

YIHR QUARTERLY REPORT ON THE STATE OF HUMAN RIGHTS 2011

I Previous information

The second quarterly report of Youth Initiative for Human Rights (YIHR) includes information collected during the period from April 1, 2011 and June 1, 2011. In our work, we used techniques of researching on the terrain, press clipping, analysis, interviews, and SOS phone line. YIHR conducts monitoring of human rights in Montenegro for the fifth year in a row and until nowadays, our organization published five annual reports and more quarterly reports that are available on our web site www.yihr.me. The report includes areas we have identified through our previous work as concerning ones, and the accent is on the state of human rights in practice. More detailed legal analysis of standards of human rights is being prepared for the annual report. The Report has been prepared by YIHR team, with financial and expert support of Civil Rights Defenders. At the time of preparation of this Report, cooperation with CAZAS, UNICEF, UNHCR and Association of People with Paraplegia in Pljevlja, Bijelo Polje and Rožaje, has been achieved, just as in preparation of previous quarterly report.

Census was conducted in April, 2011. Statistical Office of Montenegro announced that Montenegro had 625.266 citizens, which was only 5.000 more than in 2003. The Court for Human Rights in Strasbourg rendered fifth verdict against Montenegro. Currently, there are 700 cases at the procedure, which is very large number in comparison with the number of citizens. The Government and other public bodies continued good cooperation and communication with NGO sector.

Five reports on the state of human rights were published during this period. On April 8, 2011 State Department published the report on the state of human rights in the world (www.state.gov/gdrl/rls/hrrpt/2010/eur/154441.htm) which mentioned as the concerning areas: independence of judiciary, poor treatment of persons under detention, conditions in prisons, impunity of the police, long staying under detention before the trial, freedom of expression, status of displaced and internally displaced persons, discrimination, and economic and social rights. On June 28, 2011, State Department published the Report on trafficking in the world (www.state.gov/g/tip/rls/tiprpt/2011/164232.htm). Montenegro was described as the source, transit country for men, women, and children who were victims of sex trafficking and forced labor. Victims of trafficking were mostly women and girls from the East Europe, and other Balkan countries, including Serbia and Kosovo, who emigrate or were smuggled through the country in Western Europe and afterwards forced to sex trafficking in Montenegro. The Report mentioned that Roma children were forced to begging on the streets in Montenegro, and most children were from Albania, Kosovo, Serbia, and the very Montenegro. The Report also stated that the Government of Montenegro had been making efforts but still has not been fulfilling the minimum of standards for eliminating trafficking.

Freedom House, in its Report on freedom in the world 2011, described Montenegro as free country (www.freedomhouse.org/images/File/fiw/FIW_2011_Booklet.pdf). Freedom House measures political rights and freedoms of citizens assessing the countries with marks from one to seven, where one means the largest freedoms and seven marks the lowest freedoms. Montenegro received mark three for political rights, and mark two for citizens' freedoms. Freedom House published the Report "Nations in transition" (www.freedomhouse.org/images/File/nit/2011/NIT-2011-Montenegro.pdf) which assessed that democracy was weaker than previous year. Montenegro received mark 3.82 but last year's mark was 3.79. Mark which is closer to mark one means that the country has better democracy.

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

II Institutional framework in human rights area

Ministry for human and minority rights

Ministry for human and minority rights initiated programs and workshops for education of civil servants and bearers of judiciary functions on antidiscrimination. At the end of May, the Ministry initiated antidiscrimination media campaign which covered three forms of discrimination: discrimination of disabled persons, discrimination of LGBT population, and discrimination based on gender. The Ministry worked on development of Law on Ombudsman, and the Proposal of new Law on Ombudsman is in Parliamentary procedure again, and MPs shall discuss on this Proposal at the session scheduled for July 5, 2011. Representatives of opposition parties and NGOs consider that the first proposal was of better quality and that the delay of adopting the Law was not necessary as this resulted in failure to respect international obligations and obligations arising from national legislation. Namely, Ombudsman supposed to be the National mechanism for the prevention of torture from March, on the basis of ratified Optional Protocol with the Convention against torture and other cruel, inhuman and degrading treatment and punishments. According to the national Law on prohibition of discrimination, Ombudsman should be the mechanism for the protection of discrimination. Adoption of the Law is obliged even according to the Action Plan of the Government on monitoring of conducting recommendations from European Commission's Opinion that should be adopted in the first quarter of 2011. The Law is currently under Parliamentary procedure and was discussed on April 6, 2011 by the Board for human rights and freedoms and on April 11, 2011 by the Board for constitutional matters and legislation. New Proposal of the Law clearly defines Ombudsman as the national mechanism for the prevention of torture. Proposal of the Law does not provide areas which Ombudsman would be dealing with, such as discrimination, torture, rights of children, and others. The only group recognized by the Proposal of the law was LGBT community. Proposal of the law sets the role of Ombudsman more as the advisory than the control body which is mostly reflected in a view of its role considering its work in the area of discrimination

and torture. Incomes of Ombudsman's councilors have not been equaled with the incomes of councilors at the Constitutional court. Club of MPs of Socialist People's Party (SNP) gave 23 amendments on the Proposal of the law on Ombudsman. Koča Pavlović, MP of Movement for Changes (PzP) and Ervin Spahić, MP of Social Democratic Party (SDP) gave the amendments. Board for human rights and freedoms adopted only three amendments of SNP.

Protector of human rights and freedoms (Ombudsman)

Ombudsman continued good cooperation with NGO sector in this quarter. YIHR and Ombudsman had joint action on International Day of refugees, on June 20, 2011, when they visited Roma camp in Podgorica. Office of Protector of human rights and freedoms prepared Special Report on the state of human rights of persons with mental disorders, accommodated in institutions, which was adopted at the Parliament of Montenegro. For the needs of the Report, representatives of the Institution of Protector of human rights and freedoms visited institutions where persons with mental disorders are accommodated: JU Institution "Komanski most", Podgorica, JU Center for education and training "1 June" Podgorica, Public Institution Children's Home "Mladost" in Bijela, and ZU Special hospital for psychiatry treatment in Dobrota. The Report stated that progress had been made, however, situation they found there indicated on difficult exercising of guaranteed rights for children with disabilities which reflects on their future development, qualitative and fulfilled life and specific level of their independence.¹ Office of Ombudsman prepared the Special Report on exercising rights on regaining of property rights and compensation. The budget of Protector of human rights and freedoms for 2011 is 485.945.97 EUR.

The Parliament of Montenegro – Parliamentary Board for Human Rights and Freedoms

The Parliament of Montenegro – Parliamentary Board for Human Rights and Freedoms worked actively in this quarter. In this quarter, the Board held six sessions. Among numerous topics, the Board discussed on the Proposal of law on Ombudsman, Special Report of Ombudsman on the state of human rights of persons with mental disorders accommodated at institutions, the Report of Ombudsman on exercising rights on regaining of property rights, the Report of Ministry for human and minority rights on development and protection of rights of minority people and other minority communities in 2010, and the Report on work of Ombudsman for 2010. Members of the Board visited Roma refugee Camps I and II, and organized hearing of Milan Radović, Director of Institution for enforcement of penal sanctions (ZIKS) related to the situation on ZIKS and remarks of the European Commission in Analytical Report. The Board continued good cooperation with NGO sector in this quarter.

Council for civil control of the police

Council for civil control of the police held the meeting with representatives of NGOs dealing with human rights and the control of the police, on June 17, 2011. At the meeting they spoke about cooperation of the Council and NGOs and about topics and recommendations for improvement of work of the Council in

¹ You may find the Report at web site <http://www.ombudsman.co.me/izvjestaji.php>. This page was visited on June 15, 2011.

controlling behavior of police officers. Representatives of the Council stated they processed more than 50 initiatives and complaints from the beginning of 2011 until June 17, 2011.

Fund for minorities

Fund for minorities was established by the Parliament of Montenegro with the aim to support activities important for preservation and development of national or ethnic characteristics of minority population, and other minority national communities and their members in the area of national, ethnic, cultural, linguistic and religious identity. In December 2010, Managing Board of the Fund allocated funds for projects for 2010 in nontransparent manner. Doubting that Fund for minorities did not allocate funds in accordance with Law, YIHR invited the Parliament of Montenegro and National audit institution (DRI) to conduct the control of work of the Fund. The Parliament of Montenegro did not conduct the control of work of the Fund. In the first quarter of 2011, DRI conducted the audit of Annual financial report of the Fund for 2010. In its report² from June 14, 2011, DRI stated that the overall system of internal controls, which implies the group of procedures and measures conducted by the management of the entity with the aim to provide accuracy and regularity of registering financial transactions, their full compliance with laws and efficient spending of public finances, was not defined and set in an accurate and efficient manner. In its Report, DRI stated that specific subjects did not submit financial reports on spent funds for the previous year however, the Fund approved finances for the following year. Thus, National council of Serbs did not submit financial report for 2009, although the Council received 445.570.00 EUR from the Fund. The Fund gave this Council finances in 2010, in amount larger than 200.000 EUR. Furthermore, DRI stated that elements for defining contribution of projects were provided as descriptive and general, not containing elaborate indicators for measuring results. For more than 50% of submitted reports, DRI stated they were incomplete, superficial, with too descriptive statements and without adequate financial evidences which may define real costs by project, and that they were not in accordance with contracts. Also, DRI defined that the Fund did not provide monitoring of activities for realization of supported projects nor they estimated their results, i.e. the Fund did not conduct monitoring or evaluation. Major conclusions of DRI were that Fund for minorities did not have precisely defined criteria for evaluation of projects, that it did not have indicators for measuring efficiency of implemented projects, and that it did not provide monitoring of implementation of projects and measuring of results of implemented projects, furthermore, reports on implementation of projects submitted by bearers of projects to the Fund were incomplete, superficial, and without proper financial evidences on costs which occurred on the basis of their implementation. The budget of the Fund for 2011 was 947.413.24 EUR.

Agency for protection of personal data

Law defines that the Agency shall be autonomous and independent in performing protection of personal data even as the supervising body. Competencies of the Agency have been defined by Law on protection of personal data. The Agency executes surveillance over conduction of protection of personal data, resolves requirements for the protection of rights, provides opinion on implementation of Law on protection of personal data, provides consent on establishing the collection of personal data, provides opinion if there is

² The Report of DRI from June 14, 2011, you may view at web page

http://www.dri.co.me/index.php?option=com_docman&task=doc_view&gid=91 visited on June 20, 2011

suspicious whether specific group of personal data is being considered as the collection in sense of Law on protection of personal data, monitors implementation of organizational and technical measures for protection of personal data and proposes improvement of these measures, provides proposals and recommendations for improvement of protection of personal data, provides opinion if specific manner of processing of personal data endangers rights and freedoms of persons, cooperates with bodies authorized for surveillance over protection of personal data in other countries, cooperates with competent public bodies in the procedure of preparation of regulations related to protection of personal data, provides proposals for assessment of constitutionality of law, or constitutionality and legality of other regulations and general acts which defines issues of processing personal data. In this quarter, the Agency publicly reacted several times on violations of rights on protection of personal data in media and initiated several actual issues such as contacts between Police Directorate and mobile operators, election lists, and camera coverage on different public places. Budget of the Agency for 2011 is 403.941.53 EUR.

III Facing past

Ministry for human and minority rights issued open competition on June 2, 2011, for development of architectonic and art solution of two memorial plaques. Memorial plaque named by the park in the area Pobrežje "Memorial-park to civil victims in wars 1991-2000" and memorial plaque with inscription "To civilian victims in wars at the territory of ex-Yugoslavia 1991-2000 – not to happen again". Memorial plaques shall be put in the park in Podgorica area Pobrežje.

Register of disappeared – Fund for humanitarian right (FHP) organized on April 12, 2011, in Podgorica public presentation of register of citizens of Montenegro who died and disappeared in armed forces in Slovenia, Croatia, and Bosnia and Herzegovina from 1991 to 1995. According to FHP data, 272 citizens of Montenegro disappeared in that period while bodies of 26 citizens of Montenegro have still been searching for.

REKOM – Campaign of collecting a million signatures for the support to establishing regional commission for defining facts on war crimes and other cruel violations of human rights committed from 1991 to 2000, at the territory of ex-Yugoslavia, started on April 26, 2011 in Podgorica, Ljubljana, Zagreb, Sarajevo, Belgrade, Banja Luka, Priština, and Skoplje. Almost 30 000 signatures were collected in Podgorica.

