



MONTENEGRO COUNCIL FOR CIVIL CONTROL OF POLICE

Number:

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Council for Civil Control of the work of Police, hereinafter referred to as the Council at the 57th session held on 28 December 2015, composed of academician **Prof. Dragan Radonjic PhD, MA Aleksandar Sasa Zekovic, PhD Branislav Radulovic and Jovan Poleksic**, considered the complaints of non-governmental organizations (NGO) **"LGBT Forum Progress" and "Hyperion"** and have adopted, after intensive work, based on the information gathered and the statements, the procedure and the discussion, the following

CONCLUSION

1. NGO "LGBT Forum Progress" and "Hyperion," dealing with the protection and promotion of the rights and freedoms of LGBT persons in Montenegro, have filed a complaint to the Council against the Police Directorate of the Ministry of Interior (MI) of Montenegro and Security Centre (SC) Niksic due to ban a public gathering of the LGBT community in Niksic. Police force has for three consecutive times during 2015 banned the Pride Parade in Niksic. The complainants claim that the Police Administration has not taken all the necessary measures and actions or that have not used all available police jurisdiction, in order to allow the peaceful assembly of citizens which they would successfully protect. The complainants stated that they believe that the concrete actions of the police towards the organizers Pride parade show the inadequate and unprofessional attitude and approach that significantly restricts fundamental rights and freedoms and the right to equality of the LGBT community. The complainants have submitted their decision on the temporary ban and other attachments related to the application, maintenance and the ban public gatherings.
2. The ban of the Pride, as Police has explained, according to the decision on the temporary ban 68-01 number: 224/15-9022 dated 14th of September 2015, by possessing the knowledge about the dangers of the "football fan and other groups", which are not identified in the Decision itself, which would, in case the announced peaceful assembly took place, allegedly endangered the security of people and property, and led to the disruption of public peace and order on a larger scale. The last decision is generally, in terms of the content, the same as earlier decisions on the temporary ban. In addition, this time, the members and supporters of the Yugoslav Communist Party of Montenegro, Municipal Committee Niksichave been identified, who have announced further protests in the event that a pride was held which police thought could represent an "increased security risk and the risk of violence and disruptions to public order and peace on a larger scale. "

3. The Council has asked for an explanation of the Police on the actual and concretized reasons for the prohibition of the Pride. Police Director explained that the registered public gatherings were banned, in all cases, because it is a high-risk event due whose maintenance could lead to a serious disturbance of public order and peace and endangering persons and property. In the rationale of the decision on the temporary ban Police Department explained that "all the requirements for maintaining the Pride at the said location have not been met because there is an increased security risk and the risk of violence and other violations of public order and peace to a greater extent" and that it is not possible to ensure safety of the participants at the proposed route of the parade. Additionally, Police Directorate, in its communication with the Council, did not challenge the fact that the organizers of the parade expressed flexibility on the issue of proposed route.
4. The Council was not provided with the demanded records from the sessions of the Operational Headquarters which worked on the preparation of the safe organization of the Pride Parade in Niksic.
5. The Council, following the receipt of a response from the SC of Niksic and the Police Directorate, for the purpose of quality and professional consideration of complaints made by the NGOs, has asked for more specific details on all registered security risks and on all official actions taken in connection with the scheduled Pride marches in Niksic. The Council has particularly requested the information on what the Police Directorate undertook to resolve the continuous ban on public assemblies of the LGBT community. Among other things the Council asked the the Police Directorate whether they identified groups and individuals, how many, and the estimated willingness, ability and organization of the same to undertake violence against LGBT people, which are the measures and actions taken against them in relation to violence and preventing pride in Niksic and specifically how many misdemeanor and criminal charges were filed in this regard.
6. In the meantime, the complainants have repeatedly inquired about the course and outcome of the procedure before the Council and have continuously informed the Council on their communication and activities towards the CS Niksic and Police Directorate, Ministry of Interior and Administrative Court in relation to filed complaints and the attempts to establish better communication with the police organization.
7. The Council has taken into account the content of the appeals towards the Ministry of Interior and the lawsuit towards the Administrative Court, which was, through a program of legal aid for complainants, prepared by the NGO "Human Rights Action" based in Podgorica.
8. The Council has made several reminder letters in order for the Administration Police would reminded of the obligation to provide the required response (see the third) Finally, the Police or the CS Niksic, provided a detailed response.
9. As a leading security risk for the Pride Parade the Police Directorate or CS Niksic, marked the various football fan groups, both from Niksic and Montenegro, as well as from the neighborhood (Bosnia and Herzegovina and Serbia). Police Directorate reported that despite a number of interviews made by the police with more extreme supporters and leaders of fan groups an animosity towards maintaining of the LGBT related events remained strong. The Police Directorate told the Council that these fans, and their leaders, have announced going out on the streets and that they could not exclude violent acts by those groups. Additional Police Directorate expected that a gathering of so many fans definitely lead to their mutual conflict which is also a security risk.
10. The Council notes that even though professional claims about the existence of security risks and serious notice of violence on the occasion of three scheduled Pride in Niksic, the Police, CS Niksic, have not submitted any offense or criminal charge. The state is

