

Comparative presentation of 12 questions submitted by the Human Rights Action (HRA) to the Supreme State Prosecutor (SSP), SSP responses and HRA comments on those responses

| No. | HRA Question  | SSP Answer   | HRA Comment   |
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| 1.  | Against which persons and at what phase is the process of prosecuting responsible members of the special unit of the Ministry of Internal Affairs of Montenegro (MIA) for <b>physical abuse of detainees in the Institution for Execution of Criminal Sanctions (ZIKS) in Spuž on 1 September 2005?</b> | Basic State Prosecutor (BSP) in Podgorica formed the case Kt.br.2777/06 on the criminal complaint –information provided by ZIKS, no. 0102-3137/1 of 1 September 2005 filed against Milan Vujanović, then head of the Security Centre Podgorica, for the criminal offense Negligence at Work under Article 417, paragraph 1 of the Criminal Code. The complaint was dismissed by the decision of the Basic State Prosecutor in Podgorica Kt.br.2777/06 of 23 June 2010 because the acts of the reported person did not contain elements of the crime he has been charged with. Basic State Prosecutor in Podgorica than filed the case in a register kept for unknown offenders and requested the police to continue the process of looking for the perpetrators of this crime. | Despite the fact that:<br>a) The Special Commission of the Ministry of Health, formed at the initiative of the then PM Milo Djukanović, determined that 18 persons had received serious injuries during the intrusion of special MIA units into ZIKS on 1 September 2005, b) the EU expected of Montenegro to conduct an effective investigation in 2005 <sup>1</sup> and c) in 2009 the CPT expressed its concern to the Montenegrin Government over the fact that such an investigation had not been conducted <sup>2</sup> , the public prosecutors to date, seven years later, did not ensure that anyone is held responsible, clearly promoting impunity of police officers. |

<sup>1</sup> ”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](http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1428_final_progress_report_cs_en.pdf))

<sup>2</sup> 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, paras. 22-23 and 26.

([http://www.cpt.coe.int/documents/mne/2010-03-inf-eng.htm#\\_Toc255372640](http://www.cpt.coe.int/documents/mne/2010-03-inf-eng.htm#_Toc255372640))

