



LEGAL MONITORING OF SERBIAN MEDIA SCENE

Report for April 2011



TABLE OF CONTENTS:

I	FREEDOM OF EXPRESSION.....	3
II	MONITORING OF THE IMPLEMENTATION OF EXISTING LAWS ..	10
III	MONITORING OF THE PROCESS OF ADOPTION OF NEW LAWS....	12
IV	MONITORING OF THE ACTIVITIES OF REGULATORY BODIES, STATE AUTHORITIES AND COLLECTIVE ORGANIZATIONS FOR THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS	13
	REGULATORY BODIES	13
	STATE AUTHORITIES	15
	COLLECTIVE ORGANIZATIONS FOR THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS	17
V	THE DIGITALIZATION PROCESS	19
VI	THE PRIVATIZATION PROCESS	19
VII	CONCLUSION.....	21

I FREEDOM OF EXPRESSION

In the period covered by this Monitoring Report, there were several incidents pointing to potential violations of freedom of expression.

1. Threats and pressures

1.1. The inspectors of the internal control department of the Ministry of Interior, in charge of shedding light on the circumstances in which posters with obituaries for TV B92 were plastered around Lazarevac, have been present in that town's police station, the daily Politika reports. Politika has learned that the inspectors are looking for answers in relation to a letter sent by a group of anonymous police officers to the Head of the Belgrade Police. The letter said that "the top brass of the Lazarevac police know who was behind the obituaries and they want to cover up the whole thing", because they were personally involved in the embezzlement reported about by TV B92. We remind that the obituaries were put up after B92 aired the series "Insider" dedicated to the fraud in the Kolubara mining basin. The Lazarevac police announced as early as back in February that they possessed clues as to who was behind the obituaries, which were taken as a threat to the authors of "Insider" and the editor-in-chief of TVB92. The anonymous letter of Lazarevac police officers to the Head of the Belgrade police, which had leaked to the media, named a police officer who had seen Nenad Pavlovic, nicknamed Neks, the driver of Dragan Tomic, the former Manager of Kolubara, among the persons who were plastering the obituaries for B92. The letter also alleged that Nenad Pavlovic was a close friend of the Head of the Lazarevac police Milan Stefanovic. Several days later, on April 9, the media reported the arrest of Pavlovic, under suspicion of having organized the plastering of obituaries. The police announced they had arrested three of the four young men who were believed to have been given the obituaries by Pavlovic in order to plaster them around in Lazarevac. Their fourth accomplice is still on the run. The police are also investigating where the posters with the obituaries have been printed.

According to the Public Information Law, public information shall be free and in the interest of the citizens. It is prohibited to restrict in any way freedom of public information so as to restrict the free flow of ideas, information and opinions. The Law expressly provides that it shall be prohibited to put any kind of pressure on a public media and its personnel, as well as to exercise any kind of influence so as to obstruct them in doing their job. In our report for the period January-February 2011, we wrote that putting the names of reporters and editors on obituaries such as those in Lazarevac may amount to endangering the security of a person by making threats against that person's life. Threats against the security of journalists, in

relation to their job, is provided for by the Penal Code of the Republic of Serbia as a criminal offense subject to between one and eight years of imprisonment. A major concern, however, is the information that, at least in view of the anonymous letter of a group of police officers from Lazarevac, there are groups within the police force that protect persons threatening journalists. The authenticity of the claims from the anonymous letter was further strengthened by the fact that, after the report about the letter on TVB92 and the internal control of the Serbian Ministry of Internal Affairs (the internal control was reported about by the daily Politika), the police arrested Nenad Pavlovic, who was, as said in the letter, one of the persons involved in the threats to journalists. In the last few months, the police crackdown on persons responsible for threatening and attacking journalists created the impression that the mechanism providing for such protection typically comes to a halt when the cases are to be prosecuted in court. The case in Lazarevac has demonstrated the fragility of the system of journalist protection in Serbia, as well as to what extent the attempts to bring to justice the perpetrators of threats and attacks against journalists are being obstructed left and right. It is also indicative that after Nenad Pavlovic's arrest, the police failed to say if his apprehension had confirmed the existence of a cover-up in Lazarevac and whether anyone had been subject to disciplinary or other proceedings.

1.2. Director of the Public Roads Company in Gornji Milanovac Jovica Carevic has threatened Zivko Perisic and Milorad Bosnjak, the correspondents of the Beta news agency and the daily Vecernje Novosti, over questions these media have asked in relation to the 560 thousand RSD for damages worth claim made by Carevic's son against the said company. Carevic's son Marko Carevic has filed a lawsuit against the Public Roads Company over a road accident that took place on January 4, 2000. Marko Carevic believes that the company, in which his father is the Director, is responsible for the damage he has suffered due to inadequate maintenance of the local road. Asked by Perisic and Bosnjak if he would resign if it was established that his son was right, Carevic yelled at the two journalists "to leave his family alone" and told them "to be careful what they do, or else", threatening with vengeance. Jovica Carevic is also the Chairman of the Municipal Board of the Socialist Party of Serbia in Gornji Milanovac. On April 8, the media reported that the President of the Municipality of Gornji Milanovac, Milisav Mirkovic, had publicly apologized to the journalists. "I apologize on behalf of all councilors to journalists Milorad Bosnjak and Zivko Perisic, who have been doing their jobs excellently and I invite Carevic to do the same", Mirkovic said in front of the councilors. Jovica Carevic took the stage, but refused to admit he had threatened the journalists. "I apologize if they really took it that way", he said.