In this quarter, trials for processing war crimes committed at the territory of Montenegro were continued.

Deportations – Supreme state prosecution office of Montenegro lodged an appeal on June 15, 2011, on acquittal verdict to accused persons in the case of war crime "Deportation" and required abolition of that decision. Higher court previously acquitted ten accused persons explaining they did not commit war crime and that they did not participate in armed conflict. The process shall be continued before the Appellate court of Montenegro.

Slobodan Pejović, witness in the case of war crime Deportation, on May 20, 2011, was punished after appeals of former policeman Ranko Martinović for criminal act, on 600 EUR fine. Pejović publicly stated that Martinović was the servant of secret services and member of the organized crime.

War crime in Concentration center in Morinj – Repeated trial to accused for war crimes in Morinj started on April 14, 2011. The trial took place several times this quarter. Accused persons negated they had committed crimes. Accused Mlađan Govedarica, Ivo Gojnić, Špiro Lučić, Ivo Menzalin, and Boro Gligić, submitted criminal report at the beginning of April, 2011, to the national prosecutor of Croatia, against investigative judge of County court in Dubrovnik, Marija Donatović Dabelić, court reporter Ivana Barada, and 32 witnesses more in this court process, for reasonable doubts they had committed criminal acts of association for committing criminal act violation of official duty and competencies, and official documents forgery. Criminal charge stated that investigation judge and court reporter copied, using 'copy-paste' function, the content of interrogation of 33 witnesses from 2006, before the County court, into records on interrogations of 33 witnesses, made in 2008, in the process of providing international assistance. In this process, all accused persons are out on pretrial release except Ivo Menzalin who is under detention since March 3, 2011. The trial took place on June 7, 2011, when the President of specialized council of department for trails for criminal acts in the area of organized crime and war crimes, Judge Milenka Žižić made decision on separation of verified copies of the record on hearing of 147 witnesses before the County court in Croatia from file records.

War crime in Kaluđerski laz – A trial at Higher court in Bijelo Polje took place on April 12, 2011, and was delayed for May 9, 2011, due to sickness of accused Aco Knežević. Momčilo Barjaktarević, Petar Labudović, Branislav Radnić, Miro Bojović, Radomir Đurašković, and Boro Novaković were accused. Commander of the battalion Predrag Strugar is being trialed in absence. At the court hearing which took place on May 9, 2011, court expert Dr Mihajlo Kuliš stated that according to autopsy of six corpses he had done in June 30, 2011, he estimated that in case of one corpse death occurred three or four months earlier, while for remaining bodies death occurred a year earlier. Appellate Court in Belgrade abolished decision of Higher court in Belgrade on extradition of Predrag Strugar in the middle of May 2011, who was accused for war crimes in Kaluđerski laz. Appellate court returned the case to Higher court on repeated decision making. Strugar was arrested on October 30, 2011, in Belgrade and after hearing he was released. The trial took place on May 20, 2011 and due to illness, Aco Knežević was released from detention. Trial which took place on June 15, 2011, was delayed as well and the new deadline shall be known when the judge Drago Konatar receives opinion of doctors on health condition of accused Knezevic, when new trial shall be scheduled.

Bukovica – Daily newspapers Vijesti from Podgorica published the information on June 29, 2011, that Appellate court abolished the verdict for the case of war crime which was committed in Bukovica. As Vijesti published, Appellate court abolished the verdict for formal reasons because, according to new Criminal Procedure Code, instead of five members panel should trial three members panel composed of permanent judges. According to sources of Vijesti, the case was returned on repeated procedure. PR service of Higher court, which is competent to provide information to YIHR researcher when Appellate court delivers cases, said it this case had not been delivered yet to Appellate court and they did not have information related to this case. After first instance decision, Higher court acquitted of offences for war crimes against humanity in

Bukovica, former members of the Army of Montenegro Radmilo and Radiša Đuković, Slobodan Cvetković, Milorad Brković, Đorđije Gogić, an members of the police Slaviša Svrkota and Radoman Šubarić.

IV Torture, inhuman and degrading treatment

The Constitution of Montenegro prohibits torture, inhuman and degrading treatment and for persons in official capacity who commit violation, the Criminal Code prescribes up to five years imprisonment sentence. Convention against torture and other cruel, inhuman and degrading punishments and treatments prohibits persons acting in official capacity any form of torture.³ This implies purposeful infliction of bodily injures, physical and mental torture in order to extort confession or information, make pressure, or intimidate on any grounds.⁴ Torture on any grounds is prohibited, whether it is war, threats of war or political instability of the country.⁵

Slow processing of reported cases and small number of final verdicts are still concerning and represent large problem in Montenegro. YIHR registered reported cases of violations and torture in prisons committed by police officers.

Police torture

Police Directorate continued good cooperation with NGO sector and showed openness and readiness for future professionalization and adoption of larger level of human rights respect in practice. In this quarter, YIHR registered 11 reported cases of police torture, degrading and inhuman treatment. In this quarter, courts rendered several verdicts for previously reported cases.

Basic court in Podgorica sentenced police officer Đorđe Papić for criminal offence violation and torture and infliction of bodily injures. Papić was sentenced to ten months imprisonment for torturing Danijel Batrović and Zlatko Gošović. Court defined that on July 1, 2007, on Boulevard Sveti Petar Cetinjski in Podgorica, while controlling traffic, Papić told insulting words and then hit several times with the truncheon Batrović. In the same incident, Papić hit in the head Gošović and inflicted him bodily injury.

Case Radević – On May 19, 2011, a trial to police officer Dejan Radevic started at Higher court in Bijelo Polje due to doubts he had committed criminal offence “murder in attempt”, on damage of Asmir Dacić. Indictment stated that on December 13, 2010 in Rožaje, near family house of Iljaz Dacić, police officer Dejan Radevic while acting in official capacity of apprehending Asir Dacić, tried to kill him. The trial is in course.

³ Convention against torture and other cruel, inhuman and degrading treatments and punishments was adopted and opened for signing and ratification and accession by Resolution of General Assembly UN no/39/46 on December 10, 1984. The Convention came into force on June 28, 1987 in accordance with Article 27. Yugoslavia signed and ratified the Convention. It was published in Official Gazette (International Agreements) no.9/91

⁴ *Ibid*, Article 1

⁵ *Ibid*, Article 2

Higher court in Podgorica confirmed acquittal verdict to five officers of Police Directorate in case “Orlov let”. Daily newspapers Vijesti published this information on June 15, 2011. Five officers of Special antiterrorist police unit - Marko Kalezić, Darko Šekularac, Nenad Šćekić, Branko Radičković, and Milorad Mitrović were accused for torturing and violating Pjetar Siništaj when apprehending his sons Anton and Viktor Siništaj on September 10, 2006, in action “Orlov let”, who were also suspects for preparing terrorist actions in Malesija.

Basic court in Rožaje acquitted of charges police officers Damir Balota and Radiša Murić for committing and torturing S.B. from Podgorica, who resided and worked in Rožaje. At the beginning of 2011, S.B. reported she was tortured and violated. As media published, during the trial she changed the statement and gave up of criminal prosecution of police officers.

Incidents in this quarter

Vanja Čalović, Director of NGO MANS – At the session of National commission for implementation of Strategy for fight against corruption and organized crime, which took place on June 10, 2011, Vanja Čalović, Director of NGO MANS accused Veselin Veljović, Director of Police Directorate, and Police Directorate for illegal wiretapping of citizens almost 20.000 times, in cooperation with mobile operators in Montenegro. Čalović required from Prosecution Office to process the responsible ones from Police Directorate. Veselin Veljović, Director of Police Directorate negated claims of Čalović saying that institutions dealing with the control of the Police in this area stated that Police Directorate did not violate competencies.

Case of Pejanović – Aleksandar Pejanović from Podgorica was murdered on May 30, 2011. The same day, Police Directorate announced there were reasonable doubts that Pejanović was murdered by police officer Zoran Bulatović, after their discussion. Pejanović was known to public after statements he had been brutally beaten up by police officers after protests in October 2008, in front of the Parliament of Montenegro, on the occasion of independence of Kosovo. Higher court in Podgorica abolished on April 15, 2011 verdict of Basic court on imprisonment sentence of police officers Ivica Paunović, Milan Kljajević, and Milanko Leković for criminal offence torture and violation while assisting in case of torture over Pejanović. Trial to police officers Bojan Radunović and Dobrivoje Đuričić, after complaints of Aleksandar Pejanović, started on April 11, 2011 at Basic court in Podgorica. Pejanović accused two police officers because they did not report he had been beaten up in November 2011. Dalibor Kavarić, legal representative of Pejanović told YIHR researcher: “Prosecution Office is still passive in a view of defining the real truth and it is still obvious they do not want to go far in this, in order not to endanger other public bodies, especially the responsible ones at the Police.”

On April 1, 2011, daily newspaper Vijesti published the statement of former police officer Goran Stanković saying he had left the work at the Police after pressures that were motivated after his testifying on violations over Pejanović. Stanković told YIHR researcher that after the trial for torture of Pejanović, he was replaced to another position with no explanation. He also said that one colleague told him he had been followed and that his phone had been wiretapped. Police Directorate said they did not have information that Stanković was under pressure and added they would have checked these statements if he had reported it. In

order to protect himself from discrimination, Stanković addressed Parliamentary Board for human rights and freedoms and the Office of Ombudsman.

Case Zarić – On April 29, 2011, Radojka Zarić reported to YIHR researcher the incident which happened at night, between April 8 and 9, 2011, in Danilovgrad at the restaurant “Ana” where she worked. Zarić said that police officer who was in the civilian Momir Popović beaten up her and her colleague Dragica Milovanović. After the incident happened she went to the hospital where injuries near her eye were stated. Zarić also reported the case to the Police and submitted criminal charge to the competent public prosecutor. Zarić told YIHR researcher she doubted that the Police in Danilovgrad had intended to cover up the case. Therefore, YIHR sent letters to the Head of the Police in Danilovgrad, Council for the civil control of the Police and Internal control requiring from them to examine the case. Police station in Danilovgrad answered to YIHR and said they had undertaken all measures and actions on processing the case. They also introduced Public Prosecutor who said there were no elements of criminal act, prosecuted ex officio, in actions of police officer Popović. Internal control department of Police Directorate told YIHR that after conducting control, they defined that Popović was processed in accordance with Law and added that all measures were undertaken notwithstanding Popović was police officer. Security center for misdemeanor punished Momir Popović to 700 EUR fine for insulting and hitting Radojka Zarić twice.

Case Šćepanović – On May 20, 2011 daily newspaper Vijesti published statements of Nikola Sćepanović, a student at the High School “Braća Selić” in Kolašin, who accused police officer Nenad Anđelić for violation in order to extort from him confession he had stolen grade book from the school. As stated, the incident happened on May 18, 2011 when police officers apprehended Nikola Šćepanović, who is 15 years old, without his parents. As Nikola told Vijesti, police officer Anđelić slapped him and hit him with the truncheon over his hand. Police officer Anđelić demented statements on violation and added that Nikola’s father Milivoje was present at the hearing of Nikola. Father Milivoje Šćepanović confirmed over the phone to YIHR researcher that his son Nikola was tortured at the premises of the Police but due to some personal problems and obligations they gave up of further processing. YIHR does not have the information whether Public prosecution Office initiated investigation related to this case.

Taxi driver from Budva V.R. reported that officers of the border police physically tortured him and maltreated in Tivat on June 18, 2011. V.R. filed criminal charge against two police officers Z.D. and M.D. and added he would submit complaint to Director of Police Directorate, Prime Minister and the President. Police Directorate said that V.R. was disparaging police officers therefore he was sentenced to a fine.

Case of Stefan Vuković – Sonja Vuković, mother of Stefan Vuković from Pljevlja submitted to Public Prosecutor on April 28, 2011 criminal charge against police officers Haris Ciguljina, Miljan Knežević, and Ivan Cvijović, who were all officers at the Police station in Pljevlja. Criminal charge stated there were suspects that three police officers committed several criminal offences such as unlawful depriving of liberty, infliction of bodily injuries, unlawful torture and violation while apprehending Stefan Vuković on March 18, 2011 in Pljevlja. On May 6, 2011 Sonja Vuković reported one more case to YIHR researcher, when her son Stefan went to the premises of the Police Pljevlja to give the statement related to submitted criminal charges against police officers. On that occasion, Sonja Vuković said that police officer Haris Ciguljina attacked her son, threatening him. As Sonja Vuković said, police officer Knezevic insulted her son and they jointly tried to pull him in

the office. Sonja Vuković informed Head of the Police station in Pljevlja, Police Directorate and Internal control department of Police Directorate about this case.

