



MONITORING OF HUMAN RIGHTS IN MONTENEGRO

**TORTURE, DISCRIMINATION,
POLITICALLY MOTIVATED
VIOLENCE AND FREE LEGAL AID**

Podgorica, 2009

Monitoring programme and human rights protection programme implemented by
YIHR MNE with the assistance and cooperation of Civil rights defenders

Youth Initiative for Human Rights – Montenegro
December, 2009

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Printed by
AP print, Podgorica

Edition
400 copies

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I Introduction

In the last two decades, 2009 has been the most peaceful year for Montenegro, regarding political situation. This year has been devoted to stabilization of national institutions and intensifying European integration process. That process may have been of better quality. Parliamentary elections were held on March 29, and according to OSCE / ODIHR assessments, elections fulfilled all international standards. Most important event in 2009 was elimination of visa barrier for the countries signatories of the Schengen Treaty, which will come into force on December 19.

Regarding internal and foreign political plan, the situation is stable. Montenegro is the only country in the region which, save in small technical issues, does not have open questions with neighbours. Montenegro participates in the Process of stabilization and association with the EU, and in December were delivered answers on the EU Questionnaire related to Copenhagen criteria. Unfortunately, the Government of Montenegro decided on proclamation of those answers as secret indicating that their publishing would endanger national political and economic interests, despite the fact they would serve as as strong contribution to establishing dialogue on key aspects of Montenegrin tranzition. According to assessments from the Report on progress of the European Commission for 2009, and other numerous internationla organizations, largest problems in Montenegro are high level of corruption and organized crime. Also, large problems are quality of administrative capacities in public sector, which is the guarantee for functional national and legal system, implementation of reform Laws and depolitization of public institutions.

Economic dynamics in Montenegro during 2009, was slow, which, as we envisaged in the last year report, negatively influenced on the sector of social rights.

Systemic violations do not exist in the area of human rights in Montenegro. However, there are problematic aspects (freedom of expression, discrimination, Roma status and the status of displaced persons, family violence, torture, etc) and what concerns is the growing trend of ethnic distance, which confirms the research of public opinion. There is also concern that the key link of national system of human rights protection, competent Minister Ferhat Dinosa, openly expressed negative standpoints on LGBT population rights, cross ethnic marriages and neglected Roma language while spaking on minority languages. It is positive that, during the year, Montenegro ratified several international conventions in the area of human rights.

Sucko Bakovic was elected as the new Ombudsperson. Earlier, Montenegro got the Children' Rights Deputy Ombudsperson. According to the draft Law on prevention of

discrimination, instead of Commissioner, Ombudsperson shall be competent for the implementation of provisions of the Law, which means that, with previous problems, special attention shall be devoted to building capacities of the Ombudsperson Office and urgent amendments of the Law on Ombudsperson.

Researches on the state of human rights in Montenegro, conducted by the Youth Initiative for Human Rights (YIHR) in 2009, were focused on police torture, discrimination, and politically motivated violence. YIHR dealt with the issues of free legal aid – currently, we represent ten victims of human rights violation, we also provide free legal advices and conduct monitoring of providing free legal aid in Montenegro.

Multiple assistance to YIHR researches was provided by the Civil rights defenders (former Swedish Helsinki Committee) and by YIHR regional office, whom we owe sincere gratitude, as well as to other partners.

In researches were used different methodologies: researches on the terrain, interviews, questionnaires, media monitoring, SOS phone. We used mechanisms of the Law on free access to information, and on this ground we received information from Police Directorate, Institution for Enforcement of Criminal Sanctions (ZIKS), courts and Prosecution Office. Information were collected from January 1 to December 15, 2009. The research was conducted by YIHR team composed of six members.

This year's report is the fourth in a row and YIHR will continue with the human rights monitoring in 2010.

II TORTURE

Previous information

In 2009, YIHR registered 24 reported cases of police torture and two cases in premises of the Institution for Enforcement of Criminal Sanctions in Podgorica. Eight criminal charges were submitted against officers who were suspected they had committed torture.

At the end of 2008, YIHR introduced public in the country and international public with dramatic rise of number of cases of torture in Montenegro. After increased interest of representatives of international community, the Government of Montenegro prepared the Action plan for prevention of torture, in January, 2009.¹ Ministry of Justice was the head of the work group who worked on the preparation of the Action plan. Besides this Ministry, Ministry of Interior and Public Administration, Ministry of Health, Labour and Social Welfare, Ministry of Foreign Affairs, Ministry of Finance, Police Directorate, Institution for Enforcement of Criminal Sanctions and Secretariat for European integrations were included in the work. The Action plan defines that measures and activities, deadlines and indicators for measuring success. The Action plan for prevention of torture included the following institutions: Ministry of Justice, Ministry for Protection of Human and Minority Rights, Ministry of Interior and Public Administration, Ministry of Health, Labour and Social Welfare, Ombudsperson, Institution for Enforcement of Criminal Sanctions, Police Directorate, Public Institution “Komanski most”, Public Institution - Special Psychiatry Hospital. According to the Action plan, Police Directorate had to conduct 17 measures and activities, and out of this number, large number of measures was implemented.² Institution for Enforcement of Criminal Sanctions should implemented 13 measures and activities, also according to the Action plan, and large number of them was implemented or implementation is in course.³

Amendments of Law on Police were announced providing that Internal Control comes under competence of Ministry of internal affairs and public administration not under competence of Police Directorate, as the current Law provides.

1 Reply of Ministry of justice after the requirement for free accession to information, from November 23, 2009; from YIHR records

2 *Ibid*

3 *Ibid*

While preparing the report, the Initiative researchers conducted the research on perception of human rights and torture among Roma population in Podgorica and Niksic, which included 40 persons. Results of the research say that 36 of them consider that the Police have the right to use physical force, as the punishment or preventive measure, if any person commit criminal act. Three remaining answers indicated that the Police do not have that right and one person said that he did not know whether the Police have the right to use force in similar situations. Out of interviewed persons, 31 of them would not report such cases explaining that similar police procedures are justified while 34 persons said to the YIHR researchers that they knew or they heard that the police had beaten other Roma nationality persons, mostly to extort confession because of committed thefts.

Standards in the area of torture prevention

Numerous international and national regulations prohibit abuse, torture and inhuman behavior.

Slavery, torture, inhuman and degrading treatment are prohibited by the Constitution of Montenegro.⁴

Numerous international treaties prohibit torture and other forms of inhuman and behavior. Universal Declaration on Human Rights⁵ and European Convention on Human Rights and Fundamental Freedoms⁶ prohibit inhuman behavior, degrading and cruel punishing. Convention against torture and other cruel, inhuman and degrading treatment and punishment prohibits persons on official duty any form of torture and violence.⁷ That implies intentional infliction of body injures, physical and mental suffering, in order to extort confession or information, to put a pressure or intimidate for any reasons.⁸ Torture is not allowed under any circumstances, whether in the state of war or the treat of war or political instability of a country.⁹

4 The Constitution of Montenegro, adopted on October 19, 2007, see the website <http://www.izbori2009.me/wpcontent/uploads/2009/03/ustav-crne-gore-2007.pdf>, visited on November 27, 2009

5 Universal Declaration on Human Rights, adopted in General Assembly of United Nations on December 10, 1948, Article 5

6 European Convention on Protection of Human Rights and Fundamental Freedoms, adopted on November 4, 1950, came into force on September 3, 1953, amended with the Protocol 11, which came into force on November 1, 1998

7 Convention against torture and other cruel, inhuman or degrading treatment and punishment, was adopted and opened for ratification and accession by the UN General Assembly Resolution, number 39/46 from December 10, 1984. It came into force on June 26, 1987, in accordance with Article 27. Yugoslavia signed and ratified the Convention. It was published in the Official Gazette (International treaties) number 9/91

8 *Ibid*, Article 1

9 *Ibid*, Article 2

Criminal Code¹⁰ of Montenegro prohibits abuse and torture. If criminal act shall be conducted by official person on duty, that person shall be sentenced from one to eight years punishment. Extortion of shall also be prohibited and if the act shall be performed by the official person on duty, they shall be sentenced from three months to five years punishment.

In accordance to the Law on Police of Montenegro, means of extortion shall be used as much it is necessary to eliminate the danger with the least damaged consequences for the person on whom means of extortion have been applied.¹¹

Cases of police torture

The incident in the Villa Gorica

Nebojsa Redzic, from Podgorica, reported to the Initiative that police officer Mirko Banovic did not behave towards him in accordance with legislative regulations in the Villa Gorica on March 16, 2009, when Prime Ministers of Montenegro and Italia met. Redzic is the reporter of Voice of America (VoA) and he conducted his official duty.

Redzic explained how the incident occurred: “Under specific circumstances and for practical purposes, as a journalist I sometimes do the work of cameraman and all that is necessary. Therefore, I was cameraman on a day when two Prime Ministers, Montenegro¹² and Italian Prime Minister¹³, met in the Villa Gorica. The attention of media was increased, thus, there were about thirty cameramen and television teams as national so as foreign. There was indescribable crowd. What raises the issue is that the whole matter and crowd are organized via protocol. However, there was not a protocol. Not anybody told us anything

10 Criminal Code of Montenegro (Official Gazette of the Republic of Montenegro, number 70/03, 13/04, 47/06, and 40/08)

11 Law on the Police, adopted on April 27, 2005, published in the Official Gazette of the Republic Montenegro, number 28/05. Article 30 of the Law says: Means of extortion, according to the Law, shall be as follows: physical force, truncheon, handcuffs, instruments for coercive stopping of motor vehicles, dogs, chemical elements for temporary disabling, special vehicles, specific types of weapons, explosive instruments, and fire arms. Means of extortion may be used for: 1) preventing escape of person deprived of liberty or person found out during committing criminal act which has been ...2) overcoming resistance of a person distorting public order and peace or a person who should be deprived of liberty in prescribed cases; 3) repealing attack from oneself, other person or any other object for whom security has been provided. Police officer shall use means of extortion in order to perform official activity proportionate to a danger that should be eliminated and with less damaging consequences for the person against whom means of extortion have been used. Prior to the use of extortion, police officer shall be obliged to warn a person against whom any of the means of extortion shall be used. Police officer shall not act in the manner prescribed by paragraph 4 of the Article, if that would bring into issue the execution of official activity.

12 Prime Minister of Montenegro, Milo Djukanovic

13 Prime Minister of Italia, Silvio Berlusconi

nor suggested anything. When Prime Ministers entered in Villa Gorica, journalists were conveyed around, so we could take report on them. Considering that it was the meeting of Prime Ministers, their handshake, sitting and the beginning of conversation are the things journalist need as the coverage for preparing reports. Somebody from the protocol usually take a word and approaches journalists explaining we have two minutes to take a photo or record and after two minutes the express gratitude to journalists indicating two minutes passed when journalists leave the premise. This time nobody said anything. Suddenly, they allowed us, to about thirty cameramen, to get in a little premise and take record of a two Prime Ministers meeting. I was overshadowed by the crowd of cameramen and I could not record anything. Suddenly, three police officers in the civilian started to push cameramen to leave the premise, indicating it was the end of recording. The essence is that nobody from the protocol had said 'Gentlemen, it is all right now, thank you all, taking records and photos is finished'. Some journalist left while some of them stayed. I wanted to take just one more snapshot. In that moment, a man standing behind me, policeman in the civilian grabbed my shoulders and pushed me. I turned and asked him why did he push me. He told me 'Get out or I'll throw you out'. I tried to explain him not to behave in that way because I am older than him; that I was doing my job, but he did not allow me to finish and interrupted me cursing my mother. He told me that in the premise where Prime Ministers were. He practically pushed me out from that premise. I came to the protocol officer Sasa Klikovac and complained. I did not even say a word to Klikovac and the man who threw me out, came and tried to hit and beat me. Klikovac separated us and told him 'Man, don't, what are you doing, leave him alone'. I replied 'Because of your behavior towards me, we'll see'. In that moment, that man said the monstrous thing I could ever hear in my life – he cursed my daughter! I have a 12 years old daughter. I suppose he did not know I had a daughter and how old she was, however, he said the words. In that moment, everything stopped and, really, I had amnesia. I know I did not do anything bad and I turned and walked towards stairs that were leading to the hall of the Villa. On his cursing I replied cursing his mother, too. I had to do that because I am not the person who learnt to tolerate and suffer insults and I did not deserve it.

The problem occurred when his colleagues heard what I had said, but they did not hear what he had told me. Thus, I need witnesses in order to confirm what he had said, and I swear in both of my children that all was the truth.

One of the officers came to me and ordered to leave the building saying I would never receive accreditation for any event in the Villa.¹⁴ After that, two officers took Redzic to the exit of the Villa. Soon afterwards, one officer called Redzic to come back and told him he could continue recording of the event.

Unit for Internal Control and Use of Powers, on the basis of performed testing, could not define arguments and evidences that would indicate on existence of disciplinary or

any other responsibility of the police officer Mirko Banovic.¹⁵ Redzic told the Initiative researcher that he would not bring charges against police officer Banovic because of his lack of confidence in institutions.

Incident in Mojkovac

Rijad Nuhodzic from Bijelo Polje told he had been beaten by police officers from Mojkovac on March 28, 2009, who did that in order to extort confession from him.¹⁶ Nuhodzic emphasized that the Police in Bijelo Polje rendered him to the Police in Mojkovac, which had sought him because of suspicious he had committed criminal act of theft.

When he arrived in the Police in Bijelo Polje, police officers told him that Police from Mojkovac would come to take him over. Three police officers came from Mojkovac and then they went to Mojkovac. He told that police officers had beaten him on the way to the Police in Mojkovac and in the premises of the police station in Mojkovac also. Several times, Nuhodzic lost conscious. They tried to extort confession from him related to the committed theft in Mojkovac. As Nuhodzic said, the torture lasted for three hours and during that time he had been losing conscious several times. At the end, he went to the hospital in Bijelo Polje with his father where he got medical aid. A doctor stated about twenty injuries, haematoma, skin abrasions and traces of severe blows.

Ninko Nuhodzic, Rijad Nuhodzic's father, announced he would submit criminal charges in order to define responsibility of the police officers in this incident.¹⁷ Unit for Internal Control of the Police Directorate stated that arguments that would confirm Nuhodzic statements¹⁸ could not be defined after conducted procedure. Unit for Internal Control ordered to the Head of the Police station in Mojkovac to submit the case files to the Basic Public Prosecutor for further procedure and assessment on eventual criminal responsibility of police officers.¹⁹

Incident in Pljevlja

Miloje Vukovic from Pljevlja reported to the YIHR the incident that had happened on March 29, 2009, near the village Premcani in Pljevlja.

15 Answer of the Police Administration after the requirement for free access to information, from Mat 13, 2009; from YIHR records

16 Vijesti, I had been losing consciousness because of beatings, March 30, 2009; DAN, I thought I would not save my own life, March 30, 2009

17 *Ibid*

18 Answer of the Police Administration after the requirement for free access to information, from May 13, 2009; from YIHR records

19 *Ibid*

About the event which occurred on that day, Vukovic said: "It was the day of elections. The incident happened on the polling station Vaskovo. The Commission attacked me and my friend Novo Novovic. We arrived there to bring a sandwich to my brother. He was a member of the Commission which monitored elections on that polling station as a representative for Democratic Party of Socialists (DPS). Some members of the Commission asked us what we were doing there, saying to get out of there. We left the polling station immediately and returned in Premcani where we were members of the commission, also for DPS.

Afterwards, inspector Mirceta Preradovic called me on the phone. He told me that I had to come to the police station in Pljevlja to give the statement related to the incident. His call was also related to my friend Novovic.

When elections finished I went to give the statement. In place Pusanski do, not far from Premcani, police 'defender' met me. With evident intention, they stopped in front of my car. Four policemen came out of 'defender', Commander Momcilo Vojinovic, policemen Dusko Milinkovic, Goran Vojinovic, and Zeljko Radenovic. They approached my car. Without warning, they took me out of my car. They were policemen of the Special Task Police Unit in Pljevlja.

They did not require my documents. They took me out of car and told me to put my hands up and I did so. Two policemen grabbed my hands. In that moment, policeman Milinkovic firstly hit me with his knee in genitals and then with his fist he hit me in the neck. While hitting me, two other policemen held my hands and Commander Vojinovic watched all this from the side. I am not in good relations with policeman Milinkovic for a long time. Afterwards, they handcuffed me and took me in 'defender'. We waited for about half an hour. They waited my brother to arrive. When he came, they searched his car although his wife and their child were in it. Then, they took me in my car. I still had handcuffs while a man in the civilian who I did not know, drove my car. I was tied and they drove me tied in my car to Ozaci where traffic police waited for us. Traffic police then took charge of me and took me to the Police station. On our way to the Police station, I sought help twice or three times, to allow me at least to see the doctor, but they did not even allow me that. Also, I sought the attorney-at-law, but they did not allow me this either.

It was about 22:00 when they took me under detention. At 05:00 in the morning they took me to the commander Mitrovic to give the statement. In that moment they took off handcuffs. They left me at 06:00 in the morning. I went to the hospital afterwards and received the doctor's report there."²⁰

The Police submitted misdemeanor charges in the Security body for misdemeanor in Pljevlja because of misdemeanor from Article 10²¹ of Law on public order and peace²². In that procedure, Vukovic was accused and was sentenced to 15 days imprisonment.²³ On this Decision Vukovic lodged an appeal which was rejected.²⁴

Unit for Internal Control and Use of Powers stated that they could not define arguments and evidences which would confirm Vukovic's statements, after conducted testing.²⁵ Vukovic submitted criminal charge against police officers to the competent Public Prosecutor.²⁶ The procedure is in course.

Incident in Niksic

Gordana Jeknic from Niksic reported incident in which she got injures inflicted by police officers.²⁷

Incident happened late at night, between April 2 and 3, 2009, at the bus station in Niksic. The incident occurred after the police received the report on a very loud music coming from café 'Kontesa', whose owner was Gordana Jeknic. Police officers intervened after the report. When they arrived at the site, the incident between policemen and Jeknic had occurred. On that occasion, Jeknic got heavy injures of head, abdomen and neck.

Jeknic told that two police officers had beaten her all over the head and abdomen with their fists and legs. While apprehending her, Jeknic required seeing her father but policemen did not allow her.

Unit for Internal Control announced that the police officer of Niksic Security Center, Mihailo Banjevic, illegally used extortion towards Jeknic, beating her with his fists over the head, inflicting her heavy body injures.²⁸

21 Article 10 of Law on public order and peace says: "Any person hampering or degrading official person from public body or organization, institution, enterprise or other legal entity performing public authorizations related to execution of affairs from their competences, shall be sentenced to 60 days imprisonment."

22 Copy of Decision number 23/09, from May 15, 2009; from YIHR records

23 *Ibid*

24 *Ibid*

25 Copy of the Police Directorate answer from May 26, 2009; from YIHR records

26 Report on the incident from November 26, 2009; see f-note 20

27 Vijesti, They beaten her and sent a clear message to complain to DPS; DAN, Ended up in the hospital after being beaten, April 5, 2009

28 Answer of the Police Directorate after the requirement for free access to information, from May 13, 2009; from YIHR records

The Head of Niksic Security Center sent to the police officer the requirement for termination of employment.²⁹

Incident in the Security center in Podgorica

T.Dj. who was taken into custody because of possessing heroin, reported that police officer M.V. treated her in an inhuman and degrading manner, touching intimate parts of her body, while she was apprehended on April 8. The Police in Podgorica held the hearing of the suspected police officer and made decision on his detention.³⁰

The Police submitted criminal charges against that police officer.³¹ The following day, investigating judge of the Basic court in Podgorica, abolished detention to the police officer M.V. after hearing and in further procedure he will defend himself from liberty.

It remains unclear how the newly installed equipment for video surveillance in premises for detention did not record the disputable event, in order to define arguments in this case.

