

Open Letter to Members of the Organisation Committee of the “Word, Image and Enemy” Conference held in Podgorica on 11-13 November 2013,

To Messrs Ranko Vujović, Slavko Mandić, Nikola Vujanović, Željko Rutović, Amer Ramusović, Budimir Damjanović, Nikola Martinović, Stevan Lilić, Branko Vojičić, Dražen Cerović, Milorad Popović, Andrej Nikolaidis,

and Madams Irena Bošković and Gordana Borović,

and Montenegrin Minister for Human and Minority Rights Suad Numanović and Minister of Culture Mr. Branislav Mićunović, who supported the Conference with Montenegrin public funds and had representatives in its Organisation Committee

Podgorica, 19 December 2013

Dear Messrs and Madams,

You have sent two letters to the NGO Human Rights Action: Conclusions of the “Word, Image and Enemy” Conference you organised in Podgorica on 11-13 November 2013 and a letter calling on human rights NGOs to publicly condemn what you qualified as “a media campaign that the Montenegrin daily Vijesti and weekly Monitor had for days waged against the Conference organisers and participants and, above all, against the freedom of public expression and confrontation with the truth”. You concluded your letter with the expectation that we would react “in accordance with the principles applied in developed democracies and thus succeed in demonstrating that the principles of democratic pluralism of opinion apply to everyone in Montenegro as well”.

I am writing this letter precisely in the endeavour to support the very principles you claim you advocate, notably the principle of pluralism of opinion, which I will first focus on in the context of the event you had organised. I will then write about the principles, such as the freedom of expression and the respect of the press code of conduct in the context of the exhibition you highlighted as the “key event” of your Conference.

In the Conference Conclusions, you informed the public that you wanted to launch a public debate on the freedom of the media, human rights violations and the press code of conduct and standards. You had, however, decided to focus during the conference on human rights and code of conduct violations by the Montenegrin media, which you had not only failed to invite to participate in the debate, but which you had deprived of the right to report on the conference as well (notably, the dailies Dan and Vijesti and the weekly Monitor, which, as Conference Organisation Committee member Branko Vojičić admitted, are the most influential Montenegrin media). You are now calling for an explicit condemnation of their criticisms both of the organisation of the Conference and the controversial views expressed at it. In a nutshell, it seems that you do not really care about the principle of pluralism – differences in opinion.

Apart from these media, you had also failed to invite to the Conference the NGOs that have for years been implementing programmes of relevance to freedom of expression in Montenegro, such as the Montenegro Media Institute (under the auspices of which the Code of Montenegrin Journalists was adopted in 2002), the Centre for Democratic Transition, the Centre for Civic Education, the Network for the Affirmation of NGO Sector (MANS) and Human Rights Action.

The impression that you avoided having at your Conference voices from Montenegro whose views may be contrary to yours, which had apparently been formulated in advance, is corroborated by the fact that you had not invited to the event even Dragoljub Duško Vuković, a many-year journalism instructor with the Montenegro Media Institute and a panellist at various international conferences on media freedoms and press ethics, who had led the drafting of the Code of Montenegrin Journalists.

I presume that Human Rights Action, which has for years been advocating European freedom of expression standards in Montenegro with some success, and which I represented also as a panellist at the European Commission's conference on the freedom of expression and media in the Western Balkans and Turkey "*Speak Up! 2*" in Brussels this year, was not invited to your Conference because of two of its "sins" in the eyes of the Conference organisers. This, too, demonstrates lack of abidance by the principle of plurality of opinion. Our first "sin" is that we have been monitoring media self-regulation in Montenegro and voicing substantiated arguments in criticism of the work of a Conference co-organiser, the Media Council for Self-Regulation. Our second "sin" is that I, in my capacity of HRA Executive Director, commented a recent incident between Vladimir aka Beba Popović, the Director of the Public Policy Institute, another Conference co-organiser, and Vijesti reporters, and disagreed with Popović's views of the incident – that he was not a public figure and that he was not at a public venue at the time of the incident.

