

ANNEX

With reference to the letter of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on Arbitrary Detention, requesting response to the allegations made in the letter bringing to the attention of the Government of Montenegro information they have received concerning Jovan Grujičić, Marko Boljević and Benjamin Mugoša, subjected to alleged arbitrary arrest, ill-treatment and forced to make false confessions regarding their complicity in an alleged bombing attack on the "Grand" bar and house of a state official in 2015 in Podgorica, and according to the information we received from the Supreme State Prosecution Office, we hereby provide the following information:

- the Supreme State Prosecution Office received the report of the Basic State Prosecution Office in Podgorica containing three information documents drawn up by three prosecutors acting in four cases.

State Prosecutor Snežana Šišević drew up information document on Case Kt. br. 845/20 formed against the accused Jovan Grujičić and on Case Ktr. br. 667/20 formed upon criminal charges filed by Benjamin Mugoša. State Prosecutor Romina Vlahović drew up information document on Case Ktr. br. 123/20 that was formed upon criminal charges filed by the victim Marko Boljević. State Prosecutor Slađana Španjević Volkov drew up information document on Case Ktr. br. 816/20 formed upon criminal charges filed by Budimir Grujičić.

It is noted in the report of the Basic State Prosecution Office in Podgorica that was submitted to the Supreme State Prosecution Office that a part of the files from Case Kt. br. 845/20 handled by the State Prosecutor Snežana Šišević is in Case Ktr. br. 816/20, more specifically the part relating to information concerning Jovan Grujičić's recorded injuries. Namely, in Case Kt. br. 845/20 Jovan Grujičić was accused of certain criminal offences. However, since the evidence indicated that he may have been subjected to torture, and that in that same case, regarding the same event, the same person cannot exist both as the accused and as the victim-witness, the Basic State Prosecution Office has stated that it was correct in terms of procedure to handle in a separate case or in separate proceedings the process of resolving the event in which Grujičić sustained injuries. State Prosecutor Snežana Šišević, as a prosecutor who was on duty on 26 May 2020, was informed by an authorised police officer from the Podgorica Security Centre that a citizen named Jovan Grujičić was at their premises and that they had taken a statement from him in the capacity of a citizen, and that for the record made written confession that he had activated explosive devices on 10 September 2015 in front of the "Grand" hospitality establishment and on 23 November 2015 in front of Duško Golubović's family house. After the acting prosecutor got acquainted with the content of the statement, she gave an order to deprive Jovan Grujičić of liberty and to bring him in on the same day with a criminal charge. Jovan Grujičić was examined, as a suspect, about the circumstances of commission of two criminal offences - Causing General Danger in conjunction with Unlawful Possession of Weapons and Explosive Substances. The suspect confessed that he committed indicated criminal offences and he described in detail the manner in which he had committed those offences. The acting prosecutor stated that during examination in this case she specifically asked the suspect Jovan Grujičić if the police used force, coercion or threats against him and that the suspect stated that the police treated him very fairly and that they had not exerted any sort of

pressure on him. The acting prosecutor also stated in her report that the suspect had had no visible traces of violence on him, and that bearing in mind Grujičić's allegations that no force was used against him, there was no ground for performing physical examination. During preliminary investigation, in the proceedings conducted against Jovan Grujičić, a forensic psychiatry expert was engaged and he made findings and opinion on the suspect's capacity to give a statement on 26 May 2020, and on his state of mental capacity at the time when the criminal offences concerned had been committed, and whether while he was in pre-trial detention the suspect received adequate therapy according to medical documentation and his health condition. The findings and opinion given by forensic psychiatry expert have shown, as mentioned by the acting prosecutor, that the suspect had the capacity to give a statement, and that he has the capacity to give a statement again, and while he is in pre-trial detention he receives adequate therapy. The acting prosecutor has stated further that during preliminary investigation certain evidence was obtained and that evidence indicated that it was necessary to examine the suspect Jovan Grujičić again. That examination was conducted on 24 June 2020 after the forensic psychiatry expert repeated findings and opinion that Grujičić has the capacity to give a testimony. During new examination Jovan Grujičić stated that he was subjected to ill-treatment in the police, that masked policeman tortured him with an electroshock weapon and hit him on the head and body, that he lost consciousness, and that his injuries were recorded on his admission to the Administration for the Execution of Criminal Sanctions. Immediately upon learning that information, the acting prosecutor requested the Administration for the Execution of Criminal Sanctions to submit injury list, if injuries were recorded on Jovan Grujičić's admission, which was done by the Administration for the Execution of Criminal Sanctions. On the same day, the acting prosecutor ordered a forensic medicine expert to conduct forensic examination of medical documentation provided by the Administration for the Execution of Criminal Sanctions. On 25 June 2020, the forensic medicine expert submitted the findings and opinion which indicated that haematomas on both of Jovan Grujičić's upper arms and a haematoma on the right half of his loin region were recorded on his admission to the Administration for the Execution of Criminal Sanctions. State Prosecutor Snežana Šišević has noted that further actions regarding recorded injuries on Jovan Grujičić have continued in a separate case, Case Ktr. br. 816/20. The report on actions taken in this case has been submitted by the acting prosecutor Slađana Španjević Volkov.

