

Research:
**Safety of journalists
through case law
2012-2022**



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Safety of journalists through case law 2012-2022

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INTRODUCTION

Freedom of expression is one of the basic foundations of a democratic society and a necessary condition for its existence and prosperity. The safety of all those who are the first on the “democracy bumper” is an important aspect of this freedom and an indicator of the democracy and openness of that society. A particularly important place among them belongs to the journalists and other media professionals who, through the job of informing the public, improve the work of institutions and encourage the rule of law, as well as influence the direction of society in democratic trends. Although Montenegro strives towards European values, attacks on all those who criticize the government and are ready to expose illegal and negative social phenomena, especially journalists, are still at a high level. Attacks on journalists and other media professionals represent particularly serious violations of human rights, which reflect on society as a whole, depriving the public of its right to be informed, and limiting public debate, which is the core of pluralistic democracy.

Freedom of expression is guaranteed by both national and international regulations. The European Court of Human Rights (ECtHR), in its interpretation of Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, states that “*freedom of expression constitutes one of the essential foundations of such a society, one of the basic conditions for its progress and for the development of every man*”¹. However, to realize and protect that right, on the other hand, it is the state that should establish an effective mechanism for the protection of journalists and all those who deal with matters of public importance, thus creating a favorable environment for participation in public debate by all the persons concerned, enabling them to express their opinions and ideas without fear, even if they run counter to those defended by the official authorities or by a significant part of public opinion, or even irritating or shocking to the latter².

1 Handyside v The United Kingdom, paragraph 49;

2 Dink v. Turkey, paragraph 137; Khadija Ismayilova v. Azerbaijan, paragraph 158;

When it comes to the security protection system and the safety of journalists and other media professionals in Montenegro, we can say that it is far from perfect, but that some progress has been made, although there is still a lot of room for improvement. Namely, some progress and positive developments were achieved through changes in the Commission for Investigating Attacks on Journalists. On the other hand, the legal framework for the protection of journalists and other media professionals has been partially improved by the adoption of amendments to the Criminal Code, which prescribes stricter criminal protection for journalists. However, just the fact that 73 cases of threats, harassment, and attacks against journalists and media employees³ were registered in the previous three years, speaks in favor of the fact that Montenegro has a long way to go to develop effective mechanisms for the protection of journalists and improve their position. In addition, impunity and the burden of old, unsolved cases still represent a serious problem, but it is certainly encouraging to know that new cases of attacks are being solved more efficiently. Last year, the Police Directorate of the Ministry of the Interior registered 21 attacks on journalists and the media. “Out of that number, 12 are qualified as criminal offenses that are prosecuted ex officio, seven have been solved and the perpetrators have been prosecuted, while five cases are still unsolved.”⁴

Given the above, this analysis aims precisely to raise the level of awareness of the necessity of dealing with this problem by constantly reviewing and improving procedures, and identifying bad links, all intending to improve the safety protection system for journalists and media professionals.

3 <https://www.facebook.com/421415001273505/posts/5667645503317069/>

4 Ministry of the Interior, Police Directorate, Response to the Trade Union of Media of Montenegro, Jan 13, 2022

SAFETY AND PROTECTION OF JOURNALISTS

- from a substantive and procedural point of view

Overview

State authorities are obliged to investigate all cases of threats and violence against journalists, murders of journalists, and attacks on media property. The investigation must be effective, fast, and thorough, to discover and punish all responsible persons. In 2011, the Committee of Ministers of the Council of Europe adopted guidelines for eradication of serious violations of human rights, where it established the criteria according to which an effective investigation should be: adequate, thorough, impartial, independent, fast, and under the supervision of the public ⁵. However, despite all the standards, the situation in the field of the safety of journalists, unfortunately, continues to deteriorate. The record for the number of threats and attacks on journalists from 2020 was soon exceeded in 2021 when 28 cases were registered, and it was followed by the same number of attacks in 2022 when 28 cases were registered. ⁶ However, statistical data and special databases, i.e. records of attacks on journalists, still do not exist, but the data can only be obtained upon request. The Institution of the Ombudsperson represents an exception and a positive example, given that they proactively publish information and maintain special databases, which are also searchable according to socio-economic criteria ⁷.

