

Prosecution of attacks on journalists in Montenegro

Report updated on 11 March 2013

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INTRODUCTION

Freedom of expression is essential for the prosperity of any society, and particularly those that are referred to as democratic. An important aspect of this freedom is the physical security of all persons who express the freedom of expression, especially journalists, artists and human rights activists, to whom the freedom of expression is essential for operating within their professions, which are especially important for the development of a democratic society.

This report concerns the prosecution of individual cases of attacks on journalists, as well as a writer and a human rights activist, who have been threatened because of their expression. The report covers a total of 12 cases. Except for the case of violent behaviour toward TV Vijesti team, other cases have not been fully solved.

The assassination of the editor in chief of the daily “Dan”, Duško Jovanović, has not been resolved, because only one accomplice has been prosecuted. The motive for the murder, as well as other accomplices and those who ordered the murder have not yet been identified.

The assault on journalist Olivera Lakić has not been solved because even if the assaulter was prosecuted, his motives remains unknown; it is supposed that the attack was ordered and the persons who ordered the attack has not been identified. It is not yet established who made the death threats. This year one of the police officers, Siniša Rabrenović, was accused, and previously it was revealed that his colleague tried improperly to influence on the prosecutor during the investigation, in order to prevent his prosecution. Cases of assaults on journalists Tufik Softić, who wrote about crime groups from the north of Montenegro, and Mladen Stojović, who spoke about the match-fixing (the so-called football mafia), have never led to an investigation.

Although the case of the assault on the director of the daily “Vijesti”, Željko Ivanović was prosecuted and the final judgement convicted the defendants, this case is one of those where justice was not clearly enforced. More clues indicate that the defendants pleaded guilty of an offense they did not commit, including the unusually urgent trial.

The assault on “Vijesti” photographer Boris Pejović and “Vijesti” editor Mihailo Jovović by the Mayor of Podgorica, Miomir Mugoša, his son and driver, which the State Prosecutor’s Office persistently tried to present as a fight in which the guilt is equal, has not been adequately prosecuted, because the Mayor was only prosecuted for misdemeanour. It was never determined why the police did not verify the allegations of the use of a gun in the incident, as well as the responsibility of doctors and government officials for the obvious obstruction of justice. Three cases of setting fire to vehicles of the weekly “Vijesti” have also not been resolved.

The assault on writer Jevrem Brković, when his bodyguard Srđan Vojičić was killed, also never led to the investigation. Brković was assaulted shortly after he published a book in which he described the connections of politicians and the mafia. Continuous death threats to the

researcher of human rights Aleksandar Zeković have never been investigated or prosecuted, even though he submitted to the police the tape with the voice of a person who threatened him. This footage later disappeared from the case of the State Prosecutor. Despite indications that the case was out of date, it was published in the report of the U.S. State Department that the threats to Zeković had been sent by Mirko Banović, the bodyguard of the Police Director Veselin Veljović.

The report also described two incidents in which journalists have suffered milder forms of compromising the performance of professional duties.

In the end it presented a case of disappearance of cases of alleged wiretapping of judges in the High Court in Podgorica that was never investigated. Journalist Petar Komnenić wrote about the case, and in regard to it he had been convicted for defamation and then finally acquitted after defamation was decriminalized.

The Government adopted a proposal of Human Rights Action and in the Action Plan for the implementation of the recommendations of the EU prescribed the development of reports on investigations and violence against journalists as one of the measures to be implemented by the end of June 2011. However, the report never provided information to the public about the status of the investigations in those cases that did not reach the court, and thus it is unknown whether the cases are outdated, whether certain actions had been taken in regard to them and if such action were planned. Although we asked for amendment of the report, it did not happen.

Human Rights Action on 12 May 2010 submitted a request for access to information to the Supreme State Prosecutor's Office in which we requested information related to the prosecution of some of these cases. Five months later, the Supreme State Prosecutor's Office denied our request, with explanation that it does not meet the requirements set out in the Guide for access to information of the Supreme State Prosecutor of Montenegro, and therefore the information cannot be accessed under the Law on free access to information, but under the provisions of the Criminal Procedure, which prescribes the manner and procedure for exercising the right of access to the evidence and information in criminal proceedings. In the appeal that the Human Rights Action filed on 8 May 2010 to the Ministry of Justice, we stated that we did not request access to the evidence and documents from the criminal proceedings, because HRA has no information whether, and if so, against whom criminal proceedings have started at all in some cases specified in the request. In addition to legal regulations, we stated that we believe that the public is entitled to know the following information related to the above mentioned cases, that denial of the State Prosecutor's Office does not contribute to improving public confidence in the administration of justice, it is prescribed as one of the key objectives of the Judicial Reform Strategy in Montenegro. After a process that lasted nearly two years after the decision of the Administrative Court which ordered to the Ministry of Justice to overturn the decision which confirmed the position of the Supreme State Prosecutor, on 20 March 2012 we received a decision which allows the access to the information requested on 12 May 2010. Almost all the

responses of the Supreme State Prosecutor's Office, after two and a half years, came down to the fact that there is no progress in the investigation of these assaults or that the perpetrators were not found.

Action for Human Rights has repeatedly appealed to the Supreme State Prosecutor's Office and the police to take all measures within their competence and effectively investigate violations of freedom of expression in the form of assaults on journalists and the media. On 13 March 2012, on the initiative of the Prime Minister Igor Lukšić, a meeting of the Director of the Police Department Božidar Vuksanović, Deputy Prime Minister and the Minister of Justice Duško Marković, the Supreme State Prosecutor Ranka Čarapić, the Minister of the Interior Ivan Brajović, the Special Prosecutor Đurđina Ivanović, where it was decided that the clarification and prosecution of all cases of violence against journalists and the media in the past year should be the priority of the police and prosecutors. Unfortunately, a year later there was no progress in the discovery of those who ordered and the perpetrators of assaults on journalists. Therefore, the assessment in the analytical report of the European Commission for Chapter 23 is not surprising, in which, among other things, the Commission further expresses concerns about assaults on journalists, and the need for these attacks to be thoroughly investigated and prosecuted. We believe that a thorough investigation of these cases could lead not only to those responsible for the threats and assaults, but also to civil servants who obstructed the investigation of these cases.

The government, however, never adopted a report on the investigation of cases of violence against journalists, which would include those cases that did not come to trial, despite the measures of its Action Plan for monitoring the implementation of recommendations from the European Commission, from 2011. Although we have repeatedly asked for amendments to this report, it did not happen. Draft Action Plan for Chapter 23, development of a report on the investigation and prosecution of violence against journalists is included as one of the measures.

Assassination of Duško Jovanović. – As far as the police are concerned, the murder of the daily Dan editor Duško Jovanović has been “resolved”, and as the daily *Vijesti* was unofficially told by the Police Directorate, nothing new has been revealed during the investigation for nearly two years.¹ Jovanović was killed on 27 May 2004, but the perpetrators, accomplices who participated in the murder of Jovanović with convicted Damir Mandić, as well as persons who ordered the murder have not yet been identified. The Supreme Court upheld the sentence of 18 years in prison for Mandić, as the Appellate Court had overturned the first-instance verdict sentencing Mandić to a maximum of 30 years. The initial first-instance verdict acquitted Mandić for the lack of evidence.

