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CONTENT

I Previous information	5
II Institutional framework in the area of human rights.....	7
III Facing past.....	17
IV Torture, inhuman and degrading treatment.....	25
V Politically motivated violence.....	55
VI Right to fair trial.....	65
VII Freedom of expression, peaceful gathering and associating.....	69
VIII Protection of personal data	85
IX Religious freedoms	91
X Discrimination.....	101
XI Rights of children.....	125
XII Minority rights.....	133
XIII Displaced and internally displaced persons	139
XIV Economic and social rights.....	143
XV Reports on the state of human rights.....	151
XVI Conclusions and recommendations	155

I Previous information

Youth Initiative for Human Rights (YIHR), member of Civic Alliance (CA) monitors respect of human rights in Montenegro sixth year in a row, and informs public about the findings via annual and quarterly reports. Previous reports may be found at our web site www.yihr.me

This Report includes human rights areas we have identified through work as the most concerning and the areas are as follows: facing past, torture, politically motivated violence, right to fair trial, freedom of expression, gathering and associating, protection of personal data, religious freedom, discrimination, rights of children, minority rights, status of displaced and economic and social rights. Researching and writing of the Report worked six members team of CA with the support of Balkan Trust for Democracy (BTD). In preparation of the Report, we used the techniques of researching on the terrain, press clipping, legal analysis, interviews, SOS phone line, and official reports of public institutions. Information provided in the Report were collected from 1 January to 31 December 2011. GA is grateful to all cooperators at the project, Center for children rights from Podgorica, CAZAS, UNHCR, and numerous individuals.

The most important political event in 2011 happened on 9 December 2011, when Montenegro received conditional date for the beginning of negotiations with the European Union on the accession. Montenegro shall open negotiations in June 2012, if the country continues to achieve results in the fight against corruption and organized crime.

According to the data which are not final, because at the time of receiving data European Court for Human Rights in Strasbourg prepared annual report on work of courts, the Court received from Montenegro 920 applications. Out of this number, 30 applications were processed in the phase of main trial. Almost 300 applications were rejected because they were groundless and for other reasons. Until the end of 2011, eight verdicts were rendered and they defined violation of at least one convention right. Mostly established were violations of right to fair trial in reasonable time, one area each in lack of execution of court verdict, right to the access to court, use of property, right to private and family life, and two cases of violation of right to freedom of expression. According to the number of applications, in comparison with the



Logo „Free as a man“

number of citizens, Montenegro is in line with the countries whose citizens delivered the most applications.

At the margins of General Assembly of United Nations, on 23 September 2011, was presented International logo of human rights. Logo was elected at the international competition by the votes of experts and citizens, after the five months procedure. At the competition arrived more than 15.000 proposals from more than 190 countries.

Author of the winning logo “Free as a man” was Predrag Stakić , designer from Belgrade.

II Institutional framework in the area of human rights

a. Constitutional court of Montenegro

According to the Constitution of Montenegro from 2007, the Constitutional court shall, among others, decide on harmonization of law with the Constitution and defined and published International Treaties, and on constitutional complaint due to the violation of human rights and freedoms, guaranteed by the Constitution, after use of all legal means. The Constitutional court has seven judges. The court informed the CA researcher that Constitutional court received large numbers of constitutional complaints therefore, as the report on work was not done at the time of collecting data for this report, the court did not have precise data. Public often criticize the work of Constitutional court, stating it was inefficient and non-transparent. In the case Koprivica against Montenegro, the European Court of Human Rights in Strasbourg, confirmed that. Although the country considered that all legal means were not used in national judiciary, or that the complaint was not sent to Constitutional court, in explanation of adopting complaint the Court stated that Constitutional court in previous period did not show efficiency and transparency important for considering the complaint efficient and effective legal remedy. Then, until 31 July 2011, when the complaint arrived at the Court in Strasbourg not any verdict of Constitutional court had been rendered, or presented to public. Similar case was registered in 2010, but even after this, large number of verdicts was not presented to public. This decision of Court in Strasbourg opened the window for ignoring the Constitutional court as the legal remedy and in other cases of human rights violation, unless efficiently and transparency of its work significantly changes. The Report developed by NGO Human Rights Action (HRA) also stated that constitutional complaint in Montenegro was not efficient legal remedy. The Report also stated that the Constitutional court had the power to react only in the case of human rights violations which was in the concrete case committed, while the court may not protect human rights in cases when they have been violated by omission,

failure to adopt an act or when rights have been violated by some factual action.¹ The budget of the Constitutional court for 2012 is 692,353.74 EUR.

b. Ministry for human and minority rights

Work of the Ministry for human and minority rights has been organized through the Sector for promotion and protection of rights of minority population and other minority national communities and Sector for improvement and protection of human rights. Within the Ministry function Department for gender equality affairs and Department for improvement and protection of rights of Roma, Ashkhalia and Egyptians.² The Government announced establishing of the sector that would deal with religious issues. The Ministry has 12 employees but the systematization prescribed 27 servants. According to CA findings, small number of servants speaks English language.

Media published that Ferhat Dinoša, Minister for human and minority rights shall resign, which continuously required almost whole NGO sector, due to his homophobic statements during 2010. Minister Dinoša did not resign but was appointed for the Ambassador in Albania.

During 2011, the Ministry conducted media antidiscrimination campaign. The campaign included various types of media and messages were transmitted through billboards, leaflets, and advertisement in daily newspaper and videos. On TV Teuta from Ulcinj, videos were broadcasted on Albanian language. The Ministry organized workshops on which civil servants were educated on antidiscrimination legislation. The training covered employees in judiciary, police, inspection bodies and other institutions.

On 7 July 2011, the Government of Montenegro adopted the Information on representation of minority population and other minority national communities in public services, public authorities, and local self-government, which has been developed by the Ministry according to collected data.

The Ministry initiated installing of the monument for the civilian victims of wars at the territory of former Yugoslavia, from 1991 to 2001. On the occasion

¹ The Report of Human Rights Action you may view at http://www.hraction.org/wp-content/uploads/Ljudska_prava_u_Crnoj_Gori_2010-2011.pdf.

² Information from the website of Ministry for human and minority rights, 30 December 2011

of the Day of memory to the genocide in Srebrenica, the monument exposed Prime Minister Igor Lukšić.

In July 2011, the Ministry published "The second and the third report of Montenegro on achieving international Convention on elimination of all forms of racial discrimination". In February 2011, the Government adopted the Second national report on implementation of European Chart on regional and minority languages, which was delivered to the Committee of Council of Europe.

The Ministry informed CA they had developed the brochure on rights of a child on Montenegrin, Albanian, and Roma language. Almost 500 samples of the "Album of rights of a child" were distributed at the workshops in Podgorica, Nikšić, Ulcinj, Herceg Novi and Berane, and more than 800 students were informed about rights of a child.

In 2011, the Ministry financially supported national minority councils with 46,422.30 EUR. The budget of the Ministry for human and minority rights for 2011 was 1,260.787.21 EUR and for 2012 its budget is 1,307.602.36 EUR.

c. Protector of human rights and freedoms (Ombudsman)

On 29 July 2011, the Parliament of Montenegro adopted a new Law on Ombudsman. According to the adopted Law, Ombudsman is determined to monitor and enforce Law on the prohibition of discrimination. Also, Ombudsman is directly competent on issues of protection from all types of discrimination committed by all legal and physical entities. Also, Ombudsman has the possibility to lodge appeals on behalf of discriminated the person, and the role of an intervener in court proceedings with the written consent of discriminated person. Capacities of the Ombudsman for implementation of Law on protection against discrimination are still not satisfactory. On these affairs works a deputy and the department with professional staff has not been formed yet. According to the existing classification of job positions, two more job positions are empty but within the frame of new mechanisms-prevention of torture and protection from discrimination, job positions for candidates should be systematize by the new bylaw that will be adopted after the opinion of the competent Board for human rights and freedoms. Also, the Parliament of

Montenegro made decision on number of deputies, but the decision was not published until finalization of this report. According to the new Law, it has been defined that Ombudsman shall be national mechanism for the prevention of torture. Adoption of the new Law on Ombudsman was followed by numerous incidents of some institutions. At one point, two Proposals of the law that were largely different occurred in the parliamentary procedure. Although the texts of the Law significantly improved after the adoption of larger number of amendments submitted by MPs, the Law still has specific solutions that would not contribute to the better quality of work of Ombudsman. Professional service will not have salaries at the level of professional service of the Constitutional court, which will be a major obstacle for motivation in the process of employing professional staff for work in the office of Ombudsman. The Law also defined that Ombudsman may also represent the parties only in the proceedings related to discrimination. Ombudsman has no competencies to represent citizens when it comes to serious human rights violations such as abuse and torture. The Law has not clearly defined whether Ombudsman has the access to personal documents. In cases when it is important to find out whether human rights were violated by the insight into personal data, a problem whether Ombudsman has that right, may occur. From now on, Ombudsman shall provide budget proposal to Parliamentary Board for human rights and freedoms, not to the Government as it was envisaged by the previous Law.

Budget of the Ombudsman in 2011 is 485,945.97 EUR and the budget for 2012 is 544,210.44 EUR. Office of Ombudsman stated at Boards for human rights several times that the budget for 2012 was insufficient for implementation of new competencies of Ombudsman.

d. The Parliament of Montenegro

Board for human rights and freedoms - According to the plan of activities of the Board for human rights for the period from December 2010 to November 2011, 33 activities were defined. From December 2010 to 2011, the Board held 29 sessions, organized the meeting at the Camp in Konik and three public debates. During 2011, the Board considered 12 reports. Reports were

about protection of personal data, and the state of protection of personal data for 2010, protection of rights of minority population and other minority national communities, state of human rights of persons with mental disorders accommodated at institutions, exercising right to return of property rights and compensation, the Report on work and the manner of allocation of funds of the Fund for minorities for 2010, protection from discrimination in the first half of 2011, and the children rights. Then, the Board considered six information. These information were about the status of LGBT population in Montenegro from 11 March 2011, activities of ZIKS related to findings of Analytic report of the European Commission, and recommendations of Protector of human rights and freedoms, related to the control hearing of Director of ZIKS, activities of Ministry of labor and social welfare related to findings of Analytic report of the European Commission about the situation in Public institution "Komanski most", activities of the Government of Montenegro about permanent solution of issues related to internally displaced persons residing Camps I and II in Konik, representation of minority population and other minority national communities in public services, bodies of public authority, and local self government, and the information of the Protector of human rights and freedoms about activities of competent bodies related to the recommendation of the Protector of human rights and freedoms about long investigation and judicial proceeding in the case of the sinking of boat "Miss Pat". The Board held control hearing of Milan Radović, Director of Institution for enforcement of penal sanctions (ZIKS) and Ferhat Dinoša, Minister for human and minority rights. It also held three public debated in Cetinje, Kotor and Berane and debated were focused on children rights. Members of the Board showed high level of cooperation and sensibility for human rights. The work of the Board is public and children from the institution for children "Mladost" in Bijela and children from the Center for education and qualification "1 June", participated at the session which took place on 9 December 2011. Work of the Board progressed additionally during 2011. MPs of the opposition did not attend several sessions due to, as they stated, bad cooperation in appointing sessions of the Board. In this period, the Board achieved good cooperation with large number of nongovernmental organizations.

Council for Civil Control over the Police Work - The Council has been established according to the Law on Police. The Council is an independent body that assesses implementation of police competencies for the protection of human rights and freedoms. The Council may be addressed by citizens and police officers. It is composed of five members appointed by Bar Association, Chamber of Doctors of Montenegro, Association of lawyers of Montenegro, University of Montenegro, and nongovernmental organizations dealing with human rights. On 31 December 2010, Montenegrin Parliament appointed new members of the Council. That was the second Council since its establishing in 2005. In 2011, the Council held 15 sessions, and considered 65 cases out of which 23 were on the initiative of the Council and 42 on the initiative of citizens, NGOs and other entities. The Council had separate meetings with the chiefs of Ministry of internal affairs (MUP), Police Directorate, Board for security of the Parliament of Montenegro and the Internal control of MUP. Also, on 17 June 2011, on the initiative of the Council meeting with representatives of NGOs dealing with human rights and the control of the Police, took place. They spoke about the cooperation of the Council and NGOs and the topics and recommendations for the promotion of the Council in the control of acting of police officers. It was stated that the Council should be more present in media and therefore, more available for citizens. Large number of citizens contacted CA asking for the contacts of the Council. The Council also announced opening of their web page after signing the contract with the company "Čikom" on web presentation. During 2011, information about the address of the office of the Council was not available to citizens because the Council does not have its premises but uses the premises of the Parliament of Montenegro. Members of the Council delivered via media their personal e-mail addresses so citizens could address them. Appearance of some members of the Council have to be more coordinated and they should not appear in their own name but in the name of institution. Transparency of the Council in a view of finances is more important than it was in the previous constitution of the Council. According to CA findings, the current practice was that, besides the funds for the printing of reports, funds for the Council were usually allocated for honoraria which contained travel costs and phone bills of the members of the Council. According to the Law on free access to information, CA required from the Council information on previous manner of

disposing finances. The Council relied they had addressed Ministry of finances requiring precise instructions in the part of composing and submitting financial reports, because the previous composition of the Council was not have obliged to do financial reports. The Council informed CA that this year, notwithstanding the opinion of the Ministry, they would develop financial report for 2011, and deliver it to CA. All applications of CA, the Council replied positively and considered them. In two cases, initiated by CA on the basis of recommendations of the Council, disciplinary procedures were initiated against two police officers.

Until publishing of this report, CA did not receive the report of the Council about its work in 2011. Budget of the Council for 2011, in comparison with 2010, was reduced for 50%, from 70.000 to 35.000 EUR. Budget of the Council for 2012 is 35,001.00 EUR.

Fund for minorities – NGO sector, media and some MPs indicated that Fund for minorities did not allocate funds transparently until nowadays. National Audit Institution (NAI) conducted in the first quarter 2011, control of work of Fund for minorities and stated numerous irregularities in its work. In its report, NAI stated that the Fund did not establish criteria for the value of projects, indicators for measuring efficiency of implemented projects, and that it did not provide monitoring and evaluation of results of implemented projects. The Funds stated they were not able to organize monitoring of implementation of projects due to the lack of employees.

Criticism of the last allocation of funds of the Fund for minorities, that was conducted in October 2011, was related: to the conflict of interest – members of the Managing Board of the Fund allocated funds to organizations to which managing structures they belonged, MPs – members of Managing Board allocated funds and later at the Parliament they assessed their work; allocation of funds which opposed the law on the basis of proportional representation of minorities in the society and not according to legal decisions such as the quality of project and transparency and relevance of the organization; non-transparency – representatives of CA were prohibited to monitor the work of Managing Board although its work was public; allocation of Funds to organization whose work was prohibited and organizations that had not submitted completed financial reports for previous projects while projects that

did not have significance for the status and rights of minority population were supported. The Committee of lawyers of Montenegro and Civic Alliance filed on 9 November 2011 criminal charge against members of Managing Board of Fund for minorities due to violation of official position.

On 15 December 2011, Board for human rights held consultative hearing related to the functioning of the Fund for minorities. The session was expanded and besides MPs the hearing attended representatives of National councils and nongovernmental organizations. The agreement has been achieved on establishing the work group that would define solutions for better quality of work of the Fund.

All MPs, except Mehmet Bardhi, resigned their positions as members of Managing Board of Fund for minorities due to new provisions of the Law on prevention of conflict of interest which came into force and which define that MP may not be in managing structures of other legal entities. On 23 November 2011, Civic Alliance delivered the Initiative to the Commission for prevention of conflict of interest that would define whether MP Mehmet Bardhi violated new provisions of Law on preventing conflict of interest by performing MP function and the function as a member of Managing Board of the Fund. Mehmet Bardhi announced that the Initiative of CA had bad intentions and added he did not violate the Law and that he was not in conflict of interest. The Commission for prevention of conflict of interest informed CA on 26 December 2011 that, at the session which took place on 23 December 2011, defined that MP Mehmet Bardhi violated the Law on prevention of conflict of interest by performing the function of a member of Managing board of the Fund for minorities besides his function as the MP in the Parliament.

At the seventh session of the second regular meeting in 2011, the Parliament of Montenegro adopted Proposal of decision on amendments of Decision on establishing the Fund for minorities. Until the day of collecting data for this report, Official Gazette did not publish the Decision. More about changes of establishing Managing Board of the Fund, CA shall write in the first quarterly report for 2012.

Budget of the Fund for minorities for 2011 was 947,413.24 EUR and for 2012 is 910,000.000 EUR .

e. Agency for protection of personal data – The Agency was established in accordance with the Law on protection of personal data in 2010. Until nowadays, the Agency developed two reports – the Report on work for 2010 and the Special report on the state of protection of personal data for the period from 1 January until 1 July 2010. Currently, the Agency has fulfilled 50% of job positions. Representatives of the Agency said that fulfillment of job positions now prevents Ministry of finances due to financial crisis. In September occurred the problem of nontransparent manner of employing officers in the Agency. According to information provided by members of the Council of the Agency, four officers were employed without public vacancy notice but according to internal notice, while staff with less professional capacities was elected for some job positions. Director of the Agency, Bojan Obrenović denied that there were irregularities and illegal matters in a view of employment in the Agency. For this reason, Member of the Council of the Agency Aleksa Ivanović submitted the initiative for the deposition of the director of the Agency. Council of the Agency did not declare itself upon the initiative until publishing of this report. According to information CA had, Inspection of work at the beginning of December 2011 conducted the control of manner of employing in the Agency and defined there were failures in the procedure of employment. At the Parliamentary Board for human rights, MPs told members of the Council of the Agency, that the Agency was not enough present in public. During 2011, the Agency for the protection of personal data achieved intensive cooperation with NGO sector. Budget of the Agency for 2011 was 403,941 EUR but for 2012 the budget is 432.950,25 EUR.

III Facing past

Passive relationship of the state and competent institutions towards processes of facing past continued in 2011. The beginning of investigation for war crimes which had happened at the territory of Montenegro had been awaited for too long. Once investigations started they were too slow, and judicial proceedings included direct perpetrators. Investigations and judicial proceedings that had been conducted until nowadays have included neither responsible ones upon command line nor master-mind of crimes. Not any final judgment has been made for four war crimes that happened at the territory of Montenegro. Besides, the Government initiated activities on installing the monument for the civilian victims of war crimes. Prime Minister Igor Lukšić opened in Podgorica, on 11 July 2011, the memorial park to civilian victims of the wars at the territory of former Yugoslavia, from 1991 to 2001. Civic Alliance reacted on that occasion with its standpoints that installing of the monument to civilian victims was too early because not any verdict had been rendered to perpetrators and not any process of lustration had been essentially started. In cooperation with CA, Television Montenegro (TVCG) broadcasted documentary serial "Srebrenica-genocide mapping" within the period from 6-19 July 2011. Daily Vijesti published on 29 December 2011 information that Filip Vuković, former Mayor of Pljevlja "spread fear and inter-religion hatred" at the beginning of '90s. Vuković denied these statements and announced he would file complaint against Vijesti.

Fund for Humanitarian right organized on 12 April 2011 in Podgorica public presentation of list of Montenegrin citizens who died and disappeared in armed forces in Slovenija, Croatia and Bosnia and Herzegovina from 1991 to 1995. According to the Fund's data, during that period, 272 citizens disappeared and for bodies of 26 citizens of Montenegro are still being searched for.

Campaign of collecting a million of signatures of support for establishing regional commission for defining facts on war crimes and other serious violations of human rights committed during 1991-2001, at the territory of former SFRJ, started on 26 April 2011 in Podgorica, Ljubljana, Zagreb, Sarajevo, Belgrade, Banja Luka, Priština and Skoplje. Almost 30.000 signatures were collected in Podgorica.

Bukovica

For the war crime that happened in Bukovica, Higher court in Bijelo Polje released all accused persons on 31 December 2010. Brothers Radmilo and Radiša Durkovic, Slobodan Cvetković, Milorad Brković and Đorđije Gogić, members of the reserve composition of the Army of Yugoslavia and Slaviša Svrkota and Radoman Šubarić members of the reserve composition of the Ministry of Internal Affairs of Montenegro were accused. They were charged for inhuman treatment of Bosniac and Muslim civilians, for causing severe suffering, endangering their health and bodily integrity. Six people were killed and hundreds were expelled. The Court of Appeal abolished the first instance decision at the end of June 2011 for formal reasons. The verdict was revoked because the new Criminal Procedure Code prescribes that instead of the five-member council should have tried a tripartite, composed of permanent judges. Higher Court in Bijelo Polje repeated the procedure on 27 September, 2011. Neither the prosecution nor the accused ones had objections to the previously presented evidence, therefore, the trial ended the same day. Again, the court released accused persons.

Activities on creating conditions for the return of people from Bukovica are in course. According to available information, it can be concluded that the course of this procedure is not transparent and not to the satisfaction of all the expelled ones. Grigorije Topalović, President of the local community Bukovica told CA researcher that 33 houses were built until that time and that ten more houses shall be built during 2011. According to some information, houses are being built for people from Bukovica who left Bukovica more than 40 years ago. Topalović said that so far, only four to five families returned in Bukovica. Jakub Durgut representative of the Association of people from Bukovica, from Pljevlja, told CA researcher that people find it hard to return because other conditions, except for houses and supplementary buildings, have not been created. Until the publication of the report, CA has not received information about the priorities and criteria by which houses are being built, and whether such decision existed. CA required information from Directorate of Public Works, which issued the tender for construction of houses, on the number of constructed houses and supplementary facilities as well as the size and price for each house and supplementary facilities. Directorate told CA they did not

possess such information. According to unofficial information, some of the houses were considerably more expensive than the actual price. Activities on the return of people from Bukovica attracted media attention. CA will continue to search for data, information, rules, criteria and decisions on which houses are being built and on which the process of returning displaced people from Bukovica is being realized. Suad Numanović, Minister of labor and social welfare said on 27 December 2011 that 43 houses were built in Bukovica and that 13 families had returned there.

Deportations

Branko Bujić, Sreten Glendža, Milorad Šljivančanin, Božidar Stojović, Boško Bojović, Milisav Marković, Radoje Radulović, Duško Bakrač and Milorad Ivanović were accused for the war crime deportation of refugees from the territory of Montenegro during 1992. According to indictment, illegal arresting of citizens of Bosnia and Herzegovina was conducted in May 1992, who were afterwards transported to authorities of Republic Srpska. After being transported, these people were executed. The same document stated that the deportation was conducted after orders of Pavle Bulatović, former Minister of internal affairs. Continuation of the trial took place during 2011. Higher court in Podgorica decided on 8 February 2011 that Milo Đukanović, former Prime Minister and Svetozar Marović, former member of Presidency of the Republic Montenegro would not testify. According to the verdict from 29 March 2011, all accused persons were acquitted because, as stated in the verdict, accused persons could not commit war crime against civilian because the conflict in Bosnia was not the one of international character. Supreme Public Prosecution office of Montenegro lodged an appeal on 15 June 2011, on acquittal verdict for accused ones in case of the war crime 'Deportation' and required abolishing of such decision. Representatives of nongovernmental organizations, politicians, and other individuals criticized acquittal verdict and expressed their standpoints saying that institutions did not have enough capacities for facing past, that indictments did not cover all perpetrators of crimes, that such a decision of the court was not in accordance with international standards and that our state did not want to face with the war past in adequate manner.

Slobodan Pejovic, witness in the case of "Deportation" was crime was sentenced on 20 May 2011, after complaints of former police officer Ranko

Martinović for the criminal act insulting, to 600 EUR fine. Pejovic announced that Martinović was the servant of secret services and participant of organized crime. When a movie of Šeki Radončić "Hero of our time" was shown in Sarajevo, representatives of families of victims required processing of Pejovic before competent bodies in Montenegro. Public Prosecution office initiated investigation procedure upon Šeki Radončić's criminal charge. In Radončić's movie witnesses who survived claimed that police officer Milan Jokic, who died in the meantime, saved them.

Kaluđerski laz

Trial for the war crime Kaluđerski laz was continued in 2011, before Higher court in Bijelo Polje. War crime in Kaluđerski laz happened in 1999, in municipality Rožaje. In April 1999, 23 Albanian civilians were killed in Kaluđerski laz, and among them were children, women and elderly. The first one who was accused, Predrag Strugar, although arrested in Serbia, was not extradited to Montenegrin authorities. Until signing of international treaty of Montenegro and Serbia, Strugar was in escape. Higher court in Belgrade made decision on legal conditions that had not been achieved for extradition of Strugar. After presenting indictment and three years after ordering detention, within first instance decision had not been made, according to provisions of the new Criminal Procedure Code, after more than 70 hearings, detention had been abolished to Momčilo Barjaktarović (56), Petar Labudović (51), Boro Novaković (33), Miro Bojović (44), and Radomir Đurašković (47). A trial against them is in course, which started in March 2009, after the indictment of Supreme Public Prosecutor, for the war crime against civilians. Due to illness, detention had been previously abolished to Aco Knežević (45) and Branislav Radnić (44) while retired Colonel of the Army of Yugoslavia Predrag Strugar (51) is being trialed in absence. Except Strugar, son of General Pavle Strugar, the indictment charged all of them for murder of six civilians, Albanians from Kosovo and Metohija, in Kaluđerski laz, near Rožaje, on 18 April 1999. Strugar was charged for ordering this crime, but also for murder of 16 Albanians from Kosovo at the border line with Kosovo.

At the trial on 24 September 2011, Nusret Kalač, President of municipality Rožaje, testified and said he had more meetings in official

capacity with Predrag Strugar, the Commander of the Army unit, which at that time operated at the territory of municipality Rožaje.

In the current course of the procedure, almost hundred witnesses were examined, and almost 70 trials took place, and the duration of the proceeding is being explained by the fact that indictment could not be delivered to accused Predrag Strugar, and because documents from the Army archive from Belgrade have been awaited for months. The trial shall be continued on 24 February 2012.

Morinj

For a war crime that was committed in a military camp Morinj, Special Council of the Higher Court in Podgorica delivered the first instance verdict in May 2010 against six members of the former Yugoslav People's Army (JNA) who were sentenced to 16 and a half years imprisonment, for war crimes against prisoners of war. Mladen Govedarica was sentenced to two years, Zlatko Tarle a year and a half, Ivo Gojnić to two and a half years, Špiro Lučić to three and a half, Boro Gligić to three and Ivo Menzalin to four years imprisonment for the criminal offense of war crimes against prisoners of war in Morinj Camp. As stated in the indictment, they ordered and tortured, treated in inhuman manner and inflicted great suffering to prisoners of war and civilians who were taken from Dubrovnik battlefield. However, the second instance proceeding before Appellate Court of Podgorica, and according to appeal the defendants, it was decided on re-trial in this proceeding. On 2 March 2011, the Police in Podgorica arrested at the airport in Podgorica Ivo Menzalin for whom the warrant was issued in 2008 for the criminal offense war crimes. The indictment charged Menzalin for committing torture, inhuman treatment, causing suffering and violation of bodily integrity of prisoners of war and civilians who were brought at Morinje Camp from the battlefield in Dubrovnik, during the period from 3 October 1991 to 18 August 1992, as the member of the reserve composition of JNA. The retrial of the accused ones for war crimes committed in Morinj began in April 2011 and finished on 19 December 2011. The verdict will be rendered on 25 January 2012. The defendants denied they had committed the crimes they were charged for. Although mentioned as

possible witnesses, Momir Bulatović and Stipe Mesić did not appear before the court in this capacity.

Accused Mladen Govedarica, Ivo Gojnic, Špiro Lučić, Ivo Menzalin and Boro Gligić early April filed criminal charge to Public Prosecutor of Croatia against the investigating judge of the County Court in Dubrovnik Marija Donatović-Dabelić, register clerk Ivana Barada and 31 witnesses in this trial for suspicion of committing criminal acts of associating and violating of power and authority and forgery of official documents. The criminal charge stated that investigating judge and register clerk, using the "copy - paste" functions, copied the contents of examination of 31 witnesses from 2006 before the County Court in the records on examining 31 witnesses, made in 2008 in the proceeding of providing international aid

Štrpci

Commemoration in Bijelo Polje, on 27 February 2011, marked the 18th anniversary of the abduction in Štrpci. On 27 February 1993, in Štrpci, 20 persons, out of whom 19 were of Islam nationality, were taken out from the train number 671 from Belgrade – Bar. After being abused, these persons were executed, and the search of their corpses is still in course. Until nowadays, human remains of three murdered persons were found. For the crime committed in Štrpci over civilians of Islamic religion, only Nebojša Ranisavljević was convicted to 15 years imprisonment, which expired on 19 October 2011. During the trial, it was defined that the organizer of this crime was Milan Lukic, who was sentenced in Hague to life imprisonment for war crimes committed during 90s, but for this crime, he has never been tried. There were no other moves in this process in terms of identification, condemnation or other recriminations of responsible persons and the responsibility of masterminds of the crimes in Štrpci has not been examined.

Dubrovnik

On 1 October 2011, the 20th anniversary of the war crime of bombing of Dubrovnik, a city which is under protection of UNESCO protection, was marked. According to available information during the bombing 92 civilians were killed, most people were harassed and expelled, cultural and religious

sites were destroyed, and many buildings and households were robbed. In the attack on Dubrovnik, 166 Montenegrin reservists died and 430 Croatian defenders. Montenegrin judicial authorities have not yet processed war crimes that occurred during the bombing and siege of Dubrovnik. The process of establishing political and command responsibility still has not been started. Due to the bombing of Dubrovnik, the Hague Tribunal sentenced General Pavle Strugar and Commander Miodrag Jokić. Tereza Kesovija, the Croatian singer, gave a concert on 29 September 2011 in the Montenegrin National Theatre. The concert was organized under the auspices of the Ministry of Culture, in cooperation with the Music Center of Montenegro. During the attack on Dubrovnik, in place Konavli, Montenegrin reservists destroyed the house of this Croatian singer and robbed her property.

On 2 December 2011, at the conference "War for Peace" - 20 years later, former prisoner at the camp in Morinj, Metodije Prkačin accused the judge of the Appellate Court of Montenegro Milivoje Katnić, while he was KOS Lieutenant that he ordered burning and destroying of abandoned houses in Cavtat. Prkačina added he was ready to testify about it. Judge Katnić denied the allegations. NGOs that organized this conference required from the competent Prosecution office to investigate statements of Prkačin.

IV Torture, inhuman and degrading treatment

The Constitution prohibits torture, inhuman and degrading treatment. According to the Convention against torture, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. Torture is not allowed under any conditions, whether it is war, threat of war or political instability of state. Criminal Code of Montenegro presumes a series of criminal offenses that are related to violation, torture, and degrading treatment, among others, serious bodily injures, minor bodily injuries, unlawful deprivation of liberty, extortion, extortion of statements, misuse, torture, endangering security, disturbing inviolability of home, illegal searching, violation of secrecy of letters and other shipments. The highest prescribed punishment is up to 12 years imprisonment sentence and the lowest is three months. According to the Criminal Code of Montenegro, such offenses may commit every person, not only person acting in official capacity, while the Convention prescribes that torture may commit person acting in official capacity, person on duty, or that torture committed has been committed after order or the consent of person acting in official capacity. In the Report for 2010, Prosecution Office did not specifically mentioned number of filed criminal charges in this area against persons acting in official capacity. General statistics of the Prosecution Office indicates that out of these criminal offenses, the most processed are serious bodily injures and minor bodily injuries.

Slow processing of reported cases, low sanctions, and small number of final judgments, are still concerning and make efficient prohibition of torture, violation, and inhuman treatments harder. CA registered reported cases of violation and torture in prisons committed by police officers.

a. The Police

Law on Police defines the means of coercion as follows: physical force, truncheon, means of binding, devices for mandatory stopping of motor vehicles, police dogs, chemical agents for temporary disabling, special vehicles, special type of weapons, explosive devices and firearms. A police officer shall apply means of coercion so that the performance of their official duty is proportionate to the degree of the danger to be averted, and with the minimal adverse consequences for (to) the person against whom the means of coercion is being used. Prior to the application of means of coercion, a police officer shall be under a duty to warn the person concerned.

Law on Police defines that the Police work control is provided through Parliament, Civil and Internal Control. Parliamentary control of police is done by the Parliament of Montenegro through the competent working body (Board for security and defense), internal control of the police is performed by the Internal Control Department within the Ministry of internal affairs and Civil Control of Police is done by the Council for Civil control of the Police Work, composed of five representatives.

In July 2011, Ombudsman developed the Special Report about the state of premises in the Police Directorate for detention of persons deprived of liberty. The Report stated that the progress had been made in comparison with the previous period. However, besides the progress, there are numerous problems and failures in the premises for detention. The Report stated that some stations in coastal municipalities did not provide enough premises for detention while Police stations in Andrijevica and Plužine had only one premise for detention each. Specific number of premises does not satisfy standards in comparison to the size per one person, the light in some premises is artificial, and only activation of this type of light may provide reading of a text, stated the Report. Considering the hygiene conditions in premises, these are not at satisfying level at all premises for detention. Sanitary, content and the manner of use and access to clean water do not fulfil standards in some police stations.