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restrict the free flow of ideas, information and opinions. The Law expressly provides that it shall be prohibited to put any kind of pressure on a public media and its personnel, as well as exercise any kind of influence so as to obstruct them in doing their job. The latter should especially pertain to state officials, political party officials, as well as appointed persons in government authorities and public companies and institutions. The journalists threatened by Carevic ultimately commended apology of the President of the Municipality of Gornji Milanovac, which has, as the founder of the Public Roads Company, appointed Carevic to his position, calling the said apology “a victory of democracy”.

1.3. On April 15, Szögi Csaba, journalist and associate of the youth bulletin „Kepeš ifjušag“ in the daily Magyar So, was attacked and beaten up after a debate organized with the readers, held on the final evening of the art competition for secondary school students in Becej. Csaba was attacked by three or four attackers who kicked him and punched him in the head, after which they ran away. He was taken to the hospital for medical treatment. In the words of the victim, the perpetrators have probably plotted their attack in advance. Namely, in late February, an extremist right-wing internet portal in Hungarian language posted a series of degrading texts about journalism in Vojvodina, slandering first Szögi Csaba and then the publicist Szabó Palócz Attila. In the part dedicated to Csaba, excerpts from his texts, as well as from his Facebook profile were posted. While beating him up, the attackers quoted a phrase that was published there. The Independent Journalists’ Association of Serbia (NUNS) and the Independent Journalists’ Association of Vojvodina (NDNV) condemned the attack on Szögi Csaba and expressed concern over the possible involvement of extremist organizations, which are increasingly threatening the security of journalists. NUNS and NDNV informed the Director of the Police Milorad Veljovic about the incident, as well as all competent state authorities, calling them to take all necessary measures in order to shed light on this attack as soon as possible.

In previous cases of similar attacks against reporters, the attackers who had been apprehended were typically prosecuted for violent behavior. That criminal offense, when committed as part of a group or when the victim has suffered a minor bodily injury or serious humiliation, entails a prison sentence of between six months and five years, according to the Penal Code. However, in determining the penalties, courts have often opted for sentences below the legal minimum. For example, in the famous case we have referred to in our previous reports – the attack on Vreme’s columnist Teofil Pancic – the attackers were sentenced to 3.5 months in prison each. We also want to point out to yet another illogical concept in Serbia’s penal policy. Namely, in line with the Amendments to the Penal Code from 2009, stricter penalties for threats against the security and minor bodily harm inflicted to journalists were introduced. However, the penalties for violent behavior remained the

same and hence we now have an utterly irrational situation, where a person making a serious threat against a journalist may be condemned to 1 to 8 years in prison, while in the situation where this threat is materialized but without resulting in a serious bodily injury, the penalty provided for by the Law is lower – from six months to five years. This paradoxically means that the attackers on Szögi Csaba, if established that they are the same persons as those who have threatened him on the Internet, could be more severely punished for the threat itself than for the realization of that threat in the form of the physical attacked that subsequently took place.

2. Legal proceedings

2.1. Under the enforceable decision of the Appellate Court in Belgrade, the daily Danas is required to pay damages in the amount of 600.000 RSD, along with default interest since November 24, 2009, as well as court costs in the amount of 138.500 RSD, to three police officers from Pozarevac, over texts published in the dailies Kurir and Glas Javnosti, as well as in the supplement to Danas – Branicevo, which have been determined to have tarnished their reputation. The author of the texts Dusanka Novkovic from Pozarevac was also one of the defendants in this case. Danas claims that the amount of the damages, including the interest, has reached 942.000 RSD and that the plaintiffs – since the Court ruled that Kurir, Glas javnosti, Danas and the journalist Dusanka Novkovic should pay in solidarity – have decided to collect the damages from Danas. “This is the continuation of the scandalous practice of the courts towards our newspaper,” the Editor-in-Chief of Danas Zoran Panovic said. The President of the Journalists’ Association of Serbia Ljiljana Smajlovic said that the best paper among the defendants had fared the worst. The Independent Journalists’ Association of Serbia urged in a press release the competent state institutions to stop with the practice of shared liability of the media, which had, in the case of Danas, put the survival of that paper in jeopardy. The former President of the Constitutional Court Slobodan Vucetic told Danas that it was completely absurd for the law to provide for the possibility of one media paying damages for texts previously written by other newspapers, as well as for the author of these texts. “At the same time, this should incite all media professionals to launch an initiative for amending the controversial provisions as soon as possible, in order to avoid such situations”, Vucetic told Danas.

