



The second quarterly report on the state of human rights in Montenegro, 2010

I Introductory information

Youth Initiative for Human Rights (YIHR) conducts monitoring of human rights in Montenegro for the fifth year in a row and informs public via quarterly and annual reports. This is the second quarterly report for 2010, and is comprised of information collected from April 1, to June 30, 2010. In this period, we were focused on areas that are, according to our opinion, most actual in this period: legislation and institutional framework. Freedom of expression, politically motivated violence, war crimes processing, torture, minority rights, discrimination, status of displaced persons, and economic and social rights. YIHR team, composed of five members, works on researching and reporting with multiple assistance of Civil Right Defenders (former Swedish Helsinki Committee).

In this work, we used techniques of researching on the terrain, press monitoring, legal analysis, and SOS line.

Out of all political events in this period, the most important were Stabilization and Association Agreement between Montenegro and the European Union, which came into force on May 1, local elections in 14 municipalities, which took place on May 23, and strikes of workers in several companies.

In the second quarter, this year, five reports were published dealing with human rights. The Office of Ombudsman sent the report for 2009 to the Parliament of Montenegro (www.ombudsman.co.me/izvjestaji.php). According to Ombudsman's assessments, human rights and freedoms have been generally respected however, there are some violations, which is mostly the consequence of time inefficiency of some public bodies. The report says that complaints are still related to slow work of administration and lack of respect of deadlines for conducting proceedings. Freedom House published two reports. The first report was on freedom of media in the world (<http://freedomhouse.org/template.cfm?page=533>) stated that Montenegro was the country where media are partly free. Montenegro is on the eightieth position with 37 points. The second report of Freedom House "Nations in transition 2010", that was published on June 29, 2010, (http://www.freedomhouse.eu/index.php?option=com_content&view=article&id=321:nations-in-transit-2010&catid=46:nations-in-transit&Itemid=121) stated that Montenegro has not significantly progressed in democratic reforms which kept its rating from 2008. The European Union Report on the state of human rights in the world (www.consilium.europa.eu/uedocs/cmsUpload/A4_HR_200pp_EN_def.pdf) indicated that Montenegro has to strengthen the rule of law, independence of judiciary, that it has to make additional efforts to provide the freedom of expression. Ratification of the Convention against torture and optional protocol were welcomed but the need for better implementation of laws in the area of torture and inhuman behaviour, prison system, and access to justice, was expressed. Also, additional efforts on better implementation of regulations for protection of vulnerable and marginalized groups should be made. Position of RAE population is concerning. In this year's report of State Department on trafficking in humans (www.state.gov/documents/organization/142979.pdf) Montenegro is positioned in the second group and replaced from the list of countries under surveillance. The report indicated that Montenegro is the transit, resource and the destination country for men, women, and young females subjected to trafficking, special conditions of forced prostitution, and work under force. Victims of trafficking are mostly women from Ukraine, Moldavia, Serbia, Albania, and Kosovo, who migrate or are smuggled through countries to some other destinations and are subjected to conditions of forced prostitution in Montenegro. Amnesty International also published the Report on the state of human rights (http://thereport.amnesty.org/sites/default/files/AIR2010_AZ_EN.pdf#page=177). The report says that the progress has been made in processing war crimes through bringing charges, Roma minorities still face with discrimination and poor conditions, and that freedom of expression is still endangered through threats to journalists, high fines have still been pronounced after verdicts for defamation, while murders that were politically motivated have not been resolved yet.

II Legislation and institutional framework in human rights area

Legislation: The Government adopted the proposal of Law on prohibition of discrimination and the proposal of Law was sent to the Parliamentary Board for human rights and freedoms. In Ministry for human and minority rights expect that Law proposal will be on Parliamentary debate soon. YIHR researcher was told from the Ministry that the largest number of comments that came from NGO sector and other actors who participated in public debate were adopted. If the proposal is going to be adopted, citizens shall address the Office of human rights protector-Ombudsman that will be strengthened additionally.

Ministry for human and minority rights finished the work on development of the Law proposal on Ombudsman-Protector of human rights and freedoms and the Government defined the Draft of the law at the assembly which took place on June 23, 2010. Before adoption in the Parliament, Law proposal will pass through public debate. This Law proposal proposed solutions which establish national mechanism for prevention of torture and protection from all forms of discrimination in the institution of Ombudsman.

Development of Law on free legal aid is still in course in Ministry of justice. On May 7, 2010, the first Public debate on Work version of this Law took place and was organized by Ministry of justice, UNDP, and OSCE. YIHR participated in this debate providing its proposals and critics. These critics were related to provisions in the work version of the law, saying that only registered lawyers will deal with providing free legal aid, which automatically excludes participation of NGOs and other organizations that have been already dealing with this issue very successfully.

One more remark was indicated on too complicated process of exercising conditions for providing free legal aid and on limitation of the scope of this right only to poorest persons.

YIHR also gave its proposal that would resolve the issue of financing provision of free legal aid. The proposal is composed of proposing its adoption, together with Law on prohibition of discrimination, and Law on Protector of human rights and freedoms - Ombudsman. In that scope, it was proposed that out of punishments prescribed by Law on prohibition of discrimination, Fund of free legal aid should be formed, that should be widened even by the part of means from revenues of lottery. Ministry of justice assessed these proposals as correct, but unfortunately with explanation that our country does not have enough means to implement these ideas. After this, two more Public debates took place, on May 17, 2010 in Kotor, and on May 19, 2010 in Bijelo Polje.

On June 17, 2010, the fourth Public debate on Work version of Law on free legal aid took place in Podgorica, where YIHR appeared this time as the one of organizers, jointly with Ministry of justice of Montenegro, UNDP, and the Office of the Council of Europe in Montenegro. On this public debate recommendations of experts from Council of Europe were presented and the analysis of gender sensitivity of the Work version of the law. It is being expected that Law on free legal aid will be sent to the Parliament for the procedure, at the beginning of September.

