



Montenegro
Ministry of Foreign Affairs
Minister

No. *06/3-84/99-12*

In Podgorica, 6 September 2018

Dear Mr Kaye,

I would like to thank you for your letter dated 15 May 2018, in which you showed interest in and requested information on the attack on Ms Olivera Lakić, the journalist of the daily newspaper "Vijesti", as well as on the investigation conducted and the measures taken by the competent institutions of Montenegro.

First of all, please allow me to reiterate again the strong commitment of Montenegro to respect for human rights and freedoms, as well as to implement the implementation of obligations arising from international legal instruments with a view to building a democratic and free society. Through accession negotiations with the EU, Montenegro has been continuously supporting the respect for and promotion of human rights and freedoms through the adoption and enforcement of international standards in this field. Through NATO membership, Montenegro has joined an alliance of countries sharing the same values and standards of modern civilization that we are adopting and supporting in order to build a society based on the rule of law. Montenegro confirmed its commitment to protect and promote the right of every individual and to contribute to the promotion and protection of human rights on a global scale, by submitting its candidature for membership of the Human Rights Council for the term 2022-2024.

I also wish to point out that the Government of Montenegro is committed to full enjoyment of the right to freedom of opinion and expression, as guaranteed by the Constitution of Montenegro. A legislative and institutional framework for the promotion and protection of human rights has been completed and in the coming period the focus will be on the efficient and full implementation of improved legal solutions with a view to building a society in which all individuals will be able to enjoy their rights equally. In the context of freedom of the media, the Government is strongly committed to making efforts to improve the media environment, as well as to protect and promote freedom of the media as an important precondition for the development of a democratic society.

Distinguished Special Rapporteur,

I would like to inform you that we have carefully considered your allegations regarding this case and that your address is perceived as an opportunity to confirm the readiness for cooperation and the commitment of Montenegro to remain a trusted partner you can rely on in this sensitive field. Therefore, the Ministry of Foreign Affairs has conducted consultations with the competent institutions to obtain detailed and comprehensive information which forms an integral part of this letter.

Regarding the allegations referred to in the letter of 15 May 2018, the relevant information is provided below:

❖ **Information related to questions 1 and 2**

On 8 May 2018, around 20.58 h, in Podgorica, in Bul. Svetog Petra Cetinjskog Street, in front of the entrance no. 62, a criminal offence was committed which was qualified by the competent prosecutor's office as attempted murder of Ms Olivera Lakić. Upon learning of the event, a police patrol was sent to the scene; the officers of the Criminal Police Station in charge of the suppression of violent crimes and domestic violence, the officers of the Criminal Police Station in charge of forensics and crime scene investigation of the Podgorica Security Centre, the representatives of the Criminal Police Security Department, the operational service of the criminal police sent to the closer and to the wider scene in order to secure and inspect the crime scene, to block traffic in the city, to perform the control of persons and vehicles, to gather information and take other actions in order to clarify the mentioned event. The officers talked to the people living in the residential buildings, neighbours and acquaintances of the victim, the staff and guests of hospitality facilities near the crime scene immediately after the offence had been committed, and visited those same persons again so as to obtain possibly new information or make new observations concerning the offence concerned. The State Prosecutor in the Supreme State Prosecutor's Office, [REDACTED] was informed of the offence and came to the crime scene and took over the management thereof.

On their way to the scene, the officers of the Podgorica Security Centre noted that an unknown person had used firearms, and on that occasion, Olivera Lakić was inflicted a through-and-through gunshot wound in her right lower leg. The injured Ms Lakić was transported by emergency ambulance to the Emergency Room of the Clinical Centre of Montenegro, where she received medical assistance and where her injury was recorded. After she received medical assistance, she was admitted to and remained at the Vascular Surgery Ward and was discharged from the hospital on 10 May 2018. A forensic medicine expert will give his/her opinion on the severity of the bodily injury on the basis of the medical documentation compiled. The medical documentation in the name of Olivera Lakić was collected and submitted to the competent prosecutor's office to examine it.

