CASE STUDY

"Academic Walk of Pride

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This publication was created within the project "Freedom of assembly of LGBTIQ persons on the local level", which is supported through the Small Grants Program of the project "Voice Your Rights! - Expanding Space for Free Assemblies" implemented by the Institute Alternative in partnership with Human Rights Action and supported by European Union through the Instrument for Democracy and Human Rights (EIDHR). The content of this study is the sole responsibility of the author and in no way reflects the views of the European Union or Institute Alternative.

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Case Study

“Academic Walk of Pride”

NGO “LGBT Forum Progress” and NGO “Hyperion”, both from Podgorica, on July 6, 2015, according to the Law on Public Assembly, submitted a registration form for public assembly to the Police Directorate Nikšić for September 18, 2015 with the start at 12 p.m., on which occasion a protest pride parade under the name “Academic walk of pride” would take place. The application form included the place of the assembly, time, occasion, itinerary, as well as a request for providing safety for participants, with a note that they were open for a change of the itinerary, time and final location of the Parade itself due to security reasons.

The Police Directorate Nikšić acting on the said registration form issued a decision 68-1, no. 224/15-9022 of September 14, 2015 which temporary banned the peaceful public assembly of NGO “LGBT Forum Progress” and NGO “Hyperion” for September 18, 2015 due to the fact that the event, given the time and place of the assembly, could seriously jeopardize the movement and work of a large number of citizens, because there was a real threat that the said peaceful assembly could jeopardize the safety of people and property, thus disturb public peace and order on a larger scale. The reasoning of the decision further notes that the said peaceful public assembly could mean a higher risk having in mind the itinerary, slogan of the Parade and information they possess about a potential danger from soccer fan groups and other groups, referring to the provisions of Articles 4, 9a and 9b of the Law on Public Assembly (“Official Gazette of Montenegro”, no. 031/05 of May 18, 2005, no. 073/10 of December 10, 2010, no. 040/11 of August 8, 2011, etc.)

Following the first-instance decision of the Police Directorate Nikšić 68-1, no. 224/15-9022 of September 14, 2015, NGO “LGBT Forum Progress” and NGO “Hyperion” submitted an appeal against the aforementioned, stating that it was based on the wrongful application of Substantive Law and contrary to the Constitution of Montenegro, international standards of human rights and Law on Public Assembly, which guarantee freedom of peaceful public assembly, pointing out to the fact that the first-instance body while issuing a decision incompletely quotes Article 11 of the European Convention on Human

Rights omitting that freedom of assembly can be limited only “when it is necessary in a democratic society”, and that was to be proved before limiting freedom of assembly. In addition to that, they pointed out to the fact that the European Court of Human Rights in the judgment Alekseyev v. Russia in 2010 concluded that freedom of assembly, pursuant to Article 11 of the Convention, protects demonstrations which could disturb or insult persons against ideas or claims they want to promote (Article 73), and that the same decision concluded that the state is required to use prosecution to suppress those threatening with violence, instead of finding a solution in banning a peaceful assembly of those not threatening with violence (Alekseyev v. Russia, Article 76). They pointed out that the assembly had been reported to the Police Directorate as early as July 6, 2015, which means two and a half months prior to the registered assembly, which should have given the police enough time to prepare to neutralize possible danger, as well as that the police did not take into consideration a change of the proposed itinerary, which the applicants stated in the registration form as a possibility unless it was necessary for security reasons. From the aforementioned, they suggested that the second-instance body annul the decision under appeal of the Police Directorate Nikšić of September 14, 2015, and order the first-instance body, with the aim of protecting the Constitutional Order of Montenegro, to provide that the registered public peaceful assembly in Nikšić take place in cooperation with the appellants.

Deciding upon the aforementioned appeal, the Ministry of Internal Affairs, Directorate for Security Protection Affairs, Podgorica, as the second-instance body, issued a decision UP II 222/15-436 which rejected the appeal of NGO “LGBT Forum Progress” and NGO “Hyperion” filed against the Police Directorate Nikšić 68-01 no. 224/15-9022 of September 14, 2015, as unfounded. The aforementioned was decided with regards to their view that the second-instance body accurately and completely had determined all facts, especially taking into account the said locations, time, motive as well as the number of the participants of the assembly, therefore, properly concluded that the Parade could have jeopardized the movement and work of a large number of citizens, rights and freedom of other persons, safety of

people and property and caused disturbance of public order and peace on a larger scale. According to the finding of the second-instance body, the first-instance body acted pursuant to the provision of Article 52 paragraph 2 of the Constitution of Montenegro and Article 11 of the European Convention on Protection of Human Rights and Freedoms when it temporary banned the said assembly with the aim of protecting equal rights of other people, public order and safety and health of people.