The prosecution office never explained why it took them four years, until 2008, to send the DNA of suspects Vuk Vulević and Muso Osmanagić for testing.² The latter were publicly suspected of the crime by senior police officials at the very start of the investigation, but were never indicted.

The competent authorities failed to expand the circle of direct perpetrators, and although eight years have passed since Jovanović’s death, the reason why Jovanović was killed or who may have ordered his murder, which the senior Montenegrin police officials claim was not politically motivated, remain unknown. In early April, the Montenegrin press carried the allegations by the Belgrade daily Blic, which published a series of articles describing the organized involvement of criminals in Serbia in hiding Duško Jovanović’s killers in 2004 and the assassins of police inspector Slavoljub Sčekić a year later. Blic said that the Montenegrin state security ordered both assassinations.³

Damir Mandić’s defence attorney claims he was convicted on circumstantial evidence and that the authorities were keen on convicting someone without identifying who had ordered or actually shot Jovanović dead.⁴ The Supreme Court in 2010 dismissed the motion for the protection of legality Mandić had filed against the Appellate Court judgment, and the Constitutional Court’s decision on his constitutional appeal against the violation of his right to a fair trial is still pending.⁵

In April 2011 *Dan* has released an official note that was allegedly made by a former Special Advisor to the Deputy Minister of Internal Affairs and the (then) Chief of State Security of Duško Marković, Vasilije Mijović, on 30 May 2004. The note quotes one witness, also a former employee of the State Security Agency (SDB), according to which the witness saw, from the balcony of his apartment in the night when the killing took place, Vuk Vulević and Damir

¹ „Police not looking for Stojović and Softić’s attackers for a while”, *Vijesti*, 3 December 2010.

² „No traces of Muša and Vulević in the Golf”, *Vijesti*, 1 June 2010.

³ „Duško’s killers were protected by Montenegrin State Security Officers”, *Vijesti*, “Vuk and Čila were in the Golf”, *Dan*, 5 April 2011.

⁴ „Mandić preparing himself for Strasbourg, too”, *Vijesti*, 23 November 2010, “Judgment against Damir Mandić to be reviewed in February”, *Dan*, 24 January 2011.

⁵ Ibid.

Mandić getting out of the car.⁶ According to the same note, stamped by the Ministry of Internal Affairs, which was created based on informal conversation between Vasilije Mijović and a witness whose name was not released, the witness said that, out of fear for the safety of his family, he did not report his findings: “I am not crazy, that would kill my children, do you know who Vuk Vulević and Damir Mandić are? They are Agency people and beasts. Do you know that in 2000 Vuk killed Beli Raspopović in the middle of the day in the Slobode street,⁷ and Ranko Krivokapić witnessed the crime,⁸ but did not report it?! He also killed Miško Krstović at the same place in 2001.⁹ Everyone knows that. No one can reach them. I don’t want to get into trouble.”¹⁰ Duško Marković, Minister of Justice, stated that he had never seen this note, and that he first received it from the *Dan* editorial board, after which he submitted it to the Prosecutor’s Office,¹¹ and that the official note regarding Vasilije Mijović does not exist in the documentary fund of the SDB, nor it has listed in the SDB archives for 2004. As the prosecution had initiated the proceeding on this occasion, the witness from the note testified and denied that he had given the above statement to Vasilije Mijović, and to on this date, when the note was allegedly made, he was in Belgrade. He also stated that he was on good terms with Mijović and that he could not understand why after 7 years he went public with his claims.¹² During interrogation, Mijović repeated statements from the note and said that (the minister) Marković is trying to kill him, because, according to him, in early April 2010 he sent assassins to silence him, which was rejected by Marković as a fabrication.¹³ In Belgrade in early August 2011 someone fired a shot at the vehicle operated by Mijović when wedding ceremony participants walked down the street, but it is unknown whether the shot was fired accidentally or intentionally at Mijović’s vehicle.¹⁴ Although allegedly, right after the arrest, Mandić said that Vulević had murdered Jovanović, there is no official note on that. Later in the trial he defended himself with silence.¹⁵

The State Prosecutor's Office was also interested in finding from whom and in which manner the Chief Editor of daily *Dan* Mladen Milutinović and journalist Mitar Rakčević received an official note, made by the National Security Agency’s former official Vasilije Mijović on the occasion of Duško Jovanović’s murder.¹⁶ Additionally, it is not clear why the prosecution has focused the investigation on the source, rather than content of the note. High State Prosecutor's Office completed its investigation into the contents of the official note without previously hearing a retired SDB general Nedeljko-Neđo Bošković, who stated for the media that Mijović’s official note was authentic. Bošković, former adviser for the SDB Chief Duško Marković (now

⁶ „Witness saw Vulević getting out of the “killer Golf”“, *Dan*, 16 April 2011.

⁷ An official of the State Security of Montenegro, Darko Raspopović Beli, murdered in January 2001.

⁸ Speaker of the Parliament of Montenegro.

⁹ Private entrepreneur, killed in April 2001.

¹⁰ “I do not dare to testify, the SDB protected Vuk when he killed Beli”, *Dan*, 17 April 2011.

¹¹ “Marković forwarded the note to the Prosecution”, *Dan*, 30 April 2011.

¹² “The witness interrogated because of official note”, *Dan*, 7 May 2011.

¹³ “Mijović: Duško sends assassins to silence me, Marković: Vaso making up things again”, *Dan*, 2 June 2011.

¹⁴ ““Wedding guests” fired a shot at Mijović“, *Dan*, 9 August 2011.

¹⁵ “Regime returns a bloody debt”, *Dan*, 21 July 2010.

¹⁶ “Prosecutor interested in the origin, not the contents of the official note”, *Dan*, 8 July 2011.

Minister of Justice), was mentioned by Mijović during a hearing in Belgrade, who stated that at the time when he had made a note, he had informed him on that.¹⁷ In its response submitted to HRA immediately before the completion of the investigation, the SSP noted the following as regards the official note: "Verification of allegations of the witness are in progress,¹⁸ although the actions taken so far have shown that this witness's statement is not endorsed by persons the witness referred to as the source of his knowledge."¹⁹

To date the prosecution has failed to explain why Vulević's and Osmanagić's DNA samples were sent for analysis only after four years of murder, although they had been suspected as perpetrators by senior police officers immediately after the murder. On the other hand, condemned Mandić claims that the evidence against him in this case has been planted. Also, the public is unaware if the prosecution determined whether the official note, the contents of which have been verified, is genuine.

