application of principle fair trial in the judical system of Serbia

CIVIL RIGHTS DEFENDERS

YiHR

Application

of

Fair Trial Principle

in Judicial System

of Serbia

APPLICATION OF TRANSITIONAL JUSTICE LAWS
IN SERBIA IN 2013/2014

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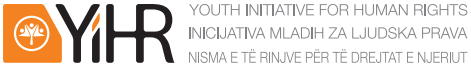

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Introduction

The Youth Initiative for Human Rights (hereinafter referred to as YIHR) started monitoring certain criminal and litigation proceedings before local courts in 2011 for the purpose of analyzing the degree of application of the fair trial principle in the judicial system of the Republic of Serbia.

The methodology of the work on the monitoring of the proceedings and production of this report consists of the monitoring of trials carried out by the direct presence of YIHR's researchers during court sessions and main hearings in the monitored proceedings combined with the review of documents in specific cases gathered on the basis of the application of the Law on Free Access to Information and Documents of Public Importance. On the basis of the application of the aforementioned Law, we also assembled a picture showing the willingness of various institutions within the judicial system to act upon requests for free access to information and documents of public importance even though this was not the initial objective of the monitoring.

The Introduction to this Report contains information related to the cases against the state of Serbia before the European Court of Human Rights in 2013, the chronology of the National Judicial Reform Strategy in Serbia in the period from 2013 to 2018, the overview of main conclusions made on the basis of the conducted monitoring and a detailed overview of individual cases. The cases subject to the monitoring, 32 of them, the results of which are presented in this Report, are divided into five sections:

- Prosecution of Cases of Violence and Threats Addressed Against Members of LGBT Community;
- Prosecution of Cases of Hate Speech;
- Prosecution of Members of Football Fan Groups and Rightist Organizations;
- Prosecution of Cases of Police Torture;
- Other Cases.

In Belgrade,
April 2014

1"Official Gazette of the Republic of Serbia",
No. 120/2004, 54/2007, 104/2009, 36/2010.

Fair Trial in the Judicial System of the Republic of Serbia

As a signatory to the International Covenant on Civil and Political Rights[1] and the European Convention for the Protection of Human Rights and Fundamental Freedoms[2], the Republic of Serbia is obliged to incorporate and implement, into its system, the provisions stipulated by these international documents, including the provisions regarding fair trial.

Article 32 of the Constitution of the Republic of Serbia[3], concerning the protection of human rights, guarantees the right to fair trial. Article 33 guarantees rights of the accused. The Constitution guarantees the right of the accused to a public hearing before an independent and impartial court, concerning his/her rights or charges relating to him/her, within a reasonable time, as well as the right to a free of charge translator if the accused does not speak or understand the language in which the proceedings are conducted.

The Law on Civil Procedure of the Republic of Serbia[4] and the Criminal Procedure Code[5], wherein the first article immediately refers to the fairness of the trial, both guarantee the right to free trial.

1 SFRY ratified the International Covenant on Civil and Political Rights on January 30th, 1971

2 Serbia ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms on March 3rd, 2004

3 The Constitution of the Republic of Serbia, "Official Gazette of the Republic of Serbia", No. 37/08, declared on November 8th, 2006, available on the website: http://bit.ly/1p8Vfia.

4 Law on Civil Procedure, "Official Gazette of the Republic of Serbia", No. 72/2011, 49/2013 (Decision of the Constitutional Court), 74/2013 (Decision of the Constitutional Court), Articles 2 and 4

5 Criminal Procedure Code, "Official Gazette of the FRY", No. 70/2001, 68/2001 and "Official Gazette of the Republic of Serbia", No. 58/2004, 85/2005, 115/2005, 46/2006, 49/2007, 122/2008, 20/2009, 72/2009 and 76/2010.

National Judicial Reform Strategy 2013 - 2018

The National Assembly of the Republic of Serbia adopted the National Judicial Reform Strategy for the period from 2013 to 2018[6] on July 1st, 2013. This Strategy is maintaining continuity with the preceding Judicial Reform Strategy for the period from 2006 to 2011; and it is based, among other things, on the analysis of the results of the aforementioned Strategy. It is considered that during the previous phase good results were achieved in the area establishing the institutional framework: the High Judicial Council, the State Prosecutorial Council, the Judicial Academy; while unsatisfactory results are considered to be, first of all, the reappointment of judges and the reform of the court network. The highest ranking inherited problems that need to be resolved in the forthcoming period, have been specifically specified: reintegration into the justice system of judges and public prosecutors who have returned to function on the basis of the decision of the Constitutional Court and the review of the judicial network; solving the backlog of cases; solving cases in a reasonable time period; promotion of the status of the High Judicial Council and the State Prosecutorial Council and normative regulation of the responsibilities of these two bodies; standardization of court practices and the establishment of a unified system of e-Justice.

The emphasis is put on "the improvement of quality and efficiency of justice, empowerment of independence and judicial accountability, with the purpose of strengthening the rule of law, democracy, legal certainty, bringing justice closer to citizens and restoring confidence in the judicial system" as the aim of the Strategy. The key principles of the reform of the judicial system are: independence, impartiality and the quality of justice, professionalism, responsibility and efficiency.

The Strategy emphasizes the need to amend the Constitution, and amend the legislative framework. The need for constitutional changes is related to strengthening of the independence of the judiciary in relation to the executive justice and legislature, particularly the exclusion of the National Assembly from the act of appointment of judges, prosecutors, court presidents, members of the High Judicial Council and State Prosecutorial Council and the exclusion of representatives of the legislative and executive branches from membership in

6 National Judicial Reform Strategy for the period from 2013 to 2018, "Official Gazette of the Republic of Serbia" No. 57/2013, http://bit.ly/Ua7u4k.

7 Law on Organization of Courts, "Official Gazette of the Republic of Serbia" No. 116/2008, 104/2009, 101/2010, 31/2011 -another law, 78/2011 - another law, 101/2011 i 101/2013.

these bodies. Key legislation for the Strategy implementation were revised in November 2013, those are: the Law on Organization of Courts[7], Law on Judges[8], Law on Public Prosecution[9], Law on Seats and Territorial Jurisdiction of Courts and Public Prosecutor's Offices[10] and the Criminal Code[11].

It is striking that the Judicial Reform Strategy, as a special aim, names the establishing of a system in which the laws are not often changed/made, especially not on an expedited basis, and it was precisely this Strategy that was proposed to the National Assembly on an expedited basis, seven days before the beginning of the session of the Assembly, next to a set of judicial laws which were proposed to the Assembly 14 days before the start of the session on which decisions concerning laws are made.

The strategy envisaged the establishment of a special body responsible for the implementation of the objectives and activities: The Commission for the Implementation of the Strategy. The Commission has 15 members (and 15 deputies), which are suggested by the 15 institutions that are relevant for the implementation of the Strategy: the Ministry, Republican Public Prosecution, Supreme Court of Cassation, High Judicial Council, Prosecutorial Council, Committee on the Judiciary, Public Administration and Local Self-Government of the National Assembly of Serbia, professional association of judges, professional association of public prosecutors, Bar Association of Serbia, Judicial Academy, common representative of the faculties of law, the ministry responsible for finance, common representative for the Chamber of executors, public notaries and mediators, European Integration Office and Office for cooperation of government with civil society. The Commission has the possibility to initiate the establishment of the responsibilities of the parties responsible for the implementation of the Strategy, as well as the possibility of establishing working bodies, in addition to the Secretariat which provides the Commission with administrative and technical support.

8 Law on Judges, "Official Gazette of the Republic of Serbia" No. 116/2008, 58/2009 - US decision, 104/2009, 101/2010, 8/2012 - US decision, 121/2012, 124/2012 US decision and 101/2013.

9 Law on Public Prosecution, "Official Gazette of the Republic of Serbia" No. 116/2008, 104/2009, 101/2010, 78/2011 - another law 101/2011, 38/2012 - US decision, 121/2012 i 101/2013.

10 Law on Seats and Territorial Jurisdiction of Courts and Public Prosecutor's Offices, "Official Gazette of the Republic of Serbia" No. 101/2013

Judicial Reform: Fair Trial

TRIAL WITHIN REASONABLE TIME

One of the most important changes for the functioning of the judicial system in Serbia, especially for the standards of the application of fair trial in Serbia, is the change of the Law on Organization of Courts which is introducing a new legal remedy for the protection of the right to a fair trial. From May 21st, 2014[12] onwards, parties who believe that their right to a trial within a reasonable time was violated can put in a claim for protection of right to trial within a reasonable time directly to the higher court. To ensure the effectiveness of this legal remedy it is provided that the court must decide upon such requests immediately, and in an extra-judicial procedure. In case the court determines that the claim is justified, that there is a violation of the right to trial within a reasonable time, the law states that the court may award a compensation for the violated rights, but also determine the deadline until which the lower court is to conclude the proceeding in which the right to trial within a reasonable time has been violated.

Amendments to the Court Rules of Procedure did not follow the changes of the Law on Organization of Courts; therefore, the Court Rules of Procedure is not required to proceed with the cases urgently based on the direct decision of the higher court, which may increase difficulties in determining the priorities of the courts.

The research of the Youth Initiative for Human Rights revealed that the budget of the Republic of Serbia for 2014 did not provide funds for the payment of compensation for the violation of the right to trial within a reasonable time. The High Judicial Council explains this situation by stating the fact that the proposed financial plan for the courts in 2014 was handed over to the Ministry of Finance on October 10th, while the amendments to the Law on Organization of Courts, through which this fee was introduced, was adopted on November 21st, 2014[13]. The High Judicial Council intends to, during the revision of the budget, request additional funding for the courts regarding the compensation for violations of the right to trial within a reasonable time. Bearing in mind that the Law on the

11 Criminal Code, "Official Gazette of the Republic of Serbia" No. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012 and104/2013

12 The provisions of the Law on Amendments to the Law on Courts which regulate the violation of the right to a fair trial will enter into force six months after the law takes effect.

13 The Response of the High Judicial Council to the Youth Initiative for Human Rights No.: 7-00-31/2014-01 from March 17th, 2014

Budget of the Republic of Serbia for 2014 was adopted twenty days after the Law on the Organization of Courts, on December 13th, this explanation of the High Judicial Council illustrates the lack of accountability and judicial and legislative authority in accordance with the adopted legal solutions, due to which there will not be enough money for the payment of compensations, and specific legislative provisions will not be implemented.

The Law on Judges[14] determines that the Republic of Serbia is liable for the damage caused by illegal or irregular work of a judge. However, if the Republic of Serbia has, based on the court decision, paid the damage caused by illegal or irregular work of a judge, reimbursement of the paid amount may be sought from the judge. Also, if the Constitutional Court, the European Court of Human Rights or any other international court establishes that the judgment is based on certain violations of human rights and freedoms in the course of the proceedings, or that there has been a violation of the right to trial within a reasonable time, the Republic of Serbia may request reimbursement of the paid amount from the judge.

The amendments to the Law on Judges from November 2013 expanded judicial immunity and reduced the requirements for determining liability. According to the Law on Judges from 2008 the responsibility of a judge could be determined if the damage was caused intentionally or by gross negligence, while, according to the amendments from the 2013, judicial responsibility is limited to intentional infliction of harm. The civil proceedings for the compensation of the payment are initiated by the Attorney General, who has previously obtained the opinion of the High Judicial Council, at the request of the Minister of Justice. Judges' Association of Serbia submitted, to the Constitutional Court, the Initiative for starting the procedure of assessing the constitutionality[15] of this provision, deeming that this procedure violates the independence of the judiciary from the executive power, and that the High Judicial Council is a body of judicial administration rather than a judicial branch, and it is not in its jurisdiction to decide whether such a claim is justified. This Initiative states that it is logical that the majority of judges would not conclude differently than the High Judicial Council, bearing in mind that "the evaluation of performance, promotion, and possible disciplinary responsibility, to the possibility of dismissal" all depend on the assessment of the High Judicial Council.

14 Article 6 of the Law on Judges.

15 Judges' Association of Serbia, Initiative for starting the procedure of assessing the constitutionality of the Law on Judges, http://bit.ly/1rgCKII.

SOLVING THE BACKLOG OF CASES

A constant issue of the Serbian Judicial System is a large number of unsolved cases. In the course of one year, courts often have a greater number of received than solved cases, which makes the situation deteriorate from year to year. Based on the National Judicial Reform Strategy from 2013 to 2018 and its accompanying Action plan, the Supreme Court of Cassation has made a unique program for solving the backlog of cases in the Republic of Serbia in the end of 2013. The main aims of this program are increasing the level of efficiency, reducing the backlog of cases, shortening the duration of court proceedings and increasing public confidence in the judiciary. The strategic goal of this program is to reduce the backlog of cases by 80% during the period from 2013 to 2018.

The official records of the Supreme Court of Cassation show that at the end of 2013 there were 2,874,782 pending cases in the courts in Serbia, 1,772,149 of which were old cases[16], which is 3% more than at the end of 2012. Detailed analysis of the information of the Supreme Court of Cassation points to a major problem concerning uneven caseload on judges, which results in the fact that the citizens do not have equal access to courts. The average annual caseload per judge is in the range from 11.12 to 117.53 in Primary Courts. First and Second Primary Court in Belgrade in 2013 received more than a quarter of the total number of cases before the courts in Serbia.

Additional deadlock and load in caseload was caused by the establishment of a new network of courts. The establishment of new courts, changes in the jurisdiction and migration of old cases has led to delays in trials. The main reason for the amendments to the network of courts and the establishment of new courts is a more equal distribution of cases and improvement of access to justice for the citizens of Serbia.

ACCESS TO JUSTICE: NEW NETWORK OF COURTS

As part of a comprehensive reform of the Judicial system in Serbia a new network of courts has been established according to the Law on Seats and Territorial Jurisdiction of Courts and Public Prosecutor's Offices[17] which was adopted by the National Assembly of the Republic of Serbia on November 20th, 2013. The newly established courts began operating on January 1st, 2014; their main objective is to significantly improve access to justice for the citizens of the Republic of Serbia.

16 Annual Report of the Supreme Court of Cassation, http://bit.ly/1mt5b6g.

According to the new Law 44 magistrates courts, 66 Primary Courts, 25 high courts, 16 commercial courts, 4 courts of appeal, as well as 4 departments of the Misdemeanor Appellate Court and 3 departments of the Administrative Court were founded. The most significant change in comparison to the previous network of courts is in the number of Primary Courts - 66 Primary Courts have been founded, compared to the existing 34. The number of legal units has been reduced from 103 to 14, all of which will be replaced with public notaries from September on.

The new network of courts was established only four years after the functioning of the previous network of courts. Identified deficiencies in the network of courts, which began operating on January 1st, 2010, are primarily related to the small number of founded courts, i.e. the unsatisfactory effect of the establishment of a large number of legal units within primary courts. The Anti-Corruption Council[18] also criticized the network of courts, emphasizing the distance to the nearest primary court in certain areas, the increase in costs and taxes, and uneven workload of judges. The Report on progress of the European Commission in October 2013 also highlights the disparities in the distribution of cases to judges, and emphasizes the need for an analysis and improvement of the network of courts, "Especially when it comes to cost, efficiency and access to justice."[19]

Within the set of judicial laws, along with the adoption of the Law on Seats and Territorial Jurisdiction of Courts and Public Prosecutor's Office, the Law on Amendments to the Law on Courts, the Law on Amendments to the Law on Judges and the Law on Amendments to the Law on Public Prosecution were adopted. In the Explanation of the laws the Government of the Republic of Serbia states that it intends, through this set of laws, to provide a balanced workload of courts and judges in Serbia, easier access to justice for all citizens, and more efficient performance of essential public prosecutors[20].

The long period from the beginning of the announcement of the new network of courts until the actual founding of the network has brought uncertainty and jeopardized the independence and permanence of the judicial office due to the need to move a large number of judges to the newly formed courts. However, based on data from the Association of Judges of Serbia, only 17 judges are disgruntled from approximately 1300 of judges who were transferred to new courts[21].

17 Law on Seats and Territorial Jurisdiction of Courts and Public Prosecutor's Office, "Official Gazette of the Republic of Serbia" No. 101/13.
18 Report on the reform of the judicial system, the Anti-Corruption Council, April 24th, 2012, available at: http://bit.ly/1wvi7ev.
19 Progress Report for Serbia in 2013, The European Commission, October 16th, 2013, available at: http://bit.ly/1oIncw1.

A visit to the newly established court units[22] confirmed that a standstill occurred during the transfer of the cases to new courts. Such cases are waiting for the allocation of new judges and their numbers. There have been instances of losing the case file and particularly in the case of joint components such as calls and notifications that are sent to the parties and the witnesses during the proceedings and parts of cases that were in expert analysis at that moment. The court staff complained about the instructions for the performance of distribution and migration into the Primary Courts in respect of the implementation of the new network of courts, saying that it is quite vaguely written; they also complained about the lack of the old database Portal of Courts of Serbia that existed before the anonymization of courts. Along with the annex to the instructions and permissions of the old version of the Portal of Courts of Serbia database, which was issued in March 2014, the situation improved and a new normalization of the situation in the following two months was announced[23].

CONCLUSION

The highest expectations concerning the new network of courts and the overall reform of the judicial system are the efficiency of judicial proceedings. The previous reform was not fully successful, some of its key elements: the reappointment of judges and of courts and the reform of the network of courts were annulled. The current reform for the period from 2013 to 2018 faces big problems at the very beginning, since the Constitutional Court of Serbia ruled that the provisions of the Judicial Academy, that give priority to students of the Judicial Academy in the selection of judges and public prosecutors, are unconstitutional[24]. The beginning of the functioning the new network of courts is very slow and inefficient, and the deadlines set by the Action Plan for the implementation of the judicial reform have already, after six months, been changed by as much as 42 measures[25]. It is clear that for a fundamental reform of the judicial system, which will ensure the independence of the judiciary and other elements, it is necessary to change the Constitution of the Republic of Serbia.

20 Explanation of the Draft of the Law on Seats and Territorial Jurisdiction of Courts and Public Prosecutor's Office, the Government of the Republic of Serbia.

21 "The new network of courts", RTS, http://bit.ly/1mu3q8L. (Serbian only)

22 Visits made to court units in Mladenovac, Aranđelovac, Lazarevac and Ruma and the Third Primary in Belgrade.

23 Field Research of the YIHR - Visits to court units of the new network of courts conducted in March 2014

24 The decision of the Constitutional Court of Serbia in the case of IUz-497/2011 from February 6th, 2014

25 "Selaković: Solve appeals within a reasonable period", RTS, http://bit.ly/1lwtOou. (Serbian only)

The Republic of Serbia before the European Court of Human Rights

STATISTICS

The European Court of Human Rights (the Court) ruled on 24 petitions against the Republic of Serbia in 2013[26]. Injury of at least one provision of the European Convention for the Protection of Human Rights and Freedoms (the Convention) was established in 21 of those petitions. The most recurring injuries that the Court established refer to the violation of Article 6 of the Convention and Article 1 of the Protocol I (see the table).

The Article of the Convention (the violated right)	The number of the established violations of the right
Article 6: Right to a fair trial	2
Article 6: Non-execution of the final court judgment	14
Article 6: Length of proceedings	2
Article 8: Right to respect for private and family life	1
Article 10: Freedom of expression	1
Article 13: Right to an effective remedy	1
Article 1 Protocol I: Protection of property	13

According to the number of cases pending before the Court, Serbia is in fourth place with 11250 cases pending, representing 11.3% of the total number of cases before the Court. As an illustration, the population of Serbia is about 0.87% of the population of all member states of the Council of Europe. According to the number of appeals pending Serbia is preceded by only Russia (16 800), Italy (14 400) and Ukraine (13 300). Statistically, the Republic of Serbia, in proportion to the number of inhabitants, is the country with the highest number of appeals.

26 Table: http://bit.ly/1ia5jlT.

THE NEW RULES OF APPEALS TO THE EUROPEAN COURT OF HUMAN RIGHTS

From January 1st, 2014, the amendments to Article 47 of the Rules of the European Court of Human Rights[27] which tightened the requirements for the submission of an appeal to the Court, were put into effect. In addition to a new form of application, paragraph 5 of Article 47 of the Rules provides that the application may be rejected if it does not contain all the necessary information and documents.

YOUTH INITIATIVE FOR HUMAN RIGHTS VS. SERBIA

Judgment of the European Court of Human Rights No. 48135/06

The European Court of Human Rights (the Court) in its judgment[28] dated June 25th, 2013 ordered the Security-Information Agency (SIA) to submit data on the number of wiretapped persons in Serbia in 2005, which was requested by the Youth Initiative for Human Rights (YIHR). In its judgment, the Court clearly affirmed that the right to access to information held by public authorities is provided in Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Also, the judgment emphasizes the role of non-governmental organizations as the guardians of public interest. Particularly encouraging is the joint concurring opinion of judges Vučinić and Sajó which emphasizes the need for the development of international law relating to freedom of information and public information. In their opinion, Vučinić and Sajó point out that in this world of Internet the differences between journalists and other members of the public perception are lost, and that transparency is the basis of a strong democracy, to which all citizens should serve and which they should use.

The YIHR filed a request for free access to information of public importance in which it requested information on the number of wiretapped citizens of Serbia in 2005 on October 31st, 2005 to the Security Intelligence Agency. Invoking Article 9 of the Law on Free Access to Information of Public Importance, SIA has refused to provide the requested information, stating that information on the number of wiretapped persons constitutes a state secret, and therefore may not be available to the public. Acting on the appeal of the YIHR to this answer, the Commissioner for free access to information of Public Importance (the Commissioner) issued a decision, on December 22nd, 2005, ordering the

27 Rule 47 of the Rules of the European Court of Human Rights, available at: http://bit.ly/10YuKOb.

28 The Youth Initiative for Human Rights against Serbia, the European Court of Human Rights No. 48135/06, http://bit.ly/1tRGHKO.

SIA to provide the requested information. Rather than comply with the decision of the Commissioner and provide the requested information, SIA has initiated administrative proceedings before the Supreme Court of Serbia with the request to annul the decision of the Commissioner because of irregularities. The Supreme Court rejected this claim on May 23rd, 2006.

The YIHR filed a request to the Government of the Republic of Serbia, on May 29th, 2006, to ensure the enforcement of the decision of the Commissioner. Taking advantage of all legal remedies in Serbia, on November 29th, 2006 YIHR addressed the European Court of Human Rights due to an injury to the rights guaranteed by Article 10 and Article 6 (paragraph 1) of the ECHR. In a letter that was sent to the YIHR on September 23rd, 2008 SIA alleges that they do not have the requested information.

According to the Court, the YIHR had a legitimate interest in seeking information with the intent to publicly present them and thus contribute to the public debate concerning this topic. By refusing to provide the requested information, SIA violated the right of YIHR to receive and impart information, as guaranteed by Article 10 of the European Convention. The Trial Chamber also found that with the refusal to comply with the decision of the Commissioner, which requires the submission of the requested information, the Security-Information Agency acted contrary to the provisions of domestic law, in particular the Law on Free Access to Information of Public Importance. The court's decision also states that the response of the Security Intelligence Agency from September 2008, that it does not have the information requested is not convincing, given the nature of the information, especially if the fact that SIA, from the very beginning, refused to provide information using the pretext of secrecy is taken into account. In their joint opinion judges Vučinič and Sajó point out that the authorities have a responsibility to preserve information and information loss cannot be an excuse.

The Judgment of the European Court of Human Rights is a major incentive for posing the question of availability of documents held by the security services which have so far represented themselves through their actions and were perceived in public as closed institutions that do not recognize the right to free access to information and public access to information as an elementary democratic mechanism. This judgment set the basis for a precise definition of Article 9 of the Law on Free Access to Information of Public Importance, which regulates the conditions under which public authorities may limit or exclude the right of free access to information.

SIA Provided The Data For 2005

After the validity of the judgment the Security Information Agency delivered the information about the number of wiretapped citizens to YIHR. SIA, in the first 10 months of 2005, filed a proposal for a deviation from the principle of inviolability of letters and other means of communication, apropos electronic surveillance of communications with insight into the content of the communication for a total of 321 person. The preparation of special measures has been approved for a total of 302 persons.

The Judgment Did Not Change The Practice Of SIA

In January 2014 the YIHR requested the information about the number of persons who were under electronic surveillance in 2013 from SIA. The request was rejected on the extensive grounds which state that the information is identified as secret, and to provide this information to the public presents a risk to the security of the Republic of Serbia. The YIHR has filed an appeal against the decision of SIA and expects that the Commissioner will order SIA to provide the requested information to the YIHR.persons.

The summary of key findings based on the monitoring of specific court proceedings

THE DURATION OF THE COURT PROCEEDINGS

- In the case against Mladen Obradović, with regard to Pride Parade in 2009, the indictment was filed in October 2009, while the first instance judgment was passed nearly three years later on March 27th, 2012. The Court of Appeal annulled the first-instance judgment and remanded the case for retrial, which began in November 2012, and the judgment was rendered in September 2013 but the process was appealed. The first major trial that separated the trial against Mladen Obradović from the trial against Miša Vacić, was held a year after the indictment (October 2010), and the main trial, on which Obradović pleaded in terms of the indictment happened less than a year from then (July 2011). Out of nine major hearings scheduled in the first instance proceedings only seven were held, while during the retrial out of 6 scheduled, not one hearing was held. Four and a half years passed since the beginning of the court proceedings concerning this case and not a single final judgment is passed.
- The indictment against Miša Vacić, with regard to the Pride Parade in 2009, was filed in October 2009; a year after that, in October 2010, the trial against Vacić was separated from the trial against Mladen Obradović. The first next hearing was held a year after that, in October 2011. Four and a half years passed since the beginning of the court proceedings and a first instance judgment is still not passed. During the proceedings against Vacić 27 major hearings have been scheduled, out of 27 13 hearings have been held. The First Primary Court passed a judgment in July 2013 against which an appeal was filed. Therefore, four and a half years has passed since the beginning of the court proceedings and the final judgment has not been yet passed.
- The indictment in the case of the Bajrakli mosque was filed in September 2007, three years after the long investigation procedure. The first major hearing was held almost three years later, in June 2010. In 2010, due to changes in the composition of the trial chamber that followed the reform of the judicial system, the proceedings were brought back to the beginning. In the course of proceedings 33 major trials were scheduled out of which 25 took place. Six years from the beginning of the court proceedings and nine years after the Bajrakli mosque was burnt down the first instance judgment has not been passed. The Prosecutor's Office

has, in June 2013, changed the indictment releasing nine of the accused from further prosecution, while for the remaining 11 defendants the first instance procedure continues. On 17 July 2013, the judgment for the three defendants was passed, but the case is currently in the proceedings of the appeal.

