



YOUTH INITIATIVE FOR HUMAN RIGHTS  
INICIJATIVA MLADIH ZA LJUDSKA PRAVA  
NISMÄ E TË RINJË PËR TË DREJTAT E NJËRIT

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# REPORT ON THE STATE OF HUMAN RIGHTS

**for the third quarter 2011**

## I Previous information

The Report of Youth Initiative for Human Rights (YIHR) includes information collected from 1 July to 1 October, 2011. On its work on the report, YIHR team used the techniques of researching on the terrain, press clippings, analysis, interviews and hotline. YIHR conducts monitoring of human rights in Montenegro for five years in a row, and so far we have published five annual and several quarterly reports. Reports are available on the website [www.yihr.me](http://www.yihr.me). This report covers the areas that we have identified through our work as a concern, and emphasis is placed on the human rights situation in practice, while a detailed legal analysis of human rights standards is being prepared for the annual report. The report organizes a six-member team of YIHR, supported by Balkan Trust for Democracy.

In this quarter, the focus of political scene in Montenegro is the work on fulfilling seven priorities set by the European Commission (EC).

President of the European Court of Human Rights, Jean-Paul Costa visited Montenegro on 8-11 September, 2011. During the visit, Costa had meetings with representatives of the judicial, executive and legislative authorities. Interactive dialogue of Montenegrin judges with the President Costas and the judge of the European Court of Human Rights, Nebojša Vučinić was also organized. The Court of Human Rights in Strasbourg issued five verdicts against Montenegro. Currently, about 700 cases are under procedure, which is too large number in relation to the population.

During the quarter, two reports on the state of human rights were published.

**State Department** published **The Religious Freedom Report** ([http://www.state.gov/g/drl/rls/irf/2010\\_5/168439.htm](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, 2010. The report stated that the authority generally respected religious freedom. Relations between the major religious communities were generally good, but still there were tensions between the Montenegrin Orthodox Church (CPC) and the Serbian Orthodox Church (SPC), the report said. The report noted increasing number of incidents related to religious property, the clergy, and symbols.

**Human Rights Action** (HRA) published the Report on the state of human rights in Montenegro for 2010 and the first half of 2011 ([http://www.hracion.org/wp-content/uploads/Ljudska\\_prava\\_u\\_Crnoj\\_Gori\\_2010-2011.pdf](http://www.hracion.org/wp-content/uploads/Ljudska_prava_u_Crnoj_Gori_2010-2011.pdf)) on 14 September 2011. The report describes numerous areas where violation of human rights occurs. One of the most important conclusions in the report indicates that institutions in Montenegro have not yet reached the stability and independence to ensure the rule of law. Thus, the report says that prosecution office is responsible for failure to process state officials as, for example, in cases of serious violations, torture, inhuman and degrading treatment, while the state has been burdened by unpunished war crimes and unresolved controversial murders, such as the murder of journalist Duško Jovanović.

On the sidelines of the UN General Assembly, on 23 September 2011, International Human Rights logo was presented. Logo was selected on international competition by voices of experts and citizens, after a five month procedure. More than 15,000 suggestions from more than 190 countries arrived at the competition. Author of the winning logo "Free as a man", was Predrag Stakić, designer from Belgrade.



Logo „Slobodan kao čovjek“

## **II Institutional framework in the area of human rights**

**Ministry of Human and Minority Rights** - Work of the Ministry for human and minority rights is organized through Department for the promotion and protection of rights of minorities and other minority ethnic communities and Department for the promotion and protection of human rights. Within the frame of the Ministry also work Department for the affairs of gender equality and Department for promotion and protection of rights of Roma, Ashkali and Egyptians. Media reported that Ferhat Dinoša, Minister for human and minority rights would resign, which continuously requires almost the entire NGO sector. In this quarter, the Ministry has continued, previously started, media campaign of anti-discrimination. The campaign has included various types of media and messages have been transmitted via billboards, leaflets and advertisements in newspapers and commercials or videos. TV Teuta broadcasted videos on Albanian language. The Ministry held two workshops where civil servants were educated on anti-discrimination legislation. The training included employees in the judiciary, police, inspection bodies and other institutions. The following training is planned for the early October. The Ministry published in July "The second and the third report of Montenegro on implementation of International Convention on Elimination of All Types of Racial Discrimination". Budget of Ministry for human and minority rights for 2011 is 1.260.787.21 EUR.

**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 should make decision on the number of deputies, when the appointment of new deputy will be possible. 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.

**Parliament of Montenegro** - Parliamentary Board for human rights and freedoms had nine meetings in this period. The Board considered reports on the state of protection of personal data, reports on work and allocation of funds of Fund for minorities, Proposal of Law on Montenegrin citizenship, Proposal of the Law on prohibition of discrimination of persons with disabilities, Proposal of

Law on NGOs, Draft of the report of the European Commission for fight against racism and intolerance in Montenegro for the purpose of providing comments, suggestions and objections. The Board analyzed more information related to the above mentioned condition in the EC Analytical report, Information about the conditions in institution Komanski most, Information on the activities of the Government related to permanent resolving of problem of internally displaced persons accommodated in Camps I and II, Information on representation of minorities in public institutions. The Board has continued good cooperation with NGO sector.

**Council for the Civil Control of the Police Work** - The Council was established under the Law on Police. The Council is the body that assesses the use of police powers for the purpose of protecting human rights and freedoms. Council may be addressed by citizens and police officers. The Council is composed of five members appointed by: The Bar Association of Montenegro, the Medical Association of Montenegro, Association of Lawyers of Montenegro, University of Montenegro and NGOs dealing with human rights. The Council is not visible enough in media and is not enough affordable to citizens. The Council has no web site address and information about the address of the Council and its working hours is not available. Members of the Council delivered via media personal mail addresses so that citizens can contact them. It is important if the Council would be more transparent in terms of finances. YIHR required from the Council, in accordance with the Law on free access to information, information on managing finances. Budget of the Council for 2011 is 35,000 EUR.

**Fund for Minorities** – State Audit Office carried out control of work of Fund for minorities and noted numerous irregularities in their work. Thus, State Audit Office stated in its report that the Fund had not established criteria for evaluation of projects, the indicators for measuring efficiency of implemented projects and had not provided monitoring and evaluation of results of implemented projects. On this occasion, Fund for Minorities had a consultation meeting with nongovernmental organizations on 18 July 2011. Topics of the meeting were related to the Rulebook on allocation of finances of the Fund and the need to harmonize the Rulebook with amendments of the Law on minority rights and freedoms. On 20 July 2011, YIHR sent proposals to the Fund for improving practice and cooperation of Fund for minorities with NGOs. YIHR noted the following suggestions: in its work, while allocating finances for projects, the Fund should develop the ranking list, or it should take the list of the European Commission as an example; the Fund should adopt the rulebook on the conflict of interest that should imply that members of Managing board cannot impact or make decisions on providing fund to those organizations whose members they are, especially in organizations' managing bodies; that Fund for minorities should issue open competition for allocation of funds for 2011 right after the summer; while allocating funds, the Fund should define the rule saying that an organization can receive up to two projects in a year; that funds for projects are approved in the amount of two to 30 thousand EUR; that payments for approved projects are made in two parts, the first 70% payment at the very beginning of the project and the other 30% payment, after submitting the report; that organization which did not submit financial report and the report on implementation of project cannot apply for funds in the published project; while allocating funds should be taken into account and should be required the evidence on management authorities of the organization, the relevance of the organization and previous results of work on protection and promotion of minority rights; introduction of the rule by which all organizations that have been rejected would receive written explanation of why their project have not been accepted; that sessions of Managing board where funds would be allocated would be open for media and interested representatives of NGOs. One of the failures of allocation of funds was the fact that the Fund, in earlier allocation of finances, supported a small number of multi-ethnic projects. On 29 September 2011, Fund issued open competition for allocation of funds for 2011. Budget of the Fund for 2011 is 947,413,24 EUR.

**Agency for the Protection of Personal Data** – Agency for the Protection of Personal Data was established in accordance with the Law on Personal Data Protection, at the end of 2008. Until nowadays, the Agency has done two reports such as the Report on work for 2010 and the Special

Report on the state of protection of personal data for the period from 1 January to 1 July 2011. The Agency currently has 50% planned staff. The Agency announced that full coverage of job positions is currently hindering Ministry of Finance due to financial crisis. Non-transparent manner of employing officers at the Agency was raised as an issue in September. According to the information stated by the members of Council of the Agency, four officers were employed without a vacancy announcement. Based on available information, employed lawyer did not have required qualifications but in the earlier period a lawyer who had better qualifications was denied. Information that officers were hired through an internal announcement was confirmed by Zoran Jelić, Director of Employment Agency. Their employment was organized on the basis of internal announcements. According to YIHR information, internal advertisement lasted only one day. At the Parliamentary Board for human rights, MPs indicated to members of the Council of the Agency that the Agency was not sufficiently presented to the public. Budget of the Agency for 2011 is 403,941 EUR.