Assault on Jevrem Brković and murder of Srđan Vojičić. – Writer Jevrem Brković was physically assaulted and injured on 26 October 2006. His driver Srđan Vojičić was killed during the incident.²⁰ Brković presumes that he was assaulted by those who recognised themselves in his book "Lover of Duklja", in which he wrote about the links between organised crime and the ruling political elite in Montenegro.²¹ The family members of the late Srđan Vojičić claim that Brković knows who attacked him but refused to testify about them, suggesting that a businessman closely linked to politicians in power was at issue.²² No one has yet been suspected of killing Vojičić and assaulting Brković.²³ According to the Supreme State Prosecution Office's response of 20 March 2012, no headway has been made in the investigation of this case.²⁴

Assault on journalist Tufik Softić. –Berane journalist Tufik Softić, who was investigating and reporting on organised crime groups, was assaulted on 2 November 2007 by two masked men. He was hospitalised with grave injuries to his arm and head.²⁵ According to Softić, the person he suspects of the assault, who had previously threatened him and was suspected of membership of Darko Šarić's organised crime group involved in drug trafficking, has never been interrogated with respect to the assault.²⁶ No headway has been made in the investigation of this incident to date. As regards information about the status of the investigation, the Supreme State

¹⁷ „Prosecution refused to hear the key witness," *Dan*, 16 May 2012.

¹⁸ This refers to the witness whose identity was not revealed, mentioned by Vasilije Mijović.

¹⁹ For more detail see: [http://www.hraction.org/wp-content/uploads/Odgovori_VDT-a.pdf](http://www.hrraction.org/wp-content/uploads/Odgovori_VDT-a.pdf).

²⁰ „Jevrem injured, driver killed", *Dan*, 25 October, 2006.

²¹ „Killers still at large", *Vijesti*, 26 October 2006.

²² „Brković keeping the secret?", *Republika*, 2 October 2006.

²³ „Shed light on the murders of and assaults on journalists", *Dan*, 2 February 2011.

²⁴ Response of the Supreme State Prosecutor's Office TU. no. 312/10, available at: http://www.hraction.org/wp-content/uploads/Odgovori_VDT-a.pdf.

²⁵ „Republika correspondent Tufik Softić beaten up", *Republika*, 2 October 2007.

²⁶ „Powerful shield", *Monitor*, 19 March 2010.

Prosecution Office replied: "In order to shed light on the case, the Basic State Prosecution has urged the police several times, with the last inquiry submitted on 17 February 2012, in response to which on 20 February 2012 the Police informed the competent prosecutor's office that there have been no new findings in the case."²⁷ This response, amongst others, proves that the prosecution shows an unacceptably high level of tolerance for obvious human rights violations by the government officials – members of the police, responsible for ineffective investigations - and thus promotes impunity for serious violations of human rights, contrary to international standards.²⁸

Assault on journalist Mladen Stojović. – Bar sports journalist Mladen Stojović was assaulted in his apartment in late May 2008. The assault left Stojović unconscious with grave injuries – fractured upper and lower jaws, mouth and nose bleeding; he was also stabbed by a sharp object in the jaw. In the B92 show *Insider* in January 2008, Stojović testified about frauds i.e. rigging of soccer games by the Montenegrin “soccer mafia”.²⁹ The police and the Supreme State Prosecutor said that there were no traces that could lead them to the assailants.³⁰ It remains unknown whether the State Prosecutor ever investigated Stojović’s allegations about the existence of a soccer mafia in Montenegro and any links between the persons he named as members of the “soccer mafia” and the assault on him, as the Supreme State Prosecution Office failed to provide an answer to this question submitted by HRA, while as regards the investigation it was noted: "During the process of collecting the necessary information 17 persons were examined, whose testimony could not help confirm the identity of the assailants. In relation to that, on 4 February and 30 March 2011, the Police Regional Unit in Bar submitted their most recent reports to the Basic State Prosecution Office. Basic State Prosecution Office in Bar submitted repeated inquiries to the Police several times, the last one on 12 March 2012."³¹

Death threats against human rights violations researcher Aleksandar Zeković. – Researcher of human rights violations and member of the Council for the Civilian Oversight of the Police Aleksandar Saša Zeković filed a criminal report after receiving death threats on his cell phone in April and May 2007.³² After the police refused to listen to the recordings of the two last death threats Zeković had recorded because they lacked voice analysis equipment, the

²⁷ For more detail see: http://www.hraction.org/wp-content/uploads/Odgovori_VDT-a.pdf.

²⁸ For a systematic review of these standards see Guidelines on Impunity - Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious violations of human rights, adopted at the 1110th session on 31 March 2011, Strasbourg.

²⁹ More information available at: http://www.b92.net/info/emisije/insajder.php?yyyy=2008&mm=01&nav_id=283409.

³⁰ „Stojović: They want to water down the case”, *Vijesti*, 29 May 2008.

³¹ Response of the Supreme State Prosecutor’s Office TU. no. 312/10, available at: http://www.hraction.org/wp-content/uploads/Odgovori_VDT-a.pdf.

³² „Threatened to kill him while he was with the Police Chief”, *Vijesti*, 5 May 2007; “Zeković gets death threats”, *Dan*, 5 May 2007.

Podgorica local radio station *Antena M* broadcast the recorded threats. Several people recognised the voice of policeman Mirko Banović, a bodyguard of Police Director Veselin Veljović at the time.³³ Veljović told Zeković that a procedure had been conducted and that it had been established that the threats had not been voiced by Banović, but Zeković did not attend the procedure and was only told about it subsequently.³⁴ The Council for the Civilian Oversight of the Police stated that the police failed to provide it with the information it required regarding the danger to the personal safety of Zeković, a Council member.³⁵ The media reported that the bodyguards of a senior Montenegrin Government official were involved in the secret surveillance and harassment of Aleksandar Zeković.³⁶ The then President of the Supreme Court, Ratko Vukotić, notified Zeković that he could not tell him whether he had been under secret surveillance measures because disclosure of such information would be in contravention of state security interests.³⁷ At HRA's requests filed in 2007 and 2008, the Basic State Prosecutor responded that the police were ordered to conduct specific investigation activities, but not whether the police actually did as they were instructed.³⁸ It, however, remains unknown whether the Supreme State Prosecutor ever exercised her right to notify the Ministry of Internal Affairs that the police had not acted on the prosecutors' requests. On the second anniversary of the Zeković incident, 31 NGOs sent a letter to the Supreme State Prosecutor, asking her to notify the public of the actions the prosecution office took within its remit to investigate this case. The Supreme State Prosecution Office never replied to the letter. In 2010 the Supreme State Prosecution Office twice refused to answer HRA's request for access to information on what steps the state prosecutor had undertaken to investigate the threats. Administrative Court annulled the decision of the Ministry of Justice which agreed with such decision of the SSP, and ordered adoption of a new decision. HRA received a response on 20 March 2012. SSP's response clearly indicates that the Police failed to provide necessary information to the Prosecutor's Office and obstructed the investigation. Although the Prosecutor's Office urged the Police on this occasion four times, SSP has clearly accepted illegal operations of Police officers, despite the publicly expressed serious doubts that the police officer had threatened Zeković and that his colleagues supported him in such actions.

For the first time after almost four years since the incident, when the prosecution apparently became time barred, in February 2011 Zeković was called in by Acting Basic State Prosecutor, Ljiljana Klikovac, and told that the audio recordings of the threats he had submitted to the police were not in his case file.³⁹ It is still unknown who is responsible for the cover-up of this case, i.e. for failure to undertake an effective investigation.

