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i ljudska prava

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NEWSLETTER

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Index demOCRACY 2009¹

1. RULE OF THE LAW

The second area which is the object of measuring in Index is rule of the law. This area has a special position in the research. Reasons are clear since it is not possible to imagine a democratic system without the existence of positive legal norms which apply to everyone equally. Therefore, for a society to be called democratic, there mustn't be a situation where laws do not apply or where they are applied but selectively. We tried to find out what citizens' perception of the situation in this area is by using several indicators.

A process of democratic reforms of Montenegrin society, as a priority task, implies a reform of juridical system. This authority branch is very often emphasised as a priority in the sense of enforcement of overall reforms by national political actors as well as international ones. Annual reports on progress in this area by European Commission also speak in favour of this statement. These reports constantly emphasise the need for further reforms of juridical system. It should also be said that there is obvious progress in respect to juridical system in the field of establishment of a necessary normative legal frame for its functioning on democratic principles. However, inadequate application of legal regulations in practice represents the biggest problem when

we come to the issue of juridical reform. Thus, it is not enough to plan a normative frame, but it is equally important to enforce it in practice. Adoption of laws and their non selective application in practice is significant first of all because of a direct benefit which citizens of Montenegro acquire in that way, but it is also one of basic conditions for association with EU, and that is a primary foreign-relation priority of the state of Montenegro.

Another big problem in this area is creating necessary conditions for juridical autonomy. It seems that usual patterns from real socialism, in which governing structures were directly connected to holders of judicial functions, have their consequences which are still noticeable today. Finally, a juridical reform depends a lot on so-called administrative capacities of Montenegrin courts, where limits of professional and vocational abilities of employees at all levels who work in them are visible.

We also divided this area on several dimensions and within each of them we defined a number of indicators which represented final particles of the measurement. Dimensions in this area are:

- Equality in front of the law
- Availability of legal protection
- Juridical autonomy
- Efficiency and professionalism of judiciary
- Control and transparency of judiciary work

¹ DEMOCRACY INDEX represents method of measuring the level of democratic process, achieved in one society. By the language of numbers and through the analyses of specific indicators, INDEX demonstrates to what level do citizen's perceive the presence of democracy within their society. The complete report is available on the web page (www.cedem.me). The project is supported by NED.

1.1. Equality in front of the law

In a democratic state everybody has to be equal in front of the law and a situation where some of them are "more equal" than the others is not possible. This principle is quite often discussed in political communication in Montenegro. There are numerous accusations in public by the opposition and a part of NGO sector directed to the government representatives in respect to the existence of untouchable individuals from the government or those close to the government who the law does not apply to. This was a sufficient reason for us to include this dimension in our research and see what the citizens think of it. Also, since Montenegro is a multinational state, we wanted to examine to what extent members of minorities are equal in front of the law in

comparison to members of a majority nation. At the same time this was one of our control variables taking into consideration that a status of national minorities was a separate object of our measurement.

Results of the survey show that in regard to "equality in front of the law" as a dimension there were negative trends (table 6). Those are warning data taking into consideration a fact that right from the viewpoint of ensuring equality in front of the law and public debate, problems in judiciary practice occur and we really have to pay attention to them. Comparatively, a negative trend is obvious when we come to the issue of equality in front of the law and in regard to material and social, as well as ethnic and religious reasons. The public, therefore, indicates that trends in all those aspects are regressive in the last year.

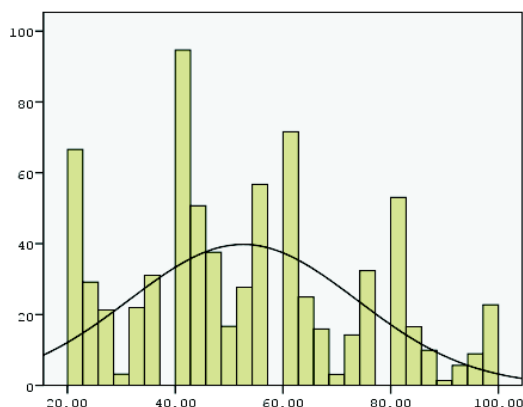
Table 6 Equality in front of the law – survey of all indicators

Indicators	2006	2007	2008	2009	SD
Legality of the process of passing the law of all citizens' interest, disregarding differences in respect to their material and social status, and disregarding their national, ethnic, religious and political affiliation as well	2.81	2,85	3,13	2,96	1,208
Equality in a process of enforcement of the law for all citizens disregarding their ethnic, national or religious descent	2.68	2,74	2,92	2,76	1,221
Equality in a process of enforcement of the law disregarding the material status of an individual	2.30	2,43	2,63	2,48	1,174
Equality of enforcement of the law disregarding political, ideological or party belonging of citizens	2.30	2,42	2,66	2,49	1,221
Equality of individuals in bodies of authority in front of the law	2.23	2,23	2,42	2,45	1,190