The Parliamentary work group harmonizes Law on election of councillors and MPs with the Constitution. Deadline for harmonizing this law with the Constitution was prolonged until the end of 2010. Kemal Purisić, MP from Bosniak party, told YIHR researcher that recommendations from Venetian Commission were generally positive and assessed that the work on harmonization resulted in good basis for further work. Political representatives of Albanian minority in Montenegro were not satisfied with current proposals and they emphasized that by this proposal Albanians lose current rights considering election of MPs and councillors. Minorities, which make less than 2% of the society, should win around 0,4% of votes, according to current proposals, in order to receive one MP position in the Parliament.

Institutional framework: *Ministry for human and minority rights* – work of the Ministry is organized through the Sector for improvement and protection of rights of minority population and other minority national communities and Sector for improvement and protection of rights of RAE population. In the frame of the Ministry function departments for gender equality affairs and department for improvement and protection of rights of RAE population.



The only highly educated Roma person in the Ministry, Sokolj Beganaj told before public that conditions of work in the Ministry were good but he added that he could not support his family with the salary of 200 EUR. That is why Beganaj left the Ministry but afterwards, the agreement was achieved and Beganaj returned to work. YIHR researcher was told from the Ministry that it was agreement on mutual pleasure. The Ministry works on development and adoption of more laws in human rights area.

Office of Protector of human rights and freedoms – Ombudsman – is independent and individual institution, whose mission is to protect and improve human rights and freedoms when violated by some act, activity, or when bodies of public authority do not act. Citizens may address Ombudsman's office if their rights are violated by public bodies. Office of Ombudsman has not provided its opinion whether Ferhat Dinoša, Minister for human and minority rights, committed discrimination after statements on homosexual persons, after initiative submitted by YIHR to Ombudsman last year. YIHR also informed the Office of Ombudsman on statements of maltreatment of prisoner M.Z. from Niksic, who was in prison in Bijelo Polje and the organization also required these statements to be checked. Even until nowadays, we have not received information from Ombudsman, after submitted application.

Parliamentary Board for human rights and freedoms – in this quarter, four assemblies took place. Topics of these assemblies were focused on minority rights and rights of workers, rights of disabled children and youth. At the assembly, which took place on April 31, the Board discussed the report of Bureau for enforcement of penal sanctions (ZIKS) on conducted activities on the grounds of recommendations of Ombudsman, related to violations over Igor Milić and Dalibor Nikezić, who served sentences in ZIKS.

III Freedom of expression

Even in the second quarter, courts pronounced acquittals after complaints for defamation. However, high financial requirements defined by earlier judgements represent significant limitations for work of media and freedom of expression. YIHR registered incidents when the work of journalists was disturbed.

Basic court acquitted journalist Sead Sadiković on May 14, 2010 for the act of defamation after complaints of Zoran Lazović, high functionary of Agency for national security(ANB). Lazović accused Sadiković for the article "Kolumbija na Limu" where Sadiković wrote that Lazović was a friend with the businessman from Rožaje, Safet Kalić. YIHR provided free legal aid to Mr. Sadiković.

Penal judge, Milorad Popović made decision on 500 EUR payment by photographer Boris Pejović for the second time, on April 22, 2010, because of violation of Law on public peace and order. The first decision, when Pejović had to pay 500 EUR, was rejected by the Misdemeanour chamber. Judge explained this decision saying that Pejović disturbed police officers in performing official activities during the strike of workers of "Ritam trejd" from Podgorica. Pejović submitted complaints claiming that Decision of the Regional unit was based on wrongly defined arguments, and added he was on duty taking photos of the strike of workers from the same distance as other photo reporters. Misdemeanour chamber again revoked decision of the regional unit for misdemeanour in Podgorica and returned the case to the Regional unit on the new procedure. The explanation says that conclusion on misdemeanour responsibility of Pejović was too early. Pejović told YIHR researcher that he expected such decision of Misdemeanour chamber because arguments were wrongly defined and there were no evidences for misdemeanour that were incriminating him. Pejović initiated more complaints against policeman Zoran Tajić before Basic court in Podgorica, who caused the incident, as Pejović said, not allowing him to perform his journalist activities.

Higher court in Podgorica confirmed acquittal to journalist Budo Simonović after complaints of Vladimir Keković, former functionary of State Security Agency, published DAN on May 7, 2010. Keković accused journalist Simonović because he made him responsible for the theft of jewels from the Christian relict Filermosa icon in article "Safir nestao u sefu SDB-a" (Sapphire disappeared in the State security agency's vault) on February 22, 2009. Keković requested 15.000 EUR from court on the account of non material damage. Higher court in Podgorica

confirmed acquittal verdict for journalist Simonović, emphasizing that the court assessed statements of Simonović as valuable judgments, and that it was all about freedom of expression in accordance with the European Convention on Human Rights.

Basic court in Podgorica acquitted journalist of Vijesti, Samir Adrović of accusations for defamation that was submitted against him by Sreten Glendža, former Head of the Police unit in Ulcinj. Adrović wrote that Glendža was one of suspects for deportation of Muslims from Bosnia.

Journalist of DAN from Kotor, Biljana Marković, reported on June 2, 2010, incident to the police which took place while she was taking report from the funeral of Dragan Dudić. Namely, Marković accused Dudić's relatives for taking her equipment away, prohibiting her further work.

Božidar Jelovac, journalist of DAN from Pljevlja, reported on May 23, 2010, incident which took place at the restaurant Milet bašta. Namely, Jelovac told YIHR researcher that after he found out that representatives of DPS were giving money to citizens to vote for DPS, he went to Milet bašta to check these information. Jelovac told that Tufik Gadžovic, after Jelovac took a photo of him, told people who were there to take photo camera from him. Incident happened when unidentified persons took the equipment from Jelovac away, telling him to leave the restaurant. Jelovac reported the incident to the Police.

