accordance with law and that he wanted to indicate on poor consequences of that waste disposal site. Billboard was taken over by firemen from Berane after they received an order from local authorities, said Lončarević. Lončarević said he had regularly paid setting of the billboard. Mayor of Berane, Vuka Golubović said for Radio Free Europe that the reason for canceling the contract with the company which owned the billboard were unpaid fees to municipality.

Milutin Sekulović, journalist of "Večernje novosti" reported incident, after which he accused director of Berane Construction Agency Milan Golubović for threatening him in their phone conversation. Sekulović told YIHR researcher that Golubović told him twice that he 'will pay for all time, if he mentions his name again'. Sekulović reported the incident to the Police in Berane. State Prosecution Office rejected the report explaining that there were no elements of criminal act in threatening over phone, said Sekulović. He told YIHR researcher that the motive of the threat was the article "Hurt by disgrace", where Sekulović wrote on taking of the poster from the billboard which indicated on waste disposal site which is near several places in Berane and which was set up by Jovan Lončarević. The article mentioned that Milan Golubović ordered taking off the billboard.

Dejan Mihajlović, journalist of the weekly "Svjetlost" from Kragujevac, reported incident which happened on August 17, in Sutomore in the Cafe "Mahito". Mihajlović claimed that Café security officers attacked him and imposed him light bodily injures. Mihajlović accused even police officers who came at the very place where they insulted him, threatening, and cursed on national basis. Mihajlović was doing professional duty preparing the report for the weekly

“Svjetlost” and in the very moment when the incident happened. Mihajlović and the newspaper “Svjetlost” sent the protest to Ministry of internal affairs and public administration of Montenegro.

Lawyers of businessman Duško Knežević, announced on September 17, they should accuse weekly “Monitor”. Lawyers emphasized that the weekly slandered Knežević in two issues from September 3 to 17. Lawyers announced submitting of criminal charge to the competent prosecutor and submitting of civil litigation for compensation of damage.

IV Politically motivated violence

Politically motivated violence is still at concerning level. YIHR registered smaller number of cases of attacks, and pressures on political opponents, when compared with the previous period. Number of cases motivated on religious bases was enlarged. Processing of cases of politically motivated violence was not at satisfying level.

At the Parliamentary Assembly of Board for security and defense, which took place on July 1, Veselin Veljović, Director of Police Directorate, respond to MP Vasilije Lalošević’s question on reasons for conducting a hearing of Petar Komnenić, journalist on TV Vijesti, and Veselin Bajčeta from MANS, by the police, saying that someone cruelly constructed video material of Safet Kalić’s wedding which abused officers of Agency for National Security (ANB), while Police and Prosecution Office try to discover who it could be.

Vanja Čalović, Executive Director of MANS, called Director of Police Directorate to provide arguments and to process accusations he stated at the Assembly of Parliamentary Board, on the occasion of video of Safet Kalić’s wedding. After the order of Prosecution Office, Police Directorate conducted hearing of journalist Petar Komnenić and NGO activist, Veselin Bajčeta, with the aim to reveal who put the video of Safet Kalić’s wedding, on the Internet. NGO MANS assessed these acts as a manner of trying to intimidate and silence activists and journalists who require from institutions providing of concrete results in fight against organized crime. MANS had informed ambassadors in Montenegro about the hearing of their activist Bajčeta and journalist Komnenić. Robert Hardh, Civil Rights Defenders Director, sent an open letter to Prime Minister, Milo Đukanović and Minister Ivan Brajović, expressing concern for the hearing of Komnenić and Bajčeta, conducted by the police, saying that such acting represented the pressure on the ones who criticized fight against corruption and organized crime in Montenegro. Considering that ANB prohibited MANS access to information related to ANB Officer, Zoran Lazović’s presence at Safet Kalić’s wedding in private or business purpose, MANS submitted complaint to Administrative court. Administrative court rejected MANS’s complaints, explaining that access to classified data of ANB was restricted. Representatives of MANS said that it was in the interest of citizens to know whether there were private relations between high officials of ANB and individuals, who have been mentioned in ANB reports as interesting for security reasons.

NGO MANS activists, Vanja Čalović, Dejan Milovac, Vuk Maraš Veselin Bajčeta and Zorica Čeranić, submitted official request to Agency for national security (ANB) for access to all information it possessed, that might indicate on conclusion that mentioned representatives of MANS were engaged by foreign intelligence services or structures, or the conclusion they have been working against interests of the country and its citizens. Motive for such an request of MANS was the statement of Director of Police Directorate, Veselin Veljović, who said that specific events were the real occasion for public attack of some media, political entities, and structures of civil society on Montenegrin security structures. They received the answer from the Agency saying they could not provide them insight as it might endanger activities of that agency. Afterwards, MANS submitted 41 request to ANB, in the name of Montenegrin MPs, journalists, and remaining members of MANS, to provide them information whether that agency had secret files on them, and if so, to provide them the insight into their documentation. Opposition MPs submitted the initiative for hearing of Duško Marković, ANB Director and Veselin Veljović, Director of Police Directorate, by Parliamentary Board for security, on the occasion of statements that ANB conducts surveillance over representatives of nongovernmental sector. Miklos Marshall, Transparency International Director, required from the European Union to protect activists of NGO MANS, which is their partner anti-corruption organization in Montenegro. ANB stated they



did not put under surveillance work of civil sector and accused Vanja Čalović, Executive Director of MANS, for expressing baseless assessments and for leading baseless campaign against ANB.

Jovan Vučurović, Spokesman of New Serbian democracy, said that Ivan Brajović, Minister of interior and public administration should assume full responsibility and check whether Montenegrin Police wiretaps opposition politicians without permission. Motive for New Serbian democracy's reaction was the statement of Prime Minister, Milo Đukanović who said that he had received information on interference of Tadić's office in Montenegrin politics from competent security structures of Montenegro.

Nebojša Medojević, President of Movement for Changes (PzP) accused two officers of Agency for National Security, D.G. and Z. L. for attacking his adolescent son, and required from Ranka Čarapić, Supreme Public Prosecutor to check his doubts and information. Medojević said that it was threatening message for him, aiming at stopping him indicating publicly on relations between specific members of ANB and the Police with organized crime. Medojević required from Prosecution Office to demand new investigations of the Police. Prosecution Office presented indictment for violent acting against attackers on Medojević's son.

Management of the First bank, where Aco Đukanović, Prime Minister Milo Đukanović's brother, is majority owner, announced he would file charges against Nebojša Medojević because he said at the Parliament of Montenegro that "the Bank had benefits from organized crime".

Board of Regulatory agency for energy filed criminal charge against Branko Radulović, MP of Movement for Changes (PzP), Željko Ivanović, Director of daily Vijesti, and Ljubiša Mitrović, Editor in Chief of daily Vijesti. The Board filed criminal charge for violation of honor and reputation and public claims of MP Radulović that "the Board of the Agency robs citizens by defining the price of electricity, that they damaged the country and Electric Enterprise for hundreds of millions of EUR". Board of the Agency filed criminal charge against Director and Editor in chief of daily Vijesti, "because they knew or they must have known that announcement of incriminating statements may damage honor and reputation of members of Board of the Agency".