In the concrete case, Danas published the text by Dusanka Novkovic from Pozarevac in its supplement, which was published several days earlier by Kurir and Glas javnosti. In the meantime, Glas javnosti has ceased to be published, while its publishing company has been deleted from the register. Also deleted from register was Kurir-net, the company that was

publishing the daily Kurir in the relevant period. Hence, the plaintiff was forced to opt for collecting the damages from one of the three remaining existing publishers. However, one may ask on what grounds has the Court ruled that the three newspapers must be liable in solidarity? According to the Public Information Law, shared liability exists only within the same newspaper, namely only for the editor-in-chief, the journalist who is the author of the information and the publisher of the paper that transmitted that information, and not for several publishers mutually. Such shared liability between several publishers could only stem from general provisions of the Law on Contractual Relations. Under those provisions, for the same damage caused jointly by several persons, while acting independently ones from the others, those persons may be held liable in solidarity, but only if the exact individual shares of each of those persons of the blame for causing the damage may not be determined. In the concrete case, however, the share of the responsibility could have been determined by, for example, pondering the time of release or the number of copies released for each particular newspaper. In the case of Danas, the Court disregarded these factors. From the explanation of the verdict, which was passed back in November last year, it may be concluded that in the concrete case the Law on Contractual Relations had not been implemented, but rather the Public Information Law, which we believe is wrong. Unfortunately, it was a second-instance verdict that was not subject to the usual remedies. From the information that may have been heard in the public related to this case, we were unable to establish whether Danas had used any extraordinary remedy. As it appears, this case might be indicative of the fact that the media often fail to use all remedies at their disposal in order to protect their interests and that it is necessary to work not only on strengthening the capacities of the courts to rule on media cases, but also on boosting the capacity of legal assistance utilized by the media in legal proceedings.

2.2. On the occasion of the anniversaries of the death of journalist Dada Vujasinovic, who was found dead in her apartment in Novi Beograd on April 9, 1994, as well as of the assassination of Slavko Curuvija, the owner of the daily “Dnevni telegraf” and weekly “Evropljanin”, who was also gunned down in Belgrade, on April 11, 1999, the daily Politika published several texts about the developments in pre-trial proceedings. In the text about the Vujasinovic case, Politika interviewed the Republic Public Prosecutor Zagorka Dolovac, who said that the case had finally been reclassified from suicide to homicide and that the old witnesses have been re-interrogated and new ones interviewed. Dolovac also said that the records of the case are being examined by the members of the court medical commission from Novi Sad, the findings of which are expected to be released soon. In spite of mentioning that she was not allowed to speak in detail in this phase of the proceedings, Dolovac said it was indicative that the witnesses had never been asked by the police about what the late Dada wrote about in the eve of her death, if she was receiving threats or who she was seeing at the

time. On the contrary, they were interrogated about if she was seeing a psychiatrist. In the text about the Curuvija assassination, Politika wrote that members of the Zemun criminal gang Milos Simovic and his brother Aleksandar had been interrogated in the scope of the pre-trial proceedings. Politika reminded that after last year's arrest of Milos Simovic, the media reported that Simovic tried to bargain in the information about Curuvija's murder in return for the status of protected witness. The same reports said Simovic told the deputy president of the Special Prosecutor that he knew the name of Curuvija's killer and that he was introduced to this person by Milorad Ulemek, the former commander of the Special Operations Unit of the Serbian Police, who is serving a prison sentence for his role in the assassination of the late Prime Minister Zoran Djindjic.

The unsolved murders of journalists Dada Vujasinovic and Slavko Curuvija, but also that of Milan Pantic, the correspondent of Vecernje Novosti who was killed in Jagodina on June 11, 2001, remain a burden for the Serbian media. Unfortunately, despite numerous assurances of the authorities that these cases will be solved and occasional information pointing to progress in the investigations (which typically surfaces at the time of the anniversaries of these killings), the proceedings remain in pre-trial phase and charges are yet to be pressed. These cases remain a test of the resolve of each successive government in Serbia in the last decade, not only to reform the legislative framework in order to protect freedom of expression more effectively, but also to bring to justice the persons responsible for the most heinous crimes against journalists in the past, the goal being to reestablish trust between the government and the media. The Serbian media are still waiting for a government that will successfully pass the aforementioned test.

2.3. The Primary Prosecutor's Office in Sombor rejected the criminal charges pressed by the reporter of Vecernje Novosti Branka Baletic and her colleague from Blic Ranka Ivanoska, against the officials from Kula, over the incident we have reported about in our prior reports, when the two journalists were forcibly kicked out by private security guards from the session of the local council in Kula. The Prosecutor in Sombor found that the actions of officials from Kula did not amount to a criminal offence prosecuted ex officio and recommended Baletic and Ivanoska to press private criminal charges with the Primary Court in Sombor.

We remind that the incident happened when the journalists of Blic, Vecernje Novosti, Dnevnik and TV Kula were ejected from the session of the local council in Kula on February 16. Two of them were even taken to the police station. Most journalists were also barred from entering the following session on March 4. The formal reason provided is the Rules on ensuring publicity of the work on the sessions of the local council and working bodies of the

Municipality of Kula, which are considered restrictive by the journalists due to excessive formalities related to accreditation. In our earlier reports, we pointed out to the fact that the Public Information Law stipulated that state authorities and organizations, territorial autonomy bodies and local self-government bodies, public services and public companies, as well as members of parliament and councilor, ought to make information about their work accessible to the citizens and under equal conditions for all journalists and all public media. Obstructing such obligations by having Rules regulating the issue of journalist accreditations, is in contravention with the express provision of the Public Information Law, which stipulates in Article 8 that no provision of that Law may be interpreted and enforced so as to result in revoking a legally guaranteed right or restricting such right more than prescribed by Law. The fact that the Prosecutor in Sombor has rejected the criminal charges pressed against municipal officials, who have denied citizens the access to information about the activities of the local government by misusing technical regulations about accreditations, reveals the lack of robust and effective mechanisms for the protection of freedom of expression in the Serbian law.