Unsatisfied with such an outcome of the administrative proceedings, NGO “LGBT Forum Progress” and NGO “Hyperion” on September 23, 2015, through a proxy, lawyer Dalibor Tomović from Podgorica, filed a lawsuit to the Administrative Court of Montenegro in order to annul the decision of the Ministry of Internal Affairs no. UP II - 222/15-436 of October 7, 2015. In the lawsuit and at the hearing they pointed out that they contest the legality of the said decision due to the wrongful application of Substantive Law and wrongfully and incompletely established factual state, having in mind that the contested decision was contrary to the Constitution of Montenegro, international agreements on human rights and Law on Public Assembly, and that it does not contain reasons which refer to that fact that there is a threat of violence and other forms of disturbing public order and peace on a larger scale. According to the practice of the European Court of Human Rights, Alekseyev v. Russia, the state is required to use prosecution in order to suppress those threatening with violence instead of finding a solution in banning a peaceful assembly of those not threatening with violence, which makes the decision illegal in terms of Article 9a paragraph 2 item 1 of the Law on Public Assembly. In addition to that, they pointed out that the Ministry of Internal Affairs had enough time to prepare the assembly to be held in a safe manner, so on the same day an assembly of the Yugoslav Communist Party of Montenegro was allowed, even though their members threatened the LGBT community. They also suggested that the Court adopt the lawsuit and annul the contested decision, as well as, pursuant to the provisions of Articles 35 and 37 of the Law on Administrative Proceedings, order the Ministry of Internal Affairs of

Montenegro to issue a decision which would adopt the appeal of the appellants and allow the public assembly in Nikšić.

Acting upon the submitted lawsuit, the Administrative Court of Montenegro on May 18, 2016, by a decision U.no. 2646/2015, rejected the lawsuit, thus establishing that no violation of the rules of the proceedings had occurred, of which the Court takes care ex-officio, that administrative bodies had properly established the factual state and that it was not called into question by the allegations of the lawsuit, and that the decisive facts contained all clear and specified reasons, which corresponded to the factual defining established by authorities by carefully assessing all the facts determined in the proceedings. Based on the inspection of case files, the Court found that the public body had properly determined that the said assembly under the name "An academic walk of pride", announced on July 6, 2015, for September 18, 2015, could have seriously jeopardized the movement and work of a large number of citizens, rights and freedom of other persons, safety of people and property, as well as could have caused disturbance of public peace and order on a larger scale, given the content of the safety assessment. Having in mind the aforementioned, the Administrative Court, as the only possible, logical, legal and factual conclusion, finds that the legal conditions for the registered public peaceful assembly were not met, and with such established factual state, the public body properly applied Substantive Law when issuing a decision to temporary ban the public peaceful assembly of the group members NGO "LGBT Forum Progress" Podgorica under the name "An academic walk of pride", and the second-instance body - the Ministry of Internal Affairs properly rejected the appeal to the said decision. The Court finds the allegations from the lawsuit of NGO "LGBT Forum Progress" and NGO "Hyperion" unfounded stating that they are without factual and legal basis and that the public body does not deprive them with the Constitution and lawfully guaranteed rights to freedom of peaceful assembly, but it temporary limits them, thus, contributing to the full exercise of their right - freedom of peaceful assembly in secure conditions both for the participants and other people as well. The Court did not assess other allegations from the lawsuit, finding that they had no impact on making a different decision.