### III Facing the past

During the reporting period, passive relationship between the state and relevant institutions continued, when it comes to facing the past. The beginning of investigations for war crimes that occurred on the territory of Montenegro has long been awaited. When investigations began, they were very slow and court proceedings included only direct perpetrators. Investigations and legal proceedings that have been conducted until nowadays have not included those responsible upon the command line as well as the masterminds of crime. Not any final verdict has been rendered for the four war crimes that occurred on the territory of Montenegro. However, the Government has initiated activities on installing of the monument for the civilian victims of war crimes. Thus, Prime Minister Igor Lukšić opened the memorial park to civilian victims of the wars at the territory of former Yugoslavia, in the period since 1991 to 2001 year, in Podgorica, on 11 July, 2011. On this occasion, a commemorative plaque for civilian victims of wars in this period was set up. In cooperation with YIHR, Television of Montenegro presented a documentary series called "Srebrenica genocide-mapping" for a period from 6 to 19 July, 2011.

**Twentieth anniversary of bombing of Dubrovnik** - On 1 October, 2011 it will be 20 years of the war crime of bombing of Dubrovnik, the city which is under UNESCO protection. According to available information, 92 civilians died during bombing, many were harassed and expelled, cultural and religious sites were destroyed, and many buildings and households were robbed. During the attack on Dubrovnik, 166 Montenegrin reservists died and 430 Croatian defenders. Montenegrin judicial authorities still have not processed war crimes that occurred during the bombing and siege of Dubrovnik. The process of establishing political and command responsibility has not been initiated yet. 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 the territory of Montenegro, four war crimes - "Deportation", "Bukovica", "Kaludžerski laz" and "Morinj" had happened during 90s. Judicial proceedings for all four war crimes are in course.

**Bukovica** – On 31 December, 2010, Higher court in Bijelo Polje acquitted all the defendants for the war crime which had happened in Bukovica. Brothers Radmilo and Radiša Đurković, Slobodan Cvetković, Milorad Brković and Đordije 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 towards Bosniak 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. The verdict will be rendered on 3 October 2011. Activities on creating conditions for return of people from Bukovica are in course. According to available information, it can be concluded that this procedure is not transparent and not to the satisfaction of all the expelled ones. Grigorije Topalović, President of the local community Bukovica told YIHR researcher that 33 houses were built until nowadays and that ten 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 in Bukovica returned only four to five families. Jakub Durgut representative of the Association of people from Bukovica, in Pljevlja, told YIHR 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, YIHR has not received information about the priorities and criteria by which houses are being built and whether such decision existed. YIHR 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 YIHR 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. YIHR 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.

**Deportation** - In May and June 1992, almost 70 refugees of the Muslim religion from Bosnia and Herzegovina have been illegally arrested on the territory of Montenegro and extradited to the armed forces authorities in Republika Srpska. Most of the deportees were liquidated. Dies of all victims have not been found yet. The indictment for "Deportation" stated that the order for illegal arresting and deportation of Muslims released Pavle Bulatović, who was Minister of Interior Affairs in that time. Accused persons for "Deportations" were Branko Bujčić, Sreten Glendža, Milorad Šjivančanin, Božidar Stojović, Boško Bojović, Milisav Marković, Radoje Radulović, Duško Bakrač and Milorad Ivanović. The verdict that was rendered on 29 March 2011, all the accused ones were acquitted because, as the verdict stated, the defendants could not commit a war crime against civilians since the conflict in BiH was not of international character. State prosecution office lodged an appeal on this verdict on 15 June 2011.

After the movie of Šeki Radončić "Hero of our time" was shown in Sarajevo, Jasenka Perović, representative of the Association of families of deported gave a statement and required from the prosecution office of Montenegro to initiate an investigation against Slobodan Pejovic. Pejovic is the key witness in the case of a war crime of deportation. Perović said that, unless they took away awards from Pejovic, she would require this in written form. Namely, as Perović said, the movie revealed the truth that Pejovic did not save three Bosniaks from the police station as he claimed, but that, now deceased, the police officer Milan Jokić did it.

Due to the entry into force of the Criminal Code, which no longer includes criminal act of defamation, Dejan Mrdak, official of the Agency for National Security (ANB) withdrew the charges against Slobodan Pejovic. Mrdak sued Pejovic because Pejovic publicly announced that Mrdak managed organized action aimed at intimidation and moral discredit of the key witness of deportation.

**Crime in Morinj** - The trial for war crimes in Morinj continued in this quarter. The defendants: Mladen Govedarica, Zlatko Tarle, Ivo Gojnić, Špiro Lučić, Boro Gligić and Ivo Menzalin. They were accused for the war crime they had committed over the prisoners in Morinj Camp. During the trial, which took place in July, the defense lawyer suggested hearing of Momir Bulatović, a former president of Montenegro and Stjepan Mesić, the former president of Croatia. The last trial in this quarter took place on 27 September 2011, but was postponed because Zlatko Tarle did not show up at the trial. Continuation of the main hearing was scheduled for 11 October 2011.

**Kaluđerski laz** - On 1 August 2011, Higher Court in Bijelo Polje abolished detention to accused persons for war crimes in Kaluđerski laz, Momčilo Barjaktarović, Peter Labudović, Boro Novaković, Miro Bojović and Radomir Đurašković. Detention was abolished because the defendants were three years in detention which is, according to the law, the longest possible period since the indictment and the first instance decision of the court has not been made yet. The trial is in course and the first defendant Predrag Strugar is on the run. The trial resumed on 30 September 2011 but as legal representative of defendants did not appear, it was postponed for 7 October 2011.

#### **IV Torture, inhuman and degrading treatment**

The Constitution of Montenegro prohibits torture, inhuman and degrading treatment, and for official persons who are found to have committed violation, the Criminal Code prescribes up to five years imprisonment. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment prohibits persons on duty every form of torture and violation.<sup>1</sup> This implies intentional infliction of bodily injuries, physical and mental torture in order to extract confession or information, exerting pressure or intimidation on any grounds.<sup>2</sup> Torture is prohibited under any circumstances, whether it is war, the threat of war or political instability in the country.<sup>3</sup>

Slow processing of reported cases and a small number of final judgments are still concerned and represent significant problem in our country. YIHR registered reported cases of violation and torture in prisons, committed by police officers.

#### **Police torture**

**Office of Ombudsman developed the Special Report** - Office of the Protector of Human Rights and Freedoms developed in July 2011 a special report about the conditions of premises of the Police Directorate for keeping detainees in custody. The report stated that the visits were unannounced, that were conducted during and after the working hours during the period from 2 July to 30 December 2010. The report noted that 21 visits were recorded, i.e. in all police stations. The report also noted progress, compared to the previous period. It also stated that the respect of prescribed standards, when compared to the number of premises and their size, was the largest in the Regional unit of the Police in Podgorica. Some stations in the coastal municipalities do not provide enough premises for detainees, while police stations in Andrijevica and Plužine there have only one room for detention. Therefore, these police stations do not provide separate accommodation for women and men, according to prescribed standards. Furthermore, the report stated that "in relation to the size, on one person deprived of liberty, premise for detention do not satisfy prescribed standards in Regional units Bijelo Polje and Budva, and police stations in Kolašin, Mojkovac, Plav, Žabljak, Šavnik and Andrijevica. In Regional unit Bar, premise with three beds does not meet the standards; in Regional units in Kotor and

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<sup>1</sup> Convention against torture and other cruel, inhuman or degrading treatment or punishment, adopted and opened for signing, ratification and accession by the Resolution of UN General Assembly no.39/46 on 10 December 1984. It came into force on 26 June 1987, in accordance with Article 27. Yugoslavia signed and ratified the Convention. Published in Official Gazette (International Treaties) no. 9/91