Journalist Veseljko Koprivica was fined on 35.000 EUR which endangered his existence, after complaints of Božidar Čolović, former Editor in chief of Television of Montenegro, Milan Stojović, former Editor in chief of newspaper from Niksic, and Milorad Bošković, former Editor in chief in Pobjeda. Koprivica filed complaints to International Court for Human Rights in Strasbourg. The Court accepted the complaint and required additional information from the Government of Montenegro. Veseljko Koprivica pays the verdict by half of his salary.

IV Politically motivated violence

Local elections took place on May 23, 2010 in 14 municipalities. Neither national nor international observers monitored elections. YIHR registered larger number of politically motivated incidents and attacks, and smaller level of communication among political opponents. Specific number of criminal charges among political opponents was submitted. After statements of political analysers, national resources were used in the campaign, and political entities who participated at local elections do not provide solution of problem but put the accent on their role in resolving problems.

Lower level of communication among political opponents was used in the campaign. As the example, we shall mention that Milo Đukanović, Prime Minister of Montenegro and the President of DPS called Nebojša Medojević, President of Movement for changes (PzP) "villain badmouth" while Medojević called Đukanovic "huligan".

Coalition "Better Pljevlja, better Montenegro", submitted criminal charge against Predrag Bošković, President of Board of Directors of Coalmine in Pljevlja and high functionary of DPS, accusing him for ordering workers Dragiša Spajić, Radoje Zuković, Nole Stevanović, Rajko Drašković, Dobrilo Cmiljanić, and Mihailo Preradović to response on the call for disciplinary responsibility after their public presentation on May 21, when they told that member of the Board of directors, Milan Kastratović was making political pressure on them.

Suspecting on regularity of elections in Pljevlja, DPS submitted complaints to Electoral Commission against the President of Municipal electoral commission in Pljevlja, Božidar Bajić, and 20 presidents of electoral boards accusing them for fake results of elections. Electoral commission rejected all complaints submitted by DPS in Pljevlja.

At the Assembly of the Capital city Podgorica, on April 16, occurred the incident among councillors of Socialist People's Party (SNP), Milan Knežević and Zoran Lakušić, and councillors of DPS Zoran Vukcevic. The incident lasted several minutes when mentioned persons pushed each other while other councillors prevented more serious situation. As media in Podgorica informed, the incident was not the result of political nature but the continuation of the incident in traffic which occurred between Milan Knežević and Željko Vuković, Local Governance Secretary.



Explosive device was thrown on the house of DPS councillor, Dušan Đuretić. There were no injured persons but substantial material damage was committed. Police has conducted investigation on this incident.

According to writings in Vijesti, SNP accused the administration of the company "Ulcinjaska rivijera" for making pressure on employees during local elections to vote for Democratic Party of Socialist (DPS). Mikan Zec, Director of the company rejected those claims and announced criminal charges against SNP. PzP accused governing DPS and SDP for buying votes during elections in cities where local elections took place. Municipality Rožaje was mentioned as the example, where, as PzP claimed, in Penal court in Rožaje 30 EUR coupons were given to citizens who were ready to vote for DPS. Coalition "Better Montenegro" accused DPS on May 6, 2010 for making pressure and for blackmailing inhabitants of Bijelo Polje to vote for this party at local elections.

PzP accused Nusret Kalač, President of municipality Rožaje, for threatening party list leader in that municipality Kadaif Šutković who works as a teacher, that he would be fired due to his engagement in opposition. Nusret Kalač demented these statements. Also, smaller party from the governing party at national level accused DPS in Rožaje for making pressure on citizens to vote for DPS. SDP indicated that DPS spreads fear among citizens who receive family related material compensation that they would lose this type of social aid unless they vote for DPS.

Also, SDP and Bosniak Party (BS) accused DPS saying that this party was giving free peaces of land to socially endangered citizens if they support them on elections.

Nataša Boričić, medical nurse from Gusinje, accused Director of Health care centre in Gusinje, Safet Lješnjanić for committing political discrimination during employment process. Namely, Boričić said that she received the call from the Health care centre to come on Monday, on May 10, in Health care centre to do internship stagier. However, when she arrived on Monday in Health care centre, Director Safet Lješnjanić told her she did not get employment and that he was told to employ three persons from the list SDP and DPS. Director Safet Lješnjanić negated Boričić's statements for DAN.

Milorad Bogavac from Kolašin submitted criminal charge against Radoš Šučur, Director of Forestry Directorate Pljevlja. Namely, Bogavac accused Šučur that after issuing a job competition call he committed political discrimination and that he did not employ Bogavac because he declared himself as Serb. Bogavac told DAN that larger number of other candidates did not have qualifications required by the competition call but were employed on the ground of their affiliation to DPS and SDP.

Six persons employed in municipality Šavnik emphasized that they had fear they would lose their jobs because they had received act on annual leave although they did not require it. They emphasized they had suspected on not voting for the governing coalition DPS-SDP on local elections being the reason for their annual leave and added that after the leave ends they would be fired. The President of municipal assembly Šavnik demented these statements saying that decision on leaves did not have political basis.

Judge of Basic court in Kolašin, Ljiljana Simonović accused on April 23, 2010, the President of Supreme court Vesna Medenica that she had replaced her for political reasons. Ljiljana Simonović told YIHR researcher that she was replaced exclusively because she and her family were not politically suitable. Vesna Medenica told to independent daily Vijesti that the act against Ljiljana Simonović was initiated after complaints of citizens for inefficient and unprofessional execution of judicial function and that statements of Simonović on her replacement for political reasons were incorrect and groundless.