Apart from Montenegro, in neighboring countries and Europe as well, journalists and other media professionals are increasingly exposed to attacks and even murders because of their investigative work, opinions, or reporting. Following this alarming situation, in April 2016 the Committee

⁵ Guidelines on Eradicating Impunity for Serious Human Rights Violations adopted by the Committee of Ministers on 30 March 2011 at the 1110th meeting of the Ministers' Deputies

⁶ www.safejournalist.net ;

⁷ "The Western Balkans Journalists' Safety Index", Montenegro narrative report 2021, p.34, available at: <https://safejournalists.net/resources/1/indeks-bezbjednosti-novinara-zapadnog-balkana-narativni-izvjestaj-crna-gora-2021/?lang=me>;

of Ministers of the Council of Europe adopted **Recommendation CM/Rec(2016)4 on ensuring the protection, safety, and empowerment of journalists and other media professionals in the European Union**. This Recommendation provides detailed guidelines to member states for activities in the areas of prevention, protection, criminal prosecution, improvement of information, education, and awareness raising, to ensure effective protection of journalism and the safety of journalists and other media professionals. With the Recommendation, member states, including Montenegro, are once again reminded of the importance of journalistic work in every democratic society. In this Recommendation, the main requirement for member states is the obligation to ensure effective investigations, carried out by independent, impartial, and objective state authorities, in order to punish any person involved in the attack or murder of journalists. If the state cannot bring to justice the persons who attack journalists, then it must establish a specialized independent body to conduct an investigation⁸. In addition, the European Commission, in its report dated September 16, 2021⁹, made several recommendations for improving the safety of journalists and other media professionals, including better protection of journalists during demonstrations, greater security on the Internet, and special support for female journalists, and among other things, emphasized the need to establish independent national specialist support services, SOS lines, legal and psychological assistance, as well as shelters for journalists and other media professionals who are exposed to attacks, etc.

In order to establish greater efficiency in investigations of attacks on journalists and examine the actions of state authorities in investigations of previous cases of attacks on journalists, in 2014 the Government of Montenegro formed the *Commission for monitoring the actions of competent authorities in investigations of cases of threats and violence against journalists, murders of journalists and attacks on media property*, but it did not achieve any significant results. The main reason for this is the lack of political will to improve the situation and the failure to act on

8 https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806415d9&fbclid=IwAR-02hWVZGe9-lKKVYSqsnAYPIKOsOWgq4teSPH5s82F7bzOZyEjUbz9sWic#_ftn1

9 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021H1534&from=HR>;

the Commission's recommendations. However, after the new convening of the Commission in April 2021, there are noticeable developments. The increased effort of the judicial authorities concerning the investigations of both previous and new cases, which the Commission publishes through five-monthly reports on its work, with a description of the analyzed cases, is evident. Thus, the Commission makes a significant contribution, pointing out failures in previous investigations, but also suggesting certain measures or actions that could be implemented in re-investigations, to eventually solve these cases.

Further guarantees for the safety and protection of journalists and other media professionals

Although there were promises, Montenegro has not yet provided additional preventive mechanisms, which should be established to protect journalists and other media professionals who are the target of threats, intimidation, and physical or psychological threats in connection with the job they perform.

Following the example of neighboring countries, which have already adopted some of the mechanisms, as well as recommendations given in this direction by international bodies, we believe that the formation of a special team in the Ministry of the Interior and Prosecution Offices - the so-called contact points, that is, the designation of persons in the police and prosecution offices who would be in charge of coordinating actions in cases of criminal offenses against journalists, as well as the establishment of a hotline and an Internet platform for emergency cases that would be available 24 hours a day, so that journalists and other media professionals, in case of need, have immediate access to protective measures, would be of great importance for improving the protection and safety of journalists and other media professionals. After the assessment of the case by a lawyer via the hotlines, if there is a suspicion that a criminal offense or a misdemeanor has been committed in connection with the performance of a professional activity, the journalist and other media professionals are referred to the

contact points in the prosecution and the police, who will further deal with the case, and act quickly to preserve all traces.

