

Centar za demokratiju
i ljudska prava

Center for Democracy
and Human Rights

George Washington Boulevard 51, 3/48
81000 Podgorica, Montenegro
phone: ++382 20 234 114, fax: ++382 20 234 368
e-mail: info@cedem.me, www.cedem.me

NEWSLETTER

No 36 • April – July 2012



PUBLICATION:**THE RIGHTS TO PRIVACY IN MONTENEGRIN
LEGISLATION AND PRACTICE *****Introduction**

This text represents an initiative of the Centre for Democracy and Human Rights -CEDEM and AIRE Centre from London, aimed to influence a change of state in an area that seems important in a democratic society in terms of respect for human rights and fundamental freedoms, and therefore the rule of law, through public policies. This text primarily tends to point out the possible violations of the right to privacy in practice. In addition, it tends to initiate certain legislation amendments and to influence the implementation of law in practice as well as the interpretation of the Constitution of Montenegro and other relevant pieces of legislation, thus creating an environment for the overall respect for human rights and increasing public confidence in the rule of law in Montenegro.

The text is based on an assumption that public authorities and other institutions, when implementing laws and acting in particular cases, work in the belief that such a manner ensures respect of the laws and international treaties signed and ratified by Montenegro, and that they are acting fully in accordance with the Constitution. Starting from that assumption, the intention of the author was to challenge the attitude of those authorities before the laic and professional audience and to foster relevant institutions, which might be held responsible, in any part, for assisting in finding a non-disputable legal solution in this issue.

The need for defining the notion of privacy

In different cultures, there are different ideas about the level of the need to protect the right to

privacy as well as about the individuals that are entitled to this right and the contexts in which it is placed.

The American judge Cooley has provided a simple and modern definition of the right to privacy in the 19th century, by defining this right as “a right to be alone” and “a right to be let alone”. This definition falls within a negative formulation of this right. In 1928, judge Brandeis defined the right to privacy in his later widely quoted opinion (in the case of *Olmstead v. United States* 438, 478, 1928): “The creators of our Constitution has taken over the responsibility to provide conditions that are favorable to the pursuit of happiness (...) They gave us, as a counterweight to government, the right to be left alone – most comprehensive of all the rights and most appreciated by civilized people”. In this way, the right to privacy, which had not been specifically mentioned in the Constitution of the United States, gradually became the main structural element of the Constitution. However, even today, a battle over the application of the right to privacy is being run over again before the U.S. Supreme Court.

The following simple definition has been given in 1993 by Geoffrey Robertson, who has proposed that the right to privacy should be defined as “the right to be able to live some part of life behind a door marked ‘do not disturb’” ...

The modern concept of the right to privacy focuses on the so-called control of information by the citizen. This means that an individual or a group, based on their wishes, have the right to disclose information about themselves and control the accuracy of such data, collected both in a legally permissible and impermissible way.

* This policy paper has been produced with the assistance of Open Society Foundations, through TT Fund, and British Embassy in Podgorica. The contents of this publication are the sole responsibility of the Centre for Democracy and Human Rights and AIRE Centre and can in no way be taken to reflect the views of either Open Society Foundations or British Embassy in Podgorica.

In addition to those cases prescribed by the law, in which personal data must be given to those who collect and process them, in other cases, it depends on an individual or a group to determine what data is to be given, to whom, and in which manner. In cases where the collection of personal data is mandatory by the law, those who collect and process them must be obliged to keep and use this data solely for legally prescribed purposes and in legally defined procedure.

In modern legal theories regarding the right to privacy, the personality, i.e. the citizen as the “centre” of this right, is envisaged as an entity that is entitled to know, at any time, what is being known about him and who is holding his personal data. Furthermore, the citizen needs to have, at any time, an effective mechanism for correcting errors that may occur during the process of data collection, as well as a right to a legal protection in case of unlawful collection and processing of his personal data.

From a wide range of areas covered by the right to privacy, in this paper we are dealing only with its narrower part that concerns telecommunication and focuses on telecommunication traffic in particular. Although this is a narrow area of the right to privacy, its importance for the integrity of the personality often place it in the foreground, causing great publicity, controversy and concern around the protection of privacy, without which we can not talk about personal integrity. Due to the role of telecommunication traffic that enhanced even more during the technical development of mobile telephony and despite many benefits this technical development brought at the same time, the possibilities for violation of the right to privacy has increased. These violations, by its severity and consequences that may affect personal integrity of an individual, require an effective response of the state and society that pretends to be democratic and respectful towards human rights and freedoms.

Guarantees of the right to privacy under the Constitution of Montenegro

The Constitution of the Principality of Montenegro from 1905 represents the first Constitution in the history of this country. This Constitution

–also called Octroyed Constitution because it was bestowed to Montenegrins by their Prince Nikola Petrovic, the ruler of Montenegro– in Article 211, stipulated: “The secrecy of letters and telegraphic dispatches is inviolable, except in case of war and in case of a criminal investigation”.

The period of the Social Constitutionalism had begun with the Constitution of the Federal Republic of Yugoslavia in 1946. This Constitution, in its Article 30, proclaimed guarantees of the inviolability of the secrecy of letters and other means of communication, with an exception in cases of a criminal investigation, mobilization and war.

The Yugoslav Constitution from 1963 states in Article 53: The privacy of letters and other means of communication is inviolable. Only federal law may provide that the decision of the competent authority may depart from the principle of inviolability of the privacy of correspondence and other means of communication, if necessary for the conduct of criminal proceedings or security of the country”.

The Constitution from 1974 also guaranteed the inviolability of correspondence and other means of communication in its Article 185 and stipulated that only the decision of the competent authority may derogate the principle of inviolability of the privacy of correspondence and other means of communication if necessary for the conduct of criminal proceedings or the safety of the country.

The Constitution of the Federal Republic of Yugoslavia in 1992, the first constitution after the collapse of the socialist political system, guaranteed a right to privacy, but also the protection of personal data for the first time. Article 32:”The secrecy of letters and other means of communication is inviolable. Federal law may provide that the order of the court may depart from the principle of inviolability of the privacy of correspondence and other means of communication, if necessary for the conduct of criminal proceedings or for the defense of the Federal Republic of Yugoslavia”.

Article 33 of the same Constitution guaranteed the protection of personal data. It stipulated that the use of personal data for purposes other than those, for which it was collected, is prohibited.

In addition, this Article guaranteed everyone the right to be aware of the personal information collected concerning him, and the right to judicial protection against misuse of personal data. Federal law further regulated this area.

All Constitutions, beginning from the first era of the Principality of Montenegro, through those Federal, in countries where Montenegro was the federal unit, recognized and guaranteed the right to privacy and the inviolability of correspondence. However, there were differences in the quality of those guarantees, especially referring to public administration body that had the authority to approve the above-mentioned exceptions to this law.

Law on Personal Data Protection from 1998 defined the method of protection, but at the same time, this method was the most controversial part of the law given that it stipulated that the Federal Ministry of Justice was comprised with the supervision and protection of personal data. This provision was in direct opposition to the Directive 96/45, which prescribed that such power has to be entrusted to an independent body, not part of the executive power, which, by the nature of this phenomenon, should thus control itself. Apart from this problem relating to the content of the law, there was a practical problem reflected in the lack of statistical evidence that the law has ever been implemented in general. This certainly does not speak in favor of the fact that the citizens of Yugoslavia were satisfied with personal data protection, but rather that they were not even aware of their rights. Even if they were, it is possible that they did not believe these rights could be effectively protected under this law. End of the nineties, when this law was adopted, coincided with the introduction of mobile telephony in the former Yugoslavia. This fact is important because in practical terms, for the first time, a possibility for overlap between the constitutional right to secrecy of letters and correspondence and the right to protection of personal data, in particular, the boundary between the violations of these rights and their protection, has been created.