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| 2. | <p>Which actions have been taken by the competent public prosecutor in the case of <b>telephone death threats to Aleksandar Zeković (researcher of human rights violations and member of the Council for Civilian Control of the Police in Montenegro)</b>, based on his criminal complaint filed on 25 April 2007 to the Basic State Prosecutor in Podgorica?<br/>(According to latest information received from the BSP, on 15 January 2009 the BSP asked the Police Directorate to "undertake actions and measures for identifying the perpetrator of the crime Threat to Security"). If in the meantime there has been no progress in this investigation, please explain the reasons why the investigation has not progressed.</p> | <p>Basic State Prosecutor in Podgorica formed the case KTN.br.246/07 on the criminal complaint filed by Aleksandar Zeković against unknown perpetrator of the criminal offence Threat to Security under Article 168 of the Criminal Code in relation to which the BSP has on several occasions, through the police, collected necessary information - on 4 May 2007 and 22 June 2007, and on several occasions urged the acting on the requests for collection of necessary information - on 30 November 2007, 15 January 2009, 17 June 2009 and 30 July 2009. On 23 December 2009 the Supreme State Prosecutor's Office was informed about this in the act TU.br.421/09. The perpetrator remained unknown to date.</p> | <p>Although repeated requests submitted to the Police by the prosecution suggest that it was the Police who refused to collect the required information, passive position of the prosecutor who accepted such unlawful action of the Police made him an accomplice in violating human rights to protection of physical integrity, as well as to freedom of expression in this case. The prosecutor himself should have undertaken investigative actions, e.g. interrogated the police officer publicly suspected of carrying out the threats and initiated proceedings for the crime Negligence at Work against responsible persons in the Police who had failed to respond to prosecutor's requests and obstructed the investigation (in February 2011 the BSP informed Zeković that the case file did not include a disc with the voice recording of a person who carried out the threats, submitted to the police by Zeković himself). SSP should also have addressed the Prime Minister regarding illegal</p> |
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|    |   |  | performance of the Police Directorate, but in stead chose to do nothing and let the case become time barred.   |
| 3. | Has the trial against ZIKS officers Vukica Vukićević and Sandra Brajović (for the <b>crime Torture and Abuse against a detainee Vladana Kljajić</b> ) started, and, if so, at which phase it is now or how did the proceedings end?   | Basic State Prosecutor in Podgorica formed the case Kt.br.1542/08 on a motion filed on 6 April 2009 to indict ZIKS security officers Vukica Vukićević and Sandra Brajović for the crime Torture and Abuse in concurrence with the crime Light Bodily Injury committed against Vladana Kljajić. In its judgment of 31 January 2011 the Basic Court in Danilovgrad found the accused Vukica Vukićević and Sandra Brajović guilty and imposed a suspended sentence which had previously imposed a sentence of imprisonment for a term of 4 months and at the same time provided that those shall not be enforced if within 2 years after the judgment becomes final they do not commit a new crime. Basic State Prosecutor appealed against this judgment on 25 March 2011, but the Higher Court in Podgorica dismissed this appeal by its decision Kž.br.806/11 of 26 May 2011 and upheld the first instance verdict.        | In this case, the state prosecutor has originally qualified the abuse of Vladana Kljajić only as the crime of Light Bodily Injury, and later, after the CPT clearly showed interest in this case (after the Delegation members saw Vladana), the qualification was changed into a lighter form of abuse, not torture. Final judgment imposing a suspended sentence for the two prison officers is not in accordance with international standards prohibiting torture and other forms of ill-treatment. |
| 4. | When and what actions has the Supreme State Prosecutor taken regarding the allegations of Ibrahim Čikić published in the book "Where the sun does not shine", whose excerpts had been published in the daily "Vijesti", in which <b>Čikić describes severe abuse against himself and other members of the Party of Democratic Action (SDA) in 1994 in Montenegro?</b> HRA also noted that in 1994 and | In the indictment of the High State Prosecutor from Bijelo Polje of 21 July 1994, Ibrahim Čikić and 20 other persons were charged with the crime Endangering the Territorial Integrity. In addition, Ibrahim Čikić and 14 other persons were accused of the crime Illegal Possession of Weapons or Explosives. In the judgment of the High Court in Bijelo Polje K.br.25/94 of 28 December 1994 Ibrahim Čikić was sentenced to imprisonment for a term of 2 years, provided that the sentence includes time spent in detention from 27 February to 28 December 1994. In its judgment Kž.br.92/95 of 29 December 1995 the Supreme Court of Montenegro reversed the judgment of the High Court in Bijelo Polje K.br.25/94 by rejecting the charges against Ibrahim Čikić and 20 other defendants, because in the course of the procedure on appeals on 19 December 1995 the President of the Republic of Montenegro issued a | The response of the SSP does not answer the question asked (the question was what actions has the prosecution taken <i>regarding allegations that Čikić and other members of SDA were severely abused</i> ). This despite the fact that HRA informed the prosecution in the very request how to obtain information we had referred   |

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|           | <p>1995 the weekly "Monitor" published a series of allegations of torture of members of this group, and that this case can be considered as generally well-known in Montenegro.</p>   | <p>pardon decision which freed from prosecution all the defendants against whom the proceedings before the High Court in Bijelo Polje had been initiated. Private prosecutors Luka Bulatović and others from Bijelo Polje filed a lawsuit with the Basic Court in Bijelo Polje on 14 March 2009 against Ibrahim Čikić for the crime Defamation under Article 196, paragraph 2 of the Criminal Code. Basic Court of Bijelo Polje stopped the proceedings in this case due to the decriminalization of a crime of defamation.</p> | <p>to (published books and newspaper articles). Pursuant to all of the above, one can conclude that the prosecution has never taken actions within its jurisdiction regarding the commonly known allegations of torture based on political, religious and national differences in the case of SDA leadership in order to investigate the aforementioned allegations. In so doing, they enabled criminal and civil prosecution of Čikić for defamation for the allegations published in his book.</p> |
| <p>5.</p> | <p>When and which measures has the public prosecution taken to investigate allegations <b>of unlawful use of secret surveillance measures in the High Court in Podgorica</b>, published in the article of "Monitor" journalist <b>Petar Komnenić</b>, 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?</p> | <p>The Basic Court in Podgorica conducted the proceedings on a private lawsuit of the President of the High Court in Podgorica against a journalist who has published the information in daily newspaper. The proceedings ended with a final judgment.</p>  | <p>The answer has nothing to do with the question asked.</p> <p>HRA concludes that in this case the prosecution has never taken any steps to investigate the said allegations. Such failure to act obviously protects senior officials of the judiciary, thus indicating bias and negligent work of state prosecutors.</p>   |