Roma council of Montenegro accused statements of Nebojša Medojević, President of PzP who said that a Roma from Konik, who is at the list of DPS, is the leader of large Roma gang that is dealing with organized crime and has direct connections with Italian and Kosovo's mafia, thus, there was recruit centre on Vrela ribnička where members of that gang have been trained. Representatives of Roma council think that Medojević accused Roma because their representative was at DPS list.

Public Prosecution Office initiated investigation in a view of finding out who had published on Youtube website the video of the wedding of businessman from Rožaje, Safet Kalić whom national politicians and media suspect for dealing with crime and cooperation with Darko Šarić, for whom Interpol warrant has been issued. The Prosecution Office required by the Police to interrogate journalist of TV Vijesti, Petar Komnenić and the NGO MANS



activist Veselin Bajčeta. Journalist Komnenić told that for the Prosecution Office was more important who published the video nor to investigate the content of the very video. At the wedding, among others, in the group of people from the criminal milieu were functionaries of Agency for national security.

Juvenile son of Movement for changes leader, Nebojša Medojević was attacked on June 25, while he was playing basketball with his friend. Medojević told that the attack on his son was the message of criminal parts of the Police and Agency for national security. Executive Director of Network for affirmation of nongovernmental sector (MANS), Vanja Čalović said that the attack “was the message of organized crime to everybody who dares to require establishing the rule of law”. The Police in Podgorica arrested V.S. (22), S.S. (19), and D.K. (19), from Podgorica, after suspicious they committed criminal act of violent behaviour. Police Directorate stated that the incident did not have political background because suspects did not know that a boy was a son of PzP leader.

V War crimes processing

War crimes which happened in Bukovica, Morinj, Štrpci, Kaluđerski laz and deportations of Bosnian refugees were processed in Montenegro. Only perpetrators or persons at the lowest level of chain of responsibilities were processed, while processing of persons who ordered crimes and aspirators of these crimes were omitted. Processing of specific war crimes was long time awaited and the very investigations were too slow.

After four years of trial for deportation of 33 refuge Muslims from Bosnia and Herzegovina who were extradited to military formations of Republic Srpska in May 1992, who were not found alive and nine of them who are alive, between the Government of Montenegro and members of families, agreement on compensation was achieved. On the basis of information from the lawyer office Prelević representing victims, from the beginning of the process until nowadays five prosecutors died and also parents of victims and one brother. Prelević office submitted eight new complaints for compensation of damage for 46 prosecutors, out of whom three are victims who survived deportation. Until nowadays, by criminal investigation were accused nine public officials for war crimes against civil society.

Trial for crimes against humanity over civilians of Bosniak nationality, from the territory Bukovica, near Pljevlja in 1992 and 1993, started on June 28, 2010. Public Prosecution Office submitted at the end of April indictment against seven former representatives of the Army of Yugoslavia (VJ) and Ministry of interior affairs of Montenegro. Each of seven of them are citizens of Pljevlja and were at the lowest level in the chain of decision makings in their units. Some of them appeared in public saying they were not guilty, and added that ethnic cleaning at the territory of Bukovica had happened and accused the command for these crimes. However, under the command responsibility nobody was suspected and not even accused, although investigation returned five times at the beginning and for amending. Accused persons told they had expected to be arrested during local elections in Montenegro, which did happen. Each of seven persons was arrested and are in prison.

For the crime which happened in April, 1999 in Kaluđerski laz near Rožaje, over 23 Albanian civilians, among whom were children, women and elderly, eight former representatives of the reserve composition of VJ were accused. Firstly accused, Predrag Strugar escaped and the warrant was issued. Seven remaining accused persons, who were also at the lowest level of decision making, came at competent investigation bodies and their relatives told at the beginning of trial they were not guilty. Until nowadays, several hearings took place and fifty witnesses passed hearing.

For the crime which happened on February 27, 1993 in Štrpci over civilians of Islamic confession, only Nebojša Ranisavljević was accused. On that occasion, 20 persons were taken out of train number 671 on relation Belgrade – Bar, out of whom 19 were of Islam nationality. All of them were killed, and search for their corpses still lasts. Accused Ranisavljević was sentenced to 15 years imprisonment and his punishment expires on October 19, 2010. Responsibility of military and political top of Serbia and former Socialist Federative Yugoslavia (SRJ) has never been examined, nor were other committers submitted to justice. Ranisavljević will soon leave the prison.

Higher court in Podgorica judged six former representatives of Yugoslav People Army (JNA) on May 15, 2010, for the war crime against war prisoners in the camp Morinj near Kotor, at the beginning of '90s. Accused

persons were guilty because they had ordered and executed torture, inhuman and degrading behaviour toward war prisoners and civilians who were brought from the territory of Dubrovnik. Punishments were proclaimed from one year and six months to four years. Lawyer of accused persons, Goran Rodić said it was political judgment and not judiciary decision and announced complaint on verdict.

VI Torture

Problem of torture and processing of reported cases still are not at satisfying level, thus, additional efforts should be made in order to prevent such situations, protect citizens who reported torture, inhuman and degrading behaviour and punishments for committers. World Day of Fight against torture, May 25, was not celebrated in Montenegro.

Police torture: Since YIHR conducts monitoring of work of the Police, Police Directorate achieved the best result in this quarter, regarding respect of human rights. YIHR registered one reported case. First judgments against police officers were proclaimed for committing torture, and some of them were fired for exceeding competences, which was recommended by YIHR for the most efficient problem for prevention of torture and resolving problems of excessive number of employees in the Directorate. Police Directorate and Regional units of the police continued cooperation with YIHR, in a view of improved human rights protection.

Boris Raonić, YIHR Program Director and Veselin Veljovic, Police Directorate Director, had a meeting on which they agreed model of future cooperation and expressed readiness to sanction all human rights violations committed by police officers in the most severe manner. YIHR acknowledged that at collegiums of Police Directorate was emphasized several times that the torture committed by police officers will not be tolerated in future.