Furthermore, if the case is prosecuted, the already difficult position of journalists and other media professionals, who are the target of attacks for performing their jobs, is further aggravated by the fact that the state does not offer adequate assistance and support services, which would, in the first place, within the context of this analysis, include the possibility of free legal aid and representation by a qualified attorney, but also psychological and medical support, if needed.

Moreover, if police protection is provided, the relevant staff should have been trained on human rights standards, and, if possible, entrust that task to special teams. In addition to this level, it is necessary to continuously conduct training for all actors involved in action and decision-making (police officers, prosecutors, judges, etc.) concerning the protection of freedom of expression and journalists, special aspects of investigations of attacks on journalists and other important issues, especially in the light of the investigation of old cases of attacks on journalists, but also the application of the amended Criminal Code, which foresees stricter punishments for attackers of journalists and other media professionals. Thus, it is ensured that the employees of all state bodies are fully aware of the respective obligations of the state following international human rights law, as well as what these obligations mean for each body in practice. Training protocols and programs should respect the important role that journalists and other media actors play in a democratic society, and reflect international human rights standards.

Statistical data and special records of attacks on journalists and other media professionals are still not published proactively, but data can only be obtained on request, and in this sense, it is necessary to establish mechanisms for collecting and monitoring information, such as databases, to enable the collection, analysis, and reporting of specific quantitative and qualitative, classified data on attacks on journalists and media professionals.

SAFETY OF JOURNALISTS THROUGH CASE LAW 2012-2022

Introductory remarks

The freedom of the media and the safety of journalists in Montenegro have been threatened for many years. During the previous two years, 73 cases of attacks, threats, and pressure on journalists were registered. This was precisely the reason for the initiation of the project, which aims to collect data on court proceedings for endangering the safety of journalists in the last 10 years. This project aims to improve the work of basic courts in Montenegro by sensitizing judges and prosecutors to the issues of the safety of journalists. The project is planned to carry out an analysis of final court judgments in cases of endangering the safety of journalists and other media professionals, and as a result, some solutions will be proposed that could contribute to the improvement of case law and more efficient resolution of these cases.

This project also aims to improve the safety and security of journalists and other media professionals, as well as the media - because the monitoring will reveal the number of cases, the age and gender structure of the victims, which media they come from, how long the proceedings last and what is the case law.

The project was divided into two phases, the first one related to the collection of materials and archival materials, and the second one, which included the analysis of the collected data and communication with judges and prosecutors.

RESEARCH METHODOLOGY

Starting from the defined research subject, a research plan¹⁰ was drafted, which is based on two basic principles:

¹⁰ Framework for research methodology defined according to: Boskovic M., "Pritvor u postupku prema maloljetnicima u Crnoj Gori", [Detention in proceedings against minors in Montenegro], "Pravni zbornik" – Journal of legal theory and practice 1/2022

- Given the characteristics and multidimensional importance of the subject of study, it is necessary to use different research strategies to make valid conclusions;
- The research needs to be carried out in phases so that the results collected during one phase indicate adequate research strategies that can be applied in the following ones;

During the research, and bearing in mind the nature of its subject, a multidisciplinary approach was used, which consists of combining several different techniques of gathering facts and study methods (the so-called triangulation),¹¹ to obtain the most adequate possible answer to defined research questions by crossing thus obtained data and methods.

The first phase of the research was intended to enable the creation of a general picture of the actions of judicial authorities in cases of threats to the safety of journalists in Montenegro, for the period from 2012 to 2022, during which the data of judicial authorities - courts and state prosecution offices - would be processed using quantitative, statistical methods.

These data served as the basis for conducting the second phase of the research, which consisted of the analysis of court files of cases formed and judged due to criminal offenses that endangered the safety of journalists, for the observed period. The analysis of statistical data showed, as will be seen, that of all the legally binding cases before the basic courts, almost half (15) were within the local jurisdiction of the Basic Court in Podgorica. Given that it has jurisdiction to act in relation to a third of the total population of Montenegro¹², the cases of the Basic Court in Podgorica were selected for the sampling frame, in which some of the criminal offenses were tried, the execution of which in some way had the effect of endangering the safety of journalists, with the point of view that when we select a sample from the created frame, the criterion of its “representativeness”¹³ would be met, so that the conclusions drawn based

11 More about that: Ignjatovic D., “Metodologija istraživanja kriminaliteta, sa metodikom izrade naučnog rada – Treće izmenjeno i dopunjeno izdanje” [The methodology of criminal research, with the methodology of drafting a scientific paper - Third amended edition], Library CRIMEN, Belgrade 2018, p. 137-139.