<sup>2</sup> *Ibid*, Article 1

<sup>3</sup> *Ibid*, Article 2

Tivat, one double room and at the Police station in Ulcinj premise with two beds."<sup>4</sup> In premises for detention in Regional units of Bijelo Polje, Berane, Herceg Novi, in two premises of the Regional unit of Budva, and in stations in Cetinje, Kotor, Kolašin, Mojkovac, Plav, Rožaje, Ulcinj, Žabljak and Šavnik, lighting in the premises is artificial and only activation of the light can provide reading of written texts, the report said. When it comes to hygiene conditions in the premises, they are still not satisfactory in all premises for detention. Thus, the report stated: "In one room for detention of the Regional unit of Bijelo Polje which is not painted, feels the presence of moisture, while the premises of the Regional unit of Berane, which is not cleaned, unpainted, and feels the presence of moisture, in one premise of the Regional unit of Mojkovac, feels the presence of moisture and premises at the Police station in Ulcinj, are not cleaned, painted and feels the presence of moisture and filth, especially in a premise located in the basement. Hygiene condition of sheaths was not satisfactory, except in the Regional units of Berane and Ulcinj (blankets and pillows were dirty)."<sup>5</sup> The report stated that the sanitary facilities, content and the manner of use and access to clean water does not meet the standards in the police stations in Cetinje, Mojkovac Plužine, Berane, Andrijevica, Rožaje, while these standards were not partly met by the premises in Budva and Ulcinj. Access to clean water is not provided to the premises in Berane, Andrijevica, Rožaje, Šavnik and partly in Budva. The report noted that not in any of the premises for detention were found traces or objects that would indicate to suspicious on violations, torture or inhuman treatment of detainees.

Department for the internal control of work of the Police was separated from the Police Directorate and has been put under competencies of Ministry of Internal Affairs and Public Administration. Employees of the Department for Internal Control of the Police work have good cooperation with the NGO sector in practice. Department for Internal Control of work of the Police does not have its website and is not regularly available to public in any other manner, which would significantly contribute to citizens to learn more about the work and competencies, decisions in specific cases and the manner in which citizens can report cases of exceeding to the Internal Control of Work of the Police.

NGO Center for Democracy and Human Rights, for the needs of OSCE Office in Montenegro, conducted a survey on key standpoints of citizens on the Police and some key issues when it comes to security. The survey showed that almost 70% of the population has more or less positive attitude towards the Police, and also almost 70% of citizens expressed confidence in the Police. As a first thought on mentioning the word Police, 29,6% of citizens responded they thought about protection of citizens and their rights, while 6,4% responded that it was the restriction of freedom and their rights.

**Trial to policeman Zoran Bulatović** – Trial to policeman Zoran Bulatović who was accused for murder of Aleksandar Saša Pejanović started on 7 September 2011. Bulatović was charged for the murder of Pejanović on 30 May 2011, in Podgorica. According to information media published, the murder happened after the fight between Bulatović and Pejanović. The trial shall continue on 7 November 2011.

Pejanović was known to the public because he accused the Police for torture after the protests which took place after the recognition of independence of Kosovo. The last trial for torture over Pejanović took place on 14 September 2011 when it was postponed due to absence of prosecutor and accused Ivica Paunović. Legal representative of Aleksandar Pejanović, Dalibor Kavarić told YIHR researcher: "Acting of prosecutor Sasa Cadjenovic is not serious and unprofessional in such a serious case, and he did not even inform the court he would not come or for what reasons."<sup>6</sup> Kavarić believed that mentioned prosecutor obstructed the proceeding and that he did that in the previous period in the same manner that he did not even put in previous indictment serious bodily injuries although medical

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<sup>4</sup>Special report developed by the Office of Ombudsman on conditions of keeping persons deprived of liberty in custody in premises of the Police Directorate you may view at the web page [http://www.ombudsman.co.me/docs/izvjestaji/Poseban\\_izvjestaj\\_o\\_stanju\\_prostorija\\_Uprave\\_policije\\_za\\_zadrzavanje.pdf](http://www.ombudsman.co.me/docs/izvjestaji/Poseban_izvjestaj_o_stanju_prostorija_Uprave_policije_za_zadrzavanje.pdf), visited on 18 September 2011

<sup>5</sup> *Ibid*

<sup>6</sup> Statement of legal representative Dalibor Kavarić from 19 September 2011, is in YIHR files



document explicitly showed that. Kavarić said: “Firstly, he put that accused persons were direct perpetrators (which even Pejanović did not claim) and afterwards, after suggestions of the damaged one, he changed it as for assisting in execution of the act. For unknown reasons, he gave up of Dobrivoje Đuričić, and Bojan Radunović although they were charged by the same evidences. He did not even initiate the procedure ex officio against supervising officers whom were found out they had ordered the beating, and he did not even initiate ex officio the procedure against falsifying the report on detention of Pejanović, although it was defined by the procedure (Goran Stanković negated he had signed the report).”<sup>7</sup> Following trial is postponed for 20 October 2011.

**Case Lukić** – Lawyer Milovan Orović demented on 7 July 2011 that his client Milisav Lukić beaten up policeman, as the police previously stated. Orović said that police officer Marinko Šćekić beaten up Lukić and inflicted him serious bodily injuries. Police Directorate demented statements of lawyer Orović. Police Directorate said that Lukić attacked police officer Šćekić and that Šćekić, intending to respond on attack, used the truncheon which therefore means he possibly inflicted light injuries to Lukić.

**Case Šutković** – Ramiz Šutković from Rožaje filed criminal charges at the beginning of July 2011, against police officers Rejhan Hadžialijagić and Sead Husović for violation. Šutković said that on 7 June 2011, police officers Hadžialijagić and Husović in Berane wanted to extort confessions he was using drugs, he was distributing drugs, and that he knew a man named Beko. Šutković said that police officers beaten him with the truncheon and computer cable over his feet in order to extort confession. Ramiz Šutković’s father, Ismet Šutković stated that the police told him that Police Directorate would file criminal charges against his son if they file criminal charge against police officers. Police Directorate demented statements of Šutković.

**Case Turković** – Srdjan Turković from Mojkovac reported the incident to YIHR, which had happened on 28 June 2011, in Mojkovac. Turković told YIHR researcher that day he had small incident with the fellow citizen in the center of Mojkovac, and for that reason he called the police to intervene in this case. Police officers Mirceta Pantović and Dragomir Vučinić arrived, said Turković. Pantović told Turković and his fellow citizen with whom he had a fight, to come at the premises with him. Turković answered he wanted to go without the police escort. Policeman Pantović started beating him up, said Turković. He added he had fallen on the ground and the policeman continued to beat him up. Afterwards, policemen Pantović and Vučinić took him with the handcuffs over his hand, walking through the center of the town until they arrived at the premises of the police station. Turković said that policemen were beating him up on their way to the police station but Pantović beaten him up at the station as well, in front of all policemen who did not react. Turković filed criminal charge to Basic public prosecutor in Bijelo Polje against policemen Pantović and Vučinić. On 31 August 2011, prosecution office rejected criminal charge because there were no basic suspicious that the suspects committed reported criminal offenses or any other criminal act that would be prosecuted ex officio. Turković expressed displeasure by the manner of conducting investigation by prosecution office and said that prosecution office interrogated police officers he had accused, fellow citizen whom he had fought with when the incident happened, and two more persons with whom he was not in good family relations and for whom he claimed they were not at the site where the incident happened. Turković said that prosecution office did not interrogate the witness he had proposed not they were dealing with the medical documentation and photos he had made directly after the incident. On 14 September 2011, Turković filed indictment to Basic court in Bijelo Polje against two police officers. The process is in course.

**Case of Nemanja Šćepanović** – Nemanja Šćepanović from Danilovgrad publicly reacted on 2 August 2011 and said that police officer Vlado Lakić in the civilian shot at him three times. Lakić said he had filed criminal charges against police officer.

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<sup>7</sup> *Ibid*

**Case of Miloš Stijepović** – Miloš Stijepović from Žabljak reported to YIHR 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, YIHR 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 Milovan Bulatović** – Milovan Bulatović from Rožaje reported on 4 August 2011 incident which happened in that town. Bulatović told daily newspapers DAN he was taken into custody by officers of the cross-border police in Rožaje. Namely, Bulatović transported woods from the forest and police officers taken him into custody, in premises in Rožaje to give a statement, because the transporter who transported woods did not have registration plates. As stated, the vehicle was registered but the competent service did not issue registration plates, not even after a month since the registration. Driver showed police officers insurance policy as the evidence that the vehicle was registered. Police Directorate demented statements of Bulatović and said they did not take him into custody but he came alone at the police premises because a driver, who transported woods for him, was detained for degrading treatment towards police officers.