Table 6.1. Equality in front of the law – SCORE

Parameters	Statistics
Arithmetic mean	52,5778
95% Confidence interval	FROM
	TO
Median	50,0000
Variance	446,839
Standard deviation	21,13857
Minimum	20,00
Maximum	100,00
Range	80,00

Graph. 6. Equality in front of the law



available to Montenegrin citizens, disregarding their material status, ethnic or religious affiliation, or political belonging. The results we obtained, indicate that there was no significant change when we talk about availability of legal protection, or when we come to the issue of differences in material status or differences in ethnic or religious affiliation (table 7). However, we recorded a negative trend for availability of legal protection, in regard to differences in political or party criterion (2.63 versus 2.80). Therefore, we can say that the opinion of the citizens is that **in the last year there was a negative trend for the issue of availability of legal protection with regard to political and party differences.**

1.2. Availability of legal protection

Our goal in this part of the research was to find out to what extent legal protection is

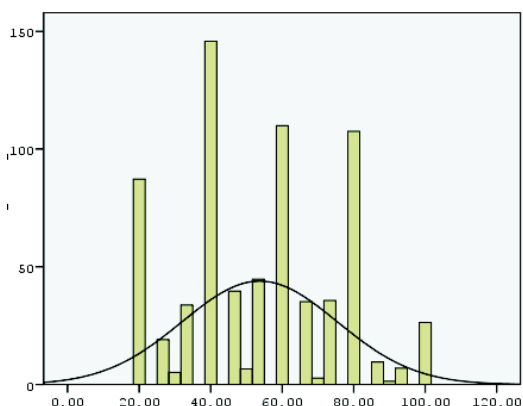
Table 7 Availability of legal protection – survey of all indicators

	2006	2007	2008	2009	SD
Legal protection is provided equally for all the citizens disregarding their material status	2.39	2,45	2,65	2,60	1,169
Legal protection is provided equally for all the citizens disregarding their national or religious affiliation	2.66	2,77	2,88	2,85	1,152
Legal protection is provided for all the citizens disregarding their political or party belonging	2.36	2,65	2,80	2,63	1,181

Table 7.1 Availability of legl protection – SCORE

Parameters		Statistics
Arithmetic mean		53,7037
95% Confidence interval	FROM	52,1116
	TO	55,2957
Median		53,3333
Variance		471,920
Standard deviation		21,72372
Minimum		20,00
Maximum		100,00
Range		80,00

Graph. 7. Availability of legal protection



1.3. Autonomy of judiciary

The next dimension which was the object of a survey in this area is autonomy of judiciary. Autonomy of judiciary problem is

also, not rarely a subject of public debates, so the criticism is directed to judiciary for a lack of its autonomy, where the most criticised is the pressure on judiciary by authorities and political structures of power. Surveying of this dimension indicates that during the last year there was no progress (table 8). Differences we can see in arithmetic means are not statistically significant, so that we cannot claim for sure that the trends are negative, but what we can claim is that the citizens think that **in the last year there was no progress when we talk about autonomy of judiciary**. Comparatively, there are two neuralgic points that have to be dealt with in order for judiciary to be more autonomous and they are: **judiciary independence from the influence of powerful and rich individuals and groupings (2.39), judiciary independence from the influence of the government and state officials (2.48), and independence of judiciary from the influence of political parties (2.53).**

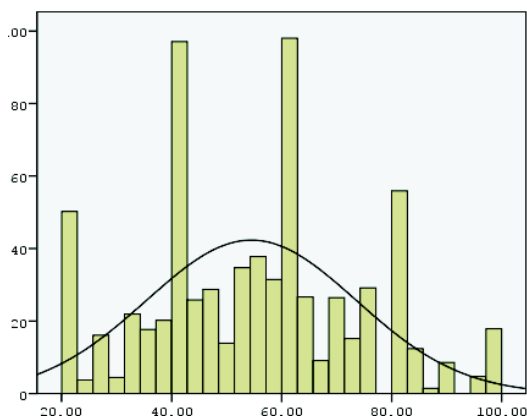
Table 8 Autonomy of judiciary – survey of all indicators