After statements of Bosniak political leaders from Serbia and Montenegro that they would require higher level of autonomy of Sandžak, media published that Veselin Veljović, Director of Police Directorate, said he would monitor and eventually sanction every person which standing behind that idea. Representative of Bosniak party of Montenegro, Hazbija Kalač said that he understood these statements as direct threats. Veljović's statement was judged by Rifat Vesković, President of Democratic community of Muslim Bosniaks, while Rifat Rasoder, Vice president of Social democratic party required from Veljović to explain his statement. Police Directorate said that published standpoints were not directed against Bosniak population, but the meeting of the Police collegiums dealt with the security situation and nobody had mentioned Bosniaks.

Serbian national council reported that, at night between August 13 and 14, a flag was stolen from their premises. The Council said that this has been happening for the fourth time this year. Each time, the Council reported the theft of the flag to the Police, however, until nowadays committers have not been found yet.

On August 14, 2010, at 23:30, Parish Home of Serbian Orthodox church in Rožaje was stoned. Stoning of Parish home happened for the second time this year. The first incident occurred this year in April, when material damage was committed and the incident was reported to the Police. Committers of the act have not been found yet. The Police announced that police officer would be appointed to guard the church and Parish home, and added they would do everything to find committers.

Cottage of the church municipal council Podgorica burned in fire which happened on August 24, near the St. George Church. Secretary of the church municipal council, Velibor Džomić, publicly said that the fire was set up by a juvenile person who spelt petrol over the cottage and burnt it.

Representatives of Serbian Orthodox Church Dragiša Jeremić, Aco Petrić, Dragoje Nišavić, and Radoje Prelević, were stoned in Bijelo Polje. On their return from liturgy which took place in village Voljevac in Monastery of the Most Holy Virgin, unidentified persons threw stones on their vehicle. While they were at the liturgy, somebody called Zvonko Jevrić and told him that barricades would be placed on their return. The Police reacted immediately and brought five persons to informative conversation.

The Police in Cetinje prohibited clergy and worshippers of two Orthodox churches to come into the Temple Preobraženja Gospodnjeg on August 19, and in that manner prevented liturgies that were appointed at different time. Police Directorate announced that it was done for the purpose of preventing conflicts which had happened last years and earlier. Such act of the Police was less than satisfactory and caused protest of both churches.

V Facing past

There were no significant moves in processes that were conducted for war crimes which had happened in Morinj, Štrpci, Bukovica, Kaluđerski laz and in the case of deportation of Bosnian refugees, due to summer break in the work of courts. The accent is on order-issuing authorities and major individuals in hierarchy scale, who have still been out of reach of judgment. Principle of command responsibility, representing the part of international common law, has not started operating in cases of war crimes in our country. Based on Geneva conventions and its protocols and remaining international documents, command responsibility represents the form of individual criminal responsibility which occurs after acts of omission, while high ranking person is responsible for crimes committed by his subordinates, in case he missed to prevent or punish them. Bilateral agreements on extradition with Serbia and Croatia, as announced by authorities, shall not include acts of war crimes. YIHR and other NGOs in Montenegro, publicly protested and called the Government of three countries to include by contracts acts of war crimes, otherwise, Governments should explain public why they did not do it.

The first verdict was rendered against the state of Montenegro because of NATO air strikes, which obliged the country to pay 69.000 EUR to a family Komatina for mental suffering during NATO air strikes in 1999. During air strikes, six persons, out of whom three were children, died. Representatives of the country lodged complaints to a Higher court.

Compared with the previous period, in July was continued the trial for the crime of deportation which happened in May 1992, when 33 refugees from Bosnia and Herzegovina were deported from the territory of Montenegro, which was against rules of international humanitarian law which protects refugees, and were afterwards extradited to military authorities Republic of Srpska, when only nine of them survived deportation. Nine former functionaries and officers of Ministry of interior affairs of Montenegro were accused for that war crime: Branko Bujčić, Sreten Glendža, Milorad Šljivančanin, Božidar Stojović, while Boško Bojović, Milisav Marković, Duško Bakrač, Milorad Ivanović, and Radoje Radulović escaped. Trial continued with testifying of Ranko Martinović, a retired policeman. He accused Slobodan Pejović, key witness of deportation that he had commanded action of extradition of Bosnian citizens. Slobodan Pejović negated testifying of Martinović and said that testifying was one more attack on him as the key witness in the process of trail for deportation. The statement of former Minister of internal affairs of Montenegro, Nikola Pejaković he gave in May 2008, in District court in Belgrade, was read. Until nowadays, in a number of cases court settlement for compensation of damage between Government of Montenegro and a part of members of families of deported ones was achieved. Former President of Montenegro, Momir Bulatović appeared on September 27, at court for deportation as the witness but he was not allowed to testify because Bulatović required from the court abolishing of preservation of top national secret which has been done by the Tribunal in Hague but which was not adopted by the Council of Higher court in Podgorica. Testifying of Bulatović was delayed because of the procedure of competency for abolition of preservation of top national secret.

A trial to accused for war crimes over civilian of Albanian nationality at Kaluđerski laz near Rožaje, was delayed several times for different reasons. One of the reasons was the expiration of mandate to a special prosecutor for organized crime, Milosav Veličković, but also absence of legal representatives of damaged families, and invited witnesses from Kosovo, as well. Considering that new Criminal Code have come into force, development of new criminal council by the president will be necessary. Pursuant to this, following hearing took place on September 27, and the new one has been appointed for October 7. Predrag Strugar, who was firstly accused, escaped and the warrant has been issued while remaining seven accused persons, who were at the lowest level of decision making, are in prison. Delaying of trials caused disapproval of families of the accused ones who have been



in prison for almost two years, because they thought that members of their families were condemned before the verdict was rendered. On that occasion they announced on protest walk to Podgorica.

In Higher court in Podgorica, in June, started a trial for war crimes against humanity over civilians of Islamic religion from the territory of Bukovica, near Pljevlja, in 1992 and 1993. Public Prosecution Office presented indictments this year, at the end of April, against seven former members of the Army of Yugoslavia (VJ) and Ministry of internal affairs of Montenegro. All of them were at the lowest level in the chain of decision making in their units. The trial continued on September 21, when hearing of damaged witnesses was arranged.

After the order of Special department of Supreme public prosecution office of Montenegro was issued, in Andrijevića started investigation of doubts referring that corpses of Albanians from Kosovo who were imprisoned in barracks of the Army of Yugoslavia in Andrijevića, were buried. Excavation of bodies was under surveillance of Deputy of Special prosecutor for organized crime, corruption, war crimes, and terrorism, Investigation judge of the Special department in Bijelo Polje and forensics of EULEX Mission on Kosovo. Excavations were done at the depot of the wood processing company, Boj Komerc. Bilja Ćović, PR of Higher court in Bijelo Polje said to YIHR researcher that investigative actions at mentioned site in Andrijevića were finished and added that evidences of the mass grave existence were not found.

