



Akcija za ljudska prava

Podgorica, April 20, 2012

PRESS RELEASE REGARDING INFORMATION OBTAINED FROM THE SUPREME
STATE PROSECUTOR ON THE STATUS OF INVESTIGATION
OF 12 CASES OF HUMAN RIGHTS VIOLATIONS

After nearly two years Human Rights Action (HRA) received a response from the Supreme State Prosecutor (SSP) on the status of investigations of 12 cases of human rights violations that had alarmed Montenegrin public.

The SSP's replies have been received one year after the Administrative Court accepted HRA complaint, submitted due to the SSP's and the Ministry of Justice's refusal to enable access to information of public importance.

The answers, in which SSP only partially provided information to the submitted questions, justify the fear that the state prosecutors failed to take all necessary measures within their jurisdiction to effectively investigate and prosecute those responsible for human rights violations.

It is especially striking that lawful measures were not taken even after explicit criticism by the European Committee for the Prevention of Torture (CPT) in its Report to the Government on the visit to Montenegro 2008 addressed ineffective action by the state prosecutor in 3 of the 12 cases described (abuse of detainees in the Spuž penitentiary in 2005, abuse of persons detained during the police anti-terrorist operation "Eagles' Flight" in 2006 and the case of Vladana Kljajić in 2008).

Such unprofessional investigation of serious human rights violations, for which responsibility bears the supreme state prosecutor, firstly Vesna Medenica and then Ranka Čarapić, shows that Montenegro does not yet have an independent and impartial state prosecutors, not hesitating to prosecute government officials for human rights violations and establish the rule of law. It is certain that the European Union will not accept a member with such judiciary, but more importantly, Montenegro itself should not accept prosecutors who portray it as a country that does not care about elementary justice.

The experience in obtaining the required information in these 12 cases, and in previously commented case of ineffective investigations regarding the Institution "Komanski most", leads to the following general conclusions:

- 1. The state prosecution is a closed institution, not transparent and unreceptive to the interests of the public to be informed on the status of investigations of the cases of serious human rights violations.**
- 2. The state prosecution shows unacceptably high level of tolerance for apparent violations of human rights by the government officials - police officers, officers in the Institution for Execution of Criminal Sanctions, and the state prosecutors themselves, responsible for the ineffective investigations - and thus promotes impunity for serious violations of human rights contrary to the international standards.¹**
- 3. In the cases when the police is not providing the required cooperation, the state prosecutors agree to this situation and neither take measures within their competence to oppose it (such as informing the Government and/or prosecuting police officers responsible for unprofessional performance of duty, abuse of power, assistance to the offender after committing the crime) nor undertake actions that the police refused to do - such as interrogate suspects, etc. Therefore, the prosecutors demonstrate the lack of ability to investigate and properly sanction malpractice within the police, i.e. other government agencies, and thus ensure the rule of law.**

The obtained answers regarding these specific cases have shown the following:

1. Out of twelve questions the state prosecutors did not respond at all to three, questions regarding investigations on the alleged illegal secret surveillance of the Podgorica Superior Court judges, alleged torture of Ibrahim Ćikić and other members of the Party of Democratic Action in 1994, and charges for abuse of persons accused for the operation "Eagle's Flight". Furthermore, it was not answered whether during the investigation on the attack on the journalist Tufik Softić, persons whom he indicated to the police for threatening him had ever been interrogated. The question whether the public allegations of the journalist Mladen Stojović on Montenegrin "football mafia" were connected with the attack on him, was not replied either.

¹ For a systematic review of each of these particular standards see *Guidelines on impunity* - Guidelines of the Committee of Ministers of the Council of Europe on the eradication of impunity for serious human rights violations adopted at the 1110th session on March 31, 2011, Strasbourg.

2. Even after nearly seven years, not even one person has been accused of **physical abuse of detainees in the Spuž penitentiary on September 1, 2005** although there was no doubt that members of the special police had entered the detention unit and had beaten up around 30 detainees. The medical commission appointed by the Ministry of Health, on the initiative of the then PM Milo Djukanovic, confirmed that 18 prisoners suffered serious injuries. The SSP's response shows that since the end of 2007 no further investigation has been carried out regarding this case, despite the European Union's request for an effective investigation of this incident in 2005² and CPT's criticism in 2009 Report on Montenegro on inadequate investigation.