Indicators	2006	2007	2008	2009	SD
Independence of judiciary from the influence of political parties	2.22	2,33	2,54	2,53	1,173
Independence of judiciary from the influence of the government and state services	2.23	2,29	2,51	2,48	1,191
Independence of judiciary from the influence of the Parliament	2.52	2,54	2,73	2,74	1,147
Independence of judiciary from the influence of powerful and wealthy individuals and groupings	2.16	2,21	2,34	2,39	1,120
Independence of judiciary from the influence of nongovernmental organizations	3.04	3,11	3,20	3,15	1,085
Independence of judiciary from the influence of religious organizations and churches	3.30	3,34	3,34	3,28	1,137
Independence of judiciary from the influence of EU organizations	2.92	2,90	2,86	2,86	1,158

Table 8.1 Autonomy of judiciary – survey of all indicators

Parameters	Statistics
Mean	54,4925
95% Confidence interval	FROM
	TO
Median	54,2857
Variance	364,888
Standard deviation	19,10203
Minimum	20,00
Maximum	100,00
Range	80,00

Graph. 8.1 Autonomy of judiciary



1.4. Efficiency and professionalism of judiciary

Efficiency of judiciary work is one of the key criteria from the point of view of a state based on the rule of law and its overall functionality. On the basis of objective indi-

cators, as length of judicial proceedings is, problem of efficiency of judiciary is one of serious problems in all countries in a period of transition. In Montenegro, on the basis of a large number of reports, this problem is also apparent very much. Our measuring in previous research surveys confirmed that we have problems when the issue is autonomy of judiciary. Our research in this year shows (table 9) that there is slight progress only with efficiency and professionalism of judiciary for successful legal protection of the citizens' rights (2.72 versus 2.63). All other indicators have values on the level of the previous research survey, so that it cannot be claimed that there are some changes. Comparatively, the biggest problem still is the estimation that **in judiciary there are corruption and activities in the interest of influential individuals and groupings** (2.27). In this respect, a trend is even slightly negative, in other words, in the following period, most energy has to be put into activities against corruption and influence of powerful individuals and groupings.

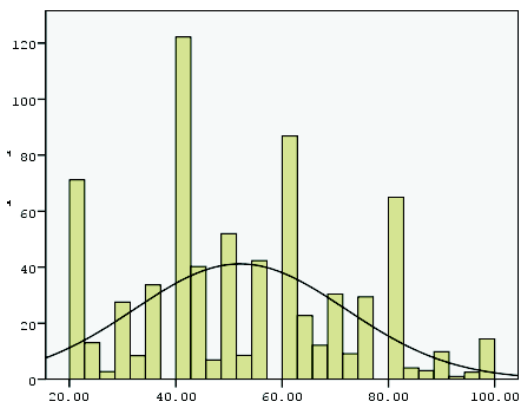
Table 9. Efficiency and professionalism of judiciary – survey of all indicators

Indicators	2006	2007	2008	2009	SD
Efficiency of the courts in the process of litigation solving	2.18	2,28	2,44	2,47	1,119
Professionalism and vocational qualifications of judges for an efficient application of the law	2.85	2,83	3,01	3,00	1,145
Efficiency and professionalism of judiciary for successful protection of citizens' rights	2.48	2,51	2,63	2,72	1,119
Absence of corruption and activities for the interests of individuals and groups	2.06	2,18	2,31	2,27	1,098

Table 9.1. Efficiency and professionalism of judiciary – SCORE

Parameters	Statistics
Arithmetic mean	52,0978
95% Confidence interval	FROM
	TO
Median	50,0000
Variance	396,403
Standard deviation	19,90986
Minimum	20,00
Maximum	100,00
Range	80,00

Graph. 9. Efficiency and professionalism of judiciary



1.5. Control and transparency of judiciary work

A democratic society is based on transparency and systems of control of all bod-

ies of authority. In this respect, control and transparency, when we talk about judiciary, are especially significant, bearing in mind that this is a branch of authority which has a crucial role as a guarantee of a state based on the rule of law. Within this dimension we measure a few indicators which are very important for the existence of control and transparency of judiciary. On the basis of data we obtained by measuring these indicators, it can be said that we have slightly positive trends (table 10). The most positive trend has **'efficiency of state control of judiciary work in the field of law and lawfulness protection'** (2.84 versus 2.76). All other indicators, however, have very small increase which can be attributed to a standard error of estimate. Finally, if we compare the indicators, like in the previous research surveys, the biggest problem remains **'availability of control and citizens' influence on judiciary by different organizations and institutions in accordance with the law'** (2.59).