This had sufficed for the Public Policy Institute Executive Board Chairman Stevan Lilić to publicly slur us in the state daily Pobjeda. (To recall, not only did Pobjeda deprive us of the right of reply to Lilić by refusing to publish it, but had published his reply to our unpublished reply as well!). This clearly demonstrated that neither the Public Policy Institute nor Pobjeda reconcile easily, to say the least, with the democratic principle on the respect of the right to different opinions in practice, although the Public Policy Institute, as a Conference co-organiser, declaratively advocates that principle.

Although uninvited individuals were unable to access the Conference (it was under better security than NATO events, according to a diplomat and in the experience of a journalist who had tried to access without a press pass), its "key event" – the exhibition - was open to the public.

I would particularly like to alert all those who have or are planning to attend the exhibition or who had seen Pobjeda's supplement promoting its concept. This exhibition appears to be a pre-meditated attempt to confuse and intimidate the citizens, to deter them not only from criticising the authorities, but from displaying even innocuous interest in the Montenegrin government representatives as well. What gives rise to concern is the fact that representatives of the Human and Minority Rights and Culture Ministries took part in the organisation of the exhibition, and that its opening had been attended by the Prime Minister, a number of Ministers and Government staff, who had not displayed even an inkling of criticism about its content; as a matter of fact, neither the Government nor any of its representatives have yet publicly distanced themselves from its content.

The Television of Montenegro's coverage of the opening of the exhibition provided the Montenegrin public with the opportunity to see the Prime Minister and other officials and guests in a good mood, listening to the introductory speech by exhibition editor Branko Vojičić, who qualified the exhibited pieces, without exception, "examples of media abuse, unprofessionalism, and violations of human rights and all press ethical standards and norms". Contrary to Vojičić and other members of the Conference Committee and other proponents of this exhibition, the exhibited pieces I list below in illustration are, in my view, prime examples of the freedom of expression in accordance with European standards and the Code of Montenegrin Journalists.

After all, why not let the readers of this open letter be the judge of whether the following displayed cover pages of the weekly **Monitor** are examples of such "bad wine", as the exhibition editor called them?

- The cover page titled "**Him or Europe**", with a photomontage of scales, with the Montenegrin Prime Minister holding on to one end and the EU flag hanging from the other – a clear example of permissible, satirical expression and freedom of expression, even if it were to reflect the views of only one Montenegrin citizen;

- The cover page titled **“Presidential Elections: Lekić or This”**, illustrated with a photomontage in which opposition presidential candidate Miodrag Lekić is running alone, while his opponents, current Prime Minister Milo Đukanović and President Filip Vujanović are running together, hugged – an impartial observer, who knows that Đukanović is the President of the ruling party in Montenegro (DPS) and that Vujanović is the Vice-President, cannot find anything disputable in this satirical expression;
- The cover page titled **“Who is Protecting the Masterminds – Pukanić, Jovanović, Žugić, Raspopović, Šćekić”** and showing the photographs of the listed victims – is an undisputable and factually based headline, which alerts, in public interest, to the generally known fact that the ones who had ordered the assassinations of these people have not been brought to justice yet;
- Portraits of opposition leaders and the title **“Boycott or Complicity – Opposition after the Election Fraud”**: the headline may be perceived as controversial given that the court has not rendered a final decision establishing “election fraud”. However, this expression was used by the opposition leaders portrayed on the front-page themselves, and in light of the launch of the proceedings regarding the Recording Scandal and inquiries into other indicators of the abuse of election rights, as such, it cannot be prohibited as manifestly ill-founded; nor can anyone dispute the right of it being discussed by the media as well;
- A photomontage of the Prime Minister in the company of the Ministers of Finance and Economy, with a hand over the mouth (of the first), over the eyes (of the second) and over the eyes (of the third), headlined **“Government: Speak no Crisis, See no Crisis, Hear no Crisis”** and the photomontage of the Prime Minister as Pinocchio headlined **“Pinocchio, Watch Your Nose”** – are provocations protected by the freedom of expression, and are not even original – such classical satire targeting government leaders has always been and will always be published in democratic states, whilst the democratic representatives of the people will be expected to tolerate it in the best spirit of democracy and despite the views of the editors of exhibitions such as this one.