**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. As they said, during interrogation, police officers did not provide translator therefore the processing of the entire case was slow. On of the owners of the beach, A.R. demented statements of Popov and Dolinina and explained that, when the working hours at the beach expired, Popova and Dolinina did not want to leave the place, so pushing of these two women with the and beach guards happened.

**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 demented 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, Srdjan 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, YIHR 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 court representatives 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.

**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.

#### **Situation in Bureau for enforcement of penal sanctions (ZIKS)**

Prisons in Montenegro are overcrowded which is one of the largest problems related to conditions in prisons. European Commission indicated on this problem in the Analytical Report. In order to overcome this problem it is important to develop alternative sanctions and activities of rehabilitation, and the EC indicated on this issue. On 22 June 2011, the Parliament adopted Law on amendments of Law on enforcement of penal sanctions. By this Law has been establishing special organizational unit in the Ministry of justice, Department for Probation. Department for Probation shall supervise convicted persons on probation, on suspended sentence, suspended sentence with protecting surveillance, community sentence, and other measures defined by Law. That means that perpetrators of criminal offences of lower risk may, under strong control, serve their sentences in the community. Ministry of justice told YIHR researcher they would access to development of the Draft of new Law on enforcement of penal sanctions until the end of 2011 that would be fully harmonized with legislation and practice of the European Union and the Council of Europe standards.

There are no premises in ZIKS that would enable exercising right to family life and visits. Namely, premises for marital visits, placed at the center of ZIKS, do not satisfy the minimum of standards and are not intended for family visits. These premises do not provide intimacy, hygienic conditions do not fulfill standards and children can not stay in such premises. Only married partners can use these premises while extramarital can not.

Management of ZIKS continued in this quarter good cooperation with NGO sector. YIHR exercised intensive cooperation and communication on resolving specific number of cases.

During August and September, convicted persons publicly expressed displeasure on conditions in prisons. Convicted persons who serve sentence in the half-opened department complaint via media that five persons stay in the premise intended for two persons, or 13 persons in the premise intended for six persons, which is the case in Remand prison. They said they have been sleeping on triple beds; that they have only one weekend free in two months, but earlier they had one weekend for each month, that marital visits have been reduced from five hours to four and visits took place in unconditioned premises. Sentenced persons announced hunger strike if Management of ZIKS keeps the decision on prohibition of use of mobile phones. The Management announced they would take away mobile phones and added they would provide telephone boots for communication. Sentenced persons accused the Management for conducting selective enforcement of regulations when it comes to temporary parole. Thus, they claim that persons who have connections receive seven days parole while others receive, one, two or three days. Sentenced persons said that 300 of them used five primitive toilets.

**Incident in ZIKS** – One sentenced person reported on 6 July 2011, to YIHR researcher 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. YIHR 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

reported the incident to YIHR researcher. She said she had received information from ZIKS that her son was beaten up by officer in ZIKS. M.P. afterwards told YIHR 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. YIHR 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 YIHR 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 YIHR researcher they did not want to process the case.

On 26 July 2011, Hristina Manojlović submitted to YIHR 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.

A person who introduced himself as a sentenced person, reported on 27 July 2011, at almost 20h, via mobile phone to YIHR 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. YIHR researcher immediately contacted Zoran Magdelinić, Deputy Director of ZIKS and informed him about calls and statements he had received. Magdelinić told YIHR 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.

**Case of Brajušković** – Daily newspaper Vijesti stated on 27 September 2011, that Radomir Brajušković 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. Brajušković 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. Brajušković 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 Brajušković and added that the control of his statements was in course.

## **V Politically motivated violence**

Politically motivated violence was emphasized in the third quarter. YIHR registered threats, pressures, and incidents.

**Departure of former police officers from Montenegro** - When former police officers Enver Dacić, Mithat Nurković and Suad Muratbašić left Montenegro the same did their counterparts Rešat

Kalač and Hamdo Murić. Kalac and Murić left Montenegro on 2 July 2011. They did not want to reveal which country they were going to. Kalac and Murić also said they had been discriminated on religious grounds but also because they pointed to the cross-border smuggling. As they stated, they had to leave Montenegro in order to protect themselves and their families as well, due to the threats that had not been resolved and also due to the silence of the institutions.

**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 Veljovic, 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 Veljovic 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 with a request to explain how the investigations on activities of MANS could contribute to prevention of organized crime and corruption. That was the second time that representatives of the police conduct hearing of representatives of MANS on putting the actual video on the Internet.

**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.

**Shock bomb in the mailbox** – Shock bomb was found in the mailbox of Vukadin Čupić on 25 July 2011. Čupić was on a hunger strike due to unpaid wages in the Association of trade unions of Montenegro (SSCG). Čupić 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.

**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.

**Trial to Metropolitan of Montenegro and the Littoral, Amfilohije** - Trial to Metropolitan of Montenegro and the Littoral Amfilohije who has been charged by the prosecution office for the speech of hatred, took place on 12 September 2011. 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. Prosecution office charged Metropolitan Amfilohije for offending national and religious feelings of citizens, during the period from 6 to 18 January 2011, and for expressing speech of hatred on Montenegrin language.

**Milan Popović, Professor at the Faculty of Law, Esad Kočan, Editor in chief of the weekly 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.

**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.

## VI Right to fair trial

European Convention for protection of human rights and fundamental freedoms, ratified by Montenegro, guarantees right to fair trial. Article 6 of the Convention says: “Each person, during decision making process on their civil rights and obligations or criminal charges against them, has the right to fair and public debate in a due time, before independent and objective court, formed in accordance with law.” Therefore, according to the Convention, each person accused for criminal offence shall be considered innocent until they prove guilty, according to law.

On 30 September 2011, office of Ombudsman stated that the right to fair and objective trial is being often violated. Since the beginning of 2011, Ombudsman received 29 complaints that were related to violation of right to fair trial and 47 complaints related to prolongation of court proceedings.

Center for democracy and human rights (CEDEM) announced on 28 September 2011, results of monitoring of court processes for the period from 1 April 2011 to 31 August 2011. CEDEM stated there were no violations of right to fair trial in more than 50% monitored cases, while in other monitored cases were noticed violations of this right. Right to independent court was violated in one case, right to access to court was violated in three cases, presumption of innocence was violated in four cases, and in four cases was violated right to efficient defense while right to trial in a due time was violated the most, or in nine cases, and three cases raised the issue on validity of evidence.

Notary service was introduced in legal system of Montenegro 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, Andrijevisa, Pljevlja, Mojkovac, Kolašin, Plužine, Šavnik, and Žabljak. More citizens addressed YIHR complaining that notary tariffs were too high and that absence of the office in all municipalities represents additional costs for citizens. Notary tariffs in Montenegro are one of the highest in the region and are not harmonized with the social situation in the country. On 4 August 2011, YIHR invited Ministry of justice to initiate activities on establishing the solution that would enable citizens to exercise access to notary services in cheaper and easier manner. Ministry of justice adopted on 29 September 2011, Information on reduction of notary tariffs because they are not in accordance with the social situation in the country.

Besides high notary services in Montenegro, tariffs of lawyers are high as well, therefore, large number of citizens are not able to exercise right to access to courts and justice. In earlier period, YIHR required from the Bar Association to form the level of tariffs and adjust them to the social power of citizens and enable in that manner easier access to justice. This was important to be done if it is taken into account that on the occasion of adoption of Law on free legal aid were not taken into consideration the most important recommendations of NGO sector and that implementation of the Law shall start in

2012. YIHR proposed that Law on free legal aid should provide this right to victims of serious violations of human rights, that free legal aid should be provided not only by lawyers who were enrolled into Register of lawyers for providing free legal aid, but also by nongovernmental sector, trade unions, political parties, legal clinics, and other institutions. On this manner, free legal aid would be provided to wider range of citizens who would more easily exercise right to access to justice. Problem is additionally very important because cases of lawyers in Montenegro who work pro bono are very rare.

## **VII Freedom of expression, peaceful gathering and associating**

### **Freedom of expression**

Freedom of expression is in special focus of international community. Freedom of expression is guaranteed by numerous international documents. European Convention prescribes that each person has the right to freedom of expression. Freedom of expression implies possessing of personal opinion, receiving and publishing information and ideas without involving public authorities, notwithstanding limits.

**Case of daily newspaper Vijesti** – In three separate incidents, four vehicles of daily newspaper Vijesti in Podgorica 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. As media announced, two unidentified persons poured the petrol over two official pick-up vehicles and burned them. The vehicles had emphasized sign showing they belonged to daily newspaper 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 committers of any of these cases.