Infliction of wounds to the patient B.K. from Pljevlja

Police Directorate announced that police officer K.O. wounded a leg of a patient B.K. from Pljevlja, on May 10, 2009. Police officer K.O. was in the follow-up hospital vehicle which was taking the patient B.K. to the Psychiatry Hospital in Kotor. On the road between Podgorica and Cetinje, the incident occurred when the patient B.K. attacked the driver and police officer K.O. who used a gun in order to prevent the escape of B.K. On that occasion, patient B.K. was inflicted serious wounds on his left leg.³²

Unit for Internal Control of the Police Work stated that the police officer K.O. committed set of professional failures when providing assistance, which enabled circumstances in which he used arms. K.O. did not use handcuffs, he continued providing assistance from Podgorica to Kotor without presence of medical personnel, because medical nurse left the vehicle in Podgorica, when a person who was driven, physically attacked a driver and police officer and then came out the vehicle and the police officer did not even try to stop him using physical force and stick. Division for internal control announced that the use of arms in a given circumstances was unjustified and that there was the basic suspicious that the police

29 *Ibid*

30 Vijesti, Claims that police officer touched her breasts, April 10, 2009; DAN, Policeman free and a girl he was touching- behind bars, April 11, 2009

31 Answer of the Police Directorate, from September 8, 2009; from YIHR records

32 Answer of the Police Directorate, from September 8, 2009; from YIHR records

officer K.O. committed serious disciplinary offence defined in Article 59 paragraph 1 point 4 of the Law on civil servants and employees.³³

Police Directorate filed criminal charges against police officer K.O. who was under suspicious that he had committed light body injures.³⁴

The procedure is in course.

Attack on Emir Rizvanovic from Priboj

Emir Rizvanovic from Priboj reported incident which happened on May 29, 2009, when he was attacked. Rizvanovic claimed that one police officer was involved in the attack and events which occurred afterwards.³⁵

Rizvanovic accused M.S., with whom he had intimate relationship, for 'setting him up' beatings. While being with her in a vehicle at the airport runway in Berane, unknown man hit him in shoulder with the baseball stick and then put the wire or rope round his neck. Rizvanovic, as he emphasized, managed to escape and come in the Police of Berane. He said than an inspector threatened him in the premises of the Police of Berane while M.S. was immediately released. The same inspector also gave the alibi to a person whom Rizvanovic recognized as the attacker.³⁶

Police Directorate announced that its officers identified a person who inflicted injures to Rizvanovic. It was M.R. and criminal charges were submitted against him to Basic Public Prosecutor in Berane as being suspected for committing criminal act of infliction of light body injures to Rizvanovic.³⁷

Incident in Gornja Polja near Mojkovac

In Mojkovac, in settlement Gornja Polja, happened the incident between June 9 and 10, 2009, when Danijel Dedeic was inflicted heavy body injures which caused his death. Police officer R.P. participated in this incident and was suspected that he had attacked and hit Dedeic over the head with fist.³⁸

33 *Ibid*

34 *Ibid*

35 Vijesti, Strangling amid love adventure; DAN, Waitress set up beatings, from May 29, 2009

36 Answer of the Police Directorate after the requirement for free access to information, from September 2009

37 *Ibid*

38 Vijesti, Establishing order by using fists, June 11, 2009

Police Directorate submitted misdemeanor charge and afterwards criminal charge against police officer R.P. because of suspects that he had committed criminal act of inflicting heavy body injures from Article 51 paragraph 2 of the Criminal Code of Montenegro.³⁹

Judge of the High court in Bijelo Polje Vidomir Boskovic made decision on initiating investigation and determined one month detention for the mentioned police officer, because of suspect that he had committed criminal act of inflicting heavy body injures which ended up with his death.⁴⁰

Police officer R.P. was not on duty at the time when the incident happened and he negated that he had committed that act, emphasizing some other person injured Dedic. Police Directorate announced that it undertook measures and activities to identify other persons who participated in the incident.

The process is in course.

Incident in Bar Security Center

Srdjan Stevic from Bar reported incident which happened on June 14, 2009, in premises of Bar Security Center where his son Mladen was injured.⁴¹

Srdjan Stevic said he was standing near the Police building in Bar when he heard policemen shouting on his son and saw them beating his son. Then, he saw one inspector standing near the window grabbing Mladen's neck who afterwards fell from the second floor on his head on the pavement. Srdjan Stevic said that Mladen was handcuffed in that moment. Afterwards, he took his son to the hospital.⁴²

Police Directorate stated that Mladen Stevic tried to escape from the official Police premises in Bar while he used the right to confidential conversation with attorney-in-law in official duty. Also, it was concluded that police officers did not make failures in the actual case.⁴³

The Initiative does not have information whether family Stevic submitted criminal charge against police officers.

39 Answer of the Police Directorate, from September 8, 2009; from YIHR records

40 *Ibid*

41 DAN, Jumped from the second floor, being tied up, May 15, 2009

42 *Ibid*

43 Answer of the Police Directorate after the requirement for free access to information, from September 8, 2009č from the YIHR records

Incident on the road from Podgorica to Kolasin

Fehman Kocan from Great Britain reported incident to the YIHR which happened on September 3, 2009. He was on vacation in Montenegro with his wife and son. On their way to Rozaje, on the road from Podgorica to Kolasin, police patrol stopped them. Police officers claimed that Kocan was overtaking at the place where it was forbidden. Kocan negated this.

On events which happened that day, Kocan says: “I often come to Montenegro because my relatives live here. It has always been good, even on frontiers and other places. This time, I was very surprised and I faced with endangering of me and my family.

It was nice at the beginning, we were at the seaside two days and then we went at north in Berane and Rozaje. We arrived in Podgorica and everything passed well. I do not know exactly, but somewhere at the beginning of the Canyon Moraca we moved in the colon. There were a lot of cars before us.

Suddenly, I heard the police siren sound and soon afterwards the police arrived and I signaled they could overtake my car. However, they turned up a very strong light straight on our vehicle and I could see they wanted me to stop. I stopped on a first extended place considering it was a mistake. An officer came to me saying sharply ‘Good afternoon, your driving licence, please’. I gave it to him. He told me, sharply again ‘Kocan, what were you think you were doing by overtaking?’ The attitude of the police officer surprised me very much and I told him ‘Sir, I did not overtaking’. Again, he told me to leave the vehicle and I did it. He told me angrily ‘Give me the passport’, and added ‘you were overtaking on a place which we call death point’.

I answered him again I was not overtaking, asking how could he claim that. I asked him if he had evidence for his claims, photo or record. Younger police officer told me I should receive the record in England.

They ordered me to come with them by their vehicle ‘come with us and we’ll show you where were you overtaking’. I answered them I did not know whether that was necessary. If you stopped me because of your claims, then you must have evidence rather than taking me to see the place where I was overtaking. If I drove fast, then there is radar and now, you show me evidences. They answered ‘what evidences? We are the law in Montenegro and we do not lie! Come with us in the vehicle.’ My son was crying in the car, saying: ‘Mum, I love my father, why are the policemen taking him?’

I sat in their vehicle and asked them where they were taking me. One of them, the younger one, told me ‘he thinks we are taking him to dinner’. I replied they did not have to take me to dinner because I had money to pay it by myself.

They took me about three kilometers far from the place, in direction to Podgorica, to show me where I was overtaking while they left my wife and son on the road. Again, I re-

peated I did not overtaking. One of them said ‘what are you talking about? How comes you did not? You are going to court.’

Older policeman told me ‘good drivers admit their mistakes, and their mistake becomes easier and then we make a deal’. I answered we did not have to make a deal on anything because I did not make a mistake. He repeated ‘at court’. He called a man on the phone and talked to him. All the time they were acting as bullies, with hatred. He asked me what time would be good for me to go to court. I answered it was Tuesday, because that was the day when I should return from Berane. He taped it in the mobile phone and moved it closer to my face asking sharply ‘does this suit you, look at this very well? That is Tuesday, the 8th in this month, when you will come and be there!’ I asked him on what grounds he was forcing me to come to court. He told me that two of them saw me overtaking and that they were the Law. Then I said they could say what ever they wanted and based on that logic I would be responsible for any act, because they claimed so.

They said there was nothing to talk about anymore, and then they gave me the paper to sign, which I rejected, because I was not guilty and did not commit anything they were stating. I experienced the entire situation as the attack on me, my family and endangering our human rights.”⁴⁴

Internal Control stated that arguments and evidence indicating that police officers behaved in an unlawful and inhuman manner towards Kocan that day, were not defined.⁴⁵

In the procedure before the Regional body for misdemeanor in Podgorica, the YIHR represented Kocan against whom Police Directorate submitted charge because of suspect that he had committed misdemeanor from Article 305 of Law on traffic. Regional body made Decision by which Kocan was found guilty and fined by 100 euros.⁴⁶

YIHR lodged an appeal on decision. The procedure is in course.

Incident in Berane

David Jasarovic from Berane told YIHR researcher that he had been beaten by police officer Vljako Babovic. Incident happened on October 25, 2009, during traffic control, when the traffic police stopped Jasarovic, who did not have driving licence with him at that moment.

⁴⁴ Report on incident from September 8, 2009; from YIHR records

⁴⁵ Statement of Police Directorate, from September 22, 2009, taken from the Directorate website http://www.upravapolicije.com/uprava_policije_nisu-utvrdjene-cinjenice-i-dokazi-koji-bi-ukazali-na-sumnju-da-su-policijski-sluzbenici-nezakonito-ili-neprofesionalno-postupili-prema-gradjaninu-fehmu-kocanu_3465.html, visited on November 11, 2009

⁴⁶ Copy of Decision of the Security body for misdemeanour from Podgorica, from September 8, 2009, from YIHR records

Jasarovic spoke about events which happened that day: “I took my friend’s car to take my sister in Bijelo Polje. As I had just taken the car, I did not have driving licence, so I went home to take it. The police stopped me and sought my traffic and driving licence. I gave them traffic licence and explained them what it was all about the other one, saying I was on my way home to take it. Policemen told me I had to go with them to the police station because I did not possess driving licence and I to do exactly what they had told me. So, I went there for a statement which I should sign.

Vlajko Babovic came then saying ‘you gutter, you brave’. I am a sportsman and I am practicing boxing and in that manner he was probably motivated to provoke me.

He left and returned with the truncheon. He told me ‘what about beating you with this? What would have happened to you? You are strong man, a boxer, so let’s see how strong you are’. When he said this, I told him there was no reason to beat me, explaining I did not come for that reason but because of some other occasion and that was because I did not have my driving licence.

He replied ‘what are you acting for’ using all his strength to hit me with the truncheon over the head. I felt very bad in that moment. Other policemen jumped and twisted my hands and Babovic hit me twice with the truncheon over the head again. At the end, he hit me with his leg in genitals. I begged them to let me go to the hospital but they did not. My father arrived to bring the driving licence but they did not allow him to enter in the police. One hour later, they let me go.

Afterwards, Jasarovic went to the hospital. A doctor stated that he had head injuries, headaches, that he felt sick and was losing consciousness.⁴⁷

On that occasion, his car was revoked for testing on 90 days, although it was regular. There was no reason for revoking his vehicle because he did not show resistance.⁴⁸

Jasarovic submitted criminal charges against police officer Vlajko Babovic in the Basic Public Prosecution in Berane.⁴⁹ The procedure is in course.

Jasarovic reported the case to the Unit for Internal Control which stated specific contradictions.⁵⁰ Unit for Internal Control ordered to the Chief of Berane Security center to submit case files to the Basic Public Prosecutor for assessment and further conduction related to eventual existence of criminal responsibility of police officers Darko Malisic, Dragan Dabetic, and Milanko Delic who confirmed Babovic’s statements indicating he had been

47 Copy of the medical report from October 25, 2009; from YIHR records

48 Report on the incident from November 23, 2009; from YIHR records

49 Copy of criminal charge which Jasarovic submitted against police officer Vlajko Babovic; from YIHR records

50 Copy of answer of the Police Directorate from November 17, 2009, from YIHR records

in the police premises in Berane at the time of incident.⁵¹ Also, Unit for Internal Control concluded that police officer Darko Malisic had failures in the actual case, therefore, The Chief of Berane Security center was ordered to initiate disciplinary procedure against the policeman, related to disciplinary violations from Article 59 paragraph 1 item 1 of Law on civil servants and employees, i.e. Article 81 paragraph 1 item 12 of the Police Law.⁵²

Torture in Bijelo Polje

Vesko Lekovic, from Bijelo Polje reported to YIHR the incident which happened on November 25, 2009, in premises of Bijelo Polje Security Center.

About the very incident which happened on that day, Lekovic said: "I was in the village. At 05:30 in the morning, the police came, looking for me at my home in Nedakusi, settlement where I live in Bijelo Polje. Six police officers came and one inspector. There was a police vehicle or 'police van'. They acted like I killed a man. They alarmed the entire settlement, beating on doors and windows.

Neighbours called me immediately and I went from the village to the police station to see why they were looking for me. When I arrived, I introduced myself and asked where should I report myself, explaining they were looking for me. The policeman at the reception told me to wait, and he would call for the inspector to come.

While I was waiting for him to come, the ambulance vehicle arrived, because they suspected I was infected with 'Mexican flu'. The policeman, whose last name was Sebek, took me into the ambulance car strongly and roughly. Then, he took me into the police van which had bars, which serves for driving prisoners. On that occasion, as he roughly took me into the vehicle, I hit my head and hurt it. I will go to doctor for examination, because, since that moment I have strong headaches. He did not allow me to speak."

They took me to the hospital, on Infection ward to Doctor, Izeta Cimbraka for examination regarding, whether I had 'Mexican flu'. The policeman Sebek was there all the time.

After the Doctor examined me and checked my temperature, they asked me why they bring me there. I told him that the police brought me there, i.e. the policeman Sebek, explaining I was not introduced with the reason why did they do that. I have the report from the Doctor saying I am healthy, and not suffering of any disease.

Afterwards, they returned me to the Police premises. Inspector came later and asked me whether I was dealing with the car smuggling. They also asked me if I knew Martinovic, Bandic, who were suspect for car smuggling. I never had problems with the law, I was

51 *Ibid*

52 *Ibid*

always quiet and calm person. Surely, if I was a criminal I would have never come from the village to report myself to the police. I am dealing with agriculture and I earn for life of it.

They were holding me at the police until 11:30 to 05:00 PM, and then they left me.”⁵³

Lekovic told YIHR researcher he would submit charges to competent Prosecution office against police officer and Police Directorate, for, as he said, ‘degrading, torturing, and discrimination’⁵⁴ he had experienced that day.

Reported cases of police violence during May 2009 on sport events

During May 2009, YIHR registered three incidents on the sport terrains where the police did not act in professional manner:

May 10 – On a football match between Football Club (FK) Zabjelo (Podgorica) and Football Club Celik (Niksic) happened the incident, when the chief of the Special task unit Darko Knezevic was injured, policeman Radisav Darmanovic, FK Zabjelo fan and supporter and supporter and a fan Marko Buric and two fans of FK Celik. Being suspected that they caused disorder and on that occasion wounded police officers and a FK Celik fan, the Police arrested Radoman Petrusic, Bozidar Perisic, Bosko Mirjadic, and Boris Mucalica, all from Niksic. While investigating judge of the Basic court in Podgorica Branka Zekovic appointed detention for three fans Perisic, Mirjadic, and Mucalica, who were suspected they had participated in fight on a football match.⁵⁵

The statement issued by fans of the FK Celik on that occasion expressed negation that fans and supporters of this club initiated fight and emphasized they had been severely beaten by the police members. FK Celik fans emphasized that policemen had beaten them from all sides and injured eight of their members, out of which two of them got serious injuries.⁵⁶

Police Directorate announced that its officers taken over measures and activities in accordance with Law and their competences. The Directorate accused FK Celik fans for causing disorder. Police officers used force in order to expel FK Celik fans from the terrain in order to prevent grave consequences of the incident. On that occasion, fans showed resistance and were throwing stones on the police.⁵⁷

⁵³ Report on the incident from December 2, 2009; from YIHR records

⁵⁴ *Ibid*

⁵⁵ Vijesti,

⁵⁶ DAN, Announcement of supporters of Celik; the police beaten them up, May 11, 2009

⁵⁷ Answer of the Police Directorate after the requirement for free accession to information, from September 8, 2009; from YIHR records

May 17 – The incident happened at the handball match Buducnost – Lovcen, which took place in Sport Center Moraca, when a fan of Buducnost hit the Lovcen handball player Zeljko Stojanovic.⁵⁸

Fans of Buducnost violently ran on the terrain, which caused the chaos. Police members pushed the fans of Lovcen, who thrown chairs on the terrain, towards exit. On that occasion, not even substitutes of Lovcen were spared, and even the part of public who peacefully watched the match, while among them were elderly and children, who protested on the behavior of the Police.⁵⁹

The Police announced that the competent service assessed that activities conducted by their officers, in order to prevent violence on the match, were in accordance with Law.⁶⁰

May, 30 - Before the football match between Football Club (FK) Jezera and FK Buducnost, incident between the police and fans of Buducnost had happened. Fans of Buducnost held press conference on that occasion with the aim to introduce media and public with events which preceded the very event.

Fans stated that police officers Marjan Racic and Vljako Babovic (who already had severe incident with this group of fans, when he hit with the gun one of the fans over the head) had told them they must search them, that they had to take off their hoodies and deliver their mobile phones, belts and shoelaces so they could enter the stadium.

They faced with verbal threats indicating that, unless they stop taking records, they would break their cameras over the head. Fans announced that police officer did not have name plates. Considering that fans did not approve personal surveillance by the police, they decided on their return to Podgorica and not to follow up the match.

Police Directorate announced that Internal Control conducted testing and noticed that the Chief Deputy of the Police substation of Berane Security Center Marjan Racic, exceeded powers and unprofessionally acted toward fan Andrija Radunovic, who recorded all with his camera when Racic told him he would break his camera unless he stopped. In that manner, as stated, occurred signs of serious disciplinary violations of Law on public servants and employees.⁶¹

Berane Security Center was ordered to initiate disciplinary procedure against above mentioned police officer.⁶²

58 Vijesti, Chronology of an disaster, from May 19, 2009

59 *Ibid*

60 Answer of the Police Directorate after the requirement for free accession to information, from September 8, 2009; from YIHR records

61 Answer of the Police Directorate after the requirement for free access to information, from September 8, 2009; from YIHR records

62 *Ibid*

It was ordered that the case files should be submitted to the Ethnic board of the Police Directorate for the assessment of ethnic of behaviour and Vljako Babovic, Head of the Police substation of Berane Security Center. Case files were delivered to the competent public prosecutor in Plav for assessment and decision making on the existence of elements of criminal responsibility of Babovic and other police officers who participated in this incident.⁶³

Cases reported to the Police Directorate

Police Directorate tested in 2009, 17 appeals that may be treated as the cases of reporting police torture which citizens reported to the police or announced them via media to public.⁶⁴ After conducted testings of those cases, Unit for Internal Control confirmed that appels for all seven cases were justified, while in remaining ten cases appeals were not justified.⁶⁵ Measures proposed by the Unit for Internal Control for cases where appeals were assessed as justified were:

- Initiating disciplinary procedure against four officers
- Submitting case files to competent public prosecutors for three cases
- Submitting case files to the Ethic board of Police Directorate for two cases for the assessment of ethic of acting of police officer⁶⁶

In one case, the procedure has been initiated for termination of employment to one officer.⁶⁷

Short description of cases reported to the Police Directorate by citizens is stated in the following text. Only cases which YIHR did not registered nor described in previous part of the report, are mentioned.

Case of Ljubomir Dragnic from Budva

Ljubomir Dragnic from Budva, lodged a complaint to the Unit for Internal Control in which he complained on police officers of the Police substation of Budva Security Center because of manner of conducting towards him, as the submitter of the charge on committed criminal act. In the complaint he claimed he had been abused in the police station, frightened and forced to change his already given statement. He added that after inflicted injuries he could not give any statement but he had to, regardles of his complaints that he had felt bad.

63 *Ibid*

64 Answer of the Police Directorate after the requirement for free accession to information, from December 1, 2009; from YIHR records

65 *Ibid*

66 *Ibid*

67 *Ibid*

After conducted procedure of testings, it was assessed that the complaint was unjustified because Dragnic was provided medical care and all measures aiming at processing his report were initiated.