Nebojša Ranisavljević was sentenced to a 15 years imprisonment for the crime in Štrpci which happened in 1993, over civilians of Islamic confession, and the mentioned punishment expires on October 19, 2011. There were no other moves in a sense of examining responsibility of orders of this crime.

Higher court in Podgorica convicted six former members of Yugoslav national army (JNA) on May 15, 2010 for a war crime which happened against war prisoners in prisoner-camp Morinj near Kotor at the beginning of '90s. Punishments were imposed in a range from a year and six months to four years.

VI TORTURE

The Constitution of Montenegro prohibits torture, inhuman and degrading behavior, while Criminal Code prescribes up to five years imprisonment sentence for official individuals who commit torture. Violence and torture, processing of reported cases, and small number of final verdicts still cause concern representing in that manner significant problem in Montenegro. Until the end of the year, Montenegro is due to establish National mechanism for the prevention of torture, which is obligation which resulted after ratification of Option protocol with the Convention against torture and other cruel, inhuman, and degrading punishments and actions.

YIHR registered reported cases of violence and torture in prisons committed by police officers.

Police torture: Larger number of reported cases of police torture, inhuman and degrading behavior was registered in this quarter than in previous two quarters. YIHR registered 11 reported cases. Even in this period, verdicts against police officers for violation were rendered. Ministry of internal affairs became competent for Internal Control Department while good communication and cooperation on resolving specific number of reported cases with YIHR has been established.

In the case of beating up Aleksandar Pejanović from Podgorica, Basic court in Podgorica, judged three police officers for providing assistance to unidentified persons in beating up Pejanović while he was in detention. Officers who tortured and beaten Pejanović have not been identified until nowadays. Dalibor Kavarić, Aleksandar Pejanović's lawyer told YIHR researcher that "Basic Public Prosecutor in Podgorica claimed she had addressed Director of the Police for information on unidentified policemen who were suspected for beating up Pejanović, but the Director did not send her required information. Such claims of Prosecutor are not understandable and standpoint of Prosecutor towards this criminal matter is illegal. However, Prosecution Office is a part of judicial authority and the Police is administrative body as the part of executive power. That means that Prosecution Office is in the hierarchy above the Police and the Police is the service of Prosecution Office and are obliged to act according to Prosecutor's orders. Thus, Prosecutor is not competent to beg the Police to do something, because they already have that right



and obligation to order it due to its authority, or to inform competent minister or the Government on such work of the Police”.

Basic court in Danilovgrad judged police officer Dragan Đukić on three months imprisonment for torturing and violating Prelja Đokić from Podgorica. Based on court judgment in this process, YIHR noted irregularities and submitted criminal charge to a competent public prosecution office, against two police officers for whom had been noted in verdict they had given conceived and false statements, with the aim to help their colleague Đukić in avoiding criminal responsibility. YIHR filed criminal charges against policemen Milenko Obrenić, and Veljko Živković. They were also suspect for criminal acts of giving false statements, abuse of official position, and unconscientious work in the service. Police officer Veljko Živković demented via media statements from criminal charge and said that, when the incident had happened, he was not on duty but came at the station after requirements of Prelja Đokić’s parents.

Nikola Stajović is punished to a one month imprisonment sentence because he stoned and offended police officers at the protest, which happened in front of the building of Parliament, after decision of Government to recognize independence of Kosovo. On the other hand, charge submitted by Stajović against police officers for torture has not been processed yet. In the charge, Stajović accused police officers for committing serious bodily injure after which he had surgery.

Budimir Marašević and Nikola Medenica from Bijelo Polje reported to YIHR researcher incident which took place in bakery “Nord” between July 10 and 11. Marašević and Medenica got several injuries in the incident, described by doctors as serious. Police officers Milan Minić, and Dejan Jarčević also participated in the incident, who were accused by Marašević and Medenica for inflicting injuries. Marašević and Medenica reported the case to Internal Control Department of Police Directorate and submitted criminal charges against Minić and Jarčević. Ombudsman’s office also researched this incident. Police Directorate submitted to Ombudsman information that police officer Milan Minić was suspended until prosecutor makes decision. Ombudsman required information from prosecutor whether criminal procedure related to the incident was initiated, for what criminal act and in which phase was the procedure. Ombudsman required from the Regional unit Bijelo Polje information if criminal charge was initiated against police officers. Answers related to the case were not submitted to Ombudsman’s office when the office received YIHR’s letter.

Semir Demirović, citizen of Sweden originating from Trebinje, reported incident which happened at night, between July 24 and 25, at border crossing Dračenovac. Demirović said that a custom officer and a police officer maltreated and acted at degrading manner towards him. Demirović told YIHR researcher that custom officer told him: “Shut up, balija (which is insulting word for Muslim), I have right to keep you here six hours for no reasons”, while police officer put him handcuffs. Demirović reported custom officer whose registration number was 20630. Demirović’s father, Sadik Demirović was deported by Montenegrin policemen in 1992, to Republika Srpska. Semir and Sadik Demirović were witnesses in the process “Deportation” before Montenegrin judiciary. Customs Administration of Montenegro conducted internal control and announced that their officers did not find evidence indicating on maltreatment of Demirović that day. The statement said that officer with registered number 20630 was of Muslim nationality, which excluded possibility of insulting on religious basis. Customs Administration sent the overall case to competent prosecution office on further procedure. Police Directorate demented their police officer exceeded competences.

Radovan Zonjić accused on July 20, representatives of the Police in Kolašin for maltreating and beating him all over his body. Zonjić announced he would submit complaints against police officers. Police Directorate rejected Zonjić’s statement saying they had intervended after requirement of Zonjić’s father who had called them and told that his son, Radovan Zonjić was driving under the influence of alcohol. Police said they had undertaken all activities in accordance with law and in the presence of Zonjić’s father.

Miloš Konjević from Herceg Novi reported incident to YIHR, which happened on July 21, 2010 in Herceg Novi, near café “Lobelija”. Konjević accused police officer Božidar Jauković for inflicting him injuries over his head and back for which he received medical documentation. Konjević submitted criminal charge against police officer Božidar Jauković. Police Directorate submitted a proposal for initiating disciplinary procedure against police officer



Jauković and penal charge against Miloš Konjević after suspicious he had hampering police officer in performing professional duty. Konjević introduced Minister of internal affairs, Ivan Brajović with the incident. In addressing Minister Brajović, Konjević accused policeman Jauković for death threats. Minister ordered to Internal Control Department to conduct investigation in the very case.

Miladin Novičević from Plav submitted criminal charge against police officer Amer Radončić, Boris Đukić and Goran Ljubić, for the abuse of public office. Basic Public Prosecutor's Office from Plav rejected criminal charge explaining that there were no elements of criminal act in activities of police officers. Namely, Novičević accused police officers for keeping him six hours suspecting he was under the influence of alcohol, although analysis showed zero promille of alcohol in his blood. On that occasion, officers took his driving licence and Novičević claimed that police officer Goran Ljubić had threatened him not to complain and not to report the case.

