

SUPREME STATE PROSECUTOR
Mrs. Ranka Carapic

Podgorica, 2 June 2010.

SUBJECT: Request for information on the activities undertaken by the state prosecutor's office for the purpose of prosecuting those responsible for the situation in the Institute Komanski most

Dear Mrs. Carapic,

We address you with kind request for access to information on the activities undertaken by the state prosecution in order to prosecute those responsible for:

1. abuse of residents of the Institute Komanski most,
2. disappearance of two underage residents of the Institute Komanski most in year 2000 and 2002.

1. Taking into consideration the situation in the Institute Komanski most set forth in the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on Montenegro in September 2008, and identical allegations of the Swiss non-governmental organization *Gemeinden Gemeinsam Schweiz* (Municipalities to Municipalities Switzerland - GGS), published in the letter to the Minister of Labor and Social Welfare, Suad Numanovic, Ph. D. and in daily newspaper *Vijesti* on 11 April 2010, we address you with the request for access to information on the activities undertaken by the state prosecution in order to prosecute civil servants responsible for the abuse of residents of this institute.

We kindly demand information on whether the state prosecution in this case undertook the action on its own initiative or state prosecutor's action was initiated by a civil servant or employee, acting in accordance with the obligation to report criminal act pursuant to art. 227 of the Criminal Procedure Law of Montenegro. Please note that the report of the European Committee (CPT) has been completed on 9 March 2009 and submitted to the Government of Montenegro, which has translated and submitted the report to the Ministry of Justice, Ministry of Labor and Social Welfare, Institute for Execution of

Criminal Sanctions, and so on.

In case the state prosecution has not been informed to date about the alarming findings of foreign experts stated at the beginning of this letter, below we are informing you as follows.

CPT delegation of experts at the end of their visit to Montenegro, 22 September 2008, described the situation found in the Institute Komanski most in Podgorica in the following way:

“The conditions in which residents were obliged to live at that establishments **could well be described as inhuman and degrading**”.¹

Findings quoted were subsequently confirmed in writing in a letter to the Government of 9 October 2008, as well as in the CPT report of 9 March 2009, which was published in early April 2010 (see the final evaluation in paragraph 130 of the Report, page 62).

CPT found that at the time of their visit to the living conditions in the Institute Komanski most were “appalling” (paragraph 114, page 57 of the Report). Since the Ministry of Justice to date refuses to release the official translation of the Report in Montenegrin language, we offer six synonyms for the English word: **terrible, awful, shocking, horrific, dreadful, frightful**. In the same paragraph of the Report CPT found that the level of hygiene in the Institute was not at the care facility level.

“At the time of the visit, residents’ living conditions were appalling. *Ward B* was accommodating 67 residents distributed into 12 dormitories. In the totally bare and malodorous rooms, residents (some of whom were physically handicapped or blind as well as mentally disabled) were seen to lie alone, occasionally with their heads covered with a blanket, some naked, with flies crawling on them. In a locked “baby room”, the delegation saw 5 bedridden residents, aged between 3 and 19, lying in cots. There was also a locked dayroom where about 25 residents (men, women and children together) were left wandering alone. Further, in an unstaffed and locked part of the ward where residents appeared to be left alone, the delegation found a dayroom in which 7 residents were fixated to furniture (see paragraph 127).”

Paragraph 127 and 128 of the Report:

“The low staffing levels, combined with a lack of alternative strategies and material and regime provision, resulted in a considerable reliance on the use of physical restraint. On *Ward B*, the delegation found, in an unstaffed and locked area, patients fixated to beds or

¹ Report of the Committee on the visit to Montenegro, "Immediate observations under Article 8, paragraph 5 of the Conventions," page 10, paragraph 6 of the report, which is available to us only in English, on the CPT website, while the translation, which does exist, should urgently be made available to you by the Ministry of Justice. Human Rights Action is currently conducting proceedings against the Ministry of Justice for refusing to publish translation of the report.

other furniture, mostly with torn strips of cloth but also by chains and padlocks; one of them was sitting on a bench completely naked. The CPT must stress that **chaining residents is totally unacceptable and could well be considered as amounting to inhuman and degrading treatment, in addition to being potentially physically harmful...**

The delegation also found, behind the sanitary facilities on Ward B, in a room whose door had been tied using a strip of cloth, a woman lying on a bed under a blanket. The staff present told the delegation that the resident had been placed in isolation conditions because she had attempted to abscond. The room was entirely unsuited for use as a seclusion room and there was no supervision of the resident. The CPT recommends that steps be taken to ensure that this room is never again used for such a purpose. Moreover, the Committee wishes to stress that seclusion should never be used as a punishment vis-à-vis mentally disabled persons...