Protection of the right to privacy in the documents of the Council of Europe and the European Union

The protection of the right to privacy at the European level has been regulated by a solid legal framework. The right to respect for private and family life is guaranteed by the Article 8 of the European Convention on Human Rights and Fundamental Freedoms (ECHR) and Article 7 of the Charter of Fundamental Rights of the European Union. Although Montenegro has ratified the European Convention in 2004, when being a part of the State Union of Serbia and Montenegro, from that moment ECHR is the part of Montenegrin legal system, placed above the law, but below the Constitution in the legal hierarchy. In the same way, according to the Article 9 of the Constitution of Montenegro from 2007, jurisprudence of the European Court of Human Rights in Strasbourg represents a part of the Montenegrin legal system. In addition, in 2005, Montenegro has ratified the Convention for the Protection of Persons concerning the automatic processing of personal data of the Council of Europe from 1981.

Directive 95/46/EC (1995) of the European Union on the protection of personal rights related to the processing and circulation of personal data represents one of the most important documents regulating the protection of these rights within EU member countries. This Directive served as the basis for the writing of Montenegrin Law on Protection of Personal Data. On this occasion, the legislator put efforts to incorporate standards of the Directive into Montenegrin law and to bring it closer to the European legislative framework and thus the practice. Directive 2002/58/EC (2002) of the European Union deals with the right to privacy related to electronic means of communication, i.e. to retention of data (data retention). It represented the basis for the Law on Electronic Communications, even for countries such as Montenegro, which are in the process of accession to the EU, not only for EU member countries.

Finally, it should be noted that the Charter of Fundamental Rights and Freedoms also regulates this issue, in particular Article 8 of the Charter.

By signing and ratifying the above-mentioned Directive and by signing the Stabilization and Association Agreement, in accordance with the Article 81 of the Agreement, Montenegro has committed to respect and apply European standards regarding the protection of personal data even before it formally becomes a member of the European Union.

Definition of the problem

Montenegro as well as other democratic countries is facing serious security challenges such as the fight against organized crime and corruption that may go into the core of the state or the rule of law and economic development as well. Terrorism can be a real threat to the future, as it has been repeatedly seen as the problem of a modern world. Combating the worst forms of crime must be uncompromising and efficient, but at the same time, it has to guarantee respect for fundamental rights and freedoms.

At this point, we will address the problem related to one of the fundamental rights, namely the right to privacy, which may be endangered by using the resources for combating the most severe forms of crime.

In addition to constitutional guarantees and international documents, the issue of restricting the right to privacy in electronic communications is regulated by the Criminal Procedure Code (CPC). Chapter 9 of the CPC defines the extent of secret surveillance measures. In paragraph 1 of the Article 157 of this chapter, it is prescribed who can determine the technical recording of telephone conversations or other communications to be made by means of technical communication at a distance.

Technical recording can be determined only if there is reasonable suspicion that a person alone or in complicity with other, committed or is prepared to commit, criminal offenses from the Article 158 of CPC. In this case, it is said that these measures could be implemented if evidence cannot be collected in any other way or if their collection includes disproportionate risk or threat to people's lives.

Surveillance measures are well known and used in modern democratic societies and represent an efficient form of special investigative techniques. These measures are legally applicable only to a limited circle of criminal offences. The basic assumption is that the secret surveillance measures are determined, because other means of evidence, cannot achieve the goal of the fight against crime. These measures are used in the Investigative area of criminal procedure.

The strongest argument for justification of secret surveillance measures lies in the information that the execution of criminal offense from Article 158 of CPC is being prepared. It should also be reiterated that these measures are taken only if otherwise it would not be able to collect evidence or if their collection is accompanied with a disproportionate risk or threat to a human life.

Secret surveillance measures of technical recording of telephone conversations can be introduced by written order of the investigative judge, on the proposal of the state prosecutor. For the issue of protection of privacy, it is of great importance for the proposal and the order to be part of the same criminal case file. These files should include available information on the person to whom it relates, a criminal offense for which secret surveillance measures are determined, the facts from which a need to introduce these measures arises as well as their duration which has to be appropriate to objectives of the measures, their scope, method and place where they will be conducted. Along with the order for execution of these measures, investigative judge issues a special command that contains only phone number or e-mail address, and duration of the measure. The police is obliged to give this command to telephone operators, in the execution of the measure.

Operators are obliged to enable police to conduct these measures, while all the officers that are involved in decision-making and execution of the measures, are required to keep the information they found out during the process, as confidential.

Conversations that take place via fixed telephone line or via mobile phones are considered telephone calls, while the exchange of "text" message is considered a telephone communication, although this is not a conversation, as we

interpret it based on our senses.

From the above-mentioned, it can be concluded that the measures of surveillance determine how accurately performed in the recording of telephone communications, the conditions under which they may determine, and the duration and manner of destruction of the obtained data, which are related to the privacy of any person. Secret surveillance measures, as we have presented here, do not appear to have caused extensive violations of privacy, at least based on information that might have been available to the public. Unlike them, the interpretation and application of Article 257 of the CPC have triggered many questions amongst both expert and laic public.

The legal problem appears when raising the question on whether listings of phone calls and MSM messages and other data associated with telecommunication traffic as well as information from base stations are of such a character that they should be legally protected or the practice and interpretation of Article 257 of the Criminal Procedure are legally valid and in accordance with the Constitution of Montenegro, international instruments signed and ratified by Montenegro as well as the spirit of the Criminal Procedure Code, which further regulates the right to privacy in criminal proceedings.

The previous practice of obtaining listings of phone calls and text messages under Article 257 requires to be specially elaborated. This Article enables the police to take necessary steps to find the perpetrator, upon their own initiative or at the request of the State Prosecutor, to detect traces and collect information.

CPC provides that in order to fulfill their duties, the police may request from a provider of electronic communication to verify the identity of telecommunication addresses within a certain time of the connection. Exactly, these powers cause legal uncertainties on whether the police is entitled to receive listings or just to establish telecommunication address, which, by the opinion of the author of this policy paper, would refer to the owner of the phone number.

Either way, this provision of the CPC does not oblige the police to obtain court order for collect-

ing this data. But if the Article 257 is interpreted in a manner that the listings can be accessible, than in that case, according to the opinion of the author of this text, this Article is inconsistent with the Constitution, the European Convention on Human Rights and Freedoms, in particular Article 8, and case law of the court in Strasbourg.

Also, if the Article 257 is interpreted in a way that in pre-trial proceeding, police has the authority to require the submission of listings of phone calls and text messages as well as the location of a mobile phone at the time of communication, from mobile operators, in case of reasonable suspicion that a crime was committed (the one that is prosecuted *ex officio*), that really leaves the possibility for extensive violations of the right to privacy.

The first question that arises due to the inaccuracy of the prescribed procedure is what happens to data collected in this way, if a criminal proceeding against the persons whose data were collected has never been initiated. In this case, the person would have never found out that the data has been processed by third parties and therefore could not exercise the right to know, once the need to collect and process this data is no longer in place. Furthermore, it is unknown what happens to the data as well as how and in what way are they stored and destroyed, because according to the rules on protection of personal data, it is not allowed to store this data permanently.