Mario Stanić from Podgorica reported incident which happened on August 6, in Golubovci in the village Ponari, where he got injuries. Stanić accused Đorđije Četković and an unidentified person, who were officers in Police Directorate, for abusing him intending to extort information related to stolen scooter. Stanić submitted criminal charge to a competent public prosecutor against two police officers.

Owners of the night club "Sparta" from Budva accused officers of Police Directorate for demolition of the overall object, hitting and maltreating guests and the staff of the club, while making a raid at night, between August 14 and 15. Estimated damage was more than ten thousand EUR. It was stated that there was a pregnant woman among guests. Owners of the club said they would send video, recorded by security cameras containing evidences that police officers had exceeded competences. Police Directorate demented statements of owners saying that activities were conducted in accordance with law.

Football players of the Football club Čelik from Nikšić, Luka Bakoč said that police officers maltreated fans of FC Čelik in the match of the second round of the Second league of FC Čelik against FC Zabjelo. He said that fans of FC Zabjelo initiated the incident while police officers were slapping fans of FC Čelik and some of them were apprehended in the police premises. That was the second time that players and fans of FC Čelik were accusing police officers for maltreating and violating when FC Čelik plays with FC Zabjelo.

Muzafer Vreva from Bijelo Polje reported incident which happened on August 28, in place Lješnjica near Bijelo Polje, when he got several injuries. After the incident with owners of the nearby restaurant, Vreva was taken into custody. Vreva accused officers for beating him up in the police premises. Vreva sent YIHR copies of medical documentation and photos showing his injuries. He submitted criminal charge against police officer Slavko Rakočević and unidentified policeman of the Police Directorate of Regional Unit Bijelo Polje, for inflicting serious bodily injures, extorting statements, violation, and torture. Vreva said he would introduce Veselin Veljović, Police Directorate Director, with the event. Policeman Slavko Rakočević rejected publicly accusations towards his for beating up Vreva. He said that Vreva hit him with the fist suddenly over his head and afterwards tried to fight with other present policemen who had to put him handcuffs.

Cvetanka Divjak, mother of Branislav Divjak, reported incident which happened on July 26, 2010 in Budva. Cvetanka Divjak told YIHR researcher that policemen Goran Vujović, and Staniša Vračar had beaten up his son Branislav in Budva and inflicted him serious injuries on that occasion. Cvetanka Divjak said that police officers attacked his son trying to find drugs. They found at Branislav Divjak white powder in the bag, however, analysis in Forensic center showed it was a headache pill, known as "Kafetin". According to Cvetanka Divjak, when police officers did not find drugs, they accused him for the attack on official person. Branislav Divjak has medical record on injuries. Basic court in Kotor decided on one moth detention for Branislav Divjak suspected for attacking official persons while they were performing professional duty.

Muriz Šuntić from Berane reported incident which happened on September 23, in Berane. Šuntić accused police inspector Darko Mališić for beating him up and inflicting him serious injuries. The case was reported to Internal Control and Šuntić announced he would submit criminal charge against police officer.



Incidents in Bureau for enforcement of penal sanctions (ZIKS): YIHR registered smaller number of reported cases of violating, inhuman and degrading treatment in ZIKS, comparing with previous period. Representatives of YIHR prepare with Administration of ZIKS Memorandum on Cooperation that will significantly contribute to researching and improving of the state of human rights in ZIKS. Signing of the Memorandum on Cooperation is expecting to take place soon and requirements of YIHR are enabling visits to ZIKS and communication with convicted persons. YIHR still does not have information on results of conducted disciplinary procedures in case Milić-Nikezić.¹ There is still large number of people in ZIKS than it is presumed by their capacities.

According to some newspapers, in July, a hundred of prisoners were on hunger strike in prison in Bijelo Polje. Prisoners required shorter court procedures and equal treatment for all. Media stated that prisoners told them via phone conversation that some prisoners, who were very close to authority or to the top of judiciary, are sometimes earlier released from prison than others. TV IN published in June information that some prisoners in ZIKS called and stated they were on hunger strike because promises on amnesty and better life conditions were not fulfilled. Milan Radović, Director of ZIKS said that prisoners did not initiate strike because the Law on amnesty was adopted which satisfied their expectations.

Predrag Perak from Bar, which is in ZIKS and serves a six months sentence, reported YIHR he had started hunger strike after inadequate medical treatment. Perak said he had required termination of punishment because conditions for his treatment in ZIKS were poor, but his request was not approved. YIHR researcher was told from ZIKS that Perak required termination of punishment and ZIKS sent the requirement to Ministry of justice. ZIKS stated that consillium of doctors of the Clinic center Montenegro submitted report saying that Perak did not need medical treatment. ZIKS provided medical treatment for Perak at the Clinics (KBC) and the court reduced his punishment from six months to five months, according to amnesty prescribed by law.

YIHR office received information on May 4, from a prisoner in Bijelo Polje that a prisoner M.Z. from Nikšić was beaten up by the officer in the prison while his family was suffering because of pressures not to report the case to competent institutions. YIHR reported these statements to Ombudsman's office. Due to a mistake of technical nature, YIHR did not describe reaction of Ombudsman in this case, in the II Quarterly Report. Ombudsman's office acted after the report. Staff of Ombudsman's office had conversation with the prisoner M.Z. on May 10, who told them he was not abused and did not suffer violations by anyone, and added that officers in the prison treated him correctly. YIHR apologizes to the Office of Ombudsman for the inconvenience we caused by this mistake.

VII Discrimination

Law on prohibition of discrimination has been adopted in Montenegro and in that manner the country has become the last one in the region which adopted the Law. Discrimination in Montenegro exists in the case of disabled persons, Roma population, national and sexual minorities, women and workers.

Mira Topović from NGO Association of paraplegic Pljevlja, told YIHR researcher that the status of disabled persons is being improved but disabled persons have still been facing high level of discrimination. Topović emphasized that with larger number of civil society organizations that are dealing with protection of rights of disabled persons, their status is improving. However, the largest problem is lack of respect in practice for existing legal regulations. The largest problem disabled persons are dealing with in Pljevlja, according to Topović are inaccessible facilities that are of public importance such as schools, municipalities, hospitals, Center for social work, Labor Bureau, sport terrains, and buildings where cultural events are being held. As the general problem, she mentioned unemployment of disabled persons.

Dušan Rakočević from Mojkovac marked July 7, as the annual of hunger strike because health commission gave him the report stating he was capable for independent life and work. Rakočević is hardly movable and has

¹ More on this incident see YIHR Report for 2009, available at the website www.yihr.me



diagnosis “aralysis cerebrealis”. For such a report he may not exercise right to personal disability allowance, and currently lives with 33 EUR paid by Employment Agency of Montenegro. Rakočević accused the commission and invited public prosecutor Ranka Čarapić, and Minister of justice, Miraš Radović to react.

Zoran Spasojević from Nikšić announced via media about discrimination he sustained. Spasojević is economist with 50% of disability and has been looking for employment, which he has not succeeded yet. Spasojević accused Labor Bureau for telling him, when he would come asking for employment, “You do not seem like disability person!” or they would ask him: “Why do you need a job?”. Spasojević visited numerous companies in Nikšić but he has not succeeded to find a job. Nowadays, he receives 66 EUR of disability allowance.