obliged, and we can recall the position of the European Court of Human Rights, *Alekseyev v. Russia*, § 76, that the criminal prosecution should be used to combat those who threaten with violence rather than finding a solution in the prohibition of a peaceful assembly of those who do not threaten with violence. Council was provided with the information on police action in previous years, unrelated to the Pride Parade, which the Council did not ask for.

11. The Council asked the CS Niksic for the extent of involvement of the police team, cost estimates related to the safe keeping of the Pride Parade and whether financial factor could be one reason for a ban on of the Pride.
12. Police responded that the securing of public assembly would require hiring about two thousand police officers, who would be engaged in the time interval from 7 to 15 hours, or 8 hours, which, as stated in the official police response, the organizers of the public gathering would cost approximately 64,000 Euros, not counting the use of motor vehicles with mileage. The Police Directorate repeated that financial resources are not the reason for the ban, but only security reasons.
13. CS Niksic, at the interest of the Council, stated that the key deficiencies in the securing peaceful public gatherings of LGBT people in Niksic are the lack of communication system "Tetra" in the municipality of Niksic which is at the disposal of most of the other organizational units and the fact that the existing number of analogue radio connections that are in charge of the CS Niksic cannot meet the needs of the police officers deployed.
14. The Council evaluated that in this case, on several occasions, restrictions on freedom of assembly took place which were not necessary and that the Police had failed to take all appropriate and reasonable measures to allow peaceful public assembly of the LGBT community.
15. The Council finds that the Police Directorate and CS Niksic had enough time, during all the application for of the public gathering, to prepare to neutralize any threat of violent conflict.
16. The Council notes, based on the submitted documentation, that the the complainants towards the CS Niksic have demonstrated responsibility, flexibility and attentiveness to all suggestions from the police in terms of location, routing, and date of the public gathering. Respecting the law, during the registration of an assembly, the complainants have determined that the date will be September 18, due to its, as they put it, anti-fascist character. Numerous accompanying official speeches, press releases and statements of the organizers confirm that the announced willingness to do the public gathering before or after the proposed date existed, depending on the safety assessment and the decision made by the police. On the other hand, The Council finds that the Police Directorate or CS Niksic, have not once, in any way, offer the organizers of the Pride Parade any alternative in terms of date , the location or the route of movement of the public gathering.
17. The Council notes that the Police Directorate, CS Niksic, has permitted several public gatherings to the opponents of the Pride Parade in Niksic which have been, by their own decision, but under police protection, attended by the complainants and the organizers of the Pride Parade. They point out that the ratio of police protection in that domain was fair and professional. The Council notes that during the public gatherings of the opponents of the Pride Parade there hasn't been a single incident despite the fact that these gatherings were attended by the visible members of the LGBT community and there was no disturbances of public peace and order.
18. The Council notes that the Police Directorate and the state authorities in charge of the protection of human rights and freedoms and the process of inclusion of LGBT people function with a lack of strategy to prevent future repetition of the temporary bans on peaceful assemblies of the LGBT community, as a result of increased security risks. The

Council has during 2015, acting upon the other complaints, in a significant number of cases noted that the mechanisms of the Strategy to improve the quality of life of LGBT people in Montenegro, related to the safety of LGBT people and building trust between the police and the LGBT community are not, despite recommendations issued, functional.

19. The Council notes that the communication and cooperation of the Police and CS Niksic with the organizers of the Pride Parade in Niksic was not adequate and was not at the level of practice and experience in the preparation and organization of such public gatherings in Budva and Podgorica (2013, 2014 and 2015). The Council invites the Police that in the future it should change this new approach and establish communication based upon trust and in the function of guaranteeing freedom of peaceful public assembly. It is essential that the operational headquarters, as in the case of previous Pride marches, accomplish more professional and closer communication with the LGBT community and provide, if necessary, the attendance at meetings of representatives of the organizers of the Pride Parade in Niksic in order to strengthen confidence, transparency and consultation process.
20. The Council strongly supports direct communication and further development of relations between the LGBT community and police organizations. In this regard, The Council encourages and supports the Police to accept all initiatives that contribute to the promotion of good communication, dialogue and consultation and preserve and enhance mutual trust and contribute to the development of the trust of the Police with the citizens of Montenegro and the international community.

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