— The proceedings against Mladen Obradović and others, relating to the Pride Parade in 2010 lasted only several months in the first instance (the indictment was filed on December 22nd, 2011, and the first instance judgment was passed on April 20th, 2011), while during the second instance proceedings it took the Court of Appeal two years (the decision was made on February 2nd, 2013) to make a decision, after which the case was remanded for retrial which is still in progress. According to the decision of the Court of Appeal the judge that passed the judgment in the first instance trial is the same judge who is presiding in the retrial of this case. During the retrial 5 major hearings have been scheduled; however, only the preliminary hearing took place, while the proceedings have been postponed indefinitely.
— In the "Indeks" case the indictment was filed on August 17th, 2007. In February 2014, a part of the case has been set aside, while a part of it is currently before the Court of Appeal in Belgrade. In the previous procedure 38 hearings were held and 53 did not take place. 11 hearings were scheduled in the separate proceedings, however, none of them was held. Seven years after the filing of the indictment the "Indeks" case is still without a first instance judgment.
— The duration of the court proceedings (waiting up to a year to a first major hearing, or several months of breaks between scheduled hearings) indicates the large number of cases presided by a single judge.
— A large number of scheduled trials also indicates the lack of time that judges have by a single trial, which significantly hinders the completion of court proceedings within a reasonable time.
— The number of postponed major trials that were caused by absence of the defendant or defendants or by the absence of the witness is evident in a number of cases, which indicate the shortcomings in the implementation of measures ensuring the presence of witnesses and defendants.
— From the moment of completion of the first instance proceedings, due to the large number of items from the earlier period that are being processed before the Court of Appeal, the decision of the appeal is waited for, on average, two years. (The exception being decision of the Court of Appeal in the case against Mladen Obradović related to the Pride Parade in 2009, which was made several months after the first instance judgment).
— Because of the long lasting proceedings, it happens that the accused

repeat criminal offenses with the similar or same elements as in criminal offenses they currently stand trial for (Case of Mladen Obradović for Pride Parade 2010, Ivan Bogdanov Case, who was prosecuted in Italy while standing trial for causing disarray at the Serbia-Italy football game, Miloš Radisavljević Kimi, one of the accused in the Burning of Bajrakli Mosque Case, during which he was also prosecuted in the case of threats against journalist Brankica Stanković).

PUBLICITY OF TRIALS

- As for the acting of courts upon requests for free access to information depending on the fact whether the request was sent to the Primary Courts, higher courts, or the Court of Appeal, one may notice a certain practice in their acting:
- Primary Courts always deliver the information and documents asked for.
- Higher courts deliver information and documents only in cases of finally completed proceedings. The requests in pending cases are dismissed with the explanation that this would jeopardize, interrupt or make the proceedings somewhat difficult.
- The courts of appeals delivered the requested documents and information if they are acting upon the case; if not they inform the applicant to address the courts of lower instance.
- The Constitutional Court demands requests to be filed in the form prescribed by this institution and if the requests are filed in a different form, they dismiss them.

None of these courts submit in their responses to requests the decision on detention of the accused, the appeal of the parties, and the judgment on the appeal.

The High Court in Smederevo issued a decision refusing to deliver the files related to the "Indeks" case requested by the YIHR. But, as a contribution, they added three images of files of the case stacked on a shelf. The Court did not demand nor offer the opportunity of paying for the cost of copying the case files[1].

The YIHR addressed the Constitutional Court in January 2014 requesting the decision regarding the constitutional appeal for the ban of the Pride Parade in 2012. The Constitutional Court rejected the request on the grounds that this would violate the privacy of the persons the information is related to. Following the

[1] Documentation is available in the archives of the YIHR.

decision of the Administrative Court the decision was delivered in February 2014[2].

The Commissioner for Information of Public Importance and Personal Data Protection issued, on December 12th, 2013, a decision[3] with which the operation of the Portal of the courts of Serbia was temporarily suspended. Further proceedings of the first and last names of the parties included in the proceedings and their addresses were prohibited until the irregularities are corrected. The Portal started working on February 24th, 2014; however, the search option is only possible with a certain number of cases. The names of all judges in the proceedings were removed, and anonymization of all final cases has been conducted.

In trials pending before higher courts, immediate presence at main hearings and sessions is the only way to gain insight into the course of the court proceedings. In certain cases, judges, using the excuse of the lack of technical conditions in courtrooms, limit or completely prevent the interested public from attending the trials. The public was prevented from attending the retrial against Mladen Obradović et al., related to the Pride Parade in 2010, held before the High Court in Belgrade, and the proceedings were scheduled in the courtroom of Judge Danko Laušević where there is not enough space for the 14 defendants.

At the pronouncement of the judgment to Velibor Dunjić and Leo Petrović in the case of the attack on Čedomir Jovanović the YIHR monitors were not present for the judgment was rendered an hour earlier than previously announced on the website "Tok predmeta".[4]

It is not possible to attend hearings held before the Constitutional Court of Serbia without a prior request filed via the web page of the Constitutional Court, which has not been accessible for more than two years.

2 Documentation is available in the archives of the YIHR.

3 Decision No.: 011-00-00623/2011-05.

4 Portal of Courts of Serbia http://bit.ly/1hcfS-cf. (Serbian only)

I

Legal prosecution of cases concerning violence and threats directed at members of LGBT

The chronology of assaults and threats against members of LGBT community in regard to Pride Day and Pride Parade in period 2001-2014

PRIDE PARADE 2001

The first "Pride Day" organized by Labris and Gayten[6] with a slogan "There is Room for Everyone", was scheduled for June 30th, 2001 and it was adequately reported to the police with the notice that violence against participants of the gathering was expected.

The gathering of the activists for human right and rights of minorities started, and they were carrying flags, balloons, banners and other marks of the gay movement[7]. The organizers of the event warned the police that threats and announcements of riots have been made, as well as that it is necessary to take extensive measures in order to thwart the intentions of the rioters.

Sometimes after 15:00, the angry mob waited for the activists greeting them with taunts, curses and cussing at them: "Kill, slaughter, so that fagots don't exist," which grew into a hunt after activists in parks and streets[8].

According to the official data, around 1000 persons participated in the attack on the Pride Parade. The attackers were mainly members of the fatherland movement "Obraz"[9] which was, according to many sources, exactly then publicly molded and whose riots started exactly then, then there were the fans of the "Red Star", "Partisan" and "Rad" football clubs[10], Youth of the St. Sava[11].

In addition to the brutal assault on the participants, journalists and citizens[12] who were in the Republic Square by chance, and the insufficient number of police

6 Lesbian Gay Bisexual Transgender

7 Organizations that represented LGBT rights in the former Yugoslavia. Labris was primarily responsible for Lesbian Rights even then.

8 The first protest for LGBT rights held in New York in 1969 in front of the club "Stonewall."

9 The video of the destruction of the gay parade is available at: http://bit.ly/1jy56QW.

10 Clerical fascist organization that is characterized as such by the Ministry of the Internal Affairs in 2005 and the Constitutional Court was prohibited in 2012. More on: http://www.obraz.rs/Sports clubs, whose "fans" largely emphasize homophobic and nationalistic statements.

11 The then the right-wing group whose members participated in the attack on participants of the gathering.

12 Six, according to the sources of the MIA (No. 07.2-536/01).

officers[13] who were supposed to protect the gathering were also attacked. The premises of the political party SDU[14], as well as the private company "Libertas"[15] were also attacked. The organizers of the gathering issued a press statement in which they stated that the inspirers of the violence were members of the "Obraz" Movement and football fans' groups, as well as representatives of the Serb Orthodox Church - led by Žarko Gavrilovć who, in fact, then stated, "It is against the law of the God and against our entire history and culture - it is a type of oddity that needs to be judged and cured. I am here to protest peacefully, and I do not know if an animal can do something like that? God gave them those organs and they want to misuse them; therefore, we need to rise against that satanic evil which is wanted by some quasi intellectuals who are, unfortunately, high in the government. We did not fight the communist just to have them replaced by Satanists."

The Police Chief, Boško Buha, explained for "B92"[16] why there were so few police officers when the violence had been announced and everything indicated that it was a high-risk gathering, and he stated "that he did not know how many police officers to send, since it was not an assembly of 20,000 people", as well as that "We are not yet ready for such an oddity." According to the source of the Ministry of Internal Affairs (MIA), the Secretariat in Belgrade, No. 07.2-536/01, from September 11th, 2001, due to disturbance of public order and peace and due to the prevention of the gathering, 31 persons were arrested on the scene. Thanks to the subsequent work of the Department for public peace and order of this Secretariat, another 17 persons were arrested; therefore, requests for infringement procedure against 38 persons of age and 10 minors were filed to the town's magistrate. The outcome was: 5 persons were punished by imprisonment from 10 to 20 days, 4 persons were fined, the proceedings against 17 persons have an unknown outcome, and the city magistrate dismissed cases against 22 persons. Criminal charges were filed against three persons on suspicion of having committed the criminal offense of obstructing an Authorized Officer during the Maintenance of Security and Order pursuant to Article 23 of the Law on Public Order and Peace of the Republic of Serbia[17].

13 Eight police officers were injured, out of which two had severe and six light injuries, MIA source (No. 07.2-536/01).

14 Social Democratic Union - a member of the Democratic Opposition of Serbia, led by Žarko Korać.

15 The vandals were irresistibly reminded of the name of the organization for Lesbian Rights - Labris by the name of this company.

16 www.b92.net. One of the major media companies - primarily deals with informative content.

17 The Law on Public Peace and Order, "Official Gazette of RS", No. 51/92, 53/93, 67/93, 48/94, 85/2005, 101/2005.

BELGRADE PRIDE 2004

Given that the continuity of Pride from 2001 onwards was not upheld, the organizer attempted in organizing a similar event on July 17th, 2014. The preparations lasted for several months, but the gathering was canceled due to safety reasons after the March violence in Kosovo, escalation of the violence and the burning of the mosques in Belgrade and Niš.

PRIDE PARADE 2009

The Pride Parade was scheduled for September 20th, 2009. This was also suggested by the adoption of the Law against Discrimination[18] (despite the opposition of "traditional religious communities," primarily Orthodox and Islamic, as well as the opposition by the conservative political circles[19], the Law was passed).

The Pride Parade was supported by a number of embassies[20], international organizations[21], representatives/and ministries and public figures; some of them recorded promotional videos under the slogan "Love is not to be hidden, but to be proud of".[22] These videos were meant to send messages of support and desire for equality.

As with previous attempts to organize a Pride Parade, right-wing groups continued to spread messages of hate and intimidation. Mladen Obradović[23] threatened via the media that the Pride Parade will be prevented "at all costs". The Serbian Orthodox Church also spoke against the Parade, in whose name Risto (the Metropolitan Amphilochius) Radović called this manifestation "A parade of shame and a parade of Sodom and Gomorrah;" in fact he called gay and lesbian love fruitless and futile, saying that "the tree that bears no fruit is cut down and thrown into the fire."

18 The Law on Public Peace and Order, "Official Gazette of RS", No. 51/92, 53/93, 67/93, 48/94, 85/2005, 101/2005. Law Against Discrimination, "Official Gazette of RS", No. 22/2009.

19 Democratic Party of Serbia - Party of Vojislav Koštunica, United Serbia - Party of Dragan Marković Palma, non-parliamentary right-wing groups and others.

20 Netherlands, Sweden, Great Britain, Norway and Germany.

21 NGO for the protection of human rights, UN Mission, OSCE.

22 An example is the promo video of the Pride Parade 2009 – Mirjana Karanović: http://bit.ly/1eZoBtL.

23 The leader of the "fatherland movement Obraz".

City facades were filed with threatening messages such as: "Blood will run through Belgrade, but the gay parade will not happen,"[24] then "We are waiting for you"[25] (with a group of people and flags of "Obraz" on a blue background or a text with symbols banning same-sex relationships), "Death to fagots ", " Kill the fagots "and so forth. Hundreds of hate graffiti were registered. Stickers of right-wing groups[26] calling for lynching of participants in the upcoming Parade were visible in the public transport. The Republican prosecutor Slobodan Radovanović classified the graffiti calling for violence, as well as the messages of violence, which have appeared in the media, as "polemical tones" and explicitly said: "We cannot react to the messages in the media, we will be able to react if they cause some consequences. I think as far as the media, I do not see anything wrong here, we have different opinions, and it's a polemical tone. Let's not comment on that, but let's create the conditions so that it all finishes in an orderly fashion." Belgrade Mayor Dragan Đilas said that "sexual orientation" should remain "within four walls."

The state was announcing heavy police presence[27] and guaranteed that it would prevent violence. The organizers have even received an approval of the city administration stating that on September 20th, 2011, from 11 to 14 hours, special organization of traffic will be organized on the streets that continuously connect sections on the move Vasina - Republic Square – Knez Mihailova Street. The Minister of Internal Affairs – Ivica Dačić said that the police will protect all participants of the Pride during their arrival and departure. He also noted that the Pride Parade should have been politically better prepared. One day (Saturday September 19th) before the scheduled Gay Pride Parade the organizers announced that the parade would take place. Prime Minister Mirko Cvetković called a meeting with the Organizing Committee of the "Pride Parade" and handed them the decision on the relocation of the Parade, which was signed by the Serbian Police Director Milorad Veljović. The reasoning of the decision states that the state authorities of the Republic of Serbia are unable to guarantee the exercise of the constitutional right to peaceful assembly in front of the Faculty of Philosophy on September 20th, 2009. Instead, a new location was proposed - Park of Friendship next to Ušće, in front of the terraces of the Palace of Serbia.

The members of the Organizing Committee did not agree to the change of location, stating that "any relocation of the parade would be senseless to its essence." The organizers stated that they prepared everything for the day at the

24 Example available at Wikimedia: http://bit.ly/1ijocWX.

25 http://bit.ly/1l7dNRU, http://bit.ly/1fJYeHL.

26 Obraz, Naši 1389, numerous "football fan" groups.

27 Around 5000.

appointed place, from technicalities to fine details. He also pointed out that the aforesaid decision crashes the symbolism of the Pride, which is celebrated all over the world by walking through the central streets, which is a symbolic way of showing equality among citizens.

Through their website, members of the movement, "Naši 1389" and "Obraz" welcomed the decision prohibiting the Gay Pride Parade, while domestic and international organizations described such a decision as the capitulation of the state before the threat of violence

Members of the organizing committee filed a constitutional complaint to the Constitutional Court of Serbia (CCS) on October 19th, 2009.

The constitutional complaint, by the organizers of the Parade, contested the decision of the Serbian Police Director of MIA No.8988/09-20 from September 19th, 2009, by which it was ordered that the gathering should be relocated to Ušće, which ultimately had a de facto ban on the scheduled meeting. They also reported the failure of the MIA to do everything in its power to prevent violence and discrimination against the participants of the Parade and, finally, the failure of the public authorities to provide legal protection and effective legal remedies.

The applicant's complaint names, at its end, requirements which are primarily related to the annulment the troubled solutions by MIA, as well as to finding of the existence of a violation of constitutional rights and taking measures for the safe maintenance of similar events in the future.

The Constitutional Court of Serbia made a decision on December 22nd, 2011 regarding the unconstitutionality of the prohibition set from 2009 and as a way of satisfying justice ordered the publication of the same decision in the Official Gazette.

Mladen Obradović Case

COURT
First Primary Court in Belgrade

CASE NUMBER
K-23953/2010

JUDGE
Ivana Ramić

DEFENDANT
Mladen Obradović

PROSECUTOR
First Basic Prosecutor's Office
Indictment filed on October 30th, 2009

CRIMINAL OFFENSE
Racial and Other Discrimination pursuant to Article 387 Paragraph 4 of the Criminal Code

CURRENT STATUS
pending appeal

The indictment proposal Kt. No. 2260/2009 was raised on October 30th, 2009 before the First Municipal Court in Belgrade against the defendants Mladen Obradović and Miša Vacić. They are charged with having committed the crime of racial and other discrimination in violation of Article 387, paragraph 4, of the Criminal Code of the Republic of Serbia[28].

Mladen Obradović is charged with promoting and spreading ideas which promote discrimination based on sexual orientation in the period September 13th-20th, 2009, by organizing the writing of threatening and offensive graffiti , such as "Death to Fagots", "Blood will run through Belgrade, but there will be no Gay Parade", "Fagots we are waiting for you", and he designed propaganda material, including advertisements, posters, flyers, stickers, and public invitations with regard to the participants in the event, on his personal computer.

The proceedings against Mladen Obradović (K.23953/10) were separated during the first main hearing session on October 25th, 2010 from the proceedings against Miša Vacić (K-4071/2010). These proceedings were separated because Vacić was also charged with illegal weapons possession.

On July 7th, 2011 the main hearing was held in which the indictment was read out. After this, Mladen Obradović was examined and he pleaded not guilty. Judge Ivana Ramić admonished the defendant for the contempt of the court because he was wearing a T-shirt, which said "We Are Waiting For You".

28 Criminal Code, "Official Gazette of the RS", No. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013.

On October 3rd, 2011, the evidentiary proceedings began, during which witness Lazar Pavlović from the Gay Straight Alliance (GSA) organization was examined. The Defense insisted on summoning some other people from the Pride Parade Organizational Board as well as the Minister of Internal Affairs, Ivica Dačić. The following session was held on November 25th, 2011 when Marija Savić from the Organizational Committee of the Pride Parade gave her statement. Six main hearing sessions were held and two were adjourned.

Obradović was convicted on March 27th, 2012 to 10 months of imprisonment for inciting hatred and addressing threats against members of homosexual community prior to the canceled Pride Parade 2009. The court established that Obradović was guilty because he committed the criminal offense of Inciting Hatred[29] by his actions, statements made in the media, and by messages and graffiti with threats directed against homosexuals, such as "Blood will run through Belgrade, there will be no gay parade" and "Death to Fagots". The Public Prosecutor and the Defense Counsel filed appeals against the first instance judgment.

According to the findings of the Court of Appeals, the first instance judgment contains essential violations of provisions of the Criminal Procedure Code since the first instance court failed to conduct a proper assessment of the evidence presented and establish beyond reasonable doubt for which particular actions alleged in the indictment by the Public Prosecutor there is evidence that the defendant committed them. According to the Court of Appeals, in the inspection of the defendant's computer no traces were found which would point to the fact that threats and calls for violent interruption and assault on participants of the "Pride Parade 2009" event were sent from the computer in question and there were no traces pointing that this computer was used for the creation of advertisements, stickers, posters, public calls, and so on related to the participants in the aforementioned Parade. According to the allegations from the ruling rendered by the Court of Appeals, the first instance court did not mention any reasons on the basis of which it established that Mladen Obradović was the one, and not someone else, who organized the writing of the graffiti with threats and insults. In the reasoning of its decision the Court of Appeals also stated that the court of the first instance had to specify the content of "the ideas promoting discrimination on personal characteristics – discrimination". Due to the aforementioned essential violations of provisions of the Criminal Procedure Code, the Court of Appeals held that it is not possible to establish whether or

29 "Leader Mladen Obradović convicted to ten months in prison", Blic, http://bit.ly/1e-pYY8F. (Serbian only)

not Mladen Obradović committed the criminal offense he had been charged with. Hence, the quashing of the first instance judgment is necessary.

The Court of Appeals in Belgrade, in the session of the Appeals Chamber held on October 26th, 2012, rendered the decision Kž1 3359/12 quashing the first instance judgment and sending the case back for a retrial before a completely different trial chamber.

COURT
First Primary Court in Belgrade

CASE NUMBER
K-7561/2012

JUDGE
Violeta Jovanović

DEFENDANT
Mladen Obradović

PROSECUTOR
First Basic Public Prosecutor's Office
Case received: November 15th, 2012

CRIMINAL OFFENSE
Racial and Other Discrimination pursuant to Article 387 Para. 4 of the Criminal Code

CURRENT STATUS
in appeal procedure

In the repeated proceedings, the case was registered under a new number, K-7561/2012, and was assigned to Violeta Jovanović, a judge of the First Primary Court in Belgrade. The case was received on November 15th, 2012 and the first main hearing session in the repeated trial, which was scheduled for February 28th, 2013 was adjourned. In the following session held on March 26th, 2013, Mladen Obradović pleaded not guilty.

In the further course of the proceedings, during the session held on April 26th, Marija Savić from Labris organization and Lazar Pavlović from the Gay Straight Alliance repeated their statements given in the previous trial.

In the session held on May 30th, 2013, Miloš Popović, a Defense witness, gave his statement, while the proposed witness Krsto Milovanović was not able to give his statement because Judge Violeta Jovanović stated that he had attended previous sessions as a member of the public. The Prosecution filed a motion for amending the Indictment on February 3rd, 2012 in the main hearing session and in the ninth line after the word "person" they added "thus advocating for the prevention of their right to assembly".

In the resumed proceedings, held on September 6th, 2013, Mladen Obradović, leader of the organization "Obraz", was sentenced to eight months in prison for incitement on racial and other discrimination. An appeal against this judgment was filed by both Obradović and his defense, as well as by the First Basic Public Prosecutor's Office.

On January 14th, 2014, the Court of Appeals reversed the judgment of the First Primary Court in Belgrade, passed in September 2013, sentencing the leader of the banned organization "Obraz"[30], Mladen Obradović with 4 months of house arrest instead of the conventional hitherto 8 months in prison for incitement on racial and other discrimination before the pride parade that was canceled in September 2009[31]. The first judgment, which was later quashed by the Court of Appeals, sentenced Obradović to 10 months in prison. According to the interpretation of the Court of Appeals, the decision making was influenced by extenuating circumstances - the fact that Obradović is a student, as well as his family situation.

Miša Vacić Case

COURT
First Primary Court in Belgrade

CASE NO.
K-4071/2010

JUDGE
Ivana Ramić

DEFENDANT
Miša Vacić
Indictment filed by
First Basic Prosecutor's Office

INDICTMENT FILED ON
October 30th, 2009

CRIMINAL OFFENSE
Racial and Other Discrimination pursuant to Article 387 Para 4 of the Criminal Code and Unauthorized Weapons Possession pursuant to Article 348 Para 1 of the Criminal Code

CURRENT STATUS
in appeal procedure

The accused Miša Vacić was charged with the fact that in the period September 18th-20th, 2009 he represented and spread ideas promoting discrimination against members of LGBT population by acquiring and disseminating propaganda material, stickers with the following text "we don't want gay parade we want patriotic government" and he made threatening statements in the media. Vacić is also charged with Unauthorized Weapons Possession. Due to these reasons the court separated the proceedings in Vacić and Obradović cases[32].

30 By the Constitutional Court of Serbia in 2012

31 "Mladen Obradović four months of house arrest", Blic, http://bit.ly/1epZ3Ju. (Serbian only)

32 Indictment proposal Kt. No. 2260/2009 was raised on October 30th, 2009 before the First Municipal Court in Belgrade against the accused Mladen Obradović and Miša Vacić. They are alleged to have committed the crime of racial and other discrimination under Article 387, paragraph 4, of the Criminal Code of the Republic of Serbia.

In the main hearing session held on October 25th, 2010, Vacić pleaded not guilty of any charges. When he was entering his plea, he referred to members of the LGBT population as "fagots".

After the proceedings against Obradović were separated on October 25th, 2010, in the session held on October 21st, 2011, the proceedings against Vacić were joined with the proceedings in which Vacić is charged with the preventing police officers in discharge of duty pursuant to Article 322 Para 2 and Para 1 of the Criminal Code[33].

Witnesses Lazar Pavlović, Marija Savić and Ilija Šormaz were examined during the evidentiary proceedings, and the video footages of the search of the apartment in which a pistol was found as well as the video of Vacić's arrest in Novi Beograd were reviewed.

In the main hearing held on May 20th, 2013, Judge Ivana Ramić rendered a ruling on withdrawing from summoning witness Rakočević Luka since it rendered impossible to locate him at the reported address. He did not respond to the court subpoena even though he was obliged to pay a 150,000 RSD fine.

The ruling which sentenced Miša Vacić to a suspended sentence of five months for the discrimination of LGBT person before the canceled pride parade in 2009, to five months of probation for illegal possession of weapons, and six months of suspended sentence for obstructing official persons in performing their duties, was adopted on July 12th, 2013[34].

The court proceedings lasted for four years, and out of 27 scheduled hearings 13 took place.

The Basic Public Prosecutor and defense counsel filed an appeal against the verdict and the case is currently before the Court of Appeals.

33 Incitement of May 24th, 2011 in the archives of the YIHR.

34 "Miša Vacić a year of parole", B92, http://bit.ly/1lSZEox. (Serbian only)

PRIDE PARADE 2010

The Pride Parade was first held on October 10th, 2010, beginning at 10:00 in Belgrade, in the park Manjež. The event was supported by the then president of Serbia - Boris Tadić, Minister of Police - Ivica Dačić, President of the Parliament - Slavica Đukić-Dejanović Minister for Human and Minority Rights - Svetozar Čiplić who personally attended and was one of the speakers, as well as Secretary of State for Human and Minority rights - Marko Karadžić, who, back in 2009, was one of the strongest voters supporting the Pride Parade.

The Pride March started at 11:30, and the participants were carrying many symbols of the gay movement, rainbow flags and placards saying "Together we can" in the forefront. The march moved from the park Manjež through the Nemanjina Street, Kneza Miloša and Masarikova to the Student Cultural Center, where a party was planned.

The participants of "the Pride Parade" had, in the days before the announced Pride, threatening messages through print, electronic media and graffiti written on the city's facades addressed towards them. The threatening messages were announcing unrest and inciting violence during the "Parade". The leader of the right-wing movement "Obraz", Mladen Obradović, was arrested on October 10th, in the morning, at the Zeleni venac, before the gathering of the participants of "the Pride Parade".

On the day of the Pride Parade, October 10th, 2010, police force secured the gathering. Approximately 5,600 police officers wearing riot control equipment in the streets around Park Manjež secured some 1,000 participants in the Parade, which prevented the opponents of the assembly to approach the location of the Parade. Strong police force did not prevent protesters in the wider area of the city center to make disarrays. The riots soon spread to the entire center of Belgrade, from Slavija to Kalemegdan. During the unrest hooligans attacked the building of the Democratic Party and the Socialist Party of Serbia, the Radio Television Serbia building, mobile mammography unit, as well as a number of shops in the center of Belgrade, from which the goods were stolen[35]. The atmosphere within the Parade did not indicate to what was happening outside[36].

In the riots caused by approximately six thousand protesters, according to the assessment of the media, more than 140 people were injured (124 police officers

35 One saleswoman was in such shock from the attacks of vandals that she was not able to give an interview to the press.

36 Video Belgrade Pride Parade 2010 available at: http://bit.ly/1rmgZfx.

and 17 protesters). 207 individuals were arrested and 100 of them were kept in detention because of violent behavior and thefts. Serious material damage was caused. 60% of all of the arrested people came from outside of Belgrade. There were 54 juveniles among the arrested individuals. The indictment was filed against 111 persons, and in further procedures 36 of them were sentenced, and in the case of 11 persons the proceeding was terminated[37].

Mladen Obradović et al. Case

COURT
Higher Court in Belgrade

CASE NO.
K-4264/2010

JUDGE
Danko Laušević

DEFENDANTS
Mladen Obradović et al.

INDICTMENT FILED BY
Higher Public Prosecutor's Office in Belgrade

INDICTMENT FILED ON
December 22nd, 2010.

CRIMINAL OFFENSE
Spreading Racial and Other Discrimination and Violence Against Police pursuant to Article 387 Para 3 of the Criminal Code

CURRENT STATUS
Returned to retrial by the decision of the Court of Appeals

The indictment was filed on December 22nd, 2010 and the trial of Mladen Obradović et al case, began on March 3rd, 2011 before the Higher Court in Belgrade. The indictment charges the fourteen accused that they "wanted the commission of the criminal offense that they were charged with" and that they wanted to prevent the Pride Parade in intact mental capacity" (October 10th, 2010). They were accused of spreading racial and other discrimination and of violent behavior against the police.

In the main hearing held on March 3rd, 2011, seven defendants presented their defense cases. None of the examined defendants pleaded guilty to the criminal offense alleged by the indictment. Representatives of non-governmental

37 At the session of the Municipality of Stari Grad on October 29th, 2010, councilor of the SRS Jovan Nikolić shared a photo of participants of the Parade, along with a statement that they will submit it to the organization "Naši 1389", whose members will "know what they should do with it." A member of the Democratic Party of Serbia in the City of Belgrade Nebojša Bakarec, speaking at the meeting, supported the violence against members of the LGBT community, and described homosexuality as a "disease, perversion, perversion and deviant behavior and social problem for which representatives healthy, heterosexual Serbia came into conflict."

organizations and human rights organizations were not allowed to attend the main hearing session.