After the last reports of inhabitants of Berane, joint action with NGO "35mm", changes in personnel in Security centre Berane followed. Head of Security centre Berane, Novo Veljić was replaced and Miodrag Božović came at his position. YIHR registered most reports from citizens in Berane lately, related to police officers' torture and degrading behaviour. The last reported case, on which was reported in the previous quarterly report in Berane was by Bernard Sujković. YIHR provided free legal aid to Sujković who submitted criminal charge against three police officers. The process is in course.

Basic court in Podgorica judged police officer Dejan Damjanović on five months imprisonment for assisting in torture and ill-treatment of Saša Ristić from Podgorica.

Police officer Mirko Banović from Podgorica was sentenced on three months imprisonment for the criminal act of torture and ill-treatment, before Basic court in Podgorica. Milika Bukilić from Podgorica was damaged party in this incident. Besides Banović, Vuksan Damjanović, Jugoslav Raičević, and Nenad Krstajić were proclaimed one year suspended sentence, or three years of imprisonment, all of them representatives of Special Antiterrorist Unit (SAJ).

Basic court in Podgorica judged police officers Ivica Paunović (three months imprisonment), Milanko Leković and Milan Kljajević on five months imprisonment for assisting in torture and ill-treatment over Aleksandar Pejanović which had happened at the Security centre Podgorica.

Slobo Mirković from Bijelo Polje reported YIHR that police officers from Security centre Berane tortured and ill-treated him on April 26, 2010. Mirković submitted medical report and photos which confirmed serious body injures. Mirković reported the incident to Department for Internal control of the police and submitted criminal charge against two police officers.

Incidents in Bureau for enforcement of penal sanctions (ZIKS): Comparing with previous period, YIHR registered smaller incidents in ZIKS in this quarter. One case of torture which had happened in prison in Bijelo Polje was reported to YIHR. Administration of ZIKS acted more openly and showed readiness for cooperation in a view of resolving problems registered by YIHR in the first quarter this year. Due to situation in ZIKS, Ministry of justice accepted invitation of YIHR and the meeting was organized where YIHR representative additionally presented

statements on human rights violation in ZIKS, which YIHR received after monitoring of work of ZIKS. In a view of resolving problems in ZIKS more qualitatively and in a view of better protection of human rights, the meeting is being planned and is scheduled for the July 5, 2010, between representative of YIHR and ZIKS on which shall be talked about modalities of future cooperation and cooperation between two organizations, in a view of improving human rights respect in ZIKS.

After the incident which happened in October 27, 2010, when officers in ZIKS used exceeding force against prisoners Dalibor Nikezić and Igor Milić, Administration of ZIKS, after Ombudsman's recommendations, initiated disciplinary procedures against three officers.

After Public Prosecution Office rejected criminal charges submitted by Milić and Nikezić against officers of ZIKS, YIHR published video which shows part of the incident which clearly shows that 14 officers of ZIKS severely treated persons deprived of liberty who were not resisting. Damaged citizens Milić and Nikezić claimed that the video shows only a part of torture they had faced with and that cameras recorded even remaining part of the hall. However, Management of ZIKS stated they did not have video material from the hall on which Milić and Nikezić indicated on. Injuries of Milić and Nikezić were confirmed by Marijana Laković, Deputy of Ombudsman; lawyer on official duty and parents, who visited them few days after the incident. YIHR required from the Parliamentary Board for human rights and freedoms to conduct control hearing of Minister of justice, Miraš Radović and Director of ZIKS, Milan Radović on events in ZIKS. Afterwards, SNP initiated the assembly of Board which took place on March 31, 2010 where the Report of Ombudsman was presented, indicating on violations of rights of Dalibor Nikezić and Igor Milić. Ombudsman's recommendation ordered Management of ZIKS to undertake measures without a delay in order to define disciplinary responsibility of all officers of ZIKS who used force on October 27, 2009, towards Nikezić and Milić. Management of ZIKS initiated disciplinary procedure on April 1, 2010 against three officers, Igor Marković, Ivan Boričić, and Radovan Todorović. Parliamentary Board for human rights and freedoms held session on May 5, 2010, that was attended by Director of ZIKS, Milan Radović. Radović introduced members of the board on undertaken activities and initiated disciplinary procedure and announced that it would be finished in term proposed by Ombudsman's recommendation. Disciplinary procedure has not been finished until publishing of this report.

On May 4, 2010, YIHR was informed by a detainee in the prison in Bijelo Polje that a detainee M. Z. from Nikšić was beaten by officers of the prison. Namely, detainee M.Z. was beaten by closed fist and with the truncheon all over his neck and body which caused him severe injuries. On the basis of these statements, Management of the prison tries to cover the incident by making pressure on M.Z. and members of his family not to report the case. YIHR informed Ombudsman's office on these statements and required urgent checking of these statements. Until publishing of this Report, we have not received information on undertaken activities of Ombudsman's Office.

There are still more persons than capacities in ZIKS. Resolution of this problem is slow and the problem is directly related to the quality of life of detainees and convicted persons.

VII Discrimination

Discrimination towards disabled persons is still present in Montenegro. High level of misunderstanding and prejudices of wider social community is reflected through committing and omitting in case of constructing the building for disabled children in place Gorica near Danilovgrad. Public institutions are still unavailable for disabled persons.

Citizens in Gorica near Danilovgrad, signed the petition against construction of building for disabled children which was agreed by national authority and authority of Danilovgrad. USA Embassy provided means for the construction. Based on the letter sent by Ministry of labour and social welfare to association "Rastimo zajedno", construction of three house buildings for disabled children was planned. There would be a living premise in this centre for disabled children. YIHR condemned signing of the petition of citizens of Gorica and called for competent national institutions that are dealing with human rights to react due to the petition. However, until publishing of the report, they have not reacted. Also, reaction of numerous NGOs that are dealing with human rights and children's rights and reaction of other institutions failed.