Internal Control Department has been replaced from the Police Directorate and is now under competency of Ministry of Internal Affairs and Public Administration. Employees at the Department have been achieving good cooperation with nongovernmental sector. The Department does not have

its web site and is not regularly available to citizens, which would otherwise significantly contribute to citizens to find out more about the work and competencies, decisions in the actual cases and the manner of reporting cases of exceeding to Internal Control Department.

NGO Center for Democracy and Human Rights (CEDEM) implemented the research on key standpoints of citizens about the police and some key problems related to security. The research showed that almost 70% of citizens have confidence in the Police.

Last year, CA registered 34 reported cases with statements on some form of torture or inhuman or degrading treatment or punishing by police officers. In 21 registered cases statements were related to physical abuse, and in 13 cases on degrading treatment. According to information CA had, 19 criminal charges had been filed out of which five had been rejected. As the most frequent reasons for rejecting criminal charges, Prosecution Office mentioned absence of elements of criminal responsibility of reported police officers. Not any police officer had been convicted after complaints CA registered in 2011. Cases that CA registered and monitored in 2011 follow in continuation of this Report. Cases are divided on court proceedings and incidents that happened last year.

Court proceedings for cases from previous years

Basic court in Podgorica sentenced police officer Đorđe Papić, for the criminal offence violation and torture and infliction of minor bodily injures. As daily newspaper Pobjeda published on 26 May 2011, Papić was sentenced to nine months imprisonment for violation and torture of Danijel Batrović and Zlatko Gošović. It was confirmed that on 15 July 2007, Papić controlled the traffic on the Boulevard Ivan Crnojević in Podgorica and on that occasion told offensive words and hit Batrović few times with the truncheon and the fist. In the same incident, Papić hit Gošović in the head and inflicted minor bodily injure.

Case Radević – At the Higher court in Bijelo Polje, on 19 May 2011, started the trial to the police officer Dejan Radević for the suspects he had committed criminal offence “attempt of murder” of Asmir Dacić. Namely, the indictment stated that on 13 December 2010, in Rožaje near family house of Ilijaz Dacić, police officer Radević tried to kill Asmir Dacić while doing official duty of arresting Dacić for serving sentence. Higher court informed CA that it

acquitted Radević on 25 November 2011. The court pronounced Asmir Dacić, Almir Dacić and Aldim Škrelja guilty for the criminal offence preventing person in official capacity in executing their duties.

Higher court in Podgorica confirmed the acquittal of five officers of the Police directorate in case "Orlov let "(Eagle Flight). Daily newspaper Vijesti published this information on 15 June 2011. Five officers of the Special Anti-Terrorist Unit Police of the Police Marko Kalezić, Darko Šekularac, Nenad Šćekić, Branko Radičković Milorad Mitrović were charged for torturing and abusing Pjetar Siništaj, on 10 September 2006 in the action "Orlov let", during the arrest of his sons Anton and Viktor Siništaj, who were suspected of preparing terrorist actions in Malesija.

Incident in Berane on 5 November 2007 – Higher Public Prosecution Office in Bijelo Polje rejected on 10 December 2007 criminal complaint of Zoran Vasović filed against police officers Svetislav Barjaktarević, Grigorije Šćekić, Milan Boričić, Željko Došljak, and Vlajko Babović, for the criminal acts of aggravated murder in an attempt, on damage of Zoran Vasović, Neđeljko Peković and Zlatibor Vrhovac with explanation that the reported act was not an act that was prosecuted ex officio. On 18 December 2007, Zoran Vasović submitted to Higher court in Bijelo Polje a request for an investigation against these police officers on suspicion of committing the criminal offense of aggravated murder in attempt and for ordering detention to the suspects. On 23 February 2011 Higher court made decision on investigation against them and rejected ordering the detention. Vasović required ordering detention to the officers because, as he claimed, suspected police officers pressured and intimidated him and Neđeljko Peković and members of their families, on their own or via their colleagues. Higher Public Prosecutor from Bijelo Polje informed on 12 December 2011 CA that the investigating judge of the Higher court in Bijelo Polje completed an investigation and that files of the case were at consideration of the prosecution office. Our organization will continue to monitor the processing of the cases before Montenegrin judiciary.

Case Šoškić - Vladimir Šoškić from Berane addressed CA on 16 February 2011 claiming that the Police was responsible for the death of his son during the incident which had happened on 17 December 2008, and that the management of the Police Directorate intended to cover up these information. At night between 16 and 17 December 2008, when he saw the car of his son in

front of the building of the Police in Berane, Vladimir Šoškić went at the premises of the Police, where police officers told him they had taken his son into custody due to suspects he possessed narcotics, after which he escaped in unknown direction and that they had been searched for him. The Police stated that Miroslav Šoškić died trying to escape from the Police, drowning in the river Lim. Vladimir Šoškić, as he told CA, did not believe in the Police version of events and for that reason, he filed request to Higher Public Prosecution Office in Bijelo Polje for initiating the procedure for the purpose of defining circumstances of the death of his son Miroslav. Higher Prosecution Office informed on 16 February 2009 Vladimir Šoškić that after the review of collected documents there were no facts and circumstances that would indicate to the conclusion that there was particular person, on the death of his son, founded doubtful for committing a crime for which would be prosecuted ex officio. Vladimir Šoškić told CA researcher that in late December 2010 he filed a request to Higher State Prosecutor in Bijelo Polje to harmonize medical analysis of doctor Milivoje Stijović and doctor Dragana Čukić who carried out the examination and autopsy of the body of Miroslav Šoškić. That analyses were not harmonized concluded forensic specialist Dr. Zoran Stanković from Belgrade, who worked the analysis at the request of a Šoškić's lawyer, Radoslav Ivanović. Higher Prosecution Office from Bijelo Polje informed CA on 13 December 2011 that investigative judge of the Higher court in Bijelo Polje submitted application of the lawyer Radoslav Ivanović on 29 March 2011, with analysis and opinion of the expert Zoran Stanković from Belgrade. The Prosecution stated that on 11 April 2011 it sent case files to the investigating judge of the High Court in Bijelo Polje with the proposal to undertake investigative medical assessment by a professional institution. The investigating judge of the Higher court in Bijelo Polje delivered case files to examination to the court expert medical committee of the Medical Faculty in Podgorica. Board of Forensic Medicine in Podgorica found on 29 December 2011 that "the death was violent and occurred due to drowning". According to the autopsy record of pathological and histological analysis, the study of subsequently submitted photo-documentation, it is not possible to provide precise statement on caused head injuries (fall, crash), especially the appearance and localization of fractures of the skull, which clearly requires exhumation and autopsy again, because the same actions would exactly

localize center fracture and break lines and thus greatly enable the elimination of existing concerns. On 16 February 2011 required from the Internal Control of the police statement regarding the incident in which Miroslav Šoškić from Berane died. On 17 February 2011, Internal Control told CA that in this particular incident, police officers Ž. B. and A. K. failed to take measures and actions because they did not use handcuffs, which allowed Miroslav Šoškić escape that ended in his death. For that reason, police officers were disciplinary sanctioned discipline with 25% salary reduction for one month.

Incidents:

Case of Pejanović - Aleksandar Pejanović from Podgorica, was killed on 30 May 2011. The same day, Police said it was reasonably suspected that police officer Zoran Bulatović killed Pejanović. Prosecution Office accused Bulatović for the crime of "murder" for which a sentence of five to 15 years in prison has been prescribed. The trial to police officer Bulatović began on 7 September 2011 before Higher court in Podgorica. The process is in course. Based to information published by media, the murder was preceded by a quarrel of Pejanović and Bulatović. On 24 October 2011, TV Vijesti broadcasted in its informative program the video of murder of Pejanović. Agency for electronic media pronounced on 8 November 2011 warning measure due to broadcasting of the video of murder of Aleksandar Pejanović. The trial will be continued in February 2012.

Pejanović is popularly known because he accused the police for torture after protests against the recognition of independence of Kosovo, in November 2008. In June 2010, Basic Court in Podgorica sentenced police officers Ivica Paunović, Milanko Leković and Milan Kljajević to three to five months imprisonment for creating conditions that are still unknown to police officers, to beat Pejanović. On 15 April 2011, Higher court in Podgorica abolished the verdict of the Basic court that police officers were sentenced to prison and returned the procedure for retrial. The trial to police officers Bojan Radunović and Dobrivoje Đuričić after the complaint of Aleksandar Pejanović began on 11 April 2011 in Basic court in Podgorica. The process is in course. Pejanović accused the two policemen because they did not report the beating he suffered in November 2008. Dalibor Kavarić, lawyer of Aleksandar Pejanović, told CA researcher:

"The prosecution is still passive in terms of determining the truth and it remains evident that they do not want to go too far into it so as not to jeopardize other public bodies, primarily responsible ones in the police." Therefore, on 11 March 2011, Kavarić filed criminal complaint against unknown persons, officers of Basic Public Prosecution Office, because, as stated in the application, they committed criminal acts in the service of unconscious work service. The complaint stated that unidentified persons were officers of the Basic Public Prosecution Office in Podgorica, who, during the period from 15 December 2009, which was the day of revealing of the committed crime, until the day of submission of mentioned criminal charge against unidentified officers, did not undertake professional actions and competencies. The complaint also stated that the officers of the Prosecution Office created conditions in such a way to be currently unidentified officials of the Police Directorate and so to avoid criminal responsibility for torture of Aleksandar Pejanović. Prosecution Office in Podgorica forwarded criminal charge to the Prosecution Office in Cetinje, which dismissed the criminal charge due to the lack of grounds for prosecution. The Public Prosecution filed an indictment against chiefs Ratko Rondović and Dusan Raičević, suspected for failing to undertake necessary actions. The trial is scheduled for 10 February 2012 in Basic court in Podgorica.

On 1 April 2011, daily newspaper Vijesti published the statement of former police officer Goran Stanković that he had left work at the Police, due to pressures that were motivated by his testimony on torture of Aleksandar Pejanović. Stanković told CA researcher that after completion of trial for beating of Pejanović, he had been transferred to another job position with no explanations. Stanković also said that one of his colleagues told him that Stanković had been followed and that his phone was tapped. Police Directorate stated they did not have information whether Stanković was under pressure and that they would check the allegations if he reported it. Although Stanković was acquitted in previous proceeding, the court treats him in the retrial as one of the defendants. In late November 2011, Stanković was finally acquitted. For the protection of discrimination, Stanković addressed the Parliamentary Board for Human Rights and Freedoms and the Office of Ombudsman, who have not informed him about their activities until the publishing of this report. Ministry of Labor has rejected the request of Goran Stanković for the retirement, although he claimed he fulfills all conditions. Stanković believes that a negative

decision on him was the result of solidarity of administration and pressures, because he disobeyed the orders of officers who asked him to give false testimony in the case of Pejanović.

Case Boljević - Suzana Boljević from Podgorica, who worked and resided Rožaje, accused police officers from Rožaje, Damir Balota and Rasit Murić, for torturing and abusing her on 10 January 2011. Boljević reported this case to media and the Police in Rožaje. Police Directorate announced on 26 January 2011 that officers of the Regional unit in Rožaje would file criminal charge to Basic Prosecution Office in Rožaje against two above mentioned police officers, for criminal offenses torture and violent treatment. It was also stated that two police officers were suspended until termination of criminal proceeding. Basic Public Prosecutor in Rožaje filed indictment on 28 April 2011 against policeman Balota for the criminal offense violent treatment and against Murić for the criminal offense failing to report criminal offense and the perpetrator. Basic court in Rožaje acquitted on 17 June 2011 police officers due to the lack of evidence. Higher court in Bijelo Polje abolished on 22 September 2011 first instance verdict and returned the case to retrial. Main trial and hearing of witnesses took place on 13 December 2011.

Case V.T. - Police officer B.K. from Cetinje was seriously wounded on 8 March 2011 when, as suspected, V.T. shot at him. Media reported that the family of V.T. filed a complaint against a police officer B. K. in the middle of February this year, on suspicion of abusing their younger brother M.T. The police have denied this and said that M.T. hurt by being slipped while trying to escape and hit his head against the door handle. Internal control submitted to the Basic Public Prosecutor in Cetinje case files about the report on abusing of M.T. Until 26 December 2011, the prosecution from Cetinje did not inform Internal control about the results of the investigation.

Case Zarić - On 29 April 2011, Radojka Zarić reported to the researcher of CA incident which happened at night between 8 and 9 April in Danilovgrad, in the restaurant "Ana" where she worked. She said that police officer Momir Popović who was in civilian clothes hit her and her colleague Dragica Milovanovic. After the incident she went to the emergency where her injuries of her eye were stated. She reported the case to the police and filed a criminal charge to the Public Prosecution Office. Misdemeanor Regional unit fined Momir Popović with 700 EUR for insulting Radojka Zarić and hitting her twice.

Case N. S. - On 20 May 2011, daily newspaper Vijesti 20th May 2011 published the statement that N.Š., a high school "Braća Selic" student from Kolašin, accused a police officer Nenad Anđelić for violation in order to extort a confession from him on stealing logs from the school. As stated, the incident happened on 18 May 2011 and police officers arrested a fifteen year old N. S. without his parents. As N. S. said for Vijesti the police officer Anđelić slapped him and repeatedly hit him with a truncheon on the arm. Officer Anđelić denied allegations on violation and stated that the boy's father attended hearing. In a telephone conversation with GA researcher, father of N.S. confirmed the newspaper articles that his son N.S. was abused at the police premises, but that due to personal problems and obligations, they gave up of further processing. Basic Public Prosecution Office from Kolašin informed on 19 December 2011 CA that this institution did not receive criminal complaint neither from parents or N.S. nor from the police.

The taxi driver from Budva V. R. reported that border police officers physically violated and harassed him in Tivat on 18 June 2011. V.R. filed a criminal complaint against two police officers Z.D. and M.D. and announced he would file the complaint to Director of Police Directorate, the Prime Minister and President of the state. Police Directorate said that V.R. humiliated the police officers, therefore he was punished by a fine. Basic Public Prosecution Office from Kotor submitted information to GA that, upon the completion of the investigation before the Basic Court of Kotor, on 9 December 2011, it filed the indictment against the police officer Z.D. to Basic Court in Kotor for the criminal acts of abuse. Against a police officer M. D. criminal charges was rejected because there was no evidence he had committed a crime, according to the Prosecution response.

Case of Stefan Vuković - Sonja Vuković, mother of Stefan Vuković from Pljevlja filed to the Public Prosecution Office criminal charges against police officers of the Regional Police Unit in Pljevlja, Haris Ciguljina, Miljan Knežević and Ivan Cvijović, on 28 April 2011. The criminal complaint stated that it had been suspected that three police officers had committed several crimes such as unlawful deprivation of liberty, inflicting minor bodily injuries, unlawful search and violation and torture during Stefan Vuković's arresting on 18 March 2011 in Pljevlja. On 6 May 2011, Sonja Vuković reported to the CA researcher another incident. Namely, when her son Stefan Vuković went to the premises

of the police in Pljevlja in order to make a statement on the occasion of filed criminal charges against police officers, police officer Haris Ciguljin physically attacked and threatened him. Then, as she said, the police officer Miljan Knežević insulted her son, and jointly with Ciguljina they tried to take him into another office. Sonja Vuković informed about this case Chief of the Regional Police Unit in Pljevlja, Police Department and Internal Control of the Police. Internal Control informed CA they had not determined the facts and evidences that would point to the indisputable merits of the allegations in the complaint, so they submitted case files to the Basic Public Prosecutor from Pljevlja. Basic Public Prosecution Office from Pljevlja informed CA that on 30 August 2011 it rejected criminal charges.

Case of Miličković - Vasilije Miličković from Podgorica accused police officers because they illegally deprived him of liberty on 5 and 6 May 2011. Namely, Miličković tried to prevent workers of the company "Tehnoput" twice to build the road over his property. Major problem, as Miličković stated was that they wanted to conduct compulsive expropriation of land. Council for Civil Control over the Police Work told CA that, after considering the case, conclusion had been made that police officers did not exceed their competencies but acted in a manner of providing assistance on execution of decision of the Real Estate Administration in accordance with prescribed competencies and the Rulebook on conditions and the manner of providing assistance to public bodies.

Case of Jovana Mazalica - Jovana Mazalica from Pljevlja reported to the CA researcher the incident that had happened on 18 May 2011 in the center of Pljevlja and later at the premises of the Police premises of the Regional unit Pljevlja. Namely, Jovana said that police officers deprived her of liberty not explaining the reasons for doing it, while two police officers in the civilian, who deprived her of liberty, rejected to identify themselves. She said they violently pushed her in the car, twisting her arm, and searched her at the premises of the police after taking off all her clothes. Jovana said that police officer Miljan Knežević offered her drugs, required from her to be in relationship, and gave her his phone number so she could call him. CA introduced Internal Control of the Police and Council for Civil Control of the Police Work with the statements of Jovana Mazalica. Internal Control told CA that after the control, defined facts and circumstances indicated there was basic suspicious that police officer

Miljan Knežević committed serious disciplinary misdemeanor because he gave wrong order to the police officer Danica Vučetić to do examination and not the search of Jovana Mazalica, considering that there were legal conditions for her search. Internal control proposed to the Chief of the Regional Unit of the police in Pljevlja to submit to disciplinary prosecutor proposal for initiating disciplinary procedure against police officer Miljan Knežević.

Milan Martinović from Berane addressed CA and reported that the Police in Berane treated him unconsciously, illegally and unlawfully, and that the court makes decision on the search of his house under the pressure of the police. Martinović introduced Ombudsman, Judicial Council, Internal Control and the Council for the Civil Control of Work of the Police with the statements. CA does not have information whether any of these institutions, which Martinović addressed, controlled his statements. Martinović told CA researcher that the pressure is being continued, therefore, he reported the incident that happened on 25 October 2011 when policemen, as he claimed, took the sample for the DNA analysis using force. The incident is described in the part "Protection of personal data".

Danijela Perović from Kotor reported on 11 June 2011 to the CA office the incident that happened on 21 January 2011 in Podgorica. Namely, Danijela accused police officers for exceeding competencies while arresting her husband Velimir Krivokapić. On that occasion they did not tell them their rights and took the money from her purse, without reporting this. She also said that her husband was interrogated before the investigating judge without a lawyer and only after being interrogated judge told him he could have a lawyer ex officio. Perović addressed Ministry of justice, but, as she said, she did not have understanding and the reception there. She said she would report the case to other institutions dealing with the control of work of the police and judiciary.

Lindon Camaj from Malesija reported on 29 June 2011 the incident which happened on 23 June at the border line Bozaj. Lindon Camaj is musician who was on his way to Skadar. Camaj said that police officers replaced him with another driver whose vehicle was illegally parked. He claimed that police officer Nebojša Kuzmanovic insulted him and acted in degrading treatment. After that, Camaj was kept in premises of Regional unit of the Police in Podgorica until 04:00 am. Police Directorate denied Camaj's statements and said that Camaj was inpatient due to long waiting at the border line, insulting

and degrading police officers and that the incident had happened a month earlier. Camaj denied statements of the Police Directorate that he was drunk that day and required from them to prove these claims.

Case of Lukic – Lawyer Milovan Orović denied on 7 July 2011 that his client Milisav Lukic beaten up the policeman, as the Police previously stated. Orović said that police officer Marinko Scekić beaten up Lukic and inflicted him serious injuries. Police Directorate denied statement of lawyer Orović. Police Directorate said that Lukic attacked police officer Scekić and on that occasion, Scekić used the truncheon and possibly inflicted minor injuries to Lukic. CA does not have information whether Lukic filed criminal charge against police officer Marinko Scekić.

Case of Šutković – Ramiz Šutković from Rožaje filed criminal charge at the beginning of July 2011 criminal charge against the police officer Rejhan Hadžialijagić and Senad Husović for violation. Šutković said that police officers had beaten him up with the truncheon and the computer cable over his feet in order to extort the confession from him. Police Directorate denied statements of Šutković. Internal Control of the Police informed CA on 26 December 2011 there were doubts that police officers Hadžialijagić and Husović illegally used extortion against Šutković and inflicted him injuries. Basic Public Prosecution Office from Berane informed CA that on 15 November 2011 it filed bill of indictment to Basic court in Berane against Rejhan Hadžialijagić and Senad Husović for the criminal offense “extortion of statements” and against Hadžialijagić for the criminal offense “violation”. The process before Basic court in Berane is in course.

Case of Turković – Srđan Turković from Mojkovac reported to CA the incident that happened on 28 June 2011 in Mojkovac. Turković told CA researcher that the same day he had small incident with a person from the same town in the center of Mojkovac, therefore he called the police to intervene. As Turković said, police officers Mirčeta Pantović and Dragomir Vučinić arrived. Policeman Pantović told him that both of them should go with them at the police station. Turković than said he wanted to go without being followed by the Police. According to Turković’s statement, policeman Pantović started beating him up at that moment. Turković fell and the policeman continued beating him up, said Turković. He filed criminal charge to Basic Public Prosecution Office in Bijelo Polje against policemen Pantović and

Vučinić. On 31 August 2011, Prosecution Office rejected criminal charge because there were no grounds that suspects committed reported criminal offenses or any other criminal offense prosecuted ex officio. On 14 September 2011, Turković filed bill of indictment to Basic court in Bijelo Polje against two police officers but the procedure was discontinued, as Turković said, after he accepted apologize of police officers.

Case of Miloš Stijepović – Miloš Stijepović from Žabljak reported to CA the incident that happened on 20 July 2011. Namely, Miloš Stijepović stated in the report that he received the call on the phone that day by Velimir Jolović, chief of the Department of Agency for National Security for municipalities Žabljak and Pljevlja who had been threatening him. Jolović addressed him with words: “Listen to me Stijepović, the state is behind me, I can do whatever I want. I’ll open your skull, you will not come alive from Serbia, and you’ll see that soon. My people are at the cross border, I know exactly when will you come back in Montenegro, and then I shall resolve the overall situation with you. I’ll put you in the coffin, and open your skull, I’ll do whatever I want with you, and the state is behind me.” Stijepović said he received these threats on his way to Serbia with his juvenile son. Stijepović reported this case to the police in Žabljak. Stijepović gave objections on the work of police officers at the Police station of Žabljak. Namely, Stijepović required the list of phone calls from police officers but every day they informed him to come the following day and take the listing over. On 3 August 2011, CA introduced the statement of Miloš Stijepović to Vladan Joković, Director of Agency for National Security and Internal Control of Work of the Police and required from them to check these statements. The Agency and the Internal Control stated they did not find any evidence showing that officers exceeded their competencies. Prosecution office rejected criminal charge submitted by Stijepović.

Case of Nemanja Ščepanović – Nemanja Ščepanović from Danilovgrad publicly reacted on 2 August 2011 and said that police officer Vlado Lakić in the civilian shoot at him three times. Ščepanović said he had filed criminal charges against police officer. The Police informed Basic Public Prosecutor in Podgorica about the incident, who indicated that it may be criminal offense under the competence of Higher court in Podgorica. Basic Public Prosecutor informed on 26 December 2011, CA that it had delivered directions to the Police to inform the Deputy of Higher Public Prosecutor from Podgorica about

the reported incident. Higher Public Prosecutor informed CA on 27 December 2011 that the Police Directorate, Police station in Danilovgrad did not file criminal charge to the Higher Prosecution Office against police officer Vlado Lakic, because there were no elements of any criminal offense in actions of participants in the incident that would be prosecuted ex officio.

Case of Russian citizens Popova and Dolinina – While two Russian citizens, Valentina Popova and Marija Dolinina were on vacation in Bar, they reported on 25 August 2011, via daily newspaper DAN that police officers did not react professionally when they faced with the incident on the beach Veliki pijesak, in Bar. Popova and Dolinina said that several men, whom they thought were beach guards, beaten them at the beach Veliki pijesak. After this, they reported the incident to the police. Popova and Dolinina were not satisfied with the manner police officers made the report on this event, so they had impression that policemen wanted to help persons who beaten them up.

Case of the music Festival SONICA – Participants at the music festival SONICA that took place in Ulcinj in August 2011 complained on the police acting during the Festival. Participants said that policemen were using force, electro-shocks and weapons. Police Directorate denied these statements and said their officers confiscated several types of narcotics and deprived of liberty an citizens of Portugal and a citizen from Kosovo.

Case of distribution of propaganda material – On 1 September 2011, Police arrested Darko Rašović, President of Association Stop discrimination, Radoš Zečević, President of the Board of New Serbian Democracy, Srđan Radulović, Radoslav Dragović, and juvenile J.F., for suspicion they were distributing propaganda material. The same day, at 22h they were released. They were interrogated by public prosecutor due to suspicious they committed criminal offence inviting on resistance against public bodies. They were distributing propaganda material saying “Boycott – no Serbian language, no school”. In the actual case, CA addressed Department for Internal Control of Police Work and Council for Civil Control of Police Work.

Case M.Z. – Police officer Sreten Zindović was arrested on 30 August 2011, due to suspicion he had committed criminal offence against general security. Police said he fired from unlicensed gun, and out of negligence wounded M.Z. and inflicted him injuries dangerous for his life.

Case of Mijodrag Kujo Novović – Mijodrag Kujo Novović reported on 8 September 2011 the incident which happened at the company he owned, Grafo Montenegro. Novović said that two police officers exceeded competences by providing assistance to the bailiffs who came to extort the payment of the credit loan in which Novović was a guarantor. As media reported, Novović was accused for attacking police officers in executing their duties. On 15 October 2011, Novović published letter in media that stated that Public Prosecution Office rejected criminal charge submitted by the police against him due to the attack on a person acting in official capacity. Novović said that the camera confirmed he had not attacked police officer. Novović accused the police for the revenge because he did report two police officers for the criminal offense bribe. Novović emphasized he expected fast response of the Department for Internal Control of Work of the Police

Case of kidnapping – The Police arrested four persons out of whom one was a police officer Savo Vulević, suspected for committing criminal offence on 19 September 2011, kidnapping juvenile person. The Police stated that persons tried to kidnap from school eight years old girl of Russian nationality. Among kidnapers was a mother of a girl. Police Directorate announced they would initiate disciplinary procedure against their officer. Criminal charges have been filed against all persons. Basic Prosecution Office told CA that the Prosecution Office filled bill of indictment against police officer Savo Vulević before Basic court in Bar for the suspects he had committed criminal offenses self-help and unlawful deprivation of liberty. The trial has been appointed for 23 January 2012.

Case of Dendić – Dejan Dendić from Nikšić claimed in media that on 10 October 2011, he was beaten up by police officer in the civilian for no reasons. Dendić said he had been beaten up firstly at his home and afterwards at the police station. As he said, his right arm was broken and he received bruises all over his chests, back and head. Dendić said that policeman Zeljko Vujicic arrived at his house where beating up started. Few days after that, Dendić had strong stomach pains. Police Directorate gave statement on this occasion and said that five police officers were dismissed from their job positions due to beating up of Dendić and against them would be initiated disciplinary proceeding. Deputy of the Basic Prosecutor in Nikšić was introduced with the incident as well.

Case of Kruscic – Bojan Kruscic from Nikšić reported to CA researcher the incident that happened on 24 November 2011. Kruscic said that the group of policemen that day, at 7 am. Came and searched his apartment. As he said, while he were searching his apartment, they also shouted at him and afterwards said they had to take him at the police station not emphasizing the reason for taking him there. He was at the police station from 8 am until 15 pm. At his request, they gave him to drink water, but he waited to long to let him go to the toilet. Kruscic said that, although he was kept all day there, his interrogation lasted only 15 minutes. He spent all the time at the office which used police inspectors, not in premises for detainees. Kruscic told CA researcher that he found out from the newspaper that he was accused for throwing the bomb at the “Irish pub” in Nikšić.

Case of Radončić – Safet Radončić from Plav reported to CA researcher the incident which happened on 15 December 2011. Radončić said that he had an incident with the police officer Saša Dašić in traffic who cursed him on that occasion. According to Radončić’s claims, Dašić was driving in front of Radončić in the center of Plav, stopped the vehicle and started to talk with a pedestrian. After a while, waiting for Dašić to end the conversation and start up the car, Radončić signaled with the light giving a sign to Dašić to move the vehicle. Radončić said that Dašić addressed him at that moment cursing him. Radončić reported this incident to the police in Podgorica and Berane. After this event, on 17 December 2011, police officer Igor Dabetić took Radončić into custody, at the premises of the police station in Plav. He was kept at the police station from 20 pm to 02 am. The report about his detention stated the reason for his apprehension which was obvious he was under the influence of alcohol. Radončić denied these statements and said he was not under the influence of alcohol, that he was not even tested, and that at the time of apprehension he did not drive car but the car was parked. Radončić claimed that such a reaction was the result of his reporting of police officer Dašić. Radončić reported this case to Internal Control of the Police.

Department for Internal Control of Work of the Police informed CA on 26 December 2011 that citizens filed 11 complaints last year with elements related to some form of violation committed by police officers. During 2011, the Department executed four controls – control of legality of acting of police officers upon this criterion. Out of total number of controlled cases, the

Department found that in five cases police officers exceeded competences. Department for Internal Control of Work of the Police showed openness and readiness to cooperate. With CA has been achieved intensive cooperation on resolving reported cases of exceeding competences of police officers.

CA presents short description of cases controlled by Department of Internal Control that were not registered in any other manner:

Fatmir Maljaj from Podgorica filed to this Department complaint on police officer from the Police substation for public peace and order of Regional unit Podgorica, Vujica Ivanović saying he had physically attacked him, hitting him in the head near the eye, on 21 February 2011, at the official premises of the branch in Konik, where he was detained. Internal Control did not define whether the exceeding of competences by police officer Ivanović occurred.

Radovan Perović from Bar filed the complaint to Minister of internal affairs on police officers of the Special Task Unit of the Police Substation in Bar, due to illegal use of coercion and infliction of injuries to his son Milan Perović, on 1 January 2011, in Bar, in front of the restaurant "Las Lambras" and in official premises of the Regional Unit Bar. Accused officers were Neško Jaredić, Jagos Pivljanin, Ivan Mardunović, Milija Vlahovic, Aleksandar Djurdjic, and Radovan Janjusevic. Department for Internal Control stated there were reasonable doubts that above mentioned police officers exceeded competences in the actual case due to the use of means of coercion. The report on the control with the files created in the procedure of internal control was delivered to Basic Public Prosecutor in Bar for further proceeding and assessment of existence of elements of criminal responsibility in actions and acting of police officers. The proceeding at Basic Public Prosecutor in Bar is in course.

Savo Masoničić from Bar filed complaint to Department for Internal Control of Work of the Police against police officers of the Police Substation of Regional unit in Bar, due to illegal use of coercion towards his son Darko Masoničić, on 7 May 2011, in Sutomore. On that occasion police officers inflicted Darko bodily injures. According to the facts and circumstances defined in the proceeding of Internal Control, it was assessed there were reasonable doubts that police officers of the Police Substation of Regional Unit in Bar, Neško Jaredić and Ivan Mardunović, in the actual case illegally used coercion - physical strength over Darko Masoničić and inflicted him bodily

injuries stated in medical documentation. According to what was defined, Minister of internal affairs was proposed to deliver the Report on control (with case files) on further proceeding to the Director of Police Directorate, so that the Chief of Police Substation of Regional unit Bar, as direct chief to police officers Jaredić and Mardunović, can undertake measures from his competences, in a view of initiating disciplinary proceeding against mentioned police officers and determining their disciplinary responsibility. Department for Internal Control delivered the Report on conducted control (with case files) to Basic Public Prosecutor in Bar for consideration and further proceeding, in a view of defining the existence of elements of criminal responsibility in actions and acting of mentioned police officers. Department for Internal Control of Work of the Police was not informed about the result of the proceeding upon proposed measures and according to the analysis of delivered monthly reports of Disciplinary Commission of Police Directorate has been established that, in the previous period, was not pronounced disciplinary measure to police officers Neško Jaredić and Ivan Mardunović. The proceeding at Basic Public Prosecutor in Bar is on course.

Embassy of the Republic Serbia in Podgorica filed complaint to Department for Internal Control of the Police on the occasion of reports of Serbian citizens, Fikret Čekić and Sasa Petrović who were apprehended in ZIKS (Spuž) who, during the meeting with the consular on 14 April 2011, said they were tortured and violated in different manners by police officers of the Regional unit in Podgorica, after being deprived of liberty on 5 March 2011 and while being apprehended and interrogated. In the control procedure, it was established that Čekić on 7 March 2011 told investigation judge of Higher court in Podgorica he had been violated by the police. Thus, the judge ordered than specific specialist examination of Čekić after the reception in prison in Spuž. President of the Council of judges of Higher court in Podgorica issued an ordered on 1 March 2011 requiring expert opinion on bodily injures of accused Čekić, on which would competent Public Prosecutor decide on eventual initiation of criminal proceeding against police officers. Also, in the control proceedings was determined that accused Sasa Petrović stated before Deputy of Higher Public Prosecutor and Investigation judge of the Higher court that he did not have any objections on treatment of police officers. Collected medical examination for Petrović did not state bodily injuries in the police while

depriving of liberty or after reception in prison in Spuž, nor Petrović reported any bodily injuries, therefore, medical expertise for him was not done. Taking into consideration the facts defined in the proceedings of Internal control, the Report on control, with case files collected in the control procedure, were delivered on 12 July 2011 to Basic Public Prosecutor in Podgorica on assessment and opinion on eventual existence of elements of criminal responsibility in acting and activities of police officers. Department for Internal Control of the Police did not receive further information about the results of the proceeding at Basic Public Prosecutor.