Case of Strahinja Ilic from Mojkovac

Strahinja Ilic from Mojkovac lodged a complaint to the Director of Police Directorate, complaining on behavior of police officers of Mojkovac Police station towards him on January 1 and 2 2009, accusing them for the use of coercive measures towards him and on infliction on heavy body injures.

After conducted procedure of testing it was assessed that complaint was unjustified.

Case of Jovan Janjusevic from Podgorica

After the Police Directorate Director warrant, testing of statement was conducted in a view of defining relevan arguments related to the event which was mentioned in the text of Independent daily 'Vijesti' on March 18, 2009, titled 'Beatings because of Berlusconi'. News on the incident which happened the day before in Podgorica was published, stating that Jovan Janjusevic from Podgorica 'ended in the Police after rushing into the crossroad of streets 'Oktobarska revolucija' and 'Bratstvo i jedinstvo', which were closed by the police because the colon with Italian Prime Minster was expected to pass'. The text mentioned statements of several unnamed wittesses of the event who said that two policemen were overtaking him, then they took him out from his car and severely beaten and took into police vehicle and departed.

Complaint was assessed as unjustified, considering the fact that the following day, on March 19, 2009, the same daily in the text titled 'I was drunk, they did not beat me', published reactions of Jovan Janjusevic by which he denied statements in the previous text on illegal actions of the police toward him. In the procedure of testing of the case, officer of the Unit spoke to Janjusevic and took the written statement from him, in which he confirmed statemets from denial.

Case of Bernard Sujkovic from Berane

Bernard Sujkovic from Berane lodged a complaint to the Director of Police Directorate in which he accused police officer of the Police station of Berane Security Center Vuceta Radenovic for exceedings in official premises of Berane Security Center, who beaten him over the head and other parts of body for no reason, which resulted in severe injuries.

After conducted procedure of testings, it has been assessed that the complaint was justified because arguments and circumstances defined in the procedure of testings of the case file indicated on existence of suspicious that the police officer Vuceta Radenovic, in his

behaviour towards Bernard Sujkovic, exceeded official competencies in a manner of illegal use of extortion, by hitting him with the fist over the left side of his face which resulted in bloody swelling on Sujkovic's face.

The Disciplinary Commission of Police Directorate pronounced final disciplinary measure to police officer Vuceta Radenovic who was fined with 30% of his monthly salary which was paid to him in a month when he committed disciplinary offence.

Case of Borko Recevic from Mojkovac

Branka Recevic from Mojkovac reported to the Director of Police Directorate and accused police officers of the Police substation of Mojkovac Branch Radovan Tomovic, Miljan Vucinic, and Radovan Todorovic that they physically and mentally tortured, abused, and offended her son Borko Recevic, on March 21, 2009, at 01:00, in premises of Mojkovac Branch, demanding him to admit he was guilty for thefts he had committed in the drug store and supermarket in Mojkovac.

After the procedures of testing were conducted, it was assessed that the complaint was unjustified.

Case of Goran Grbovic from Kotor

Goran Grbovic from Kotor submitted the complaint to Operation and Communication Center of Police Directorate in which he accused police officer of the Police substation of Kotor Branch that on April 8, 2009 at 08:00 after finished valleyball match between VC 'Primorac' and VC 'Jadran' near the swimming pool 'Niksa Bucin' in Kotor, according to his words, for no reasons and illegally used means of extortion when he hit him with the truncheon in the part of the head after which he lost consciousness and got body injuries which were stated and submitted in medical document.

After conducted procedure of testing, it was assessed that the complaint was justified.

Case of Lazar, Radomir, and Luka Sukovic from Kolasin

Attorney-at-law Stanko Jelic authorized to represent Radomir, Luka, and Lazar Sukovic from Kolasin, submitted to the Unit for Internal control complaint on officers of the Police substation of Kolasin Branch Dragomir Zivkovic and Milija Bulatovic, accusing them for illegal use of truncheon, as the mean of extortion, towards abovementioned persons on April 19, 2009 in Kolasin, when they were injured.

After conducted procedure of testings, it was assessed that complaint was unjustified.

Case of Meho Humerovic from Berane

Meho Humerovic from Berane submitted complaint to Operation and Communication Center of Police Directorate on acting of the Chief of Police substation of Berane Security Center Vljako Babovic, because of phzysical attack and insulting of him and his brother Fahrudin Humerovic, on May 25, 2009, in front of the entrance of Berane Security Center building.

Complaint has been assessed as unjustified because the submitter gave up of complaints at the course of the procedure, which resulted in refusing possibilty for collecting arguments and evidences related to eventual existence of responsibility of the abovementioned officer.

Case of Dragisa Djuric from Ulcinj

Dragisa Djuric from Ulcinj submitted to Operation and Communication Center of Police Directorate complaint on behaviour of authorized police officer of Ulcinj Branch of Police substation Milan Pavicevic whom Djuric accused for hitting him on June 16, 2009, and when he came into police station Pavicevih had been hitting him all over Djuric's back with two or three policemen.

After conducted procedure of testing, it was assessed that the complaint was justified while direct chief have already undertake measures in the case by submitting case files to the Ethic board of Police Directorate for the purpose of assessing ethic of acting of police officer Milan Pavicevic. In conducted procedure Ethic board assessed there was justified suspicious that he had committed serious disciplinary violation, therefore, the Disciplinary Commission of Police Directorate was submitted a proposal for initiating procedure for defining disciplinary responsibility against mentioned officer.⁶⁸

Incident in the Institution for Enforcement of Criminal Sanctions (ZIKS)

In incident which happened in ZIKS, on October 27, 2009, Dalibor Nikezic and Igor Milic were injured.

Sabaedina Nikezic from Podgorica, reported to YIHR the incident which had happened in ZIKS in which her son got injures. Sabaedina Nikezic told YIHR researcher that his son, who serves a sentence in ZIKS, was beaten by guards while his family was informed about the very incident via two letters and SMS from one detainee with whom her son shares room.⁶⁹

Sabaedina Nikezic said: "Young men from ZIKS who share room with Dalibor informed me on this case on October 27, when I received a message from unknown phone number. Lat-

⁶⁸ *Ibid*

⁶⁹ Report on the incident from November 13, 2009; from YIHR records

ter, I received a letter via parents of a young man from his room also, which I still have. The letter was not written by my son but by somebody else and handed it over to his father who afterwards delivered it to us. Father of that young man, who shares room with Dalibor, visited his son on October 29, and then his son gave him a letter which he afterwards delivered to me.”⁷⁰

The content of the letter was as follows: “This is the phone number of Dado’s mother, XXXXXXXX; call her and meet her and then go to DAN to eliminate the text referring he was beaten earlier. Here are the text and a photo, because they had already published this once, in 2002. Tell them also that he was beaten here in ZIKS for no reason which is the worse. Moreover, they do not want to take him to the medical institution because they are afraid of public, so they give him pills and tell him lies. He had been beaten by some commanders, ordinary thugs and companions. The entire event and beatings watched a young men from the room (stated names which family did not mention for the security of these young men) and others.”⁷¹

“Similar text and SMS messages I received on the mobile phone, but at the beginning was written ‘This is what Dado told you’”, added Sabaedina Nikezic. After these letters, on October 29, she went to Zoran Vujovic, the chief of PRISON in Podgorica to check whether letters and messages were true.⁷² Vujovic convinced that was not true and that the whole matter was just an ‘ordinary pushing’.

The following day, on October 30, she went to visit her son. About the very meeting with him, she said: “I had the right to see him, the following day. It was Friday, November 30, 2009. When I saw him, I did not recognize him. He was terrible. He could barely open his eyes. His head was all injured. He could not sustain my visit, because he was in pains.

While sitting with him, he told me for one guard who appeared and shook his head in my son’s direction when my son told me ‘mother, this is the one of them who beat me’. He wanted to make him frightened, so as not to tell me anything.

Dalibor told me that they throw him on the floor three times. They punched him with fists over the head, legs, with truncheons. He told me to lodge appeal. His eyes were closed and bloody, swollen, bloody bruises, bloody eyes, pupils barely even noticed. I begged him to stand up and fold his trousers, but he could not. He told me not to be worried, because he could sustain all that.

He wrote me a note saying to call the office for human rights.”⁷³

Text of the note Dalibor gave to his mother Sabaedina, while visiting him in ZIKS was as follows: “Go to DAN and tell that the Chief Vujovic lied about everything. Mother,

⁷⁰ *Ibid*

⁷¹ Copy of letter delivered to Mrs. Nikezic by father of one detainee, from October 29, 2009; from YIHR records

⁷² Report on the incident from November 13, 2009; see above, under 67

⁷³ *Ibid*

go immediately, require human rights people to come here immediately and gather all relatives. Companions beaten me, their chief Vesko Drljevic, and commander Todor from Niksic, and that is the shift of Jovo Martinovic.”⁷⁴

Sabaedina Nikezic emphasized that the incident happened because her son Dalibor supported one detainee whom was not delivered medical aid.⁷⁵

Dalibor Nikezic’s sister, Sladjana Djurisc, told YIHR researchers that she went with her father to introduce Vujovic with the situation. On the course of the meeting, Sladjana said: “He told us that the incident occurred because they supported a young man whose last name is Cizmic. He told he had injuries, but that his overall condition was good, so he would try to provide a doctor in future and that he would help. The same person confirmed that Dalibor did not show resistance, that the failure occurred and was made by guards. Then he told that guards would be punished under disciplinary responsibility.

Vujovic said that he brought Dalibor four or five times in his office for conversation. I talked to him, we’ll see, perhaps he will reject the appeal against them. Then my father added ‘Mr. Vujovic, you know the way appeals got rejected here. Violently and under pressure. It is not matter to us, he may sign here what ever he wants, but you must know that the family shall not give up.’”

When my father told him appeal would not be rejected, Vujovic did not say a word. We were silent afterwards, for about five minutes, and then we left home.”⁷⁶

Sladjana did not see her brother since he had incident while Marijana Lakovic⁷⁷ informed her about her brother’s injures. Sladjana spoke on this the following: “I heard he was badly injured over the head and body. Marijana told me that the entire event happened because a young man in the room was not provided medical aid. All men in the room supported the young man and announced they should hold a strike. Then, guards entered the room and beaten them all. All of them were beaten, but mostly my brother and Milic. They did not provoke guards violently, save in the announcement of their strike as the sign of solidarity with another detainee. The Chief Vujovic confirmed this afterwards, when I and my father were in his office.”⁷⁸

Milijana Milic from Podgorica confirmed to YIHR researcher that in this incident her son Igor Milic was injured; a young man who shared a room with Dalibor Nikezic in ZIKS.⁷⁹

74 Copy of the letter which Dalibor Nikezic gave his mother during visit on October 30, 2009; from YIHR records

75 Report on the incident from November 13, 2009, see above under 67

76 *Ibid*

77 Marijana Lakovic, Ombudsperson Deputy in Montenegro

78 Report on the incident from November 13, 2009; see above under 67

79 Report on the incident from November 20, 2009; from the Initiative records

Milijana said: “I found out for this from a few people. However, I was not sure and I wanted to check information and called for Zoran Vujovic who is the Chief there. I asked him whether Igor was injured and if somebody beaten him there. He told me he was not injured and nobody had beaten him. He told me no one had even touched him and that he was removed into the solitary cell because he violated some rules. However, attorney-at-law Boris Marinovic visited Igor on October 30. When he returned, he told me he could not be silent on some matters. I asked him whether he was hurt. He told me he saw injuries and was about to react at the Director’s office where he had submitted a written report. Injuries the attorney-at-law saw were on his temples and his leg.

On Thursday, on November 5, he was allowed to meet Igor in the office of the Chief of ZIKS. ZIKS Director was doing on convictions intended for me being assured that Igor did not have bruises. There were Vujovic, Dejo Baukovic, the doctor in ZIKS Mr. Tomic, me, my daughter, and attorney-in-law Marinovic. I stood up and told Igor to fold his clothes because I wanted to see whether he had injuries. He folded his trousers and the present people saw the bruise on his leg and saw the way he tried to sit. They saw he could sit with difficulties because he was in pains. He told he did not want the doctor to check him up, because he would write what ‘they’⁸⁰ would tell him to write.

Igor said that five of them had beaten him up and showed the position and the manner in which they had been beating him. Before all of us he said that they had beating him while he was tied up.⁸¹

Research of the case was conducted by the Ombudsperson Office in Montenegro. Ombudsperson Deputy Marijana Lakovic confirmed on October 30, before public, that Dalibor Nikezic had injured over the head, especially round his eyes and several injuries of legs.⁸² From Ombudsperson Institution was announced that these cases would be monitored.

Families Nikezic⁸³ and Milic⁸⁴ submitted criminal charges against more persons to Basic Public Prosecution in Podgorica because of torture and abusing of their sons Dalibor and Igor. The Initiative will represent Nikezic and Milic before the judicial bodies and will inform public on the very course of process timely.

80 Referring to employees of ZIKS

81 Report on the incident from November 20, 2009; see above under 77

82 Public statement from October 30, 2009; number 05/684; from Ombudsperson

83 Copy of criminal charge submitted by family Nikezic to the Basic Public Prosecution in Podgorica, from November 6; from YIHR records

84 Copy of criminal charge submitted by family Milic to the Basic Public Prosecution in Podgorica, from November 9; from YIHR records

Conclusions and recommendations

- In 2009, YIHR registered 24 reported cases of police torture and two cases in ZIKS. In 2007, YIHR recorded 24 cases while 51 cases of police torture were reported in 2008. Largest problem in fight against torture is small number of judiciary processed and sentenced police officers who committed torture. Large number of submitted criminal charges in 2008 and 2009 still have not got judiciary epilogue. Competent Public Prosecutions should conduct more efficient investigations that would result in punishing committers of torture.
- The Government of Montenegro adopted the Action plan for the prevention of torture, at the beginning of the year. During 2009, Montenegro made progress in establishing mechanisms for the prevention of torture, while, European and national regulations and standards in the area of preventing torture have not been implemented completely.
- The Government and competent ministries have to invest additional means and make efforts in increasing capacities of national institutions and control mechanisms of acting towards persons who were suspected or deprived of liberty, in a view of enabling successful implementation of international and national standards and regulations in the prevention of torture.
- As in 2008, investigations and sanctions still do not include officers who did not react and prevent torture, nor were they considered as participators. Investigations conducted by competent bodies should be extended to all involved police officers in the incident, because police officers may often, instead of preventing their colleagues, help them to execute torture. Officers who act in that manner are considered as direct executors of torture, therefore they are responsible before competent bodies as executors of torture.
- Against citizens who report torture, representatives of the Police Directorate submit charges mostly explaining they were disturbing or they attacked official person while performing official duties. Thus, it does not contribute to suppression of such situations, moreover, aggressive persons are protected and the use of force is being tried to be justified, which leads to victimization.
- YIHR researching in Roma community showed high and worrying level of ignorance in the field of fundamental human rights and freedoms. There is a huge need for conduction of activities in the following period, on education of Roma on their rights in relationship with police officers; furthermore, there is the need for additional focusing on researching police torture over Roma. Police Directorate and other competent national institutions are obliged to increase the level of awareness of Roma on their rights and freedoms and manners of their protection through education.
- Ministry of Interior Affairs and Police Directorate have to develop activities that would increase the level of awareness of their officers and which would contribute to suppression of that appearance.

III DISCRIMINATION

Previous information

“Accepting inequality of people destructs the whole building of human rights. Human rights are rights possessed by humans. Replacement of the universal standpoint in the way by which people shall be equal only by categories, or white person equal to white person, German equal to German, man to man, etc, takes as relevant sign of humanity something that is not relevant to all people. Besides, there are no evidences that any of elected groups is more human than others. What especially comes under suspicious is that all people advocating inequality consider somehow that it has been proved that the group they belong to is the superior one.”⁸⁵

In 2009, YIHR registered three cases of discrimination in Montenegro. What especially concerns is that some cases were encouraged and directly incited by representatives of public institutions.

“Discrimination implies that developing differences is not allowed, or that unequal treatment arising from physical and legal person is prohibited and which has been executed towards a person or a group, regarding their personal characteristics.”⁸⁶

Discrimination is being prohibited by all international documents and Constitutions of a large number of countries worldwide.

“All human beings are born free and equal in dignity and rights”, says the first Article of the Universal Declaration on Human Rights.⁸⁷

Article 2 of International Covenant on Civil and Political Rights says as follows:

“Member states of the Covenant shall be obliged to respect and guarantee to all persons at their territory, who come under their competencies, rights recognized by this Covenant regardless of their race, gender, language, religion, political and other opinion, national and social origin, property, their birth or any other circumstances.”

⁸⁵ International right of human rights, Belgrade Center for Human Rights, Belgrade 2007

⁸⁶ Antidiscrimination law, guide

⁸⁷ Universal Declaration on Human Rights of United Nations, from 1948, see above under 5

Other international treaties and regulations prohibit differences among people based on their personal characteristics. International Convention on Economic, Social and Cultural Rights, International Convention on prohibition of all forms of racial discrimination, Convention on prohibition of all forms of discrimination against women, Convention on Children's Rights and International Convention on Protection of all migrant workers and members of their families contain provisions prescribing prohibition of discrimination.

European Convention for Protection of Human Rights and Fundamental Freedoms guarantees enjoining of rights and freedoms to all persons regardless of their personal characteristics and their status.⁸⁸

Key provisions of the European Convention on Human Rights related to prohibition of discrimination are Article 14 of the Convention and Article 1 of Protocol 12 of European Convention on Human Rights.

Article 14 of the European Convention on Human Rights says as follows:

“Enjoining rights and freedoms prescribed by the Convention shall be provided without discrimination on any grounds, such as gender, race, color of the skin, language, religion, political and other opinion, national and social origin, relation with other national minority, property, birth, and other status.”

Article 1 Protocol 12 says:

“1. Each right prescribed by Law shall be exercised without discrimination on any grounds, like, for example, gender, race, color of the skin, language, religion, political and other conviction, national or social origin, relation with national minority, property, birth, or other status.

1. Public authorities shall not execute discrimination towards any person on the grounds mentioned in paragraph 1.”

The Constitution of Montenegro shall prohibit every form of direct or indirect discrimination on any grounds.⁸⁹

Work group for drafting the Law on prohibition of discrimination, after years of work, offered the draft of the Law which received poor critics by Venetian Commission, therefore, the work on its writing has been continued.

Roma are considered as most discriminated group in Montenegro. Andrija Djukanovic from Foundation for Roma Scholarship (FSR) says that Roma face

⁸⁸ European Convention for Protection of Human Rights and Fundamental Freedoms from 1950, Article 14

⁸⁹ The Constitution of Montenegro, see above under

with discrimination every day.⁹⁰ Djukanovic considers that discrimination is mostly present during employment.⁹¹

As one of numerous discriminated groups are women. In the Parliament of Montenegro, out of 81 MPs, nine are women.⁹² On three most important positions in the country, the President, the Prime Minister and the President of the Parliament of Montenegro are all men. In the Government, there is only one woman out of 21 members.⁹³

Cases of discrimination

Discrimination of Marijana Mugosa

On International Day of Human Rights, on December 10, 2009, Marijana Mugosa from Podgorica was prohibited to enter premises of the Capital City Podgorica, where she was employed as the professional assistant. Marijana Mugosa is disabled person, who have been using guide dog since July 7, 2008.

On the very incident, Marijana Mugosa said: “Xena⁹⁴ and me were, obviously, excellently accepted by our colleagues in the Assembly of the Capital, until December 10, when we were forced to leave the building at the labour time (it was before 1 PM). After a short break, after my return in the building, the receptionist approached me and told me he had received an order by the Mayor⁹⁵ saying that I and my dog must not enter the building anymore. Although the order and decision of the First man of the capital was very painful, discriminating and degrading for me, I controlled myself and decided on fight against the decision with dignity and only with approved legal remedies.

Before I introduced my problem to public, for 24 hours I had been trying to receive the answer and explanation of why it had been committed in such a bad manner, without previous announcement or warning. I hoped and believed that, perhaps, I could influence on abolition of the decision but the decision had been made very fast and perhaps, in someone’s nervous moment.