2.4. In its edition on April 22, the daily “Alo!” reported that under the decision by the Court in Kragujevac, the said newspaper was required to pay Judge Dragan Lekovic damages for “mental suffering and tarnished reputation and honor” in the amount of 200.000 RSD. The paper particularly emphasized the unacceptable fact that the whole case had been handled by the same court where the plaintiff Lekovic was the judge, which brings into question the impartiality of the Court and the legitimacy of the verdict. The controversial text was related to a case from June 2009, when, according to the report of the Kragujevac police, Dragan Lekovic punched Ivan Riznic from Kragujevac in the face with a pistol grip. “We have requested that the judge be exempted from the case and we challenged the competence of the Court in Kragujevac, where Lekovic worked as a judge. However, our request was denied”, the attorney of “Alo!”, Dusan Stojkovic, said. In his words, “Alo!” was denied a fair trial. Lekovic, who has in the meantime been appointed to the Appellate Court, pressed charges against “Alo!” for having written that he had inflicted serious bodily harm to Riznic, claiming that the injury was a minor one. He also contested the title of the report “Look at how a Serbian judge beats a man up”. The police pressed criminal charges against Lekovic for having allegedly inflicted minor bodily harm to Riznic, thus committing the criminal offense of causing general danger. However, the Prosecutor in Kragujevac suspended the trial against him, after having determined the judge had acted in self-defense.

What is particularly interesting about this case is that it represents the continuation of a practice established in the Kragujevac judiciary back in 2008. Namely, the then District Court in that town did not refrain from prosecuting the weekly Svetlost, under the charges

filed by the judge of that same court Simonida Miloradovic. In that case too, the Court ignored the request to delegate the case to a court of law in some other city, in order to ensure the impartiality and neutrality of the proceedings. Irrespective of the fairness of the verdict in any of the above two cases, the mere fact that a party in the proceedings has been working for years in the court that is supposed to pass the verdict, undeniably compromises the impartiality of the court and the legitimacy of the verdict and hence this whole practice ought to be changed.

II MONITORING OF THE IMPLEMENTATION OF EXISTING LAWS

1. Public Information Law

1.1. The implementation of the Public Information Law has been elaborated on in the section concerning freedom of expression.

2. Broadcasting Law

2.1. “The part of the Broadcasting Law that would enable a radio subscription fee to be charged for radio sets in vehicles is bad and the enforcement thereof would further burden the citizens”, the Media Coordinator of the Serbian government Slobodan Homen told the daily Danas. According to Homen, the Ministry of Culture, Media and Information Society should consider amending the Law in the controversial section. “If that part of the Law is enforced in practice, we could have a situation where revolted car owners could simply remove their sets from their vehicles at registration. Such provision would hence be unsustainable and inapplicable in practice”, Homen explained. We remind that the duty to pay a radio subscription fee for radio sets in motor vehicles, introduced by the Broadcasting Law from 2002, has never been enforced in Serbia, which has caused, according to some estimates, the RTS to lose about five million euros annually. The Law says that the “subscription fee for a radio in a motor vehicle shall be paid annually, on a separate bank transfer form, at registration of the motor vehicle.”

The Broadcasting Law says that activities of public broadcaster service institutions pertaining to the general interest shall be financed by charging a subscription fee for radio and television. The owners of radio and TV sets shall pay such subscription fee in the same amount on the entire territory of Serbia. The subscription fee for radio and TV sets used in

the household and for those possessed by legal persons shall be paid monthly. The subscription fee for radios in vehicles shall be paid annually, on a separate bank transfer form, at registration of the motor vehicle. Although the Broadcasting Law was adopted and came into force back in 2002, the subscription fee for radios in motor vehicles has yet to be charged. This fact, along with the reality that the collection rate for the subscription fee for radio and TV sets used in the household and for those possessed by legal persons has fallen below 50 %, represents an additional difficulty for the institutions of the public broadcasting service. The aforementioned statement by Slobodan Homen unfortunately reflects the attitude of Serbian authorities towards the media. They simply do not see any problem in the fact that the law remains unforced for nine years, which has brought into question the financing of the institutions of the public broadcasting service. The latter has, in turn, compromised the independence of those institutions. The government justifies such an attitude with demagogic excuses about how the enforcement of the Law would entail new costs for the citizens. It is deplorable to have high government officials calling for non-compliance with applicable laws. The fact is, namely, that the government is being unusually generous and concerned for the citizens' well-being when it comes to funds that are supposed to sustain the citizens' very needs for information, culture, art, education, religion, science, entertainment, sports and other broadcasting content that should be shielded from any interference from government, political organizations or economic power players. The authors of this Report hereby want to stress that they are not aware of any other case where high government officials have called for non-compliance with some other legislation regulating public revenues, by invoking concern for the people's well-being.

3. Law on Local Self-Government

3.1. On April 18, the daily Blic reported about a meeting of representatives of local media in Loznica, in Western Serbia, and political party and city administration officials in that town. The purpose of the meeting was to resolve the misunderstanding concerning the future reporting of two television stations about the activities of local political parties' boards in Loznica. According to the report in Blic, the Mayor Vidoje Petrovic promised to propose, in the next month or so, a new concept for the financing of the media in Loznica. After only seven days, an extraordinary competition was called for an additional 2.5 million dinars, intended for the financing of projects of electronic and print media in the town. "We have earmarked five million RSD in the budget for this year, to be allocated to media in a competition, for specific projects. We have already called a competition for the second part of the funds and hence the entire five million will be available in the first six months. On the following session of the City Council, we will pass a decision that will represent a framework for a revised budget, where we will plan an additional five million by the end of the year. This

will represent a 50% increase of the budget planned for improving the work of the media”, Mayor Vidoje Petrovic said. The difficult financial situation of the media in Loznica became a public issue only when TV Podrinje and TV Lotel asked the political parties to pay for reporting from their press conferences.