We remind that the CPT in its report, among other things, stated that during the investigation of this case there were no reports on resistance of detainees that would justify the use of force by the police officers. Although the incident had been immediately reported to the Prosecutor's Office, it was only on October 27, 2005 (almost two months after the intervention) that the Prosecutor's Office requested the police authorities to indicate who was in charge of the organisation and execution of the intervention and to submit relevant documentation. On December 18, 2006 (more than a year after the incident), the Prosecutor's Office applied to the investigating judge to initiate proceedings against the Head of Podgorica Police Directorate on the basis of the fact that he was responsible for the conduct of the intervention. The investigative activities subsequently performed involved a forensic assessment of the medical findings concerning injuries sustained by the prisoners, and the questioning of the Head of Podgorica Police Directorate and several police officers involved in the intervention. The investigative activities have omitted to question the penitentiary authorities, staff working at the remand prison and all prisoners (both those who were injured and those who had witnessed the intervention). Neither have the necessary steps been taken to seize the internal orders related to the organisation of the intervention and to question senior officials from the Ministry of the Interior who had been involved in its planning, as well as the police officers who drew up the minutes of the search and subsequent reconstruction of events. As a result, the investigation has failed to identify the officials responsible for the organisation and execution of the operation.³

² "Notably, police ill-treatment in the prison in Spuz (September 2005) needs to be fully and transparently investigated." European Commission, Serbia and Montenegro 2005 Progress report, Brussels, 9 November 2005, SEC (2005) 1428, page 18 (http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1428_final_progress_report_cs_en.pdf)

³ Report to the Government of Montenegro on the visit to Montenegro carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 15 to 22 September 2008, page 17, paragraph 23. The report is available at <http://www.cpt.coe.int/documents/mne/2010-03-inf-mne.pdf>.

3. Regarding the proceedings in the case of **death threats against Researcher of Human Rights Violations and member of the Civic Council for the Control of the Police Aleksandar Zeković**, the police did not provide required information to the prosecution and it obstructed the investigation with a disappearance of the voice recording, of the person who threatened Zeković, from the file. Although the prosecution urged to the police on that occasion four times, it reconciled with the illegal activities of its officials, despite serious doubt, publicly reported, that the police officer threatened to Zeković and that his colleagues agree with that. In February, 2011 the Basic State Prosecutor informed Zeković that the case was time barred and nothing has been done to date in order to punish those responsible in the police and state prosecutors' office.

4. **In the case of Vladana Kljajić's abuse in detention**, the state prosecutor has initiated the investigation firstly only for minor physical injuries, and upon expressed CPT's interest in this case, it accused police officers Vukica Vukićević and Sandra Brajović for criminal act of ill treatment and torture – concurrently with the infliction of light bodily injuries. We are informed that the prison officers were only conditionally sentenced to 4 months imprisonment if within 2 years after the judgment they do not commit any new crime. Therefore, the police officers will not bear any consequences although the CPT in the case of Vladana Kljajić reported: "Physical marks consistent with the allegations and, in particular, characteristic signs of truncheon blows, were observed by one of the delegation's doctors upon examination of the prisoner concerned: bruises on the left arm with brown abrasions; many blue-purple haematomas on both legs, with some residual swelling; tramline bruising on the right thigh and over the lower rear renal area; straight bruises on the arms. The prison medical record contained a detailed description of the injuries observed by the prison doctor who had examined the inmate on 5 September 2008; however, there was no reference to the prisoner's allegations concerning the cause of the injuries"⁴ In the meantime, Vladana Kljajić was sentenced to seven months prison sentence for injuries inflicted to the police officer Vukica Vukićević, and she had endured full punishment.

5. **The prosecution did not do anything to investigate allegations on torture and other forms of ill treatment of Ibrahim Čikić and other members of the Party of Democratic Action in 1994** hence allowing for Čikić to be prosecuted for defamation in criminal and civil proceedings of

⁴ Report to the Government of Montenegro on the visit to Montenegro carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 15 to 22 September 2008, page 29, paragraph 46.

which the later are currently pending. and no actions have been taken regarding the allegations on illegal secret surveillance measures of the Podgorica Superior Court judges reported to public by the journalist Petar Komnenić. We remind that Komnenić, in his article published in a weekly Monitor, announced that the Podgorica Superior Court judges were wiretapped, that the file on that issue existed and then disappeared from the court. He wrote the article based on the testimony of a former judge of that court and written correspondence between the other court judge and the state prosecutor. Komnenić was convicted for defamation of the Superior Court President, and the court ignored European standards of freedom of expression. The lack of investigation of these allegations is striking because it shows that investigative journalism is not welcomed in Montenegro by the court and the prosecution.