Dejan Raičević from Podgorica delivered to Department for Internal Control of the Police complaint on the police officers of the Police Substation for security of traffic of the Regional unit Podgorica, Spasoje Leković for the manner of treatment towards him during the traffic control on 7 September 2011. According to the facts and circumstances defined in the procedure of Internal control, it had been determined there were reasonable doubts that police officers of the Police substation for security of traffic of the Regional unit Podgorica, Spasoje Leković and Bosko Raković committed disciplinary misdemeanor from Article 59, Paragraph 1, Item 4 of Law on civil servants (violation of position and exceeding of competences in service) and police officer Miroslav Brnović disciplinary misdemeanor from Article 59 Paragraph 1 Item 13 of Law on civil servants (violation of professional duties that has severe consequences for parties or public body). According to what had been defined, Minister of internal affairs was proposed delivering of the Report on executed control (with case files) on further procedure to the Director of Police Directorate, so that the chief of Police Substation for security of traffic of Regional unit Podgorica, as direct chief of police officers Brnović, Leković and Raković would undertake measures from his competences in a view of initiating disciplinary proceeding against mentioned officers and defining of their disciplinary responsibility due to the manner of undertaking official activities in this case. Except this, Department for Internal Control delivered the Report on control (with case files) to Basic Public Prosecutor in Podgorica for further consideration and proceeding, in a view of defining the existence of elements of criminal responsibility in acting and activities of mentioned police officers in the case. Department for Internal Control of the Police has information that, upon proposed measures, was submitted proposal for

initiating disciplinary proceeding against mentioned police officers. Analysis of Internal Control in this case was done in 14 November 2011.

Miodrag Rakočević from Kolašin filed complaint to the Department, against chief of the Police Crime Substation of the Police station in Kolašin, Nenad Anđelić who, as he stated in complaint, provoked him behind the building of the Police in Kolašin, on 23 March 2011, and then verbally and physically attacked, hitting him in face. On that occasion, inspectors Đerković and one more policeman in the civilian arrived, who grabbed him over his neck, hitting him in legs and pushing on the ground. In the conducted proceeding of Internal Control were not defined facts and evidences that would indicated on statements from the complaint because mentioned police officers claimed that there were no physical contact between police officers, negating that the event happened in the manner described in the complaint, while the submitted of the complaint did not have medical documentation on injuries he received. Besides, the Report on control, with files developed in the control procedure, was submitted to Basic Public Prosecutor in Kolašin on further examination, assessment and deciding on eventual existence of elements of criminal responsibility of mentioned police officers. Department for Internal Control of the Police was not informed on the results of the proceeding.

Janko Savić - Protector of human rights and freedoms delivered a letter to Department for Internal Control of the Police related to the complaint filed by detainee Janko Savić where he complained due to violation and infliction of bodily injuries in official premises by officers of the Police station of the Regional unit in Podgorica on 18 March 2011. In the conducted procedure of the internal control, facts and evidences that would indicate on illegal treatment of police officers in the case were not defined. Namely, on 9 June 2011, detainee Savić, in premises of the remand prison in Spuž, while having conversation on circumstances from the complaint and providing the statement to officers of internal control, gave up of statements in filed complaint, which reduced the possibility of defining facts related to eventual existence of elements of disciplinary or other responsibility of police officers who, in this case, undertook professional measures and actions.

Amel Sejfović - Officers of Department for Internal Control conducted control after the letter of Protector of human rights and freedoms sent to the Department due to complaints submitted to Protector by detainee Amel

Sejfović who complained on violation and infliction of bodily injures by police officers of the Police station in Podgorica at the time of his detention at the official premises from 5 to 7 March 2011. According to the results of the control of legality of acting of police officers of the Regional unit in Podgorica it was assessed that, except the fact that Amel Sejfović in his statement especially indicated on Ivan Vidaković (today, former police officer) accusing him for violation and torture in official premises of the Police, in the control procedure were not defined facts and evidences that would indicate on concrete responsibility of other police officers for illegal use of coercion and infliction of bodily injures. According to this, Report on control in this case (with the case files made in the control procedure) was delivered on further procedure Basic Public Prosecutor in Podgorica in order to decide whether there were elements of criminal offense in acting of Ivan Vidaković. Department for Internal Control has not been informed about the results of the proceeding at Basic Public Prosecutor.

b. Situation in ZIKS

According to information provided by Zoran Magdelinić, Assistant Director of the Institute for Execution of Penal Sanctions (ZIKS) to the CA, 3297 persons were on serving imprisonment sentence, and the end of 2011 there were 1328 convicted and detained persons. ZIKS capacities range up to 1005 persons, previously informed the management of ZIKS. CA registered 14 reported cases with allegations that some of the rights of detainees and prisoners were violated. In two cases, criminal charges were filed and investigations are in course.

Administration of ZIKS continued good cooperation with the NGO sector in 2011. CA has achieved intensive cooperation and communication on resolving specific number of cases.

One of the largest problems in prisons in Montenegro is that the number of detained and convicted persons far exceeds the capacity of prisons. The European Commission pointed to this problem in the Analytical Report. To overcome this situation it is necessary to develop alternative sanctions and rehabilitation activities, which indicated EC. The Parliamentary Board for Human Rights and Freedoms held on 14 June 2011 a control hearing of Milan Radović, Director of ZIKS. The hearing was related to the findings of the EC

Analytical reports and activities conducted on the basis of recommendations of the Protector of Human Rights and Freedoms in the case of Milić and Nikezić. In the information that the director of ZIKS, Milan Radović submitted to the Board for Human Rights and Freedoms, was stated that the overcrowding problem still persisted. Therefore, in some prisons, such as the prison in Bijelo Polje, are even more than double prisoners than the standard prescribes (8m² of space per prisoner), and the situation is that there are 90 accommodation capacities and there were 205 convicted persons in this prison in 2011. Recommendations submitted by the Ombudsman to Police Directorate in the case of torture of detainees Igor Milić and Dalibor Nikezić were not fully respected, according to Ombudsman. Specifically, the Administration of ZIKS disciplinary sanctioned only three employees but, according to Ombudsman's opinion, number of the responsible officers was larger and the video showed that in the action participated fifteen officers.

The right to visit, which includes the right to family life, does not meet the minimum standards. First of all, reasons are rooms that are designated for family visits, or. exercising of rights to family and marriage life, that are not adjusted. Rooms are wet, and are at inadequate places where no safety and intimacy can be provided, and children can not attend the visits to these premises. As some prisoners told CA researcher, during December did not work the remote control for air conditioning so it was not possible to include heating in one of the rooms. These rooms can only be used by married partner while unmarried partners cannot. On 10 November 2011 media published the information that prisoners announced hunger strike, because the number of visits of married partners was reduced from two visits to one visit.

In December 2011, prisoners reported to CA researcher that the building within the Criminal Correctional Institution prison in Spuž had no water on the floors and when the water came, then the pressure was bad. According to the claims of a person convicted, such a situation lasted from the summer. Administration of ZIKS denied these statements and said that the water was interrupted for two days due to the installation work and then the flow of water was set up.

Boxes for complaints have been placed in ZIKS, but keys of boxes are under the authority of ZIKS. Management of ZIKS told CA researcher they had initiated setting of new boxes in cooperation with Ombudsman and OSCE, and

that only Ombudsman would have keys of these boxes. Setting of new boxes was planned for the end of the last year but was postponed for 2012, due to bureaucratic problems, as stated from ZIKS.

On 22 June 2011, the Parliament adopted the Law on Amendments to the Law on Execution of Criminal Sanctions. This law established special organizational unit within the Ministry of justice, Department for Probation. Department for Probation shall supervise the prisoners at liberty during the probation, suspended sentence, a suspended sentence with supervision, the sentence of community service and other measures stipulated by law. This means that criminal offenders of lower risk may serve their sentences in the community under strong control. Department for Probation was established in December 2011 year, and, as announced by the Ministry of justice, work of the Department should start in January 2012. Convicted persons, who have served two-thirds of punishments and during the service showed exemplary behavior, shall be able to apply for conditional release. Ministry of justice has announced, as media published, that Director of ZIKS so far has approved almost hundred paroles. Convicted persons can contact the Commission or the Ministry of justice or Administration of ZIKS. Ministry of justice told CA researcher that by the end of 2011 the Ministry would start drafting the new Law on Execution of Criminal Sanctions that would fully compliant with the legislation and practice of the European Union and the Council of Europe standards. In the Ministry of justice, on 29 December 2011, was appointed Deputy Minister for the enforcement of criminal sanctions. Ministry of justice until nowadays did not have a deputy minister in this area, although it was prescribed by the job systematization.

Incidents:

CA received an anonymous report of prisoners from ZIKS on 21 January 2011 that more than 120 convicts from the semi-opened department were on hunger strike. The reasons why they launched a hunger strike were: failure to receive parole, inadequate medical care and accommodation capacities. The media published the information about the strike at this institution. Management of ZIKS confirmed that prisoners rejected to take food

for the reasons mentioned. Convicted persons who were on strike, discussed on 22 January 2011 with the Director of ZIKS, Milan Radović and after that they decided to stop the hunger strike. Radović promised that conditions and medical treatment would be improved in future, and that larger number of convicted persons would receive parole.

Convicted Dragana Radović Goranović reported to CA that women faced with discrimination in ZIKS. She said they had informally found out from the officers of ZIKS that relocation of convicted women would be done from the new building, where they were then, in the old building where the women were placed earlier. She pointed out that for women who were engaged to work, were poorly paid and that for open division of the plantation, for work were planned only men. According to her statement, five women asked to be work on the plantations but were rejected. CA researcher spoke with representatives of ZIKS about the statements of convicted Radović Goranovic. They said that the relocation was planned, but only when conditions in the old building get the same level as in the new one. Women are not hired to work on the plantations because conditions for physical separation of women and men were not provided.

Case Miljanić - Brother and sister of detainee Rade Miljanić, Tanja Miljanić and Momcilo Miljanić said on 23 March and 30 November 2011 in the media that right of Rade to medical treatment was violated. Namely, Rade Miljanić is a blind person and according to media's statements, he was allowed one operation in Belgrade. For further treatment were necessary other interventions. However, Miljanić family claimed that the Prosecution Office and the Appellate Court assessed that Miljanić should stay in detention because of the risk of escape. According to the statements, Rade Miljanić was on a hunger strike in order to get the right to treatment. Representatives of ZIKS told CA researcher on 25 March, 2011 that they going to a treatment was provided to Miljanić.

The case of R.M. - M.Č. and V.M. sisters of R.M, the person who is in prison in ZIKS, reported on 29 March 2011 to CA researcher that their brother said that R.R. security officer in ZIKS harassed him, because of the earlier private disputes. According to the Agreement with CA, Management of ZIKS sent to our organization response on these statements on 31 March, 2011. The reply stated that on 29 March, 2011 the incident occurred when the officers of ZIKS

conducted ZIKS detainee R.M. in Podgorica Basic Court. When they took him to the court, his sister tried to get closer to him, and as she said, she only wanted to greet him. This contact prevented officers of ZIKS who took R. M. in court. Then, R.M. approached officer of ZIKS, R.R. asking why he did not allow him to greet with his sister, and whether it was due to their previous dispute. Officer replied that it was because he carried out official duties and that private reasons were not at issue. Their arguing was interrupted after the order of chief of sector for the escort security. After completion of the hearing, R.M. was returned to the prison and upon entering the building, a search was carried out. On that occasion, a letter was found in his jacket, and it has been presumed he intended to give it to his sister while entering the building of Basic court, said the response of ZIKS. Head of the remand prison submitted a letter to the investigating judge and upon his decision R.M. was ordered detention. Also, Head of the remand ordered immediate search of R.M. and ordered his statement. CA received statement saying that R.M. had no visible external injuries. His sisters denied these statements and said to CA researcher that their brother was under pressure to say that no one had harassed him. Also, they stated they would file criminal charges to the competent Public Prosecution Office against R. R. They reported the case to Ombudsman.

Incident in ZIKS on 6 July 2011 - One sentenced person reported incident which happened that day in prison in Spuž. That person said that prison officers beaten up D.P. On that occasion, D.P. lost consciousness and fell when officers of ZIKS took him to isolation. CA introduced the office of Ombudsman with these statements and required from them to conduct the control of statements. The same day, mother (M.P.) of mentioned sentenced person D.P. also 12 reported the incident to CA researcher. She said she had received information from ZIKS that her son was beaten up by officer in ZIKS. M.P. afterwards told CA researcher she called authorities in ZIKS who told her that her son attacked the Commander and for that reason he got a 'small slap'. M.P. added that officers in ZIKS told her it was not true that her son had been beaten up and that he was examined by doctor and that her son did not have injuries. On 7 July 2011, M.P. reported this incident to the office of Ombudsman. She received the information from the office that their officers went to visit her son in prison in Spuž, to check the statements on violation. CA researcher received the information from ZIKS that D.P. attacked their officer

and that the force had been used with the aim to give resistance. M.P. told CA researcher that her daughter visited D.P. On that occasion, she saw injuries and D.P. told her that officer in ZIKS inflicted him injuries. She said that D.P. told her that the same officer inflicted injuries to one more sentenced persons by hitting him with Motorola in head, which resulted in providing aid to that persons in Clinic center of Montenegro. Mother and sister of D.P. later told CA researcher they did not want to process the case.

Case of Hristina Manojlović - On 26 July 2011, Hristina Manojlović submitted to CA a letter she had received from her husband, who was serving sentence in prison in Spuž. The letter stated that her husband Jagoš Petrović was injured on 6 July 2011, after being hit by Motorola in the incident in which D.P. was injured as well. On that occasion, Petrović received more serious injuries over his face. As the letter said, Petrović filed criminal charge and informed Ombudsman what had happened that day. Basic Prosecution Office informed on 29 December 2011 CA that collection of important information on filed criminal charge has been in course.

A person who introduced himself as a sentenced person, reported on 27 July 2011, at almost 20h, via mobile phone to CA researcher that officers who were on duty when Jagoš Petrović was injured, threatened to sentenced persons they would beaten them up if they testify or transmit information on the incident. CA researcher immediately contacted Zoran Magdelinić, Deputy Director of ZIKS and informed him about calls and statements he had received. Magdelinić told CA researcher he had conducted control the same night and visited sentenced persons in ZIKS who were mentioned as witnesses and talked to them. Magdelinić said that the situation was regular and that none of sentenced persons or officers claimed there were incidents or threatening.

Case Jurišević - Dušanka Jurišević, wife of Radojko Jurišević who died on 12 June 2011, after being poisoned by Ksalol tablets in July, filed criminal charge against more unidentified officers of ZIKS, for suspicious they had committed criminal offence "negligent performance of duty". The analysis of autopsy showed that death of Radojko was violent, after being poisoned by Ksalol and that he committed suicide. Family of Radojko Jurišević suspected that details on the cause of poisoning have been covered as well as the details on the manner in which Jurišević received large amount of tablets. Family told CA that Jurišević required from the management of ZIKS to provide him the

treatment at the Clinic center which they did not approve. Representatives of ZIKS said that Jurišević was taken several times for examination at doctors out of ZIKS but doctors considered he did not need clinic treatment. Management of ZIKS said they could not let him to have a treatment at home because the security assessment indicated that revenge might happen.

Case of Brajuškovic – Daily newspaper Vijesti stated on 27 September 2011, that Radomir Brajuškovic addressed them, who was in prison in Spuž on serving the sentence and who, on that occasion, reported the head of the security service Milivoje Ivančević. Brajuškovic told Vijesti that conditions of life where prisoners stay and serve shorter sentences were worse than in concentration camps, while Ivančević was showing strength, self-will, and power. Brajuškovic accused Ivančević for using wooden mace and hitting prisoner with it between their legs. According to his statements, Ivančević ordered him in prison to shave his mustaches and unless he did it by himself, Ivančević would shave him with “no water and foam”. Office of Ombudsman stated on 29 September 2011, that its representatives visited Brajuškovic and added that the control of his statements was in course. Office of Ombudsman stated on 10 November 2011 that disciplinary procedure has been initiated against Ivančević.

Unconditional rooms in Remand prison – Daily newspaper Vijesti published on 18 October 2011 information that there were several rooms in one part of Remand prison in Spuž that are in jargon called “Cambodia”. The text stated that in these rooms were sometimes accommodated more persons than the capacity of rooms provide. Also, the text said that other conditions in that part of the prison were not at satisfying level. At the same time there are parts of the prison for the privileged ones. These information were delivered by sentenced persons according to their staying there. It was also stated that the Office of Ombudsman started the procedure of examining the conditions in this part of the prison. Management of ZIKS denied these statements and said that rooms called “Cambodia” did not exist anymore.

Case Ivanišević – Mladen Ivanišević, doctor who served sentence in prison in Spuž dies on 31 October 2011, in prison. Media published the information that doctor Ivanišević reported several times he was physically and mentally tortured by unidentified persons while he was in prison.

Competent institutions conducted investigation but it did not give results, stated media.

Parole - Sentenced persons in prison in Podgorica required in November 2011 respect of Law on enforcement of penal sanctions and especially in part related to parole after serving two thirds of the sentence. Media then informed that representatives of sentenced persons introduced the director of ZIKS and representatives of ministries with their requirements. Competent bodies promised that parole would be provided from January 2012.

Case of Terzić - On 14 November 2011, Milivoje Terzić was found dead, hung by the bar, during the break for a walk in remand prison in Spuž. Media published information that analyses of autopsy that were done by two doctors, were different. It had been stated that information they had received from Prosecution Office saying that Dr Miodrag Šoć, who did the autopsy first, told to the Prosecution that it was murder; and that Dr Dragana Čukić, who secondly did the autopsy, did not exclude the possibility of a suicide. Higher Prosecution Office from Podgorica informed on 27 December 2011 CA that according to the analyses of autopsy reports of Dr Miodrag Šoć done on 22 November 2011, Dr Dragana Čukić, done on 24 November 2011 and according to professional opinion, professor Mihailo Kuliš on 26 November 2011, made order on whom would be designated medical expertise for determining the cause of death of Milivoje Terzić, that would be assigned to Medical Faculty of the University in Ljubljana.

Case of Renato Kruščić - Family of Renato Kruščić reported on 23 November 2011 the incident which occurred on 21 November 2011 in ZIKS. Family members claimed that the officer of ZIKS, Bojan Brajović had beaten Renato Kruščić. Management of ZIKS suspended officer Brajović. Zoran Magdalinić, Assistant Director of ZIKS, told on 25 November 2011 to CA researcher that after the incident, Brajović terminated the contract on employment in ZIKS. CA has no information whether criminal proceeding has been initiated in the actual case.

Discrimination in detention - Daily newspaper Vijesti published on 7 December 2011 the information that all detained persons in remand prison in Spuž did not have the same treatment and conditions. The article stated that the smaller number of detainees had privileged conditions and position in

comparison with all other detainees. Management of ZIKS denied on 8 December 2011 statements on privileged status of some detainees.

Case Mugoša - Ljiljana Mugoša, mother of Zoran Mugoša who is serving sentence in prison in Bijelo Polje, addressed CA on 26 December 2011 with statements saying that rights of her son were violated. Ljiljana said that her son had no right to use devices for training and that he could not manage to get a second group that would provide him more rights. Zoran Mugoša was sentenced to 15 years imprisonment. GA researcher contacted the same day, Assistant Director of ZIKS, Zoran Magdelinić and acquainted him with the statements. Magdelinić said that Mugoša was disciplinary sanctioned which was the reason why he could not move from the third to the second group and that his request would be reviewed again in March 2012. Regarding devices for the training, Magdelinić said that due to security Mugoša was transferred to a prison in Bijelo Polje, where they did not have enough space for working out due to reduced physical space, therefore, such rules were the same for all prisoners in that prison.

Daily newspapers published on 26 December 2011 the information that 18 women from the semi-open part of the prison in Spuž were moved to the men part of the prison. Daily newspaper stated that such a situation lasted for two months and that the situation should have been resolved within 45 days. Assistant Director of ZIKS, Zoran Magdelinić told CA researcher on 26 December 2011 that statements of Daily newspapers were not true and that women did not share space with men. Magdelinić said that women, who were serving sentences in semi-open section, were joined to the women who were serving a sentence in the closed part due to renovation of the premises. Magdelinić said that the renovation of these facilities were closer to an end and that relocation of women could be expected at the beginning of 2012.

Case Vojvodić - Igor Vojvodić told CA researcher on 29 December 2011 that his brother Dražen Vojvodić who was serving sentence in prison in Spuž were violated rights to treatment. Namely, Igor claimed that Dražen's medical treatment was interrupted due to serving a prison sentence. As Igor told to CA researcher, Dražen suffered from severe psychosomatic condition. Dražen addressed Ministry of justice on 9 November 2011 requiring termination of the sentence. As Igor said he did not receive the answer until the end of 2011. Representatives of ZIKS told CA researcher that the an initiative was delivered to Ministry of health related to establishing of comission for the review that would determine whether, in the case of Dražen Vojvodića, the treatment in institution of closed type was needed.

V Politically motivated violence

CA registered more cases of politically motivated violence in Montenegro. Former police officers left the country due to the statements that the country did not provide them security. CA registered threats, incidents, and speeches of hatred.

On 6 April 2011, Higher court in Podgorica confirmed the verdict to brothers Stanisic for the assault on juvenile son of Nebojša Medojević, President of Movement for changes. On 21 October 2011, Basic court in Podgorica sentenced Vidoje and Radoslav Stanisic to eight months imprisonment due to the mentioned assault. Medojević claimed it was politically motivated assault and accused two officers of Agency for national security (ANB), D.G. and Z.L. Medojević assessed that the assault was threatening message to him, to stop indicating on relations between specific members of ANB and police with organized crime.

Departure of former police officers from Montenegro - Former police officer from Rožaje, Enver Dacić reported to the police in Rožaje on 8 April 2011, he had received death threats if he appears on 11 April 2011 in Basic court in Berane on his hearing and the hearing of the chief of the branch office of border police of Berane, Veselin Krgović on statements of tobacco smuggling. Dacić reported he had received the message on his mobile phone, saying: "Listen to me Enver, this is your last message. If you appear at the trial on Monday, you know what is coming to you. Just move it, or you will get it. You have a family, and we are not joking. Don't you tell anybody, take after yourself good? Watch yourself, everyday from now on. Dacić said that in written statement he required from the police to provide him security but the police said he would not receive protection. Prime Minister Igor Lukšić had a meeting on 20 April 2011 with Dacić and three more dismissed police officers from Rožaje, Mithat Nurković, Hamdo Murić and Resko Kalač. With family, Dacić temporarily left Montenegro on 25 April 2011, and his parents said his son received threatening call from somebody from ANB to leave the country. Media stated that Dacić was in some of the western countries. Police Directorate denied these statements.

Mithat Nurković, former policeman reported to the police in Rožaje, on 3 May 2011, that he was attacked 20 days earlier. Nurković claimed that, while

he was driving, unknown person, who drove vehicle "Ford" tried to hit him, while passing Nurković's car. In order to avoid that, Nurković suddenly turned on the other side and missed the contact with other car. According to Nurković's claims, "Ford" was official police car that had rotation light. Nurković recorded the incident with his mobile phone and sent in the report to the police. Police Directorate filed criminal charge for false reporting against Nurković on 4 May 2011. Nurković described such treatment as the aim for his imprisonment and continuation of harassment of Nurković and other dismissed policemen. Mithat Nurković also left the country with his family in the middle of May 2011. As media stated, Nurković told his father he was leaving Montenegro because he was afraid for his family.

Suad Muratbašić, former police officer also left Montenegro due to discrimination and pressures after indicating on corruption and crime. Suad Muratbašić claimed he was dismissed because he indicated on negative matters in the Police, even while he worked there. Muratbašić said he had to convince 34 persons from Bijelo Polje to vote for Democratic Party of Socialists in order to stay at work in the Police. With his family, Muratbašić left in Brussels where he required political asylum. Muratbašić accused Police Directorate requiring severances and fringe benefits, however, as he said, none of his complaints was processed. Veselin Veljović, Director of Police Directorate invited on 12 June 2011, former police officers to return in Montenegro and added that Police Directorate would guarantee security for them. After departure of former policemen Enver Dacić, Mithat Nurković, and Suad Muratbašić, the same thing did their colleagues Resat Kalač and Hamdo Murić. Kalač and Murić left Montenegro on 2 July 2011, and they did not want to say which country they were going. They also said they were discriminated on religious basis and because they indicated on cross border smuggling. According to their words, they had to leave Montenegro to protect themselves and their families after threats that have not been revealed and for the silence of institutions.

Smailj Čunmuljaj stated publicly on 4 June 2011 he had received threats because he initiated the story about the control of diploma of Nikola Gegaj, the President of urban municipality Tuzi. Namely, councilor in the urban municipality Tuzi, Smailj Čunmuljaj initiated the story about the false diploma of Gegaj. As he said, father and brother of Nikola Gegaj were

threatening him. Cunmuljaj introduced the police with the treats and added he would not file criminal charges.

Trial to Metropolitan of Montenegro and the Littoral, Amfilohije - Trial to Metropolitan of Montenegro and the Littoral Amfilohije started in June 2011. The trial was interrupted because legal representatives of Metropolitan required disqualification of Prosecutor Veljko Rutović, Zoran Živković, President of Misdemeanor Council, Srđan Đurović, President of the Regional body for misdemeanor and the judge Larisa Begović. The trial was interrupted until the decision on the request for exemption. Media did not follow the trial because there was not enough space in the court room, except for five journalists who joined other journalists and left the courtroom. Metropolitan has been charged by the prosecution office for the speech of hatred. The charge also included the statement Metropolitan gave on 6 and 14 January 2011 and due to the part of the letter he delivered to Igor Lukšić, Prime Minister of Montenegro. Dalibor Kavarić, legal representative of Metropolitan said that judiciary tried to make Metropolitan silent and that they also tried to represent him negatively as someone who suppressed religious and national feelings.

Priest Velibor Džomić from Podgorica, decided at the end of February 2011, to withdraw the complaint against Veselin Veljović, Director of Police Directorate for defamation. Džomić accused Veljović because he delivered information at the session of the Parliamentary Board for security, that the priest participated in planning devastating activities in front of the Parliament of Montenegro. Džomić considered that it was enough that he had proved he did not plan any devastating activities in front of the building of the Parliament of Montenegro before the court and public, at the protests on the occasion of recognition of independence of Kosovo.

Milan Popović, Professor at the Faculty of Law, Esad Kočan, Editor in chief Monitor, and Koča Pavlović, Member of the Parliament of Montenegro, announced on 11 June 2011, they had been receiving in the last couple of weeks offensive and threatening SMS and added that messages sent Šeki Radončić. Radončić confirmed he had sent them messages but negated he had been threatening them. Zoran Piperović, legal representative of Radončić, said on 20 September 2011 that Prosecution office informed him that Radončić had not committed any criminal offence against Milan Popović, Esad Kočan, and Koča Pavlović. Radončić announced he would sue Popović, Kočan and Pavlović for

offenses and mental suffering. Popović, Kočan and Pavlović reacted on these information and said they had not even been contacted by the Prosecution office. They added that Prosecution office ignored their invitation to take into consideration the content of those messages only as the part of obvious intentions of the chief of the authority regime Milo Đukanović, to avoid the largest responsibility related to the war crime of deportation in 1992.

Revoking of personal ID documents - Ministry of internal affairs initiated the procedure of revoking of Montenegrin citizenship to Predrag Popović, President of People's Party. For that reason, Popović resigned from the position of MP at the Parliament of Montenegro. Reason for initiating the procedure was the citizenship of Serbia which Popović had, and the Law on citizenship prescribes that person of age shall lose Montenegrin citizenship if they receive citizenship of some other state on their own accord. On 21 March 2011, the Ministry made decision on revoking citizenship to Popović. In an open letter to Igor Lukšić, Prime Minister, Popović said that the Law on citizenship was discriminatory towards Serbs and that he would not give up of any citizenship. Popović also said that the decision of the Ministry sent clear message to citizens of Montenegro before the census. On 24 March 2011, Popović received the decision and all his personal documents were taken. Popović believed that it was political pressure on Serbs at the time of census.

When Ministry of internal affairs (MUP) revoked citizenship and personal documents to Predrag Popović, President of People's Party, because he possessed citizenship of the Republic Serbia, acting ex officio MUP withdrew residence and cancelled identity card of Velibor Džomić, Coordinator of legal program in Metropolitanate Montenegrin and the Littoral. They said that the reason for this was Džomić's reported residence in Kraljevo, in Serbia. Džomić required residence license but the Ministry of interior affairs rejected his requirement because ANB submitted the the report that Džomić endangered national security. On 13 December 2011, Džomić filed complained to Constitutional court against the second instance decision on rejecting of his requirement for the approval of the residence due to endangering of national security.

Veselin Veljović, former Director of Police Directorate filed lawsuit for defamation against Nebojša Medojević, President of Movement for changes and Daily 'Vijesti' for defamation. Later, Veselin Veljović said that he did not give order to lawyer to file lawsuit against 'Vijesti', therefore, the

lawsuit against daily newspaper was withdrawn. For compensation of non pecuniary costs Veljović required 50.000 EUR. Veljović filed lawsuit against Medojević and Vijesti due to Medojević's statement which 'Vijesti' published, that he possessed information that Veljović was in constant contact with Darko Šarić. Medojević earlier required from Prime Minister, Igor Lukšić to influence on Veselin Veljović, Director of Police Directorate, not to have political polemics with him. Prime Minister Lukšić said that Director of Police Directorate should not be involved in polemics with any Member of Parliament and especially not with the one who was member of Board for security. Ivan Brajović, Ministry of interior affairs, said that Police Directorate could not have political polemics with MPs. Brajović said that police did not deal both with politics and political statements. The trial started on 28 November 2011, and shall be continued on 23 January 2012.

Case of threatening to Aleksandar Saša Zeković - Public Prosecution Office stated that the case of threatening by death, spying and wiretapping Aleksandar Zeković, researcher of human rights violations was time-barred. NGO Human Rights Action announced they would address Court for human rights in Strasbourg with application on the occasion of this case, due to violation of Zeković's rights to freedom of expression, rights to efficient legal remedy and violation by prohibition of inhuman and degrading treatment.

Embassy of Albania - On 9 March 2011, Embassy of Albania in Podgorica was target of assaults and provocations. Firstly, unidentified provoker threw an egg at the window and one hour later the information appeared saying that the bomb had been set at the building of diplomacy branch in Podgorica. The Police searched the building and said there were no traces of bomb. On 21 December 2011, the police stated they had received the information about the bomb from the Republic Albania via the request of NCB Interpol of Tirana and that they required results of measures and actions of the Police of Albania related to announcement about the bomb. The Police stated they did not receive any information about it.

Prior of Dajbabe Monastery - In program 'Pitajte sveštenika' ('Ask the Priest') of Radio Svetigora, Prior Nikodim (Bogosavljević) said that Montenegrin nation was not created by God but it was the produce of human vanity and weaknesses and generally, creator of Montenegrin nation in essence was the Devil. Velibor Džomić, Rector of Metropolitanate of Montenegro and

Littoral criticized the standpoint of Prior Nikodim and said that it was his personal standpoint and not the standpoint of Metropolitanate. Džomić said that Prior Nikodim should give written response to church bodies. Large number of individuals and organizations judged this statement as the speech of hatred. Deputy of Higher Public Prosecutor Veljko Rutović announced initiating of misdemeanor procedure against Nikodim Bogosavljević, Prior of Serbian church in Montenegro, due to speech of hatred. On 25 October 2011, media published the information that Body for misdemeanor punished Bogosavljevic to 900 EUR fine. Agency for electronic media shall take into consideration the statement of Prior Nikodim Bogosavljević and afterwards shall define measures against Radio Svetigora, prescribed by Law. Metropolitan Amfilohije dismissed of duty Prior Nikodim. Abaz Džafić, Director of Agency for electronic media made decision on April 7, 2011, on pronouncing surveillance measures of warning to Radio Svetigora, because on March 30, 2011, during the program "Pitajte sveštenika" (Ask the Priest), guest of the program, Priest Nikodim Bogosavljević said that Montenegrin nation was created by the very Devil and because this statement passed without any reactions of the radio host. Bogosavljević was criticized by the Metropolitan Amfilohije who replaced him from the leadership of Monastery Dajbabe.

New Serbian Democracy - Premises of New Serbian Democracy in Danilovgrad were stoned at night between March 25 and March 26, 2011. That was not the first assault on premises of NOVA. The incident was reported to the Police. Representatives of NOVA said they did not expect from the Police to identify perpetrators because they neither did it in previous cases. The Police informed CA that premises of NOVA were attacked on 29 August 2011. The Police did not identify perpetrators but, as the premises of NOVA are situated near two night clubs, and registered incidents happened during the weekend, the Police undertake preventive activities during the days of weekend.