Following the proceedings completed before the Administrative Court of Montenegro and its unfavourable outcome, NGO “LGBT Forum Progress” and NGO “Hyperion” through a proxy, submitted a petition for extraordinary judicial review. With this petition they asked for extraordinary judicial review of the decision of the Administrative Court of Montenegro U.no. 2645/2015 of May 18, 2016 due to the violation of Substantive Law and rules of the procedure in the administrative proceedings which could have affected decision making. The aforementioned was decided due to the fact that neither the first-instance body nor the first-instance court provided convincing reasons which refer to the existence of a threat of violence and other forms of disturbance of public order and peace on a larger scale in terms of the provision of Article 9a paragraph 2 item 1 of the Law on Public Assembly (“Official Gazette of Montenegro”, no. 31/2005, “Official Gazette of Montenegro”, no. 40/211 - other law). Besides, the first-instance court finds that quoting the opinions of the European Court of Human Rights is without factual and legal basis although it concluded that freedom of assembly pursuant to Article 11 of the Convention protects demonstrations which could disturb or insult persons opposing ideas or claims and that it is necessary that the state take appropriate measures to enable lawful demonstrations (Alekseyev v. Russia). The Court also did not particularity appreciate the fact that on the same day an assembly of the Yugoslav Communist Party was allowed, although their members threatened that if the assembly of “An academic walk of pride” was allowed, they would take the law into their hands and other threats of unidentified fan and other groups, although having in mind the opinion of the European Court of Human Rights that the state is required to use prosecution to suppress those threatening with violence, instead of finding a solution in banning a peaceful assembly those not threatening with violence (Alekseyev v. Russia). They further note that the same decision of the European Court of Human Rights concluded that the temporary delay of the assembly could only be justified if a certain great number of protesters which could not be restrained by the police was determined, and that cannot be concluded from the contested decision, thus, the police had enough time at disposal (more than two months) to organize and secure the assembly or take into account the fact that the applicants of

the peaceful assembly in the registration form highlighted that they were open for an arrangement about alternatives regarding the date and place of the assembly. Finally, they pointed out that the Administrative Court did not take into account the fact that the Council for Civilian Control of Police Work on December 28, 2015, deciding upon the complaints of NGO "LGBT Forum Progress" and NGO "Hyperion" due to the ban of the peaceful assembly in Nikšić, made a conclusion which assessed that in this case there were several attempts to limit freedom of assembly which was not necessary, as well as that the Police Directorate Nikšić did not take appropriate and reasonable measures to enable the peaceful assembly of the LGBT community, even though they had enough time to neutralize possible danger. Having in mind all the above mentioned, they suggested that the Supreme Court change the decision of the Administrative Court of Montenegro U.no. 2646/2015 of May 18, 2016, in a way in which it would adopt the lawsuit and annul the decision of the Ministry of Internal Affairs of Montenegro no. UP II-222/15-436 of October 7, 2015.

The Supreme Court of Montenegro on September 16, 2016 rendered a judgment Uvp. no. 247/16 with which it rejected the petition of NGO "LGBT Forum Progress" and NGO "Hyperion" for extraordinary judicial review of the Administrative Court of Montenegro U.br. 2646/15 of May 18, 2016 as unfounded. According to that court's assessment the Administrative Court of Montenegro properly established that every decision which limits exercising freedom of assembly must be based on an acceptable assessment of danger for the safety of participants of the assembly and for public order and peace, therefore, it properly assessed that the threat was to that extent that it required an application of drastic measures, that is, temporary ban of the assembly. They further note that the decision of the European Court of Human Rights "Christians v. racism and fascism v. the United Kingdom from 1980" concluded that the notion of necessary ban in terms of Article 11 paragraph 2 of the Convention is qualified as the one which is justified only if disturbances cannot be prevented by other, less stringent measures, and in this particular case, it could be said that the ban was necessary within the meaning of Article 11 paragraph 2 of the

Convention, having in mind that the assessment of danger was made and that it was established that the assembly could have jeopardized the safety of people and property. The Court also assessed other allegations too from the submitted petition for extraordinary judicial review but found that they had no impact on making a different decision.