Case of Jovana Mazalica – Jovana Mazalica from Pljevlja reported to YIHR researcher incident which happened on May 18, 2011, at the center of Pljevlja and later at the police premises of the Police station Pljevlja. Namely, Jovana said that police officers deprived her of liberty not explaining reasons for such an act. Two police officers who were depriving her of liberty rejected to show their identity documents. She also said they violently pulled her into police vehicle and twisted her hand and they were also searching her at the premises of the Police but in the manner of taking of her clothes. Jovana said that police officer Miljan Knežević offered her drugs, requiring from her to stay in touch and gave her his phone number to call him. YIHR introduced Internal control department of the Police Directorate and the Council for civil control of the Police with the statements of Jovana Mazalica. Also, YIHR required information related to statements of Jovana Mazalica from the Head of the Police station in Pljevlja. The Head of the Police station in Pljevlja told in its letter to YIHR that Jovana Mazalica was apprehended without using force and in the capacity of citizen for the purpose of collecting information and added there were no searching but examination of Jovana Mazalica because they had received the report she had a little bundle where might be drugs. Internal control department of the Police Directorate told YIHR that after the control, defined arguments and circumstances indicated there were reasonable doubts that police officer Miljan Knežević committed serious disciplinary misdemeanor because he gave the wrong order to police servant Danica Vučetić to conduct examination and not searching of Jovana Mazalica, because there were legal conditions for searching. Internal control proposed that Head of the Police station Pljevlja submit to disciplinary prosecutor proposal for initiating disciplinary procedure against police officer Miljan Knežević.

Luka Šipčić from Nikšić reported to YIHR that the Police in Nikšić made several failures, while investigating robbing of bookmaker places in Nikšić which damaged him at the end of trial. Šipčić claimed that he did not receive decision on apprehension and he did not receive right to legal representative, which was done a day after. Šipčić and his family did not receive the record of searching over their apartment, and statements claimed that some police officers made pressure on witnesses. According to claims, police officer C.K. invited witnesses telling them: "Tomorrow is trial, so be careful what you are saying"; on the occasion of recognition, statements said that police officers firstly showed the picture of Šipčić and then took witnesses on recognition; video from bookmaker place was not submitted to the court and Šipčić, or his legal representative; during investigation, the Police claimed that fingerprints existed but lately was not defined whether these fingerprints were fingerprints of Luka Šipčić; and police did not interrogate witness propose by Šipčić for the purpose of defining alibi. Internal control department of Police Directorate checked the statements of Šipčić after YIHR's initiative, but while conducting it they did not find elements that might lead to conclusion that policemen exceeded competencies. Council for the control of the Police defined that police officers exceeded powers because during activities of recognizing they enabled witnesses to see the picture of Luka Šipčić on monitor in the premise where they were placed before the very action of recognizing.

Milan Martinović from Berane addressed YIHR and reported that the Police in Berane treated him illegally and unlawfully and that the Court, being under pressure of the Police, was making orders on searching over his house. Martinović introduced Ombudsman with these statements, Judicial council, Internal

control department of the Police Directorate and the Council for civil control of the Police. In its reports, Martinović stated that the Police maltreated him and his family every day, searching over his house, doing all this after anonymous reports. Martinović said that the Police never found anything illegal in his house. YIHR does not have information if any of institutions Martinović had addressed, conducted checking of these statements.

Danijela Perović from Kotor reported the incident on June 11, 2011, which happened on January 21, 2011, in Podgorica. Perović accused police officers for exceeding competencies while apprehending her husband Velimir Kaluđerović. She also added they did not mention their rights and the police officers took the money from her purse not reporting that; her husband was interrogated before investigation judge without a lawyer and that after being interrogated, judge told him he might have a lawyer ex officio. Perović addressed Ministry of justice but as she said, she did not find understanding there or any reception. Danijela Perović said she would report the case to other institutions dealing with the control of the Police and judiciary.

Lindon Camaj from Malesija reported on June 29, 2011, incident which happened on June 23, 2011 at the crossing border Božaj. Lindon Camaj is musician and he was on his way to Skadar to sing. Camaj said that police officers mistook him with a driver who was illegally parked. Camaj claimed that police officer Nebojša Kuzmanović offended him and treated in degrading manner. After that, Camaj was kept in premises at the Police station in Podgorica until 4am in the morning. Police Directorate demented statements of Camaj. They said that Camaj expressed resent because he had to wait at the border and that he offended police officers. Also, they said that the incident occurred a month before Camaj reported it. Camaj demented statements of the Police Directorate he was drunk and required from the Police Directorate to prove that claim.

Srdan Turković from Mojkovac reported to YIHR researcher the incident which happened on June 28, 2011 in Mojkovac. Namely, Turković accused two police officers Mirčeta Pantović and one more police officer, whose name he did not know, for beating him up. In this incident Turković received injuries of head, arm, and chest. All this happened when Turković called the Police to intervene because he and his friend had fight with two more guests of an small restaurant in Mojkovac. When two police officers arrived, whom Turković accused, they required from him to go with them at the Police premises. Turković asked to go by himself, not to be apprehended by the policemen. As Turković claimed, police officer then started to beat him up over his head and body. Also, Turković said that police officers had beaten him up while taking him to the Police premises. Turković lodged an appeal to the Police Directorate, Internal control, and the Council for civil control of the Police, and announced he would introduce competent prosecution office with the incident. Police Directorate demented statements of Turković and said that Turković attacked the policeman and for that reason Police Directorate filed criminal charge against him. YIHR shall monitor the processing of this case and shall inform public in future reports.

Situation in Institution for enforcement of penal sanctions (ZIKS)

In this quarter, YIHR registered one reported case which is related to conditions of life there, medical treatment, and degrading treatment. Management of ZIKS has been making progress and improving conditions in prisons. However, problem of being overcrowded is still present.

Parliamentary Board for human rights and freedoms held control hearing of Milan Radović, Director of ZIKS on June 14, 2011. Hearing was organized as the eleventh activity of the Plan of the Board for the period from December 2010 until October 2011, and was related to statements of Analytical report of European Commission and activities conducted on the basis of recommendations of Protector of human rights and freedoms of Montenegro in case of Nikezić and Milić. As the major critics on condition in prisons in Montenegro, European Commission in Analytical Report mentioned the problem of being overcrowded and poor conditions in prisons. Information submitted by Milan Radović, Director of ZIKS, to Board for human rights said that the problem of overcrowded prisons still existed. Therefore, some prisons, such as the prison in Bijelo Polje, exceeds the standards of 8 m² of space per one convicted person, which means that accommodation capacities were 90, but currently, that prison has 205 convicted persons. Right to visits, which implies exercising right to family life, does not satisfy the minimum of standards. This is because premises determined for family visits or exercising right to family and married life, have not been adapted. Premises are at inadequate places where safety and intimacy cannot be provided, and children can not come in visits in such premises. These premises may only be used by married partners and may not be used by extramarital partners.

Recommendations provided by Ombudsman to Management of ZIKS in case of torture over persons under detention, Igor Milić and Dalibor Nikezić, were not fully respected, according to assessments of Ombudsman. Namely, Management of ZIKS disciplinary sanctioned only three officers however, according to Ombudsman's opinion, number of responsible officers was larger and, as seen on video, fifteen officers participate in action. Representative of opposition parties in the Board did not participate in control hearing of Director of ZIKS because they were not satisfied with arrangement of seats in the Room.

Members of family of convicted Radojica Jurašević, who died on June 11, 2011, reported to YIHR that Radojko Jurašević committed suicide and did not die after heart troubles, as stated in ZIKS. YIHR was informed that Jurašević required from Management of ZIKS to provide him medical treatment at Clinic center which was not allowed. ZIKS stated that Jurašević was taken to medical treatment out of the building of ZIKS but doctors considered he did not need treatment. Management of ZIKS said they could not leave him at home treatment because estimation of security indicated that blood feud might occur.

V Politically motivated violence

Politically motivated violence is still present. YIHR registered larger number of cases motivated by political violence.

Higher court in Podgorica, approved the verdict to brothers Stanisić on April 6, 2011, for the assault on son of Nebojša Medojević, President of Movement for changes (PzP). On October 21, 2010, Basic court convicted Vidoje and Radošlav Stanišić to eight months imprisonment for the assault on son of Nebojša Medojević. Medojević claimed it was politically motivated assault and for organization of assault he publicly accused two officers of Agency for national security (ANB), D.G. and Z.L. and assessed the assault as the threatening message in order to stop indicating in public on relations of specific members of ANB and the Police with organized crime.

Case of speech of hatred of the Priest Bogosavljević – Abaz Džafić, Director of Agency for electronic media made decision on April 7, 2011, on pronouncing surveillance measures of warning to Radio Svetigora, because on March 30, 2011, during the program “Pitajte sveštenika” (Ask the Priest), guest of the program, Priest Nikodim Bogosavljević said that Montenegrin nation was created by the very Devil and because this statement passed without any reactions of the radio host. Bogosavljević was criticized by the Metropolitan Amfilohije who replaced him from the leadership of Monastery Dajbabe.

Former police officer from Rožaje – Enver Dacić reported on April 8, 2011, to the Police in Rožaje he had received threats by death if he appears on April 11, 2011 at Basic court in Berane on his hearing and hearing of Head of the Border Police Station in Berane, Veselin Krgović, on statements related to smuggling of cigarettes. Dacić reported he had received the message on the phone saying “Listen to me Enver, this is your last message. If you come at the trial on Monday, you know what is waiting for you. Get out of the way, you will pass this well. You have a family, we are not joking. Don’t you say a word, be careful Rožajac. Watch your head, every day can be the last one” Dacić said he sent written requirement the Police, asking for the provision of security, but the Police told him he would not receive it. Igor Lukšić, Prime Minister spoke to Dacić and three more dismissed policemen from Rožaje Mithat Nurković, Hamdo Murić, and Resko Kalač, on April 20, 2011.

Dacić temporarily left Montenegro with his family on April 25, 2011 and his parents said his son received one more warning invitation from somebody from ANB, saying he should leave the country. Media published that Dacić was in some of the Western countries. Police Directorate demented statements that somebody at the top of the Police warned Dacić to leave the country.

Mithat Nurković, former police officer reported on May 3, 2011, to the Police in Rožaje that he had been assaulted twenty days before. Nurković claimed that NN person who drove vehicle ‘Ford’ tried to hit him while overtaking Nurković who also drove, and in order to avoid intention of that person, he turned from the street and avoided contact with another vehicle. Nurković claimed that vehicle ‘Ford’ was official police vehicle which had official rotation at the top. Nurković taped the incident with his mobile phone, which he delivered to the police with the charge. Police Directorate filed criminal charge against Nurković on May 4, 2011, due to false reporting. Nurković assessed that such a treatment of the Police had the aim to send him to prison and continuation of pressures on him and his dismissed colleagues. Mithat Nurković left Montenegro with his family as well, at the middle of May, 2011. As media published, Nurković told his father he would leave the country because he was afraid for his family.

Suad Muratbašić, former police officer also left Montenegro due to discrimination and pressures after indicating on corruption and crime. Suad Muratbašić claimed he lost his job because, even while he worked there, he publicly indicated on negative occurrences at the police. Muratbašić said he had to convince 34 citizens of Bijelo Polje to vote for Democratic Party of Socialist in order to stay at his job position at the Police. With his family, Muratbašić went to Brisel where he required political asylum. Muratbašić accused Police Directorate requiring severances and payment of incomes; however, as he stated, not any complaint had been processed. Veselin Veljović, Director of Police Directorate invited on June 12, 2011, former police officers to return in Montenegro, saying that Police Directorate guaranteed them security and safety.