As regards further actions undertaken in Case Kt. br. 845/20 the acting prosecutor Snežana Šišević stated in the report submitted that after the preliminary investigation was completed a bill of indictment dated 25 June 2020 was filed against Jovan Grujičić for the above-mentioned criminal offences based on which a case was formed at the Basic Court in Podgorica and that the main hearing in this case was ongoing. Bearing in mind that the suspect Jovan Grujičić stated in his defence that he had committed indicated criminal offences together with Benjamin Mugoša, and that they had been instigated by Zoran Mugoša, the acting prosecutor gave an order to the Podgorica Security Centre to deprive Benjamin Mugoša of liberty and to bring him in, and to search for Zoran Mugoša since she received information from the police that he was outside of Montenegro. Benjamin Mugoša was brought in on 28 May 2020 and examined in the capacity of a witness. During examination the suspect Benjamin Mugoša stated that he was physically abused in the premises of the Podgorica Security Centre by masked police officers wearing police uniforms and vests branded "criminal police" on the back of the vests, while he also stated that he would not be able to identify the mentioned persons. As stated in the submitted report, immediately after the suspect had been examined, the acting prosecutor issued an order to the forensic medicine expert to conduct physical examination for the purpose of giving findings and opinion on the existence of injuries, their type, severity, mechanism and age, and she formed Case Ktr. br. 667/20 with a view to determining if and who of the police officers subjected him to torture. During preliminary investigation in this case, the Podgorica Security Centre was requested to inform the acting prosecutor whether the room in which Benjamin Mugoša had been examined on 27 May 2020 was covered by video surveillance and, if it was, to deliver the recording for the time period in which Mugoša was in that room. Since the Podgorica Security Centre had not replied to this request in a timely manner, the head of the Podgorica Security Centre was sent a letter containing the same request and seeking them to urgently comply with that request. In the act dated 22 July 2020, the Podgorica Security Centre informed the Basic State Prosecution Office in Podgorica that video surveillance could not

be recovered since one camera was not functioning and that video material from the other camera had been overwritten by a new material (new material was recorded over that video material). Considering the content of this letter, on 31 July 2020 the acting prosecutor requested the Podgorica Security Centre to submit additional documents, more specifically letters of the Centre for Communication Technology, Information Security and Technical Surveillance Systems, as well as information which police officers performed which specific type of conversation with Benjamin Mugoša, which police officers were in the premises in which Mugoša stayed and also if the police officers wearing police uniforms branded "Criminal Police" on the back had communication with Benjamin Mugoša on that particular day.

The Podgorica Security Centre delivered a reply to this request on 16 August 2020. The acting prosecutor, by a request dated 31 July 2020, requested the Ministry of Interior – Department of Internal Control of the Police to provide information whether they performed controls with regard to treatment of Benjamin Mugoša by the police officers and, if they did, to deliver information and case files. The Ministry of Interior - Department of Internal Control of the Police delivered a reply to this request on 31 August 2020. The acting prosecutor in this case made a concluding remark that the preliminary investigation is being continued by undertaking the actions of examining the persons who have certain information on the event concerned.