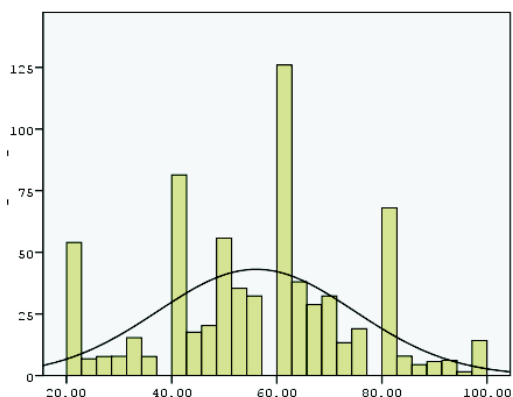
Table 10 Control and transparency of judiciary work – summary of all indicators

Indicators	2006	2007	2008	2009	SD
Efficiency of state control of judiciary work with the purpose of law and legality protection	2,65	2,67	2,76	2,84	1,111
Transparency of court activities and possibility of monitoring by media	2,48	2,66	2,75	2,76	1,099
Availability of information relevant for protection of citizens' rights by the public	2,42	2,53	2,71	2,74	1,090
Availability of control and citizens' influence on judiciary by means of organizations and institutions in accordance with the law	2,33	2,35	2,54	2,59	1,070
Existence of Parliamentary control mechanisms of judicial bodies' work	2,80	2,75	2,90	2,90	1,090
Monitoring of judicial bodies by NGO sector	2,88	2,91	3,07	1,118	1,084

Table 10 Control and transparency of judiciary work – SCORE

Parameters	Statistics
Arithmetic mean	56,0814
95% Confidence interval	FROM
	TO
Median	60,0000
Variance	350,432
Standard deviation	18,71982
Minimum	20,00
Maximum	100,00
Range	80,00

Graph. 10 Control and transparency of judiciary work



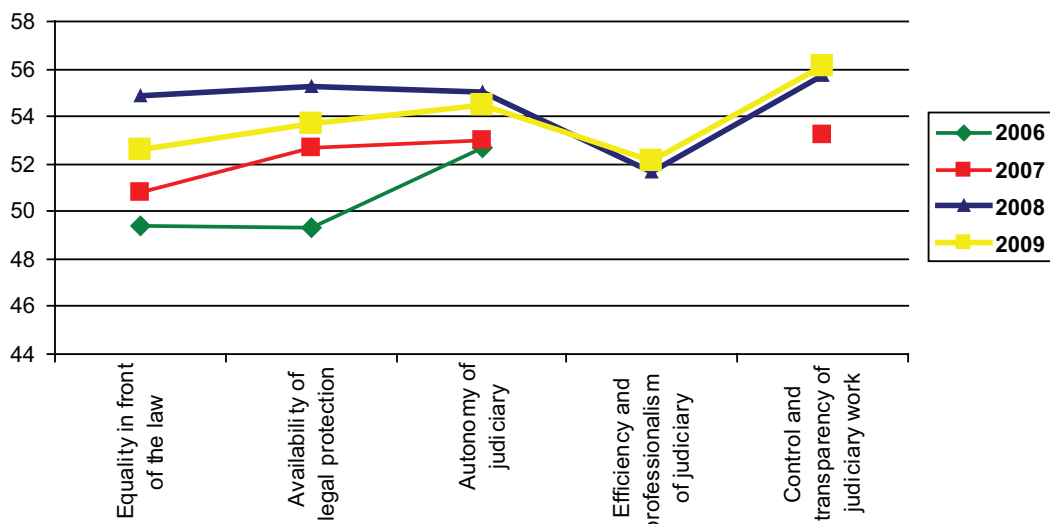
1.6. Summary indices for the rule of the law area

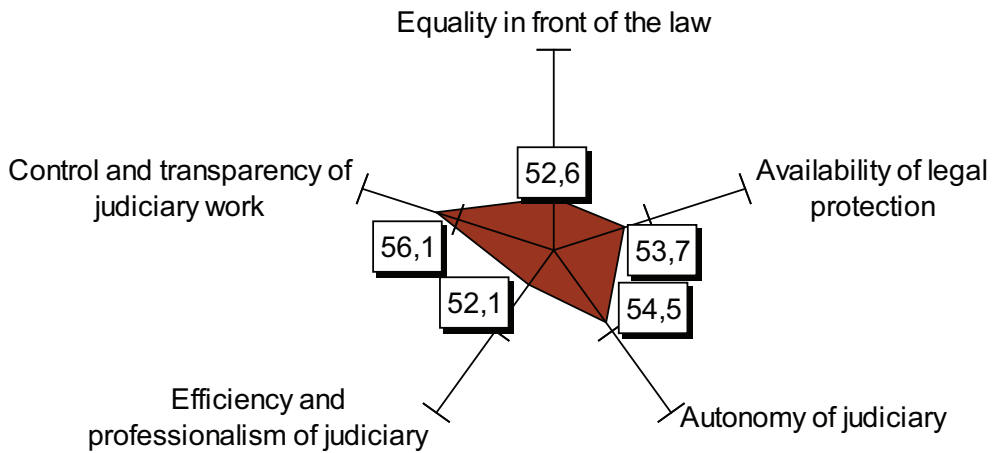
By analysis of summary indices for the rule of the law area by dimensions (table 11), we can see that we have completely clear and statistically **significant negative trends when we come to the issue of equality in front of the law (52.6 versus 54.9) and availability of legal protection (53.7 versus 55.3)**. When we, however, come to the issue of autonomy of judiciary, efficiency and professionalism of judiciary and control and transparency of judiciary, in total, the differences we measured were not statistically significant in comparison to the previous year, so that we cannot say that there was neither progress nor regression in this respect.

