

Podgorica, March 13 2012

STATEMENT OF NON-GOVERNMENTAL ORGANIZATION HUMAN RIGHTS ACTION, CENTER FOR ANTIDISCRIMINATION EKVISTA, AND WOMEN'S SAFE HOUSE REGARDING THE DECISION OF THE SUPREME STATE PROSECUTOR'S OFFICE NOT TO INITIATE CRIMINAL PROCEEDING ON THE EVENTS IN THE PUBLIC INSTITUTE "KOMANSKI MOST"

After exactly twenty-one months after submitting the request to the Supreme State Prosecutor's Office for information on the initiation of criminal proceedings against responsible civil servants for the situation in the public institution for persons with intellectual disability "Komanski most" in Podgorica, which the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) considered as abuse and inhuman and degrading treatment<sup>1</sup> HRA was informed that criminal proceedings were never initiated due to insufficient information provided by public authorities.

This explanation of the State Prosecutor<sup>2</sup> is outrageous and shows an absolute primacy of solidarity and trust in official documents of possible perpetrators and their accomplices over independent and effective investigation. The question is whether this kind of solidarity and trust exists only in cases of human rights violations of persons with disabilities or also in cases of corruption and organized crime?!

We are disappointed that CPT's expert findings did not have any influence on the State Prosecutor to independently take appropriate action and investigate the situation in "Komanski most". The prosecutor's office responded that actions were taken on the initiative of NGOs, meaning in 2010, although CPT had informed the Montenegrin government of its findings already in September 2008 and afterwards, in March 2009, when final report was submitted. The report was eventually released to the public in 2010 when our NGOs reacted.

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<sup>1</sup> CPT Report Montenegro: visit 15-22 September 2008, available at: <http://www.cpt.coe.int/documents/mne/2010-03-inf-eng.htm>

<sup>2</sup> The scanned answer received from the Supreme State Prosecutor is available at: <http://www.hraktion.org/wp-content/uploads/KTR.500-2010.-Akcija-za-ljudska-prava.pdf>

We also remind that all civil servants are obliged, according to the Art. 227 of the Criminal Code Procedure, to report on any acknowledged crime. In particular, the competent Ministry of Labour and Social Welfare had an obligation toward "Komanski most" residents within its competence and public to take action, establish responsibility and punish the responsible for the "appalling" living conditions, chaining of residents, and the disappearance of two children from this institution. On the contrary, the director of "Komanski most" Vuk Mirkovi was never replaced, but transferred to the position of deputy director of the Centre for Social Work - Podgorica, and within the Ministry of Labour and Social Welfare, which was responsible for supervising the institution "Komanski most" none of the officers bore any responsibility for negligent supervision.

We are particularly astonished by the fact that the State Prosecutor's Office was not familiar, until May 2010, with the disappearance of two children, a girl and a boy, from the public institution "Komanski most" in 2000 i.e. 2004, although it is easy to check internet media archive and to find out that at least Daily *Dan* published several articles in 2004 on the disappearance of a boy. This fact definitely confirms the suspicion that employees of Montenegrin State Prosecutor's Office do not read newspapers which is unbelievable for prosecutors in Europe in the 21st century.

However, the most difficult for all of us is the fact that our prosecutor sees no grounds to initiate any action regarding missing children because "the police in the meantime had not determined whether the children were alive or not", so assuming that they are alive (!) the prosecutor concludes that the crime is time-barred and there is nothing to be done any more.

We reiterate that the thirteen year old girl and the eight year old boy have been children with disabilities, who disappeared from the state-run institution that was authorized and obliged to care for them, that they had to have a guardian, at least the social welfare centre, i.e. the state of Montenegro, and that all the time, even today, the state was obliged to search for them and thoroughly investigate and determine how it was possible for both of them to disappear from the closed public institution. Had it all been done promptly, we are confident that the European Committee, four years after the disappearance of the last child, would never had found the appalling living conditions in "Komanski most", etc. as is available to all interested parties to read in the report.

Even if this is all fine and in accordance with minimum human rights standards and the rule of law to the competent authorities, MPs, police, and State Prosecutor's Office we can not agree with such irresponsible attitude and will do everything regarding this, and all other similar cases, to inform those who are now fortunately in a position to assess the work of the competent state authorities on the rule of law in Montenegro.

In particular, we feel an obligation to do so having in mind commitment of the present director of “Komanski most”, Mr. Vaselj Dušaj, who manages, still with insufficient funds and staff to arrange that this institution does not resemble in any way a terrifying place "found" by the European Committee three years ago.

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