During the crime scene investigation measures, it was established that Olivera Lakić arrived before 21.00h in her red Mini Cooper vehicle to the parking space in front of the entrance to the building where she lives. As she walked towards the entrance to her building, at a distance several meters away from the entrance, she was approached by an unknown male person who bent down, made a move with his arm in the direction of her legs, after which Lakić said that she had heard a sound similar to a firecracker explosion and that, at first, she had thought that the unknown person had thrown a firecracker, but soon after she had felt pain and bleeding from her right leg. Lakić said that she had not been paying attention to the person who shot at her, and she could not specify the direction of movement of this person before the firearm was used, and could not provide a description of that person. She stated that during the drive from the moment she entered the vehicle, at "Vijesti" premises, she did not notice anything suspicious or if someone was following her. During the crime scene investigation, red traces similar to blood were found in front of the entrance No. 62, damage from the projectile to the sidewalk was found 5-6m away from the entrance, a small black flashlight was found opposite the entrance in the grass, while on the next day a transparent nylon glove was found while searching the crime scene. The mentioned traces and items were collected from the crime scene for the purpose of conducting forensic examination.

On 16 May 2018, Ms S.M., the State Prosecutor in the Supreme State Prosecutor's Office, qualified the event concerned as the criminal offence of Attempted Murder, and on the order of the competent prosecutor, a criminal charge was filed against the unknown perpetrator on the same day. On this

The mentioned case of 8 May 2018 in which Ms Olivera Lakić is the victim has not been processed yet within the court procedure.

The cases that were processed concerning earlier attacks on the journalist Ms Lakić have been completed (by judgments of the Basic Court in Podgorica: in 2011 one defendant █████ was sentenced to a prison term of 4 months for committing an extended criminal offence of endangering safety, while █████ was acquitted of charges for the same offence; in 2014 - the accused █████ was acquitted of charges for the criminal offence of endangering safety; in 2012, the accused █████ was found guilty of the criminal offence of violent behaviour and sentenced to a prison term of 9 months; in 2014 - by a decision of the Basic Court a bill of indictment was dismissed for two persons, █████ because there was insufficient evidence that the accused were reasonably suspicious of committing the offence that was the subject of the charge).

❖ Information related to question 3

As regards the inquiry regarding early release of one person convicted of attack on the journalist Ms Lakić in 2012 and sentenced to nine months in prison, the Basic Court in Podgorica issued a decision on 20 August 2013 according to which amnesty applies in relation to █████ in the manner that his punishment of 9 months is reduced by 25%, that is, by two months and 8 days. The Court made this decision in the light of the Law on Amnesty where Article 1 of that Law stipulates that the persons who at the date of entry into force of that Law have been finally convicted of the criminal offences stipulated by the laws of Montenegro, as well as persons convicted by a foreign criminal judgment enforced in Montenegro, will be released from serving 25% of the prison sentence they were sentenced to. In view of such legal provision, the court did not have any alternative but to reduce the sentence, because the convicted █████ belonged to the category of convicted persons covered by the law.

❖ Information related to question 4

A system of preventive and repressive measures and actions undertaken by the Police Directorate has been introduced in order to protect journalists from threats and violence. A database on investigations into the attacks on journalists and the property of the media from all competent state institutions (the State Prosecution Office, the Police Directorate and the National Security Agency) has been created. The repressive measures included daily communication with the competent prosecutors (actions aimed at collection of material evidence for the purpose of possible prosecuting of perpetrators are undertaken in a coordinated and planned manner). With a view to resolving all cases of violence against journalists, all state authorities expressed their commitment to intensify their activities and strengthen cooperation.

Montenegrin courts act efficiently, impartially and independently in all cases of threats, attacks and violence against journalists, applying national legislation and international legal standards. There are no old cases of violence against journalists pending in the courts, all such cases have been concluded by final judgment and they have been determined on the basis of the evidence presented at the main hearing and such decisions have been upheld by the courts of second instance.

As to the State Prosecution Office, the cases of attacks on journalists are treated as priorities in its work, and a table of the results achieved, through which these cases are monitored, has been maintained since 2012. A number of cases have been resolved and the perpetrators were criminally prosecuted and sentenced, while the Prosecution Office remains committed to revealing and resolving the cases in which the perpetrators have remained unknown and therefore unpunished. These activities are conducted on an ongoing basis and without any restrictions or reservations, which confirms that there is no room for

implying “selective enforcement of the law”. The Supreme State Prosecutor has indicated to all prosecution offices that they have the obligation to act in a timely manner and efficiently in all cases of attacks on journalists and their property, and to regularly report to him on the actions taken in those cases.