**Assault on cameraman of TV MBC** – Regional unit of the police in Bijelo Polje filed criminal charge to Basic public prosecution office in Bijelo Polje against citizens S.M., R.C., and R.K., for violent behavior. Namely, Rusmir 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 assaulted him and took away his camera. Undamaged camera was returned to Osmanović afterwards.

**Interview of Milo Đukanović, 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, Đukanović 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.

**Marko Milačić** – Marko Milačić, journalist of public service TVCG stated on 19 July 2011, he was dismissed. Previously, Milačić criticized the authority in Montenegro. He said that his contract was

not prolonged and announced he would charge public service. Public service demented his statements and explained that Milačić was dismissed due to his critical standpoints towards authority.

**Judicial procedures:**

**Case of Rade Živković against daily Vijesti** – Daily newspaper Vijesti announced on 7 July 2011, that Basic court in Podgorica rejected complaints of Rade Živković against daily Vijesti. Namely, Živković sued Vijesti requiring 17.000 EUR as the compensation for mental suffering, violation of reputation, honor and right of personality. The court explained that the journalist had justified reason to believe that information were true and that Živković had the possibility to demont 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 publishing articles on his apprehension at the police.

**Case Medojević and 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 of 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 Šarić, 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 text 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 Niketić 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 aiming at expressing displeasure for the waste disposal site located in Vasove vode near Berane. The billboard showed 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 in solidarity 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 proceedings 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 YIHR in Documents edition.

**Case of the team Vijesti dealing with the researches of tobacco smuggling** – In September continued the trial for endangering the safety of the team of Vijesti that had been researching tobacco smuggling. Therefore, on 1 September 2011, the trial took place when hearing of witnesses took place as well. Slavko Musić and Marko Piper were charged for sending serious threats to journalist Olivera Lakić, from 31 January to 3 February 2011, which occurred after researching texts on businesses of tobacco factory in Mojkovac. Prosecution office defined that a man, who reported himself in February for serious threatening to journalist Lakić, did not do that, published Vijesti on 26



September 2011. Following hearing was scheduled for 6 October 2011, when the hearing of witnesses will be continued.

**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 Pejović, 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 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. The trial was scheduled for 21 October 2011. 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 on correction of marks at the Faculty of Law.

### **Freedom of gathering and associating**

The Parliament of Montenegro adopted the new Law on nongovernmental organizations on 22 July 2011. Development of 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 establishing cooperation of bodies of public administration and nongovernmental organizations is in course. YIHR, NGO Center for democratic transition (CDT) and NGO Network for Affirmation of Nongovernmental Sector (MANS) gave opinions and recommendations on work versions of Ordinances. The most important recommendations were related to participation of representatives of NGOs in work bodies formed by the Government i.e. public bodies. These organizations proposed that for participation in work of bodies may only register those NGOs that have been enrolled in the register of NGOs for at least a year before the publishing of invitation. The accent has been put on the previous practice; which gave poor results by electing candidates only in accordance with the number of NGOs that supported it, which should not be the rule of electing the representative of NGO in work bodies. It was proposed that candidates should be elected on the basis of references of NGOs which propose, or references of candidates who are being elected.

**The Initiative of YIHR to Constitutional court** – On 11 April 2011, YIHR sent the Initiative to the Constitutional court requiring the assessment of constitutionality of Articles 10, 11 and 26, of Law on public gatherings. Even after six months, Constitutional court has not considered the Initiative of YIHR. By this Initiative, YIHR required urgent reaction of Constitutional court because the Police Directorate often prohibits peaceful gatherings in its practice and in accordance with the Law. As the reason for prohibiting peaceful gatherings the Police often mentioned endangering of traffic. Articles of the Law whose urgent consideration was required by YIHR, contrary to the Constitution prescribes the possibility of prohibiting peaceful gatherings, although the Constitution provides that they may be temporarily limited. In previous two years, the Police prohibited more than 200 reported peaceful gatherings. The Police mostly prohibited peaceful gatherings of workers who wanted to express displeasure for violation of their labor rights. As the one of examples showing that the Police continue to act in the same manner is the example of workers of Lenka. On 26 July 2011, the Police prohibited peaceful gathering of former workers of Lenka from Bijelo Polje, due to danger for the public traffic, as the decision stated.

## **VIII Protection of personal data**

Although progress has been made, condition in the area of protection of personal data is not at satisfying level.

Article 43 of the Constitution of Montenegro guarantees right to protection of data on personality and prescribes that each person has the right to be introduced with data collected on their personality and right to judicial protection in case of violation. Article 42 of the Constitution says 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. Further elaboration of guarantees from Article 43 of the Constitution is in Law on protection of personal data that has been adopted in 2008. On amendments of the Law was worked in 2009, but the Agency for protection of data announced they would work on new amendments of the Law until the end of 2011.

It is encouraging that protection of personal data is more present in public. Also, statement of the Agency that large number of people addresses the Agency, requiring its opinion, consent, explanation, and also sending the Agency requirements for the protection of human rights, is encouraging. The Agency said that larger level of protection of personal data is visible through the submitting of Register on collection of data on personality, and through requirements for providing consent for introduction of video surveillance.

On 12 September 2011, YIHR required from the Agency for protection of personal data to initiate activities on the control of acting of the reception services while identifying persons who enter and leave business and official premises. YIHR received reports of citizens that employees at the reception of some hotels and institutions require and keep personal identification documents during their staying at the hotel or institution. Article 33 of Law on protection of data on personality defines that, for the sake of personal and property security of business or official space, public sector, company, other legal entity, and entrepreneurship; it may be required from the person who comes in business or official space to give their ID for the insight, if it is necessary. The Law defines that documents may be required for the insight but that does not imply that personal documents may be kept during person's staying at the hotel or institution. Agency for protection of personal data confirmed in its answer to YIHR, on 15 September 2011, that such a practice is not in accordance with Article 33, Paragraph 1, Item 3 of Law on Protection of Personal Data. The Agency stated it had sent the letter to Police Directorate, which provides security and control over arrivals and departures in most public bodies. The letter suggested that personal documents should not be kept, but after taking prescribed data, the same ones should be returned to citizens. After YIHR presented the problem to public, new

reports arrived in our office. More citizens called our office and said that this practice has been continuing and that personal documents have been kept during the entire staying in hotels in Kolašin, Ulcinj, and Budva. On 25 September 2011, YIHR sent new letter to Agency for Protection of Personal Data and required from the Agency to introduce management of hotels with legal solutions.

One of the areas where legal regulations are being violated is the use of video surveillance. Agency for Protection of Personal Data defined that video surveillance has been used against ordinances of law, disproportionately, and exceedingly. The Agency said that failures video surveillance cause were as follows: 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 a 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.

During the control of mobile operators and Police Directorate, Agency for the Protection of Data defined that violation of protection of data on personality, related to submitting of phone calls and SMS, occurred in practice. Agency stated that Police Directorate acted in such a manner by which it respected the decision of the Agency on receiving data of telecommunication traffic, listings of phone calls and SMS only after the order of the court.

Law on electoral lists is one of the areas which occurred as the issue in public. The Agency stated that amendments of this Law were necessary, especially in the part related to the protection of personal data and submitting of electoral list to political parties. The Agency stated that the proposal was submitted to the Government of Montenegro.

## **IX Religious freedom**

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. Until 31 May 2011, the Government allocated for this year 25 thousand EUR to Serbian Orthodox Church (SPC), 65 thousand EUR to Montenegrin Orthodox Church (CPC), 13 thousand EUR to Islamic community, and 11 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.<sup>8</sup>

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<sup>8</sup> Information taken from the report "Human Rights in Montenegro 2010-2011", published by Human Rights Action.

Relations between two religious communities still cause concern. Intolerance between believers and the clergy of the two churches is still present. Thus, Parish of Rogami filed criminal charge against Metropolitan of CPC, Mihailo and two more CPC representatives, Dragan Pavlović and Jovan Tomovic for violent entering into the Saint Michael Church in Rogami. As stated from SPC, this church is in their property.

According to YIHR findings, numerous examples of expressing and inciting religious and national hatred pass unpunished and in cases when the judicial proceeding takes place for the criminal offence incitement of national, racial, and religious hatred, very low punishments, often under legal minimum have been pronounced. Article 7 of the Constitution prohibits causing and inciting of hatred or intolerance on any grounds. 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, ethnic 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." Two examples from the practice indicate that sanctions pronounced by courts are not in accordance with legal solutions. 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.<sup>9</sup> 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.