Since they exhausted all legal remedies for exercising and protecting their rights, NGO “LGBT Forum Progress” and NGO “Hyperion”, through a proxy NGO Action for Human Rights and its executive director Tea Gorjanc Prelević, MA, submitted to the Constitutional Court of Montenegro an appeal to the judgment of the Supreme Court of Montenegro Uvp. no. 247/16 of September 16, 2016, whereby with the same appeal they contested the judgment of the Administrative Court of Montenegro U.no. 2646/15 of May 18, 2016. In the constitutional appeal they stated that they think that the human right to freedom of assembly and prohibition of discrimination was violated/denied, that is, right to equality before the law, and which is guaranteed with Article 52, Article 8 paragraph 1 and Article 17 of the Constitution of Montenegro, Article 11 paragraph 1 and Article 14 of the European Convention on Human Rights (Convention on Protection of Human Rights and Fundamental Freedoms), as well as Articles 21 and 26 of the International Covenant on Civil and Political Rights. In the arguments related to the violation of the right to freedom of assembly, they stated that the Police Directorate, that is, Ministry of Internal Affairs based the decision on banning the peaceful assembly in Nikšić on the necessity of protecting public safety and rights of others, while the Administrative Court of Montenegro and Supreme Court of Montenegro supported that decision finding that it was based on the law and Constitution of Montenegro, that is, Article 11 paragraph 2 of the European Convention on Human Rights. They contested the said decision, that is judgments, finding that they were based on a wrongful application of international agreements on human rights, which, truly allow limiting rights to freedom of peaceful assembly in the interest of public safety or protection of rights and freedoms of others, but only in a way which is necessary in a democratic society. The appellants of the constitutional appeal find that in the case of banning

the Academic walk of pride in Nikšić there were not enough reasons for “temporary” limiting the exercise of Constitutional right to peaceful assembly, that the reasons stated in the decisions and judgments did not sufficiently justify the stance that the ban measure was really necessary, that is, that the aim of the ban could not have been achieved by another, lenient measure. They further pointed out that the courts in their decisions did not sufficiently take account of the existing European standards in this area, that is, did not apply them in a way the European Court of Human Rights does, even though the applicants pointed out to those standards timely, and the judgments omitted answers to arguments to which they pointed out, referring to the relevant judgments of the said international court. They pointed out that the decision of the Ministry of Internal Affairs which was accepted by courts did not provide convincing reasons for justification of the opinion on a high-security risk while not giving an explanation as to why the police were not able to respond to that type of risk. In reference to the above mentioned, they said that the European Court of Human Rights criticized the police in Georgia because they failed to get ready for securing a similar event within nine days (Indentoba and others v. Georgia, 2015), highlighting that the police in Montenegro had two months, given the registration form for peaceful assembly had been submitted more than two months prior to the planned event. They pointed out that the European Court of Human Rights warned citizens that the peaceful assembly was of great importance for a democratic society and that limiting such right should not be interpreted restrictively (G v. Germany, 1989), as well as that freedom of assembly protected those peaceful demonstrations which could disturb and insult people opposing the ideas that demonstrations want to promote (Stankov and the United Macedonian Organization Ilinden v. Bulgaria, 29221/95 and 29225/95, 2001, Article 86 as well as Alekseyev v. Russia, 2010, Article 73). They further pointed out that it is necessary that the state take reasonable and appropriate measures to enable a peaceful assembly of lawful demonstrations, and it is required to use prosecution to suppress those threatening with violence, instead of finding a solution in banning a peaceful assembly of those threatening with violence (Alekseyev v. Russia, 2010, Article 73, 76). Explaining the violation of the right to prohibition of discrimination, the appellants

stated that state authorities on the same day allowed an assembly of the Yugoslav Communist Party, even though their members threatened to the appellants. They pointed out that the Supreme Court of Montenegro referred to the decision of the Commission for Human Rights “Christians against racism and fascism against the United Kingdom” from 1980, where the state was given the right to ban a peaceful assembly, whereby the same court ignored a very important aspect of the case it had referred to. Namely, in London, all assemblies of the same kind were prohibited at the time, so the Commission interpreted the notion of “general ban”, and not individual ban, such as the application in Nikšić only with regards to the assembly of the members of the association for LGBT rights, and not with regards to the assembly of the members of the Yugoslav Communist Party in Montenegro, which was not banned and was the only one held in Nikšić at the time. Finally, they suggested that the Constitutional Court sustain the appeal in whole, set aside the judgment of the Supreme Court of Montenegro Uvp. 247/16 and the judgment of the Administrative Court of Montenegro U.no. 2646/15 and refer the case back for retrial.