Marijana Mugoša from Association of handicapped youth, told YIHR researcher that she was convinced that there were much more cases of discrimination of disabled persons but silence and lack of readiness for fight were more dangerous for democratic processes in Montenegro. However, Marijana Mugoša was not silent. In fight for the right to employment and protection from discrimination against Capital city of Podgorica administration, she initiated court procedures. Namely, administration of the Capital city did not allow Marijana Mugoša to come to work with her guide dog. On initiated procedures, Marijana said: "That is still a huge hank of shirking and prolongation of resolutions of almost all institutions I had addressed for all 18 months, including Higher court, because even after ten months there are no rulings after complaints of the Capital city on the first instance judgment. My lawyer sent the urgent letter to Higher court a month ago, and required explanation of such a long period of waiting the second instance ruling, but even for this, we do not have answer." Higher court confirmed the judgment of Basic court on June 4, 2010 by which Capital city was ordered to allow Marijana Mugoša undisturbed arrival at her previous job position, followed by her guide dog.

At the round table, which took place on May 6, 2010, Goran Macanović, President of the Managing board of Association of handicapped youth, told that availability of facilities in public use is not at satisfying level. There are still numerous facilities such as the building of Parliament of Montenegro, which is not available for disabled persons and similar situation is with buildings of local government. Macanović said that hotels that are available to disabled persons are rare while the same situation is with religious objects and with public transport. Tijana Savić from Ministry for urban planning said that public objects are available to disabled persons by law with obligation saying that construction of objects in public use has to enable access of disabled persons. Law on urban planning presumes sanctions in a view of fines to 16.500 EUR for legal entities and entrepreneurship who would not provide access of disabled persons.

Researches show that national and political discrimination during employment process is still present in Montenegro. Thus, research conducted by YIHR on topic "Representation of ethnic communities in public bodies" (www.yihr.me/wp-content/uploads/2010/03/cg-izvestaj-2010-web.pdf) showed that ethnic structure of employees does not respond to ethnic structure of population in Montenegro. The largest imbalance is reflected in high percentage of employed Montenegrins and inappropriately small number of employed representatives of all ethnic communities, but especially Roma. Participants in the research confirmed that besides national discrimination during employment process, political discrimination is present also, which confirmed Centre for democracy and human rights's (CEDEM) research. Political representation of authorities at national and local level is, according to experience and opinion of participants in the research, condition for receiving job in national bodies and institutions.

Position of Roma is still concerning. Large number of Roma still do not have identity cards which represents significant problem in exercising basic rights. Sofija Murati spent more than a month, in the state of pregnancy, with two juveniles in the park under the tent, because of impossibility to resolve housing issue. Bureau for the care over refugees provided temporary accommodation for Sofija and her children until she resolves the problem related to documents they do not have currently.

YIHR currently represents before court two cases of discrimination. One case is dealing with discrimination based on national representation, and the other case is dealing with discrimination towards disabled person. YIHR represents Rizo Alković who has been disturbed by neighbours for national and religious representation, and Adnan Lukač, disabled person whose house was demolished by local authorities in the settlement where houses were illegally built.

VIII Minority rights

In the previous report, YIHR indicated on existing legal framework for the area of rights of national minorities which is largely harmonized to European standards, and is still waiting on adoption of laws that are key for exercising minority rights and freedoms.¹ Before all, process of harmonization of Law on election of local councillors and MPs with the Constitution which presumes proportional representation of members of minority population in national institutions and bodies is in course.

Changes have not been introduced in the work of national councils in a view of achieving larger role and impact of the council but also improved transparency in the work.

There were no changes in the use of Roma language in the second quarter. Roma language is still not easily used. Although Albanian language is used and is the language in the official use, political representatives of Albanians are not satisfied and consider that the use is limited. Other languages that are compatible with Montenegrin are in official use in municipalities where significant number of minority members speaks these languages.

Position of Roma is still at concerning level and their non representation and non integration in the society is absolutely unacceptable. Roma representatives emphasized that although large means were invested in a view of improving Roma status, results were weak. Citizens of Roma nationality who live in Konik in Podgorica told YIHR researcher that more than 100 of their co-citizens were fired from Public Utility Company because they did not have identity documents. Roma collect waste and material they recycle afterwards in order to survive, or are forced to beg for money at streets and boulevards in Montenegro. Refuge Roma from Kosovo said they did not have possibility to receive documents they need in order to collect permission for residing and work in Montenegro, because of their poor material conditions. They are afraid of deportation in Kosovo where, as they said, they do have nowhere to return there. Complaints that were related to medical care service they received in Konik were also sent. Namely, medical centre in Konik works only two hours, from 7 a.m. to 9 a.m., thus, unless they arrive on time they have to wait for the aid another day because other health care centres do not receipt them because they do not have documents. Considering education of Roma children, major remarks were related to lectures which took place on Montenegrin language while children do not speak Montenegrin language well. They think that it would be better if lectures would be on Albanian or Roma language in order to achieve better success, which their children understand, studying at the same time Montenegrin language as separate subject.

Bosniak Party (BS) sent amendments on proposal of Law on census of inhabitants, households, and apartments in 2011 to the Parliament of Montenegro. Osman Nurković from BS told YIHR researcher that large number of members of Bosniak ethnic community, who work in some other countries, stayed unregistered, and in that manner a lot of rights may be diminished, especially the right on proportional representation in public bodies. Nurković also said: "According to acknowledgment and data at disposal to BS, large number of citizens who temporarily work abroad stayed unregistered in census 2003, and in order to overcome deficiencies BS proposed amendments on Law that would remove deficiencies and contribute to real census of citizens of Montenegro. We expect that MPs shall adopt proposed amendments which would show they care for all citizens of Montenegro being on census and finally there would be possibility to see data on how many citizens Montenegro has and what are their nationalities". If amendments are adopted, impact and position of National councils shall be strengthened in achieving larger level of exercising right of ethnic communities.