Vasilije Miličković from Podgorica accused police officers for depriving him of liberty unlawfully, on May 4 and 5, 2011. Miličković tried twice to prevent workers of the company 'Tehnoput' to build mini ring-road round Podgorica over his property. Major problem was, as Miličković stated, their will to conduct forced expropriation of land. On May 6, 2011, Miličković told YIHR researcher he did not receive any compensation or offer for his land, nor had the exchange of land or any other valuable matter been conducted before arrival of machines and the beginning of works at his property. According to Article 28 of Law on expropriation, entering at the property shall be possible if the former owner had been paid compensation or rendered any other appropriate real estate or with the evidence that former owner was regularly invited but rejected to receive the payment of compensation.⁶ Miličković addressed Prime Minister Igor Lukšić for help, but, as he told YIHR researcher, Prime Minister did not answer. Miličković filed criminal charge against Veselin Veljović, Director of Police Directorate, Miomir Mugoša, Mayor of Podgorica, and Sasa Acimic, Director of the Company 'Tehnoput', due to, as he stated in charge 'by using force and terror, suspension of the highest legal act of the country of Montenegro and all legal acts, taking away my property, destroying my company 'M&V Company', robbing my equipment from the warehouse, leaving employees without their job positions, and their families without regular incomes for existence, depriving me of liberty unlawfully every day, my right to work, freedom of movement in my company and round my property, using severe police force every day endangering directly right to life, my life and lives of my family'.⁷ On May 16, 2011, Misdemeanor Court sentenced Miličković to 20 days imprisonment sentence for disturbing public peace and order. Miličković said that the verdict was scandalous and that judge did not want to see evidences nor listening to him. He also said he would not complain on verdict because he did not believe in judiciary. Council for civil control of the Police told YIHR that after considering the case, they concluded that police officers did not exceed competencies but were providing the assistance on execution of decision of the Real-Estate Administration, in accordance with prescribed competencies and the Rulebook on conditions and manner of providing assistance to public bodies. Administration court abolished decision of Ministry of finances by which the Ministry rejected Miličković's complaint on compulsive expropriation of his land.

Revoking of personal documents – When Ministry of internal affairs (MUP) revoked citizenship and personal documents to Predrag Popović, President of People's Party, because he possessed citizenship of the Republic Serbia, acting ex officio MUP withdrew residence and cancelled identity card of Velibor Džomić, Coordinator of legal program in Metropolitanate Montenegrin and the Littoral. They said that the reason for this was Džomić's reported residence in Kraljevo, in Serbia. Džomić announced he would require Montenegrin citizenship because he has been living in Podgorica for 17 years and due to his service in church.

Smailj Čunmuljaj publicly said on June 4, 2011 he received threats after initiating the story on checking diploma of Nikola Gegaj, the President of municipality Tuzi. Councilor at the local municipality Tuzi, Smailj Čunmuljaj publicly initiated the story that Nikola Gegaj had false diploma of Metallurgic Faculty. As he

⁶ Law on expropriation, Article 28 ("Official Gazette of the Republic Montenegro", no.28/06)

⁷ Copy of the criminal charge Miličković filed on May 8, 2011 is in YIHR files.

said, father and brother of Nikola Gegaj threatened him. He introduced the Police in Tuzi with these threats but he would not filed charges.

Trial to Metropolitan Amfilohije due to speech of hatred before the Regional body for misdemeanor was appointed on June 9, 2011. However, as Metropolitan did not appear, as Metropolitanate stated, because the invitation was not delivered to him personally, the trial was delayed for June 23, 2011. On that day, the trial was interrupted because legal representatives of Metropolitan Amfilohije asked for exemption of the Judge and the President of the court. Media did not follow the trial because there was not enough space at the court room except for five journalists who left the court room expressing solidarity to other journalists who left the room. Metropolitan is being trialed after requirement of Prosecution office for speech of hatred. The charge included the statement Metropolitan Amfilohije delivered on January 6 and 14, 2011 and the part of the letter he delivered to Igor Lukšić, Prime Minister of Montenegro. His lawyer, Dalibor Kavarić stated that judicial bodies tried to make Metropolitan silent and they also tried to present him negatively, as the one who suppresses religious and national feelings.

Milan Popović, Professor at the Faculty of Law, Esad Kočan, Editor in chief of weekly Monitor, and Koća Pavlović, MP at the Parliament of Montenegro stated on June 11, 2011, they had been receiving in the last few weeks SMS messages of insulting and threatening content. They added that messages were signed by Seki Radončić. Popović, Kočan and Pavlović said they were worried by such a treatment of Radončić because it was the part of intentions of former Prime Minister Milo Đukanović to avoid responsibility for war crime 'Deportation'. Radončić confirmed for daily newspaper Vijesti he had sent one message but did not threat, and added he would lodge an appeal against Popović, Kočan and Pavlović after expressing untruths about him.

VI Free legal aid

Law on free legal aid has been adopted on April 5, 2011, at the Parliament of Montenegro. Work on adoption of the Law was too long and key recommendations of NGO sector were not adopted.

Free legal aid had been provided until nowadays by NGOs, trade unions, ad political parties. Adopted Law on free legal aid showed that the Government considered this area not as human rights area, which is defined by the Article of the Law. Article 1 says: "For the purpose of exercising rights on fair trial to physical persona, who, due to their property situation, are not able to exercise right to judicial protection without damaging the necessity of supporting themselves and their families, free legal aid has been provided, in accordance with this law". Right to free legal aid have all citizens of Montenegro, persons without citizenship, who legally reside Montenegro, persons seeking for asylum, foreigners with permanent residence, persons whose temporary residence has been approved. Mentioned persons have right to free legal aid is they are users of material family support or any other right from social protection in accordance with the law which defines social rights and rights of children, children without parental care, persons with disabilities, victim of violence in family or family union, and trafficking and persons with low incomes.

In accordance with the Law, free legal aid implies legal advising, composing of complaints, appeals, constitutional appeals, or acts initiating the procedure of protection before European Court for human rights

and representation before court, Public Prosecution office, Constitutional court and in the procedure for resolving the out of court settlement. Free legal aid shall be approved by the President of Basic court and shall be provided by lawyers according to the order at the list of Bar Association of Montenegro.

YIHR previously provided recommendations that Law should contain following solutions: provision of free legal aid may be performed by nongovernmental organizations, professional and science institutions, political parties, trade unions, and other entities, and not only by lawyers who have been registered for provision of free legal aid; conditions citizens should fulfill in order to receive free legal aid should be simplified and free legal aid should be provided to all citizens who are socially endangered, in cases of violation of human rights, because the Proposal does not contain decision that free legal aid may be provided to victims of discrimination, torture and other severe forms of human rights violations; that the Law should be adopted jointly with the Law on prevention of discrimination, and Law on Protector of human rights and freedoms, because establishing of Fund of free legal aid has been proposed after all punishments prescribed by Law on prevention of discrimination, which should be widened with the part of finances from games of chance incomes. However, YIHR recommendations were not adopted.

Law defined that provision of free legal aid shall start on January 1, 2012.

VII Freedom of expression and gathering

Freedom of expression

Freedom of expression and gathering are still at concerning level. YIHR registered more cases which significantly endanger freedom of expression and right to peaceful gathering. On April 14, 2011, the Government adopted amendments on Proposal of the law on amendments which fully decriminalize criminal offence defamation. On June 22, 2011, the Parliament voted on amendments of the Criminal Code which prescribes decriminalization of defamation.

At the General session, which took place on March 29, 2011, the Supreme court made legal principle: If the court finds there is basis for responsibility of journalist and media, the court shall measure the level of compensation due to violation of right of a person (honor, reputation, etc), taking into account all circumstances of the actual case, and especially on: importance of offended values and consequences which arise, lasting of mental suffering, goal of compensation on non-pecuniary damage, and that the level of compensation should be in accordance with the practice of European Court for human rights and that the amount of compensation should not be discouraging for journalists and media in executing their role in maintaining of democratic values of the society.⁸ In this Legal Principle court did not prescribe the lowest and the largest limit or standard for measuring the level of compensation of non-pecuniary damage in case when it is defined that responsibility of journalists and media exists, but emphasized it should be in accordance with the practice of European court for human rights.

⁸ General session of Supreme court of Montenegro, Legal principle, March 29, 2011

Investigation of murder of Duško Jovanović – Duško Marković, Minister of justice, and former Director of Agency for national security (ANB) negated on April 30, 2011, that former officer of ANB Vasilije Mijović submitted official record published by daily newspaper DAN, which mentioned the name of witness who saw two men coming out of the vehicle, which had been used at night when Duško Jovanović was murdered. Prosecution office initiated investigation related to controversial record and interrogated the witness mentioned at the record on seeing citizens V.V. and D.M. coming out of the vehicle at night when Duško Jovanović was murdered. It was defined later that the vehicle was used in assassination and the witness saw the above mentioned citizens changing their clothes and leaving the place. Witness mentioned in the record negated he gave the information to the officer of former national security. Veselin Veljović, Director of Police Directorate announced that the official record did not contribute resolving of murder of Duško Jovanović.

Amel Grbović – On April 28, 2011 media published that police officer Amel Grbović was dismissed from the Police because he was the member of more groups, at social network Facebook, connected with the activities of opposition or groups providing critical standpoints towards the power in Montenegro. On April 28, 2011, Police Directorate announced that Grbović had the fixed-time contract but for committing severe disciplinary misdemeanor and diminished range of work at Floating unit, where he was a member, direct Head did not recommend him for prolongation of the contract, therefore, on June 26, 2011, his employment terminated at the Police Directorate.

Trial against municipality Berane and companies from Podgorica “Metropolis Media” and “Montino” for violent removing of regularly rented billboard at the center of Berane, after complaints of American citizen originating from Berane, Jovan Lončar, has been continued in this quarter. In the center of Berane, Jovan Lončar rented billboard where he put the message “Dokle više” /Until when/ and image of illegal waste disposal at the site Vasove vode. Competent bodies from municipality Berane ordered removing of billboard, because, as they stated, companies maintaining billboards did not fulfill financial obligations. Billboards were removed on August 9, 2010. At the trial which took place on June 3, 2011, financial expert Ilija Bubanja delivered the report saying there were no debts of the company “Metropolis media” towards municipality Berane. Jovan Lončar’s attorney at law Azra Jasavić, told YIHR researcher that only billboard of Jovan Lončarević in Berane was removed, which warned on waste disposal in that town.

Marko Milačić – journalist at public service of Television Montenegro (TVCG) stated he had received forced leave because on April 2, 2011 he participated at street protests organized by Facebook group “Ulicnim protestima protiv mafije” (Street protests against mafia). Milačić said that after his support to protests he was told it was not correct to participate in protests requiring depose of TVCG Director, therefore they proposed him to take a rest of perhaps a month. TVCG demented these statements and said Milačić, on his requirement, received free days, which Milačić again demented. On May 26, 2011, Milačić said that the top of TVCG told him that his contract would not be prolonged, which also expires on July 9, 2011, because his place was not in TVCG.

Basic court in Podgorica acquitted Velibor Džomić after complaints of CANU academician Momcilo Zečević. Zečević accused Džomić due to the book “Sveti Vladika Nikolaj and UDBA” written by Džomić as the reaction on the book of Predrag Ilić, former officer of SDB Serbia “Serbian church and Dahau”,

where Zečević was the one who work on the review. Zečević required 15.500 EUR for mental suffering, violation of honor and dignity.

Monitor – According to decision of Basic court in Podgorica, weekly Monitor has to pay 4.000 EUR to Judge of the Higher court Čedomir Janjević because Monitor published the text from daily newspaper DAN, stating that judge Janjević allowed barring by limitation of a verdict by which Dragan Brković, owner of 'Vektra' was obliged to pay 5.000 EUR for offending Nebojša Medojević, Leader of Movement for changes (PzP). Monitor said that the practice of punishing media has been continuing and that they apologized, which was not enough.

Case Mugoša-Vijesti – On April 28, 2011, daily newspaper Vijesti published that Judicial Medicine Institute in Belgrade defined that Dragan Radonjić, driver of Miomir Mugoša, Mayor of Podgorica was not injured in the incident which happened on August 5, 2009 in Podgorica. Basic Public Prosecution Office filed on May 12, 2011 the indictment to Basic court in Podgorica against the Editor of daily newspaper Vijesti, Mihailo Jovović and Miljan Mugoša, son of Miomir Mugoša, Mayor of Podgorica, due to the incident which happened on August 5, 2009. Jovović has been charged for inflicting bodily injuries to a driver of Mayor Mugoša, and Miljan Mugoša has been charged for inflicting severe bodily injures to Jovović. The incident happened when journalists of Vijesti tried to take a photo of irregularly parked vehicle of Mayor Mugoša. In the Third Report on implementation of obligations from the Action Plan on monitoring of implementation of recommendations from the Opinion of the European Commission, published by the Government on May 26, 2011, it described the case as the case of courts of Montenegro which is related to criminal cases due to criminal offences with elements of violence over journalists. Trial to Miljan Mugoša and Mihailo Jovović was appointed for September 7, 2011.