³³ „Prepare to die”, *Vijesti*, 6 May 2007.

³⁴ „Banović passes polygraph test”, *Dan*, 17 May 2007.

³⁵ „Zeković dissatisfied with protection and investigation”, *Vijesti*, 28 April 2007.

³⁶ „Policemen followed Zeković!”, *Republika*, 26 April 2007.

³⁷ „They won't reveal whether Zeković was followed”, *Dan*, 3 May 2007.

³⁸ The State Prosecution Office's reply to the request for free access to information is available in the HRA archives.

³⁹ „Prosecution Office did not hear the death threats”, *Vijesti*, 18 February 2011.

Assault on Vijesti Director Željko Ivanović. – Three unidentified persons assaulted Željko Ivanović, the editor and founder of the daily *Vijesti*, in the night of 1 September 2007. Despite the objections voiced by Ivanović and other witnesses of the assault, the Deputy Basic State Prosecutor from Podgorica Sonja Jovičević indicted two persons, from Nikšić and Foča, for inflicting physical injuries and violent conduct, basing the indictment only on the confessions of the two alleged assailants.⁴⁰ After an unusually efficient trial, the Podgorica Basic Court convicted both defendants to four years' imprisonment. Their sentences were modified to a year in jail by the High Court on appeal.⁴¹ The defendants confessed to beating Ivanović up, claiming they had been provoked by *Vijesti*'s earlier reports about them. During the investigation and the trial, Ivanović said that the defendants looked nothing like the assailants he had described to the police immediately after the assault. He also claimed that they approached him from the front, not the back, as they alleged. Another witness also claimed that the defendants did not resemble the assailants he saw.⁴² It seems odd that one of the defendants waited two and a half years to take revenge on Ivanović, given that this was how much time had passed since *Vijesti* and the other papers published a short police statement on his indictment. All this gives probable cause for doubt that the persons convicted for assaulting Ivanović were not the real assailants. Also, the accused and the witnesses at the trial testified that the event had also been attended by a masked person, who had only watched the attack, and the driver waiting in the car. These two persons have not yet been identified and prosecuted.⁴³

Assault on Vijesti photographer Boris Pejović and Vijesti editor Mihailo Jovović. – Podgorica Mayor Miomir Mugoša, his son Miljan Mugoša and driver Dragan Radonjić physically assaulted *Vijesti* photographer Boris Pejović and then Deputy Editor Mihailo Jovović in August 2009 while they were documenting the Mayor's vehicle as it was illegally parking. The Mayor, his son and driver claimed that Jovović had physically assaulted them and inflicted grave injuries on the driver.⁴⁴ Jovović said that the Mayor's son at one point even pointed a gun at him but that the police had not even tried to search the Mayor's car and look for the weapon.⁴⁵ Pejović and Jovović underwent medical examinations after the incidents, and the doctors established that they had sustained several injuries. The doctors found that Jovović's eardrum had been ruptured and he was operated on.⁴⁶

The police filed criminal reports against the Mayor's son, but also against the victim, Jovović, and the Deputy Basic State Prosecutor in Podgorica Zoran Vučinić indicted both, Jovović for incurring injuries to the driver which resulted in a brain concussion. The Podgorica Basic Court panel returned the indictment filed against Jovović and asked that the medical court

⁴⁰ „Ivanović: They forgot what they were supposed to say”, *Dan*, 11 December 2007.

⁴¹ „Only one year for assault”, *Dan*, 9 June 2008.

⁴² „Witness: They weren't the assailants, one of them was huge”, *Vijesti*, 13 December 2007.

⁴³ „They no longer look for Mickey either”, *Vijesti*, 16 June 2012.

⁴⁴ „Mugoša physically assaults journalists”, *Dan*, 7 August 2009.

⁴⁵ „Mugi is allowed to beat us up!”, *Vijesti*, 8 August 2009.

⁴⁶ „Radonjić was only scratched”, *Dan*, 1 October 2009.

expert elaborate on the driver's injuries. Court medical expert Dr. Dragana Čukić had earlier opined that it was possible that Jovović had not inflicted the injury on the driver and that the driver may have sustained it a long time ago.⁴⁷ The finding was confirmed by court medical experts in Belgrade.⁴⁸ Driver Radonjić asked for a medical examination 13 hours after the incident.

In May 2011 the State Prosecutor accused *Vijesti* editor, Mihailo Jovović, and Mayor's son Miljan Mugoša, while Mayor Mugoša was earlier fined 400 Euros for the misdemeanour of disturbing public peace and order.⁴⁹

Jovović was charged with "Causing light body injury" to the driver Radonjić. This crime is often prosecuted by private action, while in this case the State Prosecutor has undertaken prosecution ex officio, accusing Jovović of the qualified form of this offense, because the alleged injury was caused by "a dangerous weapon, instrument or other means suitable to seriously injure the body or seriously impair health" (Art. 152(2) CC). The Prosecution based its decision on the opinion of the Institute of Forensic Medicine in Belgrade, which states that Radonjić sustained injuries that could be caused by "edge of a telephone or voice recorder".⁵⁰ The position of the State Prosecution that a mobile phone is a dangerous weapon that can cause serious injuries was not the usual case in practice. Trial has been scheduled for 6 September 2011. Such diligence of the State Prosecutor is in contrast with other human rights cases, where the Prosecution failed to undertake any actions whatsoever.

The Council for the Civilian Oversight of the Police found that the policemen had made several mistakes during the investigation of the incident and in their treatment of the suspects. Criminal complaint was filed against police officers for falsifying a record of retaining the mayor's son, who, as suspected, has never been taken to the detention premises. The Council also criticised the findings of the Police Internal Audit Sector, which had qualified the police conduct as professional.⁵¹ The main hearing was held on 10 May 2012.⁵² At the hearing Miljan Mugoša, after almost three years, admitted that he had hit Mihailo Jovović. When asked why he denied that he had hit Jovović in the course of the investigation and gave different testimony about the incident, he replied "that this was for personal reasons, and that his former lawyer advised him that, while his current lawyer told him to use the truth as a defence".

Mugoša has repeatedly stated that he could not remember certain details because it had been almost 3 years after the incident and that his intention had been to protect his father. He said that Jovović had tried to assault his father three times, and that "he was forced to slap Jovović when he saw that several previous attacks have not been successful", after which Jovović "calmed down". Also, in his testimony Mugoša said that Jovović had put his hand under his shirt, not

⁴⁷ „Jovović indicted without evidence”, *Vijesti*, 20 November 2009.

⁴⁸ „Tore the Prosecution Office's construct to bits”, *Vijesti*, 20 July 2010.

⁴⁹ „Miomir Mugoša fined for incident with *Vijesti* journalists”, *Vijesti*, 25 January 2010.

⁵⁰ „Jovović endangered Radonjić's life with a mobile phone”, *Vijesti*, 18 May 2011.

⁵¹ „Policemen made mistakes, but so did Internal Audit Sector”, *Vijesti*, 14 April 2010.

⁵² HRA monitor attended the trial.

knowing what he had been holding in his hands, and that he remembered that the driver had been "whispering" something to his father, and later read in the files that he had in fact warned him about an "ambush".