There were no activities in this period related to construction of house for children with disabilities, near Danilovgrad. YIHR will monitor activities in this case and we will introduce public with all details related to this case.

Marijana Mugoša, who uses a guide dog and whom, for that reason, was not allowed by Administration of the Capital city to come to work, even after the verdict saying she may return to her job position and which has become final, Administration of Capital city again did not allow her to come to her job position. Mugoša told YIHR researcher that a lot of energy was put on papers, which unfortunately became completely worthless after such acting of public authorities. When she tried to come into the building of the Capital, where she worked, receptionists did not allow her to come, stating that Slavka Maraš, Secretary of the Capital city Assembly, issued such an order. Maraš addressed public and said that Mugoša may return to job, not in the same premises, but the new ones which were not in the same building where Mugoša worked. Marijana Mugoša sent the letter for compulsory execution of judicial admonition to Basic court in Podgorica but, as she says, she does not believe that anybody in this country may execute the verdict therefore, she will address the Court in Strasbourg. Basic court submitted warrant for execution of verdict but as it was not executed after this on September 15, it pronounced 550 EUR fine to the Capital city and a fine to 300 EUR fine to responsible person for failure to execute the verdict.

On September 22, a waiter of the restaurant “Carine” prohibited Andrija Samardžić, who uses guide dog, to enter into the restaurant. Waiter told him that it was ordered by Čedo Popović, owner of the restaurant. Association of youth with disabilities of Montenegro wrote a letter to the owner of the restaurant informing him that users of guide dogs would continue coming in the restaurant Carine, thus, in future, instead of standing up and leaving the restaurant with degrading emotions, they would use all legal and media means with full support of the Association, numerous respectable lawyers and other colleagues from NGO sector. Čedo Popović held the meeting with representatives of Association of Youth with Disabilities of Montenegro, and afterwards he said that such incidents would not happen again and expressed sorrow for the incident. Andrija Samardžić said that the incident occurred because the waiter did not know whether it was a guide dog or a pet, so he accepted apology and added he would not initiate procedures before judicial bodies.

At the beginning of September, Government of Montenegro, UNICEF and Delegation of the EU in Montenegro initiated campaign named “We are talking about possibilities” with the aim to spur citizens to adopt children with disabilities without prejudices. This campaign was initiated after results of the research, conducted by UNICEF, which showed large social distance towards children with disabilities. Therefore, based on results, only 43% of citizens of Montenegro would adopt a child with disabilities to attend the same school with their children, while two thirds of questioned citizens are against the idea of attending the same school with child with disabilities. Each fifth questioned individual would not mind if a child with disabilities would be a best friend to their child.

There were no activities in this period regarding construction of the object for children with disabilities in Danilovgrad. Competent ministry and the Government should continue supporting and implementing announced activities that will be aimed at constructing the object for children with disabilities. After YIHR invited competent authorities to sanction and call employees in their lines for responsibility, with doctors among them, there were neither responses nor reactions. YIHR invited Chamber of doctors of Montenegro to define their standpoints after the petition and statements of signers of the petition, and YIHR also invited competent prosecution office to process this type of discrimination and to present indictments before competent court. Until the moment of publishing this report, we did not receive information on initiating the procedure.



Montenegro has 314920 females and 305225 males.² However, women are discriminated in Montenegrin society and that is presented by researches of Statistical Office of Montenegro. Publication of Statistical Office of Montenegro named "Females and Males in Montenegro - 2010" showed that women were discriminated in numerous areas of social life compared with men. Thus, not any woman takes any of the three most important functions in the country. There is a female Minister in the Government and 16 male ministers, the Parliament has nine female MPs and 72 male MPs, while local government has 92 females and 632 males. Two women are Presidents of courts while there are 20 male Presidents of courts, and 26 females are Directors of Elementary Schools while 136 males are on that position. Average salary of women is 13,8% smaller than the salaries of men.

V.H. from Bijelo Polje told YIHR researcher that security guard of the bank named Hipotekarna banka, did not allow her to enter their premises because she wore hijab. The incident happened on August 28, the day of her wedding with E.M. who was with her at that moment. V.H. and E.M. said they were very humiliated. Islamic community in Montenegro and Ombudsman judged such acting of security officers and invited them to respect the Constitution and international standards in the area of human rights and called them also to apologize publicly to the family and V.M. Management of the bank sent public apology for acting of officer from hired security organization. Company Security Guard Montenegro, also sent apology to Islamic community and the family of V.M. after false security assessment of security worker. Marjan Marjanović, owner of the security company said that measures of intensified security were adopted in cooperation with the Police after often robberies. YIHR provided V.M. free legal aid.

After adoption of Law on general education and behavior which prescribes that lectures in Elementary school shall be on Montenegrin language, political representatives of Serbs in Montenegro, severely criticized Parliamentary majority emphasizing that Serbian language and Serbs in Montenegro were discriminated. Among those who criticized and required the Law not to be adopted were National council of Serbs, New Serbian Democracy, People's party, Serbian people's party, Socialist People's Party, Serbian Orthodox church in Montenegro and numerous individuals. Representatives of Serbs sent requirements saying that children, whose parents want, shall have lectures on Serbian language even in those municipalities where Serbs are majority. President of Montenegro, Filip Vujanovic, publicly said that not any language in Montenegro would be discriminated. Around 393 740 people speaks Serbian language in Montenegro, 136 208 people speaks Montenegrin, 32 603 people speaks Albanian language, 14 172 speak Bosnian, 19 906 speak Bosniak language, Roma language is spoken by 2 602 people and 2 791 citizens speak Croatian language.³

Slavica Stanković claimed that Communal police from Gusinje wanted to close her night club although, as she said, she had all documentation. Stanković accused communal police they were doing that because she was Serbian.

National council of Roma and Egyptians invited in July MPs to provide equal status and presentation of Roma and Egyptians through harmonization of electoral legislation. The Council said they would address Filip Vujanović, President of Montenegro and required from him to sign the Law, if electoral Law discriminating Roma and Egyptians is going to be adopted.

Remote school division of Elementary School "Božidar Vuković Podgoričanin" in Konik is attended by pupils of Roma nationality, almost 300 of them. Fana Delija, Executive Coordinator of Center for Roma Initiatives accessed that such type of realization of lectures was discrimination and that this type of school division should be abolished. Lectures of this school division are attended by 10 classes with children of Roma nationality whose families refuge from Kosovo at the end of '90s.