Under the Law on Local Self-Government, the municipalities are in charge of providing for information in the public interest and ensuring the conditions for public information in the Serbian language and minority languages used on the territory of the municipality. The amount of the funds earmarked and the criteria under which they are allocated is extremely important, especially for local media in the situation of the economic crisis and underdeveloped advertising market. Media and journalists’ associations (ANEM, NUNS and Local Press) have been lobbying for months with the competent ministries – the Ministry for Human and Minority Rights, State Administration and Local Self-Government and the Ministry of Culture, Media and Information Society, in order to regulate the aforementioned obligation in a unique way in all municipalities in Serbia, as well as to ensure mechanisms and criteria to prevent the misuse of this form of state aid to this sector, especially with the goal to put in a preferential position public media and media close to local authorities. As evidenced by the example from Loznica, local governments do have additional means for supporting the media and it is possible to ensure the necessary political will to mobilize such support. The local government in Loznica reacted to a bold campaign by local media, which jointly announced they would stop reporting from political parties’ press conferences if not paid for it. Pointing to the financial difficulties they were facing, the representatives of RTV Lotel and RTV Podrinje said that the political parties constantly complained that they were not obtaining sufficient media space. Those representatives also said that the politicians did not understand the costs involved in reporting from press conferences (without any benefits) and that the media were not legally obliged to report from such events. Local government officials in Loznica understood that paying local media for reporting from political party press conferences was not going to solve the problems of the media, for that would deal a blow to their independence, objectivity and the essence of the role of the media. They however found a way to earmark additional funds from the local budget for co-financing media projects.

III MONITORING OF THE PROCESS OF ADOPTION OF NEW LAWS

In the period covered by this Report, the Parliament of the Republic of Serbia did not adopt any regulations of relevance or with implications for the media sector.

IV MONITORING OF THE ACTIVITIES OF REGULATORY BODIES, STATE AUTHORITIES AND COLLECTIVE ORGANIZATIONS FOR THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS

REGULATORY BODIES

1. REPUBLIC BROADCASTING AGENCY (RBA)

1.1. On April 18, 2011, the RBA Council announced that, in line with the Public Call released on February 10, it had elected, by secret vote, new members of managing boards of the Public Broadcasting Service of Serbia and Public Broadcasting Service of Vojvodina. The elected members of the Public Broadcasting Service of Serbia are Djordje Vozarevic, journalist; Milica Kuburovic, journalist; Predrag Markovic, PhD, historian; Slobodan Markovic, PhD, university professor; Milan Nikolic, sociologist; Zoran Popovic, university professor; Academician Vojislav Stanovic, university professor in retirement; Dusan Stokanovic, economist; and Zarko Trebjesanin, PhD, university professor. The elected members of the Public Broadcasting Service of Vojvodina are: Vanja Barisic, philologist and PR Manager; Ivan Benasic, journalist; Dimitrije Boarov, LL.B., journalist; Dalibor Bubnjevic, economist; and Liljana Lj. Bulatovic, university professor and Boris Kovac, composer.

Pursuant to the Broadcasting Law, managing boards are governing bodies of Public Broadcasting Service institutions at the levels of the Republic (Serbia) and autonomous province (Vojvodina), the members of which are appointed and dismissed by the RBA, from the ranks of journalists and experts and professionals in the field of media, management, law and finances, as well as among other prominent figures. The term of office of Managing Board members is five years. They are in charge of adopting work plans and work and business reports of public broadcasting service institutions, appointing and dismissing general managers and managers of radio and television and programming editors-in-chief, adopting investment plans, reviewing the recommendations of the Programming Board, etc. The election of Dalibor Bubnjevic to the membership of the Managing Board of the Public Broadcasting Service of Vojvodina has stirred the most controversy. The media reminded that Bubnjevic provided marketing services for the release of the book “The Case of Nacionalni Stroj” by Goran Davidovic, a.k.a. “the Fuhrer”, leader of that extremist organization. Davidovic was convicted for instigating ethnic, religious and racial hatred and back in 2008, the Republic Public Prosecutor submitted to the Constitutional Court a request for outlawing Nacionalni stroj as a neo-nazi organization. Bubnjevic himself claims that he was subject to false accusations and reminded that, in 2009, the Municipal Court in

Zrenjanin ruled that he had not been in charge of marketing for the aforementioned controversial book. “It is untrue that I have promoted the book ‘The Case of Nacionalni Stroj’. It’s a lie over which I was forced to take the publisher to court for having unauthorizedly used my name. Under the final verdict of the Municipal Court in Zrenjanin, the publisher was ordered to issue a public rebuttal and apology, as well as to pay 501 thousand dinars of damages for mental anguish suffered over tarnished honor and reputation”, the media have reported Bubnjevic saying.