Furthermore, the Government of Montenegro, as a responsible and committed partner, supports the freedom of the media and unhindered work of journalists, as well as the protection of their integrity and security as one of the most important values of a democratic society. The Government fully supports the work of the Commission for monitoring the actions of the competent authorities in investigating the cases of threats and violence against journalists, the killing of journalists and attacks on the media property, which significantly improved its work with new members including the participation of the representatives of the Internal Control of the Ministry of Interior, the Prosecutorial Council and greater representation of the civil society.

❖ Information related to question 5

Montenegro is making intensive efforts to strengthen the legislative framework in order to ensure the unhampered enjoyment of the freedom of expression and freedom of the press guaranteed by the Constitution. The Constitution of Montenegro guarantees the freedom of expression and that everyone “shall have the right to freedom of expression by speech, writing, picture or in some other manner”. The right to freedom of expression may be limited only by the right of others to dignity, reputation and honour and if it threatens public morality or the security of Montenegro. The Constitution guarantees the freedom of the press and other forms of public information.

A significant progress has been made in this field and in the coming period the Government will undertake activities to create an environment in which the freedom of thought and expression and the freedom of conscience will be fully respected. By the end of 2018, it has been planned to draft a Proposal for a Media Law, which will, *inter alia*, consider the issue of providing to all the media equal opportunities in accessing the funding from the government sources, as well as the Proposal for a Law on Amendments to the Law on the National Public Broadcaster RTCG, with a view to strengthening the mechanisms of political and institutional independence of public broadcasting service. The amendments to the Law on Electronic Media has also been planned to strengthen the independence of the regulatory body for electronic media.

Montenegro strongly condemns all attacks on journalists and their property. In order to resolve all cases of violence against journalists, the competent state authorities will intensify their work on identifying the perpetrators of the acts of violence against journalists, conduct efficient, effective and impartial investigations in order to ensure full freedom of expression and to prevent impunity. In this context, it will continue to work on resolving the backlog of 16 cases of attacks and threats against journalists, ensuring transparency and non-discrimination in the media advertising, by providing adequate legal provisions and strengthening the capacity of self-regulatory bodies. In the coming period, the emphasis will be on the enforcement of an adequate penal policy for the perpetrators of these criminal offences.

Bearing in mind that the freedom of expression is crucial to further progress towards full membership in the EU, the Government of Montenegro is ready, through partnership, to promote the media environment through affirmation of the values of dialogue and cooperation.

The amendments to the Criminal Code decriminalized defamation and insult, and provided for exclusion of the existence of criminal offences (violation of the confidentiality of letters and other consignments, unauthorized wiretapping and recording, photographing, publishing and displaying someone else's document, portrait and recording and unauthorized collection of personal data), if by undertaking the

activity of commission of one of these acts the perpetrator prevents or reveals a criminal offence punishable by law by a prison term of five years or a more severe punishment.

Dear Special Rapporteur Mr Kaye,

Considering all the aforementioned, I would like to reiterate once again the commitment of Montenegro to cooperate actively in all matters falling within the scope of your mandate, but also in all other issues of importance for securing the supremacy of the law, as the supreme concept necessary for the development of democratic societies.

I hope that the information provided above answers the questions referred to in your letter and I would like to take this opportunity to stress that the Government of Montenegro and the Ministry of Foreign Affairs remain open to any further interest in this case or in any other issue falling within the scope of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. Finally, I would like to take this opportunity to stress once again the importance the Government of Montenegro attaches to the cooperation with the system of special procedures taking into account their recommendations as important guidelines for building further a society based on the respect for and promotion of human rights and freedoms for all.

Please accept, Mr. Kaye, the assurances of my highest consideration.

Prof. Srdan Darmanović, PhD



Mr. David Kaye
UN Special Rapporteur on the promotion and protection
of the right to freedom of opinion and expression
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