Conclusion and recommendations

In Montenegro, the degree of political importance of the protection of privacy and personal data protection is perceived. However, the degree of legal protection of the right to privacy must be, with no doubt, much higher. By saying this, it is meant to improve the legislative framework, but even more the degree of protection in practice. Certainly, the degree of protection may not be raised without willingness on the side of responsible ones as well as without sufficient funds and cultural environment. As for the economic development, it also depends on improving the protection of privacy, because the investors who come to the developed democratic world pay special attention to this issue. There can be no

political progress, particularly the one concerning the European integrations, without the progress in the protection of the right to privacy, as it is, without doubt, one of key European Union' priorities.

The development of information technology leads to a country's progress in many areas. Imperative requirement to respect the right to privacy and to protect the same, are potentially threatened by the uncontrolled use of information technology either by the state or by any other entity. There cannot be any democratic development if the compromise with the freedom of citizens is not achieved.

In addition, the right to a fair trial cannot be respected unless the individual has sufficient guarantees and protective measures against possible abuses of state authorities, regarding the right to privacy. This statement primarily refers to judicial review of obtaining the data concerned.

Bearing in mind all the above, we outline the following recommendations, which, by the opinion of the author, may be beneficial for improving the protection of the right to privacy in elaborated segments:

- To amend the Criminal Procedure Code, in a manner which will introduce a peremptory clause that there must be a court order for acquiring data from telecommunication traffic;
- To prescribe by the CPC that all data received from phone operators concerning the telecommunication traffic, must be destroyed after completion of the procedure regulated by the CPC. We suggest that the method of destruction of this data should be the same as for destroying materials obtained from secret surveillance measures.

- To prescribe by the CPC, the obligation for police to prepare a report on collection of data from telecommunications traffic, as in the case of secret surveillance measures and to submit it to the prosecutor, while the prosecutor has the obligation to deliver the obtained material to the court;

- To prescribe by the CPC that in both cases of obtaining data, from telecommunications traffic and secret surveillance measures, investigative judge should issue a special warrant, along with the court order by which the measure is determined. This special warrant should contain only the phone number of a person whose data from telecommunications traffic are being collected and to which the secret surveillance measures are applied, as well as the e-mail address of the person concerned. Such an order should be subsequently submitted by the police to the legal entity that is engaged in providing services in telecommunications;

- The possibility of obtaining data from operators, without a court order, but only by a verbal order of investigative judge or state prosecutor, must be provided by the CPC, but under the condition that the written order must be obtained in due time;

- The contracts between the Police Directorate and the phone operator must be based upon the constitutional guarantee of the inviolability of letters and other means of communication until the CPC is amended. Until then, obtaining a court order must be obligatory;

- In case that the above-mentioned proposals are not accepted, it is necessary for the Constitutional Court to determine whether the Article 257 of the CPC is in accordance with the Constitution.



Visit us on ...

www.cedem.me



CEDEM Activities

PROJECT: Active Monitoring for Human Rights



Project Active Monitoring for Human Rights is supported by the Delegation of the European Union to Montenegro, for a period of 18 months starting from February 2011. The overall objective of the action is to improve the ability of Montenegrin civil society to influence development and implementation of human rights policies. The realisation of the project has started on 1st February 2011.

PROJECT: Justice System Monitoring Project



Justice System Monitoring Project is supported by the Delegation of the European Union to Montenegro, for a period of 18 months starting from February 2011. The overall objective of the action is to foster a more accountable, professional, effective and transparent judiciary in Montenegro which will be able to respond to the needs of the citizens.

PROJECT: PGF Montenegro



**OPEN SOCIETY
FOUNDATIONS**

In October 2011, the Center for Democracy and Human Rights - CEDEM was elected partner of the National Institute of Open Society Institute (OSI) in Budapest for the implementation of the “PGF Montenegro”. This project is implemented in partnership

with the UNO Libertask and Humanitarac, within the MTM program aimed at improving the availability and accessibility of EU funds for the benefit of Roma civil society organizations and the inclusion of Roma into Montenegrin society.

The project “PGF Montenegro” aims to strengthen the capacity of Roma NGOs and members of the RAE community to write project proposals and manage complex project cycles, with special emphasis on projects funded by the European Union. The involvement of the Roma community in all phases and activities of the project represents a crucial value of the project.

Key activities include training for project proposal writing and management of projects financed by the European Union for the representatives of Roma NGOs, local self-governments, partners in social dialogue and the business sector, the establishment of PGF service for final beneficiaries at the local level, providing counseling and technical support in the writing and implementation of projects, establishment of selection committees for quality control of projects. A special component of the project is advocacy in the field of national and local strategies aimed at encouraging participatory decision making process concerning the RAE with the overall aim to contribute to the needs and problems of this population to be adequately addressed through public policies.

Round table:

Presentation of Almanac on Security Sector Oversight in the Western Balkans

Beograd, 02nd April 2012

Within the project Strengthening the Capacity of Civil Society Organizations for Mapping and Monitoring Security Sector Reforms in the Western Balkans, CEDEM's representatives attended the round table organized on March, 27 in the City Assembly of Belgrade. The round table brought together experts in the field of security sector reform from Serbia, Kosovo, Montenegro, Croatia, Bosnia and Herzegovina, Macedonia and Albania.

On this occasion, the publication of the Almanac on Security Sector Oversight in the Western Balkans was promoted, which has emerged as one of the three-year results of research on quality control and supervision of institutions within the security sector.



Survey was conducted by seven influential research organizations in the region. The event conclusions implied that significant progress has been made in reforming the sector security in the Western Balkans region. However, certain challenges, such as the politicization and underdeveloped democratic control in practice, are still present. Almanac will soon be uploaded on the CEDEM's web site. The authors of Montenegrin study are researchers: Rajko Radevic, expert associate on this project and Emir Kalac, project manager at CEDEM.

Seminar:

European standards in the fight against corruption and organized crime

Podgorica, 04th April, 2012

Centre for Democracy and Human Rights (CEDEM) in partnership with Judicial Training Centre and AIRE Centre from London, organized a seminar on "European standards in the fight against corruption and organized crime." The seminar was held on April 3, at the Hotel Crna Gora (Podgorica) with the support of the British Embassy in Podgorica. The seminar is a part of the multi-year program CEDEM and AIRE Centre implement in order to contribute to judicial reform and establishing of the rule of law in Montenegro.



The seminar included an overview of European standards in the fight against corruption and organized crime, case law of the European Court of Human Rights, and the analysis of domestic legislation that regulates temporary and permanent seizure of the proceeds of crime as well as management of these proceeds. At the seminar, it was concluded that the current national legal framework is not yet compliant with relevant international standards, and that there are some ambiguities and inconsistencies within the legal system of Montenegro, which represent an obstacle to effective solving of problems that are present in this area. Finally, it was concluded that Montenegro has administrative capacities to effectively combat corruption and organized crime, but that these capacities need to be consolidated and further strengthened, particularly in the management of financial investigation and management of seized criminal assets.

Press conference:

Celebrating April 8 - International Roma Day

Podgorica, 05th April, 2012

Centre for Democracy and Human Rights (CEDEM) along with PGF Consortium partners – U.N.O. Libertask, Humanitarac, Pocetak i Young Roma, and in cooperation with the Ministry of Human and Minority Rights of Montenegro held a press conference on International Roma Day (April 8).