Hearing of Vanja Čalović - On 1 July 2011, the police conducted hearing of Vanja Čalović, Director of NGO MANS, due to the video of Safet Kalić's wedding that appeared on the Internet. At the wedding of businessman Safet Kalić from Rožaje, on whom media claimed he was the person of security interest in the records of the Agency for National Security (ANB), were senior officials of ANB. Čalović announced that the police wanted to find out who put the video on the Internet. She said she knew who had put it up and added she

would not say it until the Police started to investigate the contents of the actual video. The police questioned Čalović after orders of prosecution office. Čalović said that police officers did not know what criminal act they were charging her for was. Veselin Veljović, Director of the Police Directorate said that the police was not competent to define the criminal act and added that prosecutor did this. Vanja Čalović reacted on this and said that in that manner Veljović showed ignorance of the Criminal Procedure Code, or he attempted to manipulate in order to remove the responsibility from himself. Many politicians, journalists and NGO representatives publicly condemned hearing of Čalović and assessed it as the manner of intimidating NGO representatives who investigated organized crime and corruption. NGO Human Rights Action (HRA) sent an open letter to Supreme State Prosecutor on 4 July 2011, with a request to explain how the investigations on activities of MANS could contribute to prevention of organized crime and corruption. Representatives of HRA told CA researcher they did not receive the response of the Prosecution Office until 16 December 2011. That was the second time that representatives of the police conduct hearing of representatives of MANS on putting the actual video on the Internet. On 12 December 2011, media published that the Council for the Civil Control of Work of the Police determined that police officers violated the old Criminal Procedure Code because they did not mark in the procedure reasons for invitation of Čalović.

Mehmet Zenka, member of Democratic union of Albanians (DUA) beaten - Mehmet Zenka, member of Democratic Union of Albanians was beaten on 21 July 2011 in Ulcinj. Zenka said it was the "ambush" and that the attack was prepared. He added that almost ten persons had attacked him. Police said they arrested citizens of Kosovo F.V. and S.A. suspected for beating up Zenka. Mehmet Zenka said that the version on events stated by the police was different than the real one and required from the police to resolve the incident until the end. On 22 December 2011, Police Directorate informed CA that criminal charge was filed against F.V. and S.A. due to doubts they committed criminal offense violent treatment of Mehmed Zenka. Trial is in course. Against Dj.F. Police Directorate filed misdemeanor charge for rude treatment of Mehmed Zenka, and against Z.M. was filed misdemeanor charge due to physical attack on Dj.F. and V.F. Police Directorate did not provide full name of Z.M. in its letter.

Shock bomb in the mailbox – Shock bomb was found in the mailbox of Vukadin Ćupić on 25 July 2011. Ćupić was on a hunger strike due to unpaid wages in the Association of trade unions of Montenegro (SSCG). Ćupić publicly criticized businesses of SSCG managers. He publicly stated he had suspected that the bomb was placed because of his public appearances. The case was reported to the police. The Police informed CA on 21 December 2011, it informed about this event competent Prosecution Office. The letter to CA said that “considering it was a gas bomb which did not have assault impact or the substance CS, the bomb could not endanger life or body”. Deputy of Basic Public Prosecutor said there were no elements of criminal offense prosecuted ex officio. The letter did not state whether perpetrators were identified.

Case of Srećko Đuranović - Srećko Đuranović originating from Montenegro, but currently residing Rijeka in Croatia, reported the incident which happened on 6 September 2011 in Bar. Đuranović was traveling with his family in Ulcinj. On their way to Ulcinj they stopped in Bar to take a rest. When they wanted to continue the way, they noticed that back register plate of their Croatian vehicle was damaged. Đuranović said that was not the first time he was experiencing such an incident, and added that the authorities did not manage to protect his property. CA does not have information whether in the actual case, Đuranović reported the incident to the Police.

False invitation that the bomb had been set in the building of municipality Ulcinj – On the day of inauguration of Nazif Cungu, Mayor of Ulcinj, on 26 September 2011, unidentified man announced in his call to the police that the bomb was set in the building of municipality Ulcinj. After investigation, the police defined it was the false information. According to data CA has, perpetrators were not identified.

Threats to student of Philosophy Faculty in Nikšić – Representative of Philosophy Faculty from Nikšić, Ognjen Jovović reported he had received threatening message on his mobile phone on 15 December 2011. The message said: “You bastard, shame on you! This is not the student protest, this is politization. You Serbian spy, trunk is waiting for you, so, choose – Leverovic or Slano!” On 19 December 2011, Police Directorate announced it identified persons suspected for threatening Jovović. It was announced that the Police in Nikšić would file criminal charge against N.Z. (25), M.V.(24), and N.K.(24) from

Nikšić and I.G. (23) from Pljevlja, for reasonable suspects they had committed criminal offense endangering safety of Ognjen Jovović from Nikšić. The letter of Prosecution Office delivered to CA on 23 December 2011, said that it filed bill of indictment to Basic court in Nikšić against Nikola Zeković, Nikola Krivokapić, Milan Vasiljević, and Ivan Grbović for the criminal offense endangering safety of Ognjen Jovović. In the same letter, Prosecution stated that Basic court in Nikšić sentenced accused persons. Accused Nikola Zeković was sentenced to 600 EUR fine while other persons were pronounced suspended sentences.

Threats to former policeman – Former policeman Edževit Nurković from Rožaje left Montenegro with his family at the beginning of December 2011. Media published information that Nurković received threatening messages on his mobile phone on 17 and 27 November 2011, when he publicly spoke about relations of specific persons in the Police Directorate with smugglers.

Nebojša Medojević, President of Movement for changes stated on 21 December 2011 that the attack on his was being prepared and that the authority would be responsible if anything happens. Medojević claimed this in the Parliament in his discussion with Duško Marković, Vice President of the Government and Minister of justice. Medojević said: “the team from Grand prepares something for me these days. Those are your operatives. If anything happens to me or my family, authority will be guilty.” Competent bodies invited Medojević to submit information related to statements on preparation of attack.

VI Right to fair trial

European Convention for the Protection of Human Rights and Fundamental Freedoms ratified by Montenegro guarantees right to fair trial. Article 6 of the Convention says: "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law". Therefore, according to the Convention "Everybody charged with a criminal offence shall be presumed innocent until proved guilty according to the law".

The office of Ombudsman announced on 30 September 2011 that the right to fair and impartial trial has often been violated. Since the beginning of 2011, Ombudsman received 29 complaints related to violation of right to fair trial and 47 complaints related to prolongation of judicial proceeding.

During the period from February to October 2011, CA implemented the project "Monitoring of work of courts" with the special aspect to the access to court and published the report "Access to court, equality, publicity, transparency and efficiency".³ The research showed that material conditions in which judiciary functions make the access to court more difficult. Not any of courts covered by the project, except Constitutional court to some extent, fulfills spatial and technical conditions that would satisfy important standards of judicial proceeding, which endangers exercising right to fair trial. Architectonic barriers at courts significantly cause difficulties to people with disabilities. Due to the lack of tables with information and identification plates for officers at courts, citizens face with difficulties when they want to find relevant premises and persons important for resolving their demands. As important limitations in performing duties, journalists mentioned lack of information on identity of judges which were assigned specific cases and the time of appointed trials, lack of readiness of judges and employees at court to communicate with them, feeling of endangered safety when they wait the beginning of a trial together with accused persons, damaged parties and their families due to spatial limitations. Only nongovernmental organizations

³ CA report "Access to court, equality, publicity, transparency, efficiency" you may find at the web page <http://www.yihr.me/wp-content/uploads/2010/03/Lzvjestaj-YIHR-2011-cg.pdf>

address courts with requirements for the free access to information. Very small number of citizens addresses courts. Journalists rarely use possibilities this Law provides, because, according to their opinion, eight days deadline during which body of public authority is obliged to provide answer, is too long for their needs.

Center for Democracy and Human Rights (CEDEM) announced on 28 September 2011 results on finalized monitoring of court proceedings for the period from 1 April to 31 August 2011. CEDEM announced that there were no violations of rights to fair trial in more than 50% of monitored cases while in remaining cases they monitored, violation of this right was noticed. Right to independent court was violated in one case; right to the access to court was violated in three cases; assumption of innocence was violated in four cases and in one case were noticed violations of right to equality of arms, because defense had difficulties to receive all documents that would be present as evidence; in four cases right to efficient defense was violated while the most violated right was right to trial in reasonable time and was violated in nine cases; in three cases occurred the issue of valid evidences.

Free legal aid – Law on free legal aid was adopted on 5 April 2011 at the Parliament of Montenegro. Implementation of the law started on 1 January 2012. The first office for provision of free legal aid was opened on 25 November 2011 at Basic court in Podgorica. Until nowadays, free legal aid provided nongovernmental organizations, trade unions and political parties. Adopted Law on free legal aid showed that the Government considered this area as the poor law but not as the area of human rights which is defined by the Article of the Law. Article 1 of the Law says: “In a view of the exercise of the right to fair trial, an individual who is unable, given his/her financial situation, to exercise the right to judicial protection without damage to the minimum subsistence level for himself and his family shall be provided legal aid pursuant to this Law”. Right to free legal aid have Montenegrin citizens, persons without citizenship, who legally reside Montenegro, persons seeking for assail, foreigners with permanent residence, persons with approved temporary residence. Mentioned persons have a right to free legal aid if they are users of material family support or some other right from the social protection in accordance with law which defines social protection and protection of children, children without parental care, disability persons, victims of criminal offense

violence in family and family community and trafficking in persons and persons with low incomes.

In accordance with the law, free legal aid implies legal counseling, composing of complaints, appeals, constitutional appeals, or act which initiates the proceeding of protection before European Court for Human Rights and for representation before court, Public Prosecution Office, Constitutional court, and in proceeding for non-contentious settlements. Free legal aid shall approve the President of Basic court and shall be provided by attorneys according to the order at the list of Montenegrin Bar Association.

Previously, CA provided recommendations that the Law should contain the following solutions: that free legal aid may provide nongovernmental organizations, professional and science institutions, political parties, trade unions, and other entities, but not only lawyers, who are registered for provision of free legal aid; conditions that citizens fulfill in order to receive free legal aid should be simplified and that free legal aid should be provided to all citizens that are socially endangered and in cases of violation of human rights because the Proposal does not contain solutions that free legal aid may receive victims of discrimination, torture and other forms of violation of human rights; that the Law should be adopted jointly with the Law on prevention of discrimination and Law on Protector of human rights and freedoms, as it has been proposed that Fund of free legal aid should be formed by punishments presumed by the Law on prevention of discrimination, that should be widened by the part of funds from the lottery. However, CA recommendations were not adopted.

Notary - Notary service has been introduced into Montenegrin legal system on 25 July 2011. Notary offices have been opened in Podgorica, Bijelo Polje, Berane, Rožaje, Nikšić, Danilovgrad, Cetinje, Herceg Novi, Kotor, Tivat, Budva, Bar and Ulcinj. Notary offices have not been opened in Plav, Andrijevica, Pljevlja, Mojkovac, Kolasin, Plužine, Šavnik, and Žabljak. More citizens addressed CA complaining that notary tariffs were too high and emphasizing that inexistence of offices in all municipalities represented additional costs for citizens. Notary tariffs in Montenegro are one of the highest in the region and do not correspond to social situation in the country. On 4 August 2011, CA invited Ministry of justice to start with the activities on establishing solutions that would provide to citizens to exercise right to notary

services in cheaper and easier manner. Ministry of justice adopted on 29 September 2011 Information about reduction of notary tariffs because they did not correspond to social and economic ambient. In December 2011, entrepreneurs of Montenegro gathered in Chamber of Commerce announced that notary was the barrier to the business. Duško Marković, Minister of justice said that tariffs would be reduced from 20 to 50%.

Lawyers' tariffs and notary tariffs – Lawyers' tariffs are also very high and do not correspond to economic and social situation in Montenegro. Duško Marković, Minister of justice announced in December 2012, that the Ministry would intervene in order to reduce the tariffs. Earlier, CA required from the Bar Association to correct the tariffs and adjust them to the social power of citizens and in that manner, make access to justice easier. This was important, especially because bearing in mind that during adoption of Law on free legal aid were not taken into account most important recommendations of NGO sector and that the implementation of the Law started in 2012. CA proposed that Law on free legal aid provide that right to victims of serious violatons of human rights, that free legal aid provide, besides lawyers who are enrolled in the registry of lawyers for provision of free legal aid, nongovernmental organizations, trade unions, political parties, legal clinics, and other institutions. In this manner, free legal aid would be provided to larger number of citizens who would exercise their right to access to justice in easier manner. Problem is additionally important because it is very rare that lawyers in Montenegro work pro bono. Until the end of 2011, reduction of tariffs was not conducted.

Right to defense – A number of lawyers responded negatively and stated that coming into force of provisions of the new Criminal Procedure Code saying that prosecutor is in charge of investigation may violate right to defense of accused. Namely, lawyers said that prosecutors did not allow lawyers to copy cases which violates right to defense. Prosecutors stated they limit the insight into files of cases only in extraordinary cases, mostly when measures of secret surveillance come in issue.

VII Freedom of expression, peaceful gathering and associating

Freedom of expression

Article 47 of the Constitution of Montenegro guarantees freedom of expression by speech, written words, images and in some other manner. According to the Constitution, right to expression may be limited only by the right of another person to dignity, reputation, and honor and if public moral and security of Montenegro are endangered.

European Convention for protection of human rights and fundamental freedoms guarantees freedom of expression to any person. This right includes freedom of possessing own opinion, receiving and publishing information and ideas without interference of public authority. The Convention provides the necessary limitations to this right in a democratic society in the interests of national security, territorial integrity or public safety, for the purpose of preventing disorder or crime, protection of health or morals, protection of the rights or reputation of others, for preventing disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary. The European Court of human rights presumed in practice that politicians and others who execute public functions have to suffer higher level of criticism than other citizens.

Law on media in our state defines that media are free and that censorship of media is prohibited; that Montenegro guarantees freedom of information at the level of standards contained in international documents on human rights and freedoms

On 22 June 2011, the Parliament voted on amendments of the Criminal Code which provides decriminalization of defamation. Earlier practice has shown that up to 20.000 EUR fines were pronounced after complaints of politicians and public functionaries who would have to suffer a higher degree of criticism. High fines significantly hinder the work of media and journalists because they did not fit the economic and social status in the country.

The Supreme Court adopted principle legal stand at the General assembly held on 29 March 2011. "If it finds that there are grounds for liability of journalists and media, the court rules on the on the amount of fair compensation for the violation of right to personality (reputation, honor, etc.)"

taking into account all the circumstances of the case, in particular: the importance of the injured and the consequences that ensued, duration of mental suffering, goal to which non-pecuniary damage serves and that the amount of compensation awarded should be in accordance with the practice of European Court of Human Rights, and that compensation awarded should not be in an amount that would have discouraging effect on journalists and media performing their role in preserving democratic values of society." In the Principle legal stand, the court has not prescribed the minimal and maximal limit or standard for determination of the amount of non-pecuniary damages in cases where responsibility of journalists and the media are determined but said that it should be in accordance with the practice of European Court of Human Rights.

DAN, Vijesti and weekly Monitor were three media against which were initiated the most proceedings in previous years. Representatives of these media told CA researcher that during 2011 number of law suits was smaller than earlier. Eight law suits were filed against DAN, five against Vijesti and one law suit against Monitor. Awarded fines upon verdicts in 2011 were: DAN-17.000 EUR, Vijesti 2.000 EUR and Monitor almost 6.000 EUR.

Government of Montenegro has decided on providing assistance to print and electronic media. Print media shall receive public aid while debts of the electronic media to Broadcasting center for the use of services during 2009 and 2010, shall be written off. According to the findings of CA, the Government shall provide financial assistance to print media in the amount of almost 880.000 EUR and electronic media with almost 2 and a half million EUR.

The system of media self-regulation in Montenegro has been frozen. Journalist self-regulatory body (NST) was constituted in 2003. Mirsad Rastoder, Chairman of NST Council said on 23 March 2011 to CA researcher: "After a very active advocacy for media freedom in accordance with European principles and practice, especially in the period from 2006 to 2010, work of NST was blocked. Due to the withdrawal of three very influential representatives of media, the Council of NST, since May 2010 has no capacity to decide on complaints and violations of the Code which are often in the press and programs. The blockade caused previous and new divisions in the media community that are currently recognized in division on the two media clans. The journalists are subject to editorial interests (owners), so, in this situation it

is impossible to provide a sufficient number of members of the Council of NST at sessions. Editors - directors of eight influential media executives have recently tried to agree and form a new self-regulatory body, but for now, unfortunately, they have not managed to achieve principal consensus".

Freedom of expression in Montenegro is still at alarming levels. Competent institutions have not achieved significant progress in investigations for the murder of journalist Duško Jovanović and finding the perpetrators of numerous beatings of journalists in the past. In 2011, CA registered incidents and threats to journalists. The trend of acquittals passed against journalists is encouraging. The Court in Strasbourg has rendered the verdict in the case of Koprivica against Montenegro. The verdict states that the sum of 5.000 EUR and court costs Koprivica had to pay according to Basic court in Podgorica, due to compensation of damage for defamation, was too high because the overall amount was 25 times larger than his monthly income.

Court proceedings

Case of Rade Živković against Vijesti - On 7 July 2011, daily newspaper Vijesti published that Basic court in Podgorica rejected complaints of Rade Živkovic against daily Vijesti. Namely, Živkovic sued Vijesti requiring 17.000 EUR as the compensation for mental suffering, violation of reputation, honor and right to personality. The court explained that the journalist had justified reason to believe that information were true and that Živkovic had the possibility to dement published information.

Case of Jasmina Muminović - Higher court in Podgorica confirmed the verdict of Basic court from Podgorica, by which Jasmina Muminović and Vijesti have been acquitted of complaints of Safet Kalić from Rožaje. Kalić sued Muminović and Vijesti for violation of honor and dignity after published articles on his apprehension at the police

Case Medojević - Simović - Basic court in Podgorica delivered judgment by which Nebojša Medojević, President of Movement for changes, should pay 1.000 EUR to former Minister of Agriculture Milutin Simović for compensation on non-pecuniary damage, due to violation of honor and dignity. Namely, in March 2010, Simović lodged appeal against Medojević for defamation, requiring 10.000 EUR compensation. Simović sued Medojević after his statements saying that on 14 August 2009, Simović was at the opening of disco

club 'Municipium' in Pljevlja, whose owner was Darko Šaric, who has been accused before judicial bodies in Serbia for drug smuggling.

Case Senić - Vijesti - Basic court in Podgorica acquitted daily newspaper Vijesti after

complaints of judicial expert Zoran Senić. Senić accused daily Vijesti for mental sufferings, due to violation of reputation and dignity. For compensation of non-pecuniary damage, Senić required 20.000 EUR. The occasion for this was the article in Vijesti on 1 February 2010, titled "Director of AMD claimed that illegal overtaking of company is being prepared - Đakonović, why is the prosecutor silent". The text stated that Zoran Senić roughly estimated the property which provided Miodrag Niketic to register an NGO.

Case of Jovan Lončarević - Basic court in Berane found local administration in Berane and Agency for construction guilty for removing the billboard set by Jovan Lončarević. Namely, Jovan Lončarević, USA citizen whose origins are in Berane, set the billboard in the center of Berane with the aim to express displeasure for the waste disposal site located in Vasove vode near Berane. The billboard was the photo of waste disposal site and the sign "How long" ("Dokle"). Local administration removed the billboard on 9 August 2010. Decision of the court defined that the freedom of expression was violated, and municipality Berane and the Agency should pay 500 EUR to Jovan Lončarević for mental suffering after violation of right to personality and freedom of expression. Also, the court rendered judgment that municipality Berane and Agency for construction should set the same billboard on their own expenses for a six months period.

Case of Ibrahim Čikić - Basic court in Bijelo Polje stopped the criminal proceeding in August against Ibrahim Čikić who had been accused for defamation by nine citizens of Bijelo Polje. In his book "Where the Sun does not shine", Čikić described the torture he had been facing in prison in Bijelo Polje. The court made decision on discontinuation of the proceeding due to changes of the Criminal Code, as the criminal act defamation was omitted. Čikić's book "Where the Sun does not shine" was published by CA in Documents edition.

Case of the team Vijesti that has been dealing with the researches of tobacco smuggling - Due to threatening and violation of safety of the team Vijesti that has been dealing with researching of tobacco smuggling, Slavko Musić and Marko Piper were accused due to serious threats to journalist Olivera Lakić

from 31 January till 3 February 2011, which happened after researching articles on business operations of tobacco factory in Mojkovac. Prosecution Office defined that a man who reported himself in February saying he had threatened journalist Lakić seriously, did not do that, published Vijesti on 26 September 2011. Daily newspaper Vijesti published on 15 October 2011 information that Basic Public Prosecution Office on 14 October 2011, filed bill of indictment against Milan Grgurević from Danilovgrad for reporting himself falsely, saying he had been threatening journalist in Vijesti. Trial shall be continued on 25 January 2012.

Case of MANS – Basic court in Podgorica discontinued the proceeding against MANS on 12 May 2011, after complaints of Natasa Brajović, chief inspector for spatial protection, for compensation of non-pecuniary damage, due to mental suffering. The court discontinued the proceeding because Brajović and her legal representative did not appear at the appointed trial.

Case of journalists of DAN – On 6 June 2011, Basic court in Pljevlja discontinued the proceeding for defamation against journalists of DAN, Mitar Rakčević, Dražen Živković, and Božidar Jelovac. Samir Vranja accused journalists for defamation after publishing of articles “Persons from Pljevlja, agents of Bosnian UDBA⁴” and “Firstly the massacre, then voting”. The text contained parts of the book of Semir Halilović where Vranja was described as the person who helped the army of BiH to execute attacking on Čajniče through Montenegro. Before the verdict was rendered, Vranja withdrew the complaint and the judge Ljiljana Popović discontinued the proceeding.

Case Vijesti – Mugoša – Trial for the incident between Miomir Mugoša, Mayor of Podgorica, his son Miljan Mugoša and Mihailo Jovović the Deputy Editor in chief of Vijesti and Boris Pejovic, photographer of Vijesti, took place on 7 September 2011, in Basic court in Podgorica. The incident happened on 5 August 2009, in Podgorica when the team of Vijesti tried to take photos of Mayor’s official vehicle being parked illegally, and when the team of Vijesti tested the work of tow truck service on the example of Mayor. On that occasion, Mihailo Jovović was seriously wounded and for that reason, Miljan Mugoša was accused. Jovović was accused for inflicting serious bodily injure to Dragan Radonjić, car driver of Mayor Mugoša. Jovović negated he had inflicted injuries to Radonjić and stated he was accused for political impact on judicial

⁴ Colloquial acronym for the state secret service

bodies. The first trial was interrupted because legal representatives of Jovović required disqualification of Judge Zoran Radović, who was the President of Basic court in Podgorica. Mušika Dujović, President of Higher court adopted this requirement and the case was awarded to Nada Rabrenović, judge of Basic court in Podgorica. Legal representatives of Mihailo Jovović required separation of cases. The trial shall be continued in February 2012. As the case of violence over journalists, this incident occurred in the Report of the Government of Montenegro, on fulfilling the conditions for the access to the European Union.

Case Dedeić - Basic court in Podgorica, acquitted Dobrilo Dedeić, President of the Party of Serbian Radicals, on 26 September 2011, after complaints for defamation of businessman Veselin

Barović and Slaven Radunović, Vice president of New Serbian Democracy. Judge Nada Rabrenović pronounced acquittal verdict because amended Criminal Procedure Code did not contain criminal act defamation and offence, while there were no evidences for complaints of Barović. Barović and Radunović accused Dedeić after Dedeić publicly accused them for financial malversation.

Case Glendža - Adrović - Higher court in Podgorica rejected the appeal of Sreten Glendža from Ulcinj and confirmed the verdict by which the correspondent of Vijesti from the same town, Samir Adrović, was acquitted of responsibilities for defamation. This information was published by daily Vijesti on 28 September 2011. Glendža accused Adrović on 23 November 2007, after the text titled "The chief of the crime service suspected for war crime". The text stated that prosecution office filed criminal charge against Glendža for suspects he had committed war crime.

Case of Slavko Radulović, journalist of Vijesti - Higher court in Podgorica rendered acquittal verdict for journalist of Vijesti, Slavko Radulović, who had been accused by Ranko Mujović, former Dean of the Faculty of Law and his Assistant Bojana Lakićević. This information was published by Vijesti, on 29 September 2011. Mujović and Lakićević sued Radulović because he wrote about the correction of marks at the Faculty of Law.

Case of Komnenić - Higher court in Podgorica confirmed conviction against journalist Petar Komnenić for, according to assessments of the court, defamation of Ivica Stanković, former President of Higher court in Podgorica,

in the article in which Komnenić claimed that the judge was under the measures of secret surveillance. A fine of 3.000 EUR was rendered against Komnenić for the text published in Monitor. Stanković accused Komnenić due to the text in Monitor titled "Judges under surveillance – measures of secret surveillance". A fine rendered against Komnenić was substituted by four months imprisonment sentence. On 15 October 2011, Komnenić stated he would not require amnesty from the President of the state, after the decision on substitution for four months imprisonment sentence because he did not pay 3.000 EUR fine. Komnenić said that his decision not to pay the fine was the sign of revolt and protest against the verdict by which, as he considered "hides filthy traces in judiciary". Social democratic party (SDP) that participates in the authority of the coalition required amnesty for Komnenić at the beginning of October 2011. In joint statement of Filip Vujanović, President of Montenegro and Duško Marković, Ministry of justice, on 14 October 2011, they said that the requirement of SDP was unfounded. Daily Vijesti published on 21 December 2011 information that Higher court in Podgorica abolished decision on substitution of fine by imprisonment sentence and that Higher court proposed to Basic court replacement of the fine with community sentence. Komnenić said he would not give consent to this substitution.

Case of Džomić – Basic court in Podgorica released Velibor Džomić upon complaints of academic Momčilo Zečević of Montenegrin Academy of Science and Arts (CANU). Zečević sued Džomić due to the book "Saint Metropolitan Nikolaj and UDBA" which Džomić wrote as his reaction to the book of Predrag Ilic, former officer of National Security Service of Serbia (SDB) "Serbian church and the secret of Dahau" where Zečević was one of the recezents. Zečević required 15.500 EUR for mental sufferings, violation of honor and reputation.

Case "Monitor" – Basic court in Podgorica accused weekly Monitor and required payment of 4.000 EUR to Čedomir Janjević, judge at Higher court. Janjević accused Monitor for publishing article from daily DAN, which stated that judge Janjević allowed barring of verdict by which Dragan Brković, owner of "Vektra", was due to pay 5.000 EUR for insulting Nebojša Medojević, President of Movement for Changes (PzP). Representatives of Monitor stated that the practice of punishing media is being continued and that they apologized, but it was obviously not enough.

Case of Mitrović – Milorad Mitrović informed public on 29 December 2011 that he had received invitation to serve the sentence for defamation. Mitrović said he was punished to up to 5.000 EUR fine due to the article in daily newspaper DAN about activities of park rangers of the National park Durmitor. A fine of 5.000 EUR was substituted by 125 days imprisonment sentence.

Incidents:

Case of Miodrag Babović – Miodrag Babović, journalist of daily newspaper Vijesti submitted criminal charge against Zoran Sekulić, Director of Agency for electronic communication. Babović accused Sekulić for cursing him in front of the building of Vijesti on 20 January 2011. The case was processed before Misdemeanor Body in Podgorica which made decision on punishing Sekulić with 550 EUR fine for insulting Babović. Babović said it was not the first time Sekulić insulted and cursed him. More than five years Babović monitors the work of the Agency and within this period he wrote about financial businesses of that institution. Previously, Sekulić had a trial against Vijesti due to the articles about the work of the Agency. Basic court acquitted Vijesti of responsibility.

Ervina Dabižinović, activist of the Center for female and peaceful education - ANIMA from Kotor – Unidentified person demolished the vehicle of Ervina Dabižinović on 19 January 2011, early in the morning. Dabižinović reported the incident to the Police. More nongovernmental organizations sent the statement on 24 January 2011 to Goran Banićević, Chief of the Regional unit Herceg Novi and Veselin Veljović, Director of Police Directorate, and required police investigation. “Ervina Dabižinović is prominent activist for peace and respect of human rights who often uses its right to freedom of expression and opinion in public in order to express her standpoints which are not in accordance with the ruling or majority standpoints in Montenegro. Thus, during the incident on 12 January 2011, Mrs Dabižinović published authorized article in daily Vijesti titled ‘Contra(per)caption – Where I stopped you go on’ where she critically analyzed public appearance of Metropolitan of Serbian Orthodox Church, Amfilohije Radović and other political entities and institutions in Montenegro. In weekly Monitor, on 14 January 2011, Dabižinović criticized failure of the Prosecution Office to provide processing of war crimes committed over inhabitants of Bukovica”, stated NGOs in their letter. NGOs mentioned they

considered that the incident was direct threat to Dabižinović and others who think freely.

Amil Grbović – On 28 April 2011, media published that police officer Amil Grbović was dismissed from the Police because he was a member of more groups that were connected with the opposition activities at the social network Facebook, or these groups had critical standpoints towards Montenegrin authorities. The same day, Police Directorate stated that Grbović had fixed-term contract and that for committed serious disciplinary misdemeanor and reduced activities at work in the Unit he belonged to, direct chief did not propose prolongation of Grbović's contract. Therefore, Grbović's employment at the Police Directorate expired on 26 June 2011. Media connected dismissal of Grbović with the testifying of his father in the case of Deportation.

Marko Milačić – journalist of the public service of Television Montenegro (TVCG) stated he had received forced leave due to his participation in street protest of Facebook group "Street protests against mafia" on 2 April 2011. Milačić said that, after his support to the protests, he was told it was not correct to participate in gatherings which required replacement of the TVCG Director and that he was proposed to take a rest for a month. TVCG denied these statements and said that Milačić received free days at his own requirement, which Milačić denied. Milačić said on 26 May 2011, that the top of TVCG told him that his contract, which expired on 9 July 2011, would not be prolonged because he was not a person for that media. Milačić was dismissed on 19 July 2011.

Sulejman Muković, Director of Tourist organization in Rožaje, announced on 11 May 2011, he would file a complaint for insulting, against the councilor of Bosniac party Husein Kurtagić from Rožaje. Muković said that Kurtagić insulted him at one of the sessions of the Assembly of Rožaje, when he said: "I do not want to comment a person dealing with everything but its own business, dealing with streets, PUBS and personal conflicts". CA does not have the information whether Muković filed complaint against Kurtagić.

Complaint against DAN and Police Directorate – Former police officers Resad Kalač and Hamdo Murić filed complaints against daily newspaper DAN and Police Directorate for publishing the video which showed two police officers on their duties and the third person giving something to two of them. On 20 May 2011, DAN published that the Police doubted it was the money. For

compensation of non-pecuniary damage for mental suffering, violation of honor and reputation, prosecutors required 20.000 EUR from DAN and Police Directorate.

Case of demolishing the property of daily Vijesti – In three separate incidents four vehicles of daily Vijesti burned. Two vehicles were destroyed by fire at night between 13 and 14 July 2011, the third vehicle burned on 23 July and the fourth vehicle, the van, was destroyed by fire on 27 August 2011. The vehicles had emphasized sign showing they belonged to daily Vijesti. Igor Lukšić, Prime minister of Montenegro and Filip Vujanović, the President of Montenegro condemned these acts. Mihailo Jovović, Editor in chief of Vijesti said on 14 July 2011 he hoped that the police would found the perpetrators of these acts and added that, due to previous attacks on journalists of Vijesti, he suspected these attacks were organized and ordered by authorities and criminal groups that were close to authorities, in order to intimidate them or influence on their editorial policy. Numerous organizations and individuals condemned destruction of vehicles of Vijesti. Ranka Čarapić, Supreme public prosecutor, said that the police did not manage to collect evidences that would be sufficient for identifying committers. The police did not find perpetrators of any of these acts. Publisher of independent daily Vijestu ‘Daily Press’ filed complaint against the state Montenegro in November 2011 because the state did not manage to prevent attacks on the property of Vijesti. The complaint required 60.000 EUR compensation.

Assault on cameraman of TV MBC – Police Regional unit in Bijelo Polje filed criminal charge to Basic public prosecution office in Bijelo Polje against citizens Salmedin Mulić, Raif Čatović and Rahim Kujović for violent behavior. Namely, Ruzmir Osmanović, cameraman of TV MBC was attacked on 14 April 2011, in village Kukulje, near Bijelo Polje while he was on duty. Inhabitants of the village attacked him and took away his camera. Undamaged camera was returned to Osmanović afterwards. Basic Public Prosecution Office in Bijelo Polje informed on 22 December 2011 CA that against Mulić. Čatović and Kujović was filed indictment on 11 November 2011, for the criminal act violation of safety. The procedure at court is in course.

Interview of Milo Đukanovic, former Prime minister of Montenegro and President of DPS–In interview for television Košava, Milo Đukanović, former Prime minister and the President of Democratic Party of Socialist (DPS)

severely criticized DAN and Vijesti, media that have critical standpoints towards authority and DPS. Đukanović said that daily newspaper DAN were “bulletin board of the military intelligence”. On journalist’s question to comment often titles on cover page of this daily on warrants of Đukanović, former Prime minister said: “I open the newspaper, see the column of convinced editors, journalists, self-proclaimed exclusive intellectual elite in Montenegro, who gave assessments on everything. I think reading this would be specific masochism.” Đukanović added that these two dailies “do not leave him and DPS tendentiously, wishing to receive, even later on, the confirmation of their thesis that Montenegro is facing bankruptcy, that Montenegro is criminal state, and that, logically, the party and its leader have to be responsible for that”. Soon after Đukanović’s interview, the fourth vehicle of Vijesti was destroyed by fire.