The examination of the accused continued in the main hearing session on March 4th, 2011 and Miloš Popović, Dobrica Radonjić and Aleksandar Živković were granted provisional release, while the detention was extended in the case of nine defendants. The accused Srđan Savović was released on bail.

In the continuation of the trial, on April 13th, 2011 the attorney of Jelena Obradović demanded the trial of this defendant be separated because she was in the eighth month of pregnancy. In the same session, the evidentiary proceedings continued with the further examination of witnesses and presentation of other evidence.

The Trial Chamber presided by Judge Danko Laušević deliberated for five hours on April 20th, 2011 after which it rendered the judgment finding the accused guilty. Mladen Obradović was sentenced to two years of imprisonment; Jelena Obradović was sentenced to one year of house arrest. Krsto Milovanović and Damir Grbić were sentenced to one year and a half of imprisonment each and Mladen Milisavac, Goran Andrejev and Aleksandar Živković were sentenced to one year of imprisonment each. Miloš Popović, Srđan Savović, Marko Lazarević, Nikola Vidović and Igor Marinković were sentenced to ten months of imprisonment. The time the accused spent in pre-trial detention was calculated in their sentences. The Higher Public Prosecutor's Office and the Defense of the accused filed an appeal against the rendered judgment.

COURT
Higher Court in Belgrade

CASE NO.
K-86/2013

JUDGE
Danko Laušević

DEFENDANTS
Mladen Obradović et al.

INDICTMENT FILED BY
Higher Public Prosecutor's Office in Belgrade

DATE OF RECEPTION
February 1st, 2013

CRIMINAL OFFENSE
Spreading Racial and Other Discrimination and Violence Against Police pursuant to Article 387 Para 3 of the Criminal Code.

CURRENT STATUS
Ongoing

The Court of Appeals in Belgrade quashed the judgment against Mladen Obradović on February 2nd, 2013, which sentenced him to two years of imprisonment because of the disarrays caused during Pride Parade on October 10th, 2010. The Court of Appeals stated that it upheld the appeals filed by

Obradović and other defendants' Defense Counsel in this case because the first instance judgment contained essential violations of the provisions of the criminal procedure; the first instance judgment was incomprehensible and its reasoning did not offer clear reasons for the crucial facts. The case was sent back for a retrial and the first main hearing session in this trial was held on April 22nd.

The case was remanded for retrial and was admitted in the Higher Court of Belgrade on February 1st, 2013. It was awarded to the Trial Chamber led by Judge Danko Laušević, who ruled in the first instance. Preliminary hearing was held on April 22nd and 4 more hearings were scheduled during the proceedings but none of them were held. The proceedings were postponed indefinitely after the hearing which was scheduled for January 31st, 2014 but was not held. Public access was not permitted in any of the hearings during the resumed proceedings.

At the request of the Youth Initiative for Human Rights for access to information of public importance submitted to the Higher Court of Belgrade, Judge Dragoljub Albijanić made a decision denying access to information on the grounds "that this information would, among other things, endanger, obstruct or impede the conduct of judicial proceedings."

PRIDE PARADE 2011

Belgrade Pride 2011 was supposed to be held on October 2nd. This time the authorities were much more restrained in the context of open support. Dragan Marković Palma stood out in particular, as one of the major opponents of the parade in the political sphere[38].

Prior to Pride Parade 2011, threats at the participants of this event appeared on the '500 Serbs Against Pride Parade' Facebook page. Besides using the term "fagots" this page also contained comments like "kill, kill, kill fagot and lesbian", "fagots into blenders", "bullet in the head", and many other threatening messages.

Stickers saying "we are coming" and "we will be there" and dates when the Parade was scheduled appeared in Belgrade prior to the Pride Parade. One could see stickers "fagots into blenders" in public transportation vehicles and many graffiti from previous years have not yet been removed.

38 "Palma, Dveri, Obraz supported the ban", B92, http://bit.ly/1nGB6DW. (Serbian only)

Ultra-rightist organization "Obraz" Fatherland Movement scheduled an assembly titled "Prayer Procession" on October 2nd (the date when the Pride Parade was announced) and "Dveri" Movement announced the "Family Walk" event for October 1st.

On September 30th the National Security Council banned all assemblies scheduled for that weekend "due to safety risks" and the President of the Republic of Serbia, Boris Tadić, supported the ban stating that prohibition is the best solution for both the LGBT community and the citizens of Belgrade.

The Constitutional Court of Serbia rendered a ruling on April 18th, 2013 upholding the appeal filed by the Belgrade Pride Parade association and established that the Ministry of Internal Affairs rendered a decision which breached the following rights guaranteed by the Constitution: the right to judicial protection, the right to legal remedy, and the freedom of assembly[39].

Even though the Constitutional Court established that the banning of the Pride Parade was unconstitutional because of the aforementioned reasons, the Court held that the banning of the Parade did not breach the principle of prohibition of discrimination since all assemblies scheduled for this particular day by "persons and organizations, which represent opposite stances and ideas" were also banned.

Considering the same relevant reasons established in the cases of banning Pride Parade 2009 and the banning of the "March 8th March" organized by the Women in Black[40], the Constitutional Court decided on its own initiative to initiate the proceedings for the assessment of the constitutionality of the Law on Assembly of Citizens[41], because there is a systematic problem of the lack of conformity of the Law with the Constitution of the Republic of Serbia. The Constitutional Court of Serbia, having an equivalent substantial reasons thereof, decided to approve the constitutional complaint filed apropos prohibition in 2011 on April 18th, 2013. By adopting a constitutional appeal of the Association "Belgrade Pride Parade", Constitutional Court of Serbia stated that the organizers of Pride 2011, according to the decision of the Ministry of Interior - Police Department - Police Department of the City of Belgrade - Novi Beograd Police Station No. 212-613/11 dated September 30th, 2011, had the right to judicial protection referred to in Article 22, paragraph 1, the right to a legal remedy under Article 36, paragraph 2, and the right to freedom of assembly under Article 54 of the Constitution. The

39 The decision can be, in its integral, form found at: http://bit.ly/OAMfGN. (Serbian only)

40 „Violation of human rights without real sanctions", E-novine, http://bit.ly/1eD2n6j. (Serbian only)

Constitutional Court established the right to compensation for non-pecuniary damages in the amount of 500 Euro at the expense of budget funds (Ministry of Justice and Public Administration) as a specific kind of warning to the repeated violations of the right to judicial protection and remedy.

The decision also emphasized the need to launch a procedure for assessing the constitutionality of the Law on Public Assembly, because of its non-compliance with the provisions of the 2006 Constitution. One of the most serious shortcomings of the Law on Public Assembly passed in 1992, is that it offers a very tight deadline for an appeal if there is a ban by the Ministry of Internal Affairs. Thus the MIA has the right to prohibit the gathering of citizens at least 12 hours in advance, while the court may decide up to 60 days after admission of an appeal, when the gathering has already been banned, which automatically prevents any effective impact on the eventual correction of the decision.

In their explanation of the decision, USS referred to the practice of the European Court for Human Rights in cases prohibiting the Pride Parade in other countries (Baczkowski and Others v. Poland). Further, in its decision USS rejected part of the complaint that highlights that the ban was discriminatory based on sexual orientation, which is a violation of Article 21 of the Constitution, adding that the competent authority has banned other gatherings whose organizers represent opposing views, which made the claim seem unfounded. The reasoning of the decision also confirms that the enactment of the challenged act was preceded by extensive security assessment of the MUP that it is "made on the basis of specific and explicitly set out facts and data" and it is not a product of arbitrary assessment.

The Constitutional Court rejected the part which relates to pecuniary damages, finding that "there are no established assumptions according to which it could decide upon it." Organizations dealing with the protection of the rights of sexual minorities described this decision as encouraging, but also binding to the government in future same or similar situations.

According to the security assessment of the MIA, delivered to Goran Miletić, member of the organizing committee of the Pride Parade[42], it was pointed out

41 The 1992 Law on Public Assembly, "Official Gazette of RS", No. 51/92, 53/93, 67/93, 17/99, 33/99, 48/94, „Official Gazette of the FRY", No. 21/2001, "Official Gazette of RS", No. 29/2001, 101/2005.

42 Based on the Serbian FOIA Marko Ilić, a member of the organizing committee of the Pride Parade, filed a request for the submission of copies of security assessments in 2012 and 2013, however, the MIA did not respond which is why an administrative dispute has been initiated.

that the police officers found out that a day before the Pride, gatherings of the following associations were reported: "Istinoljublje", "Dveri", "Delije Sever", as well as on the day of the Parade (October 2nd, 2011), when "Obraz", "Dveri"", "Delije Sever" reported their gatherings; they also pointed out that that is the reason the Pride parade cannot be viewed separately. It was stated that some of the members of these associations are planning riots in order to stop the Pride Parade. Based on the security assessment a decision was made that if the gathering was held disturbance of public peace and order could occur in larger scales, damaging of private and public property, or damage to the diplomatic and consular missions[43].

Topić Borislav Case

COURT	**PROSECUTOR**
Higher Court in Belgrade	*Higher Public Prosecutor's Office*
CASE NO.	**CRIMINAL OFFENSE**
K-34/2012	*Endangerment of Safety pursuant to Article 138 Para 2 as read with Para 1 of the Criminal Code*
JUDGE	
Danko Laušević	
DEFENDANT	**CURRENT STATUS**
Borislav Topić	*in effect*

In early September 2011 on the Facebook group "Breaking the fag points" Topić Borislav wrote threatening comments which read: "For the Holy Cross, for our faith, I'll break the head of every fagot", "I'm coming to fuck their ill mothers," "Kill to kill the gay seed so that it does not exist ","let's eradicate them", "message for the enemies, traitors to the Serbian people and to gay people, come, we're waiting for you, it will be a full treatment of flogging and kicking ... death to the gay vermin."

When giving his statement, Topić Borislav stated that he is not a violent person and that he only wanted to express his opinion in this way. When the Judge asked him what his opinion about gay population was on this particular day, he stated that in the meantime he changed his mind and now he thinks "it's OK".

Witness Lazar Pavlović was examined during this trial and he stated that he adhered to his statement given during the investigation and that he supported

43 A copy of this assessment can be found in the archives of the YIHR.

criminal prosecution of the accused, but he did not file a damage claim because of the poor material position of the accused.

The two following sessions were adjourned due to the failure of Topić to appear before the court even though the court issued an order for his bringing. Witness Goran Miletić was summoned to appear in the further proceedings and the following session was scheduled for May 23rd, 2013.

The accused Topić did not appear in the session on May 23rd, 2013. In a phone call he informed the court that he did not have enough money to come to attend the trial. After the Prosecutor's closing argument, the Trial Chamber withdrew for 10 minutes and rendered the verdict. The Court found Borislav Topić guilty of charges and sentenced him to six months of imprisonment and three years of suspended jail sentence.

PRIDE PARADE 2012

Pride Parade 2012 was scheduled for October 6th. Due to the weakness of state institutions to protect the announced gathering Pride Parade was prohibited.

Criminal charges against 22 people, including two minors, were filed for the threats made over the Internet to the organizers and potential participants of the Pride Parade. During 2013 there was a hearing of the accused before the investigating judge.

The applicants received the decision No. 212-3332/12 on banning the assembly in the Savski venac Police Station on October 3rd. The disputable decision was signed by the Chief of the Savski venac Police Station, but the decision itself was rendered by the Prime Minister, i.e. the Minister of Internal Affairs on the basis of the assessment made by all security agencies, police and on the basis of the recommendation by the Bureau for the Coordination of Work of Security Services. The individuals who filed the Constitutional complaint were not informed in detail about the security threats in question, and the authorized judicial bodies, as far as the applicants know, did not take any measures against the inspirers or organizers of disarrays and assaults on the participants of the Pride Parade.

The organizers of the Pride Parade filed a constitutional complaint[44] on November 2nd, 2012 with which they challenged the decision made by the MIA of Republic of Serbia, Police Department for the City of Belgrade, the Savski

44 Constitutional apeal 8463/2012.

Venac Police Station No. 212--3332/12 from October 3rd, 2012 which prohibited the pride Parade based on Article 11 of the Law on Assembly of Citizens. The applicants of the constitutional appeal have described in detail in part VI of this appeal that the way in which the decision on prohibition was made completely prevented them from accessing effective legal remedies that would challenge the prohibition.

The complainants had also discussed the failure of state authorities, especially police, to do everything in their power to ensure the safety of the participants of the Pride Parade from third parties, and to prevent discrimination against them, and the failure of state authorities to provide them with legal protection and effective legal remedies against these violations of human rights.

However, the Constitutional Court made a decision in 2013 that dismissed the complaint finding that individuals who have filed it, the representatives of the Association "Belgrade Pride Parade" and the participants of the gathering that should have been held, were not actively legitimized in procedure, but that it was only the association "Belgrade Pride Parade" who reported the gathering as a legal person. In the jurisprudence of the European Court of Human Rights under Article 11 of the European Convention legal capacity, or status of a victim of violations of freedom of assembly, have individuals who have participated in the gathering, or would participate in it if it were held. Applicants' constitutional rights of all complaints were directly affected and therefore in this case there was no basis for rejecting the constitutional complaint due to failure to fulfill procedural requirements[45].

The Youth Initiative for Human Rights, on 21 January 2014, submitted to the Constitutional Court a request for access to public information, by which it requested copies of the USS decision on the constitutional complaint 8463/2012 relating to the prohibition of Pride Parade 2012.The Constitutional Court on 27 January 2014, issued a decision rejecting the request on the grounds that this would hurt the privacy of the person to whom the requested information pertains. The YIHR launched a procedure before the Constitutional Court because of this decision by the USS, after which the Constitutional court delivered the copy of the requested decision on February 24, 2014.

45 Human Rights in Serbia 2013 (Belgrade Center for Human Rights, 2014), 202.

PRIDE PARADE 2013

Pride March 2013 was supposed to be held on September 28th, 2013, at 9:00, in downtown Belgrade. The walking route planned was: Manjež[46] - Nemanjina - Kneza Miloša - Masarikova - Manjež, while the gathering was supposed to begin in the same park.

Strong opposition to the Pride Parade came from the representatives of the Serbian Orthodox Church, the Islamic community, the conservative parties (primarily the Democratic Party of Serbia), and the most contestation was coming from conservative and militant groups, "Dveri," SNP "1389", hooligan groups. "Dveri" was announcing and finally organized a rally calling for a ban of the Pride day before the Pride (during the meeting at which the decision about not/gathering was made).

Organizations "Obraz", "Naši", "Zavetnici" and supporters of the party "Dveri" were announcing gatherings at the same time the Pride was scheduled[47]. Graffiti denoting hatred[48] were not a rarity this year either, neither were threatening stickers[49] in the vehicles of the city public transport (GSP).

Head of the Bureau for the Coordination of Security Services (Bureau) Aleksandar Vučić scheduled a meeting on Friday, September 27th at 16:00, which lasted several hours. The decision to ban the gatherings on Saturday that was justified with a negative security assessment was made then. According to the information during the session half of the members of the Bureau were in favor, and the other half against it[50], while the latter official information reported that the decision was made unanimously.

Despite the decision of the Constitutional Court of Serbia and clear jurisprudence of the European Court of Human Rights, the Ministry of Internal Affairs - Police Department - Police Department of the City of Belgrade - Savski Venac Police Station under No. 212-807/12 made a decision to ban the Pride

46 A symbol of gathering of gay population at the time when there was no open gay and gay-friendly clubs.

47 Supporters of "Obraz" had planned to assemble at 9:00 in front of the Orthodox Cathedral, where they would take a walk through the very center of the city to Vaznesenjski Church in the street of Admiral Geprata. "Dveri" had planned a gathering at 12:00 in front of the Serbian government building in Nemanjina and "Zavetnici" in front of the Constitutional Court in the Boulevard, while the movement "Naši" also announced a gathering along the streets of King Milan.

48 Typical: "Blood will run through Belgrade, but the parade will not happen," "Death to fagots" and etc.

49 Typical: "Fagots to blenders".

50 Ratio 6:6.

Parade[51]. The decision was signed by the chief of the Savski Venac Police Station, but the decision was actually passed by the state leadership on the basis of estimates of the Bureau.

The organizers have again, after the fourth consecutive prohibition, filed a constitutional complaint with the Constitutional Court of Serbia.

The reactions to the ban were negative[52], the international community has once again been disappointed by the inability of the state apparatus to deal with violent groups, and they noted that they will continue to support Serbia in its efforts to develop a climate of tolerance.

THREATS MADE AGAINST SLOBODAN STOJANOVIĆ

One of the most recognizable fighters for LGBT rights Slobodan Stojanović, before the preparations for the Pride Parade in 2013, received several messages of threatening content, as evidenced by official notes that he informed the MIA of. The messages were published by anti-gay groups on Facebook or sent directly to Slobodan Stojanović's inbox. Slobodan, in fact, began receiving messages as early as July 2013, but the messages of threatening content aimed at the LGBT population escalated after Slobodan said to one of the senders that he would report him to the police. To the threats of a "fan" of Partizan "Kill gays, kill gays! We'll kill you motherfucker! "Slobodan said:" Ok, Greetings to you and your family. "Given that A. continued to threaten him, Slobodan asked, "Do you want me to report you (him) to the police for threatening?" This was followed by a torrent of further threats where A. told to Slobodan to think about his life, with the final threat, "WE WILL KILL YOU!" On July 16th, 2013 Slobodan posted all of these threats from his inbox to his "wall", after which he received another 10 threatening messages.

The following notice by Stojanović sent to the police, and on the basis of which the official note is made followed on September 3rd, 2013. In the introduction Slobodan pointed out the fact that his own identity in the public was known due to media coverage and he also highlighted the threats which he took particularly seriously. In addition to the threats by individuals, threats by right-wing groups on Facebook were also noticeable. In the group called "Justice and Right for Serbia" S. B. posted a comment which read: "Kill the fags so that they do not exist, and the police officer who shot was also gay." On the profile of M. D. a

51 The solution to the ban on holding public gathering on the move: http://parada.rs/wp-content/uploads/zabrana2.jpg.

52 „People disappointed with the prohibition of the Pride", B92, http://bit.ly/1rw4ZWj.

post saying "A good cop is a dead cop, death to cops and fagots." was noticed. In the "Alexander Konuzin fan club[53]" M. C. said that "fagots should have gasoline poured on them and should be set on fire."

Messages and announcements of similar contents could be found in groups "500,000 Serbs against Gay Parade", "900,000 people for the unification of Serbia and Srpska", "Daily Newspaper Pravda", "srbin.info", "Countries that do not recognize Kosovo ",," Serbian forum ", etc.

The third official record was made on September 19th, 2013 and in it Stojanović informed the MIA about the newest threats. Some of them include R. V.'s comment on the text "Belgrade without a gay parade again in 2013?" on the Facebook group "All those who do not want Serbia in the European Union": "You can all get beaten together", then a comment on the Facebook group "SNP Naši" by N. B.: "They should all be murdered, or sent to one place to be treated, motherfuckers...they bring shame to Serbia and Serbian people!". In the group "Serbia land of heroes" on September 9th, 2013 S. B. posted a comment "Blood will flow through Belgrade, but there will be no gay parade." Threats from previous years were often repeated in groups, such as: "We are waiting for you" and similar. The total number of threats has reached a figure of 80, out of which not a single person who was threatening was prosecuted.

53 Original: „Александар Конузин fan club".

THE ATTACK ON SLOBODAN STOJANOVIĆ'S APARTMENT

Vandals have, on October 27th, 2013, posted a photograph and a threatening message on the apartment door of the gay activist Slobodan Stojanović in Čukarica saying: "We know where you live, we know where you sleep," and the photograph was showing the beating of a Ukrainian gay activist and a crossed rainbow colors flag[54]. They also threw a Molotov cocktail onto the bedroom window.

They drew a swastika on the wall and the sign prohibiting same sex relations[55]. The message was signed by a neo-Nazi group "Borba 18" from the Republic of Srpska, which is connected to the network "Kombat 18"[56]. Stojanović reported the case to the police on October 27th, 2013 around 16:40 who then conducted the investigation, recorded and archived evidence found at the scene. After filing the report, Stojanović was only once called for a conversation into the Inspectorate of the MIA.

Commissioner for Protection of Equality Nevena Petrušić strongly condemned the threats against Stojanović and asked the authorities to take action and prosecute the perpetrators[57]. The case is still under investigation, and Slobodan Stojanović is forced to live in a different location.

54 The symbol of the movement for LGBT fight for human rights.

55 Photo on: http://bit.ly/NxjFF2.

56 Group divisions Blood and Honour formed exclusively for violent action. Number 18 represents the initials of Adolf Hitler (first and eighth letter of the alphabet).

57 "The threats to LGBT activists Boban Stojanovic", RTS, http://bit.ly/1p9YQkp. (Serbian only)

II

Prosecution of Cases of Hate Speech

Hate speech in statements made by Dragan Marković Palma

Dragan Marković, aka Palma (1960), started his political life in 1995 with Željko Ražnatović Arkan (the founder of the Serb Volunteer Guard paramilitary formation) and Borislav Pelević (one of the commanders of the Serb Volunteer Guard), with whom he founded the Party of Serbian Unity[58]. In 2004 Marković founded the United Serbia party and he is still its president. Marković was also a member of the governing Coalition and the Mayor of Jagodina from 2004 to 2012.

In view of the Pride Parade which was supposed to be held on October 2nd, 2011, Dragan Marković gave the following statement to the media in Jagodina on August 15th, 2011: "We have not changed our opinion, but I do not support violence; peaceful protests are OK, but not to show on the street something that I consider an illness, and this is homosexuality." Dragan Marković carried on: "My personal position and that of my party is against any gathering where homosexuals demonstrate, especially in Belgrade, because they wish to present as normal something that's an illness[59]."

Gay Straight Alliance issued a press release on August 16th, 2011 in view of the statement made by Marković that homosexuality is an illness[60] in which they stated, among others, that "even though homosexuality has been taken off the list of illnesses of the World Health Organization twenty years ago, which was on several occasions confirmed by the Serbian Association of Doctors of Medicine and the Republic of Serbia Ministry of Health, Dragan Marković Palma does not stop to use such statements to abuse media, spread lies and incite hatred against LGBT population". After this, namely on August 22nd, 2011, the Gay Straight Alliance filed a lawsuit against Marković because of the discrimination and in relation to this statement made by Marković

58 Official presentation at: http://bit.ly/1nK54a3.

59 "Pride: Dačić to the wedge, Palma to the plate", Palma u ploču", B92, bit.ly/OEykz2. (Serbian only)

60 The release in its entirety can be found here: bit.ly/1ozNnHn. (Serbian only)

PROSECUTION OF THE CASE

First Primary Court in Belgrade

CASE NO.

P-17987/2011

JUDGE

Jasna Tresač

DEFENDANT

Dragan Marković

PROSECUTOR

Gay Straight Alliance

DATE OF RECEPTION

August 22nd, 2011

SUBJECT

Discrimination on the basis of sexual orientation pursuant to Articles 11 (Hate Speech), 12 (Harassment and ill-treatment), 13 (Severe forms of discrimination) and 21 (Discrimination based on sexual orientation) of the Anti-discrimination Law

CURRENT STATUS OF THE CASE

According to the ruling of the Court of Appeals, the case was sent back for a repeated trial

The Gay Straight Alliance legal office filed a lawsuit on August 22nd, 2011 on the basis of the Anti-discrimination Law with the First Primary Court in Belgrade against Dragan Marković for Aggravated Discrimination on the basis of sexual orientation. Since Marković failed to respond to the lawsuit within 30 days, the First Primary Court in Belgrade rendered the first instance judgment on October 26th, 2011 in which it is established that he committed an aggravated form of Discrimination and Marković was then banned from repeating such statements and obliged to pay for the costs of the courts proceedings[61].

The reasoning of the judgment states that "in this particular case, Marković presented a personal characteristic or sexual orientation as an illness and something not normal and he did this in the media, thus committing the aggravated case of discrimination, as well as that according to Article 13 of the Anti-discrimination Law it was determined as a severe form of discrimination and inciting of inequality, hatred and intolerance based on sexual orientation, which is a serious form of discrimination especially if it is done through the mass media, and in this particular case personal property, or sexual orientation, by the defendant (Marković) is shown as an illness as something abnormal through the mass media, which makes it an aggravated case of discrimination."

The Gay Straight Alliance has expressed satisfaction with the speed of judgment passing by the court, and said that they hoped that it will not be altered on appeal and will become final.

The GSA filed a criminal complaint against Marković for the same statement, because of the crime of violation of equality under Article 128 the Criminal

61 "Judgment to Dragan Marković Palma due to severe forms of discrimination against the LGBT population," Gay Straight Alliance, bit.ly/1kMoJi6. (Serbian only)

Code[62], as well as the criminal offense of racial and other discrimination under Article 387 of the Criminal Code.

On November 11th, Dragan Marković's attorney filed an appeal against the first instance judgment. On September 19th, 2012, the Court of Appeals quashed the judgment against Dragan Marković Palma because of the serious discrimination against LGBT persons and sent the case back for a retrial. The Court of Appeals quashed the first instance judgment rendered on the basis of the appeal filed by Marković's attorney[63] because of the violations of provisions of criminal procedure and errors in the application of provisions of the criminal code, i.e. because it established that the respondent Marković did not properly receive the lawsuit from the First Primary Court and that it was not delivered to him personally or to his attorney, but to a member of his household, which is in violation of Article 136 of the Civil Procedure Code[64].

COURT	**DEFENDANT**
First Primary Court in Belgrade	*Dragan Marković*
CASE NO.	**PROSECUTOR**
P-15378/2012	*Gay Straight Alliance*
JUDGE	**JUDGMENT PASSED ON**
Jasna Tresač	*September 17th, 2013.*
	CURRENT STATUS
	In appeal procedure

In the repeated trial, which was conducted by the same judge, the judgment is completely altered[65]. The Court, in fact, found that the complaint by the GSA was unfounded. The reasoning of the judgment[66], among other things stated that Marković's statement "contains characteristics of discriminatory behavior, but not to the extent to which it is required to be given an official statement by the court in order to determine it as an act of discrimination," and that the statement was already sanctioned enough by the Commissioner for the Protection of Equality through her statement which indicated this. It was also stated that "the court should not be a government body which will establish whether there was a discriminatory behavior every time one of the social categories listed in the Anti-discrimination Law finds itself offended

62 CHAPTER FOURTEEN - Criminal offenses against the rights and freedoms of man and citizen.

63 "Abolished judgment against Dragan Marković Palma, "Gay Straight Alliance, http://bit.ly/1ijppor. (Serbian only)

64 Code of Civil Procedure, "Official Gazette of RS", No. 72/2011, 49/2013 (Decision of the Constitutional Court), 74/2013 (Decision of the Constitutional Court)

65 http://bit.ly/1eVLQEX (Serbian only).

66 Judgment in its entirety found at: bit.ly/1gVQwLt. (Serbian only)

or discriminated according to its own value system," and that Marković's statement was "in accordance with the program of his party, and that it was his own judgment and the court cannot judge over value judgments." The Court which established Marković's speech as hate speech in the previous judgment, in the amendment concluded that "if it were to accept the appeal Dragan Marković would be prevented to have his private opinion and freedom of speech, therefore, any establishing of his statements as discriminatory was in complete contradiction with the purpose to which the Anti-discrimination Law is enacted."

The GSA filed an appeal against such a judgment.

