

Podgorica, 1 June 2011

ADMINISTRATIVE COURT ADOPTED HRA CLAIM AND ANNULLED  
THE MINISTRY OF JUSTICE DECISION PROHIBITING ACCESS TO  
INFORMATION ON THE STATUS OF  
INVESTIGATIONS IN 14 HUMAN RIGHTS CASES

After more than a year long legal battle for information on investigations of human rights violations, and after the Supreme State Prosecutor (SSP) twice refused to give any information about that, and the Ministry of Justice first annulled and then agreed with the decision of the SSP, Human Rights Action (HRA) won both lawsuits before the Administrative court.<sup>1</sup>

HRA sued the Ministry of Justice because it agreed in its second decision (by the former Minister Miras Radovic) with the decision of the SSP to refuse to inform HRA about any action taken in relation to the prosecution of 14 cases, including: massive beating of detainees in ZIKS Spuz on 1 September 2005; death threats to Aleksandar Zekovic, researcher of human rights violations and member of the Council for Civil Control of the Police in April 2007; beating of Vladana Kljajic, detainee in ZIKS Spuz, in 2008; allegations of torture of the members of SDA group in 1994, published by one of the group members, Ibrahim Cikir, in his book "Where the sun does not shine" in 2008; allegations about illegal use of secret surveillance over the judges of the Higher Court in Podgorica, which is why journalist Peter Komnenic got sentenced for defamatory statements against Ivica Stankovic; murder of the daily Dan editor-in-chief Dusko Jovanovic; assault on Jevrem Brkovic and murder of his bodyguard Srdjan Vojcic; beating of journalist Tufik Softic; journalist's Mladen Stojovic allegations about the activities of "football mafia" in Montenegro, who was beaten in his apartment in Bar in 2008; criminal charges filed by the veterinary inspector Mirjana Draskovic regarding the high-level corruption in issuing licenses for food import to Montenegro; expanded investigation in the case of beating of (unfortunately deceased since yesterday) Aleksandar Pejanovic in the detention unit of the Security Center Podgorica; and criminal charges filed for the abuse of prisoners accused for terrorism in the police operation "Eagle Flight", regarding which two applications have already been submitted to the European Court of Human Rights.

Administrative Court also adopted our claim regarding a special request that we submitted in July 2010, asking the Supreme state prosecutor which actions have been taken in cases of abuse of residents at the Public Institution "Komanski most", and the

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<sup>1</sup> Requests available at: <http://www.hracion.org/?p=497>

disappearance of two juvenile residents of that institution. The prosecution refused to answer on the repeated request as well.

In its judgments the Administrative Court stated that the aim of the Law on Free Access to Information is to ensure transparent and open action of authorities and to enable the exercise of the right of access to public information, thus ensuring public scrutiny of bodies exercising public authority. The Court noted that the administrative authorities (the Supreme State Prosecutor and the Ministry of Justice) failed to provide relevant reasoning for the denial of access to information in these cases, and ordered the adoption of new legal solutions to these requests. We remind that the SSP and the Ministry of Justice considered, mainly, that providing any information would greatly endanger the investigation and prosecution of criminal offenses, emphasizing that it is particularly controversial to request data from pre-trial proceedings. Nevertheless, the Administrative Court noted that, in most cases, HRA requested information on whether pre-trial proceedings had been at all initiated, i.e. whether the prosecutor had done anything to prosecute these cases.

#### HRA COMMENT:

1. The Administrative Court's judgments represent an important step in obtaining information about action the prosecution has taken or is taking in relation to the above mentioned cases of killings, beatings, disappearances, death threats and other maltreatment, and we hope that the SSP will not avoid any further to provide such information to the public.<sup>2</sup>
2. In the meantime, there are serious reasons to believe that in all or nearly all of these cases the state prosecutors failed to conduct effective investigations, allowed for some of them to become time-barred, and that state prosecutors therefore misused their official position, violated human rights and contributed to the lack of trust in the capacity of the state to ensure the rule of law.
3. Administrative Court's rulings which clearly obliged state authorities to inform the citizens on their actions in the interest of the rule of law and protection of human rights are encouraging. The state guarantees the rule of law by proving capable to prosecute and punish its officials when they act unlawfully, and citizens have the right to check whether the state and its prosecutors are fulfilling this task.

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<sup>2</sup> We remind that, on the proposal of the Human Rights Action, the Government included an obligation for the Supreme State Prosecutor and the President of the Supreme Court to prepare a report on the status of the investigations and convictions regarding violence against journalists by the end of June in the Action Plan for the implementation of EU recommendations. However, our requests for information were related to these, as well as to other cases.

4. Please note that both rulings of the Administrative Court's and other documents and press releases in relation to this case have been made available at:  
<http://www.hracion.org/?p=463>.

Thank you for your attention.

Tea Gorjanc Prelevic, HRA executive director