**Case of interrupting the gathering of Jehova's Witnesses** – Zoran Lalović, member of religious community Jehova's Witnesses reported to YIHR researcher that gathering of this community interrupted the priest of SPC, Slobodan Zeković, 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 Jehova'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. Jehova's Witnesses expressed displeasure by the manner of acting of Prosecution office and on 9 August 2011, they sent

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<sup>9</sup> See the Report at the web page <http://www.mmp.gov.me/vijesti/107659/Drugi-i-treci-izvjestaj-o.html> , visited on 25 September 2011

letter to Prosecution office in Podgorica requiring from them to spread investigation on all responsible ones and all committed criminal acts. YIHR will monitor the processing of this case.

**Case of disapproving temporary residence to religious persons of SPC** – Legal representative of Metropolitanate of Montenegro and the Littoral, Dalibor Kavarić reported to YIHR 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. YIHR 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 YIHR 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 added that ‘selective and institutional violation of human rights committed by MUP comes in issue, which damages servants of the Orthodox Metropolitanate Montenegrin and the Littoral’. MUP stated that residence for two persons from the list that YIHR sent was approved, but for other persons document on registration of religious community was not necessary. Kavarić commented these arguments and said: “The response MUP provided claimed that Mitrović Nebojša and Kecojević Ljiljana were approved temporary residence and the same document stated, which was related to the same requirements that ‘regional unit for administrative internal affairs interrupted procedures by conclusions until resolving previous question...’ thinking on the report on establishing religious community within the meaning of Article 2 of Law on legal status of religious communities’. From the above stated contradictory it stays unclear how the approval of temporary residence to Mitrović and Kecojević was possible while other persons, who were at the same legal position and applied at the same Ministry on the same grounds, did not receive required rights?” Kavarić announced submitting of initiatives to Constitutional and Administrative court. YIHR will continue monitoring of resolving this issue.

## **X Discrimination**

**Discrimination of persons with disabilities** - Government of Montenegro adopted the decision on establishing the Council for protection of discrimination at the end of July 2011. Members of the Council shall be the Prime Minister, seven ministers and six NGO representatives. As defined by the Decision on the establishment, the Council shall coordinate the work of public bodies in implementation of laws and measures for protection against all types of discrimination. Government adopted the decision on canceling the Council for the care of persons with disabilities and that the newly established Council for protection of discrimination forms a sub-commission for the care of persons with disabilities. Non-governmental organizations that represent and bring together people with disabilities condemned and expressed strong protest over the Government's decision. More than 75 NGOs have requested the abolishing of Government's decision on canceling the Council for the care of persons with disabilities.

The Parliament of Montenegro adopted the Law on prohibition of discrimination of persons with Disabilities on 22 July 2011.

**Discrimination of Roma** - On 13 July 2011, the first public kitchen was opened in Podgorica, where free food will be shared for citizens of poor financial condition. Only persons who have Montenegrin citizenship may have food in the kitchen, while Roma who do not have Montenegrin citizenship shall not have right to free food. Ganija Pajazitaj, President of the Association of refugees

Roma and Egyptians from Kosovo reacted and said that most Roma who came from Kosovo have not been able to provide food to their families but due to the rules on citizenship they cannot even exercise the right to food in public kitchen. NGO Human Rights Action filed on 1 August 2011, Initiative to Constitutional court for the assessment of constitutionality of decision of the Assembly of the Capital that only citizens of Montenegro may have right to receive free food in public kitchen. The Constitutional Court has not acted upon the submitted Initiative.

Foundation for Scholarship of Roma has publicly expressed its dissatisfaction 7 September 2011, because members of the Roma have not been sufficiently involved in the education system of Montenegro. Thus, in 2011/2012 school year, only four students of Roma and Egyptian communities were enrolled at the University of Montenegro. The main reason for such a small number of Roma and Egyptians in the education system is material condition, announced the Foundation.

**Discrimination based on nationality and religion** - Government of Montenegro adopted Information on representation of minorities in public and local administration on 7 July 2011. Based on data received from 13,900 employees, the most were Montenegrins - 79%, Serbs 8.59%, Albanian 2.8%, Bosniaks 4.1%, Muslims 2.39%, only one member of the Roma population, Croats 0.89%, and others 0.42%. NGO Foundation for Scholarship of Roma announced on 15 July 2011 that 13 Roma and Egyptians passed the professional exam for work in public institutions and that almost a year since they have passed exams, none of them has been employed.

**Discrimination of women** – Electoral law that has been adopted does not contain any norm which stipulates that at least 30% of women shall be MPs at the Parliament of Montenegro. The law provides that the electoral lists have 30% of women, but does not guarantee that this number of women shall be MPs. The number of women in the Parliament will still depend on the decisions of parties. Amendment that proposed this solution was rejected by the majority of political parties and MPs. NGO female activists criticized such decisions of the Law and said it was discriminating against women.

The survey made by the UNDP Office in Montenegro, and the Department of gender equality in the Ministry of human and minority rights showed that women were discriminated in sport. Results of the survey were presented on 27 September 2011. Out of the total number of sportspersons in Montenegro, only 10% are women, 8.8% were female coaches, 13.3% were the judges but there were no sports female delegates.

**Discrimination of LGBT** – Representatives of NGO LGBT Forum informed on 9 August 2011 the Supreme public prosecution office that several LGBT persons were moved away from the beach Ratac in Bar. The complaint alleges that the guards on the beach prohibited tourists who were homosexual orientation access to the beach. It was announced that the tourists were on a public beach and completely free place when they were approached by citizens D.B. who moved them away. D.B. has denied the statements from the complaint of LGBT Forum. After that, several members of the homosexual minority in the daily newspaper Vijesti testified that D.B. discriminated members of the homosexual community. YIHR is not familiar with information whether the State prosecution office prosecuted this case of discrimination.

Police in Danilovgrad detained at night between 4 and 5 September 2011, B.P., S.G., and V.V. because they shouted insulting and harassing messages to the two foreign citizens who were members of the LGBT community, R.S. and D.T. The two foreign citizens were participants of the international conference "Towards Europe, towards equality", which took place in Danilovgrad. Against three persons from Danilovgrad were filed misdemeanor charges for disturbing public peace and order. Regional unit for misdemeanor declared them guilty and punished S.G. to 15 and V.V. with 12 days imprisonment. B.P. was acquitted. The Dutch citizen Van der Sten Petrus Marinus reported the incident on 4 September 2011. Petrus reported to the police that, while he was sitting at the café Danilovgrad, one person raised his right arm saluting Nazi salute towards him. These actions provoked a feeling of anxiety and vulnerability of Petrus. Police Directorate said they had identified this person who was R.Đ. from Podgorica. Regional unit for misdemeanor sentenced R.Đ. for violations to 800 EUR fine. LGBT

Forum Progress required from Police Directorate to act in the same manner towards charges for harassment regardless of whether they are submitted by national or foreign citizens.

On 6 September 2011, in Danilovgrad appeared graffiti with messages of hatred towards members of the LGBT community. Message saying: "Death to gays! For a healthy family", appeared on the wall of the Center for Pensioners, a day after the end of the international conference "Towards Europe, towards equality", organized by the Government of Montenegro.

**Discrimination of workers – Discrimination of management and membership of the Trade union organization of the Army of Montenegro (SOVCG)** – President of the Trade union organizations of the Army of Montenegro (SOVCG) Nenad Čobeljić called on 12 September 2011 competent bodies of the Ministry of Defense to state their reasons for the dismissal of their members Dušan Pavlović. Dušan Pavlović, a soldier under the contract, was dismissed from work although he was rewarded while being a soldier. Not any disciplinary procedure has been conducted against Pavlović. He was employed at the position that was scarce and which is currently vacant, so his position has to hire a new soldier now, announced the SOVCG. Also, representatives of SOVCG told YIHR researcher that Pavlović was not dismissed in accordance with the law, because in that case he should be informed about dismissal two months before, and not only two weeks earlier. Pavlović is the member of SOVCG and believes that was the only reason for his dismissal. YIHR has required from Prime Minister Igor Lukšić and the Parliamentary Board for defense to review urgently the decision on dismissal of Pavlović from the Army of Montenegro and the pressures members and leadership SOVCG suffer. Čobeljić announced that the leadership in the Army prohibited them to come into the barracks during working hours and communication with the membership of SOVCG. Representatives of SOVCG reported discrimination and pressure from the very beginning. The Prime Minister and other relevant institutions that have been addressed by YIHR and SOVCG have not reacted. According to announcements of media on 27 September 2011, the Basic public prosecution office conducted investigation because soldiers were prohibited to join the Trade union organization of Montenegro (SOVCG). Management of SOVCG filed three criminal charges to the Prosecution office. The criminal charge accused the Colonel Zoran Lazarević for violation of power, depriving the employees at the Army of Montenegro of forming a trade union. Charge has been filed against Ramiz Pejčinović who works in a logistic base in the barrack "Masline" in Podgorica. YIHR will continue to monitor the treatment of the leadership and membership of SOVCG.