Acting upon the constitutional appeal of the NGOs “LGBT Forum Progress” and “Hyperion” both from Podgorica, the Constitutional Court of Montenegro at the session held on September 24, 2018 issued a decision which adopted the appeal and set aside the judgment of the Supreme Court of Montenegro Uvp.no. 247/16 of September 16, 2016 and referred the case back to the Supreme Court for retrial. The Constitutional Court concludes that in the contested judgment and preceding decisions, courts and competent authorities failed to implement an adequate assessment of all relevant facts, which were significant for assessing the justification of the measure ordered - ban of peaceful assembly. In that sense, the Constitutional Court supports the opinion of the European Court which points out that whenever a possibility of a difficult and heated exchange between opposing groups resulted in its ban, the society would face deprivation of possibility to hear different opinions on any issue which annoys a majority opinion (Stankov and the United Macedonian Organization Ilinden v. Bulgaria, no. 29221/95 and 29225/95, judgment of October

2, 2001, paragraph 107). Thus, as stated in the decision, the Constitutional Court cannot accept the claims of the Supreme Court about the margin of appreciation of the state in this case and with regards to that, the opinion of the same court that the risk was to that extent that it required such drastic measure such as ban of the said dispute. Finally, the Constitutional Court finds that the proceedings which preceded the constitutional one did not establish a fair balance between this fundamental freedom of the appellants and general (public) interest to preserve public order and peace, safety of people and property and other goods protected by the Constitution and Convention, so the ban of the registered event was not “necessary in a democratic society”, nor groups resolved to violence were allowed to effectively suppress freedom of peaceful assembly. The Constitutional Court concluded that the temporary ban of the assembly “Academic walk of pride” in Nikšić, in the circumstances of this particular case, led to the violation of the right of the appellants to freedom of peaceful assembly, that is, the contested judgment of the Supreme Court violated the right of the appellants from Article 52 and Article 11 of the Convention. Having established the violation of the said law, the Constitutional Court did not examine the allegations of the appellants about the violation of other constitutional rights referred to by the constitutional appeal.

Following such a decision of the Constitutional Court of Montenegro, the Supreme Court of Montenegro in retrial rendered a judgment Už.Uvp.no. 1/18 of December 20, 2018, which adopted the petition for judicial review and set aside the judgment of the Administrative Court of Montenegro U.no. 2646/15 of May 18, 2016 and referred the case back to that court for retrial. In the reasoning of the said judgment, they point out that the contested judgment was rendered with violation of the rules of the procedure in administrative proceedings from Article 367 paragraph 2 item 15 of the Law on Civil Proceedings, and in terms of Article 4 of the Law on Administrative Proceedings, and the judgment does not contain valid reasons for decisive facts, given reasons are unclear and the assessment of the important allegations of the lawsuit is omitted. They further note that according to the assessment of this court in administrative proceedings

a fair balance was not established between fundamental freedom of the appellants and general interest to preserve public order and peace, safety of people and property and other goods protected by the Constitution and Convention, so the appellant's right from Article 52 of the Constitution of Montenegro and Article 11 of the European Convention for Protection of Human Rights and Fundamental Freedoms was violated. From all aforementioned, the Supreme Court of Montenegro reverted the case back to the Administrative Court of Montenegro for retrial in order to remove the noted violations of the proceedings and make a proper and lawful decision.

In the retrial, the Administrative Court of Montenegro rendered a judgment U.no. 66/19 of October 25, 2019 which adopted the lawsuit of the NGOs "LGBT Forum Progress" and "Hyperion" and set aside the decision of the Ministry of Internal Affairs no. UP-II-222/15-436 of October 7, 2015. In the reasoning of the judgment, they note that, upon examining the case files, they found that the administrative body did not properly act in the present case and in a relevant way assess the importance of the fundamental freedoms of the appellants with regards to general interest to preserve public order and peace, safety of people and property and other goods protected by the Constitution and Convention. Due to the aforementioned, the contested and first-instance decision violated the right of the appellants from Article 52 of the Constitution of Montenegro and Article 11 of the European Convention for Protection of Human Rights and Fundamental Freedoms, specifically not providing convincing reasons with regards to the justification assessment of the ban of the peaceful assembly, that is, risk that the assembly would have jeopardized the general interest of preserving public order and peace, safety of people and property, and therefore, in the administrative proceedings, that is, the decision of administrative authorities there are no decisive reasons for establishing a balance between the appellants and alleged danger of threat and other forms of disturbing public order and peace on a larger scale. Therefore, the Court annulled the contested decision and reverted the decision back to the body in order to remove irregularities and make a new, lawful decision in retrial.