1.2. The RBA Council has also reviewed the annual report for 2010 on compliance with legal and programatic obligations of the Radio Television of Serbia. The Council concluded that the RTS failed to fulfill the legally prescribed quota for independent production programming in that year. The RTS was also reprimanded for the “enormous disproportion” between the poorly represented cultural, artistic, children and educational content on one hand and the predominance of news programs, documentary and entertainment content on the other. The Council found „such disproportion to be a major concern, since it did not provide for content diversity sustaining the democratic values of modern society and particularly the respect of human rights and the cultural, national, ethnic and political pluralism of ideas and opinions“, the statement said. The Council also pointed to a high percentage of rebroadcasts and multiple instances of violations of the Advertising Law. The Council has sent its report to the RTS Managing Board and called for the fulfilment of the obligations defined by the Broadcasting Law.

The report, formulated in the well-known RBA style, contains merely a quantitative analysis of the RTS programming, without delving into the quality of content in the observed period. However, even such report stated the obvious: that in 2010, the RTS’s first channel earmarked 40% of air time to rebroadcasts, while the second channel went even further – 42%. In the same period, the overall share of commercials, TV sales and self-promotion on the first channel amounted to more than 5%; cultural and artistic content 0.20%, science and education 0.41%, religious content 0.68% and programs for children 2.80%. At the same time, the share of news programs was almost 32 %. The content of the second channel was dominated by sports (around 22.55%) and news (18.10%), while the share of cultural and artistic programs was 5.88%, science and education 13.06%, religious content 2.29% and programs for children 5.98% The Law provides for a mandatory quota for independent production of 10% of the overall annual programming time. This quota shall not include rebroadcasts, live transmissions of sport events, prize games, commercial and TV sales and news programs, but does include own news programs. According to the findings of the RBA, the share of independent production was 5.99% on the first channel and 7.36% on the second, namely a combined share of 6.65%.

2. REPUBLIC AGENCY FOR ELECTRONIC COMMUNICATIONS (RATEL)

On April 20, 2011, the Republic Agency for Electronic Communications (RATEL) initiated public consultations about the draft Decision on determining relevant markets subject to prior regulation, as well as about the reports on the analysis of nine markets proposed for prior regulation. One of these is the media content distribution market. In its analysis, RATEL found an absence of effective competition, namely that the cable operator SBB boasted a share greater than 50%, thus enjoying, in RATEL's opinion, a significant advantage over its competitors. On the other hand, the analysis concluded that there was a tacit agreement between the operators on the distribution market related to their geographic positioning. Under such agreement, RATEL believes that the operators have divided service areas by placing their distribution network in such a way that there cannot be any overlaps. Such positioning by operators has resulted in a situation where, while there are several market participants, there is no genuine competition among them. The price is paid by the end users.

STATE AUTHORITIES

3. THE PARLIAMENT OF THE REPUBLIC OF SERBIA

The Culture and Information Committee of the Serbian Parliament held two sessions in the period covered by this Report. On the April 5 session, Vesna Marjanovic resigned to her post of Committee Chairman, because she was reassigned to a new position. Marjanovic has been elected to the membership of the Belgrade City Council, to be in charge of culture. Two weeks later, Vesna Marjanovic was also elected Deputy Chairman of the Democratic Party Executive Board. Jelena Trival was elected the new Board chairman. The Culture and Information Committee session on April 21 reviewed the Report on the Implementation of Law on Free Access to Information of Public Importance and the Law on Personal Data Protection for 2010. The Report was presented by the Commissioner for Free Access to Information of Public Importance and the Personal Data Protection Rodoljub Sabic. Sabic said that progress was made in the field of free access to information of public importance, but noted there were areas in which improvement was needed, namely regarding the inconsistent implementation of the Law. Sabic said that the authorities and agencies of the government should not regard free access to information solely as the right of the citizens to know, but also as their own obligation to take initiative and to release information of public importance even without citizen's request, unless otherwise provided for by law. At the same session, the Committee also examined its own list of candidates for the election of three members of the RBA Council

and proposed to the Parliament to urgently review that list. The Committee proposed Milos Rajkovic, Slobodan Veljkovic, Bozidar Nikolic, Tamara Skrozza, Bajram Haliti and Ivan Pajdic for the aforementioned membership.

4. THE MINISTRY OF CULTURE, MEDIA AND INFORMATION SOCIETY

4.1. On April 5, 2011, the Government of the Republic of Serbia appointed Dragana Milicevic Milutinovic to the position of State Secretary for Information and Media in the Ministry of Culture, Media and Information Society. Dragana Milicevic Milutinovic was born in 1965 in Belgrade, where she completed secondary school and the Faculty of Law – Criminal Law Department. From 1991 to 1997, she worked as a reporter and editor on Studio B, after which she was editor in the independent production company Mreza. From 2002 to 2007, she was the Editor-in-Chief and General Manager of Studio B. From 2007 to 2011, she was the General Manager of the company Jugodrv holding.