NVO OKC Juventas accused Ferhat Dinoša, Minister for human and minority rights for expressing homophobic standpoints and the Parliamentary debate on Law on prohibition of discrimination. The statement issued by NGO OKC Juventas on June 21, 2010 said that "in his presentation, Minister Dinoša sends clear message that being gay, lesbian or bisexual is something unmoral" (<http://www.montenegro-gay.me/vijesti/1-crna-gora/124->

² Statistical Office of Montenegro, based on consensus from 2003

³ Statistical Office of Montenegro, based on consensus from 2003



ministar-moralnih-naela-ne-ljudskih-i-manjinskih-prava.html). In August, two cases of violence over members of LGBT population were reported to Juventas office. Both cases stayed unreported to the Police because victims were afraid of revealing of their sexual orientation during investigation and of possible court procedure. Jelena Čolaković from Juventas told YIHR researcher that LGBT individuals in Montenegro were not accepted by general population thus, they are being forced to live hidden and invisible life. „ Due to very high level of homophobia, LGBT individuals in Montenegro are not encouraged and are not capable to express their sexual orientation to wider circle of people not to suffer some type of discrimination or violence because of that. Revealing of sexual orientation is in most cases based on very close family and close friends. Official place of meeting still does not exist and social life mostly functions according to the system of close and well hidden circles“, said Čolakovic.

VIII Minority rights

Minorities in Montenegro still are not fully integrated in society although there is relatively good legal framework in this area. Ministry started with the initiative for collecting data on national representation of employees in public administration. Minister Ferhat Dinoša announced that the Ministry would collect data on national representation in public administration until the end of 2010. Dinoša said that the Ministry started to collect data on 1999 and 2003, but they did not manage because of the legal possibility of employees not to speak on national representation. Goran Đurović from Democratic center criticized Minister Dinoša for conducting policy which is opposite of the concept of civic country. Ombudsman's office and YIHR earlier conducted researches on representation of minorities in public bodies and institutions. These researches showed that all ethnic communities were sub-represented compared with Montenegrins. You can view YIHR's research on this link: www.yihr.me/wp-content/uploads/2010/03/cg-izvestaj-2010-web.pdf

Even after eleven years since the accident and sinking of boat „Miss Pat“ in Budva, when 37 Roma died, court procedure has not been solved yet. Indictment presented against eight individuals suspected for committing criminal act against general security, transporting illegally Roma to Italy. Boat „Miss Pat“ was registered for the transport of six passengers and two crew members but according to some unofficial information, there were 70 to 122 people on the boat. Couple of hours later, the boat turned over and until nowadays only 13 persons were identified. Montenegrin Ombudsman, Šučko Baković called judicial bodies to punish the responsible ones as soon as possible, stating that the report of Ombudsman has been noticing for years that defendants should be convicted; however, there were no changes. YIHR invited competent bodies to start as soon as possible with processing of tragic event which had happened 11 years ago. New trial is scheduled for October 8, 2010 before Higher court in Podgorica. It is indicative that Roma nongovernmental organizations and Roma national council are not interesting for this case.

Agreement between Ministry for Human and Minority Rights and NGOs which were allocated funds with the aim to improve the status of RAE population, was signed in July. Funds were also allocated to Roma council for „Roma radio“, Coalition NGO „Roma circle“ for the project named „Participation of the country in regulating housing problems“, Foundation for scholarship of Roma for more projects of support to pupils and students and to Employment agency of Montenegro for the project named „Creation of equal access to job positions for RAE population“. Activists from specific number of Roma NGOs protested and showed they were not satisfied by the manner of allocating funds. Deputy Minister for human and minority rights, Sabahudin Delić was accused by activists for ignoring them and for allocating funds only to Vaselj Beganaj who, according to their opinion, does not have support of other Roma NGOs in the coalition „Roma circle“. Sabahudin Delic rejected all accusations.



IX Status of displaced persons

Although there were moves in improving of status of displaced persons, their status is still concerning. Local authorities in Podgorica announced the possibility of transforming two sites where Roma and Egyptians, who refuge because of the war in Kosovo, at the end of '90s. Montenegrin regulations are very restrictive when issuing citizenship and residence license, but on the other hand, Montenegrin Government adopted decision on "Economic citizenship" for foreigners, business people, who may receive Montenegrin citizenship if they invest 500,000 EUR in Montenegro.

UNHCR Office in Podgorica announced that, since the beginning of implementation of Law on amendments of Law on foreigners, 174 displaced persons and 130 internally displaced persons submitted requests for permanent residence of foreigner. Until nowadays, 81 request have been positively solved while three were rejected because of „disturbances from the aspect of national security and public order“, without elaboration on these disturbances which do not enable any future to these foreigners in Montenegro. Two persons whose requests were rejected initiated administrative dispute. Also, six displaced and four internally displaced persons submitted requests for temporary residence but none of them has been solved yet. Government of Montenegro adopted on August 4, 2010, Decree on manner of exercising right of displaced persons from former Yugoslav Republic and internally displaced persons from Kosovo, which provides these persons access to all rights enjoyed by Montenegrin citizens, until receiving the status of foreigners with permanent residence or temporary residence, and not later than January 7, 2012. UNHCR is convinced that Decree is being implemented and that displaced and internally displaced persons now may report themselves to Employment agency by opening labor card. When reported at Employment agency they can provide health protection as the insurers of the Health Fund. Problem still stays for displaced persons who do not have register of births, which is the precondition for issuing labor card. Parliament of Montenegro in July adopted Law on improvement of business environment which reduces administrative fees for receiving the status of foreigners with permanent residence, temporary residence, reports to Employment agency, issuing of Identity card and others on ten EUR. This Law removes one of the largest obstacles for displaced and internally displaced persons to deliver requests for the new status because most of them were not able to pay 200 EUR per persons for fees, for permanent residence in the situation when there were no legal possibility for their permanent employment.

Aleksandar Đokić, President of Association of Montenegrins from Kosovo and Metohija required from the Government of Montenegro to change decision on defining criteria for achieving Montenegrin citizenship and to recognize previous residence of displaced persons in Montenegro as legal. Đokić required recognition of the residence as legal for displaced persons who reside Montenegro longer than ten years and who have regularly issued IDs by Governments Commissioner office for displaced persons.

National council of Roma and Egyptians announced they were worried after decision made by local institutions of the Capital city and after announcements that camps for refugees in Konik will be disbanded. President of National council of Roma and Egyptians, Muhamed Uković said that eventual forcing of Roma who refuge from Kosovo, to return there, would not be correct unless there were some guarantees for their security on Kosovo.

X Economic and social rights

The Constitution of Montenegro guarantees economic and social rights to citizens. European social charter guarantees right to protection in the case of termination of employment, right of workers to protection of their requirements in the case of insolvency of their employers, right to dignity at work, right of workers' representatives to protection in all they initiate and on some benefits, right to information and consultations in case of collective lay off, right to protection from poverty and excluding from society and the right to protection from discrimination. The Constitution prescribes that any person has the right to work, on free election of profession and employment, on fair and human labor conditions and protection during unemployment. According to the Constitution, employees have a right to appropriate wage while Law on labor further explains that wages has to be paid at least once a month. The



Constitution and the Law on labor prohibits each type of discrimination based on personal characteristics or political orientation, membership to some party or trade union. For protection of their rights, employees may address their employer with request, competent court, and mediator but also they may submit request to Labor inspection. Labor inspection opened free phone line on September 15, that will serve for submitting initiatives on eventual appearance of "black-market" and other irregularities that are not in accordance with solutions in Law on labor. Phone numbers are 020 655 513 and 020 655 514. Representatives of the office confirmed to YIHR researcher that this type of providing aid to workers caused interest of workers who call every day and submit initiatives on eventual appearances of black-market and other irregularities in work and based on work. Submitted initiatives shall be considered by Labor inspection that will protect anonymity of submitters of reports. The project was supported by the Government of Ireland and International Labor Organization.