Čikić – Trial to Ibrahim Čikić after complaints of nine people from Bijelo Polje for defamation, continued in this quarter. Čikić is being trialed in absence. Therefore, on May 6, 2011, main hearing took place. Luka Bulatović, Karisik, Vučić Popović, Milko Kljajević, Dušan Obradović, Vukić Šuković, Blažo Marjanović, Radoman Vuković, and Radojko Veličković accused Čikić in private action due to, as stated in complaint, defamation in his book "Where the Sun does not shine". The process is in course and shall be continued on July 6, 2011.

Sulejman Muković, Director of Tourist Organization in Rožaje announced he would filed the complaint against Husein Kurtagić, Councilor of Bosniak Party in Rožaje for insulting. Muković said that Kurtagić insulted him at the one of the sessions of Municipality Rožaje saying "I don't want to comment a person dealing with everything except its own business, dealing with the street, bars, and personal conflicts".

Trial to Slobodan Pejović, witness in the process for the war crime deportation, trial against him and after complaints of Dejan Mrdak, higher functionary of ANB, for defamation which started in March and was continued on May 10, 2011. Pejović said he did not feel guilty and that he believed he did not defame or offend Mrdak. The trial shall be continued in September 2011.

Basic court in Podgorica discontinued the procedure against MANS on May 12, 2011, after complaints of Natasa Brajovic, leading inspector of protection of space, for compensation of non-pecuniary

damage for mental suffering. The court discontinued the procedure because Brajovic and her attorney-at-law did not appear at the appointed trial.

Trial to Dobrilo Dedeić after complaint of Slaven Radunović, Vice President of New Serbian Democracy (NOVA) was continued in this quarter. Radunović accused Dedeić because he said that Radunović took the money from businessman Veselin Barović for transformation of NSD. At the trial which took place on May 11, 2011, MPs of NSD Novica Stanić and Budimir Aleksić testified, who also said they were not familiar with the situation when Radunović took the money.

Complaint against DAN and Police Directorate – Former police officers Resad Kalač and Hamdo Murić filed complaints against daily newspaper DAN and Police Directorate for publishing the video showing two police officers at their job position and the third person who gave them something, and as DAN published on May 20, 2011, the Police suspected it was money. For compensation of non-pecuniary damage for mental suffering, violation of honor and dignity, they required from DAN and Police Directorate to pay them 20.000 EUR.

Jasmina Muminović and Vijesti were acquitted by Basic court in Podgorica after complaints of Safet Kalic from Rožaje, who accused Muminović for violation of honor and dignity. Kalic filed complaints against Vijesti after this daily published texts on his apprehension at the Police.

Trial for endangering the team of daily Vijesti started on May 26, 2011 against Marko Piper and Slavko Musić. Marko Piper did not answer invitations of the court and shall be trialed in absence. Piper and Music have been charged for threatening and endangering safety of Olivera Lakić, journalist of Vijesti, on January 31 and February 3, 2011. The trial, which was delayed twice, shall be continued on July 21, 2011.

Trial against journalist of Vijesti Samir Adrović for defamation and after complaints of Sreten Glendža continued in this quarter. Glendža filed the complaint after the text “Chief of the criminas convicted for the war crime” that was published in Vijesti, on August 30, 2007. At the trial that was appointed for May 31, 2011, Glendža did not appear due to his health condition and the trial was delayed. Adrović was twice acquitted of judgment but the Higher court abolished the first instance verdicts. The trial finished on June 15, 2011 and the final acquittal verdict for Adrović was rendered on June 17, 2011.

Basic court in Pljevlja suspended the procedure for defamation, on June 6, 2011, against Mitar Rakčević, Dražen Živković, and Božidar Jelovac, journalists of DAN. Samir Vranja accused them for defamation, after publishing texts “Persons from Pljevlja agents of Bosnian UDBA” and “First the massacre, then voting”. Texts mentioned parts of the book of Semir Halilović where Vranja was marked as the person who provided assistance to the Army of BiH on execution of assaults on Čajnice, over Montenegro. Before imposing the verdict, Vranja withdrew the complaint and Judge Ljiljana Popović suspended the procedure.

Trial to Vijesti after complaints of Radošav Živković for compensation due to mental sufferings, ended on June 9, 2011. Živković accused Vijesti after publishing the text from September 2009 “Assault for discussion at the bar” where journalist wrote that Zivkovic was apprehended for organizing assault when Molotov cocktail was thrown under the vehicle and the motor bike in the garage of an family house in Podgorica. Zivkovic required 17.000 EUR compensation.

Trial to Vijesti after the complaint of judicial expert Zoran Senić was continued before the Basic court in Podgorica. Zoran Senić accused Vijesti for the text published on February 1, 2010, “Đakonović: Why is the Prosecutor silent”. According to Senić, the text expressed false statements. Senić required payment of 20.000 EUR by Ljubisa Mitrović, Editor in Chief of Vijesti, and Veselin Đakonović, Director of Auto Moto Association of Cetinje, for mental suffering.

Freedom of gathering

YIHR and Center for Democratic Transition (CDT) invited the Government of Montenegro on April 11, 2011, to access to development of the new Draft of Law on nongovernmental organizations, considering that the text done by the Government did not satisfied legal and democratic standards or the needs of Montenegrin civil sector. Two organizations submitted recommendations for development of new Draft of Law on nongovernmental organizations. Recommendations based on comparative analysis of the law which regulates the work of NGO in neighbor countries and Central and Eastern Europe. YIHR and CDT invited the Government to form the new working group for development of Law on nongovernmental organizations or to include in work the existing one more entities interested in it, who may contribute to development of regulative of a better quality in this area. The first recommendation is preparation of new Draft of the Law because it has been assessed that the offered Draft had numerous failures. Major failures were as follows: the Draft has been adjusted to the existing state, and does not move towards improvement of the state, the Draft supports poor practices, especially nontransparency. Also, the Draft is full of formal and legal failures and legal and technical inaccuracies which makes some provisions unreasonable and contradictor to other provisions of the Draft. It has been stated that the work on preparation of the text of the Draft was not inclusive and that the Council for cooperation with NGOs was neglected. Therefore, YIHR and CDT gave recommendation saying it was necessary to form the new and larger working group for development of new text of the Draft. Offered Draft of the law was not clearly defined, in terms of lack of clear provisions that would be valid only for some forms of associating such as nongovernmental organizations, foreign nongovernmental organizations, nongovernmental foundations, endowments, and professional societies. The Draft also did not adequately define the issue of transparency in the work of NGOs associations. Therefore, lack of will for transparent defining of this area is also evident in the part which defines the work of bodies of public administration competent for the affairs of administration, and in the part defining the work of nongovernmental organizations and the manner of allocation of funds to nongovernmental organizations. One of the most controversial issues is the issue of unarranged register of nongovernmental organizations, and provision of legitimacy to diminished control inside specific nongovernmental organizations – starting from the Assembly, which is managing and decision making body and the control body (because it adopts financial reports, etc.), practically enables that decision making body controls itself in implementation of that decision. Besides these general recommendations, YIHR and CDT gave concrete recommendations on articles of the offered Draft.⁹

⁹ You may view recommendations of YIHR and CDT at the web site <http://www.yihr.me/wp-content/uploads/2011/04/CDTYIHR-Komentar-Nacrta-zakona-o-NVO.pdf>

On April 11, 2011, YIHR delivered the Initiative to the Constitutional court for the assessment of constitutionality of Articles 10, 11, and 26, of Law on public gatherings. These articles of the Law, contrary to the Constitution, provides the possibility of prohibiting peaceful gatherings by the competent body, while the Constitution provides that peaceful gatherings may only be temporarily limited. Media published the information that Police Directorate in two previous years prohibited more than 200 peaceful gatherings. The Police prohibited peaceful gatherings mostly to workers who wanted to express publicly their dissatisfaction in terms of violation of their labor rights and to invite the competent ones to resolve their problems. As the excuse for prohibition of peaceful gatherings, Police Directorate often mentioned endangering of traffic. The Constitutional court still has not act upon the initiative of YIHR.

Threats to Ljubica Gojković – PR of the Facebook group named “Street protests against mafia” and NGO Libertas, Ljubica Gojković submitted the report to Police Directorate on April 9, 2011, against NN persons for constant intimidation via SMS and phone calls. The statement of the Facebook group said that Gojković gave the phone number and the content of SMS she had received. On April 11, 2011, NGO Libertas said that Public Prosecution Office did not allow requiring of the listing from Telenor mobile network, notwithstanding evidences on intimidation of Gojković via SMS. Statement also said they had received these information from the Commander for public peace and order.

Robert Velašević – President of NGO Libertas was sentenced to 825 EUR fine before the Regional body for misdemeanor in Podgorica, on April 18, 2011, for organizing the protest walk on March 30, 2011. As Velašević claimed, three days before the protest, he had reported to the Police that the protest would take place. Gathering of citizens was peaceful and, as Velašević said, only endangering of traffic occurred.

Inhabitants of the suburb Beranselo near Berane started again blockade at the waste disposal site on Vasove vode, on May 14, 2011, in order to prevent trucks of the Public Utility Company delivering waste at this waste disposal site. The Police intervene on May 19, 2011, and broke the blockade, and trucks of the Public Utility Company delivered waste at this site. Inhabitants lied on the road when trucks arrived and police officers removed inhabitants from the road using force. Police did not process misdemeanor charges against inhabitants. Inhabitants claimed that waste disposal site did not have operational license and Public Utility Company from Berane delivers waste at this waste disposal site against the Law.

At the concert of Croatian bend Lolobridida, which took place on May 16, 2011, on the World Day of fight against homophobia, at the terrace of Cultural and informative center Budo Tomovic, unidentified person threw tear-gas. The Police did not announce whether they had identified person or persons who threw the tear-gas. After the concert, incident happened when the group of boys attacked a boy and a girl who were at the concert. As daily Vijesti published on May 18, 2011, personal data of a boy and a girl were known to them. Group of boys physically attacked them, hitting them with hands and legs. The Police told Vijesti that two LGBT members were attacked but they did not report the case for personal reasons.

Trade union organization of the Army of Montenegro (SOVCG) – Competent people at the Army of Montenegro (VCG) initiated two disciplinary procedures against Nenad Čobeljić, President of SOVCG, for providing information about the state at the Army to media. The first process started on April 19, 2011, and

was delayed because attorney-at-law Vladan Bojić, who represented Čobeljić, required exemption of disciplinary commission, disciplinary prosecutor, Head of the Army Headquarter, Dragan Samardžić, and Boro Vučinić, Minister of Defense. The second disciplinary procedure was initiated on May 26, 2011, after decision on disciplinary procedure because Čobeljić gave statements to media. On April 29, 2011, Dragan Samardžić, Head of VCG Headquarter, received the delegation of SOVCG after representatives of SOVCG publicly required several times meeting with Boro Vučinić, Minister of defense. On May 3, 2011, SOVCG issued the statement on the occasion of meeting with representatives of VCG and Ministry of defense. The statement said: “In introductory part, Dragan Samardžić, Head of VCG Headquarter said he personally never made pressures or ordered anything similar. Furthermore, he said he would visit all units of VCG, immediately after holidays, with the aim to provide termination of pressures on members of SOVCG and employees, that new formation of the Army was not purposefully formed for the sake of confronting to trade union organizing and that appointments in regards to the new systematization would be exercised according to professional capacities and that membership in SOVCG would not be taken as negative side. Furthermore, he required from the management of SOVCG to deliver him the list of persons who suffered any consequences in terms of trade union organizing, in order to undertake the measures to remove them. Samardžić also said that initiated processes before competent bodies should be continued which SOVCG approved. Samardžić also required again the requirement for conditions that should be provided to Trade union organization and that he would undertake all measures to provide it. In addition, on SOVCG management requirement he said that trade union premises in barracks ‘Masline’ would be used in future every day without limitations. Samardžić said he would, in the sense of trade union work and organizing in VCG, provide all rights and conditions trade union organizations of Armies of European countries have. Management of SOVCG would be provided to inform all its employees in units and in that sense all logistical support would be provided.¹⁰ It was announced that the meeting would be continued. However, Čobeljić said on May 12, 2011, that elimination of consequences of pressures and anti-trade union discrimination towards members of SOVCG did not occur. Čobeljić also said they were concerned at SOVCG because conversations were not continued. Dragan Samardžić reacted on May 13, 2011, and said that statements of SOVCG were inappropriate and negative towards professional soldiers because uncontrolled data were provided to public, and also added that order was issued to the Commander of logistical base to provide trade union using of premises for work. On April 19, 2011, group of intellectuals sent the public appeal to the highest public bodies to provide the right on trade union organizing to employees at VCG and to protect employees.