Radonjić testified that he had been hit by Jovović, but could not remember how because "he was at the time most concerned about the mayor's safety." In addition, he testified that he had not seen Mugoša hitting Jovović. He reasoned that he had undergone medical examination only 17 hours after the incident because the whole event was extremely stressful for him, so he decided to rest and see a doctor the following day.

During the testimony, for the most part Mugoša and Radonjić could not remember details of the incident, including "how Jovović hit them or attacked the mayor, where he stood, in what position were his hands just before the attack and during the attack", etc. Both Mugoša and Radonjić denied the existence of the gun.

In his testimony, Jovović said that he bore no guilt whatsoever over the incident he has been charged with, and that the indictment was false as the plaintiff did not intend to determine the full truth, but blame him at all costs in order to establish a balance and unburden Miljan Mugoša. He reiterated that he had not hit anyone, not once. In support of this, Jovović noted that during the first fifteen minutes upon the arrival of the police, neither older nor younger Mugoša, nor the driver told the police that he had hit anyone.

Deputy State Prosecutor Zoran Vučinić, who has been appointed to represent the indictment, had only two questions during the nearly eight-hour trial: one for Mugoša – which hand did he use to slap Jovović, and one for Radonjić – in which hand did Jovović hold the items.

As the trial continued, on 2 July 2012, the Mayor of Podgorica Miomir Mugoša used his legal right not to testify in proceedings against his son, on the grounds that it contributes to the efficiency and depoliticization of the process. Photojournalist Pejović testified that Jovović had not attacked Mugoša father or son or had any contact with driver Dragan Radonjić. Pejović reiterated that mayor Mugoša had slapped him twice and insulted him.⁵³

Three years after the controversial event, in late July 2012 the Basic Court in Podgorica, acting in the first instance, sentenced Miljan Mugoša, the son of the Mayor of Podgorica, to six months, suspended for two years prison sentence for causing grievous bodily harm to Editor of the daily *Vijesti*, Mihailo Jovović, while Jovović was acquitted of causing bodily injury to Miljan Mugoša with dangerous tools. High Court in Podgorica has not yet decided on the appeal of the Prosecutor's Office requiring reversal of the judgment in relation to Jovović and his conviction, as well as the imposition of a stricter criminal sanction against Miljan Mugoša.⁵⁴

Once again we wish to emphasize that the Prosecutor's Office has made an unusual decision to charge Jovović with "causing bodily harm" to driver Radonjić (despite the fact that this criminal offence is usually prosecuted by private action), accusing Jovović of a qualified form of this criminal offense for causing the alleged bodily harm to Radonjić using "dangerous weapon,

⁵³ „Miomir Mugoša escaped the court“, *Vijesti*, 3 July 2012.

⁵⁴ „Appeals in the case Mugoša-Vijesti were on the agenda of judge Dragica Vuković“, *Vijesti*, 26 February 2013.

tool or other instrument suitable for inflicting grave bodily injuries or seriously impairing one's health". Interpretation of the Prosecutor's Office that the mobile phone is a dangerous tool that can cause serious injury is a novelty in jurisprudence. For example, Human Rights Action has analyzed the work of the Prosecutor's Office in cases in which no prosecution had been initiated for Light bodily injury although the injuries were caused by kicking, wooden sticks or truncheons ("instruments suitable for inflicting grave bodily injury"), and these acts should be prosecuted *ex officio* according to the law.⁵⁵

Finally, the State Prosecutor's diligence and the insisting on expert opinion on Radonjić's injuries in this case are in contradiction with the cases of human rights violations in which the Prosecutor's Office had failed to take virtually any action. Also, in the ongoing procedures on appeals the Prosecutor's Office sought Jovović's conviction for inflicting the alleged harm to Radonjić.

Death threats against Vijesti journalist Olivera Lakić. - *Vijesti* journalist, Olivera Lakić, wrote about the alleged illegal cigarette manufacturing in Mojkovac factory "Tara", owned by "Montenegro Tobacco Company" from Podgorica, and received several threats in late January and early February 2011. On that occasion the Basic State Prosecutor's Office in Podgorica filed an indictment in February 2011 against S.M. and M.P. for the criminal breach of security. Prosecutor Klikovac stated that the defendants are charged for "serious threats, directed between 31 January and 3 February, to endanger Lakić's life, while S.M., by threatening her, endangered the safety of persons with whom the journalist was on duty on 3 February".⁵⁶ In late June the trial was postponed for the third time for late July.⁵⁷ The trial began on 27 July 2011.⁵⁸ In June 2012 S.M. was sentenced to four months in prison, while M.P., who was tried *in absentia*, was acquitted on charges of endangering the safety of journalist Lakić.⁵⁹ Supreme State Prosecutor's Office in February began checking operations on the tobacco factory that Lakić wrote about, and to date it has not been announced that an investigation was initiated.⁶⁰ Podgorica High Court overturned the verdict of the Basic Court sentencing S.M. to imprisonment, while M.P. was cleared of the charges for endangering safety, because, in the opinion of the High Court, it has not been proven that journalist Lakić's safety had been threatened. New trial is scheduled for 2 April 2013.⁶¹

On 9 February 2011, just hours after the police estimated that Lakić and her family were not

⁵⁵ In the examined judgments: judgment of the Basic Court in Kotor K.br.434/08 of 28 July 2010, judgments of the Basic Court in Danilovgrad K.br.272/08 of 16 September 2009, K.br.267/09 of 4 June 2010, K.br.306/09 of 5 July 2010, judgment of the Basic Court in Kolašin 237/09 of 27 October 2009.

⁵⁶ „Charged for threatening a journalist”, *Dan*, 17 February 2011.

⁵⁷ „A fine of 500 Euros for Musić's lawyers”, *Vijesti*, 22 June 2011.

⁵⁸ Seventh monthly report on the implementation of obligations under the Action Plan for monitoring the implementation of recommendations from the European Commission's Opinion, available at: http://www.gov.me/aktuelno/Mjesecni_izvjestaji/.

⁵⁹ „Four months for Musić, Piper free”, *Vijesti*, 13 June 2012.

⁶⁰ „Paperwork done properly – there is no affair”, *Dan*, 9 February 2011.