12 <https://www.monstat.org/cg/page.php?id=273&pageid=48> [Feb 1, 2023]

13 Ignjatovic D., “Metodologija istraživanja kriminaliteta, sa metodikom izrade naučnog rada – Treće izmenjeno i dopunjeno izdanje” [The methodology of criminal research, with the methodology of creating a scientific paper - Third amended edition] Belgrade 2018, p. 86.

on the applied method of documentary analysis of these documents can be generalized to all basic courts.

The expected outcome of the applied method of documentary analysis of court files implied the acquisition of more complete knowledge in two directions. Therefore, from the defined sampling frame, two groups of cases of the Basic Court in Podgorica were selected for the sample. The focus of the analysis of the first group of cases will be the analysis of the duration of criminal proceedings, and the procedural “correctness” of their conduct, in the sense of whether the criteria of a fair trial have been met within a reasonable time, in the context of the provisions of Art. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Therefore, cases in which the procedure lasted a little longer, as well as two cases with an average duration of the procedure, were selected for analysis. The subject of the analysis of the second group of cases is, in the broadest sense, the penal policy of the courts concerning criminal offenses, the execution of which simultaneously endangers the safety of journalists, or more specifically, the examination of mitigating and aggravating circumstances that the courts typically take into account when sentencing. The cases in which the highest and the lowest punishments were imposed were selected for the sample among the cases that make up the sampling frame.

With the aim of a comprehensive overview of the factors and circumstances that have a dominant influence on the reasoning of state prosecutors and judges when dealing with cases of criminal offenses whose execution endangers the safety of journalists, in the third phase of the research, an interviews were conducted with state prosecutors of the Basic State Prosecution Office in Podgorica and judges of the Basic Court in Podgorica, who were also actors in some of the analyzed cases. The questions were structured based on data and conclusions derived from the analysis of court files and were of an open type, so that the respondents could express their views on the issue as freely as possible, in a form suitable for them. In order to obtain comparable data and observe possible differences in views on issues relevant to the subject of the research, interviews were also

conducted with representatives of the media in Montenegro.

The differences expressed in certain positions between holders of judicial

functions on the one hand and media professionals, on the other, regarding different segments and the effects of criminal proceedings for criminal offenses, one of the consequences of which is endangering the safety of journalists, can represent a valuable starting point for potentially revising positions and adopting a different approach when conducting procedures and making decisions.

What are the results?

In the analyzed period, and in accordance with the data of basic and misdemeanor courts, data was collected on 55 court proceedings for endangering the safety of journalists or other media workers. Of that number, 35 cases were (or are still being) conducted before basic courts, while 20 of them were or are still being conducted before misdemeanor courts.

When it comes to misdemeanor courts, in the last ten years, according to the data provided to the research team, 20 cases were initiated due to threats to the safety of journalists and other media workers¹⁴. Of that number, 6 are active, while 12 cases have been legally terminated, and there is no data for 2 cases. Most of the cases were in the Court for Misdemeanors in Podgorica (14), five cases were initiated in Budva and one in Bijelo Polje.