Vesna Medenica - Media - On 1 October 2011, media accused Vesna Medenica, President of the Supreme court of Montenegro, for insults after collegium in Kolašin. Media published that, after giving the statement that “judges make mistakes, but journalist, newspapers, incompetent and so called lawyers cannot comment those mistakes”, Vesna Medenica sat in the official car and said “shitheads”. Medenica denied this.

Assault on the team Vijesti - Journalist, cameraman, and the photographer of TV Vijesti and daily newspapers Vijesti Darko Bulatović, Aleksandar Marojević, and Ivan Pertušić were attacked on 18 November 2011, in Nikšić, while they were on duty. The same day, the Police announced that it had taken into custody Dragoljub Karadžić and Miodrag Glušica from Nikšić, and Miloš Šanjević from Trebinje, suspecting them for verbally and physically attack on journalists of Vijesti. On 19 November 2011, Vijesti announced that the Basic Public Prosecutor gave order to file criminal charge against Dragoljub Karadžić due to suspects he had committed criminal act violent behavior and that Šanjević committed misdemeanor or insulting while actions of Miodrag Glušica were determined as the ones which had elements neither for the criminal nor for misdemeanor responsibility. Igor Lukšić, Prime Minister, Ivan Brajović, Minister of Internal Affairs and Veselin Veljović, Director of Police Directorate, condemned the assault.

Incident Medojević- Vijesti - Incident at the Parliament of Montenegro in which participated Nebojša Medojević, President of Movement for changes and

Tatjana Debeljević, journalist in TV Vijesti, happened on 12 December 2011. Tatjana Debeljević said that Medojević pushed her and called her 'bum'. As media stated, Medojević confirmed that the incident happened and that he called Debeljević 'bum', and explained that their communication was not professional, but personal.

Freedom of gathering and associating

Article 52 of the Constitution of Montenegro guarantees freedom of peaceful gathering without approval with previous report to the competent body. According to the Constitution, freedom of peaceful gathering may temporarily be limited by the decision of competent body for the sake of preventing violence or executing criminal offences, endangering health, moral or for the sake of security of people and property in accordance with law. According to European Convention for human rights and fundamental freedoms each person has the right to freedom of peaceful gathering and freedom of associating with others. The Convention protects only "peaceful" gatherings. According to the Convention, legal decisions of issuing permits may not endanger the right to peaceful gatherings unless there are clear violent intentions. Law on public gatherings is not in harmonized with the Constitution and international standards because it presumes possibility that competent body may "prohibit" peaceful gatherings. During 2011, media stated that Police Directorate, acting upon the Law, prohibited more than 200 peaceful gatherings, especially to workers who organized protests due to their dissatisfaction with the relationship of employer towards collective contracts and other obligations towards workers. Police Directorate prohibited protests announced by citizens and nongovernmental organizations intending to express dissatisfaction with the relationship of authority and competent institutions in fight against organized crime and corruption. As the reasons for prohibiting peaceful gatherings, the Police mostly mentioned interruption and endangering of the traffic at sites where gatherings were announced to take place. Although CA submitted the Initiative on 11 April 2011 to Constitutional court for urgent assessment of constitutionality of articles 10, 11 and 26 of Law on public gatherings, Constitutional court still has not acted upon the Initiative.

Article 53 of the Constitution of Montenegro guarantees freedom of associating of political, trade union and other associating and acting without approval, with registering at competent body. The Constitution defines that not any person may be forced to be a member of any association. The Parliament of Montenegro adopted in July 2011 new Law on Nongovernmental organizations. Implementation of the law has begun on 1 January 2012. Development of the Ordinance on the procedure and manner of conducting public debate in the process of preparation of law, and Ordinance on closer manner and procedure of achieving cooperation between bodies of public administration and nongovernmental organizations, is in course. CA, Center for Democratic Transition (CDT) and Network for Affirmation of Nongovernmental Sector (MANS) provided opinions and recommendations on work versions of Ordinances. Most important recommendations were related to participation of representatives of nongovernmental organizations in work bodies formed by the Government, or public body. These organizations proposed that for participation in work of the body may apply only NGOs enrolled in the registered of NGOs, not later than a year before announcing invitation. It has been emphasized that the current practice, which gave poor results, electing candidates only according to the number of NGOs that supported it, should not be the rule of electing representatives of NGOs in work bodies. It was proposed that candidates should be elected according to references of NGOs which propose, or references of candidates that should be elected.

Cases from the practice

Threats to Ljubica Gojković - Ljubica Gojković, PR of the Facebook group Street protests against mafia and NGO Libertas filed on 9 April 2011 charge to Police Directorate against unidentified persons for constant intimidation via SMS and phone calls. The statement of the Facebook group stated that Gojković submitted phone number and the content of messages she had received. NGO Libertas stated on 11 April 2011 that Basic Public Prosecution office did not allow requiring of listings from the mobile network Telenor even if there were evidences on intimidation of Gojković via phone messages. The statement said they had received these information from the

Commander for public peace and order. Police in Podgorica informed CA on 27 December 2011 that they introduced Basic Prosecution office in Podgorica with the report but the Prosecution office said there were no elements of criminal offense. The police said that Prosecution stated that for that reason it could not initiate investigation judge to order hearing of mobile operator for receiving the listing. Police also said they had conducted detailed investigation but with operational work within legal competencies they could not receive any data on user or perpetrator of mentioned offense.

Robert Velašević – Robert Velašević, President of NGO Libertas was punished on 825 EUR fine on 18 April 2011, before Regional unit for misdemeanor in Podgorica for organizing protest walk on 30 March 2011. According to Velašević's claims, he reported the gathering to the Police three days before it took place. Gathering of citizens was peaceful and only traffic was interrupted, said Velašević.

Prohibition of protests of workers – The Police prohibited peaceful protests of former workers of the company "Marko Radović" few times. One of the protests that were prohibited was the protest announced for 31 March 2011.

Inhabitants of Beranselo, near Berane, blockaded again on 14 May 2011 waste disposal on Vasove vode in order to prevent trucks of the Public Utility Company to unload the waste on that site. – After intervention of the Police on 19 May 2011 the blockade was removed and the trucks of Public utility unloaded waste at the waste disposal site. When the trucks arrived inhabitants lied down on the road and police officers removed them from the road using force. The Police did not process misdemeanor charges against inhabitants. Inhabitants claimed that waste disposal site did not have operable permit and Public utility from Berane unloads disposal at this site against the law.

Protest in front of the Municipal Assembly of Bijelo Polje - Former workers of the factory Lenka from Bijelo Polje organized the hunger strike in front of the Municipal Assembly on 1 June 2011, requiring connecting of the years of service, payment of salary arrears and resolving of their employment status. Communal police took their blankets and pillows and filed misdemeanor charges against workers for taking the space in front of the building of Municipal Assembly of Bijelo Polje. The Local self-government announced that workers could not strike outside the building because they disturbed functioning of local administration due to the coming of parties,

guests and officials whose arrival in the building hindered the strikers. Workers who were on strike said they legally reported protests and they would not leave the space in front of the building of the local government. On 7 June 2011 Communal police confiscated banners from workers who were on strike, when a municipal police officer, as they stated, without any warning went out of the official car and took the banners. The strike ended on 10 June 2011, when an agreement was reached with the employer, with the assistance of Aleksandar Žurić, president of municipality Bijelo Polje. Years of service of workers were connected; they also received severances and their status to go to the labor bureau was defined.

Prohibition of gathering of former workers "Radoje Dakić" - Police have repeatedly prohibited gathering of former employees of the company "Radoje Dakić". The last time the prohibition was imposed on their announced gathering 29 June 2011. The reason for prohibiting their gathering, police stated jeopardizing traffic safety.

Prohibition of the Memorial march - NGO "Number 19" from Bar reported to the Police in Bijelo Polje, for 10 November 2011, that Memorial march Bijelo Polje - Tomaševo, would take place, to commemorate the 87th anniversary of the crimes against Muslim - Bosniak population from the town Šahović, near Tomaševo (Bijelo Polje). Regional Police Unit of Bijelo Polje made on 7 November 2011 the decision on prohibition of the Memorial march. In its decision, the Police said there was a real danger that the maintenance of peaceful gathering would endanger security of people and property and that would also disrupt public order and peace on a larger scale. Threats to security of persons and property Police Directorate explained by the fact that the citizens of Tomaševo and Pavino Polje, who had other faiths than the victims of crime, provided that notice that the same day would organize a counter march, as the reaction to the scheduled march of NGO "Number 19". After the safety assessment, the Police prohibited maintenance of the Memorial march. The Court for Human Rights in Strasbourg defined that states have a positive obligation to interfere in order to protect gatherings that do not have violent intentions and may represent the threat to public order due to the announcement or the threat with the counter-gathering.

VIII Protection of personal data

Although the progress has been made, state in the area of human rights is not at satisfying level. The Constitution of Montenegro guarantees in Article 43 right to the protection of data on personality, and prescribes that everybody has the right to be introduced with data that have been collected on its personality and right to judicial protection in case of misuse. Article 42 of the Constitution says that confidentiality of letters, telephone conversations and other means of communication shall be inviolable and that the principle of inviolability of confidentiality of letters, telephone calls and other means of communication shall be deviated from only on the basis of a court decision, if so required for the purposes of conducting criminal proceedings or for the security of Montenegro. The Constitution guarantees dignity and inviolability of the physical and mental integrity of a man by Article 28 and the right to respect for private and family life by Article 40. The Constitution guarantees that home shall be inviolable by Article 41. European Convention on Human Rights and Fundamental Freedoms defines that everyone has the right to respect for his private and family life, his home and his correspondence. Elaboration of guarantees of Article 43 of the Constitution is in Law on protection of data on personality, which has been adopted in 2008. Amendments of the law had been worked during 2009 but the Agency for the protection of data announced that it would work on new amendments of the Law until the end of 2011.

It is encouraging that the protection of personal data is more present in public but also encouraging is the statement of the Agency that more people address the Agency asking for opinion, consent and explanations. It also receives requirements for the protection of rights. The Agency announced that higher level of protection of personal data is evident through submission of the Evidence on collections of data on personality through requirements for providing consents for introduction of video surveillance.

Lists of donors of political parties – Daily newspaper DAN published on 19 May 2011 list of names of citizens who donated finances to Democratic party of socialist (DPS). DAN stated that the list has been taken from the web site of National Electoral Commission. On 20 May 2011, the Commission required from the Agency for the protection of data on personality to provide

answer on question whether ID numbers of donor citizens of political parties may be published. After the opinion of the Agency was delivered, the Commission removed personal data of donor citizens of political parties from the web site.

Vanja Čalović, Director of NGO MANS accused Veselin Veljović, Director of Police Directorate and the Police Directorate for illegal wiretapping of citizens, almost 20.000 times, in cooperation with Montenegrin mobile operators, at the session of National Commission for the conduction of Strategy for fight against corruption and organized crime. Čalović required from the Prosecution Office to process the responsible ones at the Police Directorate. Veselin Veljović, Director of Police Directorate negated her claims and said that institutions dealing with the control of the Police in this area had stated that the Police Directorate did not violated its competences. CA does not have information whether Prosecution Office initiated investigation.

Conduct of reception services - On 12 September 2011, CA required from the Agency for the protection of personal data to control conduction of reception services while identifying persons who enter and leave business and official premises. CA received reports of citizens that in some hotels and institutions, receptionists in these institutions ask for and keep identification documents during their staying at the hotel or institution. Article 33 of Law on the protection of data on personality says that for the purpose of protection of personal security and security of business property or official premise, public sector, entrepreneurship, other legal entity and entrepreneurship may be required from the person who enters in business or official premise, to deliver ID for the insight, if that is necessary. The Law defines that documents may be required for the insight but that it does not imply that personal documents may be kept while a person stays at the hotel or institution. Agency for the protection of personal data confirmed in its response to CA on 15 September 2011 that such a practice was not in accordance with Article 33 Paragraph 1 Item 3 of Law on protection of data on personality. The Agency stated they had sent letter to Police Directorate which, secures and controls entrances and departures in most public bodies. The letter indicated that personal documents are not being kept but returned to citizens after taking prescribed data. When CA introduced the problem to public, office of CA received new reports. More citizens called our office and stated that such a practice has been continued and

that personal documents have been kept during the overall staying in hotels in Kolasin, Ulcinj and Budva. On 25 September 2011, CA sent new letter to Agency for protection of personal data and required for the Agency to introduce management of hotels with legal decisions. On 15 December 2011, Agency made recommendations for legal entities and entrepreneurs, providers of accommodation services after conducted control to bring to an end constant practice of keeping and photocopying identification documents. Unless they act in such a manner, Agency stated they would undertake specific measures against legal entities which do not stop with the misuse of Law on protection of data on personality.

Video surveillance - One of the areas, where legal regulations in the area of protection of privacy have been violated, is the use of video surveillance. Agency for the protection of personal data defined that video surveillance has been used against provisions of law, disproportionately and excessively. Agency stated that failures related to video surveillance were absence of public information on video surveillance, video surveillance in larger areas in comparison to the perimeters of direct subject of surveillance, absence of Decision by the competent authority in charge of surveillance as well as video surveillance related to officials and/or guests, whose rights are thus being violated. The Agency stated that the concern rose when controllers of the Agency found a situation in an company. In that company, except that workers were recorded by video surveillance in the space they work, they were recorded by audio surveillance. After intervention of the Agency, that company stopped recording its employees. The Agency announced they would initiate misdemeanor proceeding against the actual company. In its Special Report, the Agency did not mention the name of the company.

Listings of mobile operators - During the control of mobile operators and Police Directorate, Agency for the Protection of Data stated that violation of protection of data on personality, related to submitting of listings of phone calls and SMS, occurred in practice. The Agency stated that Contracts between mobile operators and Police Directorate were opposite to national and international standards. The Agency prohibited Montenegrin mobile operators Telekom, Telenor and M-tel to deliver phone listings and other data on telecommunications to Police Directorate in future, without the order of court. Agency also stated that the Police Directorate afterwards respected the decision

of the Agency. Mobile operator T-com filed complaints to Constitutional court of Montenegro against the decision of the Agency. According to CA findings, Constitutional court made decision at the end of December 2011, but until the end of the year the decision had not been revealed. According to these statements, decision of Constitutional court abolished the decision of the Agency.

Case of taking DNA sample – Milan Martinović from Berane addressed CA and reported the incident which happened on 25 October 2011, in premises of the Police in Berane. Martinović claimed that the police constantly apprehended and searched him without evidence and occasion. In its report, Martinović said: “I went to the town when my wife called me and said that the Police was searching for me at home. As I was absent, my wife gave them my phone number. Soon, police officer Duško Stefanović called me and told me to come at the police station on informative conversation and to give the sample for DNA analysis. On my question why should I give the sample for DNA analysis, Stefanović told me that a murder had happened at the seaside so they have to do the sample. I told I did not want to give the sample without the decision of the court or the prosecutor. When I arrived at the police station, Stefanović took me to his chief Goran Šćekić, who told me that the Police had the right to take the sample for DNA analysis without decision of court or prosecutor. I said I would not allow giving the sample without decision of court. Šćekić then told me if I would not give it on my own I would be forced to it. They let me go that day and I went home. The day after they arrived at my house with official police vehicle searching for me but even then I was not at home, so they called me by phone and required to come home. Duško Stefanović asked me when I arrived if I would give the sample on my own or by force. Again, I replied I would give the sample if they had the order of court. Afterwards, they took me to the office of Goran Šćekić. Five police officers held me and took the sample for DNA analysis because I did not give the consent to do it on my own will. On 30 November 2011, Police Directorate told CA that police officers, taking the sample for DNA analysis from Martinović, acted in accordance with legal competences. Police Directorate stated that taking the sample for the analysis, according to competences and actions of the police, was exclusive right of the police and for this action they never require order or any other document from Prosecution office or the court. The response Police

Directorate delivered to CA said that Martinović gave consent to give the sample and that the force towards him was not used. CA asked from the Agency for protection of personal data on 8 November to initiate the proceeding of examining statements of Martinović and define whether violation of right to protection of personal data occurred. On 14 December 2011, Agency stated in response to CA they had conducted examination in the actual case. The Agency said that according to the order from 26 April 2011 was issued the order to chiefs of Regional units and police stations, on the occasion of execution of serious criminal offense, for taking samples for DNA profile from persons of 'B' blood group, who are registered as executors of criminal offense. In its response, the Agency said that the Police based these competencies on Article 257 paragraph 2 of the Criminal Procedure Code saying "Where there are grounds for suspicion that a criminal offence which is subject to prosecution by virtue of office has been committed, the police shall inform the competent State Prosecutor and take necessary measures as a self-initiative or upon a petition by a State Prosecutor, with a view to discovering the perpetrator, preventing the perpetrator or accomplice from fleeing or hiding, discovering and securing traces of the criminal offence and items which may serve as evidence, and to gathering all information which could be useful for conducting the criminal proceedings successfully". Also, Article 154 the same Code says: "Where there are grounds for suspicion that a criminal offence which is subject to prosecution by virtue of office has been committed, the police shall inform the competent State Prosecutor and take necessary measures as a self-initiative or upon a petition by a State Prosecutor, with a view to discovering the perpetrator, preventing the perpetrator or accomplice from fleeing or hiding, discovering and securing traces of the criminal offence and items which may serve as evidence, and to gathering all information which could be useful for conducting the criminal proceedings successfully." However, the Agency believes that taking a profile for DNA analysis in this manner significantly endangers privacy of a person which opposes personal rights and freedoms guaranteed by the Constitution of Montenegro. The response said that DNA, from the aspect of Law on protection of personal data, data from the category of data on personality, whose processing requires special, more severe treatment. The Agency announced that, after additional control and consultations of practice of the countries from the region and the

EU members initiate amendments of regulations with the aim to harmonize mentioned Articles of the Criminal Procedure Code with provisions of the Constitution and the Law on protection of data on personality.

Electoral lists - One of the areas that was the public issue was the Law on electoral lists. The Agency stated that amending of Law in part which is related to protection of personal data and submitting of electoral list to political parties is necessary. The standpoint of the Agency is that political parties have the right to the insight in electoral lists but have no right to hold personal data from electoral lists, and use in that case, which creates the situation for possible misuse. The Agency stated that this proposal was submitted to the Government of Montenegro.

'Listing' affair - Daily newspaper DAN announced on 4 December 2011, listing of phone calls on which were registered calls and conversations of the Prime Minister Igor Lukšić, and Minister of Foreign Affairs Milan Roćen, with the accused for drug smuggling Darko Šarić. Listing was created in 2008, and as the very listing contains it was for the needs of the police. Prime Minister Lukšić and Minister Roćen denied the statements of DAN. Prosecution office conducted urgent investigation and announced that according to evidences they had received from telecommunication operators Telekom, Telenor and M:-Tel was defined there were no phone communications between Lukšić and Roćen with Šarić. Prosecution Office stated that the format of the listing was created in the police and that was forged. Police Directorate rejected these statements that the listing was forged in the Police Directorate. Aleksa Ivanović from the Agency for the protection of data on personality told CA researcher that the publishing of listing represents violation of right to protection of personal data because listings of conversations may not be received without approval of court or published in media.

On 29 December 2011, NGO MANS filed complaint against Police Directorate and the state of Montenegro for violation of right to privacy. Namely, MANS announced they had addressed the court for illegal access to the Internet communication of MANS and due to the hearing of Vanja Čalović, Director of MANS on the occasion of publishing the video of Safet Kalić's wedding.

IX Religious freedoms

Article 7 of the Constitution prohibits causing and inciting of hatred or intolerance on any grounds. European Convention for the Protection of Human Rights and Fundamental Freedoms guarantees right to freedom of thought, consciousness, and religion. According to the Convention, this right includes freedom of changing religion and freedom of a person to publicly or privately express its faith by prayer, preach, and rites. The Convention also states that freedom of religion or belief may be subjected only to limitations prescribed by law and important in democratic society in the interest of public security, for the protection of public order, health and moral, or for the purpose of rights and freedom of others. Article 370 of the Criminal Code states: "(1) Anyone who causes and spreads national, religious or race hatred, divisions or intolerance among people, national minorities or ethnic groups living in Montenegro, shall be punished by imprisonment for a term of six months to five years. (2) If an act as of Paragraph 1 of this Article is done by coercion, maltreatment, endangering of safety, exposure to mockery of national, ethic or religious symbols, by damaging other person's goods, by desecration of monuments, memorial-tablets or tombs, the offender shall be punished by imprisonment for a term of one to eight years. (3) Anyone who commits an act referred to in Paragraphs 1 and 2 of this Article by abusing his/her position or authorities or if as the result of these acts riots, violence or other severe consequences for the joint life of people, national minorities or ethnic groups living in Montenegro occur, shall be punished for an act as of Paragraph 1 of this Article by imprisonment for a term of one to eight years, and for an act as of Paragraph 2 by an imprisonment sentence of two to ten years." Relations between the state and religious communities have been defined by Law on the status of religious communities from 1977.

Until nowadays, the state financially supported only large religious communities, but criteria for this type of support do not exist. In conversation of CA researchers with representatives of smaller religious communities, Biblical Christian Community, Protestant Evangelistic Church, Church of Christ's Brothers, CA found out they usually did not have information on this and that they did not know the manners in which they could receive funds allocated by the country for communities of this type or that anybody from the

Government addressed them on this occasion. Vladimir Čizmanski, priest in the Church of Christ's Brothers said that any form of financial aid for his community would be welcomed because they did not have their own space but they gather in the space they rented. Until 21 December 2011, the Government allocated for that year 62 thousand EUR to Serbian Orthodox Church (SPC), 142 thousand EUR to Montenegrin Orthodox Church (CPC), 41 thousand EUR to Islamic community, and 27 thousand EUR to the Catholic Church. The Government of Montenegro signed in June 2011, international treaty (Concordat) with the Vatican. The contract has defined relations between the state of Montenegro and the Catholic Church in Montenegro. In September 2011, the Government announced that negotiations with Metropolitanate of Montenegro and the Littoral started and were related to the signing of agreement. The agreement should define mutual relations between the Government and the Metropolitanate. The Government announced they would form the department for communication with religious communities until the end of 2011. The department shall be formed in the frame of Ministry for human and minority rights.

Religious communities registered in Montenegro are as follows: Church of the Christ Gospel, Christian religious community Jehovah's Witnesses, Catholic mission 'Tuzi', Christian Adventist Church, Evangelical Church 'the Word of God', The Military and Hospitaller Order of St. Lazarus of Jerusalem for Montenegro, Catholic religious community - Franciscan Mission Tuzi, the Mesihat of Islamic community in Montenegro, Jehova's Witnesses, Biblical Christian Community, and Montenegrin Orthodox Church. According to data of MONSTAT, more than 74% of citizens in Montenegro are Orthodox, 18% Muslims, and 3,5% Catholics, while registered smaller religious communities have less than thousand believers.

Prime Minister Igor Lukšić, had consultations in January with religious head representatives. Lukšić spoke only with heads from majority religious communities, Metropolitan of SPC Amfilohije, Rifat Fejzić, Head of Islamic community, Zef Gaši, Archbishop in Bar, and Ilija Janjić, Bishop in Kotor and Mihailo, Metropolitan CPC. Lukšić said that for every person is guaranteed right to freedom of religion and that one of the ministries would establish department that would be in charge for communication with religious

communities. Lukšić announced that Law on return of property to religious communities would be adopted soon.

After the meeting with Lukšić, Metropolitan Mihailo said that Government of Montenegro should resolve the issue of CPC property if they want the access of Montenegro to the European Union. Metropolitan Mihailo required from Prime Minister if Government might enable CPC to perform prayers in Ćipur and Vlaška Church in Cetinje. On February 21, 2011, CPC sent the request to Aleksandar Bogdanović, Mayor of Cetinje request for using the Monastery of Cetinje. Mayor responded on 6 March, 2011 saying he was not competent for that issue, and that Old Royal Capital did not have legal point to decide on CPC's requirement. Bogdanović said that the issue of property over Monastery of Cetinje was the case of administrative procedure before competent bodies. Stevo Vučinić, representative of CPC said on March 7, 2011, that administration improperly acted towards CPC requirement because the explanation was based on claims which were not based on facts.

Relations between two religious communities still cause concern. Intolerance between believers and the clergy of the two churches is still present. Idea of the ruling Democratic Party of Socialist for the union of orthodox churches in Montenegro and influence as united, was rejected by representatives of SPC and CPC. Thus, Parish of Rogami filed criminal charge on 28 August 2011, against Metropolitan of CPC, Mihailo and two more CPC representatives, Dragan Pavlović and Jovan Tomović for violent entering into the Saint Michael Church in Rogami. As stated from SPC, this church is in their property. Prosecution Office informed CA that it rejected criminal charge on 13 September 2011.

According to CA findings, numerous examples of causing and inciting religious and national hatred are usually unpunished and in cases when the court proceeding occurs for the criminal offense causing and inciting national, religious, and racial hatred, punishments are usually very low and often below legal minimum. In conversation of CA researcher with representatives of smaller religious communities, they said that they usually feel discriminated in public and that examples of nonverbal assaults was high and that the distance of majority of believers towards them was emphasized. As representatives of minority religious communities stated, number of hostile situations they faced with during 2011, in comparison with previous years was considerably smaller.

They still face with rejecting by other persons but the intensity of concrete incidents is smaller. Vladimir Čizmanski, head priest in the community Church of Christ's Brothers and the priest Stanisa Šurbatovićs aid there were no incidents related to their communities in 2011.

Two examples from practice indicate that sanctions pronounced by courts are not in accordance with the law and are minimal. In the first example, Higher court in Podgorica sentenced Žana Mitić from Tivat to eight months imprisonment, and Zoran Raičević to four months imprisonment for inciting national, racial and religious hatred. As stated in indictment, on 28 October 2011, in place Mrčevac in Tivat, Mitić and Raičević broke the glass at the house that had been used by Islamic religious community and in the part intended for prayers they put bags with swine droppings. In the second case, the verdict had been rendered at Higher court in Podgorica, by which the accused one was pronounced guilty and sentenced for the criminal offence inciting national, racial, and religious hatred from Article 370 of the Criminal Code, to four month imprisonment. In the same case, accused woman was acquitted. Another example has been taken from the report, prepared by Ministry for human and minority rights on exercising international Convention on elimination of all types of racial discrimination. Numerous examples of graffiti, chanting at political gatherings, sport events and similar, passed unpunished. Also, the heritage from the '90s, when specific media conducted organized campaign, passed unpunished and large number of journalists is still present on media.

Church on Rumija Mountain - Resolving the issue of sheet-metal church on Rumija Mountain, set by SPC, still causes tensions and intolerance in the society. Supporters and representatives of CPC, some politicians and organizations required from authority and competent institutions removing of the church emphasizing that, except it was illegally built, it disturbed traditional inter-religion harmony. On 6 January, 2011, Metropolitan of SPC Amfilohije cursed the one who devastate this church saying: "He who dare to turn on the temple, may he be turned down by the Lord himself. Him and all his offspring and may they would be judged by the Holy Cross", and added "there is a dog's faith for what is good when a man claims to be a Christian and Metropolitan, says that the church of Holly Trinity on Rumija mountain should be turned down". Predrag Sekulić, Minister of tourism and sustainable

development offered the solution for constructing religious building at the same place for Orthodox, Catholics, and Muslims, but representatives of SPC did not give assent. Filip Vujanović, President of Montenegro assessed cursing of Amfilohije as “inadequate step into politics”. Opposition parties judged the statement of President Vujanović saying that the President joined assaults on Metropolitan. After statements of Metropolitan Amfilohije, Metropolitan of CPC Mihailo said on January 9, 2011 that Amfilohije was the greatest enemy of Montenegrin people. Representative of SPC claimed that the campaign against SPC has been conducted where judicial bodies have been involved. At the meeting with Prime Minister Lukšić, Metropolitan SPC Amfilohije brought letter and introduced the content of the letter to Prime Minister, which said that serious threats came to them from Bar, if devastation of church occurs it may cause devastation of mosque, or may cause bloodshed on religious basis. Some media considered these statements as threats. Higher Public Prosecution Office filed request against Metropolitan Amfilohije for initiating misdemeanor procedure due to speech of hatred. Metropolitan Amfilohije was accused for violation of Article 17, which prescribes that any person who violates racial, national and religious conviction in public shall be punished. Ranka Čarapić, Supreme Public Prosecutor said that the procedure before Misdemeanor Body would show whether speech of hatred, which was qualified as misdemeanor, had the intensity that would characterize it as criminal offence that would also create the need for initiating criminal procedure. Metropolitan Amfilohije said that his statements were not speech of hatred but some political analysts and sociologists said that prosecution office was selective when processing of speech of hatred comes in issue and that it did not process other cases.⁵

Dragoslav Kljajević, Lawyer from Bijelo Polje filed lawsuit against Islamic community in Bijelo Polje because he considered that the tone coming from four loudspeakers in mosque was too high. Enis Effendi Burdžovic, President of the Board of Islamic community in Bijelo Polje said it was surprising why Kljajević, who lived near mosque, did not address them firstly. Burdžovic said he had agreed with Kljajević to reduce the tone on half from loudspeakers because he confirmed that in specific moments the level of noise was too loud. The trial is in course.

⁵ More about the actual case before Body for misdemeanor you may view in the part of the Report related to politically motivated violence.

Association of Montenegrins in Serbia “Krstaš” – The Association said that Metropolitan SPC Amfilohije offered to the Priest of CPC Vojislav Miljanić from Serbia high position in SPC if he publicly required forgiveness and repentance. The statement of the Association Krstaš stated that Metropolitan Amfilohije required from Miljanić to criticize publicly archpriests and clergy of CPC or would be otherwise expelled from the Faculty of Theology in Belgrade or would have other problems in his work and life in Serbia. Rector Velibor Džomić from Podgorica denied these statements. On March 29, 2011, Metropolitan CPC Mihailo dismissed of duty Priest Miljanić after Miljanić informed Mihailo he would like to have conversations with Metropolitan SPC Amfilohije.

Renovation of church on Sveti Stefan – Metropolitanate Montenegrin and Littoral and inhabitants of Sveti Stefan on 16 April 2011 started, without license for construction, renovation of the church of St. Aleksandar Nevski. Republic Bureau for protection of cultural monuments made decision on 20 April 2011 decision on termination of works on renovation. Following day, as media published, Inspection of protection of spatial tried to demolish the part of renovated church of St. Aleksandar Nevski. However the incident happened between the police and inhabitants who opposed demolishing. That day, the Inspection prohibited further constructing. Metropolitan of Montenegrin Orthodox Church Mihailo, on 24 April 2011 announced that the church on Sveti Stefan was the same as the church on Rumija and that the whole matter was devastation of monuments. On 5 May 2011, the Government stated that it would reconstruct the church of Holly Lady from 15th century. Metropolitanate Montenegrin and Littoral supported the decision of the Government. Walls of the reconstruction were demolished on 8 May 2011 and it was announced that the work on church would be continued in autumn, after tourist season.

Tourists from Croatia – On 9 May 2011, Montenegrin Orthodox Church (CPC) accused Serbian Orthodox Church (SPC) that priests of SPC Monastery Ostrog insulted and maltreated group of tourists from Croatia who visited the Monastery Ostrog. They were required to kiss the relics and when they refused to do so, they were exposed to provoking and insulting in the nearby restaurant.

Case of interrupting the gathering of Jehovah’s Witnesses – Zoran Lalović, member of religious community Jehovah’s Witnesses reported to CA

researcher that gathering of this community interrupted the priest of SPC, Slobodan Zekovic, who was followed by almost 20 other religious persons and citizens. Lalović said that Zeković and other unidentified persons arrived on 17 April 2011, in County museum (Zavičajni muzej) in Danilovgrad, where the gathering took place, and with threatening and insulting towards members of Jehovah's Witnesses they stopped the gathering. The case was reported to the Police and the criminal charge against Slobodan Zeković was filed and against other clerical persons of SPC, nuns, and almost 20 unidentified persons. Criminal charge stated that the reported ones committed criminal offences violation of equality, violation of freedom of religious practice and religious ceremonies, violation of freedom of speech and public addressing, prevention of public gatherings, inciting national, racial, and religious hatred, and violent behavior. On 25 July 2011, Prosecution office stated that before Basic court in Danilovgrad they initiated the procedure against Slobodan Zeković for the criminal offence prevention of public gathering. Jehovah's Witnesses expressed displeasure by the manner of acting of Prosecution office and on 9 August 2011, they sent letter to Prosecution office in Podgorica requiring from them to spread investigation on all responsible ones and all committed criminal acts. CA will monitor the processing of this case.