⁶¹ „Musić and Piper to be tried again”, *Vijesti*, 9 March 2013.

in danger because of threats addressed to her ten days earlier and endangering of her safety while on journalistic duty, a man who identified himself as Boško called another *Vijesti* reporter, Jasmina Muminović, on her mobile phone. With a strong Nikšić accent, he uttered a series of serious insults and threats directed at Olivera Lakić. The case was reported to the police. The next day Muminović received a threatening text message directed at her colleague Lakić from the same number.⁶²

Three days after the threats, Milan Grgurević⁶³ reported himself to the police with the claim that he had addressed serious threats at journalist Lakić and her daughter. During the investigation he said that he had also called and texted Muminović, but could not recall any part of the alleged conversation with her or explain why he had made that telephone call. During expert testimony, the prosecution concluded that his testimony was false and that he was not the person who had threatened the journalist; in October 2011 the prosecution filed an indictment against Grgurević for a criminal offense false reporting. At the trial Grgurević remained silent. Expert testimony also established that the telephone from which threats had been addressed and Grgurević's telephone had been used almost simultaneously in locations that are several tens of kilometres away from each other. At the main hearing Muminović asserted that the voice of the person she had spoken to on the phone was certainly not Grgurović's, since that person had a pretty rough male voice, with a strong Nikšić accent.⁶⁴ Head of the Branch for the Suppression of Sexual and Blood Crimes in Podgorica Regional Unit, Ekan Jasavić, claimed that in February last year, through a phone call record, the police determined that the number from which threats had been addressed had also been used in Grgurević's "Nokia" and that on these grounds Grgurević received a summons from the police. Although Jasavić stated that both versions had been considered in cooperation with the prosecutor - someone ordering Grgurević to report himself or him actually threatening the journalist – he failed to explain what had specifically convinced them to prosecute Grgurević for endangering the journalist's safety, and not for false reporting.⁶⁵ On 13 February 2012 Grgurević was sentenced to one year in prison for the crime of false reporting. In June 2012 this judgment was overruled, and the ruling stated that the High Court considers that Grgurević's actions had no elements of a criminal act of false reporting. The ruling states that Grgurević did not voluntarily contact the police, but by the order, as he was sought by the police for threatening reporter Lakić and her family, and that he was "interrogated as a suspect and arrested, while his false confession that he committed a crime can not be considered as a criminal offense of false reporting." The case was returned to the same judge for reconsideration.⁶⁶ The retrial is pending.⁶⁷

⁶² „Who does the fake volunteer from Danilovgrad protect?", *Vijesti*, 26 September 2011.

⁶³ Milan Grgurević was not employed in the tobacco factory that journalist Lakić wrote about, nor in any other way (before reporting to the police) brought into connection with journalist Lakić.

⁶⁴ „A year in jail for Grgurović", *Vijesti*, 14 February 2012.

⁶⁵ „Prosecutor made Jasavić sweat", *Vijesti*, 26 January 2012.

⁶⁶ „False confession is not false reporting", *Vijesti*, 26 June 2012.

⁶⁷ „Only Jasavić knows how Grgurović showed up at the police", *Vijesti*, 23 February 2013.

In the meantime, Milenko Mića Rabrenović - police officer and former driver of the former Police Director Veselin Veljović⁶⁸ - was interrogated on 7 December 2012 in the Basic State Prosecutor's Office in Podgorica on suspicion of endangering the safety of journalist Lakić and her daughter by falsely introducing himself as Boško and threatening them over the phone. Prosecutor questioned Rabrenović, who denied any connection with the threats, about a number of circumstances linking Rabrenović to the German telephone card used to threaten journalist Lakić.⁶⁹ Rabrenović was charged with endangering the safety of journalist Lakić, her daughter and her roommate⁷⁰, and the trial was scheduled for 22 March 2013.⁷¹

Veselin Veljović too was heard as a witness during the investigation of threats against journalist Lakić.⁷² Just hours after Veljović's hearing, Siniša Stojković - Chief of the Criminal Police Unit in Budva - was arrested (and released after interrogation) by order of the Special Prosecutor for Organized Crime Đurđina-Nina Ivanović. "Following the Special Prosecutor's order, the police arrested Siniša Stojković, officer of the Police Directorate of Montenegro, for the corruptive criminal offence Illegal influence. There are reasonable grounds to believe that Siniša Stojković mediated with the Basic State Prosecutor in Podgorica not to take any further action in the official proceedings against suspect Milenko Rabrenović for threats to journalist Olivera Lakić", who "warned the Prosecutor during the mediation that further conduct of the proceedings would jeopardize Veselin Veljović's promotion to the National Security Agency Director and Vladan Joković's promotion to the Police Director, indicating that these promotions have supposedly been agreed upon in the highest political circles... He also noted that the high ranking politicians have allegedly agreed upon the dismissal of the Supreme State Prosecutor for adopting poor decisions. In the context of these circumstances, he suggested the Basic State Prosecutor to be cautious about the initiated proceedings, as he too could be dismissed", stated the Supreme State Prosecutor Ranka Čarapić.⁷³ Investigation against Stojković is ongoing, evidence has been sent to the Forensic Center.⁷⁴

Assault on Vijesti journalist Olivera Lakić. – In the evening of 7 March 2012 journalist Lakić was attacked as she unlocked the front door of the building she lives in. On that occasion, on 12 March 2012 Ivan Bušković⁷⁵ was arrested on suspicion of attacking journalist Lakić. She recognized Bušković as her attacker, who on the other hand denied that, while 17 persons, Bušković's friends, claimed that he had participated in a football match with them at the time of the attack.⁷⁶ Basic Prosecutor's Office filed an indictment against Ivan Bušković for the criminal

⁶⁸ Former Director of the Police Directorate.

⁶⁹ "Mića wondered why they associated Boško with him", *Vijesti*, 8 December 2012.

⁷⁰ Human Rights Action's notice available at: <http://www.hraction.org/?p=2885>.

⁷¹ „Rabrenović to be tried on 22 March“, *Dnevne novine*, 13 February 2013.

⁷² „Interrogated for three hours“, *Dan*, 29 December 2012.

⁷³ „Suspected of protecting Veljović and Joković“, *Dan*, 29 December 2012.

⁷⁴ „Inspector Stojković still under investigation“, *Blic*, 4 February 2013.

⁷⁵ „Who ordered the attack, and why?“, *Vijesti*, 14 March 2012.

⁷⁶ „Friends claim that Bušković played football when Lakić was attacked“, *portal Vijesti*, 13 March 2012.

act of violent behaviour. The prosecution invited the Court to hear 19 witnesses and present 11 pieces of material evidence.⁷⁷ During the trial the defendant maintained that he did not know journalist Lakić, that at the time of the attack he had taken part in a football game, and that he had no reason to attack Lakić, who required him to name a person that had ordered the attack.⁷⁸ Bušković was convicted for the crime of violent behaviour to 10 months in prison. The prosecutor announced the filing of a complaint dissatisfied with the duration of the adjudicated punishment (punishment for this criminal act is 6 months to 5 years), while the Executive Director of "Daily Press" Željko Ivanović, noting the duration of the sentence, also emphasized that it is essential to continue the investigation and identify persons who ordered the attack.⁷⁹ High Court upheld the first instance verdict.⁸⁰

Although steps have been taken to establish the liability of persons suspected or accused of endangering the safety of journalist Lakić, it is necessary to identify the persons who ordered the threats. This particularly in the context of an investigation against Siniša Stojković, Chief of the Criminal Police - Budva Regional Unit, suspected of mediation with the Basic State Prosecutor in Podgorica not to take any further action in the official proceedings against Milenko Rabrenović for threats to journalist Lakić.