International Roma Day should again remind us of the social responsibility to provide normal living conditions and the right to equal participation in community development to all citizens of Montenegro, especially to those who are discriminated against and socially marginalized. A large number of Roma in Montenegro still has no identity documents, provided housing, social and health care. The low percentage of educated Roma, low living standard, a high percentage of unemployed and under-representation in political and public life are just some of the problems that further complicate the process of integration of these people into Montenegrin society. Note that there are still municipalities that have not adopted Local Action Plans for the integration of Roma. Further, only small number of local governments has coordinators for addressing Roma issues. Great concern was raised by the results of CEDEM research in June last year, indicating a very high percentage of discrimination and strong ethnic distance towards the Roma national community.

Decade of Roma is a great opportunity to improve the situation of the Roma community in participating countries, but it is primarily necessary to analyze the position and living conditions of the Roma population in order to objectively assess the results achieved, and funds allocated to the right purposes. Although previous year was marked by significant progress in education, housing, identification documents and information, we still cannot speak of genuine and sustainable integration of Roma into Montenegrin social life.

Bearing in mind the above problems faced by the Roma population, we invite Government of Montenegro, local governments, National Council of Roma, Roma NGOs and other organizations dealing with issues of importance to Roma, to work together toward improving the Roma position, but also to send a message to the international community that Montenegro has political will and capacity to ensure progress for the Roma community in all areas of life. We emphasize the need for encouraging Roma women, who are the most vulnerable categories of population, and which should be provided with an opportunity for education and provision of basic existence. Next year, we expect that the government shall specifically put necessary efforts to secure the sustainability of Roma civil society, primarily through promotion and support of Roma projects. Also, we hope that Roma issue shall be recognized as one of the priorities in national plans for the annual pre-accession EU funds, as adequate preparation for the presidency of Montenegro over Decade of Roma Inclusion 2005-2015, for the period from mid 2013 to mid 2014.

Project:**Montenegro's integration into Europe: Strengthening independency and impartiality of Montenegrin judiciary***Podgorica, 17th April, 2012*

Centre for Democracy and Human Rights – CEDEM has started the implementation of the project “Montenegro’s integration into Europe: Strengthening independency and impartiality of Montenegrin judiciary”. This project is funded by Pontis Foundation (Slovakia) and the Balkan Civil Society Development Network, through Slovak - Balkan Public Policy Fund.

The aim of this project is to provide an objective assessment as to what extent the Montenegrin judiciary is prepared and capable of establishing and ensuring the rule of law in terms of country’s bid for EU membership and to bring judicial practices in line with European legal standards. The project contains the following aspects: capacity development of the organization to advocate policy changes during judicial reform; documenting systemic problems/concerns within the justice and developing recommendations to support decision-making in this area. In addition, it tends to foster stronger linkages between the Government and CSOs in the accession process.

Within the framework of this project, CEDEM will prepare and disseminate public policy paper that will target two mayor aspects of an independent and impartial judiciary: the rules for the election of judges and prosecutors and the way the principle of the natural judge is being implemented; and outline recommendations for improvement of the existing state. The project will also entail a research on the current state within judiciary; identification of key spots in normative and institutional framework that may affect the legality of the proceedings as well as public outreach events and advocacy initiatives aimed at promoting the policy paper concerned.



BALKAN
CIVIL
SOCIETY
DEVELOPMENT
NETWORK

Press conference:**Training for writing project proposals funded by the EU - III module***Bečići, 23ed April, 2012*

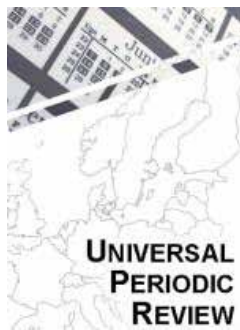
Centre for Democracy and Human Rights - CEDEM, organized the third training module on “Financial management in EU projects” for PGF associates.

The training was held in Bečići, on 20-22 of April and covered the following topics: basic elements of project management; project implementation, monitoring and evaluation; financial management in civil society organizations; fiscal policy framework; procedures of the European Union relating



to grants for CSOs; financial management and reporting in EU projects.

This training module is part of PGF Montenegro Project, implemented by CEDEM, U.N.O.Libertask and Humanitarac and supported by the Open Society Foundation, Budapest. The aim of this project is to build capacities of Roma NGOs and Roma community members to apply for IPA funds and to manage EU funded projects.

Meeting:**Participation in consultations in drafting the national report
for the Universal Periodic Review (UPR)***Podgorica, 21st June, 2012*

CEDEM, Citizens' Alliance and the Centre for Child Rights of Montenegro will participate in the consultation process in drafting the national report in the second cycle of the Universal Periodical Review of the Human Rights of the United Nations for the period 2012-2015 (UPR).

Universal Periodic Review (UPR) is the mechanism of the Human Rights Council established by the United Nations General Assembly in accordance with resolution 60/251 of 15 March 2006, during the process of institutional establishment of the Human Rights Council as the successor to the UN Commission on Human Rights. The report must contain an assessment and review of the human rights situation in Montenegro and the progress achieved in the period between the two reporting cycles (September 2008-2012) as well as implementing the recommendations of the first cycle.

Recommendations from the first cycle can be seen on the next page: [http://](http://www.uprinfo.org/IMG/pdf/Recommendations_Montenegro_2008.pdf)

www.uprinfo.org/IMG/pdf/Recommendations_Montenegro_2008.pdf

Press conference:**CEDEM published research results in the field of security sector reform***Podgorica, 26th June, 2012*

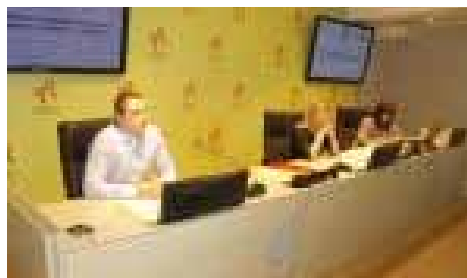
“It is necessary to continue work on the democratization of security and defense system in Montenegro and active involvement of civil society in this process” - a key message of Centre for Democracy and Human Rights (CEDEM) from a press conference entitled “Reforming the security sector in Montenegro - achievements, shortcomings and challenges”.

“The success of the security sector reform will depend on reducing the influence of politics, increasing accountability and transparency and involvement of civil society. By this we mean not only the involvement of NGOs and the media, but also of academic community, which support lacked in the initial stages of the reform. Therefore, the role of civil society will be crucial for achieving the social legitimacy of security system institutions in Montenegro.”

The conference was organized with the aim of presenting the results of research in the field of Parliamentary Oversight, Transparency and Gender Equality in the security sector. The study was conducted within the three-year long research project “Civil Society Capacity Building to Map and Monitor Security Sector Reform in the Western Balkans.” The project was implemented by CEDEM in partnership with the Center for Security, Development and Rule of Law (DCAF, Geneva), within the regional network of independent research institutions from the Western Balkans, with the support of the Ministry of Foreign Affairs of the Kingdom of Norway.

The conference was attended by Marija Vuksanovic (CEDEM), mediator, Emir Kalac (CEDEM) who spoke on the Parliamentary oversight and Transparency and Nedeljka Sindik, expert associate at the project, who presented the results of research relating to Gender Equality in the security sector.

Key findings and recommendations for improving security sector reform will be included in the publication “Reforming the security sector in Montenegro, 2009-2012,” which will be published soon.