Protestant Evangelistic Church - CA researcher was informed by the Protestant Evangelistic Church in Podgorica that, during 2011, they had more unpleasant situations. At the end of the year, stoning of children in the yard of the church had been committed by unknown persons. Against these persons were not filed criminal charges and the case was not processed. According to the claims of representatives of the church, similar unpleasant situations was committed by unidentified neighbor who shot with the air-gun in direction of the church and ruined the mailbox and the table with the inscription of the religious community. After a while, assaults stopped. Criminal charge has not been filed against the person because members of the community doubted they could identify that person due to the lack of evidence.

Coordinator of the legal council of Metropolitanate Montenegrin and Littoral, Velibor Džomic, publicly stated on 9 June 2011, that the clergy and monasticism were exposed in the last two or three years to harassment and maltreatment by specific irresponsible members of Ministry of internal affairs. The reason for Džomic's reaction was the action of the police which was conducted by the Border police station in Nikšić, on identification of

religious persons who perform church service and had not reported residence in our country. The statement of the Police Directorate, published on 8 June 2011, said that Border police station in Nikšić filed misdemeanor charges against five citizens of Bosnia and Herzegovina and against three citizens of Republic Srpska, because they failed to report residence at the territory of Montenegro, after visiting religious objects of the Metropolitanate. Regional unit for misdemeanor in Nikšić told CA researcher that the institution, from 1 January to 8 June 2011 did not receive requests for initiating misdemeanor proceeding from the areas in the Law on registers of residence in Montenegro. Džomić said that a lot of complaints on decisions on prohibited residence were submitted to the Ministry of interior affairs but answers on some of these complaints had been waiting for years. Ministry of interior affairs denied on 14 June 2011, that it made pressures on priests of Metropolitanate and added they implemented Law on foreigners. Metropolitan Amfilohije stated on 17 June 2011, that, unless the pressures stop, require protection from international institutions. According to information from Metropolitanate, almost 60 priests delivered to the Ministry of interior affairs requests for approval of temporary residence, but in the last two years not any priest was approved temporary residence or was decided on their complaints on the first instance decision.

Siniša Smiljić, SPC priest in Budva was deported on 29 June 2011, from Montenegro. Smiljić was the citizen of Bosnia and Herzegovina and had resided Montenegro for a long time. Police Directorate stated that Smiljić was deported because the question of his residence in our country was not resolved and because he violated Law on public peace and order. One year prohibition of entering in Montenegro was pronounced to him, as the Police stated, because he violated public peace and order. Metropolitanate Montenegrin and Littoral reacted and stated that was violation of religious rights and freedoms.

Case of disapproving temporary residence to religious persons of SPC - Legal representative of Metropolitanate of Montenegro and the Littoral, Dalibor Kavarić reported to CA that Ministry of internal affairs (MUP) did not approve temporary residence for the clergy of Metropolitanate and that some priests and members of their families had been waiting answers on appeals up to 18 months. CA sent the request to MUP with the list of priests and members of their families whom MUP did not approve temporary residence or answered on appeals on decisions on disapproving temporary residence. MUP answered to CA on 14 September 2011. MUP said that two clerical persons received

approval for temporary residence while they suggested others to submit the document on registration of religious community, and that for this reason they had not acted upon appeals. Kavarić said that Metropolitanate was registered in accordance with regulations which were valid before the Law from 1977. Kavarić added that only newly established religious communities are obliged to registration by the Law from 1977, but not the ones that were already registered. As the evidence, he stated that Metropolitanate has registration number, that it establishes other legal entities, and is registered at Statistical Office. Kavarić believed that the actual case was the case of discrimination because other religious communities were not required to provide evidence on registration. According to the list Kavarić submitted to CA at the end of the year, almost 25 persons were rejected or were on the waiting list because the proceeding was interrupted until submitting the evidence that Metropolitanate was registered as religious community. Kavarić told CA researcher that priests submitted decision of Statistical Office that stated that Metropolitanate was registered as the legal entity, but MUP has not acted upon requests.

On 9 October 2011, CPC followers said that followers of SPC did not provide them to enter in the temple of Saint John the Baptist in Stubica near Nikšić. As the statement said, members of SPC locked the door of the temple and enabled CPC followers to enter in the temple. CPC followers stated that it had been agreed long time ago that the temple would be opened for all believers so that possible misunderstanding would be avoided and that it was obvious that members of SPC wanted to make the holly temple in the object of hatred and arguing.

X Discrimination

Constitution of Montenegro prohibits every form of direct or indirect discrimination on any grounds. Constitution defines also the measures of positive discrimination through norms and specific measures. Those measures could be applied only until the accomplishment of goals for which they have been introduced. European convention for protection of human rights and fundamental freedoms prohibits discrimination on any grounds, such as sex, race, language, religion, political or other opinion, national or social background and others. General prohibition of discrimination has been defined in Art.1 of Protocol 12 of Convention, stating that authorities should not discriminate anyone in exercise of rights provided by legislation.

Law on prohibition of discrimination in Montenegro came into force on 14th August 2010. Law defines discrimination as "*any unjustified legal or physical, direct or indirect distinction or unequal treatment, or non-treatment of a person or a group of persons in comparison to other persons, as well as exclusion, restriction or giving preference to a person in comparison to other persons, based on sex, race, colour of skin, national affiliation, social or ethnic origin, affiliation to minority nation or minority national community, language, confession, political or other opinion, sexual orientation, health conditions, disability, age, material status, membership in a group or assumed membership in a group, as well as other personal characteristic*". Law defines specific forms of discrimination: harassment, mobbing, segregation, as well as discrimination in following areas: use of public facilities and space, provision of public services, health condition, age, education, and professional development, labour, religion and beliefs, gender as well as political and discrimination of people with disabilities. Although Art. 2 of the Law allow wider interpretation, legislators failed to accent the hate speech and trade union affiliation. Recent political history and actual context of social development in Montenegro calls for more direct references to these forms of discrimination, especially given the strong presence of homophobia and ethnic distance, where hate speech often occurs in public incidents against members of sexual and national minorities. Hate speech is often present in the internet sphere, and CA tried to investigate the number of processed cases of hate speech on the internet, but State Prosecutor informed CA that hate speech on the internet is not defined as the specific criminal act. On the other hand,

transitional process exemplified the importance of enhanced protection of trade union members, as CA registered increase of complaints in regard to the discrimination on the grounds of membership and trade union activism. The biggest number of these complaints relates to the members of Trade union organization of Army of Montenegro.

OSCE Mission to Montenegro performed analysis of anti-discrimination legal framework, which pointed out shortcomings in existing legislation. Addressing those shortcomings would significantly improve anti-discrimination system in Montenegro.

Office of the Ombudsman, in their Report on protection from discrimination, stated that they had received complaints from 19 citizens in first six months in 2011, related to the discrimination in areas of national background, language, sexual orientation, gender, disability, political orientation, mobbing and trade union affiliation.

In June 2011, NGO CEDEM presented their research on perception of citizens of Montenegro in regards to the discrimination of national minorities and marginalized social groups. Research findings pointed out that Roma are the most discriminated group in Montenegro, followed by the people with disabilities and LGBT population. It also underlined that Roma and people with disabilities have the poorest chances for employment, whereas Roma also suffer the worst treatment in regards to the education as well as health care and court protection.

Ministry for human and minority rights, within the framework of its Human Rights programme, launched anti discrimination campaign in May 2011. Campaign focused on people with disabilities, LGBT population and discrimination on the grounds of gender, and it has been conceptualized by NGO „Cenzura Plus“ from Split, with three leading slogans, reflecting the selected focus areas. However, group of human rights NGO's from Podgorica criticized the campaign, asking the Ministry to halt the campaign activities. They argued that campaign was superficial and formal, and it did not focus on real challenges of endangered groups. NGO's added that Roma issues were not addressed by campaign, despite research's pointed out that they were the most endangered social group.

In 2011, CA registered numerous cases of discrimination. Most endangered groups remain people with disabilities, Roma, LGBT population, women and workers.

a. Discrimination of people with disabilities (OSI)

Parliament of Montenegro adopted Law on prohibition of discrimination of people with disabilities on 22. July 2011. However, there is no exact data on number of people with disabilities, nor on character, degrees and types of disabilities. These issues were covered by Census 2011 and data were published in December 2011, stating that 11% of population, i.e. 68,064 citizens has certain impediments in performing everyday activities, due to the long term illness, invalidity and age. According to the Employment Bureau data, there are 2030 persons with disabilities in Montenegro.

Based upon the consultations with partner NGO's, CA understood that certain progress in terms of regulations could be tracked. However, their implementation as well as general position of this population remains inadequate. "Infringements of rights and discrimination over the OSI still occurs, even by the state institutions and their senior officials", was the comment from Association of Youth with Disabilities.

Government of Montenegro adopted decision on creation of Council for protection from discrimination in July 2011. Members of this Council would be Presidents of Montenegro and national Government, along with 5 ministers, 4 NGO and 1 representative of selected trade union. In December 2011, invitation to NGO's to delegate their representatives was published. Decision on creation stated that Council should coordinate work of state bodies in efforts to implement respective legislation and measures for protection from all forms of discrimination. Government announced that they would dissolve the existing Council for people with disabilities and in return, they would form working body for rights of OSI within the Council for protection from discrimination. However, after the protests of OSI NGO's, Government revoked their decision on dissolving the Council for people with disabilities.

Danilo Popović, from NGO Association of people with hearing impediments, stated on 5. May 2011, that Real Estate Directorate took over 200 m² of real estate from their NGO and transferred ownership to the state. Popović announced they would press charges if this property is not restored to

their ownership. He also reminded that people with speech and hearing impediments do not receive any type of state financial subsidy. In addition, he said that Law on sign language is still missing, despite being constantly referred in state strategies dating from 1997, adding that its adoption has been planned for 2012.

Many institutions in Montenegro are not compatible with OSI needs. Mira Topovic, secretary of Association of Paraplegics from Pljevlja, said to CA that out of 5 schools in Pljevlja urban area only 1 is adjusted to OSI that are using wheel chairs. According to her, local Centre for Social care and Employment bureau are also not adjusted, whereas municipal town hall is partially adjusted. In addition, Health care centre has adjusted entrance doorways, but without adjusted internal corridors. Post office is not adjusted, nor is 3 out of 5 banks in Pljevlja. Also Army Hall, home to many cultural events, is also not adjusted. Milonja Magdalinić, president of Association of Paraplegics from Rozaje, said to CA that merely none of the institutions in this city is adjusted to OSI's in terms of accessibility. This association has 60 members. Magdalinić said that not even the Health care centre could be accessed by OSI, unless supported by other individuals. He added that has no marked parking lots for OSI's. Milka Stojanović from Association of Paraplegics of Montenegro pointed out that municipal town hall in Bijelo Polje, local Centre for Culture, Employment Bureau are partially accessible. Centre for Social care has platform for first floor, but it is inaccessible due to the garden tree. Buildings of Fund for pension/invalidity insurance, Health Bureau, police as well as facilities of Ministry of Interior for issuance of personal documents, courts, high schools, faculties and hotels are also not adjusted. Out of 3 elementary schools, only 1 is adjusted, whereas out of 8 banks only 3 are adjusted, with hospital and post office being adjusted. In Bijelo Polje, there are no special parking lots for OSI and sidewalks are not adjusted for OSI that are using wheel chairs. Marina Vujačić, Executive director of Association of Youth with Disabilities informed CA that Law on planning and construction of objects and respective Rule book, prescribing that every public facility must be adjusted to OSI by the mid 2013, is still not properly implemented nor the accessibility standards are being observed during the construction of new objects.

Vladan Nikolić, programme manager in Association of Paraplegics, at the round table on employment of OSI, on 25th February 2011, said that state institutions failed to comply with legal commitment to ensure that OSI should count for 5% of their employees. Law on professional rehabilitation and employment of people with disabilities has been adopted in 2008. Art. 21 defines quota for employment of OSI, stating that company with 20-50 employees must have at list 1 OSI among them. In cases of companies with more than 50 employees, OSI should count for minimum 5% of overall staff. Law also prescribes that employers also pay special contribution for employment of of OSI to the Fund for professional rehabilitation and employment of people with disabilities. However, there were frequent allegations in media employers do not pay these contributions as well as that Government does not distribute these funds towards improvement of position of OSI. Data published in media indicate that in the past 3 years Fund received more than 10 millions EUR, but less than 1 million has been spent for programmes of rehabilitation of OSI and subsidies for equipping their work stations. In 2011, Fund received 5.388.236 EUR, with only 357.341 EUR actually spent for these purposes.

Out of ministries that responded to CA requests for free access to information, it turned out that only Ministry of Interior made payments to the Fund, in the amount of 4,004.00 EUR. Other ministries responded that they do not have information whether these payments had been processed, since Ministry of Finance is responsible for disbursements. Ministry of Finance itself replied that 14,072.72 EUR has been processed towards the Fund for January 2011. In total, 6 OSI is employed in ministries. Association of Youth with Disabilities stated that there are no positive changes of practice in regards to the employment of OSI. Major problem, according to them, is that employers do not hire OSI, due to the legal possibility to choose whether to employ OSI or to pay a fine. They pointed out that most of the employers decide to pay fines. Marina Vujačić informed CA that Commission for verification of disabilities and appraisal of professional capacities is still not set up, and that is the responsibility of Employment Bureau. Due to their inefficiency, number of OSI, without decision on disability, can not access subsidies to their salaries nor equipping their work stations.

Basic court in Podgorica, on 10th January 2011, reached verdict on partial acceptance of law suit of Marijana Mugoša against capital of

Podgorica. Marijana Mugoša has completely damaged eye sight and operates with assistance of dog. As of 10th December 2008, she has been prohibited entrance in facilities of Podgorica municipality, where she was employed at the time. She motioned a law suit against Podgorica municipality, claiming 15,000 EUR on the account of compensation for non material damage on the basis of suffered mental pains and violation of honour and reputation. Court partially accepted her claim, ordering capital Podgorica to compensate Marijana Mugoša with 6,000 EUR. Capital Podgorica filed a complaint to this court decision on 1st February 2011. Although court's decision on reactivating Marijana Mugoša's in her working position, became final, capitol officials did not comply with it. Respectively, higher court in Podgorica on 28th January 2011 rejected capitol Podgorica's complaint and confirmed verdict of Basic court. Higher court also found that capitol failed to comply with Basic court's decision and issued a fine to capitol in the amount of 500 EUR as well as additional 300 EUR to corresponding official of capitol.

Duško Nedović from Bijelo Polje reported to CA that he could not exercise his right to severance fee in the amount of 36 average salaries, although he has official document verifying his physical injury in the line of work. Nedovic was avowed as redundant in his work station at Health care centre in Bijelo Polje. Nedovic has arm injury and eye with sight impediment up to 95%. He announced pressing charges against decision on redundancy by Fund for pension/invalidity insurance, in which it was denied that he was the person with disabilities.

Based upon the data obtained from the Ministry of sustainable development and tourism, CA learned that inspection control, following the complaint of Andrija Samardžić regarding the discrimination in "NIN" restaurant, took place on 17th November 2010. Inspection report stated that, on the 5th November 2010, Radoš Pavićević, owner of "NIN" restaurant, refused to provide public-commercial services to Andrija Samardžić, person with disability, using the dog as the aid for walking. Inspection Department on 6th December 2010 filed a request to the Ministry to motion misdemeanor procedure against the owner "NIN" restaurant. Ministry scheduled main hearing for 27th june 2011. Misdemeanor department notified CA on 25th December 2011 that Radoš Pavicević was fined with 11,000 EUR. Pavicević filed a complaint to the Council for misdemeanors, which repealed this decision of first instance body on 4th October 2011. New process is still ongoing.

Day care centre for children with special needs – Citizens of Ždrebaonik (Danilovgrad) protested regarding the announced construction of day care centre for children with special needs. According to media, competent authorities decided to change original plan and move construction to Bijelo Polje. These day care centres were envisaged as the alternative location for children from public institution for persons with mental challenges “Komanski most”, which would remain as the home solely for adults.

President of Association of blind persons Božidar Denda, on the International Day of Blind persons 15th October 2011, stated that situation with persons with damaged eyesight is not appropriate and the it should be improved in the areas of social protection, education and employment. According to their data, there are 1,100 persons with damaged eyesight in Montenegro

b. Discrimination of Roma

Roma are still one of the most discriminated groups in Montenegrin society. Status of Roma and Egyptians is still extremely difficult, despite some minor progress. Largest number of Roma and Egyptians is unemployed and unemployment rate is several times bigger than Montenegrin average. Muhamed Uković, vice president of National Council of Roma and Egyptians, told CA that a significant number of Roma and Egyptians still face lack of personal documents. On 26th December 2011 National Council stated that there is not a single Roma employee in municipal administrations in Montenegro. During the 2001, they have address mayors of municipalities, in which Roma and Egyptians live, in regards to the right for proportional representation in municipal bodies. However, despite the two consecutive addresses and legal commitments to reply, they have received no responses. Research of Centre for Roma Initiative (CRI) showed that poor material situation and discrimination are the main reasons to poor level of education among the Roma. Researched stated that 99.2% of Roma children abandon their schooling in early childhood. Fatima Naza, from CRI, said that every third Roma child abandoned school since they could not put up with humiliations while attending it Research covered municipalities of Podgorica, Nikšić and Berane and results were presented on 10th November 2011. Muharem Uković pointed out that sole reason for abandoning schooling is not lack of awareness among the parents,

but discrimination in employment after the completion of schooling, portraying this as systematic problem. According to the public opinion survey done by CEDEM, presented in June 2011, 63.3% of citizens believe that Roma are discriminated.

National Council informed CA that certain progress in regards to the improved housing conditions for Roma has been made in several municipalities, although still far from optimal. They pointed out also improved treatment of Roma issues by the Fund for minorities. Muhamed Uković said that Government was more willing to resolve the Roma community problems, but their plans hadn't been properly implemented. According to him, 10 million EUR was planned for implementation of Strategy for period 2008- 2011, however, only 1.7 million EUR was eventually allocated for that purpose.

Roma national radio started working last year, but due to the failure to obtain all the necessary licenses, their work did not go beyond experimental phase. By the end of last year, first Roma bilingual magazine was published. For several years RTCG has been airing bi-monthly Roma language, for half an hour, radio show. Once per month, RTCG has Roma TV slot. CA has been also told that in 2011, for the first time, a literary piece by one Roma writer has been published, authored by Ruždija Sejdović from Podgorica. Roma language school textbooks are still unavailable.

CA identified poor communication and coordination between Ministry for human rights and minorities and National Council, exemplifying that with fact the Council was unaware that Ministry translated of several laws on Roma language. Ministry translated Constitution and laws on media, public broadcasters, minority rights and freedoms, prohibition of discrimination and Ombudsman.

In fire on 7th February 2011, in Podgorica based refugee Camp 1, three barracks were burned down. Barracks were the home to 17 Roma families. Authorities offered those families a temporary lodging in restaurant, kindergarden and office within the camp. However, families refused this option, arguing their poor condition and fearing it might turn into the permanent lodging. They have continued to protest and spent several days in the outdoors. Representatives of CA and Šučko Baković, Ombudsman, visited those families and offered temporary facilities and heard their claims. CA

researchers visited those families on 23rd March also, while they were still in temporary lodging. One of the barracks was renovated. Follow up visit took place on 22nd December 2011 and CA found that 2 barracks were still not reconstructed. Roma families that lived in those barracks said they received no assistance, but instead built one room per family in which they continued to reside.

Protests over the building of Roma apartments - Inhabitants of Ozrinic, near Niksic, protested on 24th march 2011 and launched a petition against beginning of construction of 3 buildings with 9 apartments for Roma from various parts of Nikšić municipality. Locals claimed they would not allow municipal authorities to build additional Roma settlement next to the existing one. They argued that they have accepted existing local Roma families as their neighbours and did not protest against connection of their households to communication infrastructure. However, according to them, relocation of new families would burden the infrastructure and thus imperil the housing conditions for the entire area. Momčilo Mićunović, vice president of Nikšić municipality said that construction would not be stopped. He added that buildings would be constructed on state property, funded by the Ministry for human rights and minorities in the amount of 180,000 EUR. This was not the only case of opposition to construction of residential buildings for Roma. In December 2010, media reported that inhabitants of Ribarevine, near Bijelo Polje, petitioned against local social housing project for Roma. CA sent 3 consecutive requests to Bijelo Polje municipality, asking for a copy of that petition, and based upon the Law on Free Access to Information, municipality finally granted the access on 14th April 2011. After reviewing the content of the petition, CA realized that main argument of over 180 signatories against the housing project was potential changes in local religious and ethnic structure in that area.

Residential buildings in Nikšić were completed and 9 Roma families moved in. According to the unofficial information in regards to the completed building in Bijelo Polje - there was a change of plans and instead of Roma - 12 pensioners' families eventually moved in. Same sources indicate that second building in Bijelo Polje is also completed and it is expected that Roma families would soon move in. Government of Montenegro allocated 150.000 EUR for

construction of 15 apartments in Bijelo Polje and 180.000 EUR for 9 apartments in Niksic.

Citizenship based discrimination

On 13th July 2011, in Podgorica was opened first public kitchen with free meals for Montenegrin citizens of poor material condition. Thus, Roma without Montenegrin citizenship were excluded. Ganija Pajazitaj, President Association of Roma and Egyptians refugees from Kosova reacted and said most of the Roma from Kosovo are not able to provide food for their families, and due to the citizenship rule are denied access to public kitchen. Ngo Human Rights Action on 1st August 2011 submitted initiative to the Constitutional Court for review of compliance of such decision with the Constitution. Constitutional Court did not act upon that initiative. Isen Gaši, President of Roma National Council publicly reacted on decision to exclude Roma without Montenegrin citizenship from access to public kitchen. In previous reports, CA recommended to the Capital to allow those Roma access to free meals. However, competent authorities did not accept these recommendations.

Education – Roma National Council stated visible progress in the area of education, but still the situation is far from optimal. On 7th September 2011, Roma Scholarship Foundation publicly expressed their disapproval of the fact that Roma are not properly integrated into the national education system. In school year 2011/12 only 4 Roman and Egyptians were enrolled at University of Montenegro. According to them, main reasons are related to poor material situation. Roma National Council also mentioned the lack of textbooks for elementary and high school education as one of the bigger problems.

Sinking of boat „Miss pat“ – Movement for Changes (PzP) asked Head of the Parliamentary Committee for human rights and freedoms, on 18th October 2011, to motion control hearing of Duško Marković, Minister of Justice, on the issue of official investigation on sinking of boat “Miss Pat”, which has been ongoing for past 12 years. PzP proposed that topic for the hearing would be the investigation and court proceeding on this case, which, according to the unofficial information, resulted with death of over 70 Roma persons. These information suggest that over 70 persons were boarded in vessel “Miss Pat”, registered for transport of 6 persons and 2 crew members. After few hours of sailing, boat sunk and 35 persons dies, out of which 13 were identified, whereas others went missing. Till today, nobody was found guilty for this incident. Trial

to the suspects was scheduled for mid 2011, but it was prolonged since court interpreter for Roma language was not provided. In the case of sinking of a boat, which transported Roma from Kosovo to Italy, following persons were accused: Agim Gaši, Ramadan Balja, Ismet Balja, Refik Hodžić, Joko Nikaljević, Goran Đuričković and Saša Boreta.

Media reported on 5th November 2011 that Miomir Mugoša, Mayor of Podgorica accused Roma from Konik suburb of stealing metal covers of sewage/drain holes. This statement was criticized as racist by numerous representatives of Roma community, NGO sector and political parties.

c. Discrimination on ethnic and religious grounds

On 7th July 2011, Government of Montenegro adopted Information on representation of national minorities in national and municipal administration. Based upon the available data, out of 13.900 civil servants, Montenegrins count up to 79%, Serbs 8.59%, Albanians 2.8%, Bosniacs 4.1%, Muslims 2.39%, Croats 0.89%, only 1 Roma and 0.42% of others. NGO Roma Scholarship Foundation stated on 15. July 2011 that 13 Roma and Egyptians passed professional qualifications exam for employment in state institutions, but 1 year after that – none of them has been employed.

Enver Dacić from Rožaje, publicly demanded from premi minister Igor Luksic to halt ethnic and religious based discrimination, which has been, according to him, conducted by Veselin Krgović, senior manager in Branch of Border Police in Berane. He accused him of submitting false reports on non-orthodox Christian border police officers to the superiors, thus causing that Dacić and 6 other Muslim colleagues lost their job. He also pressed charges against Krgović for abuse of authority and insults on ethnic grounds. Krgović denied these allegations by saying that his closest associates are Muslims and Albanians. Police Directorate denied twice existence of religious and ethnic discrimination. On 31st January 2011 Directorate stated that number of their officers decreased in past couple of years and it had been done in accordance with law for the purpose of rationalization. They also stated that mainly officers on fixed term contracts have been fired, out of which certain numbers did not meet condition prescribed by Rulebook on internal organization and systematization. According to them, Enver Dacić was one of those officers.

Directorate stated that in the Branch, where Dacić used to work, 22 officers had been fired, out of which 11 orthodox Christians and 11 Muslims. According to the CA information, in Rožaje branch of border police there is only one Albanian employee. Daily Vijesti on 11th March 2011 reported that Internal Affairs, after investigation, concluded that there are elements for initiating disciplinary procedure against Krgović in regards to the Dacić's allegations. Along with Dacić, there were other police officer claiming to have lost their job due to the ethnic and religious discrimination – Mithat Nurković, Nedžad Kuč and Hamdo Murić. As mentioned, they have publicly spoken on border smuggling affairs in the area under their jurisdiction. Because of that, they and their families received threats. By the end of January 2011, Enver Dacic and his family received threats from two unknown individuals. They told him that he had obviously not understand the message to stop speaking to the press, law suits and sharing evidences he had collected, and that he was not aware of the consequences for hum and his family. There were also information on similar threats to Mithat Nurković and Nedžad Kuč. These cases were reported to the police, who provided measures of protection for them. CA has no information on identity of persons responsible for those threats.

Daily Pobjeda, in section Other Media, on 6th march 2011, published article "How average Serbian perceives Balkan". Article was accompanied with photos, portraying some nations and state in very pejorative manner. Thus, it has been presented that average Serbian perceives Slovenians as Austrian horse-guards, Albanians as canibals, Hungarians as gulas and sataras⁶ and Macedonians as Serbs with speech impediment.

Osman Nurković from Bosniac National Council informed CA that Ministry of education and sport did not consult their Council while selection of school directors in areas with majority and/or considerable portion of national minorities. He added that such consultations take place only when it comes to Albanian National Council. CA sent request for free access to information to Ministry on 7th march 2011, asking for following information:

- During the selection of directors in elementary and high school in the areas where majority and/or considerable minority of population belongs to national minorities, have you ever consulted respective national councils? If yes, in how many situations?

⁶ Typical Hungarian meals

- If yes, which national councils were consulted?
- Did any of the national councils filed complaints, in written or any other way, in regards to the appointment of directors without consulting with them?

Ministry responded on 11th March 2011 to CA, confirming that they have consulted only Albanian National Council, on 18 occasions. Osman Nurković told CA that Ministry did not address at all their national council in this regards by the end of 2011.

Slaven Radunović, MP for new Serb Democracy, on 11. May 2011 publicly stated that there are no ethnic Serbs in Montenegrin diplomatic-consular network and that proportional ethnic representation is not in accordance with the national level representation. Milan Roćen, Minister for Foreign Affairs denied statement of Radunović and stated that diplomatic network engages only professionals and that ethnic background is not one of criteria for employment.

Rizo Alković left Montenegro with his family, after continuous accusations of his neighbours for ethnic and religious discrimination. As media report on 22nd December 2011, Alković requested asylum in one of the western European countries. He told daily Vijesti "Montenegro did everything for me to leave the country. We have been threatened and insulted for years, and authorities did nothing to prevent that". CA provided free legal aid to Alković family before the national judiciary and Strasbourg ECHR.

a. Discrimination of women

Position of women did not improve in 2011. Men hold 3 most important positions in country - President of state, Prime minister and Speaker of the Parliament. There is only one female holding the position of minister in Government and 8 female MP's in Parliament. On the other hand, women hold key positions in judiciary. Election Law prescribes mandatory quota of minimum 30% of female MP candidates on election lists of political parties, but it does not provides guarantees that minimum quota should be maintained for actual elected MP's, hence the number of women in Parliament would depend on decision of political parties. Amendment to change this legal provision was rejected majority of parties and MP's. NGO activists criticized this legal provision, portraying it as gender discrimination. Women receive smaller

average wages than men. Montenegro has no statistical data concerning the position of women and gender equality, neither data on court verdicts on the grounds of gender discrimination, which was also one of the conclusions of UN Committee for Elimination of Discrimination of Women (CEDAW). Their recommendations were presented on 21st December 2011 before the representatives of Ministry of human rights and minorities. NGO ANIMA informed CA that CEDAW recommendations, following the suggestion of female NGO's, defined areas of concern in regard to the female human rights. Nada Drobnjak, head of Parliamentary Committee for gender Equality, said that Convention for Elimination of Discrimination of Women is not being implemented and that further efforts should be invested in promotion of this document. CEDAW received two parallel report on implementation of convention, from Government and NGO's.

According to the research of Women's network of Association of trade unions, 7.3 % of employees confirmed they were victims of abuse on work place, and 27.6% witnessed mobbing. Research also pointed out that women are more exposed to work place abuse than men. NGO Anima said that women are the most marginalized group in Montenegro, whose rights are being violated on daily basis. According to them, most of the political subjects (political parties, unions and certain NGO's) are completely blind to this problem, disregarding that statistical parameters show that women participation in decision making bodies is lowest and that gender equality policies are not being implemented.

At the consultation meeting between Government and NGO sector, held on 12th January 2011, female NGO's were not invited. Group fo 12 female NGO's expressed concern over the tendency of prime minister's cabinet to marginalize their work. Ljupka Kovačević, coordinator of NGO Anima - Centre for Female and Peace Education, on 14th January 2011, stated that prime minister's cabinet should have apologized to female NGO's for not inviting them the meeting. ANIMA said to CA that they are particularly concerned that social policy in Montenegro relates only to minorities and ethnic groups, excluding women. Difficulties and violations of labour rights of women are particularly present in all sectors, both private and social, whereas sexual blackmails are present in every segment of society, from employers to professors. According to the ANIMA research, within the project "Claim your

rights”, realized in 2011, majority of women work on least paid jobs with longest working hours, often with overtime. On the other hand, they say, there are no serious research nor data on social, economic and political status of dual discriminated women – single mothers, women with disabilities, refugees, female strikers and Roma women.

b. Discrimination of LGBT people

Status of sexual minorities in Montenegro remains at level of concern. CA registered number of incidents. NGO CEDEM presented research in June 2011, pointing out that 49.3% of citizens in Montenegro believe that homosexuals are discriminated.

By the end of April 2011, pending the announcement on organization of Pride Parade, several threats and hate speech incidents against organizers and participants took place on Facebook social network. According to the media, police received 8 complaints, upon which investigation was initiated. There was no information whether misdemeanor or criminal charges were raised against any of those persons.

Day against Homophobia was commemorated on 16th May 2011, with concert of Croatian band Lolobrigida at the terrace of Cultural Information center “Budo Tomović”. During the concert unidentified individual activated the tear gas. Police did not state whether they had managed to identify the perpetrator. After the concert, an incident occurred, during which group of men attacked one boy and girl that had attended the concert. According to daily Vijesti, identity of attacked ones is known to the police. They were attacked and kicked with legs and arms. Vijesti also reported that police stated that attacked persons were members of LGBT community, who did not want to raise official charges due to the personal reasons.

Zdravko Cimbalević, Director of NGO LGBT Forum Progress, stated that on 15th June 2011 an incident took place in the building of Ministry for human rights and minorities, while he was posting flyers as a sign of protest against homophobic statements of Minister Ferhat Dinoša. Cimbalević said that security officers from Police Directorate interrupted him and took him to the ground floor for basic interrogation. He said that he was pulled by one of the officers, as he was opposing to their request to come with them. He also

said that performance was staged as he wanted to express discontent in behalf of entire LGBT community, still fearing to voice their sexual orientation.

Representatives of NGO LGBT Forum Progress notified Supreme State Prosecutor on 9th August 2011, that several LGBT persons was removed from Ratac beach near Bar. In their complaint it was stated that beach guards denied access to the beach for tourists of homosexual orientation. It has been stated that tourists were at public beach, once approached by D. B. and driven them of the beach. Mentioned D.B. denied statements from LGBT Forum complaint. After that, several members of homosexual minority confirmed to daily Vijesti that D.B. discriminated the mentioned tourists. Basic prosecutor from Bar told CA on the 22nd December 2011, that nobody filed charges to them. CA has no information whether Supreme State Prosecutor acted upon the initial complaint

In the night on 4/5th December 2011, Danilovgrad Police brought in persons B. P., S. G. i V. V. for making offensive and disturbing comments to R. S. i D. T, foreign nationals and members of LGBT community. R. S. i D. T. were participants at the international conference "Toward Europe, toward equality", that took place in Danilovgrad. Against these 3 locals, police filed misdemeanor charges for violating public peace and order. They were later found guilty and S.G. was fined with 15 and V.V. with 12 days of prison, while B.B. was acquitted. Marinus Van der Sten, citizen of Netherlands, reported an incident on 4th September 2011, explaining that, while sitting in one Danilovgrad café, one person raised right hand, saluting in nazi manner. He said that this act caused him a sense of anxiety and jeopardy. Police identified this person as R.D. from Podgorica and he was later fined with 800 EUR. LGBT Forum Progress asked from the police to maintain same approach with complaints disregarding whether they had been submitted by locals or internationals.