Setting fire to Vijesti vehicles. - In the period from 14 July 2011 to 28 August 2011 there were three cases of setting fire to *Vijesti* vehicles in Podgorica. The first took place in the night between 13 and 14 July, when around 3 a.m. unknown perpetrators set fire to two service vehicles owned by *Vijesti* newspaper, parked near the office.⁸¹ Director of the Police Directorate Veselin Veljović said the incident should be regarded as an isolated act of an individual.⁸² Second case of setting fire to *Vijesti* vehicle occurred in the night of 26 July in Masline where the vehicle was parked in front of the house of the newspaper's employee.⁸³ Third incident took place on 28 August, while the vehicle was parked in Stari aerodrom. In all three cases the vehicles were set on fire in the same way, by dousing the front of the vehicle with gasoline and setting it on fire.⁸⁴ Head of the Criminal Police, Podgorica Regional Unit, Siniša Stojković said that in all three cases the police had blocked the city, searched wider crime scene and informed the competent prosecutors and investigating judges. The latter failed to appear at the scene and

⁷⁷ „Indictment against Bušković, commanders still in the shadow”, *Vijesti*, 10 April 2012.

⁷⁸ „Bušković is the attacker, but he should say why“, *Vijesti*, 29 May 2012, „Last night two vehicles set on fire”, *portal Analitika*, 14 July 2011, „Journalists are victims of various types of pressure“, *Dan*, 6 April 2012.

⁷⁹ „No justice for Olivera”, *Vijesti*, 21 July 2012.

⁸⁰ „Nine months for attacking the journalist”, *Vijesti*, 3 January 2013.

⁸¹ „Across the street from the National Security Agency two official vehicles of the daily *Vijesti* set on fire”, *Vijesti*, 14 July 2011.

⁸² „Veljović: Setting fire to *Vijesti* automobiles is an isolated case“, *Portal Analitika*, 15 July 2011, available at: <http://www.portalanalitika.me/drustvo/vijesti/31802--veljovi-spaljivanje-automobila-vijesti-je-izolovan-sluaj-.html>.

⁸³ „Another *Vijesti* vehicle set on fire: Is this also an isolated case?”, *Vijesti*, 27 August 2011, „*Vijesti* vehicle set on fire again”, *RTCG*, 27 August 2011, information available at: <http://www.rtcg.me/vijesti/drustvo/hronika/46898-ponovo-zapaljeno-vozilo-vijesti.html>.

⁸⁴ „The prosecutor does not respond to terror“, *Vijesti*, 28 August 2011.

the forensic actions and measures were taken by officers of the Podgorica Regional Unit. Stojković also asserted that the police had sent samples from the crime scene to the Forensic Centre for necessary expertise, collected information from witnesses and persons who had been using the vehicles damaged in fire, obtained video surveillance footage from several buildings near the site, verified the alibi of several persons and carried out numerous polygraph tests,⁸⁵ all of which was not enough to file criminal charges against the offender.⁸⁶ After the third *Vijesti* vehicle fire incident, the Police Directorate issued a press release stating: "Pursuant to the new Criminal Procedure Code (CPC), the Basic State Prosecutor in Podgorica declared that this case contained no elements of the crime that is prosecuted *ex officio*",⁸⁷ although the new CPC came into force on 1 September 2011.⁸⁸ In this regard, the Supreme State Prosecutor stated that the above statement of the Police Directorate was "inaccurate and unprofessional"⁸⁹ and that "for the police it is most important to establish the identity of the perpetrator, not to qualify the crime".⁹⁰ After the second vehicle fire incident, Chief Editor of daily *Vijesti* Mihailo Jovović stated that an interview with former Prime Minister Milo Đukanović might have contributed to these events, since prior to the first fire incident in an interview for daily *Pobjeda* Đukanović had fiercely attacked critical media including *Vijesti*, and prior to the second vehicle fire incident, he had given another interview with similar assertions.⁹¹ On 31 October 2011 "Daily Press Ltd", publisher of daily *Vijesti*, filed a lawsuit against the state of Montenegro, seeking 60,000 Euros in damages for failing to prevent attacks on *Vijesti* property, and also because the competent authorities failed to identify actors in July and August 2011 fire incidents involving four vehicles. The ruling P.br.4569/11,⁹² dismissing the lawsuit (later specified at 8,641.98 Euros), *inter alia*, states the following: "the act of terrorism can not be characterized as such, aside from the goal it serves, which is in line with the definition of the Council of Europe Convention on the Prevention of Terrorism, which our country ratified in the Law, ..., which in the introduction states that acts of terrorism have the purpose by their nature or context to seriously intimidate a population or unduly compel a government or an international organisation to perform or abstain from performing any act or seriously destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation. For now, there is no evidence that setting fire to the plaintiff's vehicles ... was aimed at the purpose, i.e. purposes set forth in the said Convention." Regarding the argument of the indictment that Montenegrin state authorities failed to take all necessary measures to prevent acts of violence and damage resulting from the execution of these acts (setting fire to vehicles), the ruling states:

⁸⁵ „Still not a word about the perpetrator“, *Vijesti*, 27 October 2011.

⁸⁶ *Ibid.*

⁸⁷ Press release available at: <http://www.upravapolicije.com/index.php?IDSP=1927&jezik=lat>.

⁸⁸ Art 517 CPC (*Sl. list CG*, 57/2009 and 49/2010).

⁸⁹ „Čarapić: Police Directorate's press release on *Vijesti* vehicle fire incident is inaccurate and unprofessional“, *Vijesti*, 2 September 2011.

⁹⁰ „Still not a word about the perpetrator“, *Vijesti*, 27 October 2011.

⁹¹ „Another *Vijesti* vehicle set on fire: Is this also an isolated case?“, *Vijesti*, 27 August 2011.

⁹² Ruling available at: <http://www.hracion.org/?p=2523>.

"In this case the mentioned conditions for the responsibility of the respondent State of Montenegro have not been met on this basis either, since there is no evidence of illegal actions of the defendant's authorities in taking the necessary actions or failure to act, while these actions are evidently still being conducted ...".

The public is not aware whether there has been any progress in identifying the persons responsible for fire incidents involving *Vijesti* vehicles.

Solved case of an assault on Vijesti TV crew. - On 18 November 2011 in Humci, near the town of Nikšić, *Vijesti* TV crew has been assaulted - namely journalist Darko Bulatović, cameraman Aleksandar Marojević and photographer Ivan Petrušić, while trying to capture the panorama of Humci.⁹³ Dragoljub Karadžić, Miodrag Glušica and Miloš Šanjević pushed *TV Vijesti* crew back into their vehicle, cursing the whole time, while Karadžić injured Bulatović's leg trying to slam the door.⁹⁴ Deputy Basic State Prosecutor in Nikšić was informed about the event and ordered that criminal prosecution be initiated against Karadžić on suspicion of committing an act of violent behaviour. Misdemeanour charges were filed against Šanjević for insult, while no elements of misdemeanour were determined in Glušica's actions.⁹⁵ Criminal charges for violent behaviour have been filed against Karadžić (criminal charges are being processed, the trial is in progress) and Šanjević was fined with 300 Euros for misdemeanour offence.⁹⁶

Incident with Dan journalist. – On 8 August 2012 in Nikšić, *Dan* journalist Lidija Nikčević entered the meeting room after the session of the Central Committee of the Socialist People's Party (SNP) intending to photograph and take a statement from SNP President Srđan Milić. According to the journalist, members of SNP Municipal Board Milinko Radulović and Milan Jauković started insulting her as they were unhappy with her writing about the initiative for dismissal of Svetozar Golubović, Board member from Nikšić, and developments in SNP Municipal Board in Nikšić, arguing that the initiative should have remained hidden from the public eye, when Radulović even tried to physically assault her.⁹⁷ The incident was prevented by the president and other SNP members, who have been in the meeting room. Journalist Nikčević received an apology concerning the incident and chose not to prosecute Board members Radulović and Jauković on this occasion.⁹⁸

⁹³ „*Vijesti* crew assaulted in Nikšić”, radio *Antena M*, information available at:

http://www.antenam.net/sajt/index.php?option=com_content&view=article&id=8305:u-nkiu-napadnuta-ekipa-vijesti&catid=35:drutvo&Itemid=54.