Table 11 Rule of the law – summary by dimensions

Dimensions	2006	2007	2008	2009	Z score
Equality in front of the law	49.4	50,8	54,9	52,6	- 2,95 p < 0,01
Availability of legal protection	49.3	52,7	55,3	53,7	-1,98 p < 0,05
Autonomy of judiciary	52.7	53,0	55,0	54,5	-0,70 p > 0,05
Efficiency and professionalism of judiciary	48.0	49,3	51,7	52,1	0,54 p > 0,05
Control and transparency of judiciary work	51.9	53,2	55,7	56,1	0,57 p > 0,05

Graph. 11. Rule of the law - TREND



Graph. 11.1 Rule of the law

If we make comparative analysis of all dimensions in rule of the law area (graph. 11.1), it can be seen that two dimensions 'have a problem' and they are **equality in front of the law (52.6) and efficiency and professionalism of judiciary (52.1)**. On the other hand, when dimensions are compared, we measure the

biggest value for **control and transparency of judiciary work (56.1)**. Therefore, in the future, special effort should be made in order to improve equality in front of the law as well as efficiency and professionalism of judiciary.

CEDEM Activities

Seminar:

Montenegro in the Process of European and Euro-Atlantic Integrations

Przno, February, 26-27, 2010

Seminar on the topic: Montenegro in the Process of European and Euro-Atlantic Integrations, organized by CEDEM and Konrad Adenauer Foundation.

Lecturers on the seminar were: Clive Rumbold, Delegation of the European Commission to Montenegro; Vanja Grgurovic, Deputy Minister for Translation Services, Information Technology and Communication in the Ministry for European Integration; Professor Tanja Miscevic, Faculty of Political Science, Belgrade and Phd Amadeo Watkins, UK Defense Academy.

The participants at the seminar were students from Faculty of Political Science, Law, Economy and KAS Fellows.



Seminar:

Introduction to Monitoring of Security Sector Reform

Budva, March 4-5, 2010

Seminar on the topic: Introduction to Monitoring of Security Sector Reform, within the project Civil Society Capacity Building to Understand and to Monitor Security Sector Reform, was organized by CEDEM, in cooperation with the Centre for Civil-Military Relations from Belgrade and with the support of the Norwegian Embassy. Lecturers at the seminar were: Miroslav Hadzic, PhD, professor at the University of Belgrade, and President of the Steering Committee of the Centre for Civil-Military Relations and Sonja Stojanovic, M.A. director of the Centre for Civil-Military Relations. Participants were: journalists, representatives of NGOs who deal with security issues, members of academic community and students from Faculty for Political Sciences. Through interactive lectures, participants were able, to gain new knowledge on the concept of security sector reform, to participate in the mapping of security sector, learn about the civilian oversight of the police, as well as, about the reform and oversight of intelligence services..



*Seminar***Reform of the Misdemeanour System - The European Convention on Human Rights and Montenegrin legislation and practice**

Przno, March 26-27, 2010

Seminar on the topic: *Reform of the Misdemeanour System - The European Convention on Human Rights and Montenegrin legislation and practice*, was organized by CEDEM, Ministry of Justice, AIRE Centre, London and JTC Montenegro. Lecturers on the seminar were: Miras Radovic, Minister of Justice; Branka Lakocevic, Ministry of Justice, the Assistant Minister for Judiciary; Nuala Mole, Director of the AIRE Centre, London; Simone Ginzburg, expert from High Judicial and Prosecutorial Council of BiH and Srdjan Spaic, Adviser of the Prime minister of Montenegro. Participants were: presidents and judges of Misdemeanour Council and basic courts of Montenegro, representatives of Ministry of Justice, High Judicial and Prosecutorial Council of BiH, Ombudsman Office and barristers..