In Danilovgrad, on 6th Septemeber 2011, graffiti's appeared with hate messages towards LGBT community. Messages "Death to gays! For healthy family" appeared on walls of Pensioners' Hall, day after completion of international conference "Toward Europe, toward equality", organized by Government of Montenegro.

Threats to actors of video spot "We are also part of the crew" - police stated on 2nd December 2011 that they identified person that sent 2 SMS with threatening and disturbing content to actors Todor Vujošević. L.N from

Podgorica told police that he had intention to make joke with Vujošević, with whom he is in friendly relations. After that, Vujošević revoked complaint against L.N.

Misdemeanor complaints over threats and insults – Police stated on 2nd December 2011, that they filed misdemeanor complaints against B.Ž. i S.K. from Podgorice, suspecting them for felony of “serious threats”. Police stated that B.Z. is suspected that he had posted message containing life threats to LGBT community member on Facebook profile of NGO Centre for Civic Education. They also stated that S.K. was suspected for sending threatening messages via Facebook to Zdravko Cimbalević, Director of LGBT Forum Progress. Police stated that in both cases, prior to filing complaint, they notified competent prosecutor, who stated that there were no elements of criminal act, being pursued by official duty.

On the same day, police said that they had warned Facebook group of fans, referred to as Familija. LGBT Forum Progress reported to the police that representatives of this group threatened with beating to members of LGBT community. Police informed prosecutor with this incident also, but response was the same - there were no elements of criminal act, being pursued by official duty. Representatives of fan group told police that they had no intention to realize their threats and after receiving a warning from the police - they were released.

Trial to professor Radonjic - Zdravko Cimbalevic, from NGO LGBT Forum Progress and NGO Centre for Anti Discrimination, pressed charges against Professor Slobodan Radonjic, in regards to his statements in daily Dan, made on 9th May 2011, where he referred to members of LGBT community as sick, misfortunate and unrealized people. Trial to Professor Radonjic took place in December 2011, and it was postponed for 14th February 2012.

During the period June- September 2011, graffiti's emerged on various locations in Podgorica, containing hate messages towards members of LGBT community. In that regards, NGO Juventas filed criminal charges to supreme state prosecutor against unidentified persons, as well as to communal police, for the purpose of their reactions and removal of graffiti's.

Zdravko Cimbalević, first publicly declared member of LGBT population in Montenegro, stated on 11th October 2011, that his life is endangered because of his sexual orientation. Cimbalević said that his public safety is endangered and insecure, and he is also facing existential problems.

NGO Juventas on 27th December 2011 stated they received 15 complaints on the grounds of discrimination and violence against LGBT people, through action "Report discrimination. So it won't happen again". In most of the cases, violence and discrimination had been committed by the members of families and friends of LGBT people.

c. Discrimination of people with HIV/AIDS-om

Public Health Institute of Montenegro stated on 3rd December that during the 2011 in Montenegro, 9 persons with HIV virus had been registered, while the total number of persons with HIV/AIDS is 94.

Amela Kovačević from NGO CAZAS, said on 13th December 2011 that people with HIV/AIDS face numerous problems and discrimination. Kovačević think their biggest problems are job firings and impossibility of finding a new job, rejection from closest environment, fear of discrimination, self-discrimination, lack of proper state response to their needs in terms of psycho-social support and assistance as well mistrust in state institutions responsible for processing their complaints on human rights violations. Kovačević told to CA their "experience shows that people with HIV live in a constant fear of suffering something from close ones on the account of their HIV status or virus. Namely, despite many things has been done in improvement of status of HIV patients, their everyday life are marked with more or less fear on different levels: social, intimate, professional, health..." Kovačević stated that experiences vary from person to person, but they all have in common - facing the various forms of discrimination. As an example, she mentioned one family having a hard time to find an apartment to rent. Their problem is still present.

NGO Juventas, on 17th December 2011, organized a press conference to commemorate World Day against violence over sexual workers. On that occasion they present their research on behavioral risks in regards to the AIDS. Research showed that in the last 3 years, out of 855 women and 13 men that provided sexual services, 40% of them were exposed to the family violence and 25% to the violence from the clients. In addition, 21.5% of them were discriminated by the police officers, while 17.9% said that police officers requested sexual services without having to pay. Almost 70% of respondents said they had been physically, emotionally, psychically and sexually harassed by uniformed police officer. In 17.3% of cases, sexual workers were

discriminated by the health sector employees and 0.7% by the social workers. 71.4% of them reported cases of violence to the police. Out of total number of sexual workers, half of them are from Montenegro, while others came from Serbia and BiH, whereas huge number of sexual workers belong to Roma population.

d. Discrimination of workers

Ivana Mihajlović from Association of Free Trade Unions (USSCG) told to CA that **“when it comes to mobbing and discrimination based on trade union affiliation, these became unfortunate regular happenings, that USSCG is identifying in employers’ relations towards employees, especially trade union activists”**. She said that “institute of contract annex, introduced in labour legislation in 2008, turned out to be a specific mobbing mechanism. We have ample of examples where the employers misused this institute in order to re-assign employees, even without their consent, to another work stations, which entail lower degree of professional qualifications than the one of the employees. It is all being done with the aim to degrade professional merits of employees, forcing them to company on their own and thus, among other things, avoid the commitment to pay severance”. According to her, the same problems apply for institute of fixed term contracts that have been rule, rather than exception in the period from 2008 till December 2011. Consequently, employees were under constant pressure and uncertainty over the question whether their contracts would be extended or not after expire of fixed term date. By the end of the year, Law on mobbing was drafted and USSCG insisted that this Law should regulate codes of conduct in regards to prevention and protection from mobbing, rather than to regulate these issues with bylaws, as intended by the draft Law (Art.5). According to Mihajlović, USSCG receives complaints concerning mobbing and discrimination on daily basis. Certain number of employees addresses USSCG unanimously, asking for advices. Most radical example in 2011, according to her, is the example of “Nenad Čobeljić, president of Union organization of Army of Montenegro, and therefore other members of Army, enlisted in this union”.

Representatives of Union organization of Army of Montenegro (SOVCG) - addressed CA on 10th March 2011, stating they are suffering

pressures, discrimination and blackmails due to their union activism. According to them, pressures started immediately upon the formation of SOVCG, on 5th October 2010. Nenad Čobeljić, president of SOVCG, and colleagues Branislav Manjerović and Radojica Krunic were expelled from General Staff, due to their union activism. SOVCG also told to CA that there are cases of blackmails and intimidation, veto's on communication with higher instances and courts and creation of lists of people that filed law suits in regards various financial claims and pressures to halt those claims. They also mentioned blackmails to leave SOVCG, prohibitions to use union's facilities and organize meetings of SOVCG leadership with members during the working hours and official breaks, re-assignments to inadequate work stations. They added that one of the conditions for army personnel to take part in ISAF mission was evidence they were not members of SOVCG.

Furthermore, SOVCG said that violations of human rights and freedoms are continuously increasing, followed by improper reactions of competent authorities, despite constant SOVCG addresses. SOVCG also filed 2 criminal charges against several officials in Army and investigations are in progress. After those criminal charges, Ministry proposed incriminated officials for promotions. After SOVCG, another union has been formed in Army. SOVCG claims that second union is formed in order to threaten to the existence and operations of SOVCG, as well as that - most senior officials of the Army, such as Dragan Samardžić, head of General Staff, belong to that union. Media reported that Boro Vučinić, Minister of Defense, refused to accept meeting with SOVCG representatives, accusing them for violations of Law on Army, by giving statements to media. Later, a disciplinary procedure against Čobeljić has been initiated due to the media statements in which he referred to discrimination of his union.

SOVCG claims that, because of the blackmails, during one year alone, more than 200, out of total 450 members left their union. They informed Filip Vujanović, President of the state, on this situation, as well as Igor Luksic, prime minister, Parliamentary Committee's for human rights and freedoms and security. However, during the 2011, they received no reactions. CA and USSCG on 28th March 2011 informed Delegation of EU and other embassies on problems facing SOVCG. Against their president, Nenad Čobeljić, several disciplinary procedures have been initiated as of beginning of his leadership in

SOVCG. Pressures escalated by the end of 2011, upon the joint press conference of CA, USSCG and SOVCG on 27th December 2011, during which they had invited competent authorities to halt pressures and discrimination over the SOVCG members and leaders. After the press event, daily Pobjeda reported on 29th December 2011, that minister Vučinić would suspend Čobeljić due to the numerous professional faults. Čobeljić said that this information he learned through media and claimed that he had no professional faults in his work, adding that he sees this as continued pressure. On 29th December 2011, minister Vučinić signed decision on suspension of Čobeljić, as his continued presence at work would have negative implications on the service. Disciplinary procedure was scheduled for 18th January 2012. CA, USSCG and SOVCG on the 30th December 2011 staged gathering in front of the office of President of the state, asking from him, as a supreme army commander, to revoke decision on Čobeljić's suspension and to enable normal operations of SOVCG. Ministry of Defense and Army of Montenegro in several occasions denied claims on pressures and discrimination over the SOVCG members.

USSCG was addressed by Tanja Stanojević from Podgorica. At Basic court, she filed a law suit on the grounds of discrimination, against her employer "Sportina" d.o.o. She claimed that during the work in that boutique, as of 2008, she received no written or oral warning in regards to the quality of her work. On the contrary, executive director of the company praised her performances and mentioned possible promotion to the rank of deputy manager. Stanojević at one point identified certain irregularities in operations of several employees and reported them to the senior management, including the Executive director. Because of that, as well as impossibility to get in contact with the owner of the company, Stanojević engaged in a strike on 20th April 2011 in front of the Slovenian embassy. Consequently, her health condition worsened. In Penal court, following her original complaint, proceeding against Nataša Popivoda, Executive director of D.O.O „Sportina“, started, on the grounds of mobbing and assault on work place. Proceeding is still ongoing. Stanojević claimed that court should have reacted faster due to the obvious and constant pressures and harassments at her work place, aiming to force her into voluntary dismissal from the job.

USSCG told CA that they had been contacted by one of the renowned hotels, claiming they had been victims of mobbing and worked under terrible pressure during the 2010/11 season. Report was unanimous, as

workers were scared from potential consequences. They stated they received no salaries nor fringe benefits, while some of the female employees claimed they were sexually harassed by their supervisors. After their unanimous report to the Labour inspection, employees did not contact USSCG again.

In 2011, USSCG also received report from employees of one national restaurant, stating they had been suffering “unseen mobbing”, especially in regards to the conduct of director towards employees. Among many other things, despite restaurant’s revenue of approximately 90.000 EUR till October 2011 - employees received no salaries no fringe benefits

USSCG also informed CA on the case of sexual harassment of female employee in Podgorica based Societe Generale Bank. This case also had elements of pressures and indecent proposals with “promises” of promotion by one manager. Bank initiated disciplinary procedure against this manager, which resulted with his dismissal from work.

Pressures on USSCG members were also reflected in case of PJ „Muzeji“ Budva, where employees confirmed their leavings from USSCG was the result of mobbing and pressures.

Former employees of Jugopetrol, Veselin Stojanović i Dimitrije Zečević, informed CA on discrimination and losing the job in that company in illegal way. They said they were blackmailed and deceived, and lost their job because they, being on fixed term contracts, did not accept settlement offered by the employer in the form of compensation for receiving lesser salaries than employees on permanent contracts. They asked for just compensation through court. They said that certain fixed contract employees for the period of 6 years, had been receiving lesser salaries from their permanent contracts’ colleagues, despite all doing the same job. Ioannis Geroulanos, Executive director of Jugopetrol replied to CA, saying that contracts with both Stojanović and Zečević were terminated on 5th May 2009, at their request.

Union of Aluminum plant on 6th June 2011 addressed Ministry of labour and social care and Labour Inspection of Podgorica, in behalf of the 25 workers, arguing they had been discriminated by the management, over their trade union activism. Namely, their letter states that management instructed company accounting office to decrease May salaries for abovementioned workers, through withdrawal of regular stimulant, which applies for their organizational segment. Labour Inspection on 10th October

2011 responded to the Union, informing them that they performed oversight, but they found no basis for initiating any follow up measures from their jurisdiction toward the subject of oversight.

By the end of August, Rašo Nikić from Podgorica, publicly said he was fired from Podgorica municipal company "Parking servis", because of his Serbian ethnic background, his previous work in daily Dan and political engagement in one oppositional party.

Nreka Ljuljđuraj, janitor in elementary school „29 novembar“ in village Prifti, publicly stated on 18th October 2011, that he was fired because of his public statement on poor condition in his school. He said that he criticized the school conditions on 21st Septembers, while on 30th September he was fired. Aiša Đokaj, school director denied those claims, stating that his contract expired, while he did not apply for the new one.

Edmond Ujkaj and Palj Drešaj, from Tuzi, on 21st November 2011 stated to media, that they had lost jobs in administration of urban municipality of Tuzi due to the political reasons. Ujkaj and Drešaj. They announced law suits against respective Tuzi officials, confirming they had been told by Nikola Gegaj, president of urban municipality, that their contracts were terminated due to the political reasons.

Gojko and Behija Ćorović, education sector workers from Berane, contacted CA on 16th December 2011. They claimed to had been suffering discrimination for not being affiliated with DPS. Gojko said that 5 out of 7 of his children graduated from faculties, and other 2 are still students. But, he added, because of his refusal to align with DPS, none of his children were able to find employment. CA will follow this case in upcoming period.

By the end of December 2011, media problematized the selection of Marijan Premović to receive tenure at History Department of Faculty of Philosophy. According to media claims, Premović's membership in DPS was the key criteria for his selection in regards to the second candidate Adnan Prekić. Faculty denied those claims.

XI Rights of children

Children rights are not at satisfying level. Montenegro adopted Convention on Rights of Children by providing the statement on succession for the set of conventions of United Nations on 26 October 2006. In November 2008, Montenegro sent the Initial Report on implementation of Convention on Rights of Children for the period from 2006 to 2008, to the UN Committee for the Rights of Children. Except the Government, the report for the same period delivered the Protector of Human Rights and Freedoms and Center for the Rights of Children of Montenegro that was developed in cooperation with informal coalition composed of 18 nongovernmental organizations.

At the session that took place on 1 October 2010, UN Committee for the Rights of Children adopted set of recommendations for Montenegro that arose from consideration of three reports. The Committee emphasized necessity of harmonization of the part of legislation with the UN Convention on Rights of Children, the necessity of more efficient implementation of laws and the concern for the lack of capacities in functioning of institutions dealing with the planning policy, monitoring and the protection of rights of children.

Legislation in Montenegro is mostly harmonized with international standards of human rights in the area of rights of children. However, specific inconsistencies still exist and also failures in implementation of adopted laws and adopted international standards. Definition of a child does not exist in Montenegrin legislation. Law on protection of children and social protection is not harmonized with the Convention on rights of children. Montenegro has adopted Law on juvenile justice. Law will come into force on 1 September 2012. After considering the report, Committee for rights of children said they were concerned because children in conflict with the law have often been treated by the same laws and procedures that have been applying to adults, because special system of juvenile justice does not exist and because children are being held in custody in the same premises as adults. On 19 September 2011, Judicial Council considered the Proposal for a Law on juvenile judiciary. The Council stated that establishing of special departments of judges for juveniles within Higher courts in Bijelo Polje and Podgorica has been initiated. Nataša Vuković, SNP MP said that adopted Law had a lot of failures. Objections that Vuković sent to CA researcher were: manner in which specific subject of a law deals

more with perpetrators than with victims; in accordance with the UN Convention, the law does not have a definition of a child, which had to be emphasized, and then in a criminal and legal sense, juveniles had to be defined; Article 46 prescribes that Public Prosecutor for juveniles, judge for juveniles, judges of the council for juveniles, have to be persons with special knowledge of the area on rights of children and treatment towards children and juveniles, and nothing more about the manner which defines how that persons achieved their knowledge, or whether they had any certificate, who makes decisions on those matters, and similar; in some cases, procedure towards juvenile is being connected with the procedure against adults in accordance with the Criminal Procedure Code, instead in accordance with this law, because it is dealing with juveniles; furthermore, it is not obligatory to provide a juvenile psychological and social aid in custody and during hearing.

In Montenegro exists the Council for rights of children as cross-sectorial body which monitors implementation of regulations related to protection of children, which also protects and improves rights of children and initiates adoption of rules in this area. However, the Council has not been sufficiently active in planning of policies and defining priorities. Capacities of the Council are limited and the mandate does not cover all areas related to rights of children. According to information CA had, the Council meets rarely. Representatives of civil sector and children have not been adequately included in the work of the Council. During March 2011, the Government invited all NGOs to appoint three of their representatives for the work in Council while the representative of children was included as well. After appointing, in the work of Council participate five representatives of NGO sector and the representative of children who was appointed after the proposal of Center for the rights of children of Montenegro. It is expected that this body, which gives consent and opinion on different national strategies and action plans, has the insight in their realization through written reports, which often is not the case. Also, work of the Council is not enough transparent and the public is denied for information on achieved results, plans, and priorities directed towards improvement of quality of life of children and youth in Montenegro.

A deputy and councilor are dealing with rights of children at the office of Ombudsman. The role of Ombudsman and its capacities in rights of children monitoring are still very limited. The Report, which prepared the office of

Ombudsman about the state of human rights of persons placed in special institutions, stated that adequate conditions for staying and work with children with disabilities in Institution for children "Mladost" in Bijela have not been provided. The report stated that besides conditions that were not in accordance with international standards, number of professional persons who work with children, did not exist. It is also mentioned that work with children was not especially organized and adapted to their mental and physical abilities and that individual program of work with children with disabilities did not exist. They were placed in groups with the children of similar age, which count twelve children, which is not in accordance with international standards that prescribe work in smaller groups. Groups organized in this manner do not provide successful daily activities according to defined schedule, as children with disabilities are not able to participate equally with other children and fully complete scheduled activities.

The Report of Ombudsman that was analyzed on 23 November 2011 at the Board for human rights of the Parliament of Montenegro stated that during 2010, 323 children, 10 to 16 years old, were registered as beggars on the streets of Montenegro.

Parliamentary Board for Human Rights held the public dialogue on 30 September 2011, in Kotor, on topic "Rights of children-Implementation of Law on education of children with special educational needs". Participants of the dialogue analyzed implementation of the Law in practice and stated that children with disabilities go to regular schools. In cooperation with the office of UNICEF and numerous partners, Government of Montenegro more than a year work on promotion of social and educational inclusion of children with disabilities. Campaign "We talk about possibilities" gave significant results in creation of adequate ambient for integration of children in the society and their inclusion in regular system of education.

Center for children with special needs, of the Health care center in Podgorica, functions with more difficulty, because the Center has not employed enough professional staff for work with children. This information confirmed the Director of the Center, Doctor Gordana Mandic to daily newspaper Vijesti, on 29 August 2011. Sometimes, it happens that almost twenty children wait for the therapy. Center lacks physical therapists, speech therapists, psychologists, and special education teachers.

UNICEF office in Podgorica did the research within the project "School without the violence, creation of the safe school environment". The research showed that almost 48% questioned children at eight elementary schools were exposed to violence. As the most frequent types of violence were stated emotional violence, social isolation and physical harassment.

Center for children and youth "Ljubović" is currently under the process of transformation. The plan envisages construction of four houses with accommodation capacities for up to 40 children. Construction of houses started at the beginning of July and shall be finished until February 2012. Center provides care for children and youth in conflict with law. From the beginning of 2011 to 26 December 2011, Center adopted in its transit station 169 children, more intense surveillance had four children while 15 children were adopted through the measure of sending in educational institution.

Session of the Board for human rights, which took place on 9 December 2011 dealt with the rights of children. At the session was stated that after leaving the institution, children without parental care and children with special needs, hardly find jobs. It was also emphasized that there were not enough staff that treated the issues of children with disabilities.

Foster home as alternative form of foster care of children without parental care is not sufficiently promoted in Montenegro. Wider public does not have enough information on advantages of foster home and failures of institutional accommodation of children without parental care. Family foster care is being spontaneously developed in the manner in which closest family undertakes the care for children. In such cases, suitability for provision of accommodation is implied and the existing situation is being accepted and confirmed. There are no trainings for families on the foster care; neither plans for protection of children are created, or systematic monitoring and the support to foster parents and children for accommodation. Professional public does not organize promotion of family accommodation and does not define this form of protection, except in cases of family accommodation. Sporadically, when the crisis situations occur, Centers provide them counseling, one time financial aid, or send it to other institutions.

On March 15, 2011, in Elementary school 'Radojica Perović' in Podgorica happened the incident in which a pupil was marked as 'villain and school drop out'. Overall case received large media attention. Media reported on this incident and revealed identity of the pupil from the seventh

grade. A boy was marked as the villain who beaten up a teacher. On 18 March 2011, Ministry of education and sport formed the commission which decided to replace the pupil in another school in Podgorica. According to information CA has, competent institutions did not conduct investigations related on whether the pupil received proper treatment by experts at the school and bodies, and who provided information on the incident and identity of the pupil to media. It also stayed unclear whether school and other competent bodies conducted investigation on defining all facts related to the very incident and statement that teachers did not want to hold lectures at the class if the pupil would be present. The boy faced with resistance of parents from other school, who did not want that boy at the same class with their children. Parents of children in the new school prohibited their children to attend lectures because the pupil was replaced in their class. Such a standpoint was maintained until, as media published, Slavoljub Stijepović, Minister of education and sport, promised that the pupil replaced in their school would not be at the same class with their children. Protest of parents lasted for three days. Media also published that Minister Stijepović said that the pupil would not attend classes with other children and explained he would attend individual classes with psychology-pedagogic service, Director of the school and social worker. The boy was replaced to another school. Minister Stijepović brought the boy at school on 4 April 2001 and spent the day with him at that institution. Media kept reporting about the incident calling the boy villain and problematic pupil and information were published in manner that the identity of the boy could be revealed.

The the case of three girls who reported over the custodian parents they were abused when they were in the children's home. At the beginning of April, three girls reported, over their custodian parents, that in Children's Home "Mladost" in Bijela and in Children's Recreation Center in Ivanova korita, they were violated, raped, and tortured by other inmates and were starved by employees at the Home. Ministry of Labour and Social Welfare established the Commission on April 4, 2011 that investigated statements of these three girls. Suad Numanović, Minister of Labour and Social Welfare said on April 14, 2011 that after investigation of statements, the Commission made conclusions that there was no rape and sexual abuse of girls but there were doubts that this was a false reporting by adults in their closest surroundings,

and that there were no starvation, physical torture, beatings and other forms of violence. Publishing these statements on abuse of girls, media published information which may reveal the identity of girls. Agency for Personal Data Protection reacted and warned media that presentation of facts that may lead to revealing the identity violates the Law on Protection of Personal Data. Higher Public Prosecution Office announced on April 4, 2011, that it initiated pre-trial proceedings concerning the reporting and received information about rape and violation of three girls. Prosecution Office adopted the requirement of the girls' father on an independent commission determining whether girls were abused and raped in a children's home in Bijela and the Recreation Center in Ivanova korita.

Two doctors and a shoemaker were arrested on June 23, 2011, on suspicion of rape and enabling prostitution of a minor girl. A doctor from Nikšić was suspected for a crime of child sexual intercourse, while another doctor from Podgorica and the shoemaker were suspected for enabling prostitution to the detriment of the minor. They are charged for committing these crimes on several occasions in 2011. The investigating judge of the Basic Court in Podgorica ordered one-month detention for the three suspects. Investigation at the Basic court in Podgorica was finished on 15 September 2011. The trial started on 27 December 2011.

Case E.K. - Judicial bodies in Bijelo Polje initiated an investigation against E.K. (24) who was suspected on 10 August 2011 for sexual violence over 12 years old girl from Bijelo Polje. As media reported E.K. met the girl via social network Facebook. E.K. denied he had raped the girl and added that the girl told him she was 16 years old. E.K. is in jail and the investigation is in course

The boycott of classes - Parents of children attending Primary Schools "Branko Brinić from Tivat and "Nikola Durković" from Radanovići protested because classes at the school were not held on their, native Serbian language, and because the subject "Serbian language and literature" has not been introduced in teaching. Parents expressed their protest by not allowing their children to attend school.

Case of S.Đ. - S. Đ. from Berane addressed CA office on 8 August 2011 and said that his juvenile son, who has a disorder of a growth hormone and the right to care, had problems to receive retroactive child allowance he had to receive. S.Đ. said that he had addressed the Minister of labor and social

welfare, Suad Numanović. As S.Đ. stated, Minister Numanović told him that there were failures in the work and that the problem must be solved at the level of the Center for social work in Berane.

Incident in Elementary school in Nikšić – In Elementary school “Mileva Lajović-Lalatović” in Nikšić in the middle of October 2011, the incident happened. As media published, school building superintendent had beaten a pupil because some of other pupils blocked the door of the cabinet of biology. Parents of the beaten boy introduced the competent ones at the Ministry of education and sport with the incident.

Incident in Elementary school “Marko Miljanov” – Police Directorate announced on 8 November 2011 that misdemeanor charge was filed against teacher Z.R. from Podgorica to the Regional unit for misdemeanor, due to suspect she attacked the pupil. On 4 November 2011, media published information that parents of a pupil filed criminal charge against the teacher and accused the Director of the school for staying at the side of the teacher. Media also stated that the Director of the school did not deliver decision on suspension to the teacher immediately, but after a few days. Police Directorate initiated misdemeanor procedure against the teacher.

Police arrested B.M. for the suspects he had abused 13 years old girl – The Police from Podgorica announced on 9 November 2011 that B.M. was arrested due to suspects he had abused 13 years old girl. The Police also said they had filed criminal charge against B.M. On 16 November 2011, media published that Basic Prosecution Office in Podgorica presented indictment on 15 November 2011.

At the round table Improvement of respect of human rights of members of Public institution Center for children and youth Ljubović on 8 December 2011, were presented facts that two workers of the Center still worked there besides criminal proceeding against them for the abuse of girls from the Center. Dragan Pajović, Director of the Center said that the teacher and the doorman in the first instance procedure were released of guilt and then the suspension was revoked.

Incident at the Elementary school “Savo Pejanović” – The incident at Elementary school “Savo Pejanović” happened on 21 December 2011. As media published, professor of Italian language Lazar Đurović, sent a pupil into the corner and allowed other pupils to throw rubbers on him. Professor apologized

to the pupil and his parents and gave quit at the position of the professor at that school.

Case of violence in Savnik – Higher Public Prosecution Office issued an order for conduction of investigation against Zoran Braletić, professor at the Public institution “Educational center” in Šavnik, due to the suspects that on 12 December 2011 he inflicted serious bodily injuries and abused a girl and boy, students of that school. Against the professor was initiated disciplinary proceeding. On 27 December 2011, CA motivated by the incident in Šavnik, sent the letter to the Minister of education and sport, Slavoljub Stijepović requiring from him and the Ministry to do everything in order to stop violence at schools over students. The Ministry afterwards invited the representative of CA, Edina Hasanaga Čobaj at the meeting. The meeting took place on 28 December 2011 at the Ministry of education and sport. At the meeting were agreed further types of cooperation aiming at prevention of violence at schools.

Case of enabling juvenile prostitution – Police Directorate stated on 30 December 2011 they had taken into custody Č.P. from Ulcinj for the suspects he had committed misdemeanor from the Law on public peace and order, mediation in prostitution. It had been suspected that on 29 December 2011, Č.P. enabling prostitution of a fifteen year old girl. The Police stated it had informed competent prosecutor who declared there were no elements of criminal offense that would be prosecuted ex officio.

XII Minority rights

Ethnic minorities – Article 79 of the Constitution guarantees and develops detailed measures of maintaining identity of minority population and other national communities. Legal framework for areas of rights of national minorities has been adopted and largely harmonized with the European standards.

The Government of Montenegro adopted on 7 July 2011 Information on representation of minority population and other minority national communities in public services, bodies of public authority and local self-government with the proposal of measures. Data on representation of minorities in public administration showed that members of national minorities were not adequately represented in the society. According to data, it was clear that all national minorities were sub-represented in comparison with Montenegrin national community, while representation of Roma was the lowest.

On 12 July 2011, MONSTAT published the results on national structure of population in Montenegro, according to the census that was held in April 2011. According to these data, there are 44,98% of Montenegrins, 28,73% of Serbs, 8,65% Bosniac, 4,91% of Albanians, 3,31% of Muslims, 1,01% of Roma, and 0,97% of Croats.

Duško Marković, Vice President of the Government of Montenegro and Minister of justice, and Thorbjorn Jagland, General Secretary of the Council of Europe, signed on 5 December 2011, Agreement on Understanding which précised that regional office for the promotion of projects of protection of human rights and minorities in the South-East Europe will be opened.

The Parliament of Montenegro on 8 September 2011 adopted Electoral Law, which was one of seven priorities of the European Commission for receiving the date of negotiations. Adoption of the Law was the obligation of harmonizing electoral legislation with the Constitution. The Constitution guarantees rights of national minorities on representation. Representatives of Albanian parties left the Parliament before voting on Law on election of councilors and MPs because they were not satisfied with the new solutions. Therefore, political representatives of Albanians thought that the Law revoked rights Albanians had until then. Adoption of Law on election of councilors and

MPs followed after the agreement of Igor Lukšić, Prime Minister, who negotiated in the name of the ruling coalition and opposition leaders related to the name of the language subject at schools. This agreement was set as the precondition for adoption of electoral law by opposition leaders. From the overall process of voting on Law on election of councilors and MPs, which was delayed seven times, were excluded political representatives of minority population.

On 5 April 2011, the Parliament adopted Law on validation of Agreement between Montenegro and the Republic Croatia, on protection of rights of Montenegrin minority in the Republic Croatia and Croatian minority in Montenegro. Opposition MPs criticized the Agreement as discriminatory because it was related only to Montenegrin national community in Croatia and Croatian national community in Montenegro. Amendment defining that the Agreement was related to all citizens of Croatia, who originated from Montenegro, which was proposed by MPs of Social Democratic Party, was rejected by majority of MPs' votes.

On 23 June 2011, UNHCR announced that almost 1.300 domicile Roma might be at risk from statelessness. According to their assessments, this number of Roma has not been enrolled in the civil registry. In August 2011, the first Roma was employed at the Government of Montenegro, in the Bureau for Public Relations in the General Secretariat of the Government. The Strategy for improvement of standards of Roma, Askhelia and Egyptians prescribed allocation of 0,2% from the overall budget. That means that 10 million EUR should be allocated for four years. However, almost 1,7 million EUR has been allocated for four years. Behija Ramović, President of the women RAE network "Prva", said that it was concerning that nobody in the Government was considered responsible for reducing the means, prescribed by the Strategy for integration of Roma and Egyptians, each year. More than a hundred Roma and Egyptians organize protest walks and the protest in front of the building of the Government and the Parliament of Montenegro on 11 March 2011, in order to indicate on poor position and discrimination during employment.

Roma and Egyptians stated and indicated to public that they had diplomas and could not get employment but were forced to work in the Public Utility Company.

Language minorities – According to the Constitution, official language in Montenegro is Montenegrin language but in official use are Serbian, Bosnian, Albanian, and Croatian. Minority languages in Montenegro are Albanian and Roma language where Albanian language has the widest use. On the other hand, representatives of Albanians were not satisfied and they considered that the use of Albanian language was insufficient and limited. Other languages similar to Montenegrin are in official use in municipalities where significant number of minority representatives live and speak these languages. According to data from the census in April 2011, that were published on 12 July 2011, Serbian language speak 42,88% people, Montenegrin 36,97%, Bosnian 5,33%, Albanian 5,27%, Croatian 0,45%, and Roma language 0,83%.⁷

National legislation does not define the term regional or minority language. The Government of Montenegro adopted on 24 February 2011 the second report on implementation of European Charter on regional and minority languages.

Slavoljub Stijepović, Minister of education and sport announced on 6 May 2011, that from 1 September 2011 all students would be provided to attend the lectures at schools on native language. However, Roma language is not used in practice. Authority justifies such a situation saying that Roma language is not standardized, the literature and the staff speaking Roma language also does not exist. Preschool education, elementary and high school education and the university education have been conducted on Albanian language in educational system of Montenegro.

The Authority and opposition achieved the agreement that the language that would be used at lectures, would be called Montenegrin – Serbian, Bosnian, Croatian language and literature. Professors of Serbian language, who opposed the change of subject Serbian language into Native language in 2004, and who was dismissed because they did not come to lectures, publicly required on 10 May 2011, to be returned at work. Media published that the court in Strasbourg rejected the complaint of professors who were dismissed due to the boycott of lectures in 2004.

The National Council of Roma and Egyptians stated that, considering the status of Roma language, the largest problems was the fact that Roma language was not standardized to the measure that would be acceptable to all

⁷ MONSTAT

Roma in the region. As the second reason, the Council stated that the problem was the result of the fact that Roma as the community have not been recognized in the Constitution as minority.