The Ministry of Internal Affairs, as the second-instance body, until the day of drafting this case study in November 2020, did not act upon the judgment of the Administrative Court of Montenegro U.no. 66/19 of January 25, 2019, even though, pursuant to the provision of Article 56 of the Law on Administrative Proceedings, it was required to adopt this act, that is, undertake another administrative action, without delay, and no later than 30 days from the day of delivering the judgment.

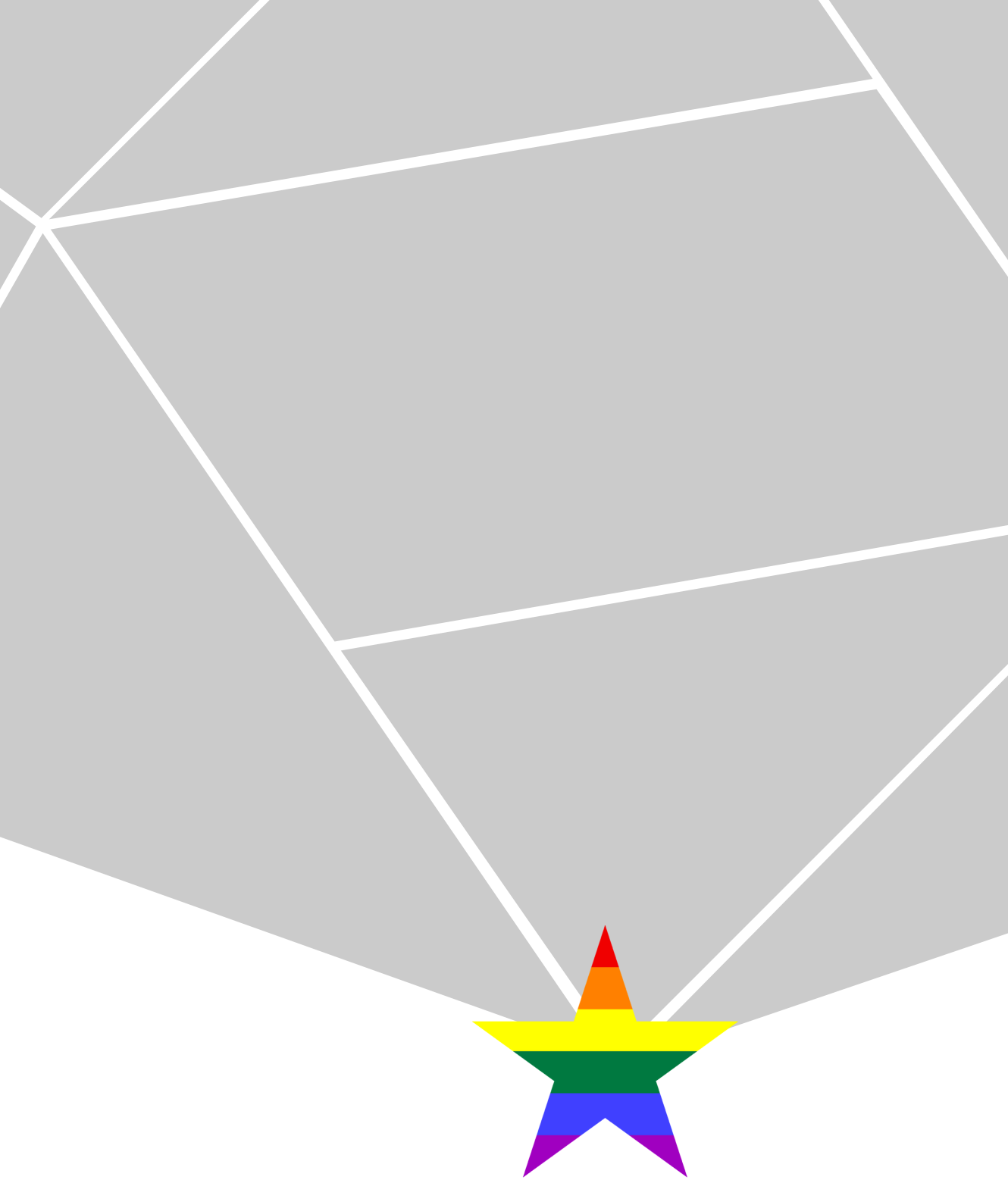
Even after almost five years, the proceeding is not finished, and the Constitutional Court has established that the first-instance body violated the right from Article 52 of the Constitution and Article 11 of the Convention, so a question is raised whether during this proceeding the right to trial within reasonable time was also violated, having in mind that this proceeding, by nature, is urgent? The first-instance body, even though the registration form was submitted to it two and a half months prior to the planned event, renders a decision four days prior to the planned event and therefore does not leave the time for the appellants to timely write an appeal, and also for the second-instance body to act upon it in order to carry out the planned event. It would be justified that the decision was based on the facts that they were indirectly established prior to the event itself but in this case, it is based, for the most part, on an inappropriate itinerary, that is, place of the event and time, that is, facts that are generally known, and in that regard, they could have issued a decision even on the day after submitting the registration form. Furthermore, the first-instance body completely ignores the fact that the appellants in the registration form stated that they were open to a change of the place and time of the event for safety reasons, so the question is asked why did not the first-instance body fulfil its positive duty to secure effective exercise of the right to freedom of assembly (*Wilson, National Union of Journalists and others v. the United Kingdom),* that is, suggest a less risky place, itinerary and time of the event?