Minority Fund still does not function in a more qualitative manner. Problems with lack of personnel; type of control of means of the Fund has not been adopted yet, as well as the need for amendments of law regulations were key problems in the work of Fund.

Status of sexual minorities is still at concerning level. Office of Ombudsman still has not sent the response after initiative sent by YIHR for the assessment of attitudes on the occasion of last year's homophobic statements of

¹ On Laws that are under adoption procedure, see above *Legislation*.

Minister for human and minority rights, Ferhat Dinoša. Ombudsman, Šučko Baković, last year at the middle of November, announced that after giving out he would deal with the initiative submitted by YIHR, however, the report on the occasion of that initiative has not been developed.

IX Status of displaced persons

In the first quarterly report, YIHR indicated on major problems displaced persons face with in a view of receiving new documents in Montenegro. Just to remind, Government of Montenegro, on October 30, 2010, adopted the Action plan for integration of displaced persons from former Yugoslav republics and internally displaced persons from Kosovo in Montenegro or for their voluntary return in the country of their origins. Deadline for application and collection of all documents for permission for permanent residing is two years, or until November 7, 2011.

Montenegrin legislation prescribing the possibility of exercising right to permanent residence is very restrictive. Problems that displaced persons and internally displaced persons face with are high expenses for receiving the status of foreigner with permanent residence, the very procedures of collecting necessary documents and deadlines.

The Government of Montenegro adopted on March 24, 2010 "Information on preregistration of internally displaced persons from Kosovo". Preregistration lasted from September 14, to October 14, 2009, while the deadline was prolonged until February 14, 2010, for persons who could not apply earlier for justified medical reasons. Based on the report there were 10.979 preregistered persons. Bureau for the care of refugees (ZZZI) rejected 171 requests for registration during preregistration in the written manner. Out of these persons, 28 of them submitted complaint to Ministry of labour and social welfare, with the assistance of Legal centre, UNHCR's executive partner for providing legal aid.

Data of the Union of displaced, refuge, and exiled in Montenegro are drastically different from data of Bureau for the care of refugees. According to Union's data, 760 people from Kosovo did not manage to define their earlier displaced status in Montenegro, who stayed without any status and around 270 people from BiH and Croatia, told Milenko Jovanović, President of the Union of displaced, refuge and exiled people, to YIHR researcher. Representatives of Ministry of internal affairs and public administration announced that displaced people from the former Yugoslav republics who did not respond to their invitation for examining the status will not be recognized the refugee status.

Until the end of April, 58 displaced persons and 45 internally displaced persons applied for permanent residence. Until the same date, 4 persons applied for temporary residence. According to data from Ministry of interior affairs and public administration (MUPJU), until the end of May, MUPJU approved permanent residence for ten displaced persons. Reasons for such a small number of requests were extremely high taxes, and large number of documents that were submitted for receiving of this status.

Action plan presumes the analysis of all relevant legal acts which regulate the access to rights for those people whom the new status was approved. In that manner, harmonization of such legal acts with provisions of Law on foreigners was presumed, when it is necessary. However, not until nowadays, the Government did not manage to achieve this key goal of the Action plan. The access to rights stays unclear, (for example, right to health protection) and in some cases (for example, right to work of people whome temporary residence was not approved), is impossible.

Since the beginning of 2010, displaced and internally displaced persons do not have access to employment. Last year's decision of the Government which enabled season employment of displaced and internally displaced persons on the basis of displace legitimating, was limited by time on 2009. The Government did not prolong duration of decision nor did it enforce another act that would enable the access to labour market to displaced and internally displaced persons until they approve the new status of foreigners with permanent residence.

X Economic and social rights

European Social Chart guarantees right to protection in case of the end of employment, right of workers to protection of their requirements in case of insolvency of their employers, right to dignity at work, right of labour representatives to protection in everything they undertake and on benefits they deserve, right to information, and consultations in case of collective firing, right to protection from poorness and exclusion from society as well as right to housing and protection from discrimination.

Strike of workers marked this period as well. Strikes or public protests were organized by workers of several companies in Montenegro, such as Aluminium Plant Podgorica (KAP), Steel Factory, Montenegrin Telekom, Tehnostil – Niksic, Radvent – Niksic, Livnica (the segment of the Steel Factory) - Nikšić, and others.

Representatives of Trade union from Montenegro (SSCG) told YIHR researcher that 57 strikes were organized, most of them at the North, and central part of the country. Major reason for expressing dissatisfaction were, as stated from SSCG, unpaid salaries, and lack of respect of collective contracts by employer when providing severance pay, and requiring right to work in companies where production was stopped.

Workers of Rudnik boksiti after unsuccessful negotiations occupied the building of administration on June 3. On that occasion, several workers of the Agency for protection of persons and property “Guardian” were injured, thus the agency submitted charges to the Police Directorate. Workers required the beginning of production and payment of remained wages.

Basic remarks at the round table of the Free Trade Union in Montenegro, which took place in June 8, 2010, were related to Montenegrin legislation which is not harmonized with European standards and harmonization of national regulations with adopted standards in developed countries of Western Europe was required. Among others, remarks were related to unilateral defining of minimum of processes of work by employer.

Sandra Obradović, President of the trade union organization in KAP faced with violation of her rights as the worker. Sandra Obradović told YIHR researcher that firstly, she stayed without her labour premises, and afterwards she was fired because she dealt with trade union activities and fight for human rights. Besides Sandra Obradović, 40 firings more were delivered to workers who participated in strike. The Government intervened and the agreement was achieved between the Government, employer, and trade union and all firings were withdrawn.