*Seminar:***New Anti-Discrimination Legislation and European Law Standards**

Becici, April 19-20, 2010

Seminar on the topic: *New Anti-Discrimination Legislation and European Law Standards*, was organized by CEDEM with support of the Balkan Trust for Democracy. Milos Besic, Ph.D, presented the results of the CEDEM public opinion on the issue of discrimination in Montenegro. Lecturers on the seminar were: Marijana Lakovic, Deputy Ombudsman; Zoran Pazin, Montenegro's State Agent before European Court of Human Rights in Strasbourg; Goran Miletic, Civil rights defenders, Belgrade and Sinisa Bjekovic, Center for Human Rights, Law Faculty Podgorica. Participants at the seminar were NGO representatives



INTERNATIONAL CONFERENCES CEDEM'S REPRESENTATIVES TOOK PART

Ph.D. Srdjan Darmanovic

April 11-14, 2010, Jakarta

Participation at the Sixth Assembly of the World Movement for Democracy. The conference was titled: *Solidarity Across Cultures, Working Together for Democracy*.

Vladan Simonovic

April 23-26, 2010, Vienna

Participation at the conference, under topic: *15 Years of Peace-Building Activities in the Western Balkans – Lessons Learnt and Current Challenges*, organized by: PiP Consortium Study Group “Regional Stability in South East Europe”.

MA Nenad Koprivica

March, 2010 Brussels and Mons

Study visit to the headquarters of NATO in Brussels and SHAPE in Mons. The delegation comprised out of thirteen members, representatives of political parties and non-governmental sector.

MA Rajko Radevic

March 17, 2010, Tirana

Participation at the conference, under topic: *NATO's New Strategic Concept*, organized by IDM –Tirana and NATO PDD.

April 8-10, 2010, Duress

The seminar was hosted by IDM from Tirana. This was the fourth research seminar in a row, organized within a three-year long project *Civil Society Capacity Building to Map and Monitor Security Sector Reform in the Western Balkans, 2009-2011*, that is being implemented with the support of The Royal Norwegian Ministry of Foreign Affairs.

We were visited by...

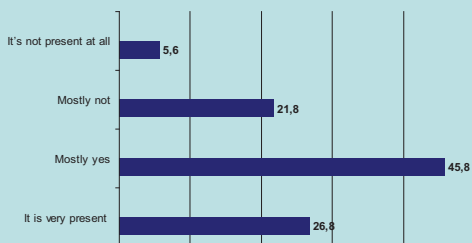
- **Amb. Gregor Zore**, Geneva Centre for the Democratic Control of Armed Forces (DCAF), Senior Diplomatic Advisor
- **Bard B. Knudsen**, Geneva Centre for the Democratic Control of Armed Forces (DCAF), Senior Fellow
- **Nils Ragnar Kamsvåg**, Norwegian Ministry of Foreign Affairs, Deputy Director General/Section for Western Balkan Affairs
- **Siri Andersen**, Royal Norwegian Embassy, First Secretary
- **Haakon Blankenborg**, Royal Norwegian Embassy, Ambassador

CEDEM
Empirical Research Department

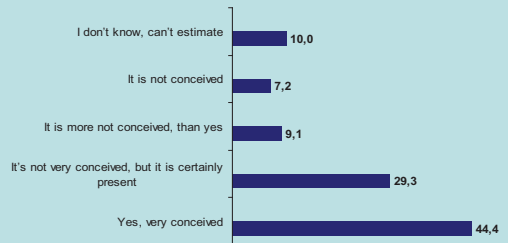
Public opinion research: Discrimination in Montenegro
April 2010

This research was conducted in period April 9-16, 2010 using standard CEDEM's twofold stratified sample with random selection of interviewers in final units applied, at the level of 799 interviewees from 18 municipalities. The possible standard statistical error is +/- 3.05, with the interval of trust of 95% for the appearance with incidence of 50%. Post stratification was done by the gender age and nationality of interviewees. The project was supported by *Balkan Trust for Democracy*.

Generally speaking, in your opinion, is discrimination present in Montenegro?



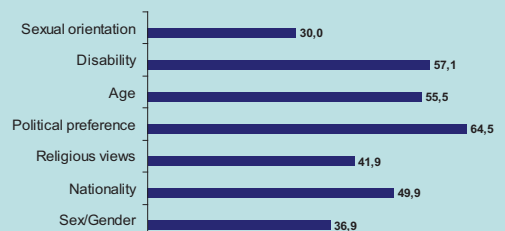
When **EMPLOYMENT** is concerned, is there discrimination?