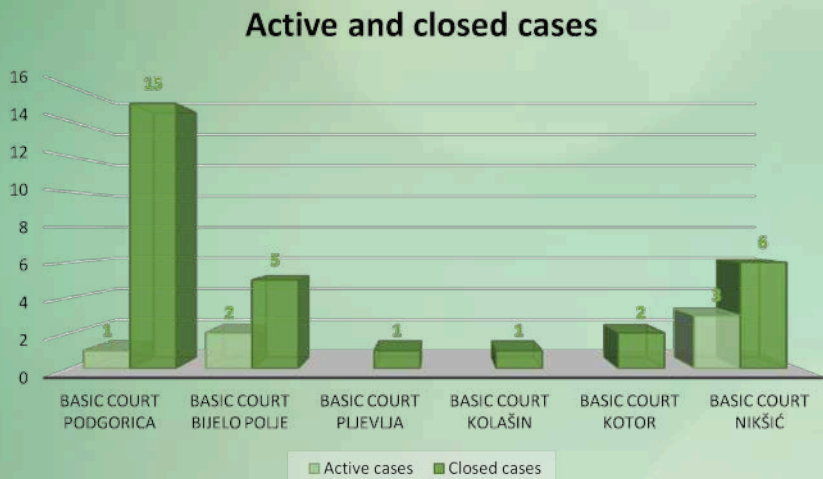
Number of cases



■ Basic courts ■ Courts of Misdemeanors

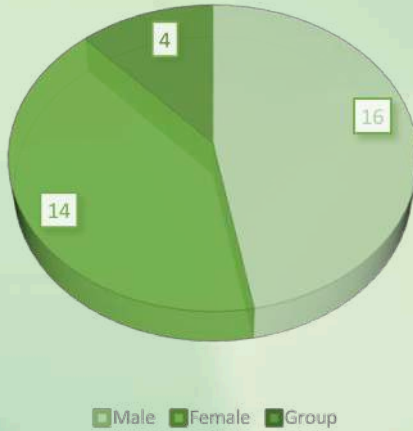
¹⁴ Courts for misdemeanors in Montenegro are not part of the judicial information system, so the data submitted by the courts are the only information about the cases that were recorded.

Out of a total of 35 cases that were conducted in the basic courts, 29 of them were finally concluded, while six proceedings are still ongoing. In the analyzed period, cases were conducted in six basic courts, namely in Podgorica (15), Bijelo Polje (5), Pljevlja (1), Kolasin (1), Kotor (2) and Niksic (7). When it comes to active cases, there are three in Niksic, two in Bijelo Polje, and one is also active in Podgorica. Of the six active cases, only one dates from 2021, while the others were initiated in 2022.



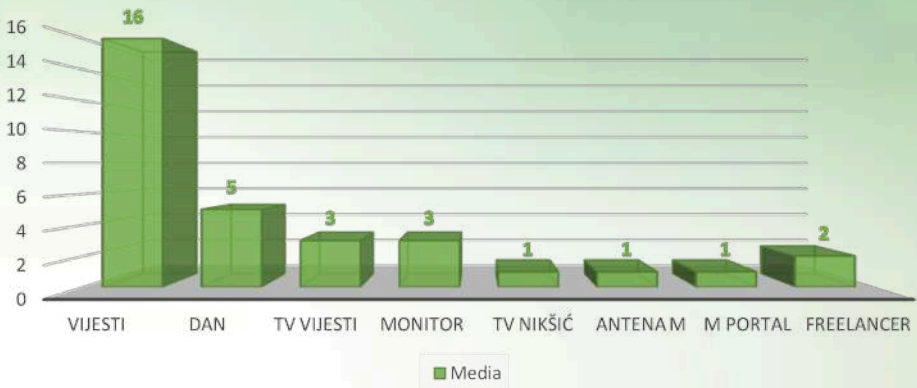
When it comes to injured parties, the majority of proceedings are conducted due to endangering the safety of male persons (23). As many as 20 cases were initiated due to threats to the safety of women in the media, and in five cases, groups or more representatives of the media were harmed. No data is available for 7 cases. The situation is similar when it comes to proceedings before basic courts. Women were harmed in 14 cases, men in 16 cases, and a group of media workers in 4 cases.

Sex of the injured party



The collected data show that in most cases of endangering the safety of journalists that were brought before the basic courts, it was about people who worked at the Vijesti newspaper (16). Five cases of endangering the safety of Dan employees were also registered, and in three cases the victims were persons who worked for RTCG, TV Vijesti and Monitor.

Media



In the largest number of cases that were conducted before the basic courts in Montenegro, convictions were handed down (23), while acquittals were handed down in six cases. The remaining six cases are still active.