According to data from Statistic Office in Montenegro, consumer basket for four member family for April in Montenegro was 759,18 EUR, while average salary was 465 EUR. Minimal labour price in Montenegro was 55 EUR. According to tariffs of lawyers, development of criminal charge costs 200 EUR while development of remedies and responses on the very charges cost 500 EUR. According to these data, citizens have to invest four to ten minimal salaries to pay specific lawyers services which is limiting their right to access to justice and court. Thus, in the following period should be influenced on reducing tariffs of lawyers which would significantly contribute to citizens, whose human rights were violated, to process and protect human rights through institutional systems. On this link, you can view tariffs of lawyers from the Chamber of lawyers in Montenegro www.advokatskakomora.me/advokatska_tarifa.html

XI Recommendations and conclusions

- There is no systemic violation of human rights in Montenegro. However, there are numerous individual cases of human rights violation. Institutional protection of human rights and processing of reported cases still is not on satisfying level.

- Areas where the state of human rights is at concerning level are freedom of expression, torture, politically motivated violence, war crimes processing, discrimination, minority rights, Roma status, displaced persons status, family violence, and economic and social rights.
- Adoption of key laws in human rights area is in preparation, and Law on prohibition of discrimination as well, Law on free legal aid, Law on Protector of human rights and freedoms-Ombudsman and Law on election of councillors and MPs. YIHR considers that these laws should be adopted together and without a delay with due respect of recommendations that were submitted by relevant international institutions and national organizations. For more qualitative implementation of these laws it is important to provide trainings of employees in national institutions. All employees in national institutions have to increase the level of sensibility for all human rights areas.
- Ombudsman's Office should increase capacities in future and make its work more efficient, conduct activities after submitted initiatives and express opinions on homophobic statements of Minister Ferhat Dinoša.
- Adopted acquittal judgment against journalists were encouraging, however, incidents were registered which still endangers freedom of expression. High fines were pronounced in earlier period against journalists which seriously endangers work and existence of media. Courts have to adopt deliberate fines for cases which have to define that journalists exceeded journalist codex. Competent national institutions have to protect journalists from threats and taking their equipment away while performing their official duties.
- Level of politically motivated violence was at concerning level in the second quarter. Local elections were marked by lower level of communication, incidents, and mutual reporting of political entities who participated on elections. Politicians did not respect previously signed memorandum on fair campaign. Competent institutions have to investigate statements on using national means in the campaign and threats on firings as the mean of making pressure on citizens and they should also introduce public with results of investigation. Police should conduct efficient investigation and find out motives for setting explosive device in the yard of councillor of Dušan Đjuretić from DPS.
- Processed war crimes before national judiciary included only committers or persons at the lowest level of the chain of responsibility while processing of persons who ordered those crimes failed. Processing of crimes was long time awaited and the very investigations were too slow. Indictments have to be widened and should include command chain, inspitarors, and people who ordered crimes.
- Cases of torture, inhuman and degrading behaviour were registered in Montenegro in the second quarter. Number of reported cases of torture was smaller than in previous period. Firstly adopted judgments against police officers after reports on torture are encouraging. Ombudsman's Office did not check statements on torture in Bijelo Polje. Large number of submitted criminal charges against police officers for torture are still waiting court epilogue. YIHR invites competent Public Prosecution Offices to process all criminal charges urgently that were filed against police officers for torture and the organization also invites ZIKS to fire all officers who were judged and who violated human rights, which

shall contribute to resolution of problem of excessive employment. YIHR invites police officers and ZIKS to respect human right standards while performing official duty.

- Groups that were mostly discriminated in the society are disabled persons and persons with mental difficulties, Roma, sexual minorities. Public functionaries who expressed discriminatory standpoints last year have not yet being invited to that responsibility. YIHR welcomes verdict of Higher court in Podgorica which enables Marijana Mugoša to return to her job position. The country should undertake activities on education of high national officials in discrimination area. YIHR severely condemns behaviour of inhabitants in place Gorica, near Danilovgrad, which seriously concerns after several statements, representing direct discrimination. National institutions failed to react and protect children with disabilities and protect their reputation and dignity. Therefore, YIHR invites competent institutions to undertake all measures without a delay and all obligations in accordance with laws and the Constitution of Montenegro in a view of protecting from further discrimination of children with disabilities. We also invite Medical Chamber of Montenegro to take their stands towards petition and statements of people who signed it, but especially towards the aspect that names of doctors are at the list of signers. Also, we invite Public Prosecution Office to process this type of discrimination, in accordance with the Criminal code of Montenegro and to file charges against responsible people before competent court.
- Minorities' rights should be additionally improved. Status of Roma still concerns. National institutions should employ appropriate number of minority members. Laws defining minorities rights should be adopted as soon as possible and public officials should be educated on their implementation. Capacities of National councils should be improved as well as their impact on exercising minority rights. Also, mechanisms that should improve control of work of councils in order to remove speculations on eventual abuses should also be defined. Status of sexual minorities is still at concerning level and activities have not been undertaken in a view of improving the state. The country should make more efforts in providing full respect of rights and freedoms to all marginalized groups in the society.
- Registration of displace persons and exercising rights in residence are slow and are endangered by restrictive legislation. Large number of displaced persons i s not able to provide documents for collecting residence permit. Largest problems are large expenses, procedures, and deadlines. The country should make additional efforts to provide all displaced persons access to procedures for receiving residence and labour permits.
- Economic and social rights in Montenegro are endangered. Even this quarter marked numerous workers protests and incidents. The country has to protect workers and their trade union representatives in processes of negotiation and requiring their rights through strikes. Employers have to respect collective contracts on work concluded with representatives of trade unions. The country has to impact on reducing tariffs of lawyers and their defining in accordance with minimal and average wages in the country in order to provide citizens, whose rights are endangered, access to justice.