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| 6. | <p>Is there any progress in the investigation of accomplices and those who ordered <b>the murder of Duško Jovanović, editor in chief of the daily DAN</b>, murdered on 27 May 2004 in Podgorica?</p> | <p>With the exception of a part of the response the public was familiar with prior to the submission of the request in May 2010<sup>3</sup>, below is the remainder of the answer: "With regard to this case, after receiving a letter from a certain person from Niš named Slobodan Stevanović, the High State Prosecutor in Podgorica in its request of 5 November 2010 asked for certain verifications by collecting necessary information from ZIKS Podgorica. However, the information obtained did not provide a basis for taking actions in order to prosecute a certain person as a possible co-perpetrator of the crime. The State Prosecutor's Office and the Police Directorate are currently collecting the necessary information to determine the identity of all participants in the murder case. Last action taken in the direction of shedding light on this murder (June 2011) was carried out through mutual international legal assistance, which enabled the representative of the prosecution and the court to conduct a hearing of a witnesses in a foreign country who claims that he has some knowledge about other undiscovered co-perpetrator of the murder of the journalist. Query into the allegations of this witness are under way, although the actions taken thus far have shown that the testimony of the witness had not been confirmed by the person the witness referred to as a source of his knowledge. In this case, the prosecution as the prosecuting authority of offenders has undertaken all the measures and actions it is legally authorized to undertake, and in order to fully shed light on this case, it has accepted all the requests from the police to provide all information and available evidence through the form of process procedures, to fully elucidate the case.</p> | <p>Although the SSP states that actions taken from the moment when HRA submitted its request to date, SSP response indicates that no substantial progress has been made in the investigation of the murder of Duško Jovanović.</p> <p>On this occasion, as well as thus far, the prosecution has failed to explain why Vulević's and Osmanagić's DNA samples are sent for analysis only 4 years after the murder, although they were suspected as perpetrators by senior police officers immediately after the murder. On the other hand, Mandić, who is serving his sentence, claims that the evidence against him was planted.</p> |
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<sup>3</sup> "On 30 September 2004, after conducting an investigation, the High State Prosecutor in Podgorica filed an indictment against Damir Mandić, who was charged as the co-perpetrator together with unknown persons for murdering journalist Duško Jovanović. Due to lack of evidence, the judgment of the High Court in Podgorica acquitted the defendant of this crime, and on 12 March 2007 the prosecutor appealed against the acquittal. Appellate Court of Montenegro accepted the appeal and quashed the first instance decision on 26 February 2008 and returned the case to the first instance court for retrial. In the repeated proceedings the accused Damir Mandić was found guilty of a criminal offense he was charged with in the indictment and sentenced to imprisonment for 30 years. Acting on the complaint of the accused, on 4 December 2009 the Appellate Court of Montenegro reversed the judgment of the High Court in Podgorica sentencing the accused to imprisonment for a term of 19 years, by which the judgment became final. From the day of the murder of journalist Duško Jovanović, the police and prosecution were taking actions to determine the identity of unknown persons who participated in the commission of the crime of murder together with Damir Mandić, and swabs of several persons have been sent for DNA expert analysis to the Federal Criminal Investigation Office in Wiesbaden. On 10 January 2008 the High State Prosecutor in Podgorica formed a separate case in order to detect unidentified perpetrators of the murder of Duško Jovanović. High State Prosecutor in Podgorica proposed to the investigating judge of the High Court in Podgorica to take a DNA sample for analysis from Vuk Vulević and Armin Osmanagić, who had in the meantime become available to the competent authorities, and send it to the Federal Criminal Investigation Office in Wiesbaden for determining DNA profiles and comparing undisputed profile with DNA profiles determined by forensic experts from the material evidence taken from the vehicle Duško Jovanović was shot from. Federal Criminal Investigation Office in Wiesbaden conducted the required expertise analysis which did not show the presence of biological evidence from Vuk Vulević and Armin Osmanagić, after which the prosecutor decided that there is no basis for initiating criminal proceedings against these persons."