State Prosecutor Romina Vlahović, as the acting prosecutor, formed Case Ktn. br. 123/20, upon criminal charges filed by Marko Boljević on 26 May 2020 against six unknown officers of the Police Directorate – the Podgorica Security Centre, for the criminal offence - Extorting a Testimony. The acting prosecutor handling the case, considering the content of the criminal charges, on the same date (26 May 2020) gave an order to the forensic medicine expert Nemanja Radojević M.D. to perform physical examination of Marko Boljević and to make findings and an opinion. The forensic expert that was engaged stated in his findings and opinion that on 26 May 2020 at 14.35 h he examined Marko Boljević and, on that occasion, he diagnosed several bodily injuries on him in the form of haematomas, excoriations, abrasions and redness and classified them as minor bodily injury.

Bearing in mind that a case was formed at the Basic Court in Podgorica against Jovan Grujičić for two criminal offences - Causing General Danger in conjunction with Unlawful Possession of Weapons and Explosive Substances which contained a testimony of Marko Boljević given in the capacity of a witness, the acting prosecutor stated in the report that she requested the court to deliver the case files so she could examine them.

Having examined the court files, the acting prosecutor found that when Marko Boljević was examined in the capacity of a witness by the state prosecutor he did not state that the officials of the Podgorica Security Centre used force against him. The acting prosecutor also examined Marko Boljević in the capacity of a witness. He stated on that occasion that the police officers used force against him and inflicted bodily injuries on him. The reason for using physical force against him was, as the witness stated on that occasion, to force him to repeat before the prosecutor the testimony he allegedly made in the police, namely that he allegedly found out from Benjamin Mugoša who threw explosive devices in front of the "Grand" hospitality establishment and in front of Duško Golubović's gate. As mentioned in the acting prosecutor's report, Marko Boljević stated in his statement given in the capacity of a witness that the police officers had been masked wearing balaclavas but that he would be able to recognize them by their voices and physical appearance. The acting prosecutor also requested case files from the Ministry of Interior - Department of Internal Control of the Police, as they *ex officio* investigated the conduct of their officers in this particular case.

The internal control made a report on the conduct of their officers and gave the opinion that "no facts and evidence have been found that would indicate beyond doubt that the police officers of the Criminal Police Station for Combating Violent Crimes and Domestic Violence of the Podgorica Security Centre Dalibor Ljekočević, Danilo Grbović, Bojan Vujačić and Ivan Peruničić treated the citizen Marko Boljević in an unlawful manner in this particular case". The acting prosecutor in this case noted that evidentiary actions – examining all persons that may have certain relevant information on this event – as well as obtaining of certain documentation from the Podgorica Security Centre, are ongoing.

Sladana Španjević Volkov, the acting prosecutor in Case Ktr. 816/20 concerning the statement given by the citizen Budimir Grujičić (Jovan Grujičić's father) to the Ministry of Interior - Department of Internal Control on 24 June 2020, stated that she was assigned the case on 30 June 2020. The acting prosecutor submitted the case files to the Special State Prosecution Office on 3 July 2020 for assessment, since the content of the case files indicated that in respect of the same event Budimir Grujičić filed criminal charges to the High State Prosecution Office in Podgorica, which had been submitted to the Special State Prosecution Office according to the information received from the High State Prosecution Office, and in view of the fact that the criminal charges for the abuse of office included also the State Prosecutor Snežana Šišević.

On 21 July 2020, the Special State Prosecution Office submitted to the Basic State Prosecution Office in Podgorica the criminal charges filed by Budimir Grujičić for the record before the High State Prosecution Office in Podgorica on 4 June 2020 to take further actions falling within its jurisdiction, and Budimir Grujičić's statement dated 24 June 2020 to assess whether the actions of the reported police inspector Leković from the Podgorica Security Centre – Department for Violent Crimes and of other still unidentified police officers involve legally prescribed elements of the criminal offence – Abuse of Office. By the same act, the Basic State Prosecution Office in Podgorica was informed that the Special State Prosecution Office had dismissed the criminal charges filed by Budimir Grujičić for the record before the High State Prosecution Office in Podgorica on 4 June 2020 against Snežana Šišević for the criminal offence – Abuse of Office. On 22 July 2020 the Special State Prosecution Office submitted to the Basic State Prosecution Office in Podgorica the record of the Police Directorate - Special Police Department on the information obtained from the citizen Budimir Grujičić who filed the criminal charges.