90 From the interview of the YIHR researcher with Andrija Djukanovic, from November 15, 2009

91 *Ibid*

92 Data taken from the website of the Parliament of Montenegro you may see on http://www.skupstina.mn.yu/24_saziv/index1.php?module=16&sub=27, visited on November 24, 2009

93 Data taken from the website of the Government of Montenegro <http://www.gov.me>, visited on November 24, 2009

94 The name of the guide dog used by Marijana Mugosa

95 Miomir Mugosa is the Mayor of the Capital city Podgorica

Instead of an apology, reception on conversation with responsible persons in the Administration, I received so aggressive resistance, numerous lies on me and my personality and many reasons for which I fight for my rights. They had been talking that local authorities financed complete purchase of a dog and my stay in the Center ‘Silver’ (however, participation of the City was 5.3% of the whole price of the dog). Media published that absolutely all my colleagues were against my dog staying in the building of the Capital City, therefore they may not allow me to use my rights damaging others.

Until December 29, 2008, I had been coming every morning just to the reception room, asking the same questions patiently to the receptionist and each day (unfortunately, without any grounds) I was hoping they would become aware and reject their decision.”⁹⁶

During this case of discrimination, civil sector and media provided huge support to Marijana Mugosa.

On public institution activities, on the occasion of the case Marijana said: “As bodies of executive power backed down before powerful Mayor, and hide behind so called competencies to conduct in this case (Labour inspection, Ministry of Health, Labour, and Social Welfare, Ministry for Human and Minority Rights etc) I was forced to initiate court proceeding. Montenegrin Ombudsperson did and did not stand in defense of my rights and offered me a pretty confusing solution. He put the blame on legal norms and then proposed its amendment in the interest of the city authorities. It was very painful to realize that institutions in my country are so weak and powerless to apply penal provisions when on the opposite side is some powerful politician. Instead of forcing to respect of positive regulations of the country and show their own strength in that manner, they rather change laws.

The only institution which encouraged my hopes that our country may one day be the country of the rule of law and justice was Basic court in Podgorica who decided on the judgment of first instance for my party. The capital city lodged an appeal on the first instance judgment at the beginning of the year, therefore, we expect decision of the High court until the end of the year.”⁹⁷

The Assembly of Montenegro adopted new Law on movement of disabled persons with guide dog on November 10. However, the old law prescribed that the person using guide dog may be in official premises.

Mayor of Podgorica Miomir Mugosa, being guest on the TV programme ‘Ziva istina’ emphasized that not any person prohibited Marijana to come at work but that the dog may not enter official premises. As public places where it had been allowed usage of guide dog, the old Law, which was in force when Marijana was prohibited to enter the building, prescribed official premises firstly.

⁹⁶ From the statement which Marijana Mugosa submitted to YIHR on November 18, 2009

⁹⁷ *Ibid*

Marijana Mugosa has not come into official premises since December 10, 2008 until nowadays.⁹⁸

Judicial process in which Marijana Mugosa prosecuted Capital city for compensation of damage for mental sufferings is in course.⁹⁹

Marijana concludes: “Regardless of what has been achieved until nowadays, I still don’t know how the whole thing will end up, but I am convinced that, through this fight, disabled persons showed solidarity, readiness to fight together for their rights not tolerating discrimination and putting into poor condition in comparison to others. This also represents huge strength, patience, and dignity of all actors of the fight and without ugly words and inappropriate moves; it has been showed to our public that the justice is approachable and possible.”¹⁰⁰

Discrimination towards LGBT population

LGBT population in Montenegro sustains high level of discrimination. This is confirmed by the results of the research conducted by the Action for Human Rights from Podgorica which dealt with the rights of people of homosexual orientation.¹⁰¹ Experiences of the community’s representatives, who were included in the research, show that most of them faced with some form of physical violence or were victims of discrimination while violators of their rights and freedoms were mostly teachers, professors, policemen, and even members of their own families.

In the report about the progress of Montenegro which conducted European Commission, it has also been stated that homosexual minorities in Montenegro were discriminated and marginalized.¹⁰²

The Chief of the Neuropsychiatry in the Clinic Center of Montenegro, Zeljko Golubovic, when hosted on Television of Montenegro programme, explained that, according to medical specification which is recognized worldwide, homosexuality is ‘diagnostic category’ and that in some countries has been considered as illness while in some countries has been considered as normal matter.¹⁰³

98 *Ibid*

99 Vijesti, Only Saranovic came as the witness, December 5, 2009

100 *Ibid*

101 Results of researches of Action for Human Rights available at www.hraction.org, visited on November 10, 2009

102 Report on progress of Montenegro for 2009, Commission of European Communities

103 Monitor, Regulation for waving, November 27, 2009

Minister for Human and Minority Rights, Ferhat Dinosa as a guest on Television Vijesti, in the programme 'Prizma', on November 6, 2009, said: "I do not know to which extent it is present in Montenegro! However, I say that would not be a good news for this ambient. I would like to be honest when answering on such questions, that I would not be happy if Montenegro would have it."¹⁰⁴ Montenegrin public, especially non-governmental sector considered Dinosa's statement as homophobic and gravely criticized his point of view. The Minister repeated his point of view on November 18, on the round table named 'Human Rights in Montenegro', organized by European Commission in Montenegro, which was attended by the Head of Delegation of the European Commission in Montenegro Leopold Maurer. On that occasion, minister Dinosa expressed as his personal opinion that it was offensive to put the sign of equality between ethnic minority, where he belongs, and sexual minorities, in order to even declare that homosexuality is not natural. Such standpoint caused severe reactions of public in Montenegro.

NGO Anima, Safe Women Shelter, Action for Human Rights, and Center for civil education, demanded the Minister's resignation on the function and from the Prime Minister Milo Djukanovic to stay away from that point of view.

Director of NGO Action for Human Rights, Tea Gorjanec Prelevic said for the Radio Free Europe that such statement of the Minister for human and minority rights was unacceptable and from the aspect of human rights it was the same whether the Minister said that the bad news was that in Montenegro lived Albanian, Roma population, women or homosexuals. Gorjanec said that the Minister showed ignorance on basic standards of human rights and added that, as such a man, he could not serve to Montenegro.¹⁰⁵

YIHR sent the proposal¹⁰⁶ to the Montenegrin Ombudsperson on November 9, 2009, and later on November 19, with urgent letter¹⁰⁷ demanding the institution's final opinion, which will contain the finding on the manner and to which extent occurred the violation of human rights and freedoms as well as recommendation on what should be done in order to eliminate violations, and the very Ombudsperson institution undertakes other measures and actions. In the proposal was emphasized that the Minister violated human rights and freedoms prescribed by the Constitution of Montenegro, with his statement, as well as Article 7 which shall prohibit every direct or indirect discrimination on any grounds, Article 17 which prescribes that all people shall be deemed equal before law, regardless of any particularity and personal feature, Article 28 which guarantees inviolability of physical and mental integrity of a man, and privacy and individual rights and Article 40 prescribing that everybody shall have the right to its private and family life.

104 Statement of Minister Dinosa for TV Vijesti on TV programme 'Prizma' from November 6, 2009

105 Radio Free Europe, Minister for Human and Minority rights against minorities, November 9, 2009

106 A letter submitted by YIHR to the Ombudsperson office on November 9, 2009; from YIHR records

107 A letter which YIHR submitted to the Ombudsperson office on November 19, 2009; from the YIHR

Newly elected Ombudsperson Sucko Bakovic announced that the office of Ombudsperson shall examine and monitor statements of Minister Dinosa and shall act at the YIHR report.¹⁰⁸

The Speaker of the Parliament, Ranko Krivokapic said that Minister Dinosa as a new Minister in that area, still has not specialized areas from its line ministry, but he considered that Dinosa would understand that ‘it is the road to awareness of Montenegro, such were many others’.¹⁰⁹

The Prime Minister of Montenegro, Milo Djukanovic distanced himself from the Minister Dinosa’s statements emphasizing that those were personal standpoints of the Minister and that the Government would protect rights of all minorities.¹¹⁰ Even the President, Filip Vujanovic in his statement for media, advocated for the respect of rights of LGBT population.

Roma discrimination

Position of Roma in Montenegro is on a concerning level. That position has been considered in the last Report on progress of Montenegro, which has been developed by the European Commission.¹¹¹

Andrija Djukanovic, from FSR, told the YIHR researcher that ‘the very argument regarding only eight students and 35 high school students of Roma nationality, indicates enough on the position of Roma in Montenegro nowadays’.¹¹² There are 25,400 students in Montenegro on national and private universities, according to Ministry of Education and Science data, for 2008 and 2009.¹¹³

Representatives of Roma nationality were forbidden to come in KIC on the Day of Minorities

Example which shows that the high level of Roma discrimination is that Roma population was not allowed to attend the Day of National Minorities, which is nonsense.

108 Vijesti, Dinosa should read the Constitution, November 20, 2009

109 DAN, He is the new one, so I don’t know, November 12, 2009

110 Vijesti, Djukanovic: Dinosa shall protect all minorities, November 21, 2009

111 Report on progress of Montenegro for 2009, Commission of European communities

112 *Ibid*

113 Independent adviser for higher education Biljana Misovic announced data to the YIHR researcher

On the occasion of the incident, journalist of DAN, Svetlana Cetkovic told the YIHR researcher: “Incident happened on November 20, 2009, in the hall of Cultural Informative Center (KIC) ‘Budo Tomovic’ at the ceremony of the Day of National Minorities. Before the very event, I saw several representatives of Roma population, but, as I was late, I did not pay attention too much. Just as I left the hall of the KIC building, I noticed about ten representatives of Roma trying to get in the hall. However, their attempts failed because the hall was full of people in black i.e. the people from the security. I did not stay long because I had another meeting.

I am sorry for not been able to devote more attention to the incident because of another meeting I had. I immediately called the editor and told her the whole story.”¹¹⁴

Discrimination of Roma pupils in Tivat

On September 9, 2009, two teachers Ana Markovic and Jevrosima Popovic sent out from the class six pupils of Roma nationality, in Elementary School “Drago Milovic” in Tivat, because of poor hygiene.¹¹⁵ Teachers claimed that children had head lice.¹¹⁶ Afterwards, children were examined by the Doctor Slavka Dragovic who did not set out children had lice, as teachers claimed.¹¹⁷

After routine examination, the Doctor issued confirmation to a father of a child named Ajet Neziraj, saying his children did not have head-lice, therefore, they could return to class.¹¹⁸ Teachers Ana Markovoic and Jevrosima Popovic examined with scissors hair of Roma pupils and then they sent them out from the classroom saying not to come back until they get rid of head-lice, said Neziraj to YIHR researcher.¹¹⁹ He added that, after the incident, his children did not want to go to school.¹²⁰

Director of Tivat Elementary School “Drago Milovic”, Zoran Latkovic said that sending out six pupils of Roma nationality from the class, for hygiene reasons respectively, is ‘the incident which just happened, but not the rule’, and added he would ‘sanctioned the perpetrators’. Ajet Neziraj told YIHR researcher that ‘everything was all right, that the Director apologized together with the teachers, and promised such things would never happen again’.¹²¹ According to YIHR findings, proceedings against teachers were not initiated.

114 From the statement of Svetlana Cetkovic who submitted to the YIHR on November 23, 2009

115 From YIHR interview with Ajet Neziraj, September 15, 2009

116 *Ibid*

117 *Ibid*

118 *Ibid*

119 *Ibid*

120 *Ibid*

121 *Ibid*

Case of Rizo Alkovic

Rizo Alkovic from Podgorica, told YIHR researcher that, since the day he moved in the apartment, he was granted as a socially endangered person, have started provocations on religious basis by his neighbours.¹²² The situation resulted in the movement of his son Aldin and daughter in law Andriana, who live as tenants, for their safety.¹²³

First serious provocation occurred on Ramazan Bayram in 2007, when his neighbor Vladimir Soc came into apartment, constantly demanding rakia, a drink which is not serving on that occasion.¹²⁴ When he got rakia, he spilled a little of it on the floor, christened and drunk it.¹²⁵ The same year, on Bayram, neighbor Vladimir Soc with his neighbours supporters, endangered security of family Alkovic when he stoned the apartment Alkovic lived at and on that occasion, he injured Rizo Alkovic, and his daughter Amanda, which is the incident proved by photos and reports of the doctor specialist, that Alkovic still possesses.¹²⁶ On the same occasion, Alkovic was ordered 'Move out of here, soon there will not be space for you'.¹²⁷ Since that day, Alkovic family suffers everyday torture, based on religion and nationality. On Bayram 2008, one more incident in a row had happened and on that occasion front glass on Alkovic's vehicle was broken, grease was spilled all over his vehicle, together with pieces of bacon and large piece of pork skin which was put on a vehicle cleaners.¹²⁸ Because of constant provocations, Alkovic could not invite relatives for his son's wedding at the apartment, because of concerns for the safety of relatives.¹²⁹

Events such as 'shooting near window, shells all around the street, Serbian national songs on Byram, instructing children and husbands to curse and offend on religious basis, stories on sharpening sabers, axes, and sickles and threats they shall kill and cut Muslim or Turkish', became stories on a daily basis for Alkovic family. The last incident occurred on Byram in 2009. On the door of family Alkovic's apartment, neighbours wrote the same as in 2007, 'Move out of here, soon there will not be space for you', and depicted the cross on the door.¹³⁰

Islam community in Montenegro criticized threats and frightening of Rizo Alkovic, which were repeated several times during Byram celebration.

122 The statement of Rizo Alkovic, given to YIHR researcher on September 10, 2009

123 *Ibid*

124 *Ibid*

125 *Ibid*

126 *Ibid*

127 *Ibid*

128 *Ibid*

129 *Ibid*

130 Rizo Alkovic gave a photo to YIHR researcher on September 10, 2009

YIHR submitted criminal charge on September 29, 2009, for threats to Rizo Alkovic by unknown persons, during Byram celebration.¹³¹ Criminal charge was tested via Police Directorate – Podgorica Security Center, for the assessment whether the activities of unknown offenders had elements of criminal act – provoking national, racial, and religious hatred, division, and intolerance from Article 370 of the Criminal Code.¹³² After the assessment that unknown persons did not execute elements of the criminal act with their activities, case files were submitted to the Basic Public Prosecution Office in Podgorica, in order to assess in their competence eventual existence of criminal act – endangering security from Article 168 of the Criminal Code.¹³³

On November 18, 2009, Rizo Alkovic submitted criminal charge against Vladimir Soc, Djoko Strugar, Velibor Strugar, Svetlana Vesovic, and Borka Vukcevic, who were all from Podgorica.¹³⁴ Prosecution Office rejected even this criminal charge.¹³⁵ Rizo Alkovic submitted requirement for starting investigation against Vladimir Soc, Djoko Strugar, Mirko Cupic, Veliborka Strugar, Svetlana Vesovic, and Borka Vukcevic.¹³⁶

131 Criminal charge submitted by Rizo Alkovic to Basic Public Prosecution Office, November 18, 2009; from YIHR records

132 Answer of Supreme Public Prosecution, number 714/09; from YIHR records

133 *Ibid*

134 Criminal charge submitted by Rizo Alkovic; from YIHR records

135 Answer of Supreme Public Prosecution, number 260/09; from YIHR records

136 The copy of this requirement is in YIHR records

Conclusions and recommendations

- Montenegro is one of the rare countries which have not adopted Law on prohibition of discrimination. Preparation for its adoption is in course.
- Many public functionaries at high and deciding positions do not have sense for discrimination, therefore it should be work on their sensibility and prevention of possibilities on new people who do not have sense for human rights coming on responsible positions.
- In Montenegro, cases of discrimination rarely appear because of lack of confidence in institutions and negative mood towards many other groups that are mostly discriminated.
- Homophobia is extremely expressed. Competent national institutions should make effort and invest means for development of tolerance, respect of rights of all citizens and generally development of awareness on fight against discrimination.
- Existing legislation prescribing measures against discrimination and Law on prevention of discrimination, that would be adopted, have to be strictly respected.
- On places implying decision making, large gender misbalance exists. Montenegro has to provide equal representation of men and women at all level of authority.

IV POLITICALLY MOTIVATED VIOLENCE

Previous information

During 2009, YIHR recorded increased number of cases of politically motivated violence, which was mostly expressed towards journalists, whether via threats or physical attacks or on the basis of high compensations for mental sufferings which should be paid to public persons whom they had been writing about.

Numerous international organizations and institutions wrote in their reports on cases of politically motivated violence and high fines for defamation, which became practice in national judiciary but which is not in accordance with the practice of European Court for Human Rights. That Court concluded that Article 10 of European Convention on Human Rights *guarantees freedom of expression even in a view of information which insult, shock, or disturb, on which also refers Resolution of the Council of Europe 1577 (2007)*.¹³⁷ Universal Declaration on human rights also guarantees freedom of expression. Article 19 says that *'every person has the right to freedom of opinion and expression, which implies rights not to be disturbed for announcements and ideas via any means notwithstanding limits of its own opinion, as well as the right to receive and widespread information*.¹³⁸

Reports of international organizations mostly referred to pressure which media and journalists face with during this monitored period in Montenegro. The report of Amnesty International which media published on May 29, 2009, emphasized that Montenegrin authorities have not resolved political murders while freedom of expression was refused to journalists in Montenegro.¹³⁹ According to the report of Freedom House that publishes reports every year, Montenegro belongs to those countries whose media are partly free and this year the country shares 78th place with East Timor and Botswana.¹⁴⁰ According to Freedom House reports Montenegro did not succeed in judiciary area because, as it was announced, judges pronounce high fines for defamation.¹⁴¹ Freedom House reminded that cases of violence over journalists have stayed unresolved while courts weighted

137 Montenegrin Helsinki Committee for Human Rights, Definition of defamation, principles on freedom of expression and protection of reputation, January 2001

138 Universal Declaration on Human Rights

139 Vijesti, The progress of investigations too slow, May 29, 2009

140 Radio Free Europe, http://www.slobodnaevropa.org/content/cg_mediji/1620199.html

141 Vijesti, Less success because of fines for defamation, July 1, 2009

significant fines against media for defamation.¹⁴² The report of World Journalist Association published that Montenegrin authorities often threat with charges to media which accuse them for negative activities, while most media, especially public media are under political structures impact.¹⁴³ The study ordered by American Agency for International Aid and Development (USAID) assessed that limited interest for researching is being conditioned by limited means, charges for defamation, and physical violence.¹⁴⁴ According to the report of international organization Reporters with no limits, this year, Montenegro has been ranged on 77th position, which is, when compared with the last year report, fall from 24th position.¹⁴⁵ The last report on progress of Montenegro, which was drafted by European Commission (EC), also emphasized concern for freedom of expression.¹⁴⁶ EC stated that cases of indictment for defamation against journalists are still being used as the mean for pressure on independent journalism.¹⁴⁷ According to EC, statements of officials causing fright also represent the reason for concern, when speaking about the role of media and non-governmental organizations.¹⁴⁸

On July 7, 2009, governing coalition rejected to put into agenda of the Parliamentary session the proposal of Movement for Changes on protection of public word, by which the Parliament would show concern for high judgements for compensation of damage, which bring into issue freedom of expression and represent pressure on journalists.¹⁴⁹

Dailies *Vijesti*, *Dan* and *Monitor* were punished several times for publishing statements, although European Court for Human Rights emphasizes that *'sanctioning of journalists because of assisting in publishing statement of another person would seriously endanger contribution of media to discussion on issues of public importance and may not be implemented save in the case of extremely strong reasons'*.¹⁵⁰ Until nowadays, indictments requiring compensations from *Vijesti*, *Dan* and *Monitor* before Montenegrin courts exceed 13 million EUR.¹⁵¹

142 *Ibid*

143 DAN, Authority press media with charges, September 16, 2009

144 *Vijesti*, Judgments endanger media, September, 22, 2009

145 *Vijesti*, Freedom of media becomes more smaller, October, 22, 2009

146 *Vijesti*, Authority frightens media, October, 13, 2009

147 *Vijesti*, Lack of political will for fight against crime, October 15, 2009

148 See under f-note 139

149 *Vijesti*, Podgorica have to listen to Strasbourg, July, 8, 2009

150 *Ibid*

151 *Ibid*

Cases of politically motivated incidents

The statement of the Police Director Veselin Vujovic on NGO criticism

During the press conference, which took place on March 17, 2009, where the Police Directorate announced results in fight against organized crime, Director Veselin Vujovic said that there were NGOs and political parties which represent unreal picture in that area.¹⁵² “This is about ‘professional’ comments which were told according to instructions and with the aim to inflict damage to the country and citizens, which gives to corruptive behaviour unreal dimensions. That is the attempt of personal affirmation and providing financial and donor means on relatively easy manner and without concrete results”, said Veljovic.¹⁵³ On that occasion, Director of the Police Directorate Veselin Vujovic did not argument nor did he give concrete statements to justify his claims.