When it comes to convictions, a suspended sentence was not rendered in 22 cases. Seven convictions for endangering the safety of journalists and/or other media workers provided for a conditional sentence for the perpetrator.

The analysis showed that the punishments for the perpetrators of acts that threaten the safety of journalists and other media workers most often referred to prison sentences, in as many as 20 cases. Prison sentences ranged from 30 days to 15 months, but the average prison sentence was 5 months. In one case, the perpetrator of the crime was fined 800 euros, in one case he was sentenced to work in the public interest for 100 hours, in one case he was sentenced to 4 months in prison followed by a fine, while no data is available for one case.

The average duration of court proceedings is 9 months, but there were examples of cases being resolved in a record time (1.5 months). However, even in five cases, the trial lasted more than a year, and the longest proceedings lasted a record 35 months. All the cases that were conducted for more than one year were initiated in the Basic Court in Podgorica, and in all of them, the injured parties worked for the same media - the independent daily Vijesti.

Only in one case did the second-instance authority revise the decision of the Basic Court in Podgorica and in the specific case increased the prison sentence from five to nine months.

Out of a total of 29 completed cases, as many as 18 refer to the criminal offense of endangering security, three to violent behavior, two to coercion, grievous bodily harm and causing general danger, and one to false reporting and illegal possession of weapons.

During 2022, a total of seven criminal proceedings were conducted in basic courts in Montenegro, the qualified forms of which have been in force since

2022. Of that number, five cases are still active, namely three in Niksic and one in each Bijelo Polje and Podgorica, while two ended with convictions against the attackers. In one case, the attacker was sentenced to three months in prison for the criminal offense of coercion, where the court did not refer to the qualified form, while in the other case, the attacker was sentenced to four months in prison for the criminal offense of endangering security. In this case, the court pointed out in its judgment that it was a crime committed to the detriment of persons performing work of public importance, which means that it is the first conviction under the provisions of the amended Criminal Code in the part that refers to journalists and media workers.

DOCUMENTARY ANALYSIS OF BASIC COURT RECORDS IN PODGORICA

As already explained, depending on the subject of research and the conclusions we intend to draw, the sample of subjects selected for analysis can be divided into two groups.

The focus of the analysis of the first group of cases is the analysis of the duration of criminal proceedings, and the procedural “correctness” of their conduct, in the sense of whether the criteria of a fair trial were met within a reasonable time, in the context of the provisions of Art. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Therefore, cases in which the procedure lasted a little longer, as well as two cases with an average duration of the procedure, were selected for analysis.

- **K.br. 677/17 i K. br. 339/21**

In the mentioned cases, the duration of the proceedings, counting from the moment of the event in which the essential elements of the criminal offense are acquired until the judgment declaring the defendant guilty becomes legally binding, was 15 and 9 months, respectively. From a purely temporal aspect, bearing in mind the principles and valid norms of the CPC, it can be evaluated as optimal. At the same time, the focus of the analysis was on

the duration of the court phase of the procedure, which in both cases, from the moment of the submission of indictments to the pronouncement of the first-instance verdict, did not exceed 6 months. Based on the inspection of the files, it is established that the deadlines for scheduling and resuming the postponed main trial have been respected. Otherwise, the main hearings were postponed either due to supplementing the evidentiary procedure, the need to hear witnesses at the request of the defense, etc., all of which is in accordance with the relevant provisions of the Code of Criminal Procedure.

When it comes to the case K. no. 339/21, as many as 3 main trials were postponed, due to the suspension of the provision of legal assistance by lawyers throughout the territory of Montenegro, which are certainly circumstances that the court had no influence on, nor a mechanism for overcoming such a situation. In both procedures, the rights of the defense, as well as the rights of the injured party, regulated by the provisions of the CPC, were complied with. In principle, it can be assessed that the trials met the standards of procedural fairness, within a reasonable time, in the context of the provisions of Art. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

- **K. br. 386/11**

In this case, a slightly longer duration of the procedure itself was observed. It is indicative that almost two years passed from the moment of the event to the filing of the indictment in this case. In this regard, it can be assessed that the process of gathering evidence and making a decision by the competent prosecutor's office could have been somewhat faster and more efficient. The situation was complicated by the fact that the indictment included both the "attacker" and the journalist, each on suspicion of having committed a criminal offense, with the fact that the journalist was ultimately acquitted of the charge, while the other person was declared guilty of the criminal offense done to the detriment of journalists.