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| 7. | <p>Is there any progress in investigating the <b>attack on writer Jevrem Brković and murder of Srđan Vojičić</b> who were attacked in Podgorica on 26 October 2006 when Srđan Vojičić was killed?</p>  | <p>With regard to this incident, on 1 November 2006 the Police Directorate – Regional Office Podgorica submitted to the High State Prosecutor in Podgorica criminal charges against several unidentified perpetrators of the crime of aggravated murder in the attempt. In order to identify and find the perpetrators of this crime, on 7 December 2007 the High State Prosecutor in Podgorica proposed the investigating judge of the High Court in Podgorica to undertake investigative actions - examination of witnesses and representatives of the injured family, as well as confrontation of witnesses. Investigating judge has accepted this proposal and started these investigative actions. Following the investigation, on 9 April 2009 the High Court in Podgorica submitted the case file to the High State Prosecutor in Podgorica. After evaluating the evidence and the information contained in the case file, on 22 April 2009 the case file was returned to the investigating judge to fully act on the motion filed to undertake investigation and take action to confront witness Jevrem Brković with witnesses Puniša Vojičić and Vasko Vojičić. Based on the results of investigative action of confrontation, on 9 October 2009 the High Court in Podgorica submitted the case file to the prosecution for further action and decision. On the basis of investigative action of confrontation, as well as evaluation of other case file documents, the High State Prosecutor in Podgorica found that there are no grounds for initiating criminal proceedings against a specific person. Also, at the request of the Police Directorate - Crime Police Department - Division for Technical Forensic Expertise, an opinion has been obtained from the Belgrade Medical Faculty - Institute for Forensic Medicine in Belgrade regarding the analysis of DNA profile against one person and by comparing the indisputable profile with DNA profiles established in expert opinion with material evidence from the crime scene, which did not provide a basis for initiating criminal proceedings against that person or any other person.</p> | <p>Response of the SSP indicates that there has been no progress in the investigation into the case to date.</p>   |
| 8. | <p>Is there any progress in investigating the <b>attack on journalist Tufik Softić</b>, who was physically attacked by two masked persons in Berane on 2 November 2007? Did the state prosecutor take preliminary investigative actions in</p> | <p>On the occasion of the attack on journalist Tufik Softić in Berane, carried out by two unknown persons with wooden sticks, the Police Directorate in Berane in cooperation with the Basic State Prosecutor in Berane has conducted an extensive preliminary criminal procedure in order to determine the identity and find the perpetrators of this crime. During the recognition procedure, polygraph test of 25 persons, questioning of 34 persons, and analysis of telephone communication listings between these persons, the data that would provide the</p>   | <p>Response of the SSP indicates that there has been no progress in the investigation in this case. Prosecution failed to answer the question whether the persons Softić himself</p> |

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|     | relation to persons who have previously threatened Mr. Softić, or in relation to persons designated as the likely perpetrators of the attack?   | prosecutor an opportunity for reasonable doubt that any of these persons are the perpetrators of the crime have not been obtained. The Police Directorate - Regional Office Berane is undertaking further measures and actions to elucidate this crime. In order to shed light on the events, the Basic State Prosecutor has urged the police several times, and the last request was submitted on 17 February 2012, on which occasion the Police Directorate informed the competent prosecutor's office on 20 February 2012 that the police do not have new information regarding the case.  | identified after the attack as those who threatened him had been questioned. The prosecutor himself never contacted Softić.  |
| 9.  | On the occasion of the <b>attack on journalist Mladen Stojović</b> in Bar at the end of May 2008, did the state prosecutor's office investigate allegations of Mr. Stojović about the "football mafia" members who had fraudulently obtained gain, presented in the Belgrade B92 television show <i>Insajder</i> , after which Stojović was attacked in his apartment in Bar? Which investigative actions have been taken by the prosecution to investigate Stojović's allegations, as well as the existence of a possible connection between persons he has designated as members of the "football mafia" and the attack on him? | On the occasion of the attack on journalist Mladen Stojović in Bar, on 11 June 2008 the Police Directorate logged a criminal complaint with the Basic State Prosecutor in Bar against an unknown perpetrator. Police Directorate - Regional Office Bar is currently conducting preliminary criminal proceedings initiated at the request of the prosecutor to determine the identity of persons who have inflicted grievous bodily harm to Stojović. On 9 March 2009 the Basic State Prosecutor in Bar submitted an additional request in order to collect the necessary information. During the process of collecting necessary information, 17 persons have been questioned and based on their testimony it was not possible to obtain information about the identity of the attackers, in connection to which the Regional Office Bar submitted the last reports to the Basic State Prosecutor in Bar on 4 February and 30 March 2011. Basic State Prosecutor's Office in Bar urged the police on several occasions, and the last repeated request to the police was submitted on 12 March 2012. | SSP did not answer the question.<br><br>The submitted data show that in this case there is no progress in the investigation and that the initiative had entirely been left to the police, contrary to the concept of criminal investigation being led by the prosecutor. |
| 10. | When and which investigative actions have been taken by the state prosecutor's office regarding the <b>criminal charges filed by</b>  | Basic State Prosecutor in Podgorica formed the case Ktr.br.1238/09. After the previously collected necessary information from the State Audit Office Podgorica and Veterinary Administration Podgorica, it has been established that there are no grounds for suspicion that a criminal offense prosecuted ex   | As in the case of the institute Komanski most, <sup>4</sup> here too the prosecution tends to be satisfied by the data on  |