These and numerous other front-pages of the daily **Dan** with their factually undisputable headlines have been “crucified” in much the same way:

- A front-page headlined **“Ivanović Suspects Milo and Family”**, with the following text above it “Vijesti Director Beaten up in Heart of Podgorica Yesterday” and a photograph of beaten Ivanović in a hospital bed – again, the daily provided undisputable information to the public that Ivanović, who had been a victim of a grave physical assault the previous day, suspected that he had been assaulted by state agents – indeed, there are still suspicions that Ivanović had not really been assaulted by the two men, who were expressly convicted after confessing to beating him up because Vijesti had published wrong information about them several years earlier, information which they had never tried to deny;
- A front-page headlined **“44 Million from One Brother to Another”** with the following text above it “State Grants Loan to *Prva Banka*” and photographs of the Prime Minister and the owners of *Prva Banka* - another claim based on the fact that the Montenegrin Government, under the premiership of Milo Đukanović, granted a loan to *Prva banka*, in which his brother Aleksandar Đukanović owns a majority share;
- A front-page headlined **“Milo Again”** with the following text above it “DPS Presidency Nominates Its Leader Prime Minister Designate” - another generally well-known historical fact that Milo Đukanović was again nominated Prime Minister Designate for the sixth time in 2012, and that he is again, for the sixth time, the Prime Minister of Montenegro;
- The titles **“Resolve the Recording Scandal by Presidential Elections”** and **“EIB Launching Urgent Investigation”** legitimately convey the statements by European Commission and European Investment Bank officials respectively; as is well known, they have continuously called on the authorities to investigate the employment-related discrimination the DPS senior officials indicated in their statements and the recordings and transcripts of which Dan had published, et al.

The following Dan and Vijesti front-pages are exhibited as examples of breaches of the human right to respect for private and family life: **Dan front-pages:** “They Want to Interrogate Ana and Milo” and the caption above the headline “Opposition launching parliamentary investigation into the Telekom scandal with 27 signatures”; headline “Milo’s Sister Buying High School” and the caption above the headline “Duča from Kuče changing owners”; “Ana Selling High School” and the caption above the headline “Prime Minister Milo Đukanović’s Sister Will Not be the Owner of the School in Doljani Soon”; headline “First Sister Must Have Everything” and the caption above the headline “Ana Kolarević Mortgages Four Apartments and Two Business Establishments to Get Loans from Four Banks”; headline “Ana on Restis Group’s Payroll” and the caption above the headline “Ex-Prime Minister’s sister representing St. Stefan Lessors”. **Vijesti front-pages:** headline “Ana Kolarević Advised Greeks, Too” and the caption above the headline “MANS uncovers new info on lease of most elite place on Montenegrin coast”; headline “Ana Kolarević Suing Vijesti and Dan for 100,000 Euros” and the caption above the headline “Sister, a lawyer, sues two dailies claiming harm to reputation and mental anguish”; headline “[Hotel] Avala Estimated at Six Million but Sold for Two Million Euros” and the caption above the headline “Suspensions of corruption: MANS seeking inquiry into sale of Budva hotel and Ana Kolarević’s role”; headline “Milo’s Son Goes into Business” and the caption above the headline “In his father’s footsteps: former senior Government officials reported assets after a year”; headline “Aco the Most Generous” and the caption above the headline “Government sells right to use land with Podgorica police building for 3.3 million”. Exhibiting these cover pages without explanation, without indicating that there are judgments or any other evidence demonstrating that the allegations are untrue (although they are common knowledge and have not been denied) is frivolous. Attempts to convince the public that the Prime Minister’s sister, a successful lawyer and an erstwhile Montenegrin Supreme Court judge, is not a public figure and therefore does not have to tolerate a higher degree of attention and criticism and that her activities, public ones at that, may not be reported on, are obviously erroneous and in contravention of European standards. Nor is there any reason why the public in a democratic society should not have a right to know about the business activities of the Prime Minister’s brother and son.