HATE SPEECH ON "NEW SERBIAN POLITICAL THOUGHT" WEB PAGE

The Youth Initiative for Human Rights filed a lawsuit on May 5th, 2009 against the Internet edition of the magazine for political theory and social research "New Serbian Political Thought" because of the breach of the prohibition of hate speech[67], in view of the article published on April 27th, 2009. In the column called "Political Life" an article titled "Fathers, Forefathers, and Stepmothers of Serbia" authored by Zoran Grbić.

"FATHERS, FOREFATHERS, AND STEPMOTHERS OF SERBIA"

Zoran Grbić
Monday, April 27th, 2009

"Will so your accusation overweight, that you shall stifle
in your own report and smell of calumny."
William Shakespeare, Measure for Measure.

One Croatian blogger and writer (or the other way around) once wrote a funny blog story describing an imaginary situation in which, at the time when Croatia was a member of the Security Council, [Serbian President] Tadić and the Prime Minister of the "Republic of Kosovo" were brought before a Croat official, who was supposed to decide the future fate of this region. The Croatian official, just like the wise Solomon in his own time, was expected to come forth with a "wise judgment" and he came up with the following decision for the southern Serbian province: "I think that it would be best to cut Kosovo in half." Brought before such a judgment, the

67 Public Information Act, "Official Gazette of RS", No. 43/2003, 61/2005, 71/2009, 89/2010, 41/2011.

two persons interested in Kosovo, provided responses, from which it would be easy to figure out who was the mother and whose child Kosovo and Metohija was. The only thing left unknown is the father, and his opinion on that point cannot be implied. Dobrica Ćosić, a writer, a President, and a person who for some reason has the unofficial title of "the father of the nation", is more likely to be considered, according to the meaning of the aforementioned wise King Solomon story, as the stepfather of the nation, a person who doesn't keep Kosovo close to his heart, a person who would easily accept to have it "cut in half". Ćosić's defeatism, his advocating for surrender, the end of the bombing, and the division of Kosovo and Metohija, should rather be considered favorable for the "other Serbia", whereas they are, instead, fling complaints against him. A sentence taken from a diary is just what it is, an angry sentence written in the desperation of a man, who has already aged, written in some other time and in some different environment. Of course, this is not a mitigating circumstance for those who filed the criminal complaint. And they are not willing to understand the helplessness, which led to such a sentence to be written in the first place, and they are not capable of comprehending the time in which it was written. They rather only waited for an occasion to strike down upon yet another Serbian symbol, a man who is seen by many as "the father of the nation". With all due respect to his past work and past accomplishments, one could say that today Ćosić is a man of age, a lonely and senile grandpa, who somewhat worried about the future of the people, lacking confidence in people, unaware of its strength just as much as he is uncertain about his own strength. It seems that to identify with an important title such as "the father of the nation" may in time be disastrous since personal fears, uncertainties, and helplessness are thus transferred to the belief regarding the condition of the entire nation one identifies with. Ćosić appears to have forgotten there could have been no proclamation of the "Republic of Kosovo" (or any terrorist rebellion or bombing) if there had been no Dayton Agreement. Just as Dayton couldn't have happened hadn't Knin fallen prior to that? Just as the Statute, even in its outlines, 49 Public Information Law, Article 38 ("Official Gazette of RS", nr. 43/2003, 61/2005, 71/2009, 89/2010 –decision of the CC and 41/2011 – decision of the CC) couldn't have been written without previous establishment of the "terrorist Government" in Prishtina. Nothing can happen before its time. Every time Serbia agrees to something, it opens the window to a new requirement in line. And it will be like this until someone says – That's it. We've had enough. And that someone can hardly be a person of Ćosić's age.

It seems that the time has come again when books upset certain people. Hitler burnt them; they were prohibited during Socialist time while Islam sentences writers to death. In Medieval time, people were incinerated rather than books. Nowadays, by the guardians of public morality and defenders of "brotherhood and unity" take the stage again. Criminal complaint was filed against Ćosić for the act of propagating "national, racial and religious hatred and intolerance", because of half a sentence in a voluminous book in which he stated that Albanians are the "social, political and moral dirt of the tribal and barbarian Balkans". One could hardly say that Albanians are famous for the pieces they have created. It's much more likely to say that, ever since they arrived at the Balkans, Albanians haven't achieved much creatively. As a matter of fact, I don't know that they have done anything creative, anything that they would be remembered for in the social community. I may be ignorant, but I haven't heard that they have had any great scientists, writers, painters, sportsmen...I do not know of a single great building in Albania or a great architect that would build it, except for dozens of thousands bunkers, which stand as a logical and systematic sequence of high ramparts, which they elevated around their houses in xenophobia. Even the biography of the single authentic Albanian woman, who was well known in the entire world, Mother Teresa, is more and more a subject various controversies and scandals, in which she was supposedly involved. Everything that they have been doing lately (after the stealing of territory) is stealing of other people's history and historical figures. The manner in which this information is going to be announced is more a matter of semantics and tact than a matter of veracity. In some happier times, in a hypothetical situation in which their political acts had not done evil to us, it would surely be a matter of decency not to mention anything about the way their creativity appears to be at the level of society as a whole, or what their civilization accomplishments are. We would not be interested in that and it wouldn't be any of our concern. However, in a situation like it is today, a normal person, a person who is not a robot or an internationalist, could hardly bear this without admitting that their most significant feats, acknowledged worldwide, are human trafficking, production of and organized drug trade, trafficking in human organs, and that their accomplishments are blood feuds, terrorist attacks, camps, "houses" and tribal life style. As for the culture (apart from the talent for making artistic photos, such as the one with the terrorist in his natural size), we definitely must not forget the indisputable fact that in the "former Yugoslavia" they had some really good actors. If one was sarcastic, one might say that their talent in acting is their single common talent, one of the authentic characteristics of their nation. It may be a matter of semantics, but I do

believe that it is worth mentioning here, since the "other Serbia" appears to be very concerned about the issues of the language and offensive behavior against other nations – Shqiptars are Albanians, who live in Kosovo and Metohija, a province of Serbia. Albanians are the people living in Albania. Shqiptars do not want to be called like that, not because it is an insult for them, but because it would point out that there is a difference between them and their mother state. If they were all Albanians, then there would be no need for an "artificial" borderline between Albania and Kosovo. If terms Shqiptar and Albanian are clearly separated, there is a good reason for it. The Greeks, for instance, are well aware of it. They still do not recognize the name of the Republic of Macedonia, just like they do not recognize Macedonians as a nation, because thus they would accept the idea that the borderline between the two Macedonians is artificial, dubious, and subject to changes. Croats also know it. Therefore, they call Serbs from Krajina and Slavonija Serbs, whereas those from Serbia are called Serbians. They are clearly separated by language, just as they are separated by the territory. The other Serbia mainly doesn't know about this. They mostly want to believe that Shqiptars are bothered if someone calls them like that. They do no defend only Shqiptars. Sonja Biserko defended one of them, known for his bad language and behavior that would embarrass even a drunken truck driver in his favorite bar on a Saturday night. When asked to comment on his statement that some journalists should be sent to the gallows, Sonja first tried to avoid answering, by pointing out the guilt of journalists during the war (and this is called relativization of crimes), and only after the insisting of the hose, did she gave an explicit answer: "Such is the language of Pera Luković, he entered into that Nazi language, which dominates our public discourse, and he shoots him with this language of his from within this pattern. Actually, he destroys it linguistically... He simply enters the pattern and demolishes it from the inside". Should he be also summoned before court, or his "artistic act" has a greater value and bears more significance to the works of one of the greatest Serbian writers? Can such writing be justified at all and in any context? And what kind of people are those who are capable of justifying and supporting it? In a TV show on public broadcasting service, Borka Pavićević (known for her statement that not everyone is entitled to an opinion) defended the language used by Nenad Čanak, and the calls for gallows, saying that "such language, in certain political context, is something that can be understood". And Borka justified Nenad Prokić's statement about Serbs ("That cattle can only understand this language.") laconically and with a smile saying that he only quoted Tomas Mann. Biljana Kovačević Vučo (who could find herself a place in the history with her latest fantastic statement that "patriotism should be

redefined") also defended the right of a person to attack his own people. In a TV show broadcast on the Radio Television of Serbia the other day, when the host asked her: "Are we allowed to say anything we want about ourselves?" she replied: "Yes, that is a matter of political culture, words that we are going to use, public discourse, style, irony (...) whereas discrimination refers to the others and different." Even if one agrees with what Kovačević Vučo is saying, since we're all from the same pot, one would be able to say, for instance, that she is a devious liar, a manipulator who turns away from facing the truth, someone who sold for chickenfeed. Biljana surely wouldn't get mad at such a person, because, between ourselves, we can say whatever we please of one another. Just as Mss. Biserko and Pavićević wouldn't have any reason to get angry if someone were to say that their behavior is "radically retarded", since this is a quote of Luković who "entered into that Nazi language, which dominates our public discourse"; or if someone were to tell them: "You shall stifle in your own report, and smell of calumny", they wouldn't be offended, since it is just a quote from Shakespeare (Measure for Measure). Slovenians recently had an affair involving a book and a writer, and the entire Slovenian public stood up to defend an unknown writer and his right to write about Slovenia and ethnic minorities, who live there, openly and freely, in a way in which he experiences the situation. Even the Minister of the Interior, Katarina Kresal, stood up in defense of Goran Vojnović, a Slovenian-Bosnian author of the novel Čefurji raus! (Get out, Southerners), who was detained by the police and who had a complaint filed against him. She said to Slovenians that "it would be wise for them to read it, because we are too often intolerant towards people who live there (in Fužine settlement)". In that way, she gave a striking example to the police, which is under her command, as well as to their compatriots, and the entire region of the Balkans, that literature and written word must be freed from police persecution. It is obvious that some people here still don't get this message."

COURT	PROSECUTOR
Higher Court in Belgrade	*Youth Initiative for Human Rights*
CASE NO.	**CASE RECEIVED**
P-423/2013	*June 28th, 2013*
JUDGE	**CURRENT STATUS OF THE CASE**
Jelena Kilibarda	*According to the ruling of the Court of Appeals, the case was sent back for a repeated trial*
RESPONDENTS	
Zoran Grbić and Đorđe Vukadinović	

The proceedings initiated before the Higher Municipal Court (First Primary Court after the judicial reform was implemented) were led by Judge Jelena Kilibarda. During the current course of the proceedings, ten main hearing sessions were scheduled, six of which were held[68]. The process largely revolved around issues of legal standing of the Prosecutor and his financing. The representatives of the defendant filed an initiative to the Constitutional Court of Serbia for review of the legality of the Statute of the Prosecutor, of the Youth Initiative for Human Rights.

The judgment was rendered on October 24th, 2012 dismissing the plaintiffs' claim. The Youth Initiative for Human Rights appealed this judgment on October 30th, 2012 with the Higher Court in Belgrade. The First Instance verdict was terminated due to significant violations of the proceedings and the case was remitted for reconsideration.

In the resumed proceedings two hearings were held, and the next one is scheduled for June 25th, 2014. So far, in the repeated trial, no new evidence was presented, while the respondent continues to challenge the legal capacity of the prosecutor.

Hate Speech in "Dvor" Show

On February 26th, 2011 in the "Dvor" show broadcast on "Pink" TV a dispute happened between singers Maja Nikolić and Miloš Bojanić on one side and Mirjana Mika Kostić, one of the participants in the show, on the other. During the dispute Nikolić and Bojanić made anti-Semitic statements. The transcript of the dispute is as follows:

68 Hearings were held on April 8th, 2010, May 19th, 2010, September 29th, 2010, May 30th, 2011, April 2nd, 2012, June 11th, 2012; reports from the trial in the case of New Serbian Political Thought, available in the archives of the Youth Initiative for Human Rights.

Mirjana (to Maja): "...I will sue you because you are an anti-Semite and because you are a racist".

Maja: "Me a racist? Because I don't like Jews? (...) Yes, I am a nationalist, I love Serbia".

Miloš: "We cannot love the Jews who bombed us..."

Maja: "I am a nationalist and I don't like Jews."[69]

Even though the producers of the "Dvor" show wanted only to admonish Maja Nikolić and Miloš Bojanić, Maja Nikolić was expelled from the "Dvor" show upon the insisting of the Republic Broadcasting Agency. Several hours before Maja Nikolić was expelled from the "Dvor", Miloš Bojanić left the show and it was stated that his departure had nothing to do with the things he stated in the show[70].

Deputy President of the Republic Broadcasting Agency, Goran Karadžić, explained that the law does not permit them to cancel the show, but that the Broadcasting Agency Council made a decision that reality shows cannot be broadcast live[71].

COURT
Higher Court in Belgrade

CASE NO.
K-682/2011

JUDGE
Nataša Albanić

DEFENDANTS
Marija Nikolić and Miloš Bojanić

PROSECUTOR
Higher Public Prosecutor's Office

DATE OF RECEPTION
July 7th, 2011

CRIMINAL OFFENSE IN THE INDICTMENT
Causing National, Racial and Religious Hatred and Intolerance from Article 317 Para I of the Criminal Code[72]

CURRENT PHASE OF THE PROCEEDINGS
In appeal procedure

The main hearing in this case was scheduled for December 7th, 2011. The hearing was adjourned because Miloš Bojanić failed to appear before the court. He did not come because he was ill. Marija Nikolić appeared in the hearing only after the third subpoena was sent to her.

69 Video available at: http://www.youtube.com/watch?v=YrcBU83OshE.

70 "'Dvor': Maja Nikolić thrown out for insulting Jews", Blic, http://bit.ly/OM5cWA. (Serbian only)

71 "Official Gazette of RS", No. 17/2011

In the further course of the proceedings, sessions were scheduled for February 2nd, 2012 and May 15th, 2012, but they were both adjourned. The main hearing which was scheduled for September 17th, 2012 was also adjourned due to the illness of Marija Nikolić and Miloš Bojanić[73]. The main hearing scheduled for December 5th, 2012 was not held because Bojanić's Defense Counsel failed to appear. During the proceedings Judge Vladan Ivanković was replaced by Judge Nataša Albijanić.

Out of 11 scheduled hearings, only three were held. The decision was acquitted on February 4th, 2014.The court ruled that, although it is socially unacceptable behavior, there is no element of offense[74]. The higher Public Prosecutor's Office in Belgrade filed an appeal against this judgment on February 11th, the same year.

In the meantime, Marija Nikolić participated in another reality show, the Big Brother VIP. The media assessed that she made a disputable statement in this show as well: 'Južnina, Ava Karabatić thinks she is going to win. Well, this really is a show, people" If we let her win, then really... Serbia will never be Serbian!" However, there were no reactions to this statement.

Hate Speech in Kurir Daily - Threats to Danko Runić

Kurir Daily, as well as the online edition of this medium, in its column Politics, on November 28th, 2012, published an article titled "DISGRACE: Čeda's[75] Director celebrated the Albanian Flag Day!" by Katarina Blagović[76]. Other media quickly published the same article[77].

72 Possible sentence for this offense six months to five years in prison, the Criminal Code ("Official Gazette of RS", no. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012 and the 104/2013).

73 "'DVOR' BEFORE A COURT: Maja Nikolić and Miloš Bojanić absent again, due to illness", Telegraf, http://bit.ly/1h8usgS. (Serbian only)

74 "Higher Court in Belgrade rejected the accusations of hate speech! Maja, "I spoke what I think from my heart, that is not hatred", Blic, http://bit.ly/Q2tk8I. (Serbian only)

75 Čeda is the nickname of the President of Liberal Democratic Party Čedomir Jovanović

76 "Disgrace: Čeda's director celebrated the Albanian Flag Day", Kurir, http://bit.ly/1dgWp-HR. (Serbian only)

77 "An official of the City of Belgrade is photographed with the Albanian flag in Prishtina", Blic, http://bit.ly/1hJL9Rg. (Serbian only)

The original text:

DISGRACE: ČEDA'S DIRECTOR CELEBRATED THE ALBANIAN FLAG DAY!

Author: Katarina Blagović
Wednesday, November 28th, 2012, 17:46h

Danko Runić, member of the Main Board of the Liberal Democratic Party and director of the City of Belgrade's Agency for European Integrations and Cooperation with Civil Society, took a photograph with the Albanian flag and cap.

BELGRADE - We pay him, and the Albanians rejoice.

Danko Runić, member of the Main Board of the Liberal Democratic Party and director of the City of Belgrade's Agency for European Integrations and Cooperation with Civil Society, took a photograph with a cap and a balloon denoting the Albanian flag and posted it on his Facebook account!

This youngish director, Čeda's hope, who is, by the way, paid by us since his paycheck is paid from the budget, transferred the euphoria from the streets of Priština, from the celebration of the Albanian Flag Day. The streets decorated with Albanian flags and Runić's shiny smile caused a tantrum among Twitter users, among others Mario Maletić, councilor of the Serbian Progressive Party in the City Hall.

In the interview for Kurir Maletić stated that it is unacceptable that the citizens of Belgrade and Serbia give paychecks to someone who is promoting independence of Serbia's south province.

The responsibility also rests on Mayor Dragan Đilas, who needs to know what his city officials are doing and what values they are promoting. If these people stay in their positions, then the City of Belgrade should start rather directly paying Hashim Thaci and Ramush Haradinaj to their personal bank accounts than fund this sort of staff – said Maletić

As usual, Runić is trying to clean his name and claims that the photographs in question were taken four years ago, and that they are a mere joke not his acknowledgment of Kosovo's independence.

"The photographs were taken four years ago when I was visiting some friends in Kosovo. Kosovo is a southern Serbian province, not a country. I am sorry

for taking the photographs, if I could go back in time I would never have done anything alike" – says Runić, and he also added: "The photograph has not been on my profile for quite some time which means that someone downloaded it a long time ago, kept it and decided to publish it right now after the rendering of the judgment to Haradinaj. My safety is endangered, the people on Twitter are calling for my lynching."

WHO IS ČEDA'S HOPE?

Danko Runić finished Philological High School, and graduated in Political Science, Department of International Relations at Richmond University in London. Part of his studies he attended at Florence and Rome. He attended the Diplomatic Academy of the Ministry of Foreign Affairs of Serbia. Since 2008 he is the Director of Belgrade's Agency for European Integrations and Cooperation with Civil Society.

Shortly after the article was published in the electronic edition of Kurir-info, it was followed by a series of comments of threatening and offensive content.

As follows:

- "This fool should urgently be integrated into the foundation of some future building!"[78]
- "He's a real Albanian. The photo is like from a Wanted poster. I wouldn't be surprised if he, looking like this, was participating in organ trafficking of Serbian victims"[79]
- "You are afraid for your safety, and you should be. Wait until entire Serbia finds out about this, then you can run to Tirana"[80]
- "This country is full of traitors, spies and foreign mercenaries. I'm ashamed that I live in this humiliated and miserable Serbia, the most miserable since its founding."[81]
- "dear serbs from serbia you are not normal what are your serbian patriots doing for the country, they're promoting independence and liberation of Haradinaj (...)"[82]

78 Comment on: "Disgrace: Čeda's director celebrated the Albanian Flag Day", Kurir, User: Mikser, 17.56h November 28th, 2012, http://bit.ly/1gY9ukN.

79 Comment on: "Disgrace: Čeda's director celebrated the Albanian Flag Day", Kurir, User: mara maric 19.56h November 29th, 2012, http://bit.ly/1gY9ukN.

80 Comment on: "Disgrace: Čeda's director celebrated the Albanian Flag Day", Kurir, User: Belzebub 18.21h November 28th, 2012, http://bit.ly/1gY9ukN.

81 Comment on: "Disgrace: Čeda's director celebrated the Albanian Flag Day", Kurir, User: Spectrum 20.25h November 28th, 2012, http://bit.ly/1pgnr1S.

82 Comment on: "Disgrace: Čeda's director celebrated the Albanian Flag Day", Kurir, User: Nebojsa-kosovo 17.18h November 29th, 2012, http://bit.ly/1pgnr1S.

COURT

Higher Court in Belgrade

CASE NO.

P-15/2013

JUDGE

Vesna Dželetović-Cucić

DEFENDANT

KURIR INFO Ltd., Belgrade, Katarina Blagović, the author of the article in question, employed at www.kurir-info.rs, Sonja Lakić, managing editor of the digital edition

PROSECUTOR

Lawyers' Committee for Human Rights - YUCOM[83]

DATE OF RECEPTION

January 10, 2013

CRIMINAL OFFENSE IN THE INDICTMENT

Prohibition of hate speech, Anti-Discrimination Act of the Republic of Serbia

CURRENT STATUS

ongoing

Lawyers' Committee for Human Rights - YUCOM filed a lawsuit against the newspaper Kurir, which is the owner of the Internet portal "Kurir – info", for violation of the prohibition of hate speech, regulated by the Law on Free Access to Information[84] and the Law on Prohibition of Discrimination, based on the text "DISGRACE: Čeda's Director celebrated the Albanian Flag Day!", published on November 28th, 2012., and based on comments that this text caused on the Internet portal of this medium.

The proceedings were initiated before the Higher Court in Belgrade[85], and assigned to Judge Vesna Đeletović Cucić. In the course of the proceedings one hearing was held[86]. Litigation is pending and the next hearing is scheduled for June 10th, 2014.

The charge claim states that the author of the article presented the commitment of the official of the City of Belgrade to the Albanian national minority, by making private photographs public. At the same time she condemned it as illegal behavior, and thus sent a message that taking a picture with the Albanian flag is an act of treason. This led to an irrational incitement of hatred that is directed towards the entire Albanian nation, or ethnic minority.

83 Lawyers Committee for Human Rights - YUCOM is a non-governmental organization founded in 1997. They are engaged in promoting the ideas and practices of human and civil rights and freedoms, spreading of knowledge about them, providing legal assistance to those whose rights have been violated, developing cooperation with associations and organizations promoting civic, political, human and trade union rights and other similar activities.

84 Law on Public Information, Article 38, "Official Gazette of RS", no. 43/2003, 61/2005, 71/2009 89/2010 - US decision and 41/2011 - US decision.

85 The Higher Court in Belgrade was established by the Law on Courts ("Official Gazette of RS", no. 116/2008 and 104/2009) and the Law on Seats and Territories of Courts and Public Prosecutor ("Official Gazette of RS", no. 116/2008) and started operations on January 1st, 2010

86 Hearing held on November 14th, 2013

By publishing this text and permitting the publication of the above comments, ideas that are inciting hatred against a group of people on a national basis are spreading – because the alleged supporters of the Albanian people and the Albanian people are represent in a negative context, as a national threat, while all who do not have a negative attitude towards the Albanians, their national symbols and costumes are declared traitors. It was also pointed out that these comments justify the existing hatred towards the Albanian national minority and that they call for lynching in the form of murder and exile of all those who do not cultivate a feeling of hatred towards the Albanian minority. In addition to the request that such act should be characterized as hate speech, the Prosecutor suggested a temporary measure - deleting the article in question and prohibiting its re-publishing.

At the first hearing held the defendant's counsel stood by the response to the complaint, citing, among other things, the groundlessness of the claim - primarily because Danko Runić is not a member of a national minority, and because that there is no responsibility of the media to the readers' comments.

At the same hearing, it was determined that the claim refers to hate speech directed at ethnic minority, and not to the individual, as well as that the objection to the lack of locus standi is unfounded, since the comments on the site are allowed and they contain hate speech. The proposal to call the second and third order defendants, Katarina Blagović[87] and Sonja Lakić[88], to the next hearing was accepted. The proposal of the prosecutor to call the Commissioner for Equality to provide an opinion on the case will be decided on later.

87 Katarina Blagović is the author of the article in question, employed at www.kurir-info.rs.

88 Sonja Lakić is the editor in chief of the digital edition of the daily Kurir.

III

Legal processing of cases which involved members of the football fan groups and right-wing organizations

Bajrakli Mosque

On March 17th, 2004 a protest was organized in front of the St. Sava Temple in Belgrade led by the then Government of Serbia because of the violence committed against Serbs in Kosovo[89]. The speakers in the protest were the then Prime Minister Vojislav Koštunica, members of the Serbian Government, and the Serb Orthodox Church officials. Most of the protesters were high school students, who arrived at the protest after a public lesson in schools[90].

The assembly of citizens began without any incidents, but at one point a group of about 800 young people started heading toward the Bajrakli Mosque, the only mosque in Belgrade. During the night between March 17th and 18th 2004, the mosque was set on fire. Several police officers were injured in the clashes between the police and the rioters; three of sustained severe injuries. After midnight, a group of around 100 rioters managed to penetrate the police cordon on the corner of Kralja Petra Street and Gospodar Jevremova Street[91]. After the police retreated from Jevremova Street, the rioters broke the windows and inventory inside the mosque, and then set it on fire. The damage was great[92], an entire library with more than 7 000 books was burnt down, which is hard to calculate in tangible value. With the help of tear gas and stun grenades the police managed to chase away the rioters, who were visibly under the influence of alcohol, at about 3:35. In total, 83 persons connected to the incident were arrested[93].

A few related incidents were noted during the same night. Among them were riots in front of the US Embassy, breaking of windows of McDonald's restaurant, located at Terazije, and two shops at Zeleni Venac, whose owners were Albanians, and attacks on two UNHCR jeeps. On the same occasion Roma settlements in Niš were attacked and Islam-aga's Mosque was burnt down[94]. Muslim monuments from the sixteenth century were destroyed in the Military Museum in Belgrade; however, an investigation against these perpetrators was never launched.

89 Incidents in Kosovo, during the so-called "March violence," when members of Albanian nationality attacked Serbian cultural - historical monuments and burned several houses.

90 "The government is urging citizens to protest on Friday at 12:00", B92, http://bit.ly/1eWVYxr. (Serbian only)

91 "Riots in Belgrade; Bajrakli mosque burnt down", B92, http://bit.ly/1d5cpfR. (Serbian only)

92 It was estimated that the damage was 23,650,000.00 RSD. Go to: The answer of the First Primary Court in Belgrade to the request for information of public importance made by the Youth Initiative for Human Rights on March 25th, 2013.

93 "24 police officers injured, 83 vandals arrested", Blic, http://bit.ly/1fKOg95. (Serbian only)

COURT

First Primary Court in Belgrade

CASE NO.

K-1474/10

JUDGE

Ivana Ramić

DEFENDANTS

Stefan Čubrović et al.[95]

DATE OF RECEPTION

September 24th, 2007

CRIMINAL OFFENSE IN THE INDICTMENT

Participation in a group committing criminal offenses from Article 349 Para.1 of the Criminal Code

CURRENT STATUS

In appeal procedure

The trial began on September 13th, 2007 before the then First General Court, today First Primary Court in Belgrade, after a three year investigation. The indictment was filed against twelve persons. Among the defendants is one of the leaders of the Partizan football fan group "Alkatraz", Miloš Radisavljević aka Kimi[96]. They are being charged with damaging and burning the mosque, lightly and severely injuring 22 police officers, and one of the defendants is being charged with theft amounting to 50 000 Euro, from the mosque. At the time of the execution of the crime, sixteen of the defendants were aged between 19 and 23, while four of them were over 30[97]. The indictment charges the defendants with the crime – participation in the group that executed the crime, Article 349 of the Criminal Code of the Republic of Serbia[98] which is punishable by a fairly lenient sentence of three months to five years, while the organizers are punishable by one to eight years. On this occasion, all the accused denied the execution of the crime, explaining that they found themselves at the place of the crime by chance, and that they did not participate in the demonstrations[99].

94 "A mosque burnt down in the center of Niš", B92, http://bit.ly/1g63fPy. (Serbian only)

95 The defendants are: Stefan Čubrović, Miloš Radisavljević, Rade Radisavljević, Nemanja Stojanović, Bojan Hrvatin, Nikola Marinković, Goran Mitić, Boris Mitrašević, Marko Đorđević, Jasmin Došen, Stefan Radević, Ljubomir Stanković, Dragan Mijatović, Aleksandar Stević, Marko Radisavljević, Adam Nišević, Vojislav Majstorović, Milan Marjanović, Uroš Jonić and Vladan Broćić.