Radisav Rašo Nikić from Podgorica publicly announced in August he had been dismissed from the the 'Parking Service', the company that belongs to the Local self-government of Capital City of Podgorica, because he was a Serbs, for having worked in newspapers DAN, and because he was a member of the opposition parties.

## **XI The Right of the child**

Rights of the child are still not at satisfactory level. Definition of a child does not exist in Montenegrin legislation, and the Committee for the rights of the child indicated on the lack of clarity in the use of terms – child, a minor and a minor in law. Law on social and child protection is not in accordance with the Convention on the rights of a child. Montenegro has not yet adopted the Law on juvenile justice. After considering the report, The Committee said it was concerned that children in conflict with the law have often been treated by the same laws and procedures applicable to adults, than the absence of a separate juvenile justice system, and that children are being held in custody in the same premises as adults. The Judicial Council on 19 September 2011 considered the Proposal for a Law on juvenile justice. The law is currently under Governmental procedure. The Council informed that it has been initiated the establishment of special departments of juvenile judge in the High Courts in Bijelo Polje and Podgorica.

The Parliamentary Board for human rights held on 30 September 2011 the debate in Kotor, on the theme "Rights of the Child - Implementation of the Law on Education of children with special educational needs". Participants analyzed the implementation of the Law in practice and said that children with special needs attend regular schools.

Center for children with disabilities of the Health care Centre in Podgorica functions with difficulties because the Center does not have enough professional staff for the work with children. Such information was confirmed by the Head of the Centre, Dr Gordana Mandić to daily newspaper Vijesti, on 29 August 2011. Therefore, it happens that up to twenty children are waiting for the beginning of therapy. Centre lacks physical therapists, speech therapists, psychologists and special education teachers.

Center for the youth "Ljubović" is currently being transformed. The plan envisages the construction of four houses with accommodation capacity for up to 40 members. The construction of houses began in early July and will be completed until February 2012. Center provides care for children and youth who are in conflict with the law.

**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 Đurković" 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.

**Investigation against two doctors and a shoemaker** - The investigation against two doctors and shoemakers from Podgorica who were suspected for the sexual intercourse with a child finished on 15 September 2011 at Basic Court in Podgorica. The court extended detention to a doctor M.Š., owner of private laboratory D.N. and shoemaker Š.H. They were accused for participating in of sexual exploitation and mediation in prostitution of a thirteen years old girl.

**Case of Sasa Đinović** - Sasa Đinović from Berane addressed YIHR office on 8 August 2011 and said that his juvenile son Milan Đinović, who has a disorder of a growth hormone and the right to care, had problems to receive retroactive child allowance he had to receive. Sasa Đinović said that he had addressed the Minister of labor and social welfare, Suad Numanović. As Đinović 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.

## XII Minority rights

**Ethnic minorities** - Government of Montenegro adopted on 7 July 2011 information on representation of minorities and other minority communities in public services, bodies of public authority and local self-government with the proposal of measures. On 12 July 2011 MONSTAT published the results of the national structure of population of Montenegro, on the basis of the census that was conducted in April 2011. According to these data there are 44,98% Montenegrins, Serbs 28,73%, Bosniaks 8,65%, Albanians 4,91%, Muslims 3,31%, Roma 1,01% and 0,97% Croats. The Parliament of Montenegro adopted on 8 September 2011, the electoral law, which was one of the seven priorities of the European Commission to obtain the date of negotiations. The adoption of this law was the obligation of harmonizing electoral legislation with the Constitution. The Constitution guarantees rights of national minorities to representation. Representatives of Albanian political parties left the Parliament before voting on the Law on election of councilors and MPs, because they were not satisfied with the new solutions. Thus, the political representatives of Albanians believe that this law takes away rights that the Albanians had so far. Adoption of the Law on election of councilors and MPs followed after the



agreement of Prime Minister Igor Lukšić, who led negotiations on behalf of the ruling coalition, and opposition leaders in connection with the name of language in schools. In the whole process of enactment of the Law on election of councilors and MPs, which was postponed seven times, were excluded political representatives of minority population.

In August 2011, the Government of Montenegro employed the first Roma person. Behija Ramović is the first Roma woman who will work in Government. Ramović was an activist of the Foundation for the Scholarship of Roma.

Construction of apartments for Roma in Bijelo Polje and Nikšić has not been completed yet. The Government of Montenegro provided for this purpose 150.000 EUR, for the construction of 15 apartments in Bijelo Polje and 180.000 EUR for the construction of nine apartments in Nikšić. However, local authorities in the two cities failed to build apartments in prescribed time and local residents protested over announced construction.

**Language minorities** - Based on data of census from April 2011, that was presented on 12 July 2011, Serbian language speaks 42,88%, 36,97% Montenegrin, Bosnian 5,33%, 5,27% Albanian, 0,45% Croat and 0,83% speak Roma language.<sup>10</sup> Minority languages in Montenegro are Albanian and Roma language. However, Roma language has not been used in practice. The authorities justify this situation with explanation saying that Roma language is not standardized; there is no literature and the staff that speak the language.

**Sexual minorities** - Government of Montenegro organized international conference entitled "Towards Europe, towards equality" within a period from 2 to 5 September 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 non-governmental organizations fighting for LGBT rights in the organization of gathering. The conference included training of employees in the area of judiciary, police, inspection bodies and other institutions.

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.

### **XIII Status of displaced persons**

Status of displaced and internally displaced people still remains at concerning level. The most endangered are internally displaced Roma, Egyptians and Ashkali and from Kosovo.

By the end of August 2011, almost 5,000 displaced and internally displaced persons applied for permanent residence. Out of this number, 1,466 displaced persons from Croatia and Bosnia and almost

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<sup>10</sup> MONSTAT

1,050 internally displaced persons from Kosovo received the status of a foreigner with permanent residence. Status of foreigners with temporary residence received 47 displaced and 27 internally displaced persons. Because they did not have valid status, five displaced and two internally displaced persons were rejected. The deadline for submission of documents for resolving the status is until 7 November 2011.

In late August 2011, 4,000 persons from BiH and Croatia and 9,927 from Kosovo still have the status of displaced or internally displaced persons.

In order to simplify the internally displaced persons to obtain documentation for the application, two departures to Kosovo were organized. The first visit was organized by the Bureau for Refugees on 29 July 2011. A visit to municipalities Peć, Klina and Đakovica was organized and included 21 persons. The second visit was organized on 16 September 2011 to municipalities Klina and Peć. Visits were organized by the Ministry of labor and social welfare and the Department for refugees with the financial support from UNHCR. The visit attended 32 people.

For the purpose of faster and better solution of problems of displaced and internally displaced persons, the Government appointed Minister of justice, Duško Marković as the President of the Coordination Board, which has a task to supervise the implementation of the strategy for the permanent solution of issues of displaced and internally displaced persons. The Coordinating Board has ten members and the special aspect of the work will be internally displaced persons who are located in Podgorica, in the settlement Camp I and II. All public bodies are obliged to provide information to the Coordinating Board.

Montenegrin representatives from Vraka protested on 5 September 2011, in front of the Parliament of Montenegro, requiring from the state to receive Montenegrin citizenship. Representatives of Montenegro from Vraka have also announced they would not send their children to school, until they obtain citizenship. They moved from Albania 21 years ago.