The acting prosecutor in this case requested the Ministry of Interior - Department of Internal Control of the Police on 23 July 2020 to submit the case files formed upon statement given by the citizen Budimir Grujičić to that Department on 24 June 2020.

On the same day, the acting prosecutor also requested the Basic State Prosecution Office in Podgorica to send her the case files formed upon the bill of indictment of the Basic State Prosecution Office in Podgorica against Jovan Grujičić for two criminal offences - Causing General Danger in conjunction with Unlawful Possession of Weapons and Explosive Substances. Having examined the files of the Basic State Prosecution Office in Podgorica, according to the acting prosecutor's report, order was issued on 31 July 2020 ordering forensic examination of Jovan Grujičić's bodily injuries to be conducted by the forensic medicine expert based on medical documentation and other information in the files.

The forensic medicine expert delivered on 11 August 2020 completed findings and opinion, while on 26 August 2020 the Ministry of Interior - Department of Internal Control of the Police informed the Basic State Prosecution Office in Podgorica that it finalised the internal control procedure initiated upon Budimir Grujičić's statement dated 24 June 2020 on which the report on the control conducted and all case files made in the internal control procedure conducted regarding the case concerned were delivered.

The acting prosecutor in this case stated that on 3 September 2020 Jovan Grujičić was examined in the capacity of a witness after which supplementary forensic examination was ordered to be conducted by the forensic medicine expert so that a prosecutor could make a proper decision based on the law.

As regards point 4, according to the Police Directorate's report:

- Under applicable legal provisions, the officers of the Police Directorate perform police affairs by exercising police powers.

As regards the respect for the rights of persons with developmental disabilities and procedures applicable to them, there are no specific instructions but the rights of those persons and other groups of persons are protected by applying the provisions of the following legal acts: Law on Internal Affairs, Rulebook on the manner of performance of specific police affairs and exercise of powers in the performance of those affairs, Code of Police Ethics and recommendations from the CPT report. Furthermore, the Instruction on the treatment of persons deprived of liberty and of persons in police custody by police officers, which contain detailed guidelines for police treatment of vulnerable groups is in the final stage of development.

In the previous period, the officers of the Podgorica Security Centre participated in workshops/training events that were delivered on the following topics:

- "Zero Tolerance to Ill-treatment in accordance with National and International Standards and CPT recommendations",
- "Prohibition of Discrimination",
- "Treatment of Vulnerable Groups",
- "Advancement and Promotion of Human Rights",
- "Gender Equality and Treatment of Vulnerable Groups and Prevention of Torture",
- "Advancement of Human Rights of Detained and Imprisoned Persons".

As regards point 5, according to the Supreme Court of Montenegro's report:

- The judges adhere to the procedure prescribed by the law and so far there were no cases in which the participants in the proceedings had objections regarding the adherence to those procedures by the judges.

In case the judge becomes aware of the defendant's allegations that he/she was subjected to torture, a judge shall, under Article 254 paragraph 1 of the Criminal Procedure Code, file charge for criminal offences subject to prosecution by virtue of office, of which he/she has been informed or learned while performing his/her office.

Furthermore, a judge may not base his/her decision on a confession or other statement obtained by extortion, torture or inhuman or degrading treatment. Prohibition of use of force and extortion of a confession is one of the fundamental principles of procedural legislation enshrined in Article 11 paragraph 2 of the Criminal Procedure Code.

The judges consistently adhere to the mentioned legislation and are extremely careful that no defendant suffers any adverse consequence due to confession or any other statement obtained through the use of violence, and that any suspicion of a criminal offence prosecuted by virtue of office has to be examined by a state prosecutor who is competent for the prosecution of criminal offenders.

Article 17 of the Criminal Procedure Code stipulates that courts and state prosecutors shall appraise the existence or nonexistence of facts on which to base their decisions at their discretion, and that judgments may not be founded on evidence that has been obtained by violating human rights and fundamental freedoms guaranteed by the Constitution or by ratified international treaties or on evidence obtained by violating the criminal proceedings provisions, as well as other evidence obtained therefrom, nor may such evidence be used in the proceedings.