In this context, the Committee wishes to stress that fixation for days on end cannot be justified from a medical viewpoint and amounts, in its view, to ill-treatment."

We also emphasize that the Swiss non-governmental organization Gemeiden Gemeinsam Schweiz (GGS) in a letter to the Minister of Labour and Social Welfare, Mr. Dr. Suad Numanovic, dated 8 April 2010, noted the following:

"During numerous visits to the Institute Komanski most we got the impression that children and adults with disabilities receive bad treatment. This impression was not based on a separate event which we attended, but the overall living conditions in that institution. There is a huge lack of hygiene, organized activities, therapy and education, qualified and sufficient staff, respect of dignity and human rights of residents. **During each visit we saw children who were tied to their beds over their arms and legs. Therefore they were no longer just children with special needs but were also becoming more ill because of this bad treatment. We also have the knowledge about the sexual abuse of children by adults.**"

Translation of the letter of the President of GSS, Dr. Peter Siber, to the Minister of Labour and Social Welfare, Dr. Suad Numanovic, is enclosed with this letter. The letter was also sent to the journalist of the daily Vijesti, Boris Ristovic, and with respect to this *Vijesti* published the news article titled "Mirkovic was not interested" on 11 April 2010. The article is also enclosed with this letter.

With regard to the statements of experts of the Council of Europe, members of the European Committee for the Prevention of Torture, as well as the identical findings of the Swiss non-governmental organizations, all of which testify that the residents of the Institute Komanski most were treated in inhuman and degrading way continuously, over the years, contrary to the absolute prohibition of such treatment of human beings guaranteed by the Universal Declaration of Human Rights, Article 3 of the European Convention on Human Rights, Article 7 of the International Covenant on Civil and Political Rights, UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, all of which bound Montenegro, as well as the Constitution of

Montenegro, we expect the state prosecutor's office to apply its authority and legal obligation to protect human rights and freedoms in the territory of Montenegro, and to initiate criminal proceedings against the director of the Institute Komanski most and others responsible for supervision of his work, in accordance with the criminal acts stipulated by the Criminal Code of Montenegro: criminal act **Abandonment of helpless persons**, art. 156, par. 1 and 2 of the CC of Montenegro, **Torture and abuse**, art. 167, par. 1 and 2 of the CC of Montenegro and **Abuse of authority**, art 416, par. 1 of the CC of Montenegro.

2. In addition, we kindly demand information on actions taken by the state prosecution for the purpose of prosecuting persons responsible for disappearance of two underage residents of the Institute Komanski most, which disappeared from this institution in 2000 and 2004, as well as on stage at which the proceedings against the accused persons are.

According to information published by the media, on 19 October 2000 a girl who was eight at the time disappeared from the Institute Komanski most,² and then on 28 July 2004 a boy who was thirteen at the time also disappeared.³ There have been public discussions about the missing boy before, when scandalous photograph from 2001 reached the public, showing an older resident of the institution sexually abusing two children, one of whom the missing boy, which was also reported by the media.⁴

Ljiljana Raicevic, director of NGO Shelter

Tea Gorjanc Prelevic, director of NGO Human Rights

Milan Saranovic, director of NGO Center for Anti-discrimination EKVISTA

² „As if Zoran failed through the ground”, *Dan*, 28 August 2004, „Two children disappeared without a trace”, *Republika*, 15 September 2004.

³ „Institute admits boy’s abduction”, *Dan*, 18 august 2004, „Suspicious people around the yard”, *Vijesti*, 11 August 2004.

⁴ „Missing boy victim of a pedophile”, *Dan*, 19 August 2004, „Nine years of silence”, *Vijesti*, 17 March 2010.