There is no doubt that presumption of innocence is the rule violated the most often by the Montenegrin media. However, the exhibition does not present even this obvious fact adequately. Examples of legitimate and lawful statements, even those made by foreign officials, are used to illustrate breaches of the presumption of innocence in the section entitled “KANGAROO COURT”. **For example, the headline “Government Officials Should be Tried Once Evidence is Collected – One of the Most Famous FBI Agents Joseph Pistone Says in Exclusive Interview to Dan on Fight against Organised Crime”** does not violate the presumption of innocence in the least; presumption of innocence serves to protect specific individuals under investigation or criminal trial, not to protect all Government members at all times, as the exhibition suggests.

There is no cause to criticise the following headline **“New Police Chief Should Declare whether He Would Arrest Milo – Parliamentary Parties expect of Veljović’s Successor to Give Heed to Brussels and Bare His Teeth to Influential Politicians”** or the question *Would you be willing to arrest even the Prime Minister?* The latter is probably a question all prospective policemen, especially chiefs of police, are asked at job interviews in any democratic country, so why should it not be posed to the one, whose Prime Minister is Milo Đukanović? Why fear the question and “crucify” it at an exhibition in a democratic state?

Furthermore, problematising the headlines **“Arrest and Convict Senior Officials – European Parliamentarians Propose Text of Official Declaration to Montenegrin Counterparts”**, **“Talks and the Hunt for Big Fish Launched – EU Council of Ministers Gives Montenegro Green Light for New Stage of EU Accession Talks to be Conducted under Unprecedented Rigorous Conditions”**, **“You Will Have to Clean under the Rug Like the Croats”** absurdly suggests that European Parliament MPs, members of the EU Council of Ministers and a German senior official are violating the presumption of innocence of all senior officials in Montenegro. They were probably intrigued to find out that they found themselves under criticism with the support from the highest state level because of their suggestions that Montenegro combat high-level corruption.

The exhibition section with the fear-instilling title **“ATTACK ON THE STATE”** includes front-pages with my photographs and statements: **“Čarapić (former Supreme State Prosecutor) is Misinforming the Public and Passing the Buck to the Police,”** and **“They Are Keeping Quiet on Torture in Detention, Assaults on Journalists, Wiretapping of Judges”** – I had made those

statements in the best interests of the democratic state of Montenegro and its citizens and the respect of their human rights and, of course, I am still standing by those statements: my statements are substantiated also by the final judgment of the Montenegrin Administrative Court, which ruled that the Supreme State Prosecution Office, that is, the Ministry of Justice, provide public access to the required information. Even when the State Prosecution Office, under Mrs. Čarapić's management, was forced to allow access to information on assaults and journalists and investigations of their allegations two years after it was sought and one year after the Administrative Court ordered it to – it did not provide access to all the required information. I hope that the new Commission Monitoring Cases of Violence against Journalists will succeed in establishing why this information, i.e. investigations are still incomplete, which is the first and foremost issue, which I was entitled to talk about publicly via Vijesti and other media three years ago.

The section "ATTACKS ON THE STATE" also includes the Vijesti front-page with a photo of Mrs. Čarapić during her presentation of the Montenegrin State Prosecution Office's Annual Report and the article headlined "**Could Less Have Been Done**" – this headline is without doubt a provocation in public interest, entirely within the limits of the freedom of expression, particularly as it regards the performance of the Supreme State Prosecutor, which even the European Commission qualified as "limited" in its diplomatic parlance. Furthermore, this section includes the following Vijesti headline "**Writing Letters Rogatory for Evidence on "Sister" for 32 Days Now**" although there can be no dispute that the State Prosecution Office's failure to prepare and forward the letters rogatory - despite the US authorities' precise guidance on how to seek the relevant information in a matter of topmost public interest although more than a month had passed since it had forwarded it - is information the public has a legitimate interest to know. Such journalism can only contribute to the building of accountable and professional state institutions, the kind of institutions Montenegro needs. It's portrayal as an attack on the state, which smacks of the era of one-party single-mindedness, is, indeed, disappointing.