PUBLICATION

POLICY PAPER, MARCH 2012:**The right to effective legal remedy in Montenegrin legal system and European practice**

Centre for Democracy and Human Rights (CEDEM) in cooperation with the AIRE Centre from London, prepared and published policy paper concerning the right to effective legal remedy. Publication was prepared by CEDEM's Rule of Law Department in cooperation with experts of AIRE Centre and with financial support of the British embassy in Podgorica and Open Society Foundations, through Think Tank Fund. Publication contains expert report on Montenegrin legal framework and practice, as well as an overview of the European Convention on Human Rights and Fundamental Freedoms and the relevant case law of the European Court of Human Rights.

The policy paper (available only in Montenegrin) can be found on the website www.cedem.me (The right to effective legal remedy in Montenegrin legal system and European practice).

POLICY PAPER, MARCH 2012:**The right to privacy in Montenegrin legal system and European practice**

Centre for Democracy and Human Rights (CEDEM) in cooperation with the AIRE Centre from London, prepared and published policy paper concerning the right to privacy. Publication was prepared by CEDEM's Rule of Law Department in cooperation with experts of AIRE Centre and with financial support of the British embassy in Podgorica and Open Society Foundations, through Think Tank Fund. Publication contains expert report on Montenegrin legal framework and practice, as well as an overview of the European Convention on Human Rights and Fundamental Freedoms and the relevant case law of the European Court of Human Rights.

The policy paper (available only in Montenegrin) can be found on the website www.cedem.me (The right to privacy in Montenegrin legal system and European practice).

POLICY PAPER, MARCH 2012:**The ability to act of persons with intellectual disabilities in Montenegrin legal system and international practice**

Centre for Democracy and Human Rights (CEDEM) in cooperation with the AIRE Centre from London, prepared and published policy paper concerning the ability to act of persons with intellectual. Publication was prepared by CEDEM's Rule of Law Department in cooperation with experts of AIRE Centre and with financial support of the British embassy in Podgorica and Open Society Foundations, through Think Tank Fund. Publication contains expert report on Montenegrin legal framework and practice, as well as an overview of the European Convention on Human Rights and Fundamental Freedoms and the relevant case law of the European Court of Human Rights.

The policy paper (available only in Montenegrin) can be found on the website www.cedem.me (The ability to act of persons with intellectual disabilities in Montenegrin legal system and international practice).

POLICY PAPER, MARCH 2012:**The right to public pronouncement of judgements in Montenegro and practice of European Court for Human Rights**

Centre for Democracy and Human Rights (CEDEM) in cooperation with the AIRE Centre from London, prepared and published policy paper concerning the right to public pronouncement of judgements. Publication was prepared by CEDEM's Rule of Law Department in cooperation with experts of AIRE Centre and with financial support of the British embassy in Podgorica and Open Society Foundations, through Think Tank Fund. Publication contains expert report on Montenegrin legal framework and practice, as well as an overview of the European Convention on Human Rights and Fundamental Freedoms and the relevant case law of the European Court of Human Rights.

The policy paper (available only in Montenegrin) can be found on the website www.cedem.me (The right to public pronouncement of judgements in Montenegro and practice of European Court for Human Rights).

International activities of CEDEM's representatives

MARIJA VUKSANOVIĆ, CROATIA, ZAGREB, 28TH MAY - 01ST JULY 2012

CEDEM joined Ad hoc Coalition that will monitor negotiation talks in chapters 23 and 24. As part of coalition building, representative of CEDEM, Marija Vuksanovic participated in the study visit to institutions and civil society organizations which were involved in negotiations in Croatia.

NENAD KOPRIVICA, CADENABBIA, ITALY, 27TH - 30TH MAY

Mr.Koprivica also participated in the work of the regional conference on reconciliation in the Western Balkans, that was held in Cadenavia, Italy, in organization of Konrad Adenauer Foundation.

BRČVAK I EMIR KALAČ, OPATIJA, CROATIA, 28TH-30TH MAY 2012

Researchers from CEDEM's security and defense department, Emir Kalac and Dženita Brčvak, participated at the fourth workshop in the research project "Security Transition in the Western Balkans - from conflict zone to community security ?" held in Croatia.

The objectives of this workshop were: presentation of current research results, exchange experiences with colleagues from the region, professional discussion of theoretical concepts that represent the components of research, etc. All organizations have received comments and suggestions on the "draft" versions of papers, as well as recommendations for further research. As in previous workshops, the organizers have provided teaching professionals. In this workshop, lecture was delivered by Viktor Koska, teaching associate and Ph.D. candidate at the Faculty of Political Sciences in Zagreb, who spoke on the analysis of data collected through qualitative research.

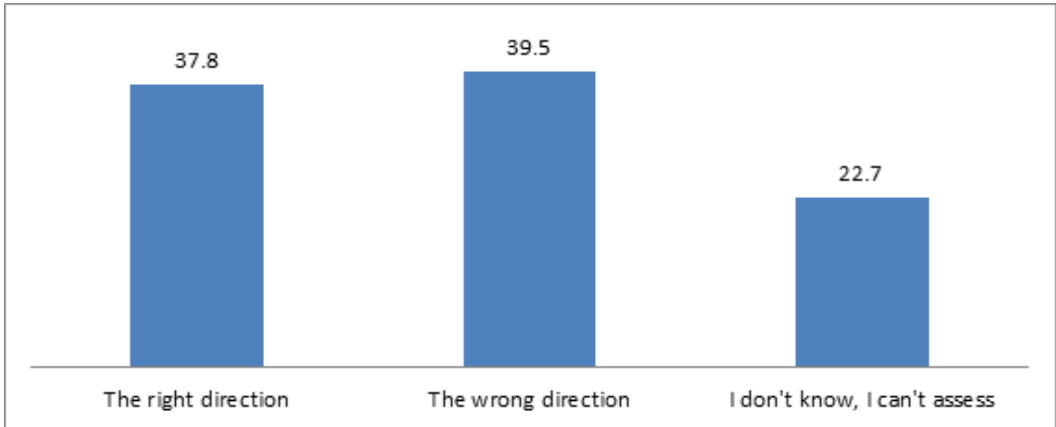
CEDEM - Empirical Research Department

PUBLIC OPINION RESEARCH (July 2012)

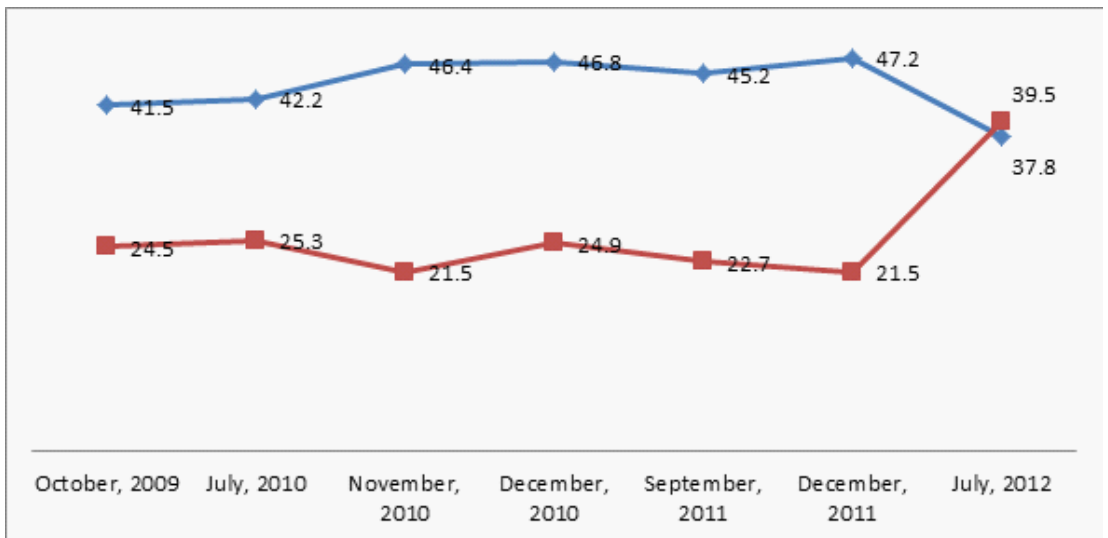
This research survey was realized in July 2012. This research survey is an integral part of regular periodical public opinion sondages conducted by CEDEM. Besides survey of standard criteria of political public opinion of Montenegro through the following indicators: citizens' confidence in institutions, the Government, political public figures, political parties, media, EU and NATO. July research survey also contains a set of questions about citizens' attitudes about