As for the court proceedings themselves, from the entry of the indictment into legal force until the first-instance verdict, about 13 months passed, while the second-instance proceedings, according to the appeals of the defense attorneys, lasted an additional 7 months. Upon inspection of the files, it was established that the deadlines for scheduling and resuming the postponed main hearings were complied with, the parties in the proceedings were enabled to use the rights prescribed by the CPC, and therefore the certain breaking of the instruction deadline from Art. 411 para. 2 of the CPC of the High Court for deciding on an appeal in principle could not affect the assessment of compliance with the standards of a fair trial. Whether the procedure was completed “within a reasonable period of time” could be the subject of special analysis, especially with regard to the efficiency and speed of the procedure that took place before the Podgorica Administrative Court. The duration of the procedure itself, from the critical event to finality, of 3 years and 6 months could be indicative in that sense, while certainly taking into account all the circumstances that, justified or not, led to the delay.

The second group of cases was selected with the aim of analyzing the penal policy, that is, concretely, mitigating and aggravating circumstances in individual cases, in order to draw conclusions about how their assessment determines the courts for choosing a specific criminal sanction, i.e. for determining the punishment, when it is decided to such sanction.

What can be concluded based on the analysis of the statistical data of the Basic Court in Podgorica, is that in all cases of conviction for criminal acts that endanger the safety of journalists, the court decided on a prison sentence, which ranged from 3 up to 10 months. If we take into account the fact that these are mostly criminal offenses punishable by imprisonment for up to 5 years, and the current judicial practice with regard to other criminal offenses of the same gravity, we get the impression that the courts nevertheless tried to show a certain kind of “sensitivity” both through the very choice of criminal sanction and the duration of the penalty. Of course, with the reserve that an analysis of each specific case was not carried out, in terms of mitigating and aggravating circumstances on the part of the defendants. However, statistical data show that in cases of criminal offenses

for which a prison sentence of up to 5 years is proscribed, we have a high percentage of imposed alternative sanctions (warning measures, work in the public interest), especially in cases where the perpetrator has not been convicted before. Although the choice of criminal sanction and its amount depend on different circumstances, specific to each specific case, the fact that the Basic Court in Podgorica imposed prison sentences in all sentencing decisions, nevertheless sends a certain message to the potential perpetrators of these criminal acts, which represents a good basis for achieving general and special prevention, as the purpose of punishment from Article 32 of the Criminal Code of Montenegro, within the general purpose of prescribing and imposing criminal sanctions from Article 4 of the Criminal Code of Montenegro. In any case, we should continue pointing out the importance of recognizing and adequately sanctioning the perpetrators of criminal acts that endanger the safety of journalists, and there is certainly room for further progress in the sphere of criminal policy.

As stated, a documentary analysis of the verdicts was also carried out in the part of the explanation on mitigating and aggravating circumstances that determined the courts to choose the criminal sanction and the amount of the sentence that was imposed. For the sample, the cases in which the highest and the lowest punishment were imposed, among the cases that make up the sample frame, were selected.

- **Case K. br. 186/2018**

In the aforementioned case, the perpetrator was found guilty of committing the criminal offense of jeopardizing security from Article 168 paragraph 1 of the Criminal Code of Montenegro and was sentenced to 3 (three) months in prison.

For the criminal offense in question, at the time of its execution, a fine or a prison sentence of up to one year was proscribed.

As it follows from the explanation of the final first-instance verdict, the court found one mitigating and one aggravating circumstance on the side of the defendant. As a mitigating circumstance, the court took into

consideration the defendant's family circumstances, that is, the fact that he is the father of a child. The aggravating circumstance was the previous conviction of the defendant, who was previously convicted 7 times, among other things, for similar crimes, which makes him a special prolific offender. Of course, without the desire and intention to comment on legally binding court decisions, on a general level, one gets the impression that in this kind of relationship of mitigating and aggravating circumstances, of course taking into account the circumstances of the specific case, the court could decide to impose a sentence that would be closer to the upper limit of the punishment.