Sexual minorities – United Nations Council for Human Rights adopted on 22 March 2011 joint statement “The end of violence and similar violations of human rights based on sexual orientation and gender equality”. At the list of 84 states, was Montenegro.⁸ Position of representatives of sexual minorities in Montenegro is still very concerning. Conditions for normal existence of representatives of sexual minorities have not been created yet. At the beginning of 2011, nongovernmental organization LGBT Forum Progress has been established, for promotion of LGBT rights. Director of the Organization declared himself as homosexual. Zdravko Cimbalević is the first publicly declared representative of LGBT community in Montenegro.

In December 2011 started to work the first asylum for LGBT persons who are in conflict with their family for their sexual orientation. The first LGBT person in asylum was 19 years old lesbian from Podgorica who, since their parents requested, regularly visited psychiatrist treatments. Montenegro Gay Portal stated: “Temporary asylum should provide the first transition support of LGBT persons, especially before their families and to release them from insecurity and the position of victim and to contribute to strengthening of self-confidence and reduction of violence.”

On 23 December 2011 NGO Juventas opened the first phone line for the support and counseling for LGBT persons. Besides the phone counseling, online counseling at www.montenegro-gay.me portal was established.

The first Pride Parade in Montenegro, which was planned for 31 May 2011 was delayed for 17 May 2011, because, as organizers said, the Government did not have appropriate relations towards the organization of the Parade. The Government stated they supported the Parade and that two of its members would be appointed in the Organization Board, but that those persons were not ministers or Prime Minister, said Organization Board.

Government of Montenegro organized international conference entitled "Towards Europe, towards equality" within a period from 2 to 5 September

⁸ Information taken from the web site of The Council for Global Equality on 25 March 2011 (<http://www.globalequality.org/storage/documents/pdf/sogi%20joint%20statement%20march%202011.pdf>)

2011. Representatives of 17 NGOs did not participate in this international conference. On that manner, as they pointed out, they expressed protest over previous relationship of the Government towards domestic civil sector and the lack of concrete results in terms of improving the status of sexual minorities. Protest was also expressed because Minister Ferhat Dinoša was not removed after he publicly repeated discriminatory and homophobic statements, but also because the Government has not included local nongovernmental organizations fighting for LGBT rights in the organization of gathering.

NGO Forum "Progress", an NGO that gathers and advocates for the rights of LGBT community, developed a report on the status of members of the LGBT community. The report stated that Montenegro has not reported progress in the area of rights and status of sexual minorities. It was announced that the document was sent to the Government, Parliament and the EC Delegation. The report stated that not any public body from the Action Plan had responded to requests of this NGO, and that implementation of Law on prohibition of discrimination was limited. The report also stated that in the first six months of 2011, three cases of discrimination of LGBT persons were filed to courts. The report also stated that the analysis of Montenegrin school curricula and textbooks that showed the complete invisibility of sexual minorities and transgender persons in the Montenegrin education policy and practice has been done. The report stated that the Prosecution office inappropriately acted on submitted application, and that some of the reported cases of discrimination and violence shall be barred. Director of LGBT Forum Progress, Zdravko Cimbalević announced on 22 September 2011 that progress in the treatment of transgender persons at the public health care system still has not been made yet this year. LGBT Forum Progress is still awaiting a response of the Ministry of health regarding the requirement that the triad process of gender confirmation of transgender people should be included in the health care system, at the expense of the Fund for health insurance of Montenegro.

The Government of Montenegro formed on 25 October 2011 Work group that will develop the analysis of Montenegrin regulations from the aspect of LGBT rights.

XIII Displaced and internally displaced persons

Situation of displaced and internally displaced persons still is not at satisfying level. The largest problems these persons face with at the procedure of applying for permanent residence is still lack of possibility for most of them to receive the passport which is important for submitting requirement to receive the status. The most endangered are Roma, Egyptians, and Ashkelia from Kosovo, bearers of the status of internally displaced persons. Although Montenegrin authorities offered two possible solutions for displaced and internally displaced persons in Montenegro through legislation, to return in their native countries or to integrate in Montenegrin society, resolving of status of internally displaced Roma from Kosovo is very slow. European Commission set resolving of legal status of displaced persons as the priority of Montenegro on its road towards the EU. Announced demolishing of Camp 2 in Konik in Podgorica, where Roma from Kosovo have been placed, has not begun yet. Miomir Mugoša, Mayor of Podgorica announced on 19 January 2011 that two apartment buildings and school for the needs of displaced Roma would be built at the space of current Camp 1. Then, Isen Gaši, President of National council of Roma criticized announcement that the future school would be built only for Roma children.

According to data of Bureau for care of refugees in December 2011, 9.367 internally displaced persons from Kosovo resided Montenegro. Number of internally displaced persons who decided to return to Kosovo from 2005, is smaller than a thousand. Specific number of persons individually returned to Kosovo but there are no official data about them. At the same time, number of displaced persons from former Yugoslavian republics is 3.504 (2.610 from Bosnia and Herzegovina and 894 from Croatia).

Ministry of internal affairs of Montenegro informed CA on 29 December 2011 that from the beginning of implementation of Law on Montenegrin citizenship, since 5 May 2011 until 29 December 2011, 660 displaced persons from former Yugoslav republics received Montenegrin citizenship. Within the same period, 132 guarantees were issued. In case of guarantees it is important if persons bring the confirmation that they are not citizens of their native country in order to receive Montenegrin citizenship. Almost 200 cases are in course.

Considering displaced persons from former Yugoslav republics, requirement for receiving the status of foreigner with permanent residence, according to the Law on amendments of Law on foreigner that is being implemented since 7 November 2009 until 29 December 2011, 3.158 requirements were submitted. Out of this number, 1.922 persons received status of foreigner with permanent residence. Remaining requirements are in course. Considering internally displaced persons, according to the same Law until 29 December 2011 for the status of foreigner with permanent residence submitted 3.780 requirements. Out of this number, status of foreigner with permanent residence received 1.957 persons. Legal deadline for actions upon submitted requirements is up to six months.

The Parliament adopted Proposal of Law on amendments of Law on foreigners which provides displaced and internally displaced persons to submit requirement for approval of permanent residence until 31 December 2012.

Bureau for the care of refugees informed CA on 29 December 2012 that during 2011 they organized four visits to municipalities in Kosovo in order to provide aid to Roma and Egyptians to receive documents that were important for applying for resolving status in Montenegro. This action covered 150 persons. The Bureau announced that departure to municipalities Peć and Klina that was organized on 29 July 2011 with 13 travelers who provided some of documents for ten persons more and on 16 September for 29 travelers who provided some of documents for eight persons more. On October 31, 49 persons went to municipality Klina and on 12 December 2011, 5 persons went there also. The Bureau stated they had organized these traveling and paid expenses of transport and food for all persons while Ministry of labor and social welfare and UNHCR provided all necessary support and cooperation.

With the aim of faster and more qualitative solution of problems of displaced and internally displaced persons, the Government appointed Vice-president of the Government and Minister of justice, Duško Marković for the President of Coordination Board that has a duty to supervise implementation of strategy for permanent solution of issues of displaced and internally displaced persons. Coordination Board has ten members and the special aspect in its work shall be internally displaced persons who have been accommodated in Podgorica in Camp I and II. It has been announced that all public bodies are

due to submit information to Coordination Board. Constitutive session of Coordination Board for monitoring of implementation of strategy for permanent solution of issues of displaced and internally displaced persons took place on 17 October 2011, Government announced. Coordination Board shall have sessions once in a month and it shall inform the Government on its activities once in a month.

Milenko Jovanović, President of the Association of displaced persons from Kosovo and Metohija said on 30 November 2011 that displaced persons were not satisfied with the solution of their status. Jovanović considered that displaced persons were discriminated because they could not receive employment at public institutions and could not be owners of real estate.

In 2011, refugees faced with problems of unresolved accommodation. As daily Pobjeda published on 6 May 2011, 11 internally displaced persons from Kosovo who were accommodated in the resort in Kamenovo in Budva, lived in the resort for a month with no electricity and few days with no water. Among these people were elderly persons who complained on very difficult conditions of life in the resort. Also, on 10 June 2011, in Sutomore, bailiffs tried to remove from temporary accommodation "Vila Gordana" several refugee families. On that occasion, competent institutions did not provide alternative accommodation. Some tenants rejected to leave rooms and move out. Among refugees were seriously ill persons. After unsuccessful attempt of moving out, media published that electricity and water were cut off in "Vila Gordana".

XIV Economic and social rights

The Constitution of Montenegro guarantees economic and social rights to citizens. The Constitution prescribed that everybody has the right to employment, free election of profession and employment, fair and human conditions for work and protection at the time of unemployment. According to the Constitution, employees have the right to appropriate income, and the Law on labor says that incomes have to be paid at least one time in a month. The Constitution and Law on labor prohibits each form of discrimination according to personal characteristics, or political orientation, membership to a party or trade union organization. Employees may address their employer, competent court, or mediator for the protection of their rights and they may also file compliant to the labor inspection. In Montenegro is active large number of political parties of the left side and socialist character but in practice they do not implement programs related to affirmation of such principles.

Employment agency of Montenegro stated that 30.500 persons were unemployed at the end of 2011 which is less than at the end of 2010. MONSTAT announced that 80,1% of persons were employed in the second quarter of 2011, and 19,9% were unemployed. In the following two years, number of employees in public institutions and services would be reduced in some branches for up to 15%. The largest reduction is expected in the police and local self-government. Almost 14.000 families receive financial aid from 63 to 120 EUR. Child allowances receive almost 20.000 children in Montenegro. Average salary in Montenegro in November 2011 was 483 EUR and the minimal consumer basket was 770 EUR. After decision of the Parliament of Montenegro to increase salaries to MPs in the amount of one to two average salaries in Montenegro, numerous trade unions organized protests requiring their salaries to be increased as well. Among them protested health workers, and judicial administration. Employers at education, health, police, army, and other institutions do not receive average salary of 483 EUR. For that reason, President of the Parliament and the Prime Minister decided to abolish announced increasing of salaries to MPs and already increased salaries to ministers.

The Parliament of Montenegro adopted amendments of Law on labor that came into force on 22 December 2011. Srđa Keković from the Union of Free

Trade Unions of Montenegro (USSCG) told CA researcher: "These amendments made the corrections of a lot of institutes, which disrupt the balance between the world of labor and the world of capital, providing large power to employers. One of these institutes, which were the most drastic, is the possibility that has been given to employer to conclude the fixed time contract on labor with the employees a lot of times, which put employees in inferior, and from the social and economic point of view, unstable position. When the Law came into force, out of all concluded contracts on labor 90% were fixed time contracts. For the fear that the contract on work would be prolonged, after expiration of deadline, employees may not insist on respect of their rights so, they are often forced to work for smaller incomes, without right to adequate leave (daily, weekly, annual, for holidays) or to work overtime without compensation. Amendments of Law defined that employer may not conclude one or more fixed time contracts on work with the same employee in time longer than two years."

Ministry of health prepared the draft of the Law on amendments of Law on health insurance that would provide to citizens important health insurance that would cover 80% of services, while 20% of services would pay citizens if they do not have insurance. Number of subjects criticized the draft of the Law considering it would make material position of citizens more difficult.

On 8 April 2011, CA sent the request to Supreme Public Prosecution Office for the free access to information related to the processing of criminal offense of preventing political, trade union, and other organization and activities. Such offense had been reported to this institution last year in 30 cases, one case was transferred from earlier period. Out of this number, one criminal report was rejected, in one case was presented the bill of indictment, one criminal charge was transferred, while 28 criminal charges were unresolved at the end of 2010.

Hunger strikes - In 2011, hunger strikes organized disabled workers from Bijelo Polje, workers of the bakery in Bijelo Polje, workers of local administration in Kolašin, Prerada KAP, tourist company Piva, workers of the hotel "Onogošt", requiring their salaries and obligations arising from collective contracts.

Due to unpaid salaries last year were on strike employees at the TV Budva, GRO Radnik, Dekor, Public institution "Museums, galleries and

libraries” - Budva, Firemen from Nikšić, Daily newspaper Pobjeda, Hotel Šavnik, Nokić Company, Old people’s home “Relax”, Transport company from Nikšić, Radvent, Tehnostil, KAP, Nikpek, Tobacco company, Željezara /Steel factory/, Novi prvoborac, Radoje Dakić, Bauxite Plant (Rudnik boksita), Lenka, and Krizma Milka.

Employees at the Association of Trade unions of Montenegro (SSCG) - protested during the year requiring their wages. Six salaries had to be paid to workers. Almost 70 employees at SSCG do not receive salaries because the account of SSCG has been blocked due to complaints of workers of former companies. Two employees at the Professional service of SSCG, Vukadin Cupic and Stanko Rajovic started hunger strike on 1 June 2011 requiring unpaid incomes.

Fabrika elektroda (FEP) /Factory for the production of electrode in Plužine/- Workers of FEP started 2011 with strike, requiring payment of 19 salaries, activation of production, relation of labor years of service since 2004, and payment of severances for workers who were considered as redundancies. FEP has 174 employees. Workers wanted to organize protest on 17 January 2011 in front of the Parliament of Montenegro but the Police prohibited organization of protests and on 13 January, 2011 workers sent the request for meeting to President of the Parliament and Suad Numanović, Minister of labor and social welfare. Even if protests were prohibited, workers protested in front of the building of Parliament on 17 January, 2011. After the protest, they spoke with Ivan Vujovic, Chief of the Cabinet of the President of Parliament and Branislav Vujadinović, Councilor for economy. That day, workers wrote and sent a letter to Igor Lukšić, Prime Minister who included his councilor Predrag Stamatović in resolving issues of workers of FEP. Lukšić personally met with representatives of workers in FEP on 11 February, 2011. Then, Lukšić promised that the Government would try to provide finances for payment of part of 20 unpaid salaries to workers. Workers received two salaries on 4 March, 2011. The Government paid 430.000 EUR to FEP. Out of this amount, 110.000 EUR were for salaries and the remaining amount was for initiating production. On 11 March, 2011, workers of FEP terminated protests and production in the factory begun.

Association of disability employees of Rudnik uglja /Coal Plant/ - The Association from Pljevlja addressed CA office by letter saying they were in very difficult position on 2 March 2011. They also stated that decision of

Administrative Board of Rudnik uglja brought them in very difficult financial position. Workers also addressed the Board of directors to withdraw decision but there were no results. They required assistance from the Trade Union of their company but they did not provide them assistance as well. Afterwards, they decided on initiating the procedure before Basic court in Pljevlja. For that reason, as workers said, they have suffered stronger pressure. CA required information from Rudnik uglja on March 3, 2011 related to statements from the above mentioned letter. Vuk Roćen, Executive Director told CA that Association of disability employees did not exist in Rudnik uglja, that it had existed earlier and functioned as association at the level of municipality and republic, but as such, it did not exist long time ago. Roćen then negated that employees received decisions on job positions which required elementary school as the condition, without possibility of receiving coefficient. This case received large media attention through IN TV program Robin Hood. Association of Free Trade Unions required from chief Labor Inspector-Angelina Međedović to order control surveillance in Rudnik uglja after announced dismissals to disability employees. The Association claimed that numerous clues indicated that such a relationship of employers and disability employees came up after previously filed lawsuit of employees for compensations that belong to them, according to their work. On March 31, 2011, media published that 12 disability employees received decisions on redundancy. Among them were Stevan Potparić, President of Association of disability employees and Hidaet Klepo, President of Trade Union Organization. They announced they were proclaimed redundancies because they filed lawsuits against Rudnik for reduction of salaries for previous period.

Almost 350 families of dead workers of former Paper Factory from Berane in the first half of May 2011, sent the appeal to the Ministry of labor and the Fund of labor to provide them right to severances in amount of 1.926 EUR. Disputable is the Law on Fund of labor which contains provisions prescribing that families of dead workers do not have right to severances. Families announced they would require amendments of the Law.

Komanski most – Zoran Radulović, member of Trade union of Special institution “Komanski most” filed criminal charge at the beginning of February 2011, against Vaselj Dušaj, new Director of that institution. In criminal charge, Radulović said that Director Dušaj physically attacked him while he was employed as receptionist. Radulović considered that the motif of the assault

were his intentions to protect rights of employees. Dušaj negated these statements on assaults and threats to Radulović.

NGO 'Stečajci' (workers from the bankrupt company) in Montenegro - This NGO addressed CA office on February 15, 2011 saying that almost 1000 workers from the bankrupt companies from several towns in Montenegro were in very difficult position. They are workers who were proclaimed as redundancies during '90s, who are approximately 50 years old, and for that reason they could not find new jobs. They are registered in Employment Agency but do not receive compensations, their labor years of service have not been connected and they have no possibility to receive pension. They claimed they were victims of transition and when compared with workers who have 25 or more labor years of service, they are fully discriminated. They addressed numerous public institutions but not any person addressed them or provided assistance in resolving their status.

Workers of the catering company "Piva" were on strike in July and demanded payment of claims and connection of years of labor service.

Twenty former employees of Lenka from Bijelo Polje continued in July to strike because they were not paid claims. In August and September, workers protested in front of the Government of Montenegro. Workers required payment of wages for the period from 2002 to 2006, in the amount of 700.000 EUR.

Former employees of the transport company /"Autoprevozno"/ from Nikšić were on strike in this period. The workers demanded payment of 250 EUR severances per year of service for them and their colleagues.

Former workers of GRO "Radnik" from Bijelo Polje protested on 8 August 2011 in front of the building of Municipality of Bijelo Polje, requiring payment of 24 salaries, connected years of labor service, shares and 500 EUR payments for each year of labor service. As their demands have not been met yet, the workers protested again on 5 September 2011. Workers announced they would seek social asylum in one European state. They are not satisfied with the relationship with authorities and accused them for ignoring their demands.

Former workers Aluminum Plant - Prerada, protested on 5 and 12 September 2011, because a debt of almost one million EUR has not been paid to them

Coal Mine workers who retired last year and did not get flats from the company protested in September requiring the return of funds they had invested in the housing fund. Workers expressed their claims that their wages have been reducing for 7% for 30 years, for the housing fund. Management said that they were not obliged to resolve housing problems of all workers, and that now they do not have enough money to pay for that purpose.

In September, former employees of the Podgorica-based Dairy were on strike. Fifteen of them required payment of unpaid incomes, connecting of labor years of service so they can exercise right to retirement.

Several dozen of former workers of the company "Gornji Ibar" protested on 25 September 2011. Former workers required additional payments on incomes per year of service. Court Administration started on 30 September 2011 one-hour strike of warning. As announced, the strike would be continued until solution of a single request. Workers demand higher wages.

Borislav Bojanović, President of the Trade union of the Bauxite plant, announced on 15 October 2011, he had received the invitation from the Basic court in Nikšić for the main hearing for 7 November 2011, due to intrusion of workers in the building of Administration of the Bauxite plant on 3 June 2011. Bojanović expressed doubts it was about disciplinary measures towards workers because more and more workers strike.

Strike of court administration - Civil servants at courts started strike requiring increasing of their salaries. All employees at court administration, except in Basic court in Podgorica gave consent on proposal of the Government to increase their salaries for 35 EUR, so they interrupted strike. Employees at administration of Basic court in Podgorica continued the strike and required from the Government to increase their salaries for 100 EUR. Employees at the Basic court in Podgorica stopped the strike on 30 November 2011, until 1 March 2012. Unless their salaries increase for 100 EUR until 1 March 2012, administration at court announced it would continue with the termination of work.

Strike of medical workers - Employees at the medicine started on 10 October 2011 strike. Medical workers required increase of their salaries at the level from 2009, when they were also reduced for 20%. After the meeting which took place on 29 December 2011, medical trade union shall decide in January whether they would stop the strike.

On 8 November 2011, media published the information that Senka Rastoder, President of the Trade union organization of workers of professional service of SSCG, was on hunger strike for eight days in the name of all employees. According to her statement on 4 November 2011 she had filed criminal charge against Zoran Masoničić, General Secretary of SSCG for the attempt to throw her out from the premises where she was on strike.

XV Reports on the state of human rights

Freedom House published the report on freedom on 13 January 2011, (http://www.freedomhouse.org/images/File/fiw/FIW_2011_Booklet.pdf).

According to the Report, Montenegro is free country. FH makes assessments according to political and civil rights. Montenegro received 2.5 the overall index, or political rights were assessed by 3 and civil by 2, at the scale form 1 to 7 where lower number means larger freedom.

Office of Ombudsman delivered to the Parliament of Montenegro on 31 March 2011, the Report for 2010. The Report stated that from the overall number of complaints most of them were related to the work of courts – 146, work of public bodies, bodies of public administration and constitutional other organizations 133, work of public services and other bearers of public competences 63, work of bodies of local self government and local administration 33. On work of public prosecution office were eight complaints, work of bodies for misdemeanor proceeding two and 67 complaints on work of bodies, services and bearers of public competences in other countries, companies, other legal entities, entrepreneurs, physical persons, etc.

State Department published the Report on 8 April 2011 on the state of human rights in the world (www.state.gov/g/drl/rls/hrrpt/2010/eur/154441.htm). The Report stated as the most concerning areas independence of courts, poor treatment of person in detention, conditions in prisons, lack of punishing of police, long detention before trial, freedom of expression, status of displaced and internally displaced persons, discrimination and economic and social rights.

State Department published on 28 June 2011 the Report on trafficking in person in the world (www.state.gov/g/tip/rls/tiprpt/2011/164232.htm). Montenegro was marked as the source, transit country for men, women, and children who are victims of trafficking and coercive work. Victims of trafficking were mostly women and girls from the East Europe, and other Balkan countries, including Serbia and Kosovo. They migrate or are smuggled in the countries of Western Europe and are forced on sex trafficking in Montenegro. The Report also stated that Roma children are forced to beg at the streets in Montenegro. Most of them are from Albania, Kosovo, Serbia and

Montenegro. Report also says that Montenegrin Government makes great efforts but still does not fulfill minimum of standards for eliminating trafficking.

State Department published the Report on religious freedoms (http://www.state.gov/g/drl/rls/irf/2010_5/168439.htm) on 13 September 2011. The Report covered the period from 1 July to 31 December 2011. The Report stated that the authority generally respected religious freedoms. Relations between larger religious communities were generally good, but still were present tensions between Montenegrin Orthodox Church (CPC) and Serbian Orthodox Church (SPC). The Report also mentioned that the number of incidents increased and were related to religious property, clergy, and symbols.

Freedom House published the Report "Nations in transition" (www.freedomhouse.org/images/File/nit/2011/NIT-2011-Montenegro.pdf) which assessed that the level of democracy was lower than a year earlier. Montenegro got the mark 3.82 while last year the country received 3.79.

Amnesty International published on 14 May 2011 Annual Report on the state of human rights in the world (<http://amnesty.org/en/region/montenegro/report-2011>). As problematic areas the report mentioned facing past, torture and degrading treatment, freedom of expression, discrimination, status of refugees and assailants.

NGO Human Rights Action (HRA) published on 14 September 2011 the report on the state of human rights in Montenegro for 2010 and the first half of 2011 ([http://www.hraction.org/wpcontent/uploads/Ljudska_prava_u_Crnoj_Gori_2010-2011.pdf](http://www.hrraction.org/wpcontent/uploads/Ljudska_prava_u_Crnoj_Gori_2010-2011.pdf)). The Report described numerous areas where violations of human rights occur. One of the most important conclusions in the Report indicates that institutions have not reached stability yet, and independence in order to provide the rule of law. The Report also states that Prosecution Office is responsible for failure to process civil servants like, for example, in cases of serious violation, torture, inhuman and degrading treatment, while the country is being burdened by unpunished war crimes as unresolved controversial murders such as the murder of journalist Dusko Jovanovic.

Joint research of the UNDP Office in Montenegro and Department for gender equality in Ministry for human and minority rights shows that women are discriminated even in sport. Results of the research were presented

on 27 September 2011. Out of the overall number of sportsman in Montenegro, only 10% are women, 8,8% were female coaches, 13,3% judges, and not any sport delegate.

Research on awareness and implementation of Law on gender equality in institutions of Montenegro that has been done within the project of the OSCE Mission in Montenegro, “Strengthening capacities of the Parliament of Montenegro” in cooperation with the Board for gender equality of the Parliament of Montenegro showed that discrimination of women was the highest in employment process, and that discrimination represents each legal and factual difference or privilege according to gender and disproportional representation of women in political and public life and during the election at senior political functions. It also showed unequal treatment and unequal chances, unequal compensations for the same work, discrimination in family, and the use of words in male gender as generically neutral form for male and female gender. The research was conducted in 61 institutions on the sample of 252 respondents. Ajla Van Heel from OSCE said at the round table on 27 June 2011, that Montenegro was at the last place, out of all countries in the region, with the average rate of 11% of participation of women in political life.

Economist Intelligence Unit published in December 2011 the Report Index of Democracy in 2011 (http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy_Index_Final_Dec_2011.pdf&mode=wp). According to the index of democracy, Montenegro is at the 74th position in the group of countries with “deficient democracy”. Montenegro received average mark 6,15, at the scale from 0 to 10. Mark 10 was full democracy.

XVI Conclusions and recommendations

- In 2011, human rights in Montenegro were generally respected and cases of their systematic violations were not registered. However, achieved results might be more significant, and the achieved level of respect and protection of human rights still is not at satisfying level. Areas where the level of respect of human rights is at the concerning level are: inadequate process of facing past, torture, right to fair trial, freedom of expression, gathering and associating, discrimination, rights of children, minority rights, status of displaced and internally displaced persons and economic and social rights and freedoms.
- Although qualitatively defined, institutional system for protection of human rights does not achieve good results in practice. There is lack of capacities in some institutions and often lacks sensibility for human rights. In Ministry for human and minority rights less than 50% of job positions were fulfilled. Therefore, it is important to undertake measures on additional employment and education and sensibility of already employed persons for the respect of human rights.
- The process of facing past was still concerning in 2011. Passive relationship of the country and competent institutions is still continuing. The country has not conducted timely and efficient investigations in war crime processing and processes of defining political and command responsibility have not been conducted. Even after 20 years from the attack on Dubrovnik, competent public institutions have not initiated investigations on determining any level of responsibility. The process of return of banished Muslims from Bukovica is not being conducted transparently and there are no criteria on which basis the process is realized. Installment of memorial in the form of monument to civil victims, before rendering any verdict for war crimes, shows superficial relationship of the country towards this important process. For that reason, before installment of the monument, monument in the form of final verdicts should be installed, new facts should be introduced in educational system and work on reconciliation with neighborhoods.
- During 2011, 34 reported cases were registered with statements on some forms of torture, inhuman and degrading treatment or punishing by police officers. Statements in 21 registered cases were related to physical violations and in 13 cases were related to degrading treatment. According to information

CA has, 19 criminal charges were filed, and out of this number five were rejected. The most frequent reason for rejecting criminal charges Prosecution Office stated nonexistence of elements of criminal responsibility of reported police officers. According to the CA information, not any police officer was convicted after charges we registered in 2011. CA registered 14 reported cases with statements that rights of detained and convicted persons in prisons in Montenegro were violated. There were cases where competent public institutions did not conduct fast, efficient and effective investigations that would sanction all violators of human rights. Competent institutions, before all Prosecution Office, all statements on violations of human rights by police officers or officers in ZIKS should investigate fast, efficiently and effectively and introduce public with the statements. Police Directorate and ZIKS should suspend all officers against whom criminal charges were filed for violation of human rights until the finalization of proceeding. Although such a recommendation was partly adopted, there were officers who have not been dismissed although more complaints and criminal charges were filed against them. Such a situation especially causes concern in Bar, because against few officers of the Special Task Unit of the Police station in Bar were filed complaints and criminal charges. Besides defined exceeding by Internal control, data on sanctioning of these persons are not available. Overcrowded prisons still cause concern and the adoption of legislation in the area of alternative sanctions is late.

- Politically motivated violence was emphasized in 2011. Registered cases of politically motivated violence were reflected in threats, pressures, speech of hatred, and incidents. Still, the level of unidentified committers of politically motivated violence is high. The Police has to make more efforts on identifying committers who would be processed at courts.
- Right to fair trial is not at satisfying level. Significant number of citizens does not have adequate access to court. CA welcomes the decision of Ministry of justice on adopting recommendations of CA and starts the activities on reducing notary tariffs that have been very high and were not harmonized with the actual social and economic situation. The Ministry should initiate activities on reducing lawyers' tariffs. Free legal aid is prescribed only for socially endangered citizens, while victims of severe violations of human rights can not

use this right. Presumption of innocence is often violated in media which also causes concern.

- Freedom of expression and peaceful gathering is at concerning level. Acquittals against journalists and media were encouraging in 2011. On the other hand, investigation in the case of murder of Duško Jovanović and in the case of physical assaults on other journalists, have not progressed in 2011, which also causes concern. Assaults on the property of daily newspaper Vijesti also causes concern and the fact that perpetrators of these acts have not been identified. Competent bodies should made more effort to identify and process all committers and masterminds of assaults on journalists and property of that media. What also causes concern is the failure of the Constitutional court to act upon the Initiative on constitutionality of Articles of Law on peaceful gatherings, for more than a half year, that was submitted by CA. Constitutional court should act urgently on defining constitutionality of provisions of the Law and prevent further negative consequences these articles of the Law cause.

- State of protection of personal data was not at satisfying level in 2011. Protection of personal data has been violated on numerous examples, such as acting of reception services of institutions, hotels, mobile operators, by video and audio surveillance. Amendments and analysis of larger number of laws, especially laws that are not in accordance with the standards on protection of personal data, is necessary. Although the Agency for the protection of personal data, after the initiative submitted by CA, warned all legal entities that they may not take personal documents and keep it, such a practice is still continuing. For that reason, better control is necessary and sanctioning of all legal persons who keep personal documents of citizens while trading specific service, especially in hotels. The Agency should be more present in media and publish information on its work, which would significantly contribute to protection of personal data. Citizens still have not been introduced with their rights related to this area and it is necessary that the Agency initiates activities on education of citizens. According to the findings of the CA Labor Inspection determined the failures in the employment procedure in the Agency. Institutions whose primary goal is protection of human rights have to take care about fully transparent procedures through their work. CA invites the Agency to repeat employment procedures, and conduct them in transparent manner.

- During 2011, religious freedoms were not at satisfying level. CA registered that courts made minimal and inadequate sanctions for inciting hatred on national, racial and religious basis. Minimal sanctions do not contribute to prevention of such a treatment and bearing in mind the heritage of '90s, small sanctions may contribute to development of such a treatment. Therefore, courts have to pronounce adequate, proportional sanctions and in accordance with the law, to contribute to prevention of such a situations. The Police has to intervene against every person who spurs and incites national, racial and religious hatred and intolerance and file criminal charges, or has to do everything to register and prevent such a treatment. Intolerance between believers and the clergy of two Orthodox churches is still present.
- Most discriminated groups were members of LGBT community, Roma, disabled persons, and women. Violence towards members of LGBT community is at concerning level. Constitutional court still has not acted upon the initiative of Human Rights Action (HRA) because of the decision made by administration in Podgorica that only citizens may get food in public kitchen. Constitutional court should urgently examine constitutionality of such a decision. Disabled persons still can not access to all public places and institutions of existential importance. Processes initiated by disabled persons due to discrimination are very slow. Also concerns disproportionate national representation in public administration which is still unacceptably small considering Roma and other national communities. Inequality of women in politics, sport, and other areas in the society also causes concern. It would be of large importance if competent bodies initiate wider measures of including women in all areas and make their rights and positions equal to men'. CA registered numerous examples of discrimination of workers due to their membership in trade unions. Level of discrimination and pressures and failure of competent bodies to act upon reports for discrimination of members and heads of the Trade Union Organization of the Army of Montenegro, is also causing concern. Competent institutions should process all committers of discrimination and sanctions have to be proportional to the committed discrimination.
- Children rights in Montenegro are not at satisfying level and institutional capacities for the protection of rights of children have not been sufficiently developed. National regulations have not been harmonized with the

international standards, numerous examples of violation of children rights were registered in 2011, Montenegro does not have the definition of a child in accordance with the Convention on children rights, Council for children rights still is not enough transparent and operational. Media reports on children usually are not in accordance with media standards and with the positive regulations, because the identity of children is often revealed. Competent public institutions have to conduct investigations and define in which manner the identity was revealed and data published, which may cause revealing of identity of children who are victims of human rights violations or were in conflict with the law. It is important to establish a form of foster care, temporary asylum, and crisis centres for cases of emergency, in order to avoid placing children in institutions.

- Rights of minorities still are not at satisfying level. In 2011, nationalistic interests and motives were emphasized. CA expresses concern for endangering civil concept of the country of Montenegro and reminds that all public institutions and politicians have to contribute to stability and development of civil values. Fund for minorities rarely financed multiethnic projects in previous period. Sexual minorities still face with the problem of expressing their identity because of violence and discrimination they face with. Only one member of LGBT community in Montenegro declared his orientation. The use of minority languages is not at satisfying level. Roma population is especially endangered because the current use of Roma language is unacceptably small. Competent institutions are due to promote and protect rights of all minorities more efficiently.

- Economic and social rights in 2011 were not at satisfying level. CA registered larger number of strikes for unpaid incomes, severances, failure to connect years of labor services, and disrespect of collective contracts. CA also registered citizens' hunger strikes in order to exercise their rights. CA invites all employers to respect rights of workers and competent public inspections to sanction each type of discrimination and violation of rights of workers.