The instrument in this research survey was – a questionnaire which mostly corresponds to the previous questionnaires which CEDEM has already used for public opinion research of this kind. The research was carried out on the sample of 1042 examinees, from sixteen Montenegrin municipalities. The sample used in this research represents the result of standard sampling procedure on a two-phase stratified principle, together with random choice of examinees in final units of choice (local communities). In the final outcome the sample is representative for the whole population of Montenegro. Representativity of this sample was corrected by post-stratification pondering procedure, and data from the last Census in Montenegro were used as a principle of correction; the criteria were sex/gender, age and ethnic affiliation. Standard statistical error of estimate, with the incidence of 50 %, with 95% of confidence interval is +/- 3 %.

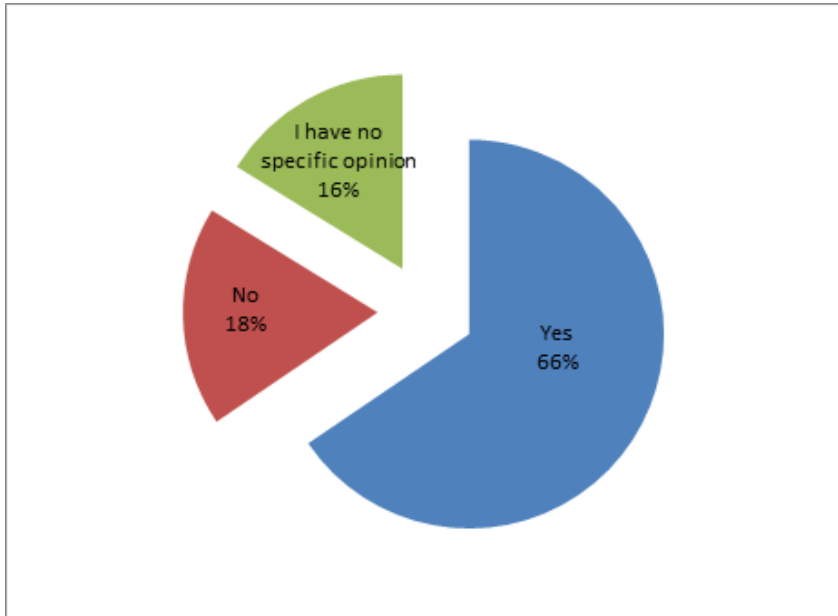
1. MONTENEGRO IS MOVING: - %



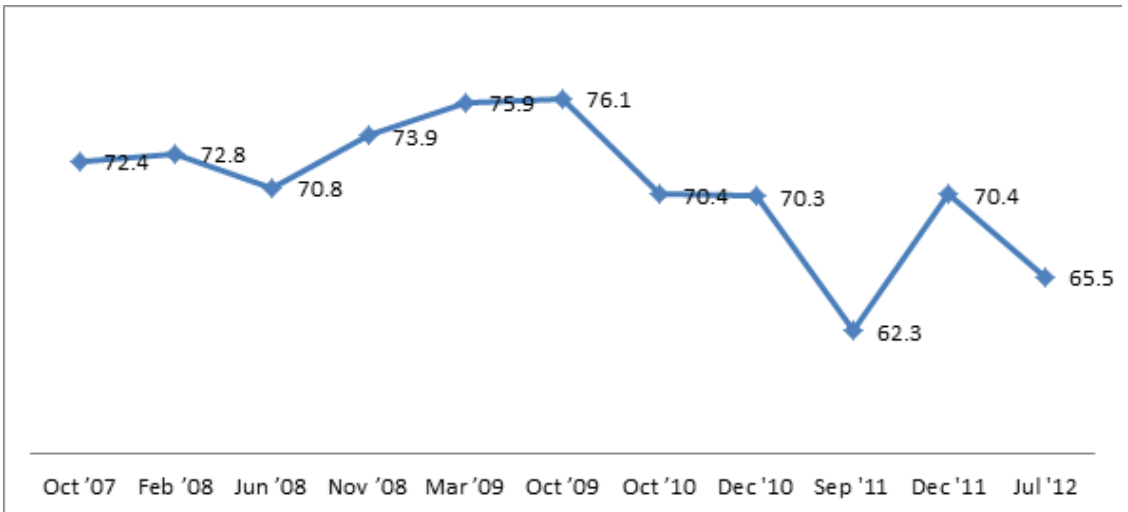
1.1 MONTENEGRO IS MOVING - TREND %