96 Miloš Radisavljević has been in custody since May 21st, 2010 to August 4th, 2010; under suspicion that he committed the crime of Endangering the Safety under Article 138, paragraph 1 of the Criminal Code, in relation to Article 34 of the Criminal Code and the criminal offense of violent behavior under Article 344, paragraph 1 of the Criminal Code.

97 Five defendants are students, seven pupils and two without occupation. Seven had previous convictions, of which six of them were aged 19 to 23 years. By: Answer of the First Primary Court in Belgrade on August 2nd, 2011, available in the archives of the Youth Initiative for Human Rights.

98 Participating in a group that commits a criminal offense - Section 349 of the Criminal Code of RS: "Who participates in a group which by joint action deprives a person of life or inflicts serious bodily injury, property damage on a large scale, or does any other criminal offense which is punishable with five years' imprisonment or more severe punishment, or attempts to commit any of these offenses shall be punished for mere participation with imprisonment of three months to five years. The ringleader of the group that commits an act referred to in paragraph 1 of this Article shall be punished by imprisonment of one to eight years."

The trial was soon afterwards returned to the beginning due to the change of the trial chamber in mid-2010. The first hearing was held on June 11th, 2010, and it was decided then that the proceedings are to be conducted under the rules of a shortened procedure because of the amendment of the Law on Criminal Procedure[100]. The hearing of the defendants lasted from July 11th to November 3rd, 2010. Five major hearings, as well as twelve hearings of the defendants were held during that period.

Miloš Radisavljević Kimi, accused for threatening Brankica Stanković, pleaded not guilty. He claimed that, on that day, he stood in front of his house and observed the happenings in the courtyard of the mosque, and that after a physical confrontation with a couple of guys who were wearing Red Star jerseys, the police legitimized him and his father Stefan Čubrović, who also dismissed the allegations of this indictment[101].

Stefan Čubrović, Nikola Marinković, Goran Mitić, Boris Mitrašević, Stefan Radević and Bladan Broćić were acquitted of charges. The prosecution dropped charges against nine other defendants[102] in mid-May 2013, while in the case of 11 defendants the charges were precisely defined. According to the amended indictment, they are charged with a criminal offense - participating in a group that performs violent acts[103].

During the seven years of the proceedings 25 out of 33 scheduled hearings were held. The judgment was passed on July 17th, 2013. Before the First Primary Court in Belgrade eight defendants charged with burning down Bajrakli Mosque on March 17th, 2004 were acquitted due to the lack of evidence. Miloš Radisavljević Kimi, Rade Radisavljević and Bojan Hrvatin were sentenced to four months of prison each for participating in the riot in front of the Belgrade mosque. Defendants Stefan Čubrović, Nikola Marinković, Goran Mitić, Boris Mitrašević, Stefan Radević and Vladan Broćić were released[104].

99 The answer of the First Primary Court in Belgrade on March 25th, 2013, available in the archives of the Youth Initiative for Human Rights.
100 The Criminal Procedure Code of the Republic of Serbia, "Official Gazette of the FRY ", no. 70/2001, 68/2002 and "Official Gazette of the RS ", no. 58/2004, 85/2005, 115/2005, 46/2006, 49/2007, 122/2008 20/2009 72/2009 and 76/2010.
101 "They deny burning of the Bayrakli mosque", B92, http://bit.ly/1mjCryU. (Serbian only)
102 The prosecution dropped charges against Ljubomir Stanković, Marko Đorđević, Dragan Mijatović, Aleksandar Stević, Vojislav Majstorović, Milan Marjanović, Uroš Jonić, Adam Nišević and Marko Radisavljević. For other defendants the indictment is specified and they are charged with a criminal offense - participating in a group that commits violence.
103 "The burning of the Mosque: Nine released", B92, http://bit.ly/1fKPgKf . (Serbian only)
104 "No one is to blame for the burning of the Bajrakli mosque", Večernje Novosti, http://bit.ly/NyjrNT. (Serbian only)

Following the appeal of the defendants, the Court of Appeal in Belgrade confirmed the sentence of four months of prison of Miloš Radisavljević, Rade Radisavljević and Bojan Hrvatin for stoning the police cordon that was protecting the Bajrakli Mosque[105]. The acquittals of Borisav Mitrašević, Stefan Radević, Goran Mitić and Nikola Marinković were also confirmed, while retrials were ordered in the case of Stefan Čubrović and Bladan Broćić[106].

The explanation stated that the first instance judgment was passed with essential violations of criminal procedure due to the fact that that part of the first instance judgment does not state the reasons of the facts that are the subject of proof, and that the given reasons are unclear and mostly contradictory The explanation of the procedure states that the judgment was passed with substantial violations of the Criminal Procedure Code, due to the fact that in this part of the first instance judgment no reasons that are subject of proof were named; also, that the given proof are completely unclear and extremely contradictory. When it comes to the facts that are the subject of proof there is a considerable discrepancy between what is stated in the reasons for judgment on the contents of the minutes of the testimony given during the proceedings and the scope of those record, because it is not possible to examine the legality and regularity of first instance in the above section, and the judgment in this part had to be abolished, and the case was remitted to the first instance court for retrial[107]. The new case number and jurisdiction of the court are unknown.

Case of the burning of embassies in Belgrade in 2008

"Kosovo is Serbia" protest was held on February 21st, 2008 in front of the National Assembly building in Belgrade as an expression of opposition to the declaration of Kosovo's independence. After the protest, there was a prayer organized in front of the St. Sava Temple, held by Amfilohije, the Metropolitan of Montenegro and the Littoral. The then Prime Minister Vojislav Koštunica, the presidents of the Serb Radical Party and the Socialist Party of Serbia, Tomislav Nikolić and Ivica Dačić, as well as many ministers in the then Government of Serbia, and the Prime Minister of the Republic of Srpska, Milorad Dodik,

105 "Verdict Confirmed to the leader of 'Alcatraz' for igniting the Bayrakli mosque", Večernje Novosti, http://bit.ly/10BDzwi. (Serbian only)

106 "The Court of Appeals: The retrial of two released for the burning of the Bajrakli mosque", Blic, http://bit.ly/1kBFv8F. (Serbian only)

107 The decision of the Court of Appeals in Belgrade, February 12th, 2014, available at: http://bit.ly/1mjCRFn.

attended the prayer. According to the media assessment, the protest gathered several hundreds of thousands of people. The Ministry of Education decided that schools in Serbia should have a day-off on this day, and free transportation was organized to Belgrade for those who wanted to attend the protest[108]. After the prayer was over, around 20:00, a group of about 200 protesters left the mob near the St. Sava Temple and attacked the embassies of the United States, Germany, Great Britain, Turkey, and Croatia, as well as two "McDonalds" restaurants, one at Slavija, and another one at Terazije. The Embassy of the United States suffered the most in this attack being set on fire and completely demolished[109]. Protesters tore down the US flag from the embassy building and burned it and then put up a Serbian flag instead of it. One of the protesters, Zoran Vujović from Novi Sad was found dead in the embassy building. The findings of the autopsy showed that he suffocated in smoke[110]. Police apprehended 192 persons that night. During the rampage at the embassies, 130 persons were injured.

PROSECUTION OF THE CASE

Higher Court in Belgrade

CASE NO.

K-1223/2010

JUDGE

Vladan Ivanković

DEFENDANT

Milan Živanović

PROSECUTOR

District Public Prosecutor's Office in Belgrade

CRIMINAL OFFENSE FROM THE INDICTMENT

Aggravated Act Against General Safety pursuant to Article 288 and Aggravated Larceny pursuant to Article 204 of the Criminal Code

DATE OF RECEPTION

April 13th, 2009

CURRENT STATUS OF THE CASE

In effect

The trial to Živanović began on November 4th, 2009. According to the indictment (KT No. 355/08), he is charged, together with several unknown persons, with holding a rally "Kosovo is Serbia", and afterwards coming to the U.S. Embassy building where they threw stones, and then entered the building where they were breaking the inventory and other technical goods deployed there. After the ignition of the fire in which Zoran Vujović was killed, Živanović used the fire escape to go back to the embassy's courtyard. Because of this behavior it is deemed that Živanović committed the criminal offense – aggravated act against general safety[111].

108 "The meeting 'Kosovo is Serbia' was held'", B92, http://bit.ly/1wbu5y7.

109 "One victim of violence in Belgrade", B92, http://bit.ly/1qB5yzy.

110 "Vujović died of poisoning and burns", Politika, http://bit.ly/1gQNY5b. (Serbian only)

111 Aggravated offenses against public security under Article 288, paragraph 2 of Article 278, paragraph 1 of the Criminal Code.

Živanović was also charged with "aggravated larceny"[112] for removing the US flag from the embassy building and replacing it with the Serbian flag, as well as for the stealing of a leather jacket and gloves belonging to an embassy employee. Živanović was on provisional release, and on February 22nd, 2011 the trial was returned to the beginning due to the change of the Presiding Judge[113].

During the retrial before the Higher Court in Belgrade eight hearings were held, and the judgment was passed on September 20th, 2013[114]. The defendant pleaded not guilty for the charges in the indictment on the main hearing. Bane Janev, the defense counsel, said in his closing argument that "the defendant was at the U.S. Embassy because of his strong sense of patriotism, since that was the day of the rally 'Kosovo is Serbia', in which the speeches charged patriotism, and people were given alcohol which defendant consumed as well.

Milan Živanović was sentenced to a year of prison for the charges concerning aggravated act against general safety, while he was acquitted for the charges concerning aggravated larceny[115]. Judge Milan Londrović said that there was no evidence upon which the court could reliably determine that Živanovic alone or in a group took part in the burning of the embassy building. The Trial Chamber also found that Živanović came to the Embassy building on the day in question and after the "Kosovo is Serbia" protest, and that he climbed the fire escape stairs into the building and stole a leather jacket form an office which was worth 1,000 RSD, a battery charger worth 50 RSD and gloves worth 400 RSD[116]. When rendering the decision on sentencing, the Trial Chamber took into consideration the fact that Živanović had no prior convictions and that he was in the state of limited capacity. Živanovic filed a petition for amnesty application on October 30th, 2013, but the court found that his case is not subject to amnesty on November 4th.

The YIHR sent a request for free access to information and demanded that the Higher Court in Belgrade sends them the copy of the case file, but the request was dismissed. The YIHR filed an appeal against the mentioned Court Commissioner on February 28th, 2014, because he did not act on the request for free access to information of public importance[117].

112 Aggravated Larceny pursuant to Article 204 of the Criminal Code

113 "The trial for the burning of the U. S. Embassy starts again", Kurir, http://bit.ly/1dy9MOp. (Serbian only)

114 The main hearings were held on February 22nd, 2011, May 9th, 2011, September12th, 2011, November 10th, 2011, April 2nd, 2012, June 4th, 2012, July 3rd, 2012, September 20th, 2012, available at: http://bit.ly/1dyaNWO.

115 The judgment is available in the archives of the Youth Initiative for Human Rights.

116 "Released for the ignition of the Embassy", B92, http://bit.ly/1jixa65. (Serbian only)

117 The appeal filed with the Commissioner is available in the archives of the Youth Initiative for Human Rights.

COURT
Higher Court in Belgrade

CASE NO.
K-642/2012

JUDGE
Vladimir Duruz

DEFENDANTS
Dejan Vučković, Milan Dubočanin, Đorđe Tomin, Marko Novitović, Nikola Kosanović, Dušan Sedlar, Aleksandar Erceg, Filip Backović, Dragan Marinkov, Milan Tomas, Mladen Nebrigić and Draženko Nikolić

PROSECUTOR
Higher Public Prosecutor's Office in Belgrade

DATE OF RECEPTION
July 10th, 2012

CRIMINAL OFFENSE
Aggravated Act against General Safety pursuant to Article 194 of the Criminal Code

CURRENT STATUS OF THE CASE
Ongoing

The Higher Public Prosecutor's Office filed a motion for initiating investigation against 15 suspected persons for Causing Disarrays and Burning the Embassy. This request included: Dejan Vučković and Milan Dubočanin from Belgrade, Đorđe Tomin, Nikola Kosanović, Dušan Sedlar, Aleksandar Erceg, Marko Novitović, Filip Backović, all from Novi Sad, Dragan Marinkov, Milan Tomas and Mladen Nebrigić from Pančevo, and Draženko Nikolić from Inđija[118].

The criminal police conducted the action in several cities in Serbia on April 10th, 2012 upon the order of the Higher Public Prosecutor's Office, for the purpose of arresting persons suspected of attacking and burning foreign embassies in 2008 after the "Kosovo is Serbia" protest. The Higher Court in Belgrade ordered the detention of 11 people suspected of this offense, while one suspect, who was a minor at the time, was released to defend himself. The Higher Court in Novi Sad ordered custody and launched an investigation against the two suspects who were juveniles at the time of the offense and the proceedings against them would be conducted before the court in Novi Sad[119]. The 11 suspects for the burning of the embassy were in custody from April 10th, to July 10th, 2012, when the indictment was filed and they were released to defend themselves.

Vučković, Tomin, Kosanović, Sedlar, Erceg, Backović, Marinkov, Nebrigić, Novitović and Tomas are charged with the Criminal Offense against General Safety. They are suspected that on February 21st, 2008 after the "Kosovo is Serbia" protest was over, together with a larger group of unidentified person, they threw stones, torches, and other objects at the US Embassy and broke windows and doors, thus setting the premises of the Embassy on fire. Suspects

118 Ibid.

119 "Detention for the burning of the Embassy", RTS, http://bit.ly/NAUKAz. (Serbian only)

Draženko Nikolić and Milan Dubočanin are charged with the commission of the criminal act of Violent Behavior. Nikolić is also charged with, besides the stoning of the building of the US Embassy, the fact that he attempted to break into the building on Knez Miloš Street in Belgrade in a violent manner by the use of a metal pole. Police prevented him from doing this and this incident was also videotaped[120].

The first main hearing session in this case was held on April 16th, 2013[121]. All the defendants accused of burning the embassy were heard before the Higher Court in Belgrade and they all pleaded not guilty. Out of six scheduled hearings one was not held.

The Higher court refused to submit the case files to the YIHR of the hearing held on January 28th, 2014 explaining that "the submission of the required documents to the requester could seriously disrupt further conduct and completion of the judicial proceedings." The YIHR filed a complaint against the decision of the court commissioner on January 31st, 2014[122].

Ivan Bogdanov Case

An indictment (Kt.no. 1624/06) against Ivan Bogdanov was filed on April 26th, 2007 because of the criminal offense of Assault on Servicemen on Duty and Violent Behavior[123]. Ivan Bogdanov, is charged with the fact that, together with some ten other "Red Star" football club fans, he started a fight on June 13th, 2006 at the 48 bus station on the corner of the Cvijićeva and Zdravka Čelara Streets, in which he committed a serious disruption of public peace and order and on assaulted a servicemen on duty, namely police officers from the Belgrade Police Brigade Marko Petrović, Dejan Krstić, and Siniša Đukanović[124]. Dragan Dragaš is charged in the same indictment with the commission of the criminal offense of Violent Behavior and Preventing an Official in Discharge of Duty[125].

120 Ibid.

121 The main hearings were held on April 16th, 2013, June 14th, 2013, October 15th, 2013, December 11th, 2013, February 13th, 2014, available at: http://bit.ly/1piUgv6.

122 Court ruling denying the claims and complaints filed with the Commissioner are available in the archives of the Youth Initiative for Human Rights.

123 The offense of Assault on servicemen on duty under Article 323, Paragraph 3 in conjunction with paragraph 2 and paragraph 1 of the Criminal Code of RS, and the crime of violent behavior under Article 344, paragraph 2 in connection with paragraph 1 of the Criminal Code of RS, which are punishable by imprisonment of one to eight years.

124 "A verdict to Ivan Bogdanov, today", B92, http://bit.ly/1uuiCqD.

125 Violent behavior under Article 344, paragraph 2 in connection with paragraph 1 of the Criminal Code of RS and the crime of Assault on servicemen on duty in violation of Article 322, Paragraph 3 in conjunction with paragraph 1 of the Criminal Code of RS.

Due to the failure of Dražen Dragaš to appear in the courtroom, the First Primary Court in Belgrade ordered on November 21st, 2011 an arrest warrant against him to be issued[126]. In the main hearing session held on December 8th, 2010, the Court issued an order for the separation of the proceedings against Dražen Dragaš, and the trial of Ivan Bogdanov continued under the number K no. 24792/10[127].

At the time of the criminal proceedings in Serbia, Ivan Bogdanov was sentenced to a prison term of three years and three months in Italy for inciting riots during the match Serbia-Italy October 12th, 2010. The court in Genoa pronounced the judgment on March 8th, 2011; however the judgment was replaced by the deportation and prohibition of entry into EU countries for five years.

Ivan Bogdanov was in the custody from March 24th, 2011. Bogdanov was detained after his return to Serbia and after the completion of the procedure in Italy.

COURT
First Primary Court in Belgrade

CASE NO.
K-24792/2010

JUDGE
Ramić Ivana

DEFENDANT
Ivan Bogdanov

PROSECUTOR
First Basic Prosecutor's Office

DATE OF RECEPTION
December 10th, 2010

CRIMINAL OFFENSE
Assault on Servicemen on Duty and Violent Behavior

CURRENT STATUS OF THE CASE
In appeal procedure

Ivan Bogdanov pleaded not guilty in the main hearing session held on June 24th, 2011 and he stated that on the day of the incident he was waiting for a friend on the bus station to bring him tickets for a basketball game he was going to. When the bus arrived and when he wanted to enter the bus he was hit in the head and he assumes that this was because he wore the "Red Star" shawl[128].

126 The leader of Delije is wanted", Kurir, http://bit.ly/1kMw5Fi. (Serbian only)

127 The main hearings were held on: February 12th, 2008, April 18th, 2008, February 2nd, 2009, March 24th, 2010, May 26th, 2010, September 28th, 2010 and December 8th, 2010. The main hearings were scheduled for February 22nd, 2011, May 4th, 2011, June 20th, 2011, September 2nd, 2011 and October 26th, 2011 were not held.

128 The main hearings were held on June 24th, 2011, August 29th, 2011, October 11th, 2011, October 25th, 2011, November 2nd, 2011, November 29th, 2011, December 19th, 2011 and February 1st, 2011.

The Defense Counsel proposed that an expert neuropsychiatrist examines the defendant with regard to the capacity of the defendant at the time of the commission of the act he has been charged with as an addition to the evidentiary proceedings. In the further course of the proceedings, members of the expert commission – court experts Dušan Dunjić and Aleksandar Jovanović were examined[129].

During the evidentiary proceedings held in three main hearing sessions, the following witnesses were examined: police officer Marko Petrović, police officer Siniša Đukanović, police officer Dejan Krstić, police officer Petar Paklar, and the Defense witness Filip Šoć[130].

According to the first instance judgment, Ivan Bogdanov was found guilty on February 9th, 2012 of the Assault on Servicemen and Violent Behavior. For the criminal act of Assault on Servicemen, Bogdanov was sentenced to one year and three months in prison and for the act of Violent Behavior he was sentenced to one year of imprisonment as well. The court imposed a single sentence for these two criminal acts of two years of imprisonment and it will include the time he already spent in detention. It is stated in the reasons of the judgment that the Trial Chamber considered the aggravating circumstances in Bogdanov's case – his earlier convictions and the fact that he committed a similar criminal act in Genoa even though he was more mature now. The Trial Chamber also established that he committed the criminal act in the state of the diminished mental capacity.

The First Basic Prosecutor's Office in Belgrade and the Defense Counsel appealed to the judgment. The Court of Appeals in Belgrade held a Chamber session on September 13th, 2012 in which they rendered the decision Kž1 2526/12 dismissing the first instance judgment and sending the case back for a repeated trial[131]. According to the finding of the Court of Appeals, the first instance judgment contains essential violations of the criminal procedure code provisions since the enacting clause of the judgment is incomprehensible, contradictory to itself and the reasoning of the judgment, and the judgment does not contain reasons for decisive facts and the reasons given are unclear and contradictory to each other, which points to the fact that the quashing of the judgment is necessary[132].

129 The main hearing was held on October 25th, 2011.

130 The main hearing was held on June 24th, 2011, August 29th, 2011 and November 29th, 2011.

131 The solution is available in the archives of the Youth Initiative for Human Rights.

132 Ibid.

COURT
First Primary Court in Belgrade

CASE NO.
K-6322/2012

JUDGE
Ivana Ramić

DEFENDANT
Ivan Bogdanov

PROSECUTOR
First Basic Prosecutor's Office

CASE RECEIVED
October 1st, 2012.

CRIMINAL OFFENSE CHARGED
Assault on Servicemen on Duty and Violent Behavior

CURRENT STATUS OF THE CASE
In effect

The retrial of Bogdanov began on November 9th, 2012 when the main hearing session in which the President of the expert commission from the Forensic Institute in Novi Sad, Gordana Mišić, was examined and she stated that during the critical event Ivan Bogdanov was less accountable, but that he was aware of his actions. Bogdanov was sentenced again to two years of imprisonment and the time he had already spent in detention was included in the sentence imposed.

The Court of Appeals, on April 22nd, 2013, reduced Bogdanov's the sentence for one month, and he was sentenced to an aggregate prison sentence of one year and 11 months. By acknowledging the appeal by the Defense Counsel, the judgment of the First Primary Court was modified in the part concerning the imposed sentence. As defined by the rules, the sentence of one year and three months for the crime of assault on servicemen on duty is retained, while for the criminal act of violent behavior he is sentenced to ten months in prison. Given the fact that in the case of Ivan Bogdanov the sentence included the time spent in custody, Bogdanov left the Central Prison on April 24th, 2013[133], after serving his sentence for 23 months.

Less than a month after his release from prison, Bogdanov attended a football match Red Star - Partizan and then on May 21st, he attacked two Italian journalists who came from Genoa to interview him and he broke their battery and the memory card of the camera. The assaulted journalists first reported Bogdanov to the police, and the next day they dropped the charges. Police ex officio forwarded charges against Bogdanov to the prosecution[134]. On October 25th, 2013 a picture appeared on the social networks in which Bogdanov poses in a T-shirt that says "Arbeit macht frei" with a raised hand indicating the Nazi salute[135].

133 "Bogdanov soon to be released", B92, http://bit.ly/1gflkvR. (Serbian only)

134 "The new outburst of hooligans: Ivan Bogdanov attacked journalists from Genoa", Blic, http://bit.ly/1jcnmuk. (Serbian only)

135 "The leader of Delije Ivan Bogdanov in a Nazi T-shirt!" Telegraf, http://bit.ly/1gWREyr. (Serbian only)

Ivan Bogdanov together with Velibor Dunjić, on February 25th, 2014, attacked, in a Belgrade restaurant, Charles Jenkins, the player of Red Star, and although the police intervened - they say that the basketball player did not report being attacked.

Dario Milenković Case

The Youth Initiative for Human Rights, in cooperation with ARTum, organized an arrival of the Peace Caravan in Niš in the period from May 10th to May 13th, 2007. The participants in the Peace Caravan were young people from the countries on the territory of the former Yugoslavia, who traveled throughout the region and promoted non-violence, peace, and demilitarization. Among the events of this Caravan were concerts organized in the club of the Faculty of Law in Niš in which bands and DJs from the Caravan participated. On Friday, May 11th, 2007, the concert began around 23:00 in front of some 150 to 200 people. A group of Skinheads arrived around midnight in jackets with visible Swastikas on them. A Skinhead approached one of the visitors at the concert and asked him, "What are you organizing here?" he slammed him against a car and started punching him in the head[136].

One of the organizers stepped outside and sustained a punch in the head immediately, after which the Skinheads threw two bottles, one of which cut one of the participants of the Caravan. After this, the Skinheads ran away from the yard of the Faculty of Law shouting "F**k you Muslims" and "F**k you Ustashas"[137].

Police arrived after this incident and made a report on the event, after which the participants in the gathering asked them to stay to provide security for the participants because of the fear that the incident could repeat. When the police said that everything was alright and that they would locate the assaulters, and that it was nothing unusual and certainly not a reason for panic, all the police officers left the scene[138].

After this, the group of Skinheads returned and the participants of the Caravan, who were standing outside, started entering the club. One of the Skinheads then closed the door to the club and did not let the participants enter the club, while other Skinheads, who were in front of the club continued to, intensively

136 Report on the incursion of skinheads in the Peace Caravan Gathering on May 11th in Niš is available in the archives of the Youth Initiative for Human Rights.

137 Ibid.

138 Ibid.

and non-selectively, punch people and throw bottles at them. After this fight, the Skinheads retreated and the participants of the Caravan called the police again[139].

COURT	PROSECUTOR
Primary Court in Niš	*Basic Public Prosecutor's Office*
CASE NO.	**CASE RECEIVED**
K-3767/2010	*January 1st, 2010*
JUDGE	**CRIMINAL OFFENSE CHARGED**
Vladica Simonović	*Aggravated Bodily Injury from Article 121 Paragraph 1 of the Criminal Code*
DEFENDANT	**STATUS OF THE CASE**
Dario Milenković	*In appeal procedure*

Dario Milenković is charged with being one of the organizers who, on May 12th, 2007 at around midnight in front of the Faculty of Law, struck Miloš Branković, who arrived there with a group of skinheads and injured him badly on the head with a beer bottle[140].

During the evidentiary proceedings the witnesses were defendant Dario Milenkovic, injured party Miloš Branković and other eyewitnesses who were present that evening. 12 hearings were scheduled. Deputy of the Basic Public Prosecutor's Office Dragan Pešić appeared during the procedure at the first hearing on October 7th, 2011 and the hearing on October 22nd, 2013 when she asked for more time to prepare the closing statements in order to get more familiar with the case.

The judgment in which the defendant Milenković is acquitted was passed on November 18th, 2013, and the Basic Public Prosecutor filed an appeal against it[141].

Uroš Mišić Case

Uroš Mišić, a fan of Red Star, was sentenced to 10 years in prison for attempted murder of gendarmes Nebojša Trajković at a football match Red Star - Hajduk on December 2nd, 2007. The District Court Belgrade passed the judgment on September 19th, 2008. The Trial Chamber stated that the attack on Trajković, who was attacked by Mišić with a lit fan torch, while trying to squeeze it into his mouth,

139 Ibid.

140 The indictment is in the archives of the YIHR.

141 The judgment rendered on November 18th, 2013 is in the archives of the YIHR.

was a "lynch of an official" as Trajković did not cause the attack. Footage showing the Mišić's attack on Trajković were presented as evidence during the proceedings. For participating in the beating of Trajković at that match two more fans of Red Star were sentenced on September 5th, before the Second District Court, to imprisonment lasting one year and eight months and in prison[142].

On March 3rd, 2009 the Supreme Court quashed the judgment to Uroš Mišić, according to which he was sentenced to 10 years in prison for attempted murder of gendarmes at the stadium before the District Court. With this decision the Supreme Court allowed the appeal of the defense attorneys and remitted the case to first instance court for retrial[143].

Mišić was, in the retrial on April 28th, 2010, re-sentenced to prison sentence of 10 years, but the Court of Appeals on April 30th, 2011 reversed the first-instance judgment and pronounced the final judgment according to which Mišić is sentenced to a prison sentence of five and a half years in prison[144]. The Supreme Court of Cassation upheld this judgment in March 2012, and in May of the same year Mišić's application for parole was rejected.

Following the entry into force of the Law on Amnesty[145], Uros Mišić was released on December 4th, 2012 because he met all the necessary requirements[146].