Protest in front of the building of the Municipal Assembly Bijelo Polje – Former employees at the factory Lenka from Bijelo Polje organized on June 1, 2011, hunger strike in front of the building of Municipal assembly Bijelo Polje requiring connection of labor years of service, payment of incomes, and resolution of labor and legal status. Communal police took away their blankets and pillows and filed misdemeanor charges against employees for taking over the space in front of the building. Local self government stated that employees might not strike in front of the building because they were disturbing

¹⁰ You may view the overall statement at the web site of SOVCG at <http://sovcg.me/vijesti/sastanak-rukovodstva-sovcg-sa-delegacijom-ministarstva-odbrane.html> The web site was visited on May 4, 2011

functioning of the local administration and were also disturbing arrival of clients, guests and officials who entered the building with difficulties. Employees who were on strike said they had reported the protest and added they would not leave the space in front of the building of local self-government. On June 7, 2011, Communal police took the banners when one of communal police officers came out of the vehicle and without a warning took the banner from employees. Strike was disrupted on June 10, 2011, when the agreement with employer was achieved with the assistance of Aleksandar Žurić, Mayor of Bijelo Polje. Labor years of service were connected to employees, severances were paid as well, and the status for applying at Employment bureau.

Prohibition of gathering of former workers of ‘Radoje Dakić’ – The Police prohibited several times gathering of former workers of the company ‘Radoje Dakić’. Last time, the prohibition of their gathering was imposed on June 29, 2011. The Police stated that the reason for that was the possibility of endangering traffic.

VIII Religious freedoms

The Government of Montenegro provides financial assistance only to large religious communities, but smaller religious communities do not receive financial support. In 2010 and 2011, the Government provided financial support to four largest religious communities. In 2010, the Government almost 95 thousand EUR to Metropolitanate Montenegrin and the Littoral and Diocese Budimljansko Nikšićka (which belong to Serbian Orthodox Church-SPC), 88,5 thousand EUR to Montenegrin Orthodox Church (CPC), 55,7 thousand EUR to Islamic community, and 17,9 thousand EUR to Catholic church. In 2011, until May 31, 2011, the Government allocated almost 25 thousand EUR to SPC, 65 thousand EUR to CPC, 13 thousand EUR to Islamic community and 11 thousand EUR to Catholic Church. Minority religious communities received finances from the Government neither in this quarter nor previously. YIHR required from the Government information on number of registered small religious communities, in accordance with Law on access to information, but we have not received that information yet.

Prime Minister Igor Lukšić, and the Secretary of Vatican Tarcisio Bertoneo signed the Founding Agreement (New Concordat), which prescribes the possibility of establishing religious school by the Catholic Church in Montenegro and resolution of restitution of the church property. Prime Minister Lukšić announced that the Government would establish department in Ministry of human and minority rights that would deal with church issues that have not been the competency of any ministry until nowadays. Prime Minister Lukšić said that the new law on religious freedoms is developing and would substitute the current one from 1977.

Restoration of the church on Sveti Stefan – Metropolitanate Montenegrin and the Littoral and inhabitants of Sveti Stefan started on April 16, 2011, not previously receiving constructing license, restoration of the Church Sveti Aleksandar Nevski. Republic Bureau for protection of cultural monuments made decision on April 20, 2011, on suspension of works on restoration of the church. On April 21, 2011, Inspection for the protection of spatial tried to demolish part of restored church of Sveti Aleksandar Nevski, as media published. However, the incident between Police and inhabitants who opposed demolition occurred. Only that day, the Inspection prohibited works on church. Metropolitan of Montenegrin Orthodox Church Mihailo announced on April 24, 2011, that the church on Sveti Stefan was the same as the church on Rumija and that devastation of

monuments was brought in issue. On May 5, 2011, the Government announced that the Church Sveta Gospoda /Our Blessed Lady/ from 15th century would be reconstructed. Metropolitanate Montenegrin and the Littoral welcomed the decision of the Government. Walls of the started reconstruction were demolished on May 8, 2011, and work on that church shall be continued at autumn, after tourist season.

Tourists from Croatia – On May 9, 2011, CPC accused SPC because priests of SPC of Monastery Ostrog maltreated and insulted group of tourists from Croatia, who visited Monastery Ostrog. They were required to kiss relics and when they did not do that, tourists faced with provocations and insulting in the nearby restaurant.

Velibor Džomić, Coordinator of legal counsel of Metropolitanate Montenegrin and the Littoral publicly announced on June 9, 2011, that in the last two years, clergy and monastic life were exposed to maltreating by negligent members of Ministry of internal affairs (MUP) of Montenegro. Reason for Džomić's reaction was the action of the Police conducted by the Border Police station of Nikšić on identifying religious persons who perform religious service but who did not report their residence in Montenegro. Namely, Police Directorate said in its statement from June 8, 2011, that Border Police station in Nikšić filed misdemeanor charges against five citizens of Bosnia and Herzegovina and three citizens of the Republic Serbia, because they did not report their residence at the territory of Montenegro, after visiting religious objects of Mitropolitanate. Džomić said that numerous complaints on decision on not allowing residence, were submitted to MUP but answers to some complaints have been waiting for years. On June 14, 2011, MUP demented they were making pressures and pursuit of priests of Metropolitanate and added they were conducting Law on foreigners. On June 17, 2011, Metropolitan Amfilohije said that unless pressures stop they would require protection of international institutions. According to information from Metropolitanate, almost 60 priests delivered requirements to MUP for approval of temporary residence and added that in the last two years neither any priest received approval for temporary residence nor decision has been made on their complaints on the first instance decision.

Assault on Jehovah's Witnesses – Zoran Lalović, member of the Christian religious community Jehovah's Witnesses reported to YIHR researcher the incident which happened on April 17, 2011 in Danilovgrad. That evening, Zoran Lalović and other members of that religious community should held public gathering in County museum in Danilovgrad. Gathering was regularly reported to Police Directorate. Before the beginning, as Lalović said, gathering was interrupted by supporters of SPC lead by priest Slobodan Zekovic. Lalović said that priest and other people who arrived with him threatened and insulted members of religious community Jehovah's Witnesses. He reported this case to Police Directorate and announced he would file criminal charge against responsible ones.

Siniša Smiljić, Rector of SPC from Budva was deported on June 29, 2011, from Montenegro. Smiljić was the citizen of Bosnia and Herzegovina and he has been residing Montenegro for a long time. Police Directorate stated that Smiljić was deported because he did not resolve the issue of residence in Montenegro and for violating Law on public peace and order. The Police stated he was prohibited to come in Montenegro for one year, explaining it was due to Smiljić's violation of public peace and order. Metropolitanate Montenegrin and the Littoral reacted and stated it was violation of religious rights and freedoms.

IX Discrimination

In the frame of the program “Exercising human rights”, at the end of May, 2011, Ministry for human and minority rights initiated media campaign on antidiscrimination. The campaign covered three forms of discrimination: discrimination of disabled persons, discrimination of LGBT population, and discrimination on the basis of gender. As the Ministry said, visual identity of the campaign done NGO “Cenzura Plus” from Split, and the campaign has three slogans that would mark three segments of the above mentioned forms of discrimination. Group of NGOs for human rights from Podgorica criticized the campaign and required from the Ministry to stop the campaign because they claimed that the project was superficial and formal, and was not focusing on real challenges of endangered groups. Among all, NGOs added that Roma as the group which is the most endangered group in Montenegro was not covered by the campaign/

On June 13, 2011, NGO CEDEM published the results of statistical research of perception of citizens of Montenegro on discrimination of minority population and marginalized social groups.¹¹ According to results of this research, Roma are the most discriminated minority population in Montenegro. Disabled persons are at the second position, and at the third position are representatives of homosexual orientation. The lowest chances for employment have Roma and disabled persons, and the poorest treatment in a view of health protection, education, and judicial treatment have Roma population.

Discrimination of disabled persons – At the session which took place on May 19, 2011, the Government of Montenegro adopted the Proposal of a Law on prohibition of discrimination of disabled persons. Danilo Popović from NGO Association of deaf persons stated on May 5, 2011, that the Real-Estate Agency took away 200 square meters in Cetinje to this NGO and registered it in national property. Popović announced he would file complaint unless they return the property to this NGO.

Numerous institutions in Montenegro have not been adjusted to disabled persons. Mira Topovic, Secretary of the Association of persons with paraplegia in Pljevlja, told YIHR researcher that out of five schools at the territory of Pljevlja only one school has been adjusted for disabled persons who used wheelchairs, Center for social labor, and Employments Agency have not been adjusted, the building of Municipality Pljevlja was partially adjusted, Health care center has adjusted entrance while the Center of the Army where cultural events are being organized has not been adjusted. Milonja Magdalinić, President of Association of persons with paraplegia in Rožaje told YIHR researcher that this city does not have any institution that is adjusted for the access of disabled persons. This association in Rožaje has 60 members. Magdalinić said they may not access to Health care center unless other persons carry them in and added that this town did not have marked spaces for parking. Milka Stojanović from Association of persons with paraplegia of Montenegro told YIHR researcher that the building of municipality Bijelo Polje, Center for culture, Employment Agency were partially adjusted, and although Center for social labor had ramp for the first floor, it was unavailable because of trees in the yard, building of Pension and Disability Insurance, building of Health care Bureau, building of the Police, and Ministry of internal affairs where identity

¹¹ You may view the research of CEDEM at the web page <http://www.cedem.me/index.php?IDSP=1430&jezik=lat>
The web page was visited on June 25, 2011.

documents are being issued, buildings of courts, high schools and faculties, and hotels have not been adjusted. Out of three elementary schools in the town, only one is adjusted while out of eight banks only three of them are adjusted. Hospital and posts are adjusted also. Even in Bijelo Polje parking space is not marked for disabled persons and sidewalks for disabled persons are not adjusted for movement of disabled persons in wheelchairs.

Duško Nedović from Bijelo Polje, reported YIHR in that he could not qualify for severance pay of 36 average salaries, although there is a solution he had a physical impairment that is caused by injuries at work. Nedović was declared redundant at the Health Centre in Bijelo Polje, where he worked. Nedović had a hand injury and injury of an eye, which made him unable to see 95%. Nedović announced filing a complaint against the decision made by the Pension and disability insurance that he was not a person with disabilities.

The case of Andrija Samardžić - Based on information YIHR received from Ministry of Sustainable Development and Tourism, according to the Law on Free Access to Information, the inspection control, after reports of Andrija Samardžić saying he was discriminated in the restaurant "NIN", was carried out on November 17, 2010. Inspection control determined that on November 5, 2011, Radoš Pavičević, the owner of the restaurant "NIN" rejected to provide the public - catering service to the person with disabilities Andrija Samardžić, who had the guide dog whom he used to help the movement. The Department for inspection control submitted on December 6, 2011, a request to Ministry of Tourism for initiating criminal proceedings against the owner of the restaurant "NIN". The Ministry has scheduled the trial for June 27, 2011. YIHR has no information from the trial and the case will be monitored and we shall provide statements on this case in future reports.

Discrimination against Roma - Isen Gaši, President of the National Council of Roma publicly reacted to a statement by the Mayor of Podgorica Miomir Mugoša that Roma would not be able to use the Public kitchen, which is planned to be opened in Podgorica at the settlement Konik. Isen Gaši said that in that manner the Mayor commits discrimination against the most vulnerable population in Montenegro, violating in that manner human rights to equality. YIHR formerly invited competent bodies at the Capital Podgorica to provide Roma free meals in Public kitchen. It was announced that the kitchen will be operational in July.

On April 14, 2011 **Municipality of Bijelo Polje** submitted to YIHR, on the basis of Law on free access to information, a copy of the petition submitted by the citizens of local communities Ribarevina to the competent bodies at municipality of Bijelo Polje. Specifically, the petition states that the citizens were against changing religious and ethnic structure of the village. The petition was signed by more than 180 citizens of this local community. YIHR has no information whether work on the building, intended for Roma population, continued. This is not the only case of organizing protests by citizens due to the construction of buildings for Roma. In the same manner protested inhabitants of the village Ozrinići, near Nikšić on March 24, 2011, and signed a petition against the construction of three apartment buildings for Rome.