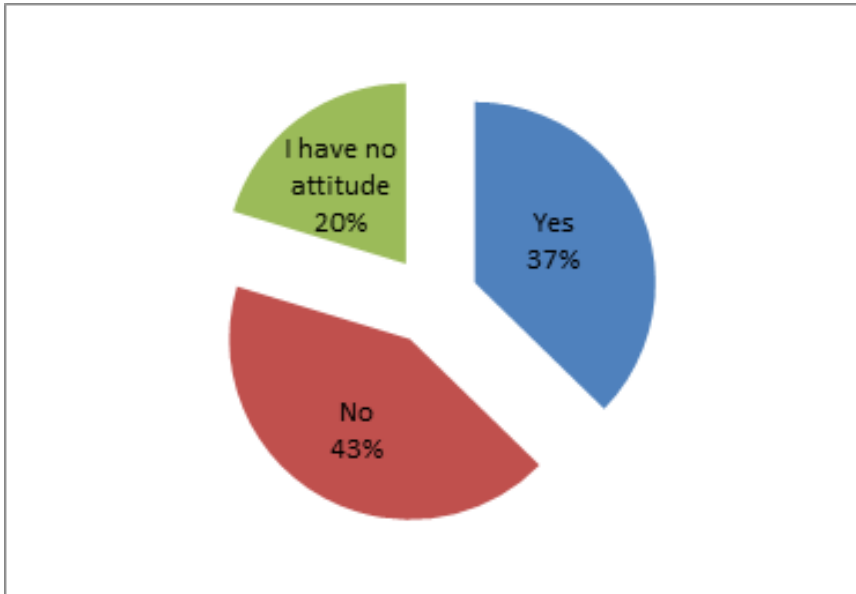
2. SUPPORT TO THE EU %



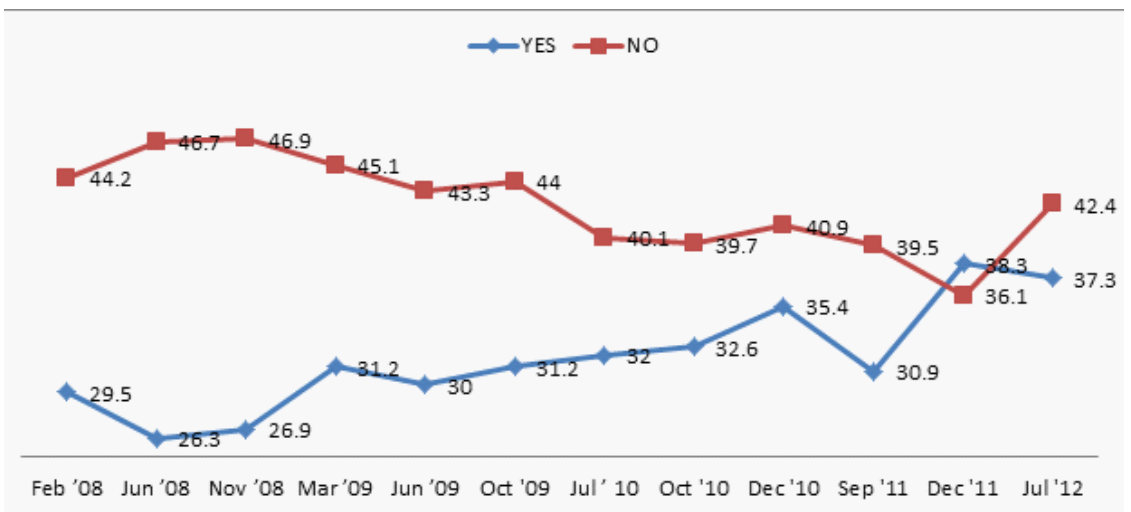
2.1. THE EU - TREND %



3. THE NATO %

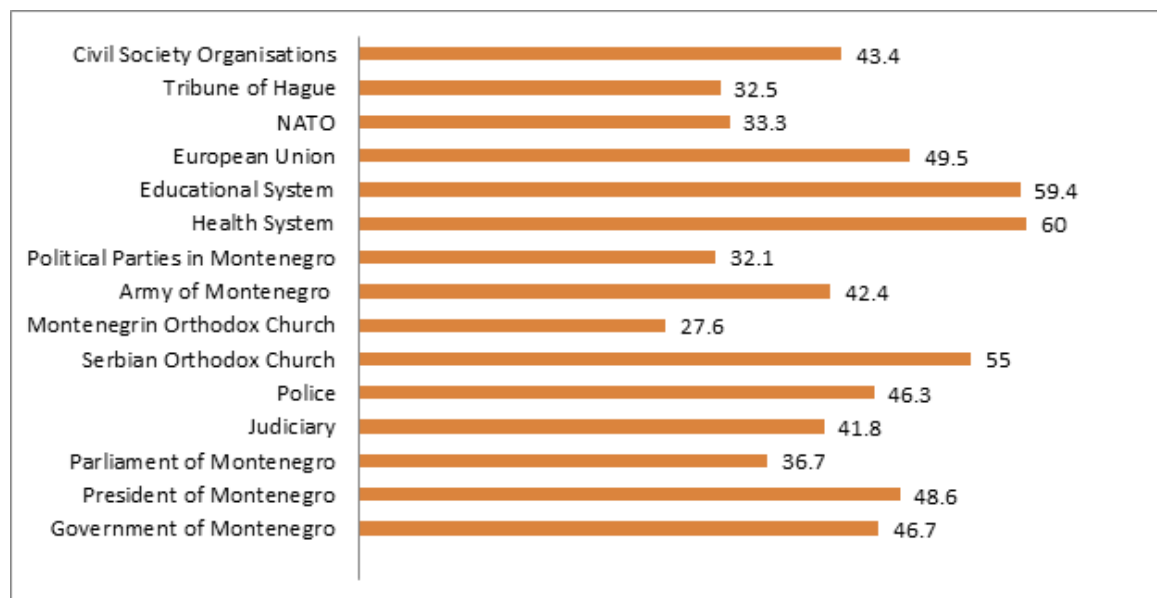


3.1. THE NATO - TREND %



4. CONFIDENCE IN INSTITUTIONS %

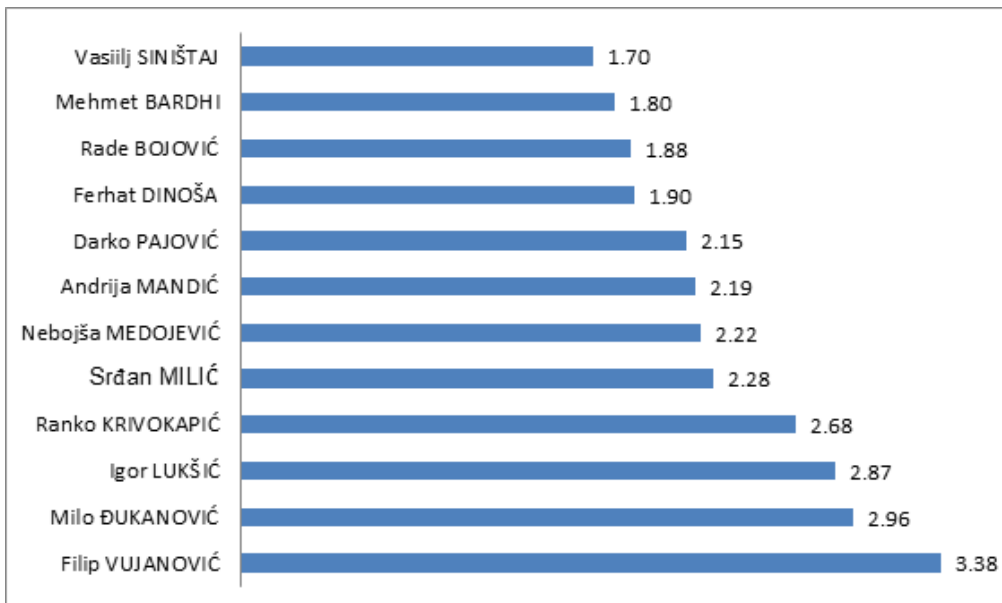
ATTITUDE	I have great confidence	I mostly have confidence	I mostly don't have confidence	I don't have confidence	I don't have an opinion
Government of Montenegro	16.3	30.4	21.1	20.6	11.6
President of Montenegro	23.6	25	20.8	20	10.5
Parliament of Montenegro	14.8	21.9	27.1	23.2	13.0
Judiciary	14.5	27.3	22.2	22.8	13.2
Police	17.1	29.2	22.4	19.2	12.1
Serbian Orthodox Church	33.6	21.4	8.9	13.6	22.5
Montenegrin Orthodox Church	12.2	15.4	12.8	32.2	27.5
Army of Montenegro	12.1	30.3	24.2	14.6	18.8
Political Parties in Montenegro	7.4	24.7	29.1	23.6	15.3
Health System	18.1	41.9	20.2	9.9	10.0
Educational System	19.6	39.8	18.6	10.9	11.1
European Union	17.3	32.2	15.2	19.4	16.0
NATO	14.7	18.6	19.7	27.5	19.4
Tribune of Hague	11.5	21.0	16.7	29.1	21.6
Civil Society Organisations	10.3	33.1	21.4	16	19.2