Interestingly, verbatim coverage of statements by European Commission senior officials is also presented as an example of how human rights and ethical standards are violated – the exhibition organisers emphasised by circling in red the headline of a Vijesti article "**Stefan Füle: Pobjeda is an Illustration of How Ethics are Violated**" in which EU Enlargement Commissioner Stefan Füle is quoted as saying just that, as both I myself and the other participants in the regional conference *SpeakUp! 2* heard him say. Your exhibition portrays this statement by Mr. Füle as well as a breach of human rights and ethics without an explanation.

The covers of the US magazine Time issue on which two women and two men are kissing and saying "Gay Marriage Has Already Won" also ended up on the "pillar of shame". These covers are an illustration of the magazine editors' legitimate advocacy of LGBT rights, which cannot be cancelled out by the exhibition editor's personal astonishment by the fact in the quoted headline (that 14 US states had legalised gay marriage) or by what the photographs show – that there are men who love men and women who love women and that they dare show that in public. Declaring such cover pages unprofessional journalism and ethical violations amounts to homophobia and does not contribute to observance of the human rights culture.

There is no doubt that this exhibition casts a threatening arrow at those Montenegrin media known for their continuous criticism of the authorities, media the reports of which are unjustifiably highlighted at the exhibition as illustrations of "gross human rights violations" and "direct violations of all ethical norms and standards that should apply in journalism". What is even more dangerous for the development of democracy in Montenegro is that such messages at the same time sow confusion in the public about freedom of speech standards in a democratic society. Those who understand and uphold those standards are left with a bitter realisation that this exhibition has been supported with the money of the impoverished Montenegrin tax-payers and the encouragement of their ruling political elite.

Although the exhibition's declarative goal – "to draw attention to the incalculable importance of professionalism in journalism" – is absolutely legitimate, because nearly all Montenegrin media more or less violate the Press Code of Conduct, the presentation of the front pages of Vijesti, Dan and Monitor as illegal and unethical without any explanation is not an impartial approach to the problem.

Aspersions have been cast on absolutely indisputable claims, substantiated even by court judgments, although, in European democratic societies, journalists are not required to fulfil that degree of certainty. The exhibition also displays headlines including unproven claims, which have not been challenged in court and are nevertheless based on specific facts – which, again, suffices for freedom of expression under the case law of the European Court of Human Rights.

The concept of the exhibition is based on an erroneous interpretation of a European standard, as may be concluded from the exhibition editor's text in the exhibition brochure, in which he claims that: *in the view of the European Court of Human Rights, the public and politicians must accept that the freedom of expression implies the right to "shock, disturb, or anger" but not to "harass, offend or shame"!*

Actually, the European Court said that the freedom of expression included information or ideas that *offend and shock and disturb* because such are the requirements of a pluralist and open society. Therefore, the message underlying the exhibition, that freedom of expression does not allow any insulting or shaming, is inaccurate. The fact that someone may feel insulted by the exhibited front pages does not suffice to prohibit those cover pages or declare them undesirable in a genuinely democratic society.

The real examples of violations of press ethics have been overshadowed by the rampant disputation of obviously admissible examples of press criticism of the government, which are actually desirable and necessary for the development of democracy. In light of the valid European standards, such disputation of the freedom of expression would cause any politician of a Council of Europe member-state to cringe in shame, let alone a statesman such as former US President John Kennedy, who had said in a speech before the American Newspaper Publishers Association in 1961: "Without debate, without criticism, no Administration and no country can succeed - and no republic can survive." This exhibition, wholeheartedly supported by the Montenegrin Government, demonstrated a different commitment, which can be subsumed in the following intimidating message: "beware, you who dare write about us, especially criticise us – we will crucify you, (if not elsewhere then) at an exhibition!"

The wrong concept of the exhibition, which condemns critical expression and which was supported by the Government of Montenegro, cannot but cause concern among all those who care about this country as a democratic state aspiring to become a member of the European Union.

Tea Gorjanc-Prelević,

NGO Human Rights Action Executive Director