Vanja Calovic, who is Executive Director of MANS, said that she adopted Veljovic’s statements as the pressure and frightening of the part of society which attempts to indicate on corruption and organized crime with the assessment that it the police was rather easier to deal with MANS than dealing with the crime.¹⁵⁴ Calovic said that in that manner, Veljovic characterized NGO sector as the enemies of the country and indirectly accused them as espionage.¹⁵⁵ Calovic also said that she expected Veljovic to inform them on arguments and concrete data on which he based his claims and expressed severe accusations on activities of the organization whose representatives are people he participates within the work of National Commission for fight against corruption and organized crime.¹⁵⁶

Threats to the Professor of Political Science Milan Popovic

Professor on the Faculty of Political Sciences Milan Popovic, reported to YIHR that he had received the letter of insulting and threatening character, as the reply on his text which was published in daily Vijesti on March 23, 2009.¹⁵⁷ Popovic told YIHR researcher that he had received the letter three days after the text was published in the newspaper and also three days before elections, which he considered interesting and intriguing.¹⁵⁸ Popovic considered that submitting the invitation from the Prosecution Office related to the same text also represented pressure on him. On March 25, 2009, at 15:30, lecture of Professor Popovic was interrupted by the postman who gave him the invitation from the court explaining indications on organized crime, he put in the text. Interruption of the lecture and postman’s

152 Vijesti, Montenegro is not the nest of corruption and crime, March 18, 2009

153 *Ibid*

154 DAN, Deals with MANS, rather than with mafia, March, 19, 2009

155 *Ibid*

156 *Ibid*

157 Report on the incident; from YIHR records, 01/09

158 *Ibid*

impatience to wait for the break between lectures, which was only 15 minutes after he had interrupted the lecture in order to submit the invitation, Popovic considered as disrespect of his identity, explaining that it was very little possible that it was the mistake.¹⁵⁹ On a journalist question whether he would press charges against Popovic for written indications, Prime Minister Djukanovic answered `the Professor has his own troubles`, which Popovic considered as some kind of threat and encouragement for threatening letter. Popovic said that was probably the act of some of his followers not the order from the top.¹⁶⁰

Professor Popovic did not inform public authorities about the threatening letter which he had received, because he concluded that was purposeless and did not play any role, on the basis of previous cases which were related to him and some other persons. This was the second threatening letter Milan Popovic received and YIHR already has written on this in previous reports.¹⁶¹

The case of the teacher and the Director of the School

During pre-election campaign, on April 6, 2009, the teacher of Elementary School “Dragisa Ivanovic”, Aila Soskic, accused the Director of the School Niko Raicevic he had pressured employees in the School to vote for Democratic Party of Socialist (DPS).¹⁶²

Soskic accused Raicevic for insulting her.¹⁶³ She told YIHR researcher that Raicevic called her ‘idiot and a spy’ after she gave the statement to journalist Branislav Mandic from Vijesti.

Soskic added that Raicevic told her `indecent bastard, you are saved only because you wear skirt otherwise, we would speak differently. You don’t even know who are you dealing with. I know who protects you, but he would not protect you anymore, I swear. So, what if you accused me`.¹⁶⁴

Judge of the Basic court in Podgorica, Veljko Radovanovic, on October 9, 2009, sentenced the Director of Elementary School “Dragisa Ivanovic”, Niko Raicevic to 2.000 EUR fine, because of defamation, after Aila Soskic’s accusations.¹⁶⁵

159 *Ibid*

160 *Ibid*

161 ‘Human rights in Montenegro – 2008’; YIHR – Youth Initiative for Human Rights report

162 Statement of Aila Soskic given to YIHR researcher on September 15, 2009

163 *Ibid*

164 *Ibid*

165 Trial under Aila Soskic appeal against Niko Raicevic; followe by YIHR researcher, Milos Vukotic

Stoning of buses from Kosovo

During summer tourism season, at night between June 28 and 29, on the road between villages Bijelo Polje in Zeta and Bistrica, and between Golubovci and Zeta as well, three buses with Kosovo register plates were stoned and one bus with Bosnian i.e. Macedonian register plates.¹⁶⁶ Not any driver, personnel, or any of passengers was injured but the material damage was committed.¹⁶⁷ Similar incidents occurred several times during summer tourism season.¹⁶⁸ Similar incident happened in Bar.¹⁶⁹

Police Directorate, for the purpose of preventing such and similar events, in the frame of measures and activities for safe tourism season, organized the follow-up for tourism buses from Kosovo, from the border line to Ulcinj or some other destination.¹⁷⁰ Police Directorate also announced they identified committers of the incident in villages in Zeta.¹⁷¹ M.D. (18) from Podgorica, and M.D. (16) from village Bistrice in Zeta, M.C. (19) from Golubovci, as well as, were apprehended and criminal charges were submitted against them.¹⁷²

Theft of the Serbian flag

On July 16 and 17, 2009, Serbian flag was taken off from the New Serbian Democracy premises in Danilovgrad.¹⁷³ That was the second time in a year that Serbian flag has been stolen, said the President of Municipal Board of Nova in Danilovgrad, Pero Radonjic.¹⁷⁴

Problem related to allocation of frequencies to TV Vijesti

Even after two years from the establishment of TV Vijesti, that TV station has not received frequencies yet, despite numerous requirements which were submitted to relevant public institutions. Television Vijesti was established in September 2007.¹⁷⁵ New Law on electronic communications came into force on August 26, 2008. On December 15, 2008, TV Vijesti submitted requirement for frequencies and still has not received them because Broadcasting Agency (ARD) was proclaimed as incompetent. Reason for this were amendments of legislation regulations which are not finished and which have not defined

166 Vijesti, Vandals stoned buses from the dark place, June, 30, 2009

167 *Ibid*

168 *Ibid*

169 Café del Montenegro, Bus with Kosovo register plates stoned, August 7, 2009

170 Vijesti, Vandals stoned buses from the dark place, June 30, 2009

171 Café del Montenegro, www.cafemontenegro.cg.zu-index.php?group=22&news=80989

172 *Ibid*

173 DAN, Serbian flag stolen, July 18, 2009

174 *Ibid*

175 Vijesti, Obstruction of TV Vijesti comes from the top, May 6, 2009

competency. USA Embassy and Germany Embassy, more international organizations as well, expressed concerns and considered this act as violence over freedom of media.¹⁷⁶

On September 10, 2009, the Government adopted amendment proposal for the Law on electronic communications which would define competencies of Broadcasting Agency for the tender calling tender for broadcasting frequencies.¹⁷⁷

EC Report especially was dealing with the problem of competencies and procedures for receiving frequencies, indicating on the problem which TV Vijesti has for almost two years, related to frequencies.¹⁷⁸

“Regarding us, the tendency of not allowing Vijesti to be watched by large number of citizens, among all in Podgorica and for two reasons, is completely clear. I suppose that the first reason is editorial policy which takes care on responsible and professional journalism which implies that information are realistic, with no additional depictions, that there are no permanent and allegedly progress towards European road, that there are no stories on the most beautiful country worldwide, when we have serious and objective problems we must face with; while ythe other reason is, because of the very editorial policy which has been recognized and through independent daily Vijesti, to inflict higher material damage to establishers, among whom and many of them are people from media, from independent daily Vijesti, editors and journalists”, said TV Vijesti Director Slavoljub Scekcic.¹⁷⁹

Statement of the Prime Minister Milo Djukanovic

During Prime Minister Hour, Milo Djukanovic, being revolted by standpoints and words of the Movement for Changes (PzP) leader, Nebojsa Medojevic, emphasized that in that manner, he created the ambient similar to the one which existed before Serbian Prime Minister Zoran Djindjic was murdered.¹⁸⁰ Such accusations, PzP considered as the replacement of thesis and the attempt of political disqualification of all opponents of the authority. Medojevic sought the call of the session of the Assembly Board for security and defense, where the possibility of endangering security of the Prime Minister of Montenegro would be taken into consideration.¹⁸¹

176 Vijesti, Reactions for discrimination and protection of American capital, August 20, 2009

177 Vijesti, They do not mention tender commission, September 11, 2009

178 *Ibid*

179 Radio Free Europe, http://www.slobodnaevropa.org/content/cg_mediji/1620199.html

180 Vijesti, Creating ambient for the assassination on Prime Minister, July 22, 2009

181 *Ibid*

Conflict between representatives of two Orthodox churches

On Ivanova korita, near Cetinje, on August 19, 2009, occurred the incident between representatives of two Orthodox churches in Montenegro, Metropolitanate of Montenegro and Littoral (SPC) and Montenegrin Orthodox Church (CPC) during liturgy in the Preobrazenje Temple.¹⁸² Representatives of the Police Directorate were at the place and three policemen got serious body injuries.¹⁸³ Police Directorate announced that its officers did not use means of extortion except that they only repressed both groups of people in order to prevent severe consequences.¹⁸⁴ As the reason why the incident occurred, terms implying holding prayers, organized by two churches, were mentioned. SPC announced liturgy at 08:00 and CPC at 10:00.¹⁸⁵ Because the liturgy of SPC lasted longer, representatives of CPC lost patience and tried to enter the church using force.¹⁸⁶ In the incident, the Chief of Cetinje Police and one member of SPC were hit by stone. When the SPC clergy left the church, the quarrel at the nearby meadow occurred.¹⁸⁷

Police Directorate announced that Basic Public Prosecutor in Cetinje would be informed on the very event, while the Police has been trying to identify persons who injured police officers.¹⁸⁸ Both SPC and CPC accused the authority and high national functionaries to cooperate and support the other side.

Attacks and threats to Slobodan Pejovic

Pressure on Slobodan Pejovic who was the witness of deportation of refugees from Bosnia in 1992, have continued even this year. YIHR registers and describes incidents in its reports related to Pejovic for a third year in a row.

On April 2, 2009, unknown committers painted his vehicle with white colour. Pejovic's vehicle was the target of attackers, several times earlier.¹⁸⁹ Pejovic said that the last attacker on his vehicle was motivated after his statement before the special public prosecutor on crimes at the mountain Orjen near Herceg Novi.¹⁹⁰ "This is just the warning for something more dangerous that might have happened to me", said Pejovic for the daily Vijesti.¹⁹¹

182 DAN, Miras broke through the cordon, August 20, 2009

183 *Ibid*

184 *Ibid*

185 Vijesti, The police prevented bloodshed, August 20, 2009

186 *Ibid*

187 *Ibid*

188 *Ibid*

189 Vijesti, The vehicle was painted, new warning, April 3, 2009

190 *Ibid*

191 *Ibid*

In evening hours, on September 14, 2009, unknown person fired from hunting rifle at his vehicle.¹⁹² Pejovic connected the event with documentation he had prepared on crimes at the mountain Orjen near Herceg Novi, where military unit killed innocent Muslim civilians.¹⁹³ “*I worked on it for a long time, and managed to receive a lot of data, even evidences and I think that altogether has connection with it. I am all alone, not any person stands behind me, and I probably made some mistake in collecting data on what the crime military had been doing and they probably had lost their patience because they saw I am restless. I set my goal not to rest until I damask and completely reveal how those innocent people died, only because they were of different creed and ethnicity*”, said Pejovic for Free Europe.¹⁹⁴ Human Rights Action (HRA) sent on September 16, a letter to a Supreme Public Prosecutor by which it required to communicate with Pejovic and decide on appropriate measures of his protection, however, even after two weeks after the incident occurred, Supreme Public Prosecutor have not contacted him yet.¹⁹⁵

Tenth attack on Pejovic, or the third attack this year, happened on November 12, 2009, when his vehicle was demolished in Herceg Novi.¹⁹⁶ A glass on his vehicle Ford Mondeo, parked near the row of other untouched vehicles, was broken in the well lightened street in Herceg Novi.¹⁹⁷ Pejovic told for Radio Free Europe that he had received information referring he could be killed and not to appear at the trial on deportation of Bosnian refugees.¹⁹⁸ After the statement Pejovic called the Minister of Interior Affairs, Ivan Brajovic who promised he would do everything in order to receive the protection.¹⁹⁹ Leaders of public and secret police announced that Pejovic’s statements were exaggerating and added they did not have information that his security was endangered.²⁰⁰

Supreme Public Prosecutor, Ranka Carapic stated on November 13, that she had considered the possibility of offering Pejovic status of protected witness.²⁰¹

More public persons and non-governmental organizations sent the appeal to public institutions to protect Pejovic from vandal attacks which have been lasting for years.²⁰²

192 Radio Free Europe, <http://www.slobodnaevropa.org/content/pejovic/1824364.html>

193 *Ibid*

194 *Ibid*

195 Vijesti, Pejovic the enemy of the country, September 20, 2009

196 Radio Free Europe, http://slobodnaevropa.org/content/crna_gora_deportacija_pejovic_/1876206.html

197 *Ibid*

198 Radio Free Europe, http://www.slobodnaevropa.org/content/deportacije_sudjenje/1886622.html

199 *Ibid*

200 Radio Free Europe, http://www.slobodnaevropa.org/content/intervju_slobodan_pejovic/1890690.html

201 Vijesti, The status of protected witness for Pejovic, November 14, 2009

202 http://www.pcnen.com/detail.php?module=15&news_id=860

Strike of Cetinje Gymnasium students

Majority of students and teachers of Gymnasium in Cetinje protested, expressing dissatisfaction after the election of the new director of that educational institution.²⁰³ Protest of students of the eldest Gymnasium in Montenegro, in Cetinje, occurred after decision of Ministry of education not to confirm re-election of Director Miomir Djurisc by the School Board, which the Ministry disbanded in order to appoint new acting director Rada Perisc by the new Board.²⁰⁴ As the reason for opposing the election of Djurisc, his friendship with Metropolitanat Amfilohije Radovic was mentioned.

As there was no agreement between students and the Ministry, acting Director Rada Perisc submitted irrevocable resignation.²⁰⁵ The Ministry representatives proposed the election of new acting by the School Board while students, parents and professors did not adopt candidates for the Board which declared appointment of Miomir Djurisc.²⁰⁶

Although Ministry of Education sent requirements several times for students return to classes, students rejected that proposal of the Ministry mentioning they would not adopt injustice and political pressures. The strike of Cetinje Gymnasium students lasted 42 days.

During strike, students of the Gymnasium received support from their colleagues from Podgorica Gymnasium, Education Trade Union, representatives of NGOs, Mayor of Cetinje etc.²⁰⁷

After series of unsuccessful meetings where candidates for the School Board had to be elected between the Ministry and representatives of students, in which manner the problem would be solved, Prime Minister Milo Djukanovic announced he would involve in resolution of the problem.²⁰⁸ After the Prime Minister involved in resolution of the problem, after two days of negotiations, students and the Prime Minister managed to reach the agreement and to return on their classes.²⁰⁹ Miomir Djurisc was appointed Director of Cetinje Gymnasium, for whom students advocated since the very beginning.

203 Vijesti, Skuletic stay off politics, Sepember 4, 2009

204 Radio Free Europe, http://www.slobodnaevropa.org/content/cetinje_gimnazija_direktor/1820785.html

205 DAN, Director resigned, September 15, 2009

206 Vijesti, Pupils whistled on Jokic, September 15, 2009

207 *Ibid*

208 http://www.slobodnaevropa.org/content/cetinje_gimnazija_direktor/1820785.html

209 http://www.slobodnaevropa.org/content/cetinje_gimnazija_direktor/1820785.html

Attack on the President of Croatian Civic Initiative

The President of Municipal Board of Croatian Civic Initiative and a member of the National Council of Croats in Montenegro, Vladimir Medovic was beaten near the Reas-taurant “Tri duda” in Sutomore at 21:00.²¹⁰ He was attacked by two unknown persons in the evening hours while he stood leaned on the signal light.²¹¹ Medovic’s left arm was dislocated, his left hip was injured, his spin as well, and he got several hematomas over the head.²¹² Two persons of Serbian nationality were accused for the incident, who attacked Medovic because he wore Croatian national team dress.

Incident with the security of the Speaker of the Parliament

On October 3, 2009, at 23:00 in a small park near the Pizzeria “Maestro”, in Ivan Vu-josevic street, because of harmless poking, occurred the fight between four young men with the security members which followed the Speaker of the Parliament of Montenegro, Ranko Krivokapic.²¹³ In the fight Krivokapic’s bodyguards Dejan Mujovic and Mirko Medenica suffered minor injuries while in the Emergency Block of the Medical Center Zoran Korac (26), who was apprehended, was provided aid and who also claimed he was hit over the head with the pistol.²¹⁴ The police apprehended Korac’s brother Slobodan (23) and his friends Milos Zuric (25), and Marko Karadaglic (26) because of the fight with security of-ficers of the Speaker of the Parliament. By the police order on apprehension they have been charged for the criminal act ‘attack on authorized person while performing official duty’.²¹⁵

Four young men suspected for the attack on the security of the Speaker of the Parlia-ment, Ranko Krivokapic were released after they had given statements before investigating judge.²¹⁶

The Speaker of the Parliament of Montenegro, Ranko Krivokapic said he was sorry for the incident between his security guards and four young men, who, as he said, acted inappropriately. “I am ready to understand this as youthful show off, but, unfortunately, in inappropriate form and in an inappropriate manner”, said Krivokapic to media.²¹⁷

210 DAN, Functionary of HGI beaten, September 22, 2009

211 *Ibid*

212 Vijesti, They will require the licence for weapons, September 22, 2009

213 Vijesti, Ironic greeting ended up with beatings on both sides, October 5, 2009

214 *Ibid*

215 *Ibid*

216 PCNEN – First Montenegrin electronic newspaper; Vijesti, Negated they were guilty and released afterwards, October 5, 2009; www.pcnen.com/detail.php?module=2&news_id=40412

217 www.cafemontenegro.com/index.php?group=22&news=91245

Suspected young men expressed regret before the respective Prosecutor because of the incident and showed readiness to demonstrate their responsibility for the incident through community work.²¹⁸ Respective Public Prosecutor defined prolongation of criminal responsibility on that occasion, ordering them to perform community work that would last for 60 hours.²¹⁹

Demolition of the vehicle of the member of municipal board of Democratic Socialist Party

A vehicle Renault 5 of the member of municipal board of DPS in Andrijevisa, Igor Lalic was damaged.²²⁰ The incident happened on November 9, 2009, at 01:00 after midnight in Andrijevisa, at the parking place between Montenegrin Commercial Bank and the Health care Center, when the bomb M-75 was thrown under Lalic's vehicle.²²¹

Since the last year, this was the third demolition of his vehicle. Last year, during Presidential elections, when he was the member of electoral commission in the regional unit of Elementary School 'Milic Keljanovic', after the closure of the polling station, unknown attacker set the fire under his vehicle and escaped.²²² YIHR have already written in its reports on these incidents.²²³

Also, on March 18, 2009, Molotov cocktail had been thrown, as Lalic said after the visit of Svetozar Marovic, Predrag Boskovic, and Nikola Kovacevic, and the meeting with DPS municipal board.²²⁴ Investigating judge of the Basic court in Berane Milovan Spasojevic announced that the elements from the place of explosion should be sent to analysis in Forensic Center in Danilovgrad.²²⁵

Cases of attacks, threats, and appeals against journalists and public persons

Former President of the Board of Aluminium Plant (KAP) Podgorica, Vojin Djukanovic charged for mental sufferings the MP of Socialist People Party, Velizar Kaludjerovic because he accused him for dealing with the idea of privatization for personal interest.²²⁶ Djukanovic sought compensation of 7,000 EUR for sustained mental sufferings, because on October 19, 2005, Kaludjerovic said at the Assembly discussion that Djukanovic, as the