Discrimination based on nationality and religion - Veselin Krgović, Head of the Border Police was interrogated at Basic Court in Berane on April 11, 2011 after the request for initiating investigation against him, submitted by a former police officer Enver Dacić. Dacić accused Krgovic for religious and ethnic discriminated as a parent.

Slaven Radunović, MP of New Serbian Democracy announced on May 11, 2011 that the diplomatic - consular network in Montenegro had no Serbs and that ethnic proportional representation was not in accordance with the ethnic representation in the society. Minister Milan Roćen demented statements of Radunović and explained that diplomatic network employed and appointed professionals not taking into account nationality.

Discrimination against women - Research on the knowledge and implementation of Law on Gender Equality in institutions of Montenegro, which was conducted under the project of the OSCE Mission in Montenegro "Capacity Building of the Parliament of Montenegro" in cooperation with the Board for Gender Equality of the Parliament of Montenegro, showed that the largest discrimination against women is in the employment process, each legal and factual distinction or privilege by gender and disproportionate representation of women in political and public life and in electing for leading political function; then, unequal treatment and unequal opportunities, unequal payments for equal work, discrimination in family and the use of the words in the masculine as a generic neutral form for masculine and feminine gender. The research was conducted in 61 institutions on a sample of 252 respondents. Ayla Van Heel from the OSCE said at the round table on June 27, 2011 that Montenegro was at the last place among countries in the region with an average rate of 11 percent of women in political life. Female MPs at the Parliament of Montenegro sent the letter on June 27, 2011 to the President of the Parliament of Montenegro Ranko Krivokapić to introduce into electoral law obligatory norm on the participation of 30% of women on electoral lists.

Discrimination of LGBT – At the end of April 2011, after announcements of the Pride Parade on social networking site Facebook, appeared more cases of threats and hate speech against the organizers and participants of the Parade. As the media reported the Police received eight charges. Police began an investigation in this regard. It was not stated whether any charge was filed against any person or a misdemeanor criminal charge. Two NGOs, LGBT Forum Progress and Center for Anti-Discrimination EQUISTA filed the lawsuit on May 9, 2011 for discrimination, against Slobodan Radonjić, University Professor, due to his views he had expressed to media about the Pride Parade. Two organizations stated that Professor Radonjić expressed standpoints that offended and humiliated citizens of Montenegro who are homosexual and that he called and addressed them as the sick, unhappy and unfulfilled.

Zdravko Cimbalević, Director of the NGO LGBT Forum Progress, said on June 15, 2011 that the incident happened in the building of Ministry for human and minority rights here he pasted fliers (as the sign of protest against homophobic statements of Ferhat Dinoša, Minister for Human and Minority Rights. Cimbalević announced that the Security from the Police Directorate stopped him, and police officers took him from the third floor at the ground floor, where they had informative conversation. On that occasion, the police officer pulled Cimbalević, because he opposed to leave the third floor. Cimbalević stated that the aim of his performance was expressing dissatisfaction on behalf of all members of the LGBT community, who are still afraid to reveal their sexual orientation.

Discrimination against workers - Former workers of Jugopetrol, Veselin Stojanović and Dimitrije Zečević told YIHR researcher they were discriminated and illegally lost their jobs in Jugopetrol. They said that were blackmailed and cheated. Stojanović and Zečević found they lost their jobs because they did not agree on the settlement their employer offered as compensation, because as a fixed-term workers they received

lower wages than their counterparts who had contracts for an indefinite period. For that reason, they required compensation through the court. Some workers who had a contract for fixed working hours received lower wages, for to six years, than their counterparts who performed the same job, but they had contracts for indefinite working hours. In a letter to YIHR, Ioannis Geroulanos, Executive Director of Jugopetrol said that employment of Stojanović and Zečević terminated on May 5, 2009, upon their request.

Trade union of the Aluminum Plant (KAP) addressed on June 6, 2011, Ministry of Labour and Social Welfare and the Labour Inspectorate in Podgorica, stating that workers of Aluminum Plant have been discriminated by the Management that also violated their trade union rights and freedoms, stating that the Management ordered the accounting services to reduce their salaries for May because they belonged to the Trade Union of KAP.

X RIGHTS OF CHILDREN

Montenegrin legislation on children's rights is not fully compliant with international standards. Some inconsistencies and omissions in implementation of adopted laws and accepted international standards still exist. Law on Social and Child Protection is not in accordance with the provisions of the Convention on the Rights of the Child. Harmonization of the Law is in progress. As the Government announced, the law will be adopted during 2011 year. At the session in October 2010, UN Committee on the Rights of the Child adopted a set of recommendations for Montenegro, which emerged after consideration of three reports. The Committee emphasizes the necessity of harmonization of the part of legislation with the UN Convention on the Rights of the Child, the need for more efficient law enforcement and concern for the lack of capacity in the functioning of institutions dealing with the policy of planning, monitoring and protection of children's rights.

The law that regulates the field of juvenile justice has not been adopted yet. The adoption of this law, according to the plan of the Government, has been planned for the third quarter. Currently, Montenegro juveniles who are in conflict with the law are treated under the provisions of the criminal legislation and the Criminal Code and the Criminal Procedure Code, but there are no specialized judges for juveniles. However, the practice noted increasing use of alternative measures for minors.

So far, the Ombudsman had a deputy in charge for children's rights. The new Law on Protector of Human Rights and Freedoms has not been adopted although it was prepared in 2010, which is limiting factor in allocating additional resources within the office that would be aimed at protecting the rights of the child. The role of Ombudsman and its capacities in monitoring of children's rights are still very limited.

Council for the Rights of the Child as an inter-ministerial body that monitors implementation of regulations related to the protection of children, protects and improves children's rights and initiates the adoption of regulations in this area has not been active enough in policy planning and setting priorities, its capacities are limited and the mandate does not covers all areas related to children's rights. In March, the Government invited NGOs to appoint its three representatives in the work of the Council, and the inclusion of children in this body was also announced. The inaugural session of the Council for the Rights of the Child was held on June 17, 2011.

The report prepared by the office of Protector of human rights and freedoms on the state of human rights of persons placed in special institutions, stated that the Children's Home "Mladost" in Bijela did not provide adequate conditions for living and working with children with disabilities. The report noted that besides conditions that were not in accordance with international standards, there were not enough professionals working with children. Furthermore, the report stated that "work with these children is not particularly organized and adjusted to their psychological and physical abilities; there are no individual programs of work for children with disabilities. Children with disabilities living in peer groups that have less than twelve children, which is not in accordance with international standards providing for work in small groups. Such organized groups do not provide successful implementation of daily activities on the schedule, since children with disabilities are not able to participate equally with other children and fully meet the envisaged activities. Rooms in which children are staying were not architecturally adapted for movement and access for persons with reduced mobility"¹²

The media continued to report on topics in which children are involved, in such a manner that is inconsistent with ethical standards and even with the applicable regulations. In this quarter, media reported in such a manner that the identity of the children could be detected, and the children were qualified either as victims or as offenders. The concrete example is the case of three girls who reported over the custodian parents they were abused when they were in the children's home. At the beginning of April, three girls reported, over their custodian parents, that in Children's Home "Mladost" in Bijela and in Children's Recreation Center in Ivanova korita, they were violated, raped, and tortured by other inmates and were starved by employees at the Home. Ministry of Labour and Social Welfare established the Commission on April 4, 2011 that investigated statements of these three girls. Suad Numanović, Minister of Labour and Social Welfare said on April 14, 2011 that after investigation of statements, the Commission made conclusions that there was no rape and sexual abuse of girls but there were doubts that this was a false reporting by adults in their closest surroundings, and that there were no starvation, physical torture, beatings and other forms of violence. Publishing these statements on abuse of girls, media published information which may reveal the identity of girls. Agency for Personal Data Protection reacted and warned media that presentation of facts that may lead to revealing the identity violates the Law on Protection of Personal Data. Higher Public Prosecution Office announced on April 4, 2011, that it initiated pre-trial proceedings concerning the reporting and received information about rape and violation of three girls. Prosecution Office adopted the requirement of the girls' father on an independent commission determining whether girls were abused and raped in a children's home in Bijela and the Recreation Center in Ivanova korita.

The boy, who had been withdrawn from the primary school "Radojica Perović" after the incident that took place on March 15, 2011, in that school, was enrolled in another school. Slavoljub Stijepović, Minister of Education and Sports, bring the boy in the new school on April 4, 2011, and spent the day at school with the boy. Media continued to report on this event in a way which marked the boy as violent and troubled students.

¹² Special report on the state of human rights of persons with mental disorders accommodated in institutions, Ombudsman

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

XI Minority rights

National minorities - The Parliament of Montenegro has extended the deadline for adoption of the electoral law for the sixth time. This time the deadline was determined for July 31, 2011. This law should define the constitutionally guaranteed right of national minorities to proportional representation. Also, the adoption of this law and its harmonization with the Constitution is one of the conditions for Montenegro to receive the date of commencing negotiations for the EU accession. On April 5, 2011, the Parliament adopted the Law on Ratification of Agreement between Montenegro and Croatia on protection of rights of Montenegrin minority in Croatia and the Croatian minority in Montenegro. Opposition MPs criticized the agreement as discriminatory because it applied only to Montenegrin national community in Croatia and Croatian in Montenegro. The amendment that defined that the Agreement applied to all citizens of Croatia originating from Montenegro, which offered members of the Socialist Democratic Party, was rejected by a majority of votes of MPs.

Representatives of minority national councils required from public institutions to consider the possibility of higher budgetary allocations for minority people and minority ethnic communities from the current 0.15% to 0.25%, at the press conference, which took place on June 10, 2011. They also required payment of funds twice a year, rather than once, as it was then. They sent requests Filip Vujanović, President of Montenegro, Ranko Krivokapić, President of the Montenegrin Parliament and to ministries of finance and human and minority rights.

The trial of defendants in the case of "Miss Pat" was supposed to take place on June 15, 2011, but was postponed for July 20, 2011. The trial was delayed because a court interpreter for the Roma language had not been provided yet. In the case of the sinking of the ship which transported the Roma from Kosovo to Italy, Agim Gaši, Ramadan Balja, Balja Ismet, Refik Hodžić, Joko Nikaljević, Goran Đuričković, Saša Boreta were accused. The ship registered for six people had 70 people on board. The ship capsized and on that occasion 35 people died, of which only 13 have been identified, while others disappeared.

UNHCR stated on June 23, 2011 that about 1300 domicile Roma might be at risk of statelessness. According to their estimation, this number of Roma is not entered into the register of births.

Language of Minorities – Slavoljub Stijepović, Minister of Education and Sports announced on May 6, 2011 that all students will be able to follow the teaching in schools in their native language from September 1, 2011. Professors of Serbian languages who opposed to changing the Serbian language in native in 2004, and who were publicly dismissed on May 10, 2011, due to the absence from teaching classes, required to be rehabilitated and returned to work.

Pre-school education, primary and secondary and university education is carried out in the Albanian language in educational system of Montenegro. However, teaching on Roma language is not carried out at any level. Ministry for human and minority rights said that the major problem is that Roma language is not standardized and there is no staff for teaching Roma language.

Sexual minorities – The first Pride Parade in Montenegro, which was planned for May 31, 2011 was postponed on May 17, 2011 when organizers explained it was due to the Government which did not take a proper standpoint towards the Parade. The Government said they supported the Parade and that two of its members would be appointed in the Organizing Committee, but they were not ministers or the Prime Minister as was demanded from organizing committee. On behalf of announcements on organizing Pride Parade at the portal Facebook, cases of hate speech were noted. Therefore, on April 20, 2011, the group was established on this portal, called "Stop to organizing homosexual parade in Montenegro" which had other offensive contents and contents on hate speech towards sexual minorities. Facebook page "Legends of Podgorica" sent threatening messages to organizers and potential participants of the Parade.

XII Status of displaced persons

Status of displaced and internally displaced persons in Montenegro is not satisfactory. The largest problems displaced and internally displaced persons face with in the procedure of applying for permanent residence is still that most of them failed to obtain a passport, which is required to apply for the status of foreigners with permanent residence. Procedures of obtaining the necessary documents for applying are still difficult and the deadline is tighter. The deadline for applying for the status of foreigners with permanent residence is until November 7, 2011. However, those who fail to collect documents to apply for permanent residence may apply for temporary residence. Unless they apply until November 7, 2011, for the status of foreigner with permanent residence or the status of foreigner temporary residence, they shall be considered as illegal residents at the territory of Montenegro.