Status and rights of workers in Montenegro are still concerning. According to data of Statistics Bureau of Montenegro, consumer basket for four member family for August in Montenegro was 753,18 EUR while average wage was 504 EUR. Minimal work price in Montenegro is 55 EUR. In this quarter, large number of workers organized strikes requiring severances, payment of incomes, and right to work. Work group for negotiations on amendments of Law on work at the beginning of August announced they should soon start to work. Work group shall insist on harmonization of Law with European legislation. Srđa Keković, General Secretary of Trade union of Montenegro, stated they would support announced amendments of Law on labor because it endangers workers and is on the side of capital.

Luka Peruničić, representative of Free trade union of Montenegro, from Bijelo Polje, told YIHR researcher that the status of workers from that and other municipalities at northern Montenegro was at concerning level. Peruničić said workers lost their jobs and organized strikes, in order to get their severances. Strikes happen very often and are numerous, however, according to Peruničić's statements, competent authorities were less interested for resolving their problems comparing to resolving problems of workers from southern and central part of the country.

Eight workers in Kovačnica segment in Aluminium Plant (KAP) in Podgorica, Siniša Marković, Zdravko Đurović, Tain Babačić, Dragan Martinović, Željko Šušović, Milovan Bogićević, Novak Šofranac, and Novo Jovović, issued an announcement stating they had not received their wages for five months while other workers in KAP regularly receive their wages. In the statements, they emphasized they had submitted complaints for several times to administration but there were no results. They had been told to accept to leave KAP on voluntary basis, or they would not get their wages. Workers addressed Labor inspection which made the Conclusion on pronouncing punishment for employers, who may pay two out of all wages that were not paid. However, until August 5, when workers addressed YIHR, they did not receive their wages.

Around 30 workers of Prerada (processing) segment of KAP also do not receive wages regularly. Borislav Mašković, President of the trade union of Prerada segment of KAP, told daily Vijesti at the end of August that 11 workers did not receive five wages, four workers did not receive two wages, while ten workers did not receive one wage. Labor inspection announced that they have already pronounced punishments to KAP Administration, and added they should again pronounce fine of about 5,000 EUR again.

Trade union of joint maintenance of KAP announced that Labor inspection prohibited organizing of strikes they planned for September 28. Statement said that Labor inspection informed them that strike may be organized only by workers of Joint maintenance, but not by the Trade union which was not representative.

Milorad Bogdanović, waiter from Bar, reported on August 5, to YIHR that Svetlana Đakonović, Executive Director of Company "Koral" AD Bar, sent him on July 11 on forced leave and reduced his wage for 30%, explaining she had done this because of impossibility of putting him on appropriate job position. At the time he addressed YIHR, Bogdanović was still at forced leave and he said it was done for no reasons because at the time, permanent waiters and season waiters worked overtime. According to his statement, Director reduced his coefficient from 3,10 to 2,60 and removed him at the position of safeguard in café "Avaga" in winter season, without protection, or with poor



internal conditions in premises. Bogdanović addressed Board of Directors, Labor Inspection in Bar and Podgorica, and Protector of Human rights and freedoms, but, as he said, he did not receive support.

Workers of the Bauxite plant took the administration building on June 3, because the employer did not respect collective contract. Their demands were receiving unpaid salaries, social programs to be done, part of management to be replaced and funds to be returned to trade unions for resolving housing issues. Management of the company filed criminal charge against Borisav Borjanović, who was Acting Director of independent Trade union, and worker Dragoja Davidović, Ilija Đilas, and Boban Krulanović, after violent taking up of administrative building. Workers in Bauxite plant blocked the tunnel Budoš at the entrance in Nikšić on August 11, which was one of measures of fighting for their rights. After the blockade of the tunnel, Regional unit for misdemeanor punished 18 workers of the Bauxite plant, and prescribed a fine of 4,140 EUR or 220 EUR per worker with court expenses. After several unsuccessful negotiations among representatives of the Trade union of Bauxite plant and management, the agreement was achieved on August 13. Employer obliged on paying funds for 232 workers, who voluntarily reported for leaving the plant, if workers leave the administration building. Borisav Bojanović from the Trade union told YIHR researcher on September 16, that 32 workers received severances from employer, while they were waiting from the Government and the employer a part of payment more, while remaining 200 workers still have not received severances. Workers shall wait until September 25, which is deadline for the beginning of payments for social program, according to signed contract. Unless payment starts until that time, trade union branch shall decide on how to fight further for their rights. Bojanovic said that production started after the day of signing agreement.

Around 30 workers of Željezara in Nikšić publicly announced they could not execute right to retirement because their tenure was not regularly paid and pension insurance as well. Tenure for workers was not paid for around a year and six months.

Eight workers in the company “Lenka” from Bijelo Polje addressed Suad Numanović, Minister of labor and social welfare, Anka Stojković, Major Inspector of labor, and Tarzan Milošević, Mayor of Bijelo Polje, in order to introduce them with the problem that has been lasting for years. Workers did not take severances and they lost their jobs. Mevluda Kasumović, employee of the Company “Lenka”, told YIHR researcher that negotiations were in progress and added they received promises, but if they were not about to solve their problems, they would radicalize the protest. One of radical measures undertaken by workers happened when they took the building of municipality, which they left on August 20, after conversation with Zoran Čulafić, representative of the Trade union in Montenegro and Mayor Tarzan Milošević.

Workers of Vektra Jakic addressed public on August 13, saying they have not received ten wages. Except wages, workers said they had not received travel costs, food subsidies, and compensations for overtime work. Specific number of workers submitted appeals against the company after unpaid wages. Afterwards, when earlier wages were paid, workers who accused company were omitted on the list. Administration of Vektra Jakic announced that the reason for this was the appeal submitted by workers against the company and added they would pay them, in accordance with the court procedure when the account of the company is about to be unblocked. Lawyer of employees, Nebojša Vojnović told YIHR researcher that about 50 workers were waiting for wages after final court verdicts.

Three workers in “Slatka kuća” in Podgorica announced they had been working third year in a row without the right to annual leave. Workers Nada Lakičević, Sonja Salković, and Snežana Domazetović claimed that, after addressing Labor inspection, they lost their job positions where they were afterwards returned, after writing a letter to Filip Vujanović, President of Montenegro. Ministry of Labor and Social Welfare announced that the procedure was in course, that some irregularities were noticed and that the administration of Slatka kuća was sanctioned for 3.000 or 5.000 EUR.