218 Statement for public signed by attorneys Nikola Martinovic and Drazen Medojevic, from YIHR records

219 *Ibid*

220 Vijesti, Who got an eye on him, November 10, 2009

221 *Ibid*

222 *Ibid*

223 Human Rights in Montenegro 2008, Youth Initiative for Human Rights Report

224 DAN, Third attack on the forest guard, November 10, 2009

225 *Ibid*

226 Vijesti, Fell in depression because of Kaludjerovic's statements ,May 28, 2009

Minister of Economy, President of KAP Administration Board and the member of Board Director supported privatization of KAP.²²⁷

Defamation Charges: Case of Dzomic and Veljovic

Priest from Podgorica Velibor Dzomic submitted charges for defamation against Director of the Police Veselin Veljovic.²²⁸ Dzomic sued Veljovic because on the Parliamentary Board for Security, which was closed for the public, he said that the leader of the New Serbian Democracy Andrija Mandic, priests Velibor Dzomic and Branko Tapuskovic were developing the plan to put up the fire in the Parliament.²²⁹

At the session which took place on September 10, 2009, the trial was delayed for undefined time until defining the competent person who would release the Director of Police Directorate Veselin Veljovic from keeping the official secret.²³⁰ After that, Dzomic said that according to the Law on protecting official secret, has been clearly defined who is competent for revealing official secret and that in this case, it was the Chief of the Police Directorate,²³¹ Veljovic. Also, as the evidence, Dzomic gave the copy of the passport in order to prove he was out of Montenegro during that period.²³²

At one of preparatory sessions judge Vjera Sljivancanin did not want to begin the debate until all persons in the court left their mobile phones.²³³ The judge told journalists and persons who came to follow the trial, to leave the court house because, as she explained, the approval of the President of the Basic court Zoran Radovic for their presence was required.²³⁴ After consultation with the President of the Basic court, the judge called journalists to come because she was told that the trial may be opened for public, but she required mobile phones to be handed to her.²³⁵ Every person, including attorneys-at-law and prosecutors, had to put their mobile phones on the judge table.²³⁶ The President of the Bar Association Zdravko Begovic, as many other experts, on the occasion of the incident, assessed that not any person should disapprove the absence on the trial, notwithstanding what the person thinks on them.²³⁷

227 *Ibid*

228 Vijesti, Veljovic confided only to MPs, April 30, 2009

229 DAN, Veljovic stays silent on official secret, April 30, 2009

230 DAN, Veljovic to release himself of keeping the secret, September 11, 2009

231 *Ibid*

232 Vijesti, The Judge called to take mobile phones from journalists, September 25, 2009

233 Vijesti, The Judge called to take mobile phones from journalists, September 25, 2009

234 *Ibid*

235 DAN, Conflict of the Judge with DAN, September 25, 2009

236 *Ibid*

237 DAN, The way of leading trial makes people sick, September 26, 2009

During the trial, Police Directorate Director Veselin Veljovic contested claims and said that he had never mentioned in public Dzomic in any context.²³⁸ The court rejected the charge against Veljovic.²³⁹

Defamation Charge against Ibrahim Cikir

After publishing the book “Where the Sun does not shine”, where he witnessed on what had happened to him at the beginning of the war events in Montenegro, the author of the book Ibrahim Cikir was charged for defamation by eleven persons who were mentioned in the book, and who were former workers in the prison and doctors from Bijelo Polje.²⁴⁰ Cikir and twenty leaders more of the Party of Democratic Action of Montenegro were apprehended in 1994, and were sentenced for planning the armed conflict in Sandzak. In 1996, they were released after abolition of the President Momir Bulatovic and afterwards the Supreme Court of Montenegro rejected claims of the Prosecution Office. In his book, Cikir described in details the police torture over him, which was conducted over him when he was apprehended while not any person submitted charges against him. He described inhuman actions in jail, but even political motivation of the process.

The beginning of the trial for defamation was appointed for May 12, 2009, however, as he said to journalist in Vijesti, Cikir did not receive any information from the Court.²⁴¹ Judge of Basic court in Bijelo Polje, Rahmo Banda said that he did not have any confirmation that Cikir was informed on hearing process and because of it he delayed the trial.²⁴² “*My only sin is that I dare to remember the torture executed over me by representatives of Montenegrin police and the prison guard in Bijelo Polje. The very argument that I have been charged by eleven workers of Bijelo Polje prison, says enough that it is just the prolongation of the crime from 1994*”, said Cikir.²⁴³

The judge Banda announced on September 15, that Ibrahim Cikir would be trialled in absence because he did not show up on several sessions.²⁴⁴ As daily newspaper Vijesti published, Cikir did not receive charge nor the invitation to attend session although he spent two months in Bijelo Polje.²⁴⁵

Cikir’s attorney-at-law, Dragan Prelevic, submitted initiative, on October 20, 2009, for dismissal of the judge Banda from the Basic court, because of unprofessional and in-

238 Vijesti, I have not mentioned Dzomic, November 7, 2009

239 Pobjeda, Dzomic’s requirements unjustifiable, November 28, 2009,

240 Vijesti, Eleven people from Bijelo Polje sued Cikir for defamation, April 27, 2009

241 *Ibid*

242 Vijesti, Cikir was not informed, May 13, 2009

243 Vijesti, People were taking care of their dignity during 90s, not nowadays, May 14, 2009

244 Vijesti, Cikir under the trial during his absence, September 17, 2009

245 *Ibid*

human behaviour, making, in that manner, illegal decision on the trial of Cukic in his absence which was, according to Prelevic, direct violation of provisions of Law on criminal proceeding.²⁴⁶ Cukic's attorney-at-law also initiated administrative dispute against decision of the Higher court in Bijelo Polje which did not enable insight into case files which was finished finally in 1995 against Ibrahim Cukic.²⁴⁷ In the initiative also stands that Cukic did not escape and that he was not unapproachable to public authorities, but, because of family situation he lived in Sarajevo and Bijelo Polje, depending on needs and opportunities. Because of it, Prelevic considers there is no reason why he should be judged in absence because the invitation could be delivered without any disturbances in Bijelo Polje or Sarajevo.²⁴⁸ Because of the initiative, the judge Banda, delayed the trial until decision on requirement for his dismissal.²⁴⁹

Group of citizens submitted an appeal to Montenegrin and international public to join Ibrahim Cukic and other victims of political prosecution, to provide necessary solidarity and support, to ensure deserved critics and judgments to the responsible, and to give opportunity to Montenegro to return to political and any other normal situation."²⁵⁰

Group of citizens invited Supreme Public Prosecution of Montenegro to take over all necessary measures in order to resolve and punish the crime committed over Ibrahim Cukic and other during the period from 1994 to 1995, in accordance with Law.

Defamation Charges: Case of Komnencic

Journalist of the weekly Monitor, Petar Komnencic was charged for defamation because of the text he published at the beginning of summer in 2007, where he wrote that the Director of Police Directorate Veselin Veljovic, at the session of the Assembly of Board for security announced that some persons on the high positions in judiciary disturb and block investigations. In that context, Ivica Stankovic and Radovan Mandic were mentioned. Judge Stankovic submitted charges against Komnencic. The trial was delayed because former judge of the Higher court Radovan Mandic did not come, although the court ordered him to appear.²⁵¹ According to Judge Ana Vukovic, Radovan Mandic did not come at the main search although he was regularly informed he should pass hearing in the capacity of the witness.²⁵² The trial was delayed again on July 16, because Radovan Mandic did not answer the invitation.²⁵³

246 DAN, Banda destroyed me, October 21, 2009

247 Vijesti, Alternation of Banda has been required, October 21, 2009

248 *Ibid*

249 Vijesti, Decision on dismissal of Banda is being waited for, October 22, 2009

250 Vijesti, Attacks on people with opponent opinion should stop, June 19, 2009

251 Vijesti, Police does not inform why it did not apprehend Mandic, June 4, 2009

252 DAN, Warrant for apprehending Radovan Mandic, June 4, 2009

253 Vijesti, Mandic sent letter again, July 17, 2009

After the session which took place on September 2, which was attended by the former judge of the Higher court Radovan Mandic in the capacity of witness, confirmed that at the end of 2005, his mobile phone was under surveillance in the scope of measures of the secret surveillance which was then approved by investigating Judge, Hamid Ganjola.²⁵⁴ When the measure expired, Mandic sought the case for the insight from the President of the Higher court Ivica Stankovic, in order to find out who and for what reasons ordered measures undertaken against him.²⁵⁵ Although Stankovic ordered to all investigating judges to submit files in which measures of secret surveillance were defined, the case has never been returned from the Special Prosecution Office where it had been submitted, according to Ganjola's letter.²⁵⁶ These measures were conducted in the frame of investigation on murder of inspector Slavoljub Scekić.²⁵⁷ Mandic also said at court that he was surprised when Stankovic reacted on the text of Komnenic because all of them supposed they had been under surveillance.²⁵⁸ Mandic emphasized that he had avoided testifying because he did not want to use something that was not considered as truth.²⁵⁹

The President of Association of lawyers Stanko Maric and Action for Human Rights, on the occasion of Radovan Mandic's statement, reacted and called Prosecution Office to investigate thoroughly statements of the judge of the Higher court on illegal surveillance of the judge of the Higher court in Podgorica in 2005.²⁶⁰ "Statement which was give by the judge of the Higher court indicate on possible execution of several criminal acts, including the abuse of official position by higher functionaries in judiciary. The extent of capability of the country to exercise the rule of law shall be appreciated according to abilities of its judiciary to explore objectively and processes the abuse in its own lines", stated Action for Human Rights.²⁶¹

Former investigating judge Hamid Ganjola, in continuation of the trial, negated he had ever ordered measures of secret surveillance of colleagues from Higher court in Podgorica.²⁶² When Ganjola and Mandic faced each other, they both kept their sides, or Mandic still claimed that Ganola and Stankovic ordered secret surveillance over him and some other judges as well, while Ganjola denied ²⁶³those claims. By the indictment of the Basic court in Podgorica, Komnenic was fined by 3,000 EUR punishment.²⁶⁴ *"I know this is naive but I hoped a little to the releasing indictment. I do not lose hope that everything is dead in this*

254 DAN, Mandic was under secret surveillance, September 3, 2009

255 *Ibid*

256 Vijesti, Mandic claimed that half of the court members were under secret surveillance, September 3, 2009

257 *Ibid*

258 *Ibid*

259 *Ibid*

260 Vijesti, Maric: Prosecution Office violated law, August 4, 2009

261 DAN, Prosecution Office should investigate Mandic's statements, August 4, 2009

262 DAN, Radovan speaks nonsense, September 22, 2009

263 DAN, Radovan spoke, Ganjola stayed silent, October 7, 2009

264 Vijesti, Komnenic should pay 3,000 EUR, October 8, 2009

country, that judiciary is not completely captured. This is one more proof that is the realistic condition and that the court and other bodies regularly ignore arguments and submitted evidences and statements of our official sources”, said Komnenic.²⁶⁵ Komnenic added he would complain on the verdict.²⁶⁶ Attorney-at-law Nikola Martinovic considers this verdict unlawful and not sustainable. “If this verdict becomes the practice of Montenegrin courts and second instance courts, then I am convinced that obituary should be issued for journalism in Montenegro”, said Martinovic.²⁶⁷

On the occasion of the first instance verdict, a lot of public persons and NGOs reacted. Action for Human Rights announced that by the decision, judge did not show understanding for the role of media that in democratic society they investigate and reveal secrets of public importance, such as undoubtedly the issue of unlawful enforcement of secret surveillance measures.²⁶⁸ The President of Association of lawyers of Montenegro Branislav Radulovic assessed that in verdicts of this type, public loses confidence in independency and credibility of judiciary.²⁶⁹ He emphasized that verdicts are not harmonized with international practice of European Court for Human Rights and that instead this cases represent incident they represent the rule of what can be manifested on exercising rights to freedom of expression.²⁷⁰

The same journalist was sued for defamation by Safet Kalic because of the text which was published in Monitor in September 2008.²⁷¹ In the text, the author said that Kalic was “main drug-lord, his connection representatives of Zemun clan and that he was apprehended because of arrestment of ten-member group accused for preparation of elimination of an person”.²⁷² In his text, Komnenic referred to the report of the Agency for national security of Montenegro (ANB) which was represented to members of Parliamentary Board for security and defense, and whose parts leaked in media.²⁷³ At the session scheduled for July 9, 2009, Director of ANB, Dusko Markovic should explain how the agency in some of its reports treated Safet Kalic. Markovic rejected to appear and instead of it he sent the letter claiming he could not speak on that issue because he would insult official secret.²⁷⁴

The Judge, Dijana Radulovic did not accept explanation of Markovic and ordered him to appear at the following session.²⁷⁵ ANB Director did not appear at one more session

265 *Ibid*

266 *Ibid*

267 *Ibid*

268 DAN, Impeding investigating journalism, October 9, 2009

269 Vijesti, Frightening media may not survive long, October 9, 2009

270 *Ibid*

271 Vijesti, Judge: Dusko must go to the court room, July 10, 2009

272 *Ibid*

273 Radio Free Europe, http://www.slobodnaevropa.org/content/komnenic_monitor/1884228.html

274 DAN, On Kalic's wedding, 'members from Zemun' and the State Security (DB) together, July 10, 2009

275 *Ibid*

scheduled for September 2, 2009.²⁷⁶ He submitted the letter to the court explaining he could not attend it because of obligations on international plan.²⁷⁷

Basic court in Podgorica, on November 21, 2009, issued the verdict by which it fined Komnencic with 2,000 EUR.²⁷⁸ Judge Dijana Radulovic mentioned in the verdict that in the text from 2008, Komnencic published ‘claims which were not true and which may endanger the reputation of the prosecutor’. Komnencic announced that he would complain on the verdict which he called ‘shameful’ because it ‘prohibits investigating journalism in Montenegro’.²⁷⁹ *“When considering verdicts issued by Montenegrin courts to journalists and media, three key prohibitions of investigating and any other form of journalism in Montenegro may be noticed. Firstly, courts prohibited publishing of valuable judgments. Then they sanctioned media for announcing author standpoints and texts of Montenegrin MPs, public activists and Presidential candidates. This verdict was joined with the one which prohibited quotation of relevant speakers and witnesses who repeated in the judicial process, and also widened their quotations, on which the text was based. Their testimony was ignored and submitted documentation, as well, which spurs doubts, and the journalist was convicted for defamation with weak and unclear explanations. At the end, courts prohibited quotation of statements and documents of official public authorities, explaining to the overall journalist community that investigating specific issues and persons is not desirable”*, said Komnencic to YIHR researcher.²⁸⁰

Member of self-regulatory body, Nedjeljko Rudovic claims that the purpose of such verdicts is to suppress free journalism while the consequences will be severe. “Generally, journalism in Montenegro is being tried to be placed at the lowest level, at the position where it was at the beginning of ‘90s, when almost everybody was in the uniform and when almost all were in the service of authority policy in that time. All this has far-reaching and severe consequences, and one of the hardest is that we all begin to lose faith, if we ever had the faith in justice and in Montenegro as the country of law, in Montenegro as the country that could access the society of modern European countries which are recognized by the rule of law.”²⁸¹

The third proceeding which was conducted against Komnencic after Tomislav Kovac appeals was stopped on September 29, 2009.²⁸² Owner of the company ‘Aleksandrija’ and the former Minister of Police in Serbia submitted appeal for defamation against Komnencic because of the text which stated that Kovac did not have Montenegrin citizenship.²⁸³ As Tomislav Kovac did not appear at the trial, just as his attorney-at-law, the proceeding was concluded because the charge was withdrawn.²⁸⁴

276 DAN, Dusko Markovic did not come, September 3, 2009

277 *Ibid*

278 Radio Free Europe, http://www.slobodnaevropa.org/content/komnencic_monitor/1884228.html

279 *Ibid*

280 From the conversation of YIHR researcher and Petar Komnencic, December 10, 2009

281 *Ibid*

282 Vijesti, Kovac withdrew the appeal, September 30, 2009

283 *Ibid*

284 *Ibid*

“Major problem is that the freedom of speech in Montenegro is not being understood the way it should be, furthermore it is not understood in the manner in which it is implemented in Europe. Specific level of provocations is absolutely necessary in journalism. The question of truth which has been constantly asking to journalists and other public persons that should be proved before the court is not at that level at which is being sought in Montenegrin judiciary. Europe implies that if you have understandable reason to believe in something then you should not explore because journalists are not systemic mechanism dealing with processing of specific appearances. They indicate on this appearances and it is enough to show some reasonable level of trust or justification of specific argument, but not to explore whether it is exactly in accordance with the Criminal Code or in accordance with other laws. Journalists have amount of freedom and their obligation is not to be investigating bodies. That problem appears on Montenegrin courts”, said Nikola Martinovic for Radio Free Europe.²⁸⁵

Defamation Charge against DAN

Council of the judge of Basic court in Podgorica, Vjera Sljivancanin ruled the verdict by which daily Dan is obliged to pay 10,000 EUR to Veselin-Vesko Barovic, Branko Vujosevic, and Danilo Mitrovic for mental sufferings, after publishing text “Millions of tobacco mafia in Basketball Club Buducnost”.²⁸⁶ Controversial text was taken over as a whole and published from Croatian weekly “Nacional” in 2001.²⁸⁷ Prosecutors mentioned as controversial text ‘Opponent of Cibona in Adriatic league’.²⁸⁸

The verdict stated that the prosecuted is obliged to pay mentioned amount to prosecuted for mental sufferings, for insulted dignity, honour and reputation. The explanation of the verdict said that prosecutors specially indicated on publishing their photos as members of Montenegrin tobacco mafia.²⁸⁹ Judge Vjera Sljivancanin claimed that, after the statement of Veselin Barovic on the day when DAN published mentioned titles, he faced with unpleasant situation privately and in business.²⁹⁰

Journalist of Croatian ‘Nacional’, Berislav Jelinic announced after the verdict that he was not surprised by the news because that became ‘interesting practice’ in Montenegro, especially when DAN comes in issue.²⁹¹ The President of Association of Journalists of Montenegro Jovan Plamenac announced that the conviction of DAN was not logic because of statements in the text which were taken from Nacional, and that charges were not

285 Radio Free Europe, http://www.slobodnaevropa.org/content/intervju_nikola_martinovic/1848579.html, October 13, 2009

286 DAN, Receiving 30,000 EUR, they cured mental suffering, June 29, 2009

287 *Ibid*

288 *Ibid*

289 *Ibid*

290 *Ibid*

291 DAN, Sued and judged, June 30, 2009

submitted against that weekly. He also pointed out that it was not logical to appoint a judge in a trial against DAN, the very same person who herself recently filed a law suit against this newspaper.²⁹² Judge Vjera Slijivancanin found herself in the role of prosecutor against DAN because of the statement which professor Risto Bogojevic gave media. She received 15,000 EUR for mental sufferings.²⁹³

Since establishment of DAN, more than 80 charges of newspapers publishers, editors and journalists were initiated before Montenegrin courts.²⁹⁴ “Pressures were intensive on our daily newspaper, from charges to beatings and apprehensions of the chief editor, to putting the fire up in the printing house and the murder of Dusko Jovanovic who was the Director and the First man of DAN, at the end. Even after he had been killed, pressures on DAN have not stopped, there were threats to editors and journalists, submitting charges, leaving hard weapon at the entrance of redaction and there was also information tip on setting up of explosive device”, said the article which published DAN.²⁹⁵ Some of court proceedings against DAN from 2004 to 2009 were conducted after Milo Djukanov’s charges, Dusko Markovic, Bozidar Ivanovic, Vuk Boskovic, Filip Cepter, Dusanka Jeknic Vesko Barović, Danilo Mitrovic, Branko Vujosevic, Stanko Subotic, Ljubisa Krgovic, Vjera Slijivancanin, and the overall amount was more than 150,000 EUR.²⁹⁶