4.2. On April 18, the Ministry of Culture, Media and Information Society and six media associations (ANEM, NUNS, UNS, NDNV, Local Press and the Media Association) concluded a Cooperation Protocol laying down the steps for formulating the Draft Strategy for the Development of the Public Information System in the Republic of Serbia by 2016. The Protocol was signed by Minister Predrag Markovic and the representatives of media associations: Sasa Mirkovic, Vukasin Obradovic, Ljiljana Smajlovic, Nedim Sejdinovic, Dejan Miladinovic and Veselin Simonovic. Under the Protocol, the Ministry of Culture, Media and Information Society shall establish a working group that will, by July 1, 2011, propose the Draft Strategy, along with an action plan for the implementation thereof. The working group shall consist of seven members, five of which will be chosen at the proposal of media associations and two at the proposal of the Ministry. An expert consultant from the European Commission will take part in the work of the working group. One representative of the Ministry, civil society, Council of Europe and the OSCE will each be able to attend the meetings as observers. The Draft Strategy, to be tabled to the Ministry by the working group, may also contain alternative solutions, together with detailed explanations, regarding certain issues. The final text of the Draft Strategy shall be determined by the Ministry and released for public discussion. The text proposed by the working group and the final text of the Draft Strategy will be posted on the Ministry's website in the duration of the public discussion. The Ministry shall also be required to inform the public of the existing alternative concepts.

We remind that the drafting of the Media Strategy was requested by journalists' and media associations and it was loudly called for especially after the adoption of the Law on

Amendments to the Public Information Law in the summer of 2009. The basis for the Strategy should have been the Media Study, formulated by the experts hired by the European Commission. Initially, the then Culture Ministry had announced that the Draft Strategy would be worked on simultaneously with the organization of a series of round tables, in September 2010, where the aforementioned Study was discussed. The Ministry also announced that the Draft would be released as early as in late September or early October. When October came, the then Culture Minister Nebojsa Bradic announced the release of the Draft Strategy for early November. Since it did not happen, media and journalists' associations were told by the Ministry that the Draft Strategy was to see the light of day first on November 16 and then on November 22. However, the presentation of the Draft Strategy was once again postponed. At a meeting with the representatives of media and journalists' associations, Council of Europe, the EU Delegation and the OSCE Mission to Serbia held on December 29, 2010, Minister Bradic set a new date for the release of the Draft Strategy – February 20, 2011. A wide public discussion about the Draft was supposed to start on the same day. At the late December meeting, Bradic announced that his Ministry was prepared to cooperate with all stakeholders and particularly with media associations and the media industry. In February, after it became clear that the Ministry still did not have the text it was supposed to be released for public discussion, media and journalists' associations were offered to join the efforts and help the making of the Draft Strategy. The discussions about the modality of their involvement were continued after the reshuffle of Prime Minister Cvetkovic's government and ultimately resulted in an agreement between six media and journalists' associations and the Ministry of Culture, Media and Information Society in the form of a protocol signed on April 18, 2011.

COLLECTIVE ORGANIZATIONS FOR THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS

5. ORGANIZATION OF PHONOGRAM PRODUCERS OF SERBIA (OFPS)

We remind that the Association of Independent Electronic Media (ANEM) sent a note to the Intellectual Property Office in February, arguing that the acts of the Organization of Phonogram Producers of Serbia (OFPS) were not in compliance with the relevant provisions of the Law on Copyright and Related Rights, as well as that they were mutually contradictory, resulting in the media being unable to adhere to them. The Intellectual Property Office, as the competent supervisory authority, acted on this note and found in late March that several articles of the Rule Book on the notification of broadcast phonograms by the broadcasters were not aligned with the OFPS Tariff of fees; that the manner of entering data about

broadcast phonograms, provided under the Rule Book, was in breach of the Law on Copyright and Related Rights; as well as that the business of OFPS was not conformed to that organization's own acts. The Intellectual Property Office urgently issued a series of orders to OFPS, insisting that it ought to align the relevant provisions of its Rule Book, pertaining to the notification of broadcast phonograms by the broadcasters, with the Law. Upon having received the report from the Intellectual Property Office about the identified irregularities and orders issued, ANEM furnished this report to the stations, against which proceedings were initiated for commercial offenses under the Law on Copyright and Related Rights, so that the stations could use the said report in their own defense. We hereby remind that the OFPS has launched more than two hundred commercial offence proceedings against broadcasters throughout Serbia and their directors, by sending petitions to the RBA, objecting the failure of these stations to furnish lists of broadcast phonograms, namely the failure to furnish them in the proper form requested by OFPS. The RBA declined jurisdiction in this matter and forwarded the said petitions to public prosecutor's offices. The public prosecutor's offices responded by initiating commercial offence proceedings and in several cases commercial courts have already sentenced broadcasters to fines ranging from 100 thousand to three million dinars. It may be reasonably expected that, after receiving the report from the Intellectual Property Office, the competent public prosecutor's offices will renounce prosecution, since the report confirms that the broadcasters are objectively unable to act under the provisions of the OFPS Rule Book on notification of broadcast phonograms. ANEM has also furnished the aforementioned report to the Republic Public Prosecutor's Office, which was supposed to issue the proper instructions to district public prosecutors to act accordingly.

On April 20, the OFPS Managing Board, acting under the instructions of the Intellectual Property Office, amended the Rule Book on the notification of broadcast phonograms by the broadcasters. In a press release published on that occasion, OFPS claimed that the Rule Book were amended in order to enable a more efficient cooperation with the broadcasters and aiming at simplified and more efficient regulation of the way and conditions under which the broadcasters were required to notify OFPS about the broadcasted phonograms. The amendments to the Rule Book foresee submitting of the lists of broadcasted phonograms by post, in the form of an excel sheet burned on a CD; stipulate the elements this sheet must contain and set the deadline for submission; determine who will ascertain the accuracy and completeness of the sheets and how; the manner in which incomplete sheets will be dealt with and what every broadcaster must submit along with the sheet. The press release said that every broadcaster, at any time during the business hours of the OFPS, could obtain all the necessary information about the manner and form of submission, completion of the

sheets by phone, fax or e-mail, from employees working in the department processing the sheets.