<sup>4</sup> Please note the previous response of the Supreme State Prosecutor to the question regarding achievements in investigation against management of Komanski most and HRA, EKVISTA and SŽK comments at: [http://www.hracion.org/wp-content/uploads/PRESS-RELEASE\\_MARCH-13.pdf](http://www.hracion.org/wp-content/uploads/PRESS-RELEASE_MARCH-13.pdf)

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|            | <p><b>veterinary inspector Mirjana Drašković</b> from Podgorica with the Supreme State Prosecutor in Podgorica on 27 August 2009 against the Director of the Veterinary Administration of Montenegro, Chief Veterinary Inspector of the Veterinary Administration of Montenegro Gore and Legal Adviser of the Director of the Veterinary Administration of Montenegro?</p>   | <p>officio has been committed. Mirjana Drašković has also been informed about this decision.</p>   | <p>suspicion of corruption or other irregularities mainly submitted by persons to whom the charges relate, or possibly other state agencies. There is no indication that the prosecution has taken any action which would point to conducting an independent investigation in relation to civil servants. Mirjana Drasković has never been invited to interview by the prosecutor.</p>  |
| <p>11.</p> | <p>Has the public prosecution extended the indictment in the case of <b>beating of Aleksandar Pejanović in the detention unit of the Security Center Podgorica</b>, on the occasion of allegations from the police officer Goran Stanković's testimony given at the trial before the Basic Court in Podgorica on 15 December 2009, which points to the alleged commitment of a series of crimes by employees and officials of the Police Directorate in an organized manner?</p> | <p>Motion to indict Ivica Paunović, Goran Stanković, Milan Kljajević, Bojan Radunović, Milanko Leković and Dobrivoje Đuričić for the crime Torture and Abuse has been filed. Basic Court in Podgorica found Ivica Paunović guilty and sentenced him to imprisonment of 3 months, as well as Milan Kljajević and Milanko Leković, sentencing them to imprisonment of 5 months. As a result of prosecutor's withdrawal from further prosecution, the Basic Court in Podgorica dismissed the charges against Goran Stanković, Bojan Radunović and Dobrivoje Đuričić. In deciding on the appeal of the Basic State Prosecutor's Office filed against the said judgment, the High Court in Podgorica issued a decision Kž.br.2387/10 of 23 October 2010 accepting the appeal and returning the case for a retrial and decision. The process is currently pending.</p> | <p>HRA concludes that the SSP, strangely, is not familiar with the fact that in January 2012 the Basic State Prosecutor indicted police commander Ratko Rondović and shift leader Dušan Raičević for the crime Negligence in Work, acting on charges of the late Aleksandar Pejanović. It is apparent that these lower-level officers have not been accused of aiding in torture and other offenses they were charged with, including forging documents, indicated by witness Goran Stanković. Also, it is clear that the prosecution has not yet indicted those who had ordered beating of Pejanović</p> |



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|     |  |   | or direct perpetrators of beating from the special police unit.   |
| 12. | When and which investigative actions have been taken by the Supreme State Prosecutor's Office regarding <b>allegations from the criminal charges filed by Anton Siništaj, Nikola Ljekočević, Viktor Siništaj and Roko Dedvukaj</b> before the High Court in Podgorica on 14 September 2006 against authorized officers of the Police of Montenegro unknown to them, which had participated in the police operation "Eagle Flight" for the crime Extortion of Confession and the crime Torture and Abuse? | Basic State Prosecutor in Podgorica formed the case Kt.br.732/08 on a motion filed on 14 May 2008 to indict Marko Kalezić, Darko Šekularac, Nenad Šćekić, Branko Radičković and Milorad Mitrović for the crime Torture and Abuse under Article 167, paragraph 3 in connection with paragraph 1 of the Criminal Code. The judgment of the Basic Court in Podgorica K.br.09/1416 of 21 October 2010 acquitted the accused of the charges, and on 24 November 2010 the prosecution filed an appeal against this judgment. Deciding on the appeal, the High Court in Podgorica adopted a decision Kž.br.616/11 of 18 May 2011 confirming the first instance decision. | SSP did not answer the question.<br><br>The case the SSP has referred to concerns the abuse of Petar Siništaj (the father of two defendants), and not the defendants themselves who had filed the complaint because of their abuse.<br><br>Interestingly, the SSP fails to answer the question regarding the case where the prosecution's failure to act has earlier been criticized in the 2009 CPT report to the Government of Montenegro. <sup>5</sup><br><br>Applications regarding this case have been submitted to the European Court of Human Rights and the case against Montenegro is currently pending. |

<sup>5</sup> For the CPT report, please see above FN 2, paras. 24-26.