Defamation charges against Veseljko Koprivica

Journalist of the weekly Monitor Veseljko Koprivica was released of defamation charge on the first instance level submitted against him by former leader of Liberal Alliance, Slavko Perovic.²⁹⁷ Slavko Perovic sued Koprivica after the text ‘Member of the Parliament in prison’, published in Monitor on November 15, 2007, in which he stated that Perovic met in the restaurant of prison in Spuz with Milo Djukanovic.²⁹⁸ For Free Europe, Veseljko Koprivica said: “It was encouraging, not only for journalists but for judges as well, and I think I can conclude, after the verdict, that in Montenegrin courts new generation of professional judges is emerging, who respect European standards, at least when journalists come in issue. We will see what will happen. I heard disputable information from Mr. Slavko Perovic when I was the chief editor of ‘Liberal’. I did not consider that important. It was not the secret, and I mentioned it as a side event in a story, which had focus on Director of Spuz prison, i.e. Institution for enforcement of criminal sanctions as it is officially named. I haven’t dreamed it would turn out to be an insult. Why the meeting of political opponents should have any insulting connotations? I haven’t made any conclusions from that sentence,

292 *Ibid*

293 *Ibid*

294 DAN, Alone against everybody, September 7, 2009

295 *Ibid*

296 *Ibid*

297 Vijesti, Koprivica did not harass Perovic, June 11, 2009

298 *Ibid*

and there was no reason not to believe in its authenticity. Based upon the respective legal provisions, the Court ruled that it was not my intention to insult or to damage in any way the honour and reputation of Slavko Perovic, hence I was acquitted.²⁹⁹”

The lawyer of Slavko Perovic announced the appeal to Higher Court in Podgorica.³⁰⁰ Koprivica is one of the journalists with highest record of charges against him. As of 1994, he has been sued in approximately 20 court cases, out of which 5 of them have been running this year.³⁰¹

Under the final verdict, came in force in October this year, Veseljko Koprivica has been fined in the amount of 5,000 EUR, along with the interests from 23rd October 2004, which would be paid to journalists Milorad Bošković i Milan Stojović.³⁰² In addition, Koprivica would have to cover the costs of court proceeding, in the amount of 4020 EUR, along with the interest from 8th September 2008. This punishment was issued because of the article “Sixteen”, published in Liberal, on 24th September 1994. In this article, Koprivica stated that Hague Tribunal records contain the names of 16 Montenegrin journalists, which have been publishing warmongering articles.³⁰³ Koprivica has already been sentenced by the Podgorica based Higher Court, on the account of the same article and charges pressed by Bozidar Colovic. Respectively, the Court fined Koprivica with 15,505 EUR for compensating the mental sufferings and degrading the honour and reputation.³⁰⁴

Defamation charges: Medojević and „Vijesti“

MNSS BV Company, owner of Steel factory, pressed charges against Nebojsa Medojevic, leader of Movement for Changes, and Daily press, publisher of daily Vijesti, because of the article ‘Money laundering instead of special steels’, demanding 10 million EUR, as the compensation for jeopardized business reputation.³⁰⁵ In this article, published on 17th February 2008, Medojevic expressed his doubts in reliability of new partner of Montenegrin Government, emphasizing the strong risk that Dutch company MNSS is placing cash from illegal activities.³⁰⁶ Basic Court in Podgorica ruled that Daily press and Nebojsa Medojevic should pay to MNSS BV the amount of 33,000 EUR in total, on the account of non material damage.³⁰⁷ In his verdict, judge Blazo Jovanic, stated that Medojevic accused the MNSS BV without any evidences, whereas Vijesti should have verified the authenticity of

299 Radio Free Europe, http://www.slobodnaevropa.org/content/intervju_nikola_martinovic/1848579.html

300 *Ibid*

301 *Ibid*

302 Vijesti, The account of Koprivica made clear, October 24, 2009

303 *Ibid*

304 *Ibid*

305 www.cafemontenegro.com, Judgment for both Vijesti and Nebojsa Medojevic, September 5, 2009

306 www.cafemontenegro.com, September 5, 2009

307 www.cafemontenegro.com, September 5, 2009

those claims prior to publication of Articles and thus demonstrate their professionalism.³⁰⁸ Lawyers of Nebojsa Medojevic lodged an appeal to a Higher Court,³⁰⁹ stating that not a single ratified and published international treaty defined the right to compensation of non material damage for a legal person on the account of jeopardized business reputation.³¹⁰

Lawyer Nikola Martinović, in the mentioned appeal, said that if accepting the stance of Judge Blazo Jovanic, that newspaper should be held responsible for statements made in authorized article of politician, then the newspapers should be forced to verify every statement of political party leaders and MP's. *"This would result in degrading the daily information flow, and every daily newspaper would instantly have to assume the roles of police station and scientific institution."*³¹¹

Momcilo Stojanovic, Deputy Director of Broadcasting Agency, pointed out that sentencing media for publishing statements of public persons is unacceptable.³¹² Dusko Vukovic, journalist, said that these kind of sentences are dangerous from the point of freedom of information. In addition, this sentence adds to the practice of punishing media for publishing other people's opinions, which might prevent the launch of public dialogue on important social issues.³¹³ Director of Montenegrin Media Institute, Radojica Bulatovic added that sentences like this one, are narrowing the space for identifying the important social issues.³¹⁴ Also, these sentences provoked the reactions of journalists from Croatia and Serbia, pointing out that sanctioning the publication of authorized article is restriction of media freedoms, as well as it indicates the link between the politicians and judiciary.³¹⁵

Programme Editor at Human Rights Action, Tea Gorjanc-Prelevic emphasized the wrong application of practice of European Court for Human Rights.³¹⁶ Preventing media to publish statements of third parties, especially when it comes to politicians, profiled public persons and MP's, prior to verifying their authenticity, would completely *"eliminate the purpose of media function as the forum for informing the public, not only on absolutely accurate data, but also on attitudes of public persons in regards to the issues of public issues"*.³¹⁷

OSCE Ambassador, Paraschiva Badescu said that any *"physical assault, especially on journalists, is an act, which cannot be justified, since it represents the attack on human dignity and media freedom in general. It is necessary to emphasize that public persons must be open to critics"*

308 Vijesti, Clear conscious cannot accept Jovanovic's verdict, September 8, 2009

309 Vijesti, Jovanovic's right does not exist in practice, September 22, 2009

310 *Ibid*

311 Vijesti, According to Jovanovic, police stations would be the news, September 23, 2009

312 Vijesti, Clear conscious cannot accept Jovanovic's verdict, September 8, 2009

313 *Ibid*

314 *Ibid*

315 *Ibid*

316 Vijesti, Frightening message to media, September 6, 2009

317 *Ibid*

*and demonstrate high level of tolerance towards the work of media and their representatives, since media freedom is the backbone of democratic society, in which media serve public interest.*³¹⁸

So far, Vijesti paid or shall do so, upon the final verdicts, the amount no less than 102,244 EUR.³¹⁹ In other processes in progress, plaintiffs are demanding the additional 1.110.000 EUR,³²⁰ in addition to ongoing cases on the account of charges pressed by the prime minister of Montenegro and Steel factory. Some of the cases against Vijesti have been initiated by the prime minister Milo Djukanovic, Steel factory, Safet Kalic, Vesko Barovic, Zoran Sekulic, Milika Ceko Dacevic, etc.

Defamation Charge against Andrej Nikolaidis

Supreme court of Montenegro confirmed previously adopted verdict of the Higher court by which Andrej Nikolaidis and weekly Monitor were fined to 12,000 EUR punishment for mental sufferings they inflicted to the movie director Emir Kusturica, after publication of text 'Executioner apprentice', five years ago.³²¹ Editor of Monitor said he had expected such decision of Supreme court. According to Editor of Monitor, Esad Kocan, Monitor was guilty because it continued testifying on committers of evil actions during the war.³²² Andrej Nikolaidis, who was the author of controversial text emphasized he would not stop using irony and sarcasm because of the verdict and added he was sentenced because he negatively expressed on Kusturica's art, which was, as Nikolaidis said, according to Supreme court opinion, negative and critical opinion which is punishable.³²³ YIHR researched and wrote about the case of Andrej Nikolaidis in previous reports.³²⁴

"Treatment of independent media in Montenegro is the treatment of an unknown body, of an undesirable appearance which is, in essence, in Montenegro sustained because we anyway live in Europe and would not be suitable if independent media disappear entirely. That they have been threatening as enemies, but not as desirable and normal part of social organism which follows events, speaks by the fact which tells not only on a large number of punishments and charges to media that are not controlled by authority, but because they have not been punished. If you only take the case of Emir Kusturica, the case would abolish the right to memory, right to valuable judgment on responsibility for participation in crime. People who should have been under the impact of Law on lustration and Law on extra profit, want to enslave even our past, our present, and future, so their image could be more beautiful. After Emir Kusturica's verdict, Monitor was prohibited. Prohibited newspaper! If Monitor does not have the right to write about it can't write

318 DAN, OSCE does not examine relationship of politics and crime, September 9, 2009

319 Vijesti, Podgorica has to listen to Strasbourg, July 8, 2009

320 *Ibid*

321 Vijesti, Nothing hurts Kusturica anymore, September 9, 2009

322 *Ibid*

323 *Ibid*

324 Human Rights in Montenegro 2008, Youth Initiative for Human Rights Report

on anything else. It is the essence of Monitor. What is then the role of Monitor if it does not have the role to organize memory, to develop awareness on responsibility and to offer choice”, said the Editor of Monitor Esad Kocan.³²⁵

In regards of the verdict, journalist Dusko Vukovic said: “I am very disappointed by such decision because I think that it sends very problematic message to public and media in Montenegro, and even wider. It is concerning because, like some previous verdicts in Montenegro, wants to make clear that the public dialogue on some controversial matters and even controversial behaviours of specific persons in distant and recent past, in some indisputable manner, that it can be talked about in public and that different opinions on that cannot be confronted.”³²⁶

Defamation charges against Dejan Milovac

During 2009, trial of the Deputy of Executive Director of Network for Affirmation of Non-Governmental Sector, Dejan Milovac, who was sued for compensation of damage by Mayor of Cetinje Milovan Jankovic. YIHR described in details this case in the last year report.³²⁷ Jankovic changed the requirement in which he reduced the compensation from 40,000 EUR to 3,05 EUR.³²⁸ “Such cases against representatives of civil society easily become the trend among Montenegrin public functionaries who have not got used to justify their work before public and that their primary duty is protection of public, and not whatever interest. On one side we have invitations of institutions to report them cases of law violation and corruption, while on the other side we have the practice of the small number of individuals who dare to deal with this issue and who then face with harassment with private charges and different pressures. All that additionally does not motivate citizens to be actively involved in fight against corruption and other law violations”, said Milovac.³²⁹

Defamation charges, Capin – Pejovic – In defamation charge which has been submitted in 2005, against Director of Public institution Museum and Gallery and the Councillor of Serbian list Djordje Capin, Basic court in Herceg Novi ruled on the verdict on releasing.³³⁰ He was accused by Gojko Pejovic because Capin revealed accusations related to him in the text in Vijesti on legacy of Captain Miroslav Stumberg.³³¹ In the verdict, Judge Sonja Cvjeticanin called on Article 10 of European Convention on Human Rights, which

325 From conversation of YIHR researcher and Esad Kocan, from December 7, 2009

326 Radio Free Europe, http://www.slobodnaevropa.org/content/intervju_dragoljub_vukovic/1821277.html

327 Human Rights in Montenegro 2008, YIHR Report

328 Vijesti, Instead of 40.000 required 3.05 EUR, October 28, 2009

329 DAN, Two years of mental suffering, April 10, 2009

330 Vijesti, Defamation release for Capin, December 12, 2009

331 *Ibid*

guarantees freedom of expression.³³² Since 2005, against Capin were submitted six charges for defamation, he was fined twice, while one trial has been started again.³³³

Case Mugosa – Vijesti

Mayor of Podgorica Miomir Mugosa and his son Miljan, the employee of Ministry of Foreign Affairs of Montenegro, attacked photographer and the editor of TV Vijesti, Boris Pejovic and Mihailo Jovovic while they were performing their duties.³³⁴ The attack was executed because photographer Pejovic recorded irregularly parked Mugosa's vehicle.³³⁵ According to Jovovic, who received serious body injuries when attacked,³³⁶ Miljan Mugosa loaded a gun and leaned it on his back, which he afterwards moved after his father's requirement.³³⁷

According to media statements, investigating proceeding marked various failures of the police and Prosecution Office. On journalists insisting, the police did not search the vehicle, in order to see whether there was a gun in it, but did this in front of the Security Center building in Podgorica.³³⁸ Their explanation was that it was official car, so, they could not do that. In the statement given by Boris Pejovic to Internal Control of the police, he had noticed 'fright of the police representative' because they continuously sought consultations with their supervisor.³³⁹

Daily Vijesti submitted criminal charge against Miomir Mugosa. At the same time, the driver of Mayor, Dragan Radonjic submitted criminal charge against Mihailo Jovovic accusing him for infliction of body injuries.³⁴⁰ Differently than Jovovic and Pejovic who came to Emergency Center the same evening, Mugosa's driver was examined a day after the incident, complaining on headache and possible injuries of head, not mentioning to medical personnel what kind of attack had happened.³⁴¹

Basic Public Prosecution submitted requirement for conduction of investigation against Miljan Mugosa and journalist of Vijesti Mihailo Jovovic which said, according to the Prosecution version, that Miljan Mugosa injured Jovovic while Jovovic injured Radonjic.³⁴²

332 *Ibid*

333 *Ibid*

334 Charge of Mihailo Jovovic and Boris Pejovic to Police Directorate, from YIHR records

335 *Ibid*

336 After this Jovovic had a surgery

337 *Ibid*

338 Statement of Boris Pejovic to Police Directorate, from YIHR records

339 *Ibid*

340 DAN, Movement of Miljan limited, August 13, 2009

341 *Ibid*

342 Radio Free Europe, http://www.slobodnaevropa.org/content/intervju_dragoljub_vukovic/1821277.html

On requirement for conduction of investigation, was decided on, as Ranka Carapic said,³⁴³ on the basis of Radonjic's statement and medical records.³⁴⁴

Investigating judge made decision on conduction of investigation against Jovovic and Miljan Mugosa on August 20, 2009.³⁴⁵ Investigating judge of the Basic court Nebojsa Golubovic issued the measure of appearing on every first day of the month to Miljan Mugosa because he had the status of a diplomat and the possibility of departure from the country.³⁴⁶ The same judge did not deal with the gun during the hearing, which, as Jovovic said, Miljan pointed on him.³⁴⁷ During the hearing in investigation against Mugosa, among others, also declared doctor Milanka Raicevic, who kept her standpoint that only autopsy may show the real cause of injury of Dragan Radonjic,³⁴⁸ while judicial expert, Doctor Dragana Cukic excluded the existence of serious body injuries - brain concussion in Radonjic's case. Doctor Cukic qualified the injury of Radonjic as 'serious body injure'.³⁴⁹ A judge officially proclaimed Mihailo Jovovic as the firstly accused for the offence which prescribed the punishment from one to eight years imprisonment, while Mugosa junior six months punishment because he was accused for minor criminal act. Mayor himself did not receive the status of accused person.³⁵⁰

According to the report of Internal Control, police officers who appeared at the site after the attack of Mayor Miomir Mugosa and his son Miljan on the crew of daily Vijesti, acted in accordance with law and competencies.³⁵¹ "From the beginning of the procedure, state bodies, lead by Prosecution Office and Police Directorate, stood on the side of Mayor, because this press release of Police Directorate regarding they acted in accordance with law and competencies, sounds excellent. If this is it, why the policemen, who were at the site, did not provide material traces of criminal act, on which indicated the deputy of the Chief editor of Vijesti, Jovovic, but they neglected that argument", said attorney-at-law of Mihailo Jovovic, Branko Lutovac.³⁵²

Basic Public Prosecution pressed charges against Mihailo Jovovic and Miljan Mugosa on October 5, 2009, because of criminal acts and serious body injuries.³⁵³ Requirement for misdemeanour proceeding has been submitted against Miomir Mugosa.³⁵⁴ The indictment stated that the journalist Mihailo Jovovic, on October 5, at midnight, on the Boulevard

343 Ranka Carapic is the Supreme Public Prosecutor of Montenegro

344 Vijesti, That is unspeakable lie, August 7, 2009

345 Vijesti, On beatings answered by questions, August 21, 2009

346 *Ibid*

347 Vijesti, Miljan Mugosa: I wanted to protect my old father, August 13, 2009

348 Mayor's driver

349 Vijesti, Lutovac: Judicial expert gave valid diagnosis, September 30, 2009

350 http://www.slobodnaevropa.org/content/mugosa_jovovic/1809015.html

351 http://www.slobodnaevropa.org/content/slucaj_mugosa_unutrasnja_kontrola/1818870.html

352 *Ibid*

353 Vijesti, Radovic will judge the case of Jovovic and Mugosa, October 8, 2009

354 *Ibid*

Sveti Petar Cetinjski in Podgorica, hit Dragan Radonjic with the fist, in which he held mobile phone and dictaphone, which resulted in his permanent or considerable brain damage. Prosecution Office announced that Miljan Mugosa then hit Jovovic with the fist over the left ear, inflicting him serious body injure.³⁵⁵

Attorney at law, Branko Lutovac said on that occasion: “Decision of the Prosecutor, according to my opinion, represents the parody of law and legal procedure despite the fact that Radonjic’s injuries were qualified by judicial expert as minor injuries. On the basis of free estimation, she brings indictment for infliction of easy body injures. That is nonsense itself. As soon as I get the indictment, I shall lodge a complaint and I think, if the Criminal Council of Basic court would take into consideration all elements of this case, they would have to accept my complaint and in that part they should return the indictment to a Prosecutor for amendments.”³⁵⁶

Miljan Mugosa, who was the third secretary in the Embassy of Montenegro in Washington, was suspended by Ministry of Foreign Affairs.³⁵⁷

Opposition councillors in the Assembly in Podgorica, submitted petition for initiating the procedure for voting on confidence to the Mayor, due to this case.³⁵⁸ The initiative was rejected by the majority of votes.³⁵⁹

The Prosecution Office rejected criminal charge submitted by Vijesti on August 10, 2009 against Mayor of Podgorica, Miomir Mugosa, for violent behaviour because, as stated ‘there are no relevant elements of criminal act for which he had been reported, nor other which invokes prosecution by official duty’.³⁶⁰

Media community criticized the incident.

Defamation charges against Miodrag Babovic

After publishing the text titled ‘Vujicic: Sekulic spied us to Telekom’, in June 2007, former Director of Telecommunication Agency, Zoran Sekulic lodged an appeal for defamation against journalist of Vijesti, Miodrag Babovic and telecommunication inspector Novo Vujicic.³⁶¹ In the text, Vujicic claimed that Sekulic previously gave information tips

355 http://www.slobodnaevropa.org/content/slucaj_mugosa_unutrasnja_kontrola/1818870.html

356 *Ibid*

357 DAN, Movement of Miljan limited, August 13, 2009

358 Vijesti, Mugosa on ice, August 14, 2009

359 Vijesti, SDP saved Mugosa, September 15, 2009

360 Answer of Basic Public Prosecutor; from YIHR records

361 Vijesti, Inspector claimed that Sekulic spied on him, October 9, 2009

to Telekom on planned controlling.³⁶² Judge of Basic court, Zeljka Jovanovic rejected the appeal of Sekulic for defamation as unjustified.³⁶³ In a verbal explanatory, she announced that the appeal was rejected because Sekulic decided on withdrawal of appeal against him at the final trial, while Vujicic did not deal with Sekulic personally, but criticized his business engagement.³⁶⁴

Defamation charges against Zeljko Ivanovic and Vijesti

Higher court in Podgorica changes the first instance decision and adjudicated the daily Vijesti and Zeljko Ivanovic pay 10,000 EUR to the Prime Minister Milo Djukanovic because of sustained mental sufferings, insulting of honour and reputation. On the basis of the first instance decision, Djukanovic should receive 20,000 EUR. Djukanovic sued Ivanovic because of his statement that behind physical attacks on him stands Djukanovic's biologic and mafia family.³⁶⁵ There is the detailed depiction in the last year report of YIHR.