Furthermore, a question is asked about the effectiveness of the constitutional appeal, having in mind that the Constitutional Court is not competent, in case when a constitutional appeal is founded, to

award just satisfaction to the appellant, nor was the competence for it granted to another body, within the legal system of Montenegro (such as in Serbia - special commission). According to the practice of the European Court of Human Rights, the very possibility that the legal matter, after repealing of a single legal act, be reconsidered does not meet the criteria of effectiveness (Buckley v. the United Kingdom), and even less can those criteria be met through a possibility of the appellant, through civil proceedings, upon an action for damages, according to the general rules of the Law on Obligations about liability of a legal person (state) for the damage caused by its bodies, to exercise certain just satisfaction later on because, in the practice of the Montenegrin judicial system, there is no single example about the present case where damages were obtained due to the violation of the right from Article 52 of the Constitution and Article 11 of the Convention, because it is impossible to prove, and our legislation does not recognize the institute of just satisfaction in terms in which exists in the practice of the European Court of Human Rights. An effective legal remedy is the legal remedy which produces certain effect, which in a way removes or remediates violation of the right, which means that the effectiveness of the constitutional appeal in this case is questionable because it does not remove the violation of the right, nor does it leave the possibility of just satisfaction for the appellants with a violation of the guaranteed right of this type, so the question is asked whether in this proceeding the right to effective legal remedy was violated too because the consequences of the violation of the right were not removed at all, that is, it was not acted upon the judgment of the Administrative Court of Montenegro U.no. 66/19 of January 25, 2019, even though the defendant body, Ministry of Internal Affairs, was required to do so.

In the end, a question is asked as to why does not any court in their decisions, not even the Constitutional Court in Montenegro, mention the decision of the Constitutional Court no. 045/17 of July 12, 2017 which established that the provisions of Article 9a of the Law on Public Assembly (“Official Gazette of Montenegro”, no. 31/05 and “Official Gazette of Montenegro”, no. 1/15), at the time of validity, were not in accordance with the Constitution and European Convention,

even though the first-instance body while issuing a decision refers to them, nor the decision of the Constitutional Court no. 047/14 of November 7, 2014, which established that the contested provisions of Articles 11 and 26 of the then valid Law on Public Assembly, which granted discretionary powers to the competent body (police) to ban peaceful assemblies and public events without legally defined criteria, to assess the appropriateness of place for assemblies, existence of real danger (-) etc., do not meet the standard of legality in terms of the opinions of the European Court of Human rights and that the law which allows uncertainty in terms of final effect of its provisions, cannot be considered a law based on rule of law, nor a law which established the principle of legal certainty and predictability, and so, the discretionary power itself in the first-instance decision of the first-instance body which, without legally defined criteria, bans a peaceful assembly unconstitutionally!



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