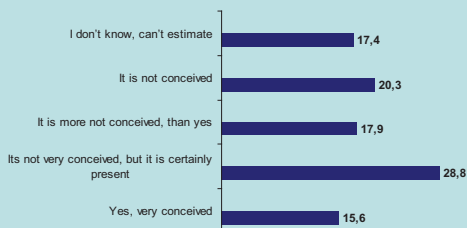
To what extent is discrimination present in Montenegrin society by the following criteria:

	Very present	Mostly present	Mostly not present	Not present at all	I don't know, can't estimate
Sex/Gender	16.0	30.1	28.7	14.1	11.1
Nationality	22.0	31.9	25.8	9.9	10.5
Religious views	20.9	29.1	26.3	10.6	13.1
Political preference	35.0	27.8	16.4	8.5	12.2
Age	17.9	32.2	26.2	11.5	12.1
Disability	25.1	35.8	16.4	6.7	16.0
Sexual orientation	18.9	21.0	17.6	13.5	28.9

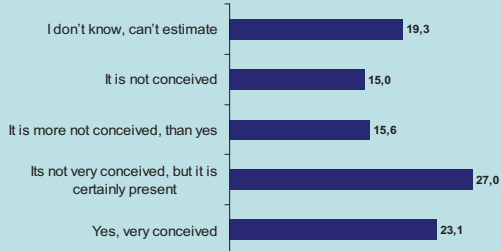
When **EMPLOYMENT** is concerned, is there discrimination, by the following criteria? - % YES responses



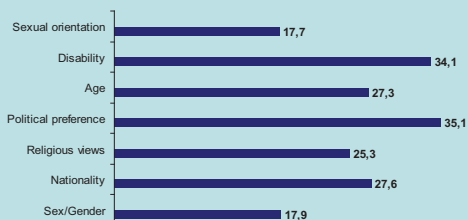
When **EDUCATION** is concerned, generally speaking in your opinion, is discrimination present?



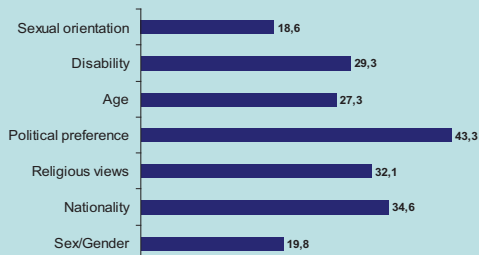
When **PROVISION OF SERVICES BY PUBLIC SERVICES** is concerned, generally speaking in your opinion, is discrimination present?



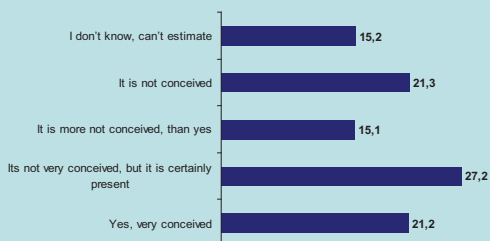
When **EDUCATION** is concerned, is there discrimination, by the following criteria? - % YES responses



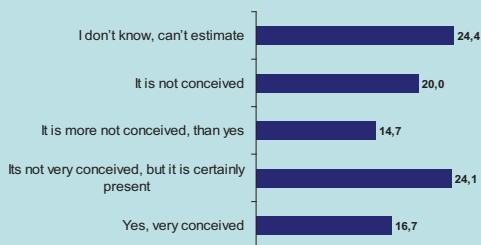
When **PROVISION OF SERVICES BY PUBLIC SERVICES** is concerned, is there discrimination, by the following criteria?



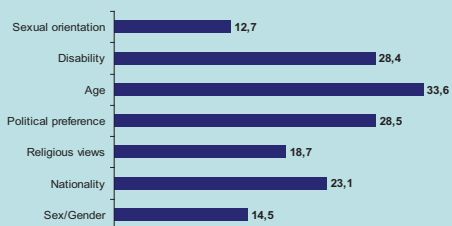
When **HEALTH CARE** is concerned, generally speaking in your opinion, is discrimination present?



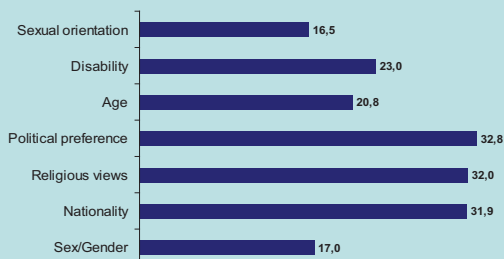
When **THE RIGHT ON CULTURE AND PROTECTION** is concerned, generally speaking in your opinion, is discrimination present? - %