Director of Vijesti, Zeljko Vujanovic withdrew on December 3, charge against Milo Djukanovic for compensation of one EUR.³⁶⁶ "On this manner, accused gives full contribution to diminishing a pandemic charges for mental sufferings, by which overall Montenegrin judiciary has been covered", said the letter sent by Ivanovic's attorney-at-law to the court.³⁶⁷

Abolishing optional subject to Filip Kovacevic

Professor of the Faculty of political science (FNP) Filip Kovacevic, submitted on December 3, 2009, charge against the Dean of the Faculty Srdjan Darmanovic to the Court of Honour of the University of Montenegro (UCG) after abolishing him two optional subjects on basic studies.³⁶⁸ "Such a brutal conflict which endangers my material existence, I relate with my basic public engagement and political standpoints which I advocate. My contribution to development of social sciences in Montenegro is evident to everybody who is not over-politicized", said Kovacevic for Vijesti.³⁶⁹

Darmanovic negated charges and said it was a regular procedure of changes of curricula of FNP which was related to reduction of costs for which all optional subjects were

362 Vijesti, Babovic did not denigrate Sekulic, October 29, 2009

363 *Ibid*

364 *Ibid*

365 DAN, Milo's pain cured by 10.000 EUR, October 22, 2009

366 Vijesti, He had been forgiven because he was mentally instable, December 12, 2009

367 *Ibid*

368 Vijesti, Political basis or cost reduction, December 4, 2009

369 *Ibid*

abolished. “This year, decision has been made on withdrawal of optional subjects. Among subjects that are abolished, are those whose lecturers were Ratko Bozovic, Cedomir Cupic, Dusko Janjic, Slavko Lukic and others. Not anybody accept those changes of curricula personally, because there was no intention to damage anybody”, said Darmanovic.

Activists of the student movement ‘Omega’, on the occasion of the case, sent the open letter to the University Rector of Montenegro, Predrag Miranovic and the Dean of FNP, Srdjan Darmanovic, in which they protested for abolishing subjects to Professor Filip Kovacevic.³⁷⁰

Council of FNP Professors in Podgorica rejected charges of Professor, Filip Kovacevic regarding two subjects that were abolished to him for political reasons.³⁷¹

This case opened media debate on independence of University of Montenegro in which one part o professors considered it was independent while the other considered it was under the control of authority.³⁷²

370 Vijesti, What kind of message do you send, December 12, 2009

371 Vijesti, Darmanovic: They lead political campaign against me, December 5, 2009

372 Vijesti, Authority enslaved University and does not give it, December 8, 2009

Conclusions and recommendations

- Politically motivated violence in Montenegro during 2009 increased, compared to the previous year and it is expressed through verbal and physical attacks on public persons, journalists, politicians, professors and organizations' activists. Continued pressure on the witness of deportation of Bosniaks, Slobodan Pejovic, was especially present. Aside the public condemnation, competent bodies should have to undertake all necessary measures in order to reveal, prosecute and punish perpetrators of politically motivated attacks. Only by efficient measures and actions by police, prosecutors and judiciary, trend of increasing political violence could be interrupted. It is necessary for institutions to pursue severe reactions and punishments for perpetrators and those who ordered these attacks, in order to prevent the recurrence of such attacks.

- During 2009, larger number of pressures on journalists and media has been noted. This year, pressures were expressed through lawsuits by politicians, but also by companies and public persons, which have been covered by journalists. Many international organizations have expressed concern in their reports on principles of freedom of expression in Montenegro as well as high defamation fines

- Although European Convention on Human Rights was ratified and is the integral part of legal order of Montenegro, courts do not apply the practice of European Court for Human Rights (ECHR), especially in regards to punishments for journalists and the amount of compensation for defamation caused harm. Practice of high fines for journalists and media was continued through 2009. Courts in Montenegro should officially publish verdicts of European Courts for Human Rights, so that Montenegrin judges could use them as the legal sources, especially in regards to punishments for journalists and the level of compensation. State should invest additional efforts in education of judges on respective ECHR practice.

- During pre-election campaign, YIHR registered smaller number of incidents in comparison with the last year, when Presidential elections took place. According to the report of Journalist self-regulatory body (NST), high level of respect of Journalist Codex has been achieved. During pre-election campaign, NST did not mention drastic violation of the Codex such as hate speech, spreading ethnic and religious intolerance and division.

- The Council of Journalist self-regulatory body, appealed in its report on competent institutions to change regulations and penal policy for defamation and insults in media. NST emphasized that high compensation requirements and punishments jeopardize freedom of speech, which guaranteed by the Constitution and other positive national and international regulations.

- Most cases of murders, attacks on journalists which Youth Initiative for Human Rights investigated last years, characterized as politically motivated violence, were not resolved. Although investigating bodies have been working on the case of attack on Jevrem Brkovic and murder of Srdjan Vojcic, for the third year in a row, the investigation still have not given results. Investigating bodies have announced, for several times, progress in investigation. However, not a single person has been officially suspected. Cases of Aleksandar Sasa Zekovic, Tufik Softic, Mladen Stojovic, also have not been resolved. In addition, murder of Dusko Jovanovic, for the past five years, has not been resolved, neither the motive of

his murder or the persons who ordered it. YIHR insists that each reported case of politically motivated violence should have to be investigated and properly sanctioned.

- Disagreements between the followers of two orthodox churches are still present. State should have to safeguard freedom of religion and invest additional efforts in overcoming the clashes between the orthodox believers.

- YIHR invites all political subjects to promote tolerance and dialogue in their public statements.

V FREE LEGAL AID

Previous information

Free legal aid is the system of providing legal aid to those persons who are not financially supported to pay expenses of resolving legal problems, including judiciary expenses. Accession to justice of citizens, under equal conditions and without discrimination, represents one of the most relevant preconditions for development of the country which is based on the rule of law. Free legal aid is being provided for cases which represent grave violations of human rights and is manifested through engagement of attorney-at-law for the purpose of representing victims before court.

Modern legal system of providing legal aid is based on two basic ideas. The first one is that the right on legal aid has to be understood as the human right. The other one is that legal aid, notwithstanding who provides it, has to satisfy specific conditions in a view of its quality.

Providing conditions for equal accession to justice is obligation established through numerous international treaties. Right to legal aid is the right guaranteed by the Constitution of the Republic of Montenegro, as well as by Article 6 of European Convention on Human Rights and Fundamental Freedoms, which Montenegro is obliged to respect. However, the country has not managed, until nowadays, to develop normative framework for enjoying those rights. There are no clear mechanisms and criteria for providing legal aid, partial regulation of laws are unclear, free legal aid is provided rarely and in the practice it does not guarantee efficient access to justice for poor people and other persons whom this aid should be provided. There is neither specific budget nor specific budget line of national authority bodies that are related to legal aid.

Legal aid in the country, in the manner in which it is currently set up, does not provide equal access to justice for all segments of population. There is no institution which creates the policy in this area. Ministry of Justice of the Government of Montenegro recognized the importance of this problem, through activities on rising awareness which were initiated by Civil society sector, or it undertook steps towards adopting laws on legal aid. Adoption of this law would represent appropriate legal answer on obligations contained in the Constitutional text, European Convention on Human Rights and Fundamental Freedoms, as well as on further obligations of implementing legal standards developed in the frame of the European Union law in the area of right to free legal aid.

Work of attorney-at-law on affairs of providing legal aid is usually defined by a special law. Consequently, future legislation regulation in this area should devote complete attention to those 'other services' or providers of services of legal aid.³⁷³

Analysis of the current situation in the area of free legal aid

Lack of system of legal aid is the result of numerous factors including inadequate legislation frame. There are specific provisions in Montenegrin laws on providing free legal aid, however, neither of them has been precisely defined, nor adequately implemented.

Current system is marked by lack of financing of the country, lack of personnel, and insufficient coordination between current services providing legal aid. Result of the above mentioned is the system of legal aid containing uncoordinated service providers, starting from municipality services to non-governmental organizations.

There is large number of people who need legal aid but they are not able to afford it themselves. Moreover, that emphasizes failures of the current system. According to Statistical Office in Montenegro (MONSTAT) data, average salary in Montenegro in 2008 was 338,00 per month. Unemployment rate was about 12%. It may be said that at least that number of people cannot afford themselves attorney-at-law. It should also be emphasized that the part-time fee of attorney-at-law for particular legal activities according to current tariffs of the Bar Association of Montenegro is between 75 and 250 EUR. Attorney-at-law tariffs are at the largest level in Montenegro, and in Croatia as well, in the whole region. Tariffs of attorneys in Montenegro are the highest, jointly with the level of Croatian attorney tariffs, in the region.

Montenegro is one of the region countries, which does not have law defining the legal aid area. However, positive side is that Montenegro is in the position to learn from the experience of other Republics of former Yugoslavia whose legal system is more or less the same as systems of the region countries, who have already conducted that reform. Free legal aid reform is important in order to harmonize legislations with the EU standards in this area, which is one of conditions for further progress in the European integrations process.

Currently, there are two manners of implementation of legal aid in Montenegro:

Financing assistance provided by the country: legislation framework prescribes the possibility of providing free legal aid in the frame of local government and according to Law on criminal procedure.

Aid in the frame of local government is limited on providing information and aid in collecting documents for the procedure before court, in precisely defined cases. Also, there is no legislation provision which is related to representation before court and/or other

national bodies. Furthermore, legislative framework defining provision of legal aid does not oblige municipality authorities on providing legal aid. Instead, legal aid is provided by other, existing municipality services. In municipalities where legal aid service operates (for example, in Podgorica) were serious failures in providing aid.

In criminal files, attorney-at-law is awarded to poor people, and is paid by the country. Law on criminal procedure³⁷⁴ prescribes that if the accused person is a person with special needs due to which s/he is incapable to defend himself/herself, or if the procedure is conducted for a criminal offence punishable by the maximum term of imprisonment, the accused person shall have a defense attorney at his/her first hearing. When the indictment is brought for a criminal offence punishable under law by the imprisonment of ten years, the accused person shall have a defense attorney when the indictment is served on him/her. The accused person which is tries in absence shall have a defense attorney as soon as the court renders a decision on the trial in absence. When conditions for mandatory defense are not meet, and the procedure is being conducted for criminal offence for which three year punishment has been prescribed, and in other cases, if required so by the interests of fairness, the accused person may be appointed a defense attorney if they are not able to bear the costs of defense under their financial situation.

Aid not financed by the country³⁷⁵ is provided by non-governmental organizations. Civil rights defenders (former Swedish Helsinki Committee) supported Center for legal aid since 2004, which was in that time, the only organization in Montenegro which provided free legal aid. Mentioned legal aid implied free representation before court. Work of Center for legal aid assumed Youth Initiative for Human Rights in March, 2009.

Bar Association does not provide free legal aid.

Ministry of Justice of Montenegro jointly with Center for legal aid, in 2006, organized conference on reform of legal aid in Montenegro. The purpose was increasing the awareness on importance of establishing the overall system of legal aid that would provide appropriate services to users. Judiciary representatives, attorneys-at-law and local government representatives discusses on this issue. It was discussed on regional aspect of system of free legal aid and implementation of European standards.

Development of the Analysis of the assessment of need for introduction of legal aid in Montenegro started in May 2008. Work group for the Analysis drafting was composed of Ministry of Justice representatives, representatives of the University, Bar Association and NGO Center for legal aid. The Analysis contains the review of the situation, assessment of needs and deficiencies in this area. OSCE supported the Work group. At the same time, the Fund Open Society Institute in Montenegro supports the drafting of the Analysis of

374 Criminal Procedure Code, Articles 69 and 70

375 See the following text, under 3.

providing legal aid in Montenegro. The Analysis was conducted by NGO Center for legal aid, which became part of YIHR after the decision of Managing Board, since January 2009.

Joint project of Ministry of Justice and the United Nations Development Programme Office (UNDP) in Montenegro “Reform of the legal aid system in Montenegro: creation of efficient and sustainable system of providing legal aid” started in November 2008, and it was cofunded by the Netherlands Government and the Government of Norway and was prescribed to last until July, 2010. The goal of the project is establishing effective, efficient, and approachable system of legal aid financed by the country. Through creation of that system, Montenegro will enable accession to justice to those people whom legal services are not accessible and in that way meet its obligations, prescribed by international law in the human rights area. Project partners are Supreme Court of Montenegro, Bar Association of Montenegro, OSCE, Open Society Institute of Montenegro, Council of Europe, European Commission, municipalities, and NGO Youth Initiative for Human Rights.

Current activities in the area of providing free legal aid

Youth Initiative for Human Rights has been conducting programme of free legal aid since January, 2009 when it assumed Center for legal aid (CPP) and their files. In that area, CPP conducted activities since 2004. In the frame of the project, special attention was devoted to free legal aid providing to representatives of Roma population and other marginalized groups.

Besides YIHR, non-governmental organizations dealing with free legal aid are as follows: Safe Women Shelter, SOS phone for women and children victims of violence, Legal center, trade union organizations and MANS.

Free legal aid is being provided in the Youth Initiative for Human Rights office, Vukice Mitrovic 16 Street, in Podgorica, each working day, except on Thursday. On Thursday, it is being provided in the Red Cross office on Konik from eleven to twelve, and in the office of SOS Phone for women and children victims of violence in Niksic, from three to five. Pamphlet containing data on type and manner of providing free legal aid which has been distributed to potential users, in all press media and to some electronic media and the SOS phone was established for victims of torture and discrimination.

Since the project has started activities, 229 files have been drafted. In most cases, legal advices were provided and 178 cases are considered as solved, 41 cases are being drafted, while ten cases are being represented at court.

LOCAL GOVERNMENTS - Types of legal aid provided in that service are advices, submissions, and process activities but they do not keep record on the number of persons who received specific type of legal aid. Services of legal aid that provides are in litigation,

noncontentious, and in administrative proceedings but not in criminal proceedings because that type of services may be performed only by attorney-at-law.

LEGAL AID IN CRIMINAL PROCEDURE – Right to legal aid that the country is obliged to provide to a defendant in criminal procedure is manifested through obligatory defense and poor legislation. In both cases, as the consequence of specific circumstances, legal aid to accused person shall provide defense attorney on official duty. If accused person, in cases of obligatory defense, does not assume defense attorney by himself, the President of the court shall appoint him defense attorney on official duty, while expenses shall be covered by the country.

Files which received free legal aid, provided by YIHR

Case of Fehmo Kocan

Citizen of Great Britain, Fehmo Kocan reported police torture. He was in the vehicle with his wife and son. On the road from south to the north of Montenegro, the police stopped them claiming he was overtaking on blind curves. According to his claims, on that occasion they did not respect rules of police procedure. Criminal procedure has been initiated against him on the basis of Law on traffic security. Judgment of first instance has been delivered, and he was sentenced. YIHR attorney-at-law authorized by Kocan lodged an appeal to the Misdemeanour Council. Decision of the second instance is being expected.

Case of Dalibor Nikezic

Dalibor Nikezic, detainee in Institution for Enforcement of Criminal Sanctions (ZIKS) in Spuz, reported the torture of guards. Criminal charge has been filed against guards of ZIKS being suspected for committing criminal act of abusing and torturing. Family Nikezic decided on YIHR attorney-at-law, as the authorized legal representative of their son. The procedure is in course.

Case of Igor Milic

Igor Milic, detainee in Institution for Enforcement of Criminal Sanctions (ZIKS) reported torture executed by guards in that Institution. Criminal charge has been filed against ZIKS guards, being suspected they committed criminal act of abuse and torture. Family Milic decided on YIHR attorney-at-law, as the authorized legal representative of their son. The procedure is in course.

Case of Adnan Lukac

Adnan Lukac is disabled person from Podgorica. He filed criminal charge against official person – inspector, because of unconscientious work in service. Inspector issued demolition order from the apartment of Lukac not checking before that whether persons or things were in the apartment. Inspector was sentenced to three months and was obliged to compensate the damage.

Against Adnan Lukac was initiated criminal procedure for criminal act of illegal building. Lukac authorized legal representative of the Initiative as his defense attorney in the case. The procedure is in course.

Case of Faruk Ljesnjanin

Faruk Ljesnjanin from Plav filed charge against police officers because of torture. Basic court in Plav ruled acquittal judgment. The Initiative initiated appellate procedure in higher court in Bijelo Polje. In criminal procedure initiated by the Police against Ljesnjanin as accused person, acquittal judgment was rendered. Criminal procedure initiated by the policeman against Ljesnjanin, for criminal act of offending, stayed of execution. In each of three case files, Ljesnjanin authorized legal representative of YIHR as his defense attorney in the case.

Case of V.G.

Adolescent girl V.G. reported sexual harassment. Accused Vladimir Cigrovski was almost three years in escape, being apprehended he was sentenced to 18 months imprisonment. The judgment has not been final yet. Legal representative of the Initiative represented the girl.

Case of Boris Pejovic

Photo reporter of daily ‘Republika’, Boris Pejovic was taking a photo of the strike of workers of ‘Ritam trade’ company. He reported police torture to YIHR. YIHR submitted criminal charge against the police officer for criminal act of abusing and torturing. Pejovic filed private appeal for offence against police officer and appeal for compensation of non-pecuniary damage against Police Directorate and police officer. He authorized YIHR attorney-at-law to represent him in judicial proceedings.

Case of Behija Ramovic

Behija Ramovic, injured person in the file in which accused Vladan Stanojevic was pronounced as guilty on the basis of Article 167 of the Criminal Code of Montenegro, for

abusing and torturing. Basic court sentenced Stanojevic to six months imprisonment. The procedure for compensation of non-pecuniary damage is in course. YIHR attorney-at-law represents the injured party.

Case of Rizo Alkovic

Constant provocations on religious and national basis coming from neighbours. Events such as 'shooting near the window, bullets all over the street, loud Serbian national songs even on Bayram, instructing children and husbands to curse and offend on religious basis, stories on sharpening sabers, axes, and sickles and threats they shall kill and cut Muslim or Turkish'. YIHR submitted criminal charge to Higher Public Prosecutor in Podgorica against several persons, because of provoking national, racial, religious hatred, division, and intolerance in accordance with criminal act of racial and other types of discrimination of the Criminal Code of Montenegro.

Case of Prelja Djokic

Prelja Djokic submitted charges against police officer because of police torture which took place in premises of the Police Directorate, Podgorica Security Center. The first hearing was scheduled before Basic court in Danilovgrad for February 2, 2009.

YIHR attorney-at-law represents the injured party before the court.

Conclusions and recommendations

- Issue of free legal aid has not been defined by a special law in Montenegro. Work group for drafting Law on free legal aid, established four years ago, should adopt the draft of the Law, for its public debate, which would result in adoption of Law on free legal aid in accordance with international and European standards.

- Practice showed that numerous systemic reforms of the Law have problem with implementation so, with the introduction of the institute, after adoption of the Law, it is important to provide efficient and sustainable system of providing free legal aid. Most disputable part in this process is financing. In defining final version of the Law, special attention should be devoted to sustainability of future model of financing, with the aim to provide persistent activity of service provider.

- Comparative practice shows that efficient surveillance is important for providing services of free legal aid in a view of systemic collection of records on providers of services and the quality of provided services.

- Non-governmental organizations dealing with providing free legal aid do not possess all necessary knowledge and sufficient means so it is necessary to strengthen capacities of non-governmental organizations for providing legal aid adequately.

- Criteria related to exercising right to legal aid have internal character and are different depending on who provides services and often depend on free assessment by the person who provides free legal aid service. Therefore, this is why it is important to state precisely rules on organization and the manner of work of services of legal aid.

- It is important to fasten coordination of different non-governmental organizations in the region dealing with free legal aid, to intensify cooperation of organizations which signed Ohrid Initiative on free legal aid.

- Bar taxes in Montenegro are the highest in the region. There is the real need for Bar Association to examine again the level of taxes and to adjust them to the social situation in Montenegro.

- Appropriate information for public, especially for vulnerable groups of the society (poor people, women, children, disabled persons, Roma, and representatives of other minorities) is not on adequate level, therefore, it is important to make effort in providing information on possibilities of using services of legal aid.

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