- **Case K. br. 339/21**

The aforementioned case has a similar factual basis as the previous one, where the perpetrator was declared guilty of the same criminal offense - endangering security under Article 168 paragraph 1 of the Criminal Code of Montenegro. In this case, however, a prison sentence of 10 months was imposed. Also, according to Article 67 paragraph 1 point 10 and Article 77a of the Criminal Code of Montenegro, the defendant was also given a security measure - a ban on approaching the injured party at a distance of less than 100 meters, for a period of 1 (one) year, upon the finality of the verdict.

For the criminal offense in question, at the time of its execution, a fine or a prison sentence of up to one year was proscribed.

As it follows from the explanation of the final first-instance verdict, the court found one aggravating circumstance on the side of the defendant, while there were no mitigating circumstances. As an aggravating circumstance, the court took into consideration the previous multiple convictions of the defendant, who has previously been convicted 8 times, among other things, for similar crimes, which makes him a prolific offender. As we can see, the circumstances of the specific case, as well as the aggravating circumstance in the form of the defendant's previous multiple convictions, led the court to impose a sentence closer to the upper limit of the prescribed range, which we consider a more adequate response compared to the previously analyzed case.

We are pointing out that these are verdicts, which represent two extremes in terms of the imposed sentence, i.e. the highest and the lowest imposed sentence in the cases that make up the sample frame. A methodologically favorable circumstance is the high degree of comparability of these two cases, given the fact that the same criminal acts are involved, and a very similar ratio of mitigating and aggravating circumstances.

Also, it is interesting to point out that endangering security from Article 168 of the Criminal Code of Montenegro is one of the criminal offenses covered by the amendments to the Criminal Code from the end of 2021, i.e. this criminal offense received a qualified (serious) form, and the qualifying circumstance is the circumstance that the offense was committed against a person who performs duties from of public importance in connection with the performance of those jobs. As the provision of Article 142 paragraph 32 of the Criminal Code of Montenegro stipulated that work of public importance is considered to be the performance of a profession or duty that is associated with an increased risk for the safety of the person performing it, among other things, in the field of public information, this means that now, for the criminal offense of endangering safety, if it is determined that is has been done against the journalist, in connection with the performance of journalistic work, a much stricter punishment (prison from 6 months to 5 years) is proscribed, compared to the previous one (fine or imprisonment of up to one year), so this will inevitably affect to the penal policy of the courts in such cases.

Conclusions and recommendations ---

Based on an exhaustive analysis of the legislative basis and court proceedings and judgments in cases of endangering the safety of journalists, the research team reached the following conclusions and recommendations:

- In order to more effectively protect the safety of journalists and other media workers, it would be important to form a special team in the Ministry of Internal Affairs and prosecutor's offices - the so-called contact points, i.e. the designation of persons in the police and prosecutor's offices, who would be in charge of coordinating actions in cases of criminal offenses to the detriment of journalists, and the establishment

of a hotline and a platform on the Internet for emergencies that would be available 24 hours a day, so that journalists and other media workers, in case of need, would have immediate access to protective measures.

- It is necessary to develop support services for journalists and media workers who are victims of attacks and threats, which would include the possibility of free legal assistance and representation by a qualified attorney, as well as psychological and medical support, in case of need.
- It is necessary to establish new and strengthen existing mechanisms for collecting and monitoring information, such as databases, in order to enable the collection, analysis and reporting of specific quantitative and qualitative, classified data on attacks on journalists and media workers.
- It is necessary to continuously conduct training for all actors involved in action and decision-making (*police officers, prosecutors, judges, etc.*), and in connection with the protection of freedom of expression and journalists, special aspects of investigations of attacks on journalists and other important issues, especially in the light of investigations of old cases of attacks on journalists.
- It is necessary to further sensitize judges and work on unifying court practice in cases of violence against journalists and other media workers, effective application of qualified forms of criminal acts, as well as consider the need to create guidelines for handling cases of attacks on journalists.