4.1. CONFIDENCE IN INSTITUTIONS - SUM
(GREAT AND MOSTLY GREAT) - %

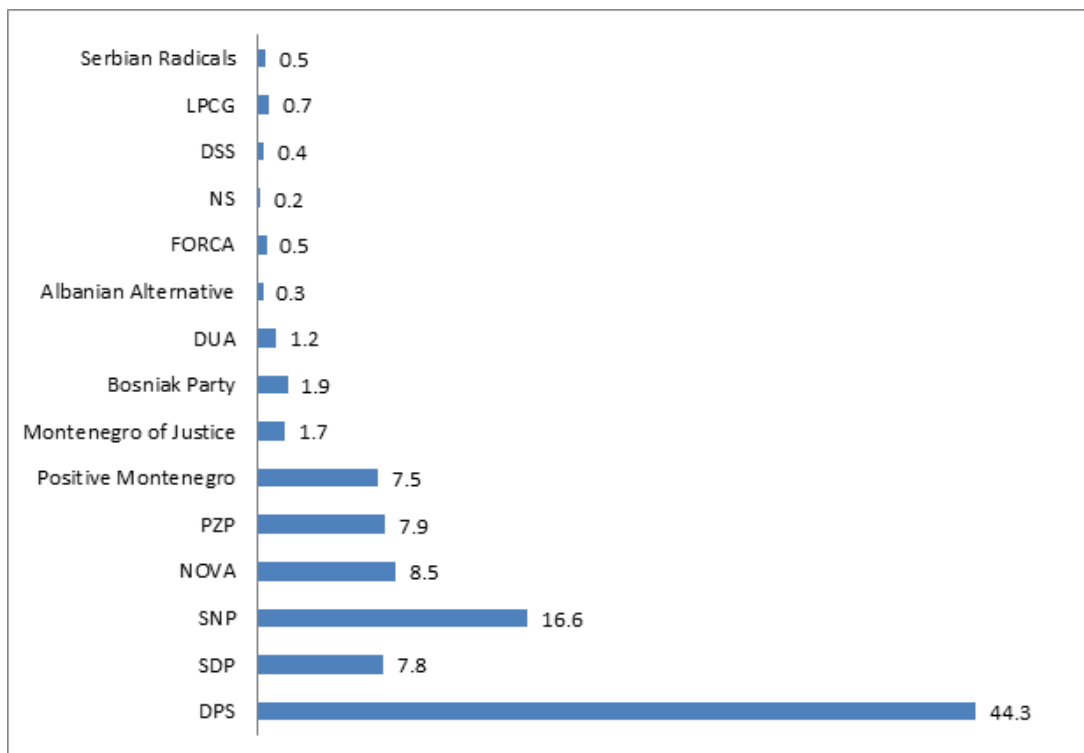
4.2. CONFIDENCE IN INSTITUTIONS - SUM
(GREAT AND MOSTLY GREAT) % - TREND

	Nov 2010	Sept 2011	Dec 2011	July 2012
Government of Montenegro	55,2	49,9	52,1	46,7
President of Montenegro	59,2	56,3	62,2	48,6
Parliament of Montenegro	48,0	44,1	43	36,7
Judiciary	45,5	47,1	44,8	41,8
Police	52,7	47,7	47,3	46,3
Serbian Orthodox Church	52,6	48,9	52,7	55,0
Montenegrin Orthodox Church	31,2	28,1	30,2	27,6
Army of Montenegro	55,4	44,9	46,8	42,4
Political Parties in Montenegro	31,3	30	33,5	32,1
Health System	64,6	57,8	64,7	60,0
Educational System	66,8	59,7	63,2	59,4
European Union	59,5	49,9	53,1	49,5
NATO	35,8	30,1	33,1	33,3
Tribune of Hague	26,8	25,8	26,2	32,5
Civil Society Organisations	50,5	50,2	46,7	43,4

5. RANKING OF POLITICIANS (1, 00 - 5, 00)



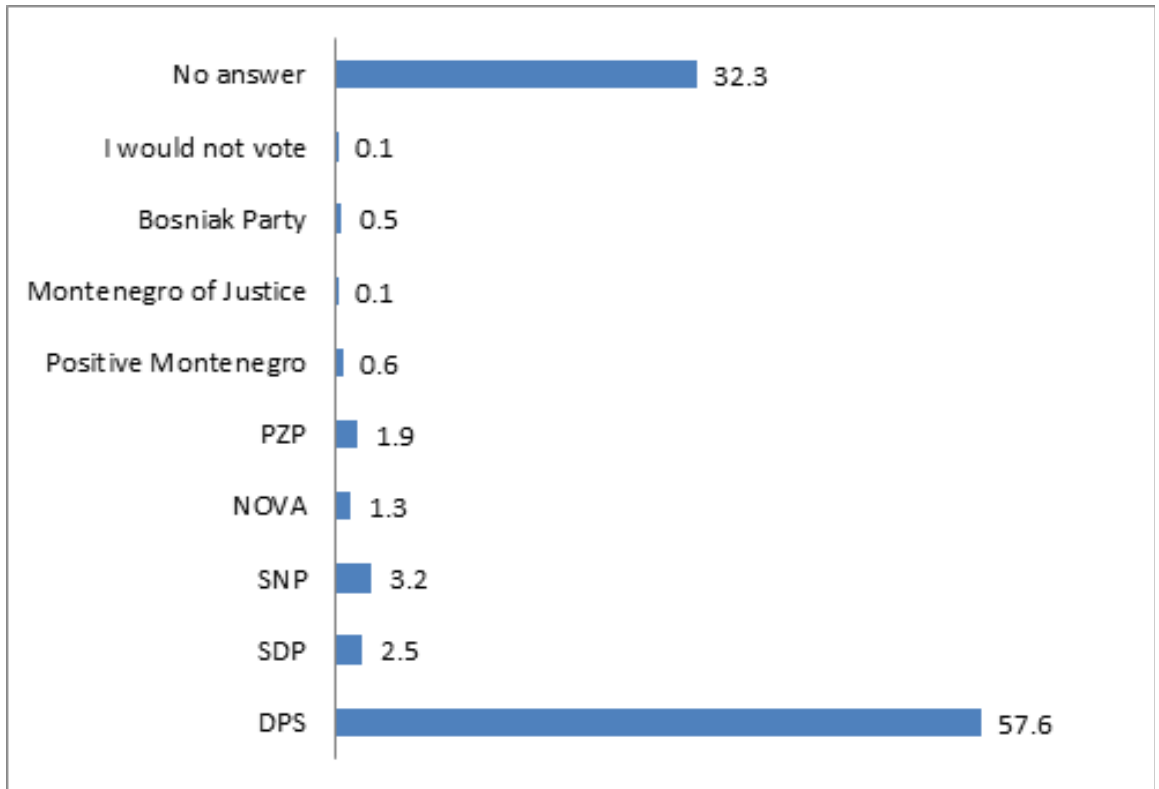
6. PARTY AFFILIATION - %



6.1. PARTY AFFILIATION - % - TREND

	Nov '08	Oct '09	July '10	Oct '10	Dec '10	Sep '11	Dec '11	July '12
DPS	48,7	48,7	44,4	48,1	47,9	46,1	45,8	44,3
SDP	4,7	4,2	8,8	8,8	8,5	7,9	8,6	7,8
SNP	9	18,7	18,6	17,8	19,7	17,9	17,2	16,6
NOVA	15	8,3	8,1	9,2	6,1	8,2	9,1	8,5
PZP	12,2	5,5	4,9	4,7	6,9	7,7	6,8	7,9
POSITIVE	-	-	-	-	-	-	-	7,5

6.2. IN YOUR OPINION, WHICH PARTY WILL WIN ON THE NEXT ELECTIONS REGARDLESS OF THE PARTY YOU GIVE VOTE TO? - %



**Completed opinion poll results
could be found on CEDEM's
website: www.cedem.me**