COURT

First Primary Court in Belgrade

JUDGE

Municipal Court Judge

CASE NO.

K-2301/2013

CRIMINAL OFFENSE CHARGED

Violent Behavior pursuant to Article 344 of the Criminal Code

DATE OF RECEPTION

March 2nd, 2013

CURRENT STATUS OF THE CASE

In the appeal procedure

After his release from prison, Mišić participated, on February 21st, 2013, in a fight at the club "Plastic" in which a member of the security of the U.S. Embassy in Belgrade sustained injuries and lacerations to the head. In this case Mišić was charged with violent behavior[147]. Before the police arrived to the scene of the

142 "Guilty of the attempted murder of a police officer", B92, http://bit.ly/1g59l2Q (Serbian only).

143 "The High Court Council: A new trial to Uroš Mišić", B92, http://bit.ly/1mjaUOb (Serbian only).

144 "The sentence to Uroš Mišić reduced by half", B92, http://bit.ly/OERbtU. (Serbian only)

145 Law on Amnesty, "Official. Gazette of the RS ", no. 107/2012, adopted on November 8th, 2012.

146 "Uroš Mišić released", RTS, http://bit.ly/10Ao9bM. (Serbian only)

147 Violent behavior referred to in Article 344, paragraph 2 in conjunction with paragraph 1 of the Criminal Code, which is punishable by one to eight years in prison.

incident the attackers managed to escape[148]. For a while Mišić did not respond the summons regarding this incident, however, when he, on March 6th, 2013, came to the hearing at the police headquarters of Belgrade, he was detained to police custody for 48 hours, and two days later for 30 days. He was released before the expiry of his detention on March 21st. The next day the deposition Criminal Chamber, based on the request of the prosecutor, decided that he should further stay in custody. The defendant claimed that he did not participate in the fight.

At the main trial held on April 11th, 2013 the indictment was read (Kt. no. 2431/13), the defendant and several witnesses were questioned, the evidence was presented, then the defendant was acquitted[149]. The defendant denied that he was involved in the incident and said that he left the club as soon as he saw a scuffle that involved several men. The girls who were in the company of the defendant stated in capacity as witnesses that a fight broke out between a group of Serbians and groups of American citizens, but that the defendant was not involved in the fight. A witness who worked in the security of the club claimed that at the time when he came to the place where the fights occurred, the defendant stood aside and did not participate in the conflict. The injured party did not appear in court. The Deputy Public Prosecutor in his closing argument stated that it was undisputed that the defendant was involved in the fight and that "the initial act that led to a massive fight, which is not disputable from the testimony of witnesses ...was exactly the approaching of the defendant and that one kick by the defendant which is indisputable', that disturbed the public order, and the court should pronounce him guilty. The defense counsel in his closing argument said that the police acted biased and pressured witnesses, and that the reason for the custody "does not stand." Due to lack of evidence, Mišić was, on April 11th, 2013, acquitted of all charges, and the same judgment quashed his detention[150]. First Basic Public Prosecutor's Office on May 7th, 2013, filed an appeal against the verdict.

148 „Uroš Mišić involved in a fight in which a U.S. Marine is wounded", Blic, http://bit.ly/1hHXsho. (Serbian only)

149 Record of the hearing held on April 11th, 2013 is available in the archives of the Youth Initiative for Human Rights.

150 "Uroš Mišić acquitted of all charges", RTS, http://bit.ly/OEQtwH. (Serbian only)

Velibor Dunjić Case

Velibor Dunjić, one of the leaders of Red Star fans, according to the indictment filed on August 1st, 2013, is charged with having participated in the attack on the leader of the Liberal Democratic Party (LDP)[151] Čedomir Jovanović, which took place on April 17th, 2013, at "Čarda" in Szeged before the polo match Szeged – Red Star. Dunjić is accused of violent behavior at a sporting event or public meeting, pursuant to Article 344a. He was arrested on April 19th, 2013 while trying to leave Serbia, and on April 22nd, was detained for a period of one month. Dunjić was in custody for a little more than eight months, from April to December 26th, 2013, when the judgment in this case was passed.

COURT
Higher Court in Belgrade

CASE NO.
K-637/2013

JUDGE
Slađana Marković

DEFENDANT
Velibor Dunjić and Leo Petrović

PROSECUTOR
Higher Public Prosecutor's Office in Belgrade

DATE OF RECEPTION
August 1st, 2013

CRIMINAL OFFENSE CHARGED
Violent behavior at sporting events

CURRENT STATUS OF THE CASE
In appeal procedure

During the court proceedings four major hearings were held[152], and in addition to Dunjić the indictment also covers the case of Leo Petrović. The two men are accused of violent behavior at sporting events[153]. Čedomir Jovanović and his wife Jelena Jovanović, as well as Srđan Ćešić, who was with them and who suffered serious injuries, were attacked in this incident.

The first main hearing was held on October 3rd, 2013, the defendants have pleaded not guilty, and their lawyers have pointed out that the indictment was legally unfounded. Čedomir Jovanovič, who described the details of the incident, testified at the hearing. He said that the incident began when Leo Petrović started cursing his mother, he then asked Dunjić to leave the restaurant, "because of the brothers from Kosovo", and then grabbed him by the arm and

151 The Liberal Democratic Party was founded on November 5th, 2005 and was created from a previously formed Liberal Democratic faction of the Democratic Party.

152 The main hearing took place on October 3rd, 2013, November 5th, 2013, December 3rd, 2013 and December 23rd, 2013. The pronouncement of the verdict was held on December 26th, 2013.

153 Violent behavior at a sporting event or public meeting, Article 344a of the Criminal Code of RS, which is punishable by imprisonment of six months to five years.

punched him in the head. Jovanović said that Leo Petrović was not involved in the physical fight, and it is clear that others who have physically attacked Jovanović and his friends did it to Dunjić's call.

At the hearing on November 5th, 2013, Jelena Jovanović, wife of Čedomir Jovanović, testified. She also marked Dunjić as the ringleader, and commented on a number of insults which were directed at her personally by the defendant. Then Srđan Ćešić, who suffered the most serious injuries, testified.

The proposal of Dunjić's lawyers to lift his detention was rejected.

At the hearing on December 3rd, 2013, footage that recorded the events in the parking lot of the restaurant "Čarda" were reviewed[154].

At the main hearing on December 23rd, 2013, as witnesses appeared Vladimir Osećanski called Vladimirac and Goran Čikarić called Zagor who were present when the disputed incident took place. Osećanski claims that the trigger for other participants to rise in the incident was Jovanović's head movement (as if to strike Dunjić), and that Dunjić protected Jovanović with his body, then he grabbed his hand and took him off the raft. On the question whether the defendant Petrović swore at Jovanović and mentioned Kosovo, the witness replied that "that has nothing to do with the truth." The second witness stated that he met Jovanović in the parking lot and he advised him not to go to the restaurant because he wanted to prevent a possible conflict, since it is clear that 80 percent of the population does not agree with the policy of Čedomir Jovanović, while adding that even he does not like it and does not agree with it. He confirms that upon entering the raft Jovanović created an uproar, that someone mentioned Kosovo and started yelling "Čeda, you traitor" to what Jovanović replied: "What, here, Kosovo is Serbia". After this testimony the presentation of evidence and the closing arguments were presented. Deputy prosecutor requested that the defendants be sentenced for everything that they are charged in the Indictment, while defense lawyers asked for an acquittal.

Wrong information about the beginning of the hearing in which the judgment was passed[155] was put on the official website of the Higher Court in Belgrade, by which the interested public was prevented from attending the sentencing on December 26th, 2013. The YIHR believes that this was a blatant attempt

154 "The displayed recordings at the trial for the attack at Jovanović", RTS, http://bit.ly/1nGSSqE. (Serbian only)

155 The scheduled appointment for sentencing was 13:00 hours according to the portal of the court. The verdict was rendered an hour earlier.

to exclude the public from the proceedings, thus violating one of the basic principles of a fair trial.

The Higher Court in Belgrade sentenced Velibor Dunjić to two years in prison for the attack on the LDP leader Čedomir Jovanović at “”Čarda” in Szeged. Dunjić was released from custody, in which he held from April, with the same judgment, but it was calculated into the prison sentence. Leo Petrović was sentenced to a suspended sentence of six months with a testing period of two years[156]. Judge Slađana Marković said, during the sentencing that Dunjić and Petrović were sentenced for the crime of violent behavior[157], but not, as described in the indictment, at a sporting event, but in the restaurant which was on the way to the swimming areas. The court, she added, determined that these actions were not caused by ethnic, racial and religious hatred, which was also stated in the indictment. The YIHR received this information later from the media. The appeal against the judgment was filed by the Higher Public Prosecutor’s Office in Belgrade and the defense attorney[158].

The media reported that Dunjić, after the abolition of detention and imposition of a penalty of imprisonment of two years – spent some time on the loose and that he participated in a shooting in which a member of the Security-Information Agency Zoran Lj. was wounded. A few days later, Dunjić, armed with an automatic pistol “Scorpio”, tried to get into a Belgrade nightclub. Security would not let him in because they judged that he was under the influence of narcotics. There was a conflict which is why the security called the police, but Dunjić got away. The police went looking for him after these incidents, but he was not found on any of the address[159].

Other Cases of Velibor Dunjić

In addition to all reports, Dunjić was on the loose until November 2008, when he was arrested in Sweden on a warrant that was issued for him for attempted murder of Andrej Čogurić on a raft, “Kalipso”. Uroš Avramović was arrested for the same offense in June 2009 in Frankfurt. They were convicted in 2010 in the first instance to 8 years in prison for the attack on Čogurić after a fight, hitting him with their feet, fists and bottles and then wounding his both hands with a

156 “Two years in prison for the attack on Čedomir Jovanović”, Tanjug, http://bit.ly/1j8dZ37. (Serbian only)

157 Violent behavior, Article 344 of the Criminal Code of RS.

158 On the portal of the court.

159 “Dunjić escaped from 25 addresses, 41 reports arrived”, Blic, http://bit.ly/1h6SdpC. (Serbian only)

pistol. Čogurić, however, during the procedure changed his testimony and denied that the accused inflicted him injuries. The Court of Appeals overturned the verdict.

Dunjić and Avramović were sentenced to seven years and two months in prison in mid-2011 for attempted murder, but the Court of Appeals reversed the criminal offense to causing serious bodily injury and reduced the sentence to four years and two months in April 2012[160].

COURT
First Primary Court in Belgrade

CASE NO.
K-8870/2010

DATE OF RECEPTION
June 23rd, 2004

THE INDICTMENT FILED ON
December 19th, 2003

JUDGE
Olivera Đurić

CRIMINAL OFFENSE CHARGED
Provoking General Danger[161]

CURRENT STATUS OF THE CASE
ongoing

In December 2003 an indictment against Velibor Dunjić for the crime of causing general danger to life and body of people was raised. According to the indictment, he fired several shots in the direction of a group of people who were located near the bus stop in New Belgrade, one of the injured party sustained light injuries. The defendant, according to the advice of his counsel, defended himself with silence and the injured parties as witnesses described the incident and identified Dunjić as the person who fired in their direction. All of the injured party have argued that the defendant crossed the street and then shot 2-3 times[162].

At the trial on December 12th, 2005 the defendant explained that the injured party group belongs the company with which the company of the defendant is in conflict for several years and that he had never left the slava celebration where he was that night[163].

On the official website of the courts which updated the data from 2010, one can note that out of eight later scheduled hearings only one was held, on October

160 "Insider: Who is the arrested Velibor Dunjić?" B92, available on http://bit.ly/1f3c07p. (Serbian only)

161 The offense of causing general danger referred to in Article 187, paragraph 3 concerning paragraph 1 of the Criminal Code of the Republic of Serbia.

162 The indictment Kt. 103/04 is available in the archives of the Youth Initiative for Human Rights (Index: YIHR-18533).

163 The minutes of the trials held on March 20th, June 8th, in October and on December 12th, 2006 are available in the archives of the Youth Initiative for Human Rights (Index: YIHR-18533).

18th, 2013 when Dunjić was in custody because of one of the later committed offenses[164].

COURT	JUDGE
First Primary Court in Belgrade	*Ljudmila Miljković*
CASE NO.	**CURRENT STATUS OF THE CASE**
K-9094/2010	*ongoing*
DATE OF RECEPTION	**CRIMINAL OFFENSE CHARGED**
May 3, 2006	*Provoking General danger and unauthorized carrying of firearms*[165]

Due to the incident in front of the raft "Mala Laguna", in which Velibor Dunjić participated with his friend on August 14th, 2004, where they were provoking general danger by shooting out of a gun which they did not have the authorization to carry, another procedure is waged against him. They first confronted the security guards who would not let them enter the raft whereby one of the defendants pulled out a gun and fired into the air. The conflict then continued with the guests who left the raft, and then in the parking lot where the defendant fired another burst from a gun that he carried. After the conflict, the defendants entered the car in which they hid the gun under the front passenger seat where the police found it. Witnesses described the incident in detail and described the defendants who, after being detained, were escorted to the police station Novi Beograd to remove the paraffin gloves[166]. After the changing the network of courts the case was transferred to the newly formed Third Primary Court in Belgrade. The YIHR requested of the court on the basis of the Law for Free Access to Information of Public Interest demanded the submission of the minutes of the hearings held, but the court could not meet the requirements because the case is being considered in the Third Basic Public Prosecutor's Office.

164 Portal of courts Libra, available at http://bit.ly/1jeWlee.

165 The offense of causing general danger referred to in Article 187 with Article. 3 in conjunction with Article. 1 of the Criminal Code of the RS and the crime of unauthorized carrying of firearms and ammunition referred to in Article 33 with Article. 1 of the Law on Weapons and Ammunition the RS, in conjunction with Article 22 of the Criminal Law; Law on Weapons and Ammunition, "Official Gazette of the RS", no. 9/92, 53/93, 67/93, 48/94, 44/98, 39/2003, 85/2005, 101/2005, 27/2011 (Decision of the Constitutional Court), 104 / 2013

166 A copy of the indictment is available in the archives of the Youth Initiative for Human Rights (Index: YIHR-18535).

COURT	JUDGE
First Primary Court in Belgrade	*Municipal Court Judge*
CASE NO.	**CRIMINAL OFFENSE CHARGED**
K-8932/2010	*Violent behavior*[167]
DATE OF RECEPTION	**CURRENT STATUS OF THE CASE**
April 25, 2005	*in effect*

Dunjić is in this case charged that he, together with several unknown persons in the restaurant "Kazablanka" in New Belgrade on March 16th, 2005, provoked a fight and thus jeopardized the peace of the citizens. After a brief verbal discussion with the victim, the accomplices attacked him with their hands and feet. When the injured party showed his ID of the MIA of the Republic of Serbia and pulled out a gun, the defendants attempted to steal it, whereby a gunshot occurred. When presenting his defense before the Duty Judge of the Third Municipal Court in Belgrade, the defendant Dunjić denied committing an offense, explaining that the victim was the one who began the conflict by throwing a microphone into the defendant's lap, and then pushing him whereby the defendant banged his face. The defendant also claimed that the victim fired one shot from his pistol. The injured party claimed that the defendant punched him and that after that five-six other guys started approaching, and that he heard someone say, "Take his gun," which up to that point he did not pull out. A group of young men, as the injured party claims, continued to hit him from all sides and he momentarily lost consciousness because of it[168]. The court issued a ruling to dismiss the indictment on September 24th, 2012.

COURT	JUDGE
Higher Court in Belgrade	*Dušanka Đorđević*
CASE NO.	**CRIMINAL OFFENCE CHARGED**
K-3670/2010	*Violent Behavior at sports events*
DATE OF RECEPTION	**CURRENT STATUS OF THE CASE**
August 2nd, 2010	*Obsolete*

The summary indictment[169] states that Dunjić was involved in a brawl that took place on December 5, 2006 in the Hall "Pionir" at a basketball game between Red Star and PAOK. He is alleged to have taken part in a fight by going from the part of the stadium where Red Star fans were to the part of the stadium where

167 The offense of violent behavior referred to in Article 220 paragraph 2 in connection with paragraph 1 of the Criminal Code of the RS, in relation to Article 22 of the Criminal Law.

168 The indictment Kt. 491/05 04 available in the archives of the Youth Initiative for Human Rights (Index: YIHR-18536).

169 Indictment proposal Kt.No. 233/07 is available in the archives of the Youth Initiative for Human Rights (Index: YIHR 05-18556).

PAOK fans were, where a physical confrontation was already taking place. He then took a broken plastic seat and tossed it to the fans of the opposing team. He is charged with having committed the crime of violent behavior at sporting events. The indictment, in addition to Dunjić, includes six other fans.

At the trial held on October 9th, 2009, the defendant denied the allegations in the indictment. The criminal proceedings were suspended on September 20th, 2011 as a result of absolute limitation of criminal prosecution.

COURT	JUDGE
First Primary Court in Belgrade	*Tatjana Bezmarević Janjić*
CASE NO.	**CRIMINAL OFFENSE CHARGED**
K-15375/2010	*Preventing an official in the performance of official acts*[170]
DATE OF RECEPTION	**CURRENT STATUS OF THE CASE**
December 3rd, 2009	*Resolved*

In this procedure Dunjić was tried for having, on December 10th, 2006, forcibly prevented public officials in the performance of their duty to maintain public order and peace outside a nightclub "Underground" in Belgrade, by intervening in the work of the police patrol on duty by refusing to legitimize and then by saying: "Who are you asking for an ID from, you Indians? I'll kill you, I am God here "as he pushed the victim and tried to hit him, after which he was arrested[171].

The defendant was convicted in this case by a judgment which was issued on July 1st, 2009. He was sentenced to nine months in prison for preventing an official in the performance of official acts.

COURT	JUDGE
Higher Court in Belgrade	*Zoran Ganić*
CASE NO.	**CRIMINAL OFFENSE CHARGED**
K-3216/2010	*Violent Behavior at sports events*[172]
DATE OF RECEPTION	**CURRENT STATUS OF THE CASE**
April 6, 2010	*Obsolete*

Second District Public Prosecutor's Office in Belgrade on March 26th, 2008 filed an indictment against Velibor Dunjić because on August 13th, 2006 at Football

170 The criminal act of preventing an official in the performance of official acts referred to in Article 322 para. 3 in conjunction para. 1 of the Criminal Code

171 The indictment KT.No. 177/2007 is available in the archives of the Youth Initiative for Human Rights (Index: YIHR-18528).

Club Red Star he brought a pyrotechnic article – a fan torch. He passed the torch among a larger group of fans and lit it, and then, to hide from the police, he took off his cap, removed the scarf from his face and took off the sweatshirt he was wearing. With this act he committed violent behavior at a sport event. Dunjić defended himself with silence before the investigating judge, and the record of the hearing of the defendant said that he did not have the torch nor did he bring it. A copy of the indictment was delivered to the Youth Initiative for Human Rights High Court, and the case was dismissed by a court decision on September 15th, 2011 as a result of absolute limitation of criminal prosecution.[173]

The murder of Brice Taton

COURT
Higher Court in Belgrade

CASE NO.
K-3012/2010

JUDGE
Mirjana Ilić

DEFENDANT
Đorđe Prelić et al.

PROSECUTOR
Higher Public Prosecutor's Office in Belgrade

INDICTMENT FILED ON
January 18th, 2010

CRIMINAL OFFENSE CHARGED
Murder pursuant to Article 114, item 2 of Article 33 of the Criminal Code, violent behavior pursuant to Article 344, paragraph 2, and assistance to an offender after the commission of the offense pursuant to an Article 333, paragraph 3 of the Criminal Code

CURRENT STATUS OF THE CASE
in effect

On the eve of the football match Partizan-Toulouse on September 17th, 2009, a group of about thirty Partizan supporters attacked the French fans who were sitting in the garden of "Irish Pub" at Obilićev Venac in the center of Belgrade[174]. The attack badly injured Brice Taton who was beaten with fists, kicked with feet, beaten with wooden clubs, hit with cafe's inventory, and then thrown from a height of over 4 meters in an enclosed space between the parking garage at Obilićev Venac and stairs leading to the Street of Maršal Birjuzov. Despite adequate medical care, Brice Taton died from his injuries on September 29th, 2009[175].

172 The offense of violent behavior at sporting events referred to in Article 20 paragraph 1 of the Law on the Prevention of Violence and Misbehavior at Sports Events of the RS, "Official Gazette of the RS", no. 67/2003, 101/2005, 90/2007 72/2009, 111/2009, 104 / 2013

173 The indictment Kt. No. 2176/06-08 available in the archives of the Youth Initiative for Human Rights (Index: YIHR- 05-18558).

174 "Frenchman badly injured in a fight", B92, http://bit.ly/1m7tXLr. (Serbian only)

175 The attack on the French fans was performed at the time of preparations for the Pride Parade and the large number of right-wing

Partizan fans were gathered by George Prelić and Ljubomir Markovic, the leaders of fan groups "Alkatraz", Ivan Grković, the leader of the "Iridućibili", and Dejan Puzigaća from the fan group "Rebels"[176]. They gathered in the Terazije Park from where scouts looking for Toulouse fans left of. Dejan Puzigaća gave the gathered torches and wooden sticks, and Vladan Suvajac gave them surgical masks. When a group of French was located in the café "Irish pub" at Obilićev Venac, Partizan fans headed in that direction in smaller groups and surrounded the French. Suddenly they attacked Toulouse fans and in the attack, among others, Philippe Sebe, Ramon Kazevedan and Aleksandar Jakovljević, the waiter of "Irish pub" were injured. Brice Taton was knocked down and beaten with fists, kicked with feet, beaten with wooden clubs, hit with café's inventory, and then thrown on his head from a height of 4.28 meters on the bare dirt surface at the foot of the stairs. Upon the shout "Done!" fans dispersed and later gathered in the game.

The indictment was issued against 15 people. The first accused Đorđe Prelić the leader of the fan group "Alkatraz", was arrested in Barcelona on February 26th, 2012, after the judgment, and the process of his extradition was initiated[177]. Dejan Puzigaća is still on the run.

The defendants have changed their testimony through the proceedings; they have presented their affiliation to fan groups in different ways, as well as their status and acquaintance with other defendants. Almost without exception they denied their involvement in the events for which they are charged, mostly claiming that other fans were fighting and that the defendants stayed back and quickly moved away from Obilićev Venac. The Court noted that witnesses were intimidated, and this was evident in the testimony of a protected witness A2, but also in the fact that despite the large number of eyewitnesses at Obilićev Venac none of them would testify in court proceedings. In addition, some of the witnesses changed their testimony during the trial.

The defendant Grković claimed that Taton jumped or fell off the fence on his own; however, the experts proved, based on the marks on the clothes and body of Brice Taton, based on marks of blood, the place where Taton was found and the position of his body, as well as on his injuries, that Taton was brutally beaten, then nailed being proven with testimonies by witnesses and accomplices, was also recorded with cameras and monitored through base

threats of violence to the organizers and participants of the procession. About threats of physical violence see Section Court processing of cases in which there has been violence and threats directed at members of the LGBT community.

176 The judgment of the Higher Court in Belgrade, K-3012/2010.

177 "Extradition proceedings Prelić launched", B92, http://bit.ly/1ky8Dwo. (Serbian only)

stations from which their mobile phones receiving signal at the time of the event, and communication that they constantly maintained among themselves was interrupted just in the time of the beating.

According to the information contained on the website Libra, during the period from September 2nd, 2010 15 hearings were held, while five scheduled hearing were not held.

High Court, a year after the indictment, on January 18th, 2011 issued a judgment and sentenced for aggravated murder Đorđe Prelić (sentence of 35 years)[178], Ljubomir Marković (30), Ivan Grković (30), Dejan Puzigaca (32), Jovan Karbić (14), Dragan Domenico (12), Milan Vujović (14), Branimir Četnik (14), Vladan Suvajac (14), Stefan Veličković (12), Milan Tarlac (12) and Bojan Matijević (12). For minor criminal offense – violent behavior, convicted to prison were Stepa Petrović (5 years) and Dejan Stanković (4). A mitigating circumstance that the court appreciated was their acknowledgment of the offense and the fact that Petrović's sincere pleading helped in solving the case and determining the role of other defendants. Vladimir Bošković was, for aiding an offender after the commission of the offense, conditionally sentenced to eight months' imprisonment with a probation period of 2 years.

The attorney of the injured party's (Brice Taton) parents, the defendants and their parents issued a complaint to the judgment of the Higher Court.

The Court of Appeals in the Trial Chamber, which was chaired by Savka Gogić on October 28th, 2011, accepted the appeal of the defendants, their attorneys and family members, reversed the judgment of the High Court only in respect of the decision on punishment and reduced the sentence to all convicted except Stanković and Bošković[179]. The Court of Appeals held that the aggravating circumstances were viewed as having too much weight, and that the mitigating circumstances were not sufficiently respected or were not taken into account. As mitigating circumstances, the Court of Appeal upheld the youth of the convicted, their status as pupils or students, employment, that they have not previously been convicted etc. According to the second instance ruling on the reduced prison sentences the following were convicted: Prelić (sentence of 15 years), Marković (13), Grković (13), Puzigaća (14), Karbić (7), Domenico (7), Vujović (8), Četnik (8 years and 6 months), Suvajac (8 years 6 months) Veličković (7), Tarlac (7), Matijević (7) and Petrović (4). Respecting that there are particular mitigating

178 Prelić was previously convicted for trafficking in narcotic drugs and because of serious injuries.

179 The judgment the Court of Appeals in Belgrade, KZ 1-3606/2011.

circumstances, the Court of Appeal condemned the following eight defendants with the sentence below the statutory minimum for the crime of aggravated murder: : Karbić, Tomasović, Vujović, Četnik, Suvajac, Veličković, Tarlać and Matijević.

In November 2012, the penalties of the convicted who are serving were reduced by a quarter in accordance with the Law on Amnesty.[180]

In February 2014 the Court of Appeals in Belgrade ordered the High Court to decide again on the request of Puzagić and Grgović's defense's to repeat the trial. The Court of Appeal said that the appeals of the defense that the solution of non-repetition of procedures was adopted with significant violations of the criminal proceedings are established[181]. Previously, the Higher Court rejected the request for the hearing of new witnesses stating that that evidence can not raise doubts about established facts.

Burning of the Flag of Vojvodina

According to the Article 183 of the Constitution of the Republic of Serbia Vojvodina was granted the right to independently asserts symbols of the province and manners of their usage. Nonetheless, in one part of the population, the flag and emblem of Vojvodina cause resentment. Therefore, it is not uncommon that the flag is removed from the mast and set on fire. The flag of Vojvodina was first set on fire on March 17th, 2004 during the demonstration due to the conflict in Kosovo.

The activists of the Serbian National Movement "Naši" on March 12th, 2012, during the birthday celebration of Ratko Mladić, burnt the flag in front of the headquarters of Vojvodina political party League of Social Democrats of Vojvodina (LSV) in Novi Sad. On this occasion, they also wrote graffiti glorifying Mladić. A video of the entire event exists on YouTube[182]. The police identified the perpetrators and Stefan Petrović (21) was sentenced to 15 days in jail[183]. After that, the members of the Serbian National Movement "Naši", on January 13th, 2013 (New Year's eve according to the Gregorian calendar), again, in front of the seat of the League of Social Democrats of Vojvodina in Novi Sad burnt the flag,

180 Solutions on amnesty are available in the archives of the YIHR.
181 "The Higher Court on retrial for the murder of Taton", RTV, http://bit.ly/1nbw1lW. (Serbian only)
182 Burning of the flag of Vojvodina, http://www.youtube.com/watch?v=i9zrAXRQ1Vc.
183 "The suspects in burning of the flag of Vojvodina arrested again?" RTV, http://bit.ly/1gGi4bC. (Serbian only)

as an expression of support to Stefan Petrović, who was sentenced to 15 days in jail. Around this time, the same organization was plastering posters around the town with a list of "enemy" organizations[184].