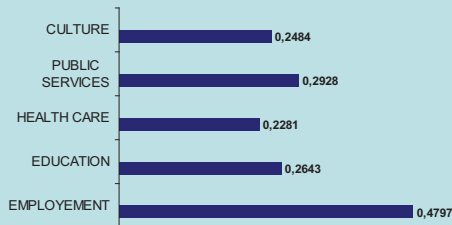
When **HEALTH CARE** is concerned, is there discrimination, by the following criteria? - % YES responses



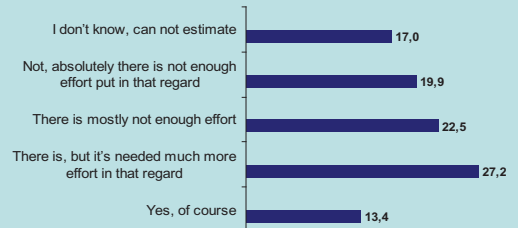
When **THE RIGHT ON CULTURE AND PROTECTION** is concerned, is there discrimination, by the following criteria?



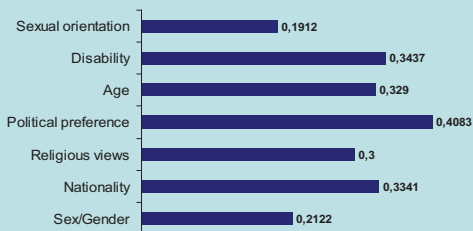
SUMARRY INDICATORS OF DISCRIMINATION BY AREAS



In your opinion, is there enough effort put in fight against discrimination in Montenegro?



SUMARRY INDICATORS OF DISCRIMINATION BY GROUPS



To what extent the following institutions are giving contribution in fight against discrimination?

	Key contributions	Mayor contribution	Small contribution	No contribution	I don't know, can not estimate
State and its institutions	13.2	15.4	35.7	14.2	21.5
Media	12.2	32.1	29.8	7.8	18.1
Church	6.0	16.7	29.6	14.4	33.3
Education institutions	9.8	23.2	35.3	8.4	23.3
NGOs	17.0	29.0	23.0	7.7	23.3
Political parties	6.6	10.4	33.1	23.5	26.4

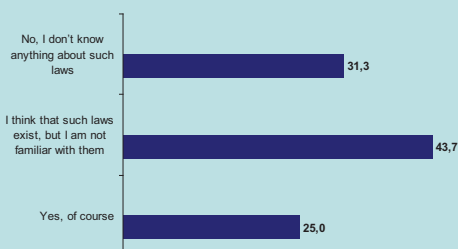
Generally speaking, do you think that the members of the below listed groups, have advantage or disadvantage in Montenegrin society?

	Advantage	Disadvantage	Nor advantage, neither disadvantage	I don't know, can not estimate
Roma	9.9	55.9	16.8	17.3
Persons with disability	8.0	62.2	14.1	15.7
Persons older than 50 years	7.9	50.7	25.1	16.3
Persons younger than 25 years	32.9	20.2	29.9	17.0
Serbs	7.7	33.4	34.1	24.8
National minorities	11.1	31.3	34.7	23.0
Religious minorities	9.8	31.4	33.4	25.4
Government opponents	4.1	48.0	22.3	25.5
Homosexuals	3.9	35.9	21.7	38.6
Women	14.8	32.2	31.2	21.8

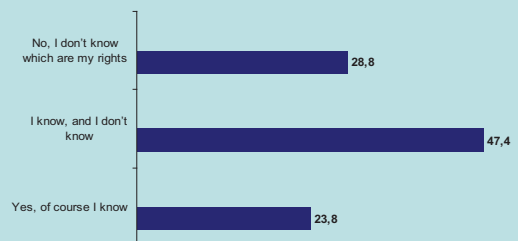
Do You have confidence in state that it will protect You from discrimination?



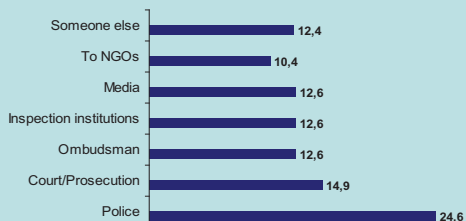
Are You familiar with legislation for protection against discrimination?



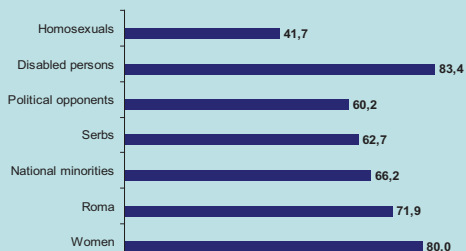
Do you know your rights if you are, or would become a victim of discrimination?



If you would become a victim of discrimination, who would you first refer to for help?



Do you support measures and actions directed towards fight against discrimination of the following groups? -% YES responses



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