Duration of temporary residence shall be three years maximum, and during this period the applicant of the request has to collect a passport or his stay shall be considered illegal after expiration of deadline.

Data that Ministry of Interior Affairs (MUP) submits to the UNHCR on a monthly basis show that until May 31, 2011, status of foreigner with permanent residence received 1126 displaced and internally displaced persons (almost 7% of the total number of I/RL in Montenegro). Out of that number, status of foreigners with permanent residence received 409 displaced persons from Bosnia and Herzegovina, 154 displaced persons from Croatia, and 563 internally displaced persons from Kosovo. Status of displaced persons still has 3.687 from BiH, 1.233 Croatia and 10.472 internally displaced persons from Kosovo.

There are no data on the number of internally displaced Roma from Kosovo, who received status of foreigners with permanent residence until this period. First of all, the law does not allow MUP to keep the register upon ethnic principles. Based on the data YIHR has, number of Roma who have received permanent residence is about 20. This data is related to Roma who live in Camp 1 and 2 in Podgorica. Taking into

account the fact that almost 1,300 Roma are located in camps, it may be concluded that very small number of Roma succeeded to receive the status of foreigners with permanent residence.

Although Montenegrin authorities offered three possible solutions for displaced and internally displaced persons in Montenegro through legislation: to return to their origin countries, to integrate in Montenegrin society, or to go to the third countries; settlement of status of internally displaced Roma from Kosovo has been slow. Montenegro has an obligation to "guarantee legal status of displaced persons, with special focus on Roma, Askalia and Egyptians, and to provide respect of their rights" and to "adopt and implement sustainable strategy that will lead to closure of the Camp in Konik", as one of the conditions for commencing negotiations for the EU membership.

Announced demolition of Camps 1 and 2 in Podgorica, where Roma from Kosovo live, has not begun yet. Mimir Mugoša, Mayor of Podgorica announced on January 19, 2011, that two apartment buildings and a school for the needs of displaced Roma would be built on that area. Then the President of the National Council of Roma Isen Gaši, criticized the announcement that future school would be built for Roma children.

In this quarter, refugees faced with problems of unresolved accommodation. Thus, as daily Pobjeda published on May 6, 2011, eleven internally displaced persons from Kosovo who are placed in the resort Kamenovo in Budva spent a month without electricity and several days without water. Among these people were elderly who complained on poor conditions of living there. Also, On June 10, 2011, judicial executives tried to move out more refugee families from temporary accommodation "Villa Gordana" in Sutomore. On that occasion, competent institutions did not provide alternative accommodation. Some residents rejected to leave the room and move out. There were people with serious health problems among the refugees. After unsuccessful attempt of moving out, media reported that water and electricity in "Villa Gordana" turned off.

XIII Economic and social rights

The status and rights of workers in Montenegro is still at concerning level. In this quarter, larger number of hunger strikes was registered. Minimal consumer basket for a four member family in May 2011 was 772.59 EUR, while the average salary without taxes was 479 EUR. Process of amendment of Law on work is still in course. On March 31, 2011, Government of Montenegro defined the Proposal of law on amendments of Law on labor. Union of Free Trade Unions of Montenegro expressed dissatisfaction with the Proposal and said that such actions of the Government violated the social dialogue. Trade union representatives expressed dissatisfaction because the Government adopted the Proposal of law of Ministry of Finance, not the one of the working group that worked on the draft and that has achieved consensus. After that, working group harmonized amendments of Law on labour for the second time and on May 26, 2011, consensus was achieved. Therefore, conclusion of employment contract for an indefinite time was agreed, according to the rule, and that employer can not dismiss workers without disciplinary action. However, on June 23, 2011, the Government adopted the Proposal of amendments of the Law on labour which emerged as an agreement of all social partners. In this proposal, the principle for employment is that it should be based on the contract on work, while fixed-term employment shall be limited on two years. With this Proposal,

procedures for dismissal do not imply conducting of disciplinary proceedings in the case of disciplinary responsibility of workers. Srđa Keković, Secretary General of the Union of Free Trade Unions of Montenegro told YIHR that this proposal violates international standards on providing workers the opportunity to defend themselves if they receive dismissal due to disciplinary responsibility. The Ministry of labour and social affairs demented that the Proposal developed by the working group was adopted and that the disciplinary proceeding remained in the Proposal of the law. Srđa Keković from the Union of Free Trade Unions said he would require urgent reception with the President, Filip Vujanović, President of the Parliament of Montenegro Ranko Krivokapić and Prime Minister Igor Lukšić in order to try to solve the problem through dialogue.

On April 8, 2011, YIHR submitted to the Supreme Public Prosecution Office request for information related to the processing of criminal offence, prevention of political, trade union and other organizing and activities. In 2010, this act was reported to the institution in 30 cases and one case was transferred from the previous period. Out of this number one criminal charge was rejected, and in one case bill of indictment was submitted, a criminal charge was awarded but until the end of 2010, 28 criminal charges were not resolved.

In terms of unpaid salaries in the quarter, employees of TV Budva, GRO Radnik, Dekor, PI "Museums, galleries, and libraries" - Budva, Firefighters from Nikšić, Daily Pobjeda, Hotel Šavnik, Nokić Company, Home for elderly "Relax", Prva petoljetka /The first five-years/, Transport Company from Nikšić, Radvent, Tehnostil, KAP, Nikpek, Duvankomerc, Željezara /Steel Factory/, Novi prvoborac, former "Radoje Dakić".

Employees of the **Association of Trade Unions** (SSCG) of Montenegro publicly demanded in April and May payment of all unpaid salaries. Six wages were should be paid to workers. Almost 70 employees in SSCG did not receive salaries as the account of SSCG was blocked due to complaints of former company employees. Two workers the Expert service of SSCG Vukadin Ćupić and Stanko Rajović started hunger strike on June 1, 2011, requiring payment of overdue salaries.

Almost 350 families of deceased employees of former **Paper and Cellulose Factory in Berane** sent the appeal in the first half of May 2011, to Ministry of labour and the Fund of labour in order to provide them the right to severance pay of 1.926 EUR. What comes is issue is that Law on Fund of Labor contains specific provisions that specified that the families of deceased workers are not entitled to severance pay. Families said they would require amendments to the Law.

NGO "Stečajci¹³ in Montenegro" - Problems of this NGO in Montenegro have not been resolved yet. This NGO addressed YIHR with the letter on February 15, 2011 stating that almost 1000 workers of a bankrupt company from several towns in Montenegro are in a very difficult position. These are workers who were redundant during the 90's, who are averagely 50 years old and therefore they can hardly find a new job. They are on the Employment Bureau but without compensation, unrelated labor years of service and opportunities to receive a pension. They claimed they were victims of transition and comparing to those workers who have 25 or more labor years of service, they were completely discriminated. They addressed numerous public institutions, but no one addressed them or provided assistance in resolving their problems.

¹³ Workers at the bankrupt company

XIV Conclusions and recommendations

- Human rights situation in Montenegro is still not satisfactory. Although progress has been made, which is primarily reflected in the fact that citizens are more free to report cases of violation of human rights and with larger willingness and readiness of institutions to accept reports and to prosecute them more often than in the past, human rights violations exist in the following areas: dealing with the past, police torture and state in prisons, politically motivated violence, freedom of expression and gathering, religious freedom, discrimination, rights of children, minority rights, the status of displaced persons, economic and social rights.
- Institutional system for protection of human rights in Montenegro is solidly built. The institutions dealing with human rights exercised better cooperation with NGOs than in the previous period. Cooperation of the Ministry for human and minority rights and NGOs is still poor. National Audit Institution found irregularities in the allocation of finances of the Fund for minority. The Ombudsman's Office continued good cooperation with the NGO sector. It is essential that the Parliament of Montenegro initiate an examination of work and responsibilities of the Governing Board of the Fund for minorities.
- The process of dealing with the past is still not satisfactory. Setting up a memorial to victims of civil wars is the obligation of countries that respect the victims of wars and conduct a quality process of dealing with the past. YIHR supports announced setting up memorials in Podgorica, but consider that the sequence of moves is wrong, and that it has been started from the end. Before setting up the memorial, it was important to implement urgent and effective investigations which would have a conviction for the perpetrators of all war crimes and it is necessary to introduce into the education system facts about the war of the nineties.
- In this quarter, YIHR registered 11 reported cases of violation, inhuman and degrading treatment or punishment of police officers and exceeding competences. It was noticed that police officers file criminal and misdemeanor charges for assaults on police officers, against citizens who report criminal exceeding. Such actions of the police do not encourage citizens who report exceeding to do so, and it is necessary to initiate the relevant procedures for accountability of police officers who are found to have filed criminal charges against citizens in order to justify or conceal their actions. YIHR invites competent institutions to investigate and process all cases and to sanction responsible ones appropriately.
- Overcrowded prisons remain a problem. This is a problem that produces all the other problems: poor medical care, lack of physical activities, inability to provide security to all prisoners from other prisoners, which leads to the adverse effects on health and safety of prisoners and an increase of cases when officers exceeded the competencies.

- Politically motivated violence is emphasized in this quarter. Cases of politically motivated violence are reflected in threats, hate speech and inappropriate verbal communication. Competent public institutions should investigate all cases of threats and hate speech and appropriately sanction the perpetrators of these acts. All public workers should sustain of the speech that does not contribute to creating of an atmosphere of tolerance and dialogue development.
- Although significant progress has been made, freedom of expression remains at concerning level. Defamation is fully decriminalized, and the Supreme Court issued a principle legal opinion that if the courts determine the responsibility of journalists, the level of compensation awarded should be in accordance with the European Court of Human Rights. Neither in this quarter progress has been made in the investigation of the earlier attacks on reporters. Threats against journalists were registered and numerous court cases against journalists were continued. Freedom of peaceful gathering is at the alarming level because there is large number of prohibited peaceful gatherings of workers and critics of government, with an excuse to endanger traffic. The Constitutional Court of Montenegro has to comply, in the emergency procedure, with the Initiative for the assessment of constitutionality of the Law on peaceful gatherings which is not in accordance with the Constitution and international standards. Police had to accept international standards when issuing the decision on peaceful assemblies.
- Religious freedoms in Montenegro are not at satisfactory level. Attacks were registered, threats and incidents as well. The Government does not financially assist small religious communities, but still is present intolerance between the two Orthodox churches. Competent public institutions should investigate all cases of endangering of religious rights and freedoms and should prosecute these cases at court.
- People with disabilities, Roma population, members of LGBT community and women are most discriminated groups. In the case of prosecuting discrimination against Andrija Samardžić relevant ministry slowly prosecutes misdemeanor proceeding. A request for initiating the proceeding was filed in December 2010, and the case was reopened in late June 2011. Numerous providers of public services have not adjusted spaces for movement of persons with disabilities. It is important if authorities initiate measures related public service providers to adapt the space for the movement of persons with disabilities. Authorities of the Capital city Podgorica should find ways to provide Roma population to exercise their right to free food at the Public kitchen. The first Pride Parade that was scheduled for May 31, 2011, was canceled. Competent institutions should investigate all assaults on people of homosexual orientation, and the responsible one should be duly sanctioned. It is necessary to adopt regulations and practices for the adequate representation of women in decision-making positions.
- Children's rights in Montenegro are not at satisfactory level and institutional capacities for protection of rights of the child have not been sufficiently built. It is important to accelerate the procedure of adopting and harmonizing national legislation with international standards. Council for the rights of the child is not sufficiently operational, and it is necessary to plan more finances from the budget for the Council and the Office of Ombudsman, in order to enhance capacity and improve work on

protection of the rights of the child. It is important to include more NGOs dealing with children's rights in protection of children's rights and planning and policy making for children's rights.

- Parliament of Montenegro still has not adopted an election law that should provide adequate representation of minority population in the Parliament. New deadline for the adoption of this law is July 31, 2011. Members of minorities are not adequately represented in public institutions. In this quarter, measures and activities on the employing representatives of minorities in public institutions, especially Roma, were not undertaken. It is important to introduce measures aiming at increasing the number of minorities in public institutions. Status of displaced and internally displaced persons in Montenegro is not yet at satisfactory level. Resolving the status of internally displaced in Montenegro proceeds very slowly.
- Economic and social rights are at concerning levels. This quarter registered larger number of strikes due to unpaid wages, severance and non-compliance of collective agreements. In this quarter were registered pressures on trade union activists. YIHR invites employers to comply with legal obligations, and state competent institutions to sanction any form of violation of workers' rights.