The YIHR has not received a response after addressing the relevant authorities with a request for access to information of public importance regarding the burning of the flag of Vojvodina on January 13th, 2013.

Attack on Ivan Janeš

Ivan Janeš, a mathematics teacher was beaten in Novi Sad in September 2013. While they were shouting: "You're gay," at about 20:20 on September 7th, 2013, in the park on the Boulevard of Jaša Tomić in Novi Sad, near the railway station, he was beaten by a group of juveniles[185]. At that occasion they broke Ivan Janeš's nose, he got hemorrhaging on his face and body, hematomas and broken capillaries throughout the body, and his vision was damaged[186]. According to Janeš, after answering a harmless question: "What is the time? "The smallest of the group asked him if he knew a fagot, and after that all of the group headed towards Janeš. As further stated by Ivan Janeš, they began to beat him and kick him, telling him he was gay, then they knocked him to the ground and continued to kick him, afterwards they took his bike and backpack in which he had a ball and a camera. The attack lasted for about fifteen minutes. The prosecution characterized this act as aggravated robbery[187]. It is yet to be seen in the court proceedings whether the fact that Janeš was asked "Do you know of a fagot" before the attack and the fact that the attackers shouted "you're gay" during the attack - are to be taken as an aggravating circumstance for offenses committed out of hatred (Article 54a of the Criminal Code).

Only a few days after the attack of September 11th, 2013, the police arrested seven boys who were suspected of being involved in the attack on Ivan Janeš. The suspects, at the time of the arrest, had a total of 40 criminal charges that were previously filed against them; there are also suspicions that three children who previously did not participate in any previous criminal offenses participated in this attack. During the first hearing, the defendants, who were 10 years old

184 "The Serbian National Movement "Naši" burned the flag of Vojvodina, posters with a list of 'enemies'", RTV, http://bit.ly/1l1JYTt.

185 "They beat the professor while shouting, "You're gay!" 021.rs, http://bit.ly/1gGhlHp. (Serbian only)

186 "Confessions of the beaten professor", Novi Magazin, http://bit.ly/1t9OGQw. (Serbian only)

187 Ibid.

(one suspect), 13 (two suspects), 14 (three suspects) and 15 years (one suspect), pleaded guilty to the offense as charged[188].

The YIHR has not received a response after addressing the relevant authorities with a request for access to public information in the event of an attack on Ivan Janeš.

Serbian National Movement "Naši" - The list of NGOs

The ultra-right-wing organization "Naši"[189] published a list, as stated on their website, of "anti-Serbian non-governmental organizations" and asked the government to urgently ban their operation. In particular, they were criticized for advocating for the recognition of "the false state Kosovo", acting for the dismemberment of the Republic of Serbia, the homeland of Serbs. The list contains the names of twenty organizations known for promoting human rights and peace activism[190]. The Youth Initiative for Human Rights on this occasion on March 27th, 2013 filed a criminal complaint against the organization that compiled the list.

BLACK LIST OF NON-GOVERNMENTAL ORGANIZATIONS[191]

> PRESS RELEASE
> November 11th, 2012
>
> The Serbian National Movement NAŠI published a list of non-governmental organizations that have been violating the Constitution of the Republic of Serbia and the Criminal Code of the Republic of Serbia, that have been financed out of foreign funds and embassies, and that belong to the list of organizations that should be, in accordance with the Constitution and a number of Laws of the Republic of Serbia, banned in shortest possible time.

188 "Novi Sad: Juvenile attackers of the professor of mathematics arrested", Radio Slobodna Evropa, http://bit.ly/1p9TSVo. (Serbian only)

189 Serbian National Movement "Naši" was established on 15 January, 2006. They declare themselves as a patriotic movement that is especially committed to cooperation with the Russian Federation and against the entry of Serbia into the EU and NATO. Available at: http://nasisrbija.org/index.php/o-nama/.

190 "Another list of undesirable in Serbia: The target NGOs", Radio Slobodna Evropa, http://bit.ly/NJjnuE. (Serbian only)

Actions of these organizations are in roughest conflict with the interests of the citizens of Serbia and the Republic of Serbia and its laws. They have as their main goal the collapse of the state system of this sovereign country, including political propaganda campaign for territorial dismemberment of RS, such as demands for Serbia to recognize the independence of the false state "Kosovo", and the most outspoken of hate speech and discrimination against Serbs in their parent country of Serbia in various ways.

The authorities in Serbia for many years, on one hand talk about the rule of law and the establishment of order, while the entire range of non-governmental organizations in the crudest ways openly violate the Constitution and laws by performing serious crimes against the constitutional order of the state of Serbia, and in most cases these organizations and their leaders are working for the general clean "personal financial gain".

The Serbian National Movement "Naši" seeks immediate prohibition of anti-Serbian non-governmental organizations in the Republic of Serbia, as well as the establishment of legislation to ban funding of NGOs by foreign funds and embassies.

Humanitarian Law Center, Women in Black, the Center for Cultural Decontamination, YUKOM, Helsinki Committee for Human Rights, Peščanik EXIT Foundation, the Youth Initiative for Human Rights, the Sandžak Committee for Protection of Human Rights, the Autonomous Women's Center, Reconstruction Women's Fund, Belgrade Center for Human Rights, Youth Initiative for Human Rights, Amnesty International, Civic Initiatives, Queeria Center, the Gay-Straight Alliance, Dokukino.

INFORMATION SERVICE OF SERBIAN NATIONAL MOVEMENT "NAŠI"

191 "Black list of non-governmental organizations," of the Serbian National Movement "Naši", available athttp://bit.ly/1prARbq. (Serbian only)

IV

Legal processing of cases of police torture

Acts of torture against juvenile A. A.

Juvenile A. A.'s detention was extended by the first instance verdict of the District Court in Prokuplje until entry into force of the final decision of the District Court in Prokuplje sentencing him to correctional measure of committal to a reformatory.

On February 17th, 2009, while in the detention unit, A. A. has requested assistance from staff in attendance - a guard, because he vomited and was sick to his stomach. The guard called Goran Jovanović and guard Mladenović, nicknamed Čizmić, to take the above-mentioned outside the detention facilities into the hall and began to beat him. Goran Jovanović grabbed him by the head and smashed his head against the tiles on the wall while Mladenović kicked his body. Afterwards, Jovanović tied him to the radiator where A. A. did not resist. They made him apologize and continued beating him. Before A. A. went to the other room where his attorney was waiting for him Jovanović told him to wash off the blood from his face and the tiles while threatening to beat him to death[192].

Given the visibility of injuries A. A. wanted to file a complaint but the guards did not allow it, and he was sent to the Chief to communicate it to him personally. He did not receive any help. The detainee had a broken arm, his leg was dislocated, he had a large number of bumps on the head, and his nose and mouth were clogged. The next day during the family visit the injuries were medically ascertained[193]. Help was requested from the CHRIS Network[194] in the form of representation which was provided.

COURT

Primary Court in Prokuplje

CASE NO.

K-1280/2011

JUDGE

Verica Ristić

DEFENDANTS

Goran Jovanović and Dušan Mladenović

PROSECUTOR

CHRIS Network, attorney Bratislav Todorović

DATE OF RECEPTION

December 15th, 2011

CRIMINAL OFFENSE CHARGED

Ill-treatment and torture pursuant to Article 137 paragraph 3 in relation to paragraph 2 of the Criminal Code

CURRENT STATUS OF THE CASE

In appeal procedure

192 The testimonies of victims located in the archives of CHRIS.

193 Medical documentation in the archives of CHRIS.

194 CHRIS Network provides direct legal aid to citizens, analyzes existing data and monitors specific cases of human rights violations with a view to amending the existing laws and regulations in collaboration with national and international organizations and institutions on the territory of Serbia.

After this incident, the CHRIS Network lawyer sent submissions on March 2nd, 2009 to the President of the Council for Juvenile of the District Court in Prokuplje, the manager of the Detention Unit of the District Prison in Prokuplje and the Center for Social Work "Toplice" Prokuplje, and he filed a criminal complaint on April 16th against the accused officials for ill-treatment and torture pursuant to Article 137 in relation to paragraph 2 of the Criminal Code.

Basic Public Prosecutor's Office in Prokuplje dismissed the criminal charges on December 8th, 2011 and thereafter CHRIS's attorney filed a complaint for an offense of Article 137 paragraph 3 in relation to Article 2 of the Criminal Code. In the further course of the proceedings 8 major hearings were scheduled out of which two were not held.

The Court passed judgment on April 26th, 2013 in which the defendants are acquitted of all charges. CHRIS's lawyer filed an appeal to this decision[195].

Police torture of Toni and Ivica Jovanović

On August 4th, 2008, around 19:30 in front of the family home of Toni Jovanović and Ivica Jovanović, police officers Komnenović Miljan, Ivan Milosavljević and Miloš Filipović, all employees of the Ministry of Internal Affairs - Police Prokuplje - Police Station Kuršumlija, arrived in a police vehicle "Defender", asking for Ivica, a suspect for stealing the gauge from the Public Utility Company "Toplice" in Kuršumlija. Since they did not find Ivica at home, from the present Saša Jovanović they got the information that Ivica is at Mihail Đorđević's in Kuršumlija, after which they go there to get him. After they find him there, police officer Komnenović Miljan, without any explanation and without performing legitimization, starts talking to him harshly and orders him to ender the vehicle.

Upon entering the police car "Defender", Ivica was struck by the police officer Miloš Filipović, who slapped him in the face while, at the same time, pulling out his baton which he did not use at the time. He held his baton in his left hand while beating Ivica with his right hand. Police officers together with Ivica leave in the aforementioned vehicle, "Defender" to the company "Metalac" where Jovanović Toni is employed, who is also suspected of stealing the gauge; they arrive to the company and encounter Toni. Police Officer Komnenović Miljan speaks to Tony with sharp words and a threatening tone. Toni puts down his tools and enters the vehicle, "Defender". Immediately upon entering the

195 Case files obtained from the CHRIS and are in the archives of the YIHR.

"Defender" police officers began to shout at Toni. Police Officer Miljan addresses him roughly by saying, "You know where the water gauges are, you will admit that" to what Toni replies that he does not know of any water gauges and that he stole nothing. Miloš Filipović, while still in the "Defender", refers abusive curses towards Toni, insulting him on a national basis. Upon arrival to the police station, where the police cars are parked, and upon exiting the "Defender", police officer Komnenović Miljan starts kicking Toni, while Ivica is taken to the station by two other officers. Jovanović Toni frightened and disoriented starts moving in the wrong direction wherein the police officer Komnenović Miljan kicks him and tells him, in order to make fun of him that he is going in the wrong direction.

Police officers take Ivica and Toni into the police station and that is when Milosavljević Ivan and Filipović Miloš start beating Ivica, slapping him and taking out their batons, after that all three of the police officers start beating Toni, by slapping him, punching him and kicking him with their batons. Then the police officers take Toni and Ivica upstairs in separate rooms; Filipović and Miloš Milosavljević Ivan go with Ivica, while Komnenović Miljan goes with Toni. Immediately after entering the room police officer Miljan starts to beat Toni on his ears while Toni repeats that he stole nothing. After that officers Miloš and Ivan enter the room, in which Toni and Miljan were, yelling, especially officer Filipović, "Admit, Ivica confessed that the two of you stole the gauge!" Toni keeps saying that he stole nothing. All three police officers continue to beat Toni and then police officer Filipović and police officer Milosavljević leave the room in which the officer Miljan remains with Toni, continuing to beat him, then taking out his gun, cocking it and putting into Toni's mouth, which is when Toni defecates himself from fear. Police officer Miljan then invites his colleagues Miloš and Ivan who resume beating Toni while Miljan sits in a chair thereby pulling out another smaller gun. After that, the aforementioned police officers take Toni into the room where Ivica is located, who was pale and trembling from fear and who defecated himself. To avoid further beatings Ivica and Toni admit that they stole the water gauges and despite the fact that they admitted Toni is being ordered to face the wall and then they continue to beat him because he did not admit immediately. As the police officers receive admission that Toni and Ivica know a certain Bucko, a Roma from Kuršumlija, dealing with purchase of iron, and who is listed as the person to whom they sold the water gauge, which they allegedly stole according to a beating coerced confessions, the police officers, based on this information, leave the station where they leave Toni and Ivica. After returning to the police station in a fit of rage, and upon finding out that the water gauge was sold to the above named Bucko from Kuršumlija by a certain Aca Pavlović from Kuršumlija, not Ivica and Toni, they continue to beat

them because they lied. Toni Jovanović and Ivica Jovanović were detained at the police station until 23.30 without any official reason, nor were they at any time officially told why there were arrested, and despite the fact that they were brutally beaten they were not taken to medical examination, and on release Saša Jovanović, Mihailo Đorđević, Milijan Latif, Latif Mirsad and Asanović Gordan were waiting for them in front of the police station. Photographs were made on that occasion clearly showing the injuries sustained during their detention in the police station. Jovanović Saša, Đorđević Mihajlo and Asanović Gordan take Toni and Ivica to the emergency room of the Health Center where health workers despite very poor health condition in which they were and despite the fact that they complained of nausea, vomiting, pain in the head, and Toni of pain in his ears, refuse to give them medical assistance. After subsequent examination medical records were obtained on August 11th, 2008 by a specialist medical center in Kuršumlija and specialist Emergency of Health Center in the same place[196].

COURT

Primary Court in Prokuplje

CASE NO.

K-848/2010

JUDGE

Verica Ristić

DEFENDANTS

Miljan Komnenović, Ivan Milosavljević and Miloš Filipović

Prosecutor

CHRIS Network, attorney Bratislav Todorović

DATE OF RECEPTION

March 4th, 2009

CRIMINAL OFFENSE CHARGED

Extortion of Confession pursuant to Article 136 paragraph 1 of the Criminal Code

CURRENT STATUS OF THE CASE

in effect

CHRIS Network filed a criminal complaint on August 29th, 2008 on behalf of the victims. During the procedure 11 major hearings were scheduled and 3 were held.

Primary Court in Prokuplje on May 11th, 2011 issued a judgment that the defendants are relieved of charges. The judgment was upheld by the Court of Appeals in Niš and became final on September 5th, 2012. On this decision of the court, attorney of CHRIS Network submitted a request for protection of legality and a constitutional appeal[197].

196 The testimonies of victims located in the archives of CHRIS.

197 Case files obtained from the CHRIS and are in the archives of the YIHR.

Attack on Dželil Ljimani in public transport in Belgrade

Dželil Ljimani was attacked on February 24th, 2012, at Džordža Vašingtona Street in Belgrade, on the bus line 43, when he got up from his seat to type the ticket to ride, while inadvertently bumping into Miloš Mađarov, also passengers in the bus, with one of the bags of food he was carrying in his hands[198].

Mađarov then started harshly telling to Ljimani that he is careless, by saying: "Watch where you're going."[199]

After Ljimani apologized and went back to his seat, Mađarov concluded, based on his accent, that Ljimani is Albanian and told him: "You Shqiptar, get off the bus, I'll fuck your mother! And" Get off, Shqiptar, get off!" After Ljimani said that he doesn't want to get off the bus because he did nothing wrong, Mađarov attacked Ljimani, hitting him several times on the head and stabbing him with a folding knife[200].

Republican Prosecutor Zagorka Dolovac, in March 2012, gave the order to the Higher prosecution in Belgrade to investigate the entire case in order to fully establish the facts and in order to punish according to the law all of those who committed an offense or participated in one. The prosecution announced that they will investigate whether anyone, except Miloš Mađarov, needs to be prosecuted[201].

A dozen criminal charges, for participating in a fight, violent behavior, aggravated larceny, robbery and theft of vehicles have so far been submitted against Miloš Mađarov[202].

The Youth Initiative for Human Rights requested free access to information of public interest concerning cases filed against the defendant Milos Mađarov but has not received any response to the request.

198 Response of the Higher Public Prosecutor's Office on June 20th, 2012, available in the archives of the YIHR.
199 Ibid.
200 Ibid.
201 "The chief prosecutor Dolovac seeks arrest of other attackers", Blic, http://bit.ly/1gnSgSX. (Serbian only)
202 "The hooligan that stabbed a man in the neck in the bus has 20 criminal charges", Blic, http://bit.ly/1mo4tfV. (Serbian only)

The burning of the flags at Serbian Radical Party meetings

After the Hague Tribunal issued an acquittal in the case filed against Ramuš Haradinaj[203], members of the Serbian Radical Party[204] on November 30th, 2012 in Belgrade organized a protest rally. Officials and supporters of the Serbian Radical Party set to fire the flags of EU, USA, NATO and Kosovo, in front of the Serbian Presidency building[205].

The Prosecutor's Office initiated proceedings against the Deputy President of the Serbian Radical Party Nemanja Šarović and his official Aleksandar Dražić for burning the flag, and they were questioned on February 20th, 2013 on suspicion of having committed the crime[206] of violation of a foreign state or an international organization[207]. Nemanja Šarović said that he did burn the flags at the protest rally and that he did it with great pleasure, and does not regret it. Šarović took over the blame at the hearing, saying that he bears the sole responsibility, and that others who may have helped him were just technical support[208]. Šarović, after the hearing, said to the inspectors of the Belgrade police that he is proud of his act and that whenever he has an opportunity to do it again he will as a way of expressing political protest[209]. While this is not the first time that there was a flag-burning under these circumstances, this crime has never been answered for[210].

Another case was launched against Nemanja Šarović, this time for the burning of the flag of Kosovo at the protest of the Serbian Radical Party, which was held in April 2013 on the occasion of the signing of the Brussels Treaty. Higher Public Prosecutor's Office has set up its implementation and apprehension at the hearing on December 19th, 2013[211]. On this occasion, he emphasized that the case is politically motivated because the arrest was ordered despite the fact that his

203 Former commander of the paramilitary Kosovo Liberation Army (KLA), Ramush Haradinaj, the ICTY for the second time acquitted for crimes against civilians in western Kosovo in 1998; available at http://bit.ly/Q2uEsh.
204 More available at: http://bit.ly/OJiRoY.
205 "Serbian Radical Party supporters burned the flags of EU, the U.S. and NATO", Studio B, http://bit.ly/OM6Qri,.
206 Possible sentence for this offense is a fine or imprisonment of up to three months, the Criminal Code.
207 "The case against Šarović for burning of the flag", Novosti, http://bit.ly/1fQ8tdB. http://bit.ly/OJiRoY
208 "Šarović proud of the flag-burning", RTS, http://bit.ly/1dBTzHZ. http://bit.ly/OJiRoY
209 Ibid.
210 "Radicals in hearing about flag-burning", Radio Slobodna Evropa, http://bit.ly/1m-04HUc. (Serbian only)
211 "Nemanja Šarović arrested", B92, http://bit.ly/1mnyk4K. (Serbian only)

call for a hearing was not handed over through regular channels and despite the fact that he duly responded to the request to a hearing in the Belgrade police earlier this year, and the fact that he was detained on the day of his patron saint. Šarović also claims that burning the flag of Kosovo cannot be subsumed under the crime of violation of a foreign state or an international organization, for which he is charged[212].

Protests in Zemun Polje

Since 2007 Kamendin in Zemun Polje is one of the resorts with the highest number of apartments reserved for the socially vulnerable - built within the social housing program of the City Hall of Belgrade. For the needs of refugees, war veterans, single parents, but mostly Roma families, up to now over 18 000 square meters was built, which house more than 600 families. A certain number of apartments are used by socially disadvantaged, and the other part is sold at the production price[213]. Among the most vulnerable who are entitled at these apartments are the 91 families displaced from slum settlements in Belgrade.

The residents of Kamendin took to the streets on November 3rd, which triggered gatherings and protests of the locals, where, with insults and threats they demanded the eviction of Roma people from the two blocks for the socially disadvantaged in which they are placed[214]. The immediate cause of the protests of the residents was the occurrence of head lice and scabies in an elementary school the children of this settlement go to. Parents of the infected children claimed that the source to the source of unhygienic lifestyle are Roma families and their lifestyle

Several members of the majority of population (about 200 people), took to the streets shouting "We don't want Gypsies, we don't want scabies!", "Scabby Gypsies, get out!", "Slaughter the Gypsies!" "Kill, kill it, so that the Gypsy does not exist!" "We'll kill you!", "Get out of Zemun Polje", "We will evict the Gypsies" and so on. Roma people were insulted on ethnic grounds, and many were forced to leave their homes and hide at friends and relatives[215].

212 "The radical Nemanja Šarović arrested for the hearing about flag-burning", Blic, http://bit.ly/1ldfAoh. (Serbian only)

213 "Zemun Polje: Roma ghetto eyesore for neighbors", Večernje Novosti, http://bit.ly/1iIigaU. (Serbian only)

214 "Belgrade: Roma in Zemun Polje in fear", Radio Slobodna Evropa, http://bit.ly/1nHIz5z. (Serbian only)

215 Press Release, "Racist riots in Zemun Polje require immediate response of the state," Regional Center for Minorities, Belgrade, November 5th, 2013. http://bit.ly/1oBV9jN. (Serbian only)

The Commissioner for Protection of Equality[216] issued a press release in which she strongly condemned the several day incidents in Zemun Polje, and asked the authorities to urgently react. She warned that the situation could escalate further and recalled previous similar cases involving violence, calls for lynching, expressing hatred and intolerance towards the Roma population which had serious consequences[217]. In addition to the highly discriminatory behavior of the citizens of this settlement, what is more concerning is the behavior of city authorities. The city official who visited the Roma, the residents of this settlement, advised them to stay in their homes and "pay attention to hygiene"[218]. The Secretary for Social Welfare announced the tightening of criteria for remaining in social housing which are already strictly set, and that their tightening would only prevent a large number of families to receive the only possible accommodation that they can afford[219].

According to the Regional Center for Minorities[220] particularly troubling are the actions of the competent authorities, especially the police, which was present during the protests where racial and ethnic hatred and intolerance were heard, and they did nothing to stop it[221].

The Minority Rights Center[222] filed a criminal complaint for the criminal offense of racial incitement of national hatred and religious intolerance against the organizers and participants in racist protests against Roma in Zemun Polje, as well as against those responsible for the newspaper Večernje Novosti for publishing racist articles and comments of readers on their web page that incited hatred against Roma[223]. The investigative process is still ongoing.

216 Commissioner for Equality is an independent public body established by the Law against Discrimination, whose task is to prevent all forms, shapes and discrimination cases, the equality of natural and legal persons in all areas of social relations, supervision of the implementation of regulations on non-discrimination, as well as improvement of realization and protection of gender.

217 "Warning to the public regarding the incidents in Zemun Polje", Commissioner for Equality, Belgrade.

218 "Zemun Polje: About 200 people marched shouting" Kill, kill, so that the Gypsy does not exist!'", Blic, http://bit.ly/1gYnk6t. (Serbian only)

219 "Zemun Polje: Roma ghetto eyesore for neighbors", Večernje Novosti, http://bit.ly/1iIigaU. (Serbian only)

220 Regional Centre for Minorities (RCM) is a non-governmental, non-partisan, non-profit organization based in Belgrade, which operates throughout the Western Balkans. RCM was founded in 2006 with the help of the Swedish Helsinki Committee for Human Rights.

221 "Racist riots in Zemun Polje require immediate response of the state," Regional Center for Minorities, Belgrade, November 5th, 2013 http://bit.ly/10BV9jN. (Serbian only)

222 Minority Rights Center (MRC) is a non-profit, non-governmental organizations whose activities are aimed at the improvement of the status of Roma in Serbia. Founded in 2001, the main goals of CPM are fighting against racism and discrimination, and promoting the right to equal treatment and human rights in general.

223 "Responsibility for racist protest in Belgrade", Centre for Minority Rights, November 9th, 2013 http://bit.ly/1hK3ZYy. (Serbian only)

V

Other Cases

Affair „Index”

Ten professors of the Faculty of Law in Kragujevac were arrested on February 20th, 2007 on suspicion of abusing their position, taking bribes and falsifying documents. At the beginning of this action Stevo Purić, the dean of the faculty, Božin Blašković, Ivan Čukalović, Predrag Stojanović, Dragana Petrović, Dragan Bataveljić, Srđan Đorđević, Saša Jovanović, Zoran Simić, professors at the Faculty of Law in Kragujevac and Emilija Stanković, who at the time was the Deputy Minister of Education and Sports, were all arrested. Several dozen indexes and applications from the University of Banja Luka were found with the arrested[224]. The case, which is popularly known as the Affair "Index", which started this campaign, ended in arrests and further processing of 87 people[225]. The trial has been lasting for more than seven years.

COURT

Higher Court in Smederevo

THE PRESIDING JUDGE

Slađana Bojković

CASE NO.

K-121/2010

CRIMINAL OFFENSE CHARGED

Misuse of official position, accepting bribes, bribery and falsification of documents, the Criminal Code

THE INDICTMENT FILED

August 17, 2007

CURRENT STATUS OF THE CASE

in effect

The indictment, filed on August 17th, 2007 includes 41 people, including 23 professors from the Universities of Kragujevac, Belgrade and Niš. According to the indictment 16 persons were ordered into custody due to the potential escape; out of which 13 were professors[226].

224 Professors and Assistant Minister arrested", Politika, http://bit.ly/1eX5Kzu. (Serbian only)

225 Defendants: Saša Jovanović, Dragana Petrović, Emilija Stanković, Srđan Đorđević, Sveto Purić, Božin Vlašković, Dragan Bataveljić, Ivan Čukalović, Predrag Stojanović, Zoran Simić, Milena Petrović, Jasmina Nektarijević, Nenad Đurđević, Miroslav Galjak, Dejan Atanacković, Rajko Ćosović, Zoran Kovačević, Branislava Stojković, Novak Purić, Olivera Kojić, Bora Čejović, Andrija Tomović, Nenad Obradovič, Vladimir Dimitrijević, Radoje Brković, Miodrag Mićović, Miroljub Simić, Slobodan Svorcan, Radomir Stojanović, Živorad Lekić, Goran Stevanović, Živadinka Iskrenović, Biljana Vićentijević, Vesna Vasić, Branislava Marković, Oliver Antić, Slobodan Panov, Nevenka Bačanin, Nada Todorović, Zvonko Marković, Dragutin Šoškić, Vladimir Andeselić, Katarina Antić, Marija Bošković, Radošin Bošković, Danijela Bošković, Somaja Bulić, Valentina Barjaktarević, Besna Veličković Mitrović, Milorad Veličković, Goran Vukašinović, Gordana Gvozdenović, Golub Garović, Ivan Grbić, Sreten Dimitrijević, Maja Drča, Dragoslav Đurđević, Irena Jovanović, Vladan Jevtić, Emilija Jovanović, Radmila Jovanović Canić, Snežana Jovanović, Marija Jovanović, Dragana Jovanović, Mirko Katančić, Srđan Kljajin, Marija Leković, Milan Lazarević,

The Deputy Public Prosecutor suggested in the indictment against the defendants Dragan Petrović, Emilija Stanković, Srđan Đorđević, Sveto Purić, Božin Vlašković, Dragan Bataveljić, Ivan Čukalović, Predrad Stojanović, Zoran Simić, Jasmina Nektarijević, Milena Petrović, Nenad Đurđević, Radoje Brković, Miroljub Simić, Miodrag Mićović, Radomir Stojanović, Bora Čejović, and Slobodan Svorcan, that a security measure banning professional activities and duties be imposed, since the crime was committed by abuse of position and performance of duties.