Rade Dabetić, President of the Trade union “KIPS Polimka” in Berane informed Mayor of Berane and Berane Police he would start the strike by hunger, if the management suspended him from work. Dabetić said that he required respect of the contract, signing of collective contract, respect of Law on labor, social program, business plan, execution of prequalification, and additional qualification of workers, payment of fees for 2009, the use of leave

for 2009, adoption of acts on systematization of job positions and in accordance with acts to position taken workers of AD Polimka. Dabetić said that the management decided on initiating disciplinary procedure because he addressed media on these demands.

Workers of “Nova Beranka” factory announced they would require 28 wages from the management via court. Around 100 workers adopted the offer of management on paying former wages as minimal wages of 55 EUR in term of 60 days. As workers received one wage for that period, they decided to require remaining wages via court.

Association of disability workers of Montenegro organized protested in front of Ministry of labor and social welfare on September 1. Disability workers wanted to indicate in this manner on serious material and social status they have in Montenegro, after changes of Law on pension insurance and insurance for disabled persons. One of demands was involving representatives of Association in the process of amendments of Law on pension insurance and insurance of disabled persons. Representatives of Association announced they would continue with protests and radicalize them if they would not respect their demands.

Around twenty workers of “Dairy plant” in Podgorica, organized strike on September 21, requiring termination of sales agreement with the owner of the company “Eksal”, provision of social program and termination of the court decision on payment of three hundred EUR compensation by workers, due to the period when the factory did not work.

XI Recommendations and conclusions

- In this quarter, human rights in Montenegro were generally respected and there were no systemic violations, however, numerous separated cases of human rights violation happened in different areas. Institutional protection of human rights and processing of reported cases did not achieve satisfying level. Areas where the state of human rights is at concerning level are freedom of expression, politically motivated violence, facing past, torture, discrimination, minority rights, status of Roma, status of displaced persons, and economic and social rights.
- It is concerning that Law on prohibition of discrimination shall not be applicable this year. In legislation area, there is not enough political will for fast adoption of Law on free legal aid, Law on protector of human rights and freedoms and Law on election of councilors and MPs. Period until adoption of these laws should be used for education of officers in a view of improved implementation of these laws.
- Capacities of national institutions dealing with protection of human rights have not been at satisfying level. Ministry for human and minority rights in the following period should initiate more activities and projects for protection of minority rights. Improvement of Ombudsman’s office has been registered but after enlargement of competences the office should be additionally strengthened. Parliamentary assembly for human rights and freedoms achieved progress but in the following period is has to additionally work on the control function. The Board should initiate control of projects and allocated funds for minorities for 2009, for 900 thousand EUR, by National audit institution. In the report which was submitted to the Parliamentary assembly, Minority Fund did not mark that it performed monitoring of allocated funds which should be obligatory.
- Freedom of expression is at concerning level. Incidents, verdicts, announced complaints, and threats to journalists and NGO activists were registered. Competent persons has to conduct fast and efficient

investigation that will result in revealing and sanctioning of responsible ones for threats, assaults, and sending of threatening letters and has to provide undisturbed work to all journalists.

- In this quarter, YIHR registered smaller number of cases of politically motivated violence. The level of violating work of civil sector by national institutions rose, and is reflected through rhetoric and taking away of NGO activists and journalists on informative conversations. Agency for national security has to increase the level of openness and has to establish higher level of confidence and cooperation with civil sector. Intolerance of supporters of two orthodox churches and intolerance of two sides in Islamic community is still present.
- Individuals who ordered and initiated crimes that were committed at the territory of Montenegro were not apprehended nor were they under trial, while for this very crimes were apprehended or were processed only committers and individuals of the lowest range in the chain of responsibility. Investigations were slow and processing of some cases is being waited for too long. Indictments have to include most responsible ones in the command chain, inspirers and individuals who ordered crimes.
- Larger number of reported cases of torture, inhuman, and degrading behavior was registered in this quarter. YIHR registered 11 reported cases of police torture. Victimization is still present and is reflected through verdicts against citizens for the assault on official person, while investigations after reports of these citizens against police officers for violation and inhuman behavior are not finished. Competent prosecution offices for all submitted criminal charges have to conduct fast, efficient and effective investigations that would lead to sanctioning of responsible committers of torture. Investigations have to include police officers who did not prevent their colleagues in committing torture as committers of torture. YIHR invites Police Directorate and ZIKS to fire officers who were convicted and who violated human rights which would also contribute to resolving problems of exceeding number of employers. Montenegro is due to develop national mechanism for preventing torture until the end of 2010, therefore, it is important to start with these activities.
- Discrimination is present in the society and it mostly happens to disabled persons, Roma population, women and sexual minorities. Verdict of Higher court in Podgorica which enables Marijana Mugoša her return at work, after decision of competent authorities in Capital city, has not come into force. YIHR invites Capital city to act according to the verdict and to enable Marijana Mugoša to return at work. Prohibition of Andrija Samardžic to come into Restaurant "Carine" continues discrimination towards persons who use guide dog. YIHR invites all service providers to respect the Constitution and laws of the country, to educate their employees and not to commit discrimination. The country has not initiated activities on education of their officers and employees, therefore, activities in that direction should be initiated in the following period.
- Discrimination on religious basis was registered in this quarter. The country has to act preventively in order to suppress such cases. Sexual minorities are still discriminated and researches show there is high level of social distance. Thus, the country has to initiate activities on breaking prejudices and establishing better status of sexual minorities. Primarily, it has to educate its officials and develop the policy of adopting the existence of different groups in the society and to invite people on tolerance.

Introduction of Montenegrin language should not contribute to discrimination, as official language in education system in Montenegro. Therefore, competent ministry should provide to all members of ethnic communities to fully exercise right to scholarship on mother language.

- Minority rights still are not at satisfying level but what especially concerns is the status of Roma. According to current researchers, minorities are sub-represented and public institutions should employ specific number of minority representatives. Mechanisms that would contribute to better control of work of councils, in a view of eliminating speculations on eventual violations, have not been done yet. In the following period, the country has to do more efforts to provide full respect of rights and freedoms to all minority groups in the society. Competent people have to process, without a delay, the responsible ones for the accident which happened when the Boat “Miss Pat” sank and when at least 37 people of Roma nationality died.
- Registration of displaced persons and exercising of rights to residence have still been very slow. In this period, some exceptions were made and administrative taxes for receiving status of foreigner with permanent residence, temporary residence, reports to Employment agency, issuing of identification card and other, were reduced on 10 EUR. Large number of displaced persons still does not have possibility to provide documents for residence licence. YIHR invites Government of Montenegro and the Government of Kosovo to find the solution that would qualitatively resolve the issue of Roma refugees in Montenegro during '90s. Each solution has to be with the consent of Roma refugees and offered conditions have to satisfy standards that would provide them better quality of life.
- Economic and social rights in Montenegro were at concerning level in this quarter. Numerous strikes were organized as the result of unfulfilled sales and collective agreements, unpaid incomes and redundancy payment, pension insurance which was not paid and unused right to vacation. The country has to guarantee that labor rights are fully respected and sanctioning of each form of labor rights violation. Trade union representatives have to be protected and they should not suffer after due to their trade union engagement. Disabled workers are in a very difficult position thus, the country has to initiate activities that would change current situation.