6. **No substantial progress has been made in investigations related to the murder of Duško Jovanović, beating of the journalists Mladen Stojičić and Tufik Softić, attack on the writer Jevrem Brković, as well as in the investigation of the murder of Srđan Vojičić.** We emphasize that the prosecution did not answer the specific question whether they interrogated persons who Softić reported for threatening him. Also, Softić said that it had been almost three years ago since the police contacted him last time regarding this issue, while no one from the prosecution ever contacted him.
7. There is no answer on what has been done to investigate allegations on **illegal application of secret surveillance measures in the Podgorica Superior Court, published in the article of "Monitor" journalist Petar Komnenić**, confirmed by a former judge of that court Radovan Mandić in the case before the Basic Court in Podgorica on a lawsuit filed by Ivica Stanković against journalist Petar Komnenić. We conclude that regarding this case the prosecution had never taken any steps to investigate the above allegations. Apparently the lack of actions serves to protect the high-level judiciary officials and demonstrates bias and malpractice of those responsible in the state prosecutors office.
8. Acting on the charges regarding the **high-level corruption in issuing licenses for food import in Montenegro, which veterinary inspector Mirjana Drašković** filed against the Director of the Veterinary Administration of Montenegro, the Chief Veterinary Inspector of the Veterinary Administration of Montenegro, and the Legal Adviser of the Director of the Veterinary Administration of Montenegro, the prosecution decided that there are no grounds for suspicion that the criminal offense has been committed. Such conclusion is based on the previously collected

necessary information from the State Audit Office Podgorica and Veterinary Administration Podgorica. No one from the prosecution has ever called Mirjana Drašković for an interview. It can be concluded from the reply that the prosecution asked the Veterinary Administration to provide information whether there had been corruption among their high level decision makers and based on their responses it was decided that there has been no grounds for suspicion that the criminal offense has been committed.

9. To date the prosecution has not extended the indictment to the Police officers who ordered and who executed **beating of Aleksandar Pejanović in the Podgorica detention unit**. Interestingly, SSP in its reply showed that it was not informed that in January 2012 the Basic State Prosecutor accused lower rank officers only for unprofessional performance of duty, although the police officer Goran Stanković (whistle-blower) at the trial before the Basic Court in Podgorica pointed out to execution of a series of criminal acts by the Police officials in an organized manner.
10. Prosecution did not answer what actions were taken to investigate allegations from the criminal charges of **Siništaj Anton, Ljekočević Nikola, Siništaj Viktor and Dedvukaj Roka filed in 2006 to the Podgorica Superior Court against authorized officers of the Police of Montenegro unknown to them, which had participated in the police operation "Eagle's Flight"** for the crime Extortion of Confession and the crime Torture and Abuse. Thus, the prosecution confirmed the suspicion that nothing regarding this case has been done in the meantime despite CPT's critics and submitted applications against Montenegro, by the aggrieved parties, to the European Court of Human Rights.

The CPT in March 2009 concluded that investigation in this case failed to meet the requirements of an "effective" investigation. It was noted that the investigation did not comply with the criteria of thoroughness and comprehensiveness, as was clear from the failure to carry out an identification of those implicated, to question all victims of alleged ill-treatment and witnesses, and to give due weight to medical findings consistent with allegations of ill-treatment. Secondly, the investigations were not initiated promptly and lacked expeditiousness and thirdly, an adequate level of independence of the competent authorities from the potential perpetrators of criminal acts was not ensured. CPT emphasized that the alleged victims and their lawyers were not engaged nor informed about the

investigation which did not meet either the requirement of public scrutiny over investigations and procedural actions.⁵

HRA team

⁵ Report to the Government of Montenegro on the visit to Montenegro carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 15 to 22 September 2008, page 19, paragraph 26.