#### **XIV Economic and social rights**

In the second quarter of 2011, there were 80,1% employed and 19,9% unemployed persons, stated MONSTAT. In the next two years, number of employees in public institutions and services will be reduced in some sectors for up to 15%. The biggest decrease is expected in the Police and local self-governments. In Montenegro, almost 14.000 families receive material support in the amount of 63 to 120 EUR. Child allowances receive almost 20.000 children in Montenegro. The average wage in Montenegro in August 2011 was 475 EUR while the minimum consumer basket was 767 EUR. Due to the decision of the Parliament of Montenegro on the increase of salaries to MPs, in the amount from one to two average wages in Montenegro, many trade unions have announced protests, requiring increase of their salaries. The average salary of 475 EUR does not receive employees in education, health, police, army and administration. Due to the decision of MPs, increase of salaries required doctors, professors, policemen, soldiers and administration. Trade Union of Health has announced the strike on 10 October 2011, unless their wages increase. Warning of strike sent the judicial administration, education and the police trade union. On the occasion of increase of salaries to MPs from one to two average salaries, reacted numerous subjects and condemned such decision as irresponsible and undeserved. Therefore, the President of the Parliament and the Government decided on abolishing the increase announced to MPs and already achieved increase to ministers. The process of adopting the Law on labor in its course. Trade unionists are not satisfied by the offered Proposal for the law because the procedures for dismissal have been simplified and do not imply conduction of disciplinary proceedings. Ministry of health has prepared a draft of Law on Amendments to the Law on health insurance by which the citizens will have obligatory health insurance that will cover 80% of services, while 20% of services shall pay citizens if they are not insured. Numerous entities criticized

the draft Law considering that it would, as such, considerably make material situation of citizens more difficult.

In this quarter, the hunger strike organized disabled person from Bijelo Polje, Bakery workers from Bijelo Polje, workers of local administration in Kolašin, requiring payment of wages and the obligations stemming from collective agreements.

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 an 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.

## **XV Conclusions and recommendations**

- In this quarter, progress in respect and protection of human rights has not been achieved. Although human rights have generally been respected, there are numerous examples of violation and inadequate treatment of institutions. Concerning areas are as follows: facing the past, violation, inhuman and degrading treatment, politically motivated violence, access to justice, freedom of expression, associating and peaceful gatherings, protection of personal data, religious freedoms, discrimination, rights of children, minority rights, status of displaced persons, economic and social rights.

- Appropriate institutional system has been built in Montenegro. However, institutions do not provide maximum efforts in protection of human rights. Some of them do not have enough capacities, and there is usually lack of sensibility for human rights. It is important to undertake measures on additional education, development of capacities and sensibility of employees in public institutions in the

following period. Judicial bodies have to conduct fast and efficient investigations that would lead to processing and adequate sanctioning of all offenders of human rights.

- Process of facing the past in this quarter was at the concerning level. Passive relationship of the state and competent bodies has been continuing. Placing the memorial to civil victims was not a good quality manner of facing the past, because before this not any verdict has been rendered for war crimes. The state did not conduct urgent and efficient investigations in processing war crimes, nor have processes of defining political and command responsibility been initiated. Even after 20 years since Dubrovnik was bombed, competent public institutions did not initiate investigation on defining any level of responsibility. Process of the return of expelled Muslims from Bukovica is not being conducted transparently and there are no criteria on which grounds would the overall process be implemented. It is necessary for competent public institutions to announce all the detail related to activities of return of expelled people from Bukovica. Prosecution office should examine eventual violations on that occasion.

- In this quarter, 12 reported cases against police ill-treatment and four reported cases against officers of ZIKS followed with statements on torture, inhuman and degrading treatment were reported. Police Directorate and ZIKS should suspend from the service officers against whom citizens file charges for torture, violation, inhuman and degrading treatment until the finalization of the control procedure, and sentenced officers for criminal offences of torture and violation should be permanently dismissed by competent authorities. The competent ones at the Police Directorate should issue orders for officers, who take into custody citizens who afterwards require urgent medical care, to be taken in medical institutions followed by other police officers. Victimization has been registered, of victims who report officers for exceeding their competencies. It is important if Internal control, Council for Civil Control of Work of the Police and competent prosecution office conduct fast and efficient investigations and if they do not allow victimization. Internal control and the Council for Civil Control of Work of the Police have to make their affairs and activities more transparent and accessible to citizens. Overcrowded of prisons is still at concerning level. It is important to conduct parole measures more efficiently and to work faster on adoption of Law on alternative sanctions.

- Politically motivated violence was emphasized in this quarter. Cases of politically motivated violence were reflected through threats, pressures, and incidents. Competent public institutions largely have not found committers. Police shall have to make additional efforts on revealing committers who would be judicially processed.

- Right to fair trial is being violated in numerous judicial proceedings and significant number of citizens does not have adequate access to courts. Lawyers and notaries tariffs are very high which significantly jeopardize the right to fair trial. Announcements of Ministry of justice on reducing notary tariffs are encouraging. We also propose to the Ministry to examine the possibility of overtaking competencies for defining lawyers' tariffs, bearing in mind that Bar Association did not accept invitation to form prices of its services, despite actual social and economic situation. Free legal aid is envisaged only for socially endangered persons while victims of severe violations of human rights may not use this right. What also causes concern is often violation of presumption of innocence in media.

- Freedom of expression is not at satisfying level. Acquittal verdicts rendered by courts in this quarter are encouraging. What causes concern are assaults on the property of daily newspaper Vijesti and failure of competent bodies to find committers of these acts. Competent bodies should made additional effort to identify committers and persons who ordered assault on the property of Vijesti. What also concerns is failure of Constitutional court to act upon the Initiative on constitutionality of Articles of Law on peaceful gatherings, submitted by YIHR more than six months ago. Constitutional court should define constitutionality of provisions of the Law urgently.

- Condition of protection of personal data is not at satisfying level. Protection of personal data is being violated in numerous examples, by acting of the reception services of institutions, hotels and mobile operators, by video and audio surveillance, and the amending and analysis of larger number of laws that are not in accordance with standards on protection of personal data is necessary. Agency for Protection of Personal Data should control all reception services, primarily hotels and mobile operators

who have not adopted legal solutions for their work yet. Agency should be more present in media and publish information on its work which would largely contribute to protection of personal data. It is important if the Agency initiate activities on education of citizens on their rights. The Agency has not conducted transparent procedures while employing staff. Institutions whose primary goal is protection of human rights have to take more care on fully transparent manners and procedures in through their work. YIHR invites the Agency to repeat the procedures of employment, and to conduct the procedure in transparent manner.

- Religious freedoms are not at satisfying level. Courts define low and inadequate sanctions for causing and inciting hatred on national, racial, or religious grounds. Low sanctions do not contribute to prevention of such a situation, but bearing in mind the heritage from the '90s, lower sanctions may contribute to development of such a situations. Therefore, courts have to pronounce higher punishments and in accordance with law, in order to contribute prevention of such situations. Police should intervene against any person who causes and incites national, racial, or religious hatred, division and intolerance, and file criminal charges, or it has to do all to register and prevent such treatments.

- Most discriminated groups are members of LGBT population, Roma, persons with disabilities, and women. Soldier Dušan Pavlović was discriminated because he was a member of a trade union, and what causes concern is the absence of reactions of competent bodies and examination of manners and causes for which he was dismissed. Increased violence over members of LGBT community also causes concern. Competent institutions should process all committers of discrimination and sanctions have to be proportional to committed discrimination. Constitutional court should urgently examine constitutionality of decision made by local authorities in Podgorica on the use of free food in public kitchen only by citizens of Montenegro. Inequality of women in politics, sport, and other social areas also causes concern. It is important if competent bodies initiate wider measures on involving women in all areas and on providing equality of their rights and status with men.

- Rights of the child still are not at satisfying level. Montenegrin legislation does not contain definition of a child in accordance with the Convention of the rights of the child. Law on protection of children and social protection is not in accordance with the Convention of the rights of the child. Montenegro has not adopted Law on juvenile judiciary. There are cases of illegal apprehension of children and detention in premises with adults. Examples of violation of children in political purposes have been registered. Competent institutions should harmonize national legislation with international standards and the Convention on the rights of the child. It is important to process each case of violation of the rights of the child and to sanction the responsible ones. The state should make more effort and provide necessary means for the work of the center and other institutions dealing with the issues, problems, and rights of children with disabilities. It is important to employ more professional staff and provide more finances for integration of children with disabilities in regular school system and the society in general.

- Rights of minorities are not at satisfying level. In this quarter were emphasized national interests and motives. YIHR expresses concern due to jeopardized civil concept of the state of Montenegro. All public institutions and politicians have to contribute to stability and development of civil values. In previous period, Fund for minorities rarely financed multiethnic projects, and while allocating finances for 2010, the Fund financed only two multiethnic projects. Such manners lead to segregation.

- Economic and social rights are still at concerning level. Increased number of strikes has been registered in this quarter due to unpaid wages, severances, and unconnected labor years of service and lack of respect of collective contracts. Pressures on trade union activists have still been lasting and Trade Union Organization of the Army of Montenegro (SOVCG) is especially endangered, as its members were dismissed and members from trade unions were expelled under pressure. YIHR invites all managers to respect rights of workers and competent public inspections to sanction each form of discrimination and violation of workers rights.