According to data published on the web sites of faculties, most of the accused professors continue to perform their function (Emilija Stanković,[227] Srđan Đorđević,[228] Božin Vlašković,[229] Dragan Bataveljić,[230] Ivan Čukalović,[231] Predrag Stojanović,[232] Milena Petrović,[233] Nenad Đurđević,[234] Radoje Brković,[235] Miodrag Mićović,[236] Slobodan Svorcan,[237] Oliver Antić,[238] Slobodan Panov,[239] Nevenka Bačanin,[240] Nada Todorović,[241] Sveto Purić[242]).

On March 31st, 2008, the indictment was expanded to 46 more people, so under this case the court is prosecuting 87 persons. In the course of proceedings 40 hearings were held. The suspects are charged with criminal offenses abuse of

Dejan Momčilović, Jelena Milosavljević, Ana Manić, Marija Milićević, Milun Milutinović, Marija Novaković, Jasmina Petrović, Todor Podgorac, Dragana Petrović, Ana Stojanović, Jelena Simić, Ljiljana Sojkić, Dragana Sarić, Ivana Stijepović, Natalija Sekulić, Ivanka Smiljanić, Milan Smiljanić, Stanika Sinđelić, Saša Tiosavljević, Radiša Urošević.

226 Professors who are remanded in custody: Saša Jovanović, Dragana Petrović, Emilija Stanković, Srđan Đorđević, Sveto Purić, Božin Vlašković, Dragan Bataveljić, Ivan Čukalović, Predrag Stojanović, Zoran Simić, Milena Petrović, Nenad Đurđević, Bora Čejović, Andreja Tomović, Radoje Brković, Miodrag Mićović.

227 Associate Professor of Roman Law, http://bit.ly/1iIdREM.

228 Associate Professor of Introduction to Law, http://bit.ly/1jdC9VB.

229 Full professor of Copyright Law and Industrial Property Rights, http://bit.ly/1erE3SC.

230 Associate Professor of Constitutional Law, http://bit.ly/PVyXpa.

231 Full Professor of Public International Law, http://bit.ly/1gDL6nM.

232 Full Professor of Public Finance and Financial Law, http://bit.ly/OCdjFF.

233 Associate Professor of Private International Law, http://bit.ly/1eX7CZ8.

234 Full professor of Obligations Law, Sports Law, Public Meetings and Sporting Events, the Right of Non-governmental Organizations, http://bit.ly/OCdxMR.

235 Full professor of Labor Law and Legal Norms, http://bit.ly/OCdDEm.

236 Full professor of Commercial Law, http://bit.ly/1gg6u8n.

237 Full Professor of Inheritance Law, http://bit.ly/1oBPSc1.

238 Full Professor at the Faculty of Law, University of Belgrade, Civil Law - the general part and the Actual Law, Inheritance Law, Contract Law, http://bit.ly/1dh2bt2

239 Associate Professor of Law, University of Belgrade in the Family Law, http://bit.ly/OCeoyt.

240 Full Professor of Administrative Law, http://bit.ly/1j9nTkY.

241 Associate Professor of Political Economy, http://bit.ly/1gYidTR.

242 Full Professor of Political Economy, http://bit.ly/1r1RHBh.

official position, accepting bribes, taking bribes, falsifying official documents and illegal possession of weapons and explosives.

On September 1st, 2009, the District Public Prosecutor in Belgrade gave up the prosecution of Oliver Antić accused of bribery, with no explanation[243]. On February 1st, 2012 the witness Ljubinka Jovanović was questioned. She was a typist in the Police Administration of Smederevo, and retired in July 2010. Her task was typing reports, records, criminal charges and notes. During the hearing it was stated that the witness has not signed the largest number of minutes which she compiled (39 of 45 written). The judge she made a decision to examine all the minutes made by the witness and that the next major hearing will be held on February 2nd, 2012.

According to data provided by the Faculty of Law in Kragujevac, the employed at the university who were in custody were removed from work for the duration of the detention. A number of the accused workers had their working relations terminated for other reasons, while all the other accused are still working[244]. Some of them managed to array one, and some more functions since the indictment.

By November 14th, 2013 38 hearings were held and 53 did not take place. During the proceedings the accused were often absent from hearings, which led to a huge number of delayed hearings[245]. Although the judge announced that the judgment would be reached until the summer of 2013, the proceedings continued[246]. On February 5th, 2014 a decision terminating the proceedings was issued.

The case was prepared for submission to the Court of Appeal in Belgrade, based on the decision to appeal against the decision of the High Court in Smederevo number K-14/14 from February 19th, 2014 by which it was decided that from the records of the case some recordings and transcripts should be allocated[247].

243 "Professor without charge", Večernje Novosti, http://bit.ly/Nysv5g .

244 Response of the Faculty of Law in Kragujevac to the request for access to public information is available in the archives of the Youth Initiative for Human Rights.

245 "The judge is justifying himself: I let go the defendants because there was no one to welcome the Minister", Blic, http://bit.ly/1fKXfXK. (Serbian only)

246 "The Judge: I will pass the judgment for the affair „Index" during summer", Blic, http://bit.ly/PVBu2D. (Serbian only)

247 Response of the High Court in Smederevo to a request for access to information of public interest on March 20th, 2014 is available in the archives of the Youth Initiative for Human Rights (Index: 513 – 21.03.2014).

COURT
Higher Court in Smederevo

PRESIDING JUDGE
Slađana Bojković

CASE NO.
K-14/2014

CRIMINAL OFFENSE CHARGED
Misuse of official position, accepting bribes, bribery and falsification of documents, the Criminal Code

DATE OF RECEPTION
February 6th, 2014

CURRENT STATUS OF THE CASE
ongoing

On February 6th, 2014 a separate case was received and assigned to Judge Slađana Bojković. Hearings scheduled for March 24th, March 25th, April 1st, April 3rd, April 8th, April 9th, April 10th, April 11th, April 14th, April 15th and April 16th were not held.

Culture Centre of Novi Sad Case

After the 2012 elections the ruling majority in the city of Novi Sad formed the Democratic Party, the League of Social Democrats of Vojvodina, Serbian Renewal Movement and the Socialist Party of Serbia, while the movement "Dveri" won five seats in the Assembly of Novi Sad[248]. After the formation of the city government, the Novi Sad Committee "Dveri" enters into negotiations with the Serbian Progressive Party to form a new majority in the City Council. Because of these negotiations the seniority of "Dveri" (Main Board) dismisses the entire Novi Sad Committee from this association, after which the former Novi Sad committee "Dveri" forms an association for "training, education, economy and culture" - Third Serbia[249]. Once the Serbian Progressive Party took power in Novi Sad, Serbia took over the management of third culture departments. One of the first actions of the newly appointed heads of department for culture is the replacement of the director of the Cultural Center of Novi Sad (CCNS) Laslo Blasković because the name of the institution was written in Latin alphabet[250]. For the director of the CCNS Dr. Andrej Fajgelj was elected who soon after he became director changes the controversial Latin inscription into Cyrillic, and also changes the coat of arms of the Cultural Center[251]. Shortly thereafter, Cyrillic "returns" to the city buses, this time at the initiative of the Democratic Party of Serbia[252].

248 Local Elections 2012, National Bureau of Statistics, http://webrzs.stat.gov.rs/WebSite/repository/documents/00/00/93/12/LokalniIzbori2012.pdf.
249 "How is Third Serbia financed", 021.rs, http://bit.ly/1hNru69. (Serbian only)
250 "Blaskovic fired for the Latin alphabet", Politika, http://bit.ly/1eVDQ7l. (Serbian only)
251 "LSV: Attempts redrawing of cultural identity", RTV, http://bit.ly/1r24CQJ. (Serbian only)
252 "Cyrillic in city buses", Dnevnik, http://bit.ly/1tHNE07 (Serbian only)

An exhibition of students of master studies at the Academy of Arts in Novi Sad was planned to be held in the Cultural Center Novi Sad in October 2013. However, due to the intervention of the director of the cultural center, Andrej Fajgelj, it was decided that the exhibition does not allow exposure of the picture by author Danijela Tasić showing a man crucified by money. After that, various artists withdrew their works from the Cultural Center of Novi Sad, and the director of the Cultural Center Andrej Fajgelj faces public criticism because of the aforementioned prohibitions.

In the second half of October 2013, Andrej Fajgelj, on the website of the cultural center of Novi Sad, publishes an article entitled "Who is attacking the Cultural Center of Novi Sad again."[253] The article states, inter alia:

For those who are looking for a needle in a haystack, an editor is able to become a censor. And, in the Cultural Center last year, our magazine 'Polja' was already printed when Laslo Blaskovic ordered the tearing of the first 30 pages of text by Aleksandra Gatalica. Yes, you read it, tore! Just imagine the scene. Public officials, publishers, writers, editors, designers, printers, an entire institution responsible to nurture culture, tearing books! "Polja" had its covers put on all over again, and the extra costs entered the criminal complaint for misuse of funds, a total of five million. The Democratic Party made the Nazi Bebelplatz out of the Church courtyard.

Afterwards, Fajgelj on the TV show "Sučeljavanja" which aired on October 24th, 2013 at RTV Vojvodina[254] said: "My predecessor had the work of one of the greatest living writers from Serbia torn out. So these pages are torn and then thrown away or burned, like at Bebelplatz in '33. "When asked by the anchorman: "Are you sure of what you are saying," the defendant replied: "Absolutely!"

However, although Fajgelj accused Blašković of censorship, comparing it with the one of the worst Nazi atrocities, the fact is that the text in question by Aleksandar Gatalica came out in the same number of "Polja" as the fifth text in the book[255].

Given that Laslo Blašković is an award-winning writer who has published 16 books, statements by Andrej Fajgelj roughly violated his honor and reputation. Blašković said that labeling a literary creator as someone who actually fights

253 Who is attacking the Cultural Center of Novi Sad again?", Cultural Center of Novi Sad, http://bit.ly/1trLhKX.(Serbian only)

254 Confrontation – October 24th, 2013, RTV, http://bit.ly/1oousoi. (Serbian only)

255 Available at: http://bit.ly/1wf5F4a.

against freedom of expression, and that he applies censorship in this struggle, then tearing and burning books, while comparing it with the most famous examples of cultural genocide that the Nazis conducted on Bebelplatz[256] is one of the hardest discretization. It is obvious from the defendant Fajgelj's statements that they were not meant to be metaphors, and that their repetition insists on their literal meaning.

COURT
Primary Court in Novi Sad

DATE OF RECEPTION
October 30th, 2013

DEFENDANT
Andrej Fajgelj

CASE NO.
P-10411/2013

PROSECUTOR
Laslo Blašković

CURRENT STATUS OF THE CASE
ongoing

JUDGE
Ivana Stevanov

Laslo Blašković, the prosecutor in this dispute, was the director of the Cultural Center of Novi Sad from mid-2008 to October 2012. Defendant Andrej Fajgelj became Director of the Cultural Center of Novi Sad as an official in the political party Third Serbia, after a shift with Blašković in October 2012.

Blašković asked, through his claim, for pay damages for defamation and to have the judgment about the expense of the defendant Fajgelj published on the website of the Cultural Center Novi Sad, in the culture section of the Novi Sad daily Dnevnik, as well as on the first channel of Radio Television of Vojvodina.[257]

The defendant Fajgelj, in his response to the indictment, stated that everything he said about Blašković was true. It is interesting that although the defendant says that everything he said was true, in his response to the lawsuit he never mentions the word censorship. The defendant claims that the original version of "Polja" the text Aleksandar Gatalica should have been in the first place, and that the prosecutor Blašković destroyed the entire print run of "Polja" and printed out a brand new version which had the article in the fifth place and on the 25th page. For that the defendant did not supply any evidence. Fajgelj further stated that he never compared Blašković with the Nazis but the Democratic Party, forgetting his appearance on the TV show "Sučeljavanja" on Radio Television of Vojvodina. Fajgelj also states that even if he did compare Blašković to Nazis, it contributes to public criticism of persons holding public office and that such criticism is

256 Nazis in 1933 as part of Goebbels programs and anti-Semitic propaganda burnt books of ideologically banned writers such as Freud, Kafka, Bloch, Hemingway, Gorky.

257 Case files are in the archives of the YIHR .

the cornerstone of a democratic society. Fajgelj also referred to the European Court of Human Rights relating to the limits of freedom of expression which are slightly wider when it comes to criticism of politicians. However, Fajgelj forgot that the prosecutor was not a politician but a writer who held public office.

Blašković believes that, when it comes to the text by author Gatalica in the "Polja", it cannot be called censorship since the aforementioned text was not removed nor shortened, but published in the identical scope in the same issue of "Polja".

In the case of the text by Aleksandar Gatalica, which was published in the fifth instead of first place, Blašković- corresponds that as director of the Cultural Center had authority as the chief editor of publications and events. Unlike Fajgelj who is not a painter and who used the position of Director of the Cultural Center to ban the exhibition a work of art, Blašković, as a writer had substantive and not merely formal competence to contribute to the editorial concept of "Polja". When it comes to the disputed number of "Polja" Blaskovic states that in this issue, they wanted to give lead to poetry and therefore Gatalica's prose came in the fifth place.

Blašković further states that the practice of the European Court of Human Rights to which Fajgelj calls can not relate to this case, because, in all cases to which Fajgelj calls the targeted persons were politicians, which Blašković is not. Blašković also cites examples of the European Court, which confirmed that the use of the rights and freedoms guaranteed by the Convention in order to harm another person, an abuse of the law and the punishment of expression such as "Nazi journalism" or journalists comparison with Goebbels who was recognized by the domestic courts did not constitute a violation of the European Convention for the protection of Human Rights.

The first instance proceedings are underway before the Court in Novi Sad. In the course of proceedings two hearings were held and the next hearing was scheduled for May 29th, in 2014.

Perfekta Clinic Case

Three-year old Aleksandra Grahovac was operated on May 21st, 2007 at the eye clinic "Perfekta". She passed away on June 4th, 2007, due to damage that was caused by lack of oxygen during surgery[258].

Božidar Ilić, the owner of the 'Ilić' Clinic who cared about Anja Grahovac's eye health since the day she was born, Anesthesiologist Stanoje Glišić, and the co-owner of the Perfekta Clinic, Dejan Milutinović were charged with the commission of the criminal offense of Aggravated Act against Health of Persons. Milan Vasiljević was charged with aiding the commission of the criminal act[259]. The Doctor who operated on Anja Grahovac, Borislav Mitrović, died eight months after the surgery. The cause of death was aggravated cardiac arrest[260].

COURT

Higher Court in Belgrade

CASE NO.

K-1246/2010

DEFENDANTS

Božidar Ilić, Stanoje Glišić, Dejan Milutinović, Milan Vasiljević

CRIMINAL ACT CHARGING THE DEFENDANTS

Aggravated Act against Health of Persons

CURRENT STATUS OF THE CASE

pending

The first judge to whom the case was assigned to, Života Đoinčević, at the hearing on December 8th, 2009 said that he is withdrawing because he did not pass the reelection. The second judge to whom the case was then assigned was Slavica Nikolić, who led the case until late 2010. It was on December 25th that year that she announced that she can no longer lead the case because she is transferred to the Department for juveniles. The third judge, Jasmina Vasović, lead the case since 2011. She led it until December 4th, 2013 and closed the case.

19 main hearing sessions have been scheduled during the current course of the proceedings, 15 of which were held. In the main hearing held on February 1st, 2012, the four defendants and the father of the victim, Aleksandar Grahovac, confirmed their earlier statements. Judge Jasmina Vasović proposed an expert examination by the Court Medical Committee of the University Of Belgrade Faculty Of Medicine and set a deadline of three months. After that there was an

258 "The findings of court expert in the investigation into the death of Anja Grahovac arrived", Studio B, http://bit.ly/1mnxQf2. (Serbian only)

259 Ibid.

260 "The heart could not handle it", Novosti, http://bit.ly/1jnWYoH. (Serbian only)

arrest lasting 20 months (from February 2012 until October 2013) pending the new expert, who did not bring any concrete conclusion[261].

The trial starts over again for the fourth time in the Higher Court in Belgrade, because the judge Jasmina Vasović was transferred to the Court of Appeals, and the new judge will be assigned later. As the parents of the deceased Anja Grahovac were told, the trial will be postponed indefinitely because a new judge will take time to become familiar with the case. In the course of proceedings 17 hearings were scheduled 17 and 12 were held.

The Higher Court in Belgrade rejected the request for free access to information of public importance in which the YIHR requested the case files - on the grounds that it would hinder the process.

Miladin Kovaćević Case

Miladin Kovačević, Binghamton University student in the U.S. state of New York, on May 4th, 2008 at the University Club, beat up twenty two year old Bryan Steinhauer, who was, for a long time after the incident, in a coma. The Republic of Serbia has paid the U.S. a court bail of 100 000 dollars as a guarantee for the defense of freedom and that the defendant will not escape until the judicial proceeding. Instead of waiting for the trial before the courts of the United States on whose territory the incident occurred, after his release from custody on bail, Kovačević fled the United States without authorization[262]. The Consulate of the Republic of Serbia in the United States enabled him to go to Serbia by issuing forged documents.

COURT
First Primary Court in Belgrade

JUDGE
Ivana Ramić

CASE NO.
K-22931/2010

DEFENDANT
Miladin Kovačević

INDICTMENT FILED ON
March 2, 2010

CRIMINAL OFFENSE CHARGED
Serious bodily injury pursuant to Article 121, paragraph 2 in connection with paragraph 1 of the Criminal Code

CURRENT STATUS OF THE CASE
in effect

261 "The court does not allow the wounds from the death of Anja Grahovac to heal", Blic, http://bit.ly/1jnWQ13. (Serbian only)

262 "Miladin Kovačević must go to the U.S.", B92, http://bit.ly/1tHOfit.

Despite the demands of the United States to judge him, First Municipal Public Prosecutor's Office in Belgrade[263] issued an indictment against Kovačević on March 2nd, 2010, for causing severe life-threatening injuries, falsifying documents and abetting the abuse of power[264]. Spokesman for the prosecution Tomo Zorić, said that the indictment is the result of good cooperation between the U.S. and the Serbian judiciary[265].

Miladin Kovačević on September 27th, 2010 before the First Instance Court pleaded guilty of beating an American student Bryan Steinhauer in exchange for two years and three months in prison. The court also discussed the agreement concluded by the prosecution and Kovačević whereby he is, in exchange for a guilty plea, sentenced to two years and three months in prison[266]. He did not answer for a criminal offense of forgery of official documents and incitement to abuse of office. He was released from prison in Sombor and found himself at liberty six months and 23 days before the expiry of the full sentence, after the application of the Law on Amnesty was adopted by the Parliament of Serbia.[267]

COURT
First Primary Court in Belgrade

JUDGE
Vladimir Miletić

CASE NO.
K-7527/2012

DEFENDANTS
Igor Milošević, former Serbian consul in New York, and Slobodan Nenadović, former Consul General

PROSECUTOR
First Basic Public Prosecutor's Office

INCITEMENT FILED ON
November 14, 2012

CURRENT STATUS OF THE CASE
in appeal procedure

First Basic Public Prosecutor's Office filed a complaint on November 14th, 2012 against Igor Milošević and Slobodan Nenadović on suspicion of abuse of official position in order to help Miladin Kovačević escape America in June 2008.

263 Former First, Second, Third, Fourth and Fifth District Public Prosecutor's Office.
264 "Miladin Kovačević is charged in Serbia", B92, http://bit.ly/1tHOfit.
265 "Raising the indictment in this case is the logical result of the good cooperation between the U.S. and the Serbian prosecutor's office, and only transfer of the case to Serbian judicial institutions without reserves and condition is an expression of confidence in our justice system." According to "Miladin Kovačević is charged in Serbia", B92, http://bit.ly/1tHOfit.
266 "Miladin Kovačević pleaded guilty to a settlement with the Office of the Prosecutor", Radio Slobodna Evropa, http://bit.ly/1di9bWt.
267 "Kovačević was released from prison on the Law on Amnesty", Radio Slobodna Evropa, http://bit.ly/1lVUc4q.

Five major hearings were scheduled, out of which three took place. The defendants were found guilty on June 12th, 2013 on charges of misusing the official position and issuing a temporary travel document for Kovačević. First Basic Public Prosecutor's Office has filed an appeal on July 5th, 2013.

First Basic Public Prosecutor on November 14th, 2012 filed an indictment against former Serbian consul in the United States, Slobodan Milošević and Igor Nenadović. After the Court of Appeals in Belgrade on November 14th, 2012, quashed the judgment of the First Primary Court, judging the former Serbian consul in New York Igor Milošević and former Consul General Slobodan Nenadović the case is remanded for retrial[268].

The repeat procedure for the defendant Slobodan Nenadović began on the July 13th, and for the defendant Igor Milošević on August 3rd, 2013. The First Primary Court did not provide the requested information about the case.[269]

The lawsuit Kovačević against B92

COURT
Higher Court in Sombor

JUDGE
Dobrila Mrdak

CASE NO.
P-6/2011

DEFENDANT
Broadcaster B92, Veran Matić and Nikola Radišić

PROSECUTORS
Petar Kovačević and Branka Prodanović Kovačević

DADE OF RECEPTION
March 15th, 2011

THE BASIS OF THE DISPUTE
compensation of non-pecuniary damage
Current status of the case
in effect

On the December 13th, 2010 an article was published by the journalist Nikola Radišić. The prosecutors Petar Kovačević and Branka Prodanović Kovačević claimed that they suffered stress and embarrassment after the publishing of the article by Nikola Radišić on the September 13th, 2010, broadcast by the B92 news with Veran Matić as its editor in chief.

The lawsuit against B92 was handed in because of information reported in the news according to which Miladin Kovačević cost the country a million dollars[270].

268 "The Consuls verdict for helping Miladin Kovačević acquitted", Radio Slobodna Evropa, http://bit.ly/1iJStz7.

269 A request for access to information of public importance. Available in the archives of the Youth Initiative for Human Rights (Index: 082 – January 24th, 2014)

The Kovačević's claimed that they put together 100 000, and that the country gave only 900 000 dollars.

Three hearings were held during the procedure. The case was resolved on the November 27th, 2012 and the respondents of the first and second degree were instructed to pay 200.00 RSD in compensation for non-pecuniary damage.

Complaints on the verdict were filed from both the plaintiff and the defendants. The Trial Chamber of the Court of Appeals in Belgrade, with Radoslava Mađarov as the presiding judge, adopted the complaints of the defendants, and rejected the complaints of the plaintiffs on the April 4th, 2013[271]. The explanation of the second degree verdict states that there is no causality between any violation of honor and reputation of Petar Kovačević and Branka Prodanović Kovačević, and the publication of the incorrect information in question, and that there is no obligation for B92, Veran Matić and Nikola Radišić to pay any damages to the Kovačević's in relation to the publishing of the information in question, being that they are not mentioned in the article and that no indications are made regarding their morally or legally unacceptable behavior, nor is anything being implied in connection with them.

The case of the accomplices of Ratko Mladić

Ratko Mladić[272] was extradited to the International Criminal Tribunal for the former Yugoslavia after his arrest on the May 26th, 2011. He was a fugitive since 1996. During those 16 years he was in hiding in Serbia in various military buildings, apartments and houses of friends and his broader family in Belgrade and other cities, but up to this point none of the accused have been punished for organizing the escape, logistics and harboring the most wanted war crimes fugitive[273]. For several years a group of ten defendants[274] is being tried, including one civilian, and his former comrades of the Army of the Republic of Srpska. They are suspected of having from 2003 to 2006, hidden Mladić their own and rented apartments in Belgrade, funded by him, raised his pension, secured him

270 "B92 released from Kovačević's lawsuit", B92, http://bit.ly/1ilsHjU. (Serbian only)

271 The data obtained from the responses of the Court of Appeals in Novi Sad on to the request for access to information of public importance, on February 13th, 2014 available in the archives of the Youth Initiative for Human Rights (Index: 02-219, March 13th.2014).

272 Ratko Mladić, the former commander of the Army of the Republic of Srpska, accused of genocide and crimes against humanity by the International Criminal Tribunal for the former Yugoslavia.

273 "Serbia and the ICTY obligations: Why is there no epilogue for accomplices", Radio Slobodna Evropa, http://bit.ly/1eYK8CQ. (Serbian only)

food, phones to communicate with family and vehicles, even though they knew that he was charged with committing acts of crime against humanity, crimes of genocide, complicity in genocide, war crimes against civilians and violations of the laws or customs of war.

COURT

First Primary Court in Belgrade

CASE NO.

K-4448/2011

PROSECUTOR

First Basic Public Prosecutor's Office

DEFENDANTS

Stanko Ristić, Ljiljana Vasković, Borislav Ivanović, Predrag Ristić, Marko Lugonja, Saša Badnjar, Bojan Vasković, Tatjana Vasković, Ratko Vučetić and Blagoje Govedarica.

CURRENT STATUS OF THE CASE

ongoing

Accused are charged with hiding Ratko Mladić at different locations in Belgrade from 2002 to 2006. The offense with which they are charged is helping the offender after the commission of the offense[275]. The proceedings were initiated before the Second Municipal Court in Belgrade in 2006[276]. Several of the accused during their testimony emphasized how their lives are in danger, and that they are subject to pressure and torture[277]. The trial resumed in 2009[278]. The following year, the case gets assigned to the First Primary Court in Belgrade[279], but due to a change in the presiding judge the main trial begins on February 23rd, 2010 all over again. The First Primary Court made the first instance judgment of acquittal of all 10 accused on December 10th, 2010.

The Court of Appeals in Belgrade on July 21st, 2011 overturned the acquittal and ordered a new trial before a completely new council. The case was returned to the First Primary Court in Belgrade[280]. From July 26th, 2011, when the case was received, there have been a total of six main hearings, while 13 did not take place. The last scheduled main hearing on January 29th, 2014 was not held.

In response to a request for access to information of public importance, the First Primary Court in Belgrade said that the case is since the newly implemented

274 Defendants: Stanko Ristić, Ljiljana Vasković, Borislav Ivanović, Predrag Ristić, Marko Lugonja, Saša Badnjar, Bojan Vasković, Tatjana Vasković, Ratko Vučetić and Blagoje Govedarica.

275 Article 333, paragraph 3, of the Criminal Code of the RS, punishment: 1-8 years in prison.

276 The former municipal courts after the reform became basic. The case number was K-1339/2006. Data available in the archives of the Youth Initiative for Human Rights.

277 Minutes of the trial on November 26th, 2006 available in the archives of the Youth Initiative for Human Rights.

278 Case no. 249/2009.

279 Case no. 14845/2010.

280 Case no. 4448/2011.

reforms of the judiciary under the jurisdiction of the Third Primary Court in Belgrade[281]. After requesting to access information by the Third Primary Court, in its response the Court pointed out that all the necessary documentation is in the First Primary Court in Belgrade[282]. During direct field studies of the Youth Initiative for Human Rights of the staff at the reception desk of the Third Primary Court in Belgrade information that the numbers of cases in this Court have not yet been assigned, and they had no new information on the new number of the required case was received.

281 Available in the archives of the Youth Initiative for Human Rights.

282 Response of the Third Primary Court in Belgrade to a request for access to information of public importance. Available in the archives of the Youth Initiative for Human Rights (Index: 484 – March 17th, .2014).

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- Faculty of law in Kragujevac
- Website "Fatherland Movement Obraz"
- Website of the Center for Minority Rights
- Website of the Gay-Straight Alliance
- Website of the United Serbia
- Website of the Cultural Center of Novi Sad
- Website Belgrade Pride Parade
- Website of the Commissioner for Equality
- Website of the Regional Center for Minorities
- Website of the Serbian National Movement "Naši"
- Website of the Serbian Radical Party
- Website of the Constitutional Court of Serbia
- Website of the Supreme Court

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