⁹⁴ „Police detained suspects for the attack and insult of *Vijesti* crew“, *Vijesti*, 18 November 2011.

⁹⁵ Police Directorate press release available at: <http://www.upravapolicije.com/index.php?IDSP=2190&jezik=lat>.

⁹⁶ „Šanjević fined with 300 Euros for assaulting *Vijesti* crew“, *Vijesti*, 19 November 2011.

⁹⁷ HRA press release available at: [http://www.hraction.org/?p=2112](http://www.hrraction.org/?p=2112).

⁹⁸ Information obtained in an interview between journalist Lidija Nikčević and HRA researcher.

Incident with daily newspapers Vijesti and Dan journalists during an election campaign in Pljevlja. – On 4 October 2012, *Vijesti* reporter Goran Malidžan and *Dan* reporter Božidar Jelovac were attacked after the election campaign of the Democratic Party of Socialists (DPS) in Pljevlja, where Prime Minister Igor Lukšić gave a speech stating there were no independent media in Montenegro, that *Vijesti* and *Dan* were part of the opposition and that all that jumbled together "does not smell so good".⁹⁹

Malidžan was attacked by local DPS activist and former police officer Goran Čavić, first verbally and then physically. After leaving the meeting room where the convention had been held, he was approached by another former police officer, Slavko Rončević, who told him: "Someday I will make your life harder." *Dan* journalist Božidar Jelovac pulled out a camera to document the assault on Malidžan, after which local DPS activist Mustafa Brahić called him "boor", "pathetic", "scum" and said that "*Dan* is garbage".¹⁰⁰

Prime Minister Igor Lukšić condemned physical attacks on journalists Malidžan and Jelovac and stressed that the assessment that these attacks had been linked to his speech at DPS convention was completely unacceptable.¹⁰¹ Criminal proceedings have been initiated against Rončević, and misdemeanour procedure against Malidžan. Although Malidžan sought recusal of judge Vesna Milinković because she used to be a member of DPS Municipal Board, same as the defendant and witnesses, President of the Regional authority refused this request.¹⁰² Such action of the President of the Regional authority is contrary to the standard established in the jurisprudence of the European Court of Human Rights (which has been introduced into national legislation) that requires a court to inspire public confidence in any proceeding by endeavouring to exclude any reasonable doubt as to its impartiality. In this case, the fact that judge Milinković was professionally bound with the organization that the defendants and participants in the procedure belong to, raises justifiable doubts as to her unbiased treatment.¹⁰³

Appendix: Uninvestigated case of alleged wiretapping in the Podgorica High Court and disappearance of the case file. - In October 2010, the Podgorica High Court upheld¹⁰⁴ the Podgorica Basic Court judgment finding Monitor journalist Petar Komnenić guilty of defamation and ordering him to pay 3,000 Euros to the former High Court President Ivica Stanković.¹⁰⁵ Stanković had sued Komnenić over an article in which he had claimed the police were wiretapping Stanković at the request of the special organised crime prosecutor with respect to his

⁹⁹ „Reporters attacked after DPS convention“, *Vijesti*, 5 October 2012.

¹⁰⁰ „Reporters assaulted every now and then“, *Vijesti*, 9 October 2012.

¹⁰¹ „Igor Lukšić condemned attacks on journalists“, *RTCG*, News, 5 October 2012.

¹⁰² „It doesn't matter that they are all together in DPS“, *Vijesti*, 27 October 2012.

¹⁰³ For more detail see HRA press release: <http://www.hraction.org/?p=2523>.

¹⁰⁴ High Court ruling available at: http://www.hraction.org/wp-content/uploads/Stankovic-Komnenic-Presuda_Visi_sud.pdf.

¹⁰⁵ First instance ruling available at: http://www.hraction.org/wp-content/uploads/komnenic_stankovic.pdf.

alleged link with criminal activities.¹⁰⁶

In his article the journalist quoted a statement of the former High Court judge Radovan Mandić that Stanković had been under secret surveillance measures. Mandić reiterated his statement at the trial before the Basic Court in Podgorica. However, the State Prosecutor's Office has never investigated the alleged wiretapping in the High Court which Komnenić had talked about and provided evidence of during the trial, notably:

- statement by former judge Mandić that his former colleague and Podgorica High Court judge Hamid Ganjola told him that he had approved wiretapping of Mandić and that “half the judges” of the High Court were being wiretapped;
- statement by the then special prosecutor Stojanka Radović, who testified that the case regarding the secret surveillance measures which judge Ganjola was charged with had “disappeared” somewhere between the court and the prosecution;
- indictment against the men accused of killing police inspector Šćekić stating that the Podgorica High Court judges had let the co-defendants visit each other in detention in contravention of the law, etc.

Non-inquiry into these allegations is devastating to the confidence in the impartiality of the State Prosecutor's Office and proves that investigative journalism is undesirable for both the courts and prosecutor's office in Montenegro.

In late September 2011 Komnenić's fine was replaced by imprisonment for a term of four months.¹⁰⁷ Journalist Komnenić filed an appeal against this decision, which the High Court adopted and quashed the decision of the Basic Court to replace the fine with imprisonment, proposing that the Basic Court impose Komnenić a sentence of community service in a retrial. On this occasion Komnenić said that the only work in the public interest he would accept was volunteering in the archives of the High Court, in order to complete his research on how the case file had disappeared from the court archives.¹⁰⁸ After the Basic Court in Podgorica rendered a decision to replace the fine by a term of imprisonment for the second time, appeal against the decision was lodged before the High Court, but was also rejected.¹⁰⁹ However, the decision will not be enforced because of the adoption of the Amnesty Law in June 2012 relating to persons convicted of criminal offenses defamation and insult¹¹⁰, exempting persons convicted of criminal acts Defamation and Insult from serving their sentence.

¹⁰⁶ „Judges under surveillance“, *Monitor*, 18 May 2007.

¹⁰⁷ Basic Court ruling available at: http://www.hraction.org/wp-content/uploads/PetarK_rjesenje.pdf.

¹⁰⁸ „Accepts to serve his sentence in the court archives“, *Vijesti*, 21 December 2011.

¹⁰⁹ Information obtained in an interview with Petar Komnenić's lawyer.

¹¹⁰ *Sl. list CG*, 31/2012.