V THE DIGITALIZATION PROCESS

A transmitter of the experimental digital television network will be placed on the Avala Tower, the signal of which will be received by all Belgrade residents. The transmitter will be put into operation this year, the media have reported. In order to receive the digital signal, the viewers will need to install special adapters or more recent TV sets that may capture DVB-T2/MPEG-4 signal. Meanwhile, Vecernje Novosti has reported about the costs to be incurred by those citizens who are receiving their TV program solely via terrestrial transmission, in relation to digitalization. According to the report, the state will prepare an assistance package for 300 thousand of the neediest families, in order to enable them to purchase a decoder. However, the newspaper questioned the price of the decoder that the state used when calculating the costs of the subsidies. Citing anonymous sources, Novosti wrote that the price of the decoders would be fivefold compared to that announced by the Government. At the same time, technical equipment stores are already selling television sets supporting DVB-T2 and MPEG-4 standards, but these sets are among the most expensive on the market. Novosti also cited Jasna Matic, State Secretary in the Ministry of Culture, Media and Information Society, who said that Serbia would meet the deadlines for digitalization at the same time as the EU and countries of the region, as well as that digital signals from the region would not override our analog signals. Jasna Matic also reminded that experts from the BBC were already helping their Serbian colleagues to prepare and start broadcasting a trial signal next autumn, as well as that the EU had earmarked a 12.5 million Euros grant for digitalization in Serbia, along with 10 million Euros worth of valuable equipment. According to Matic, the rest of the equipment will be purchased with a loan, for which the Serbian government will issue a bank guarantee.

VI THE PRIVATIZATION PROCESS

The media have continued to publish stories of failed privatizations of local and regional media, as well as about the problems of still non-privatized media. In early April, for example, Radio Sombor announced that a solution had been found for the survival of that station, in coordination with the provincial authorities and local administrations of Sombor

and the neighboring towns of Apatin, Kula and Odzak, as well as with the Public Broadcasting Service of Vojvodina. That solution involves a new 7.000.000 RSD from the budget. We remind that, after the annulment of the privatization, Radio Sombor was in the last three years managed by the state through the representative of state capital appointed by the Privatization Agency. The result of the above concept is liabilities exceeding fourfold the assets of the station, Internet, telephone lines and electricity switched off due to unpaid bills and employees who have not received their salaries for one year. Accordingly, Radio Sombor is not broadcasting any program. Meanwhile, the temporary representative of state capital Anita Beretic said that, in view of the experience with the previous privatization, Radio Sombor had opted to work with the existing capacities as a small regional public service broadcaster of the Western Backa District. In the second example, the Privatization Agency has terminated the sales contract with TV Valjevo. The reason was non-compliance with the clauses on regular payment of salaries, the amount thereof and payment of dividends for the period when TV Valjevo declared profit. The public company TV Valjevo was acquired on an auction last February by businessman Slobodan Pavlovic, while the employees requested the cancellation of the privatization as soon as after three months. In mid-March, the station had stopped broadcast of its program for three days, because part of the equipment was seized by former journalist, Manager and Editor-in-Chief Aleksandar Rankovic. Rankovic is reportedly waiting for the enforcement of another two rulings against TV Valjevo. The majority of employees plan to file legal action in order to collect their salaries. In the third story of failed privatization, the Commercial Court in Leskovac has initiated pre-bankruptcy proceedings against another privatized media, "Nasa rec" (*Our word*), a weekly with a 67-year-long tradition. "Nasa rec" was purchased by the son of one of its longstanding journalists, but the privatization failed and 27 employees were left without a job. In the fourth example, in Smederevo, the employees in RTV Smederevo went on strike, requesting they be paid their salaries, due since the beginning of the year. The news program of RTV Smederevo began yesterday with news about the strike and the anchor said that it would be the only story in the news bulletin, Danas reported. "The employees in RTV Smederevo are forced to go on strike in order to protect their rights", the speaker read the press release, which also said that the employees were claiming their salaries as of the beginning of the years, meal allowance since last June, the holiday bonus for 2010 and the payment of travel expenses. On an auction in December 2009, the station was sold to Marko Lukic, son of a local politician and leader of the coalition "For a Better Smederevo" Milan Lukic. The Lukic family has later acquired the weekly "Nas glas" (*Our voice*) and in March this year they started broadcasting television program. Meanwhile, the Privatization Agency has announced the fourth consecutive auction on June 20 for the privatization of Radio Pirot. The station remains on the municipal budget and there were no potential buyers in the first three attempts to privatize it.

The agony of many media outlets only confirms the absence of any concept and responsible public policy in the media sector. The continued interference of the state and its control of the media through ownership are being represented as the sole sustainable model for the survival of especially local and regional broadcasters, but increasingly the press too. On the other hand, there are no proposals for sustainable models for the withdrawal of the state from media ownership. Unfortunately, nobody is pointing to the fact that on a weak advertising market, non-transparent budget allowances that are typically awarded to government-friendly media are further killing competition and threaten to push the remaining healthy media to the brink of collapse.

VII CONCLUSION

The signature of the Protocol governing the cooperation between the Ministry of Culture, Media and Information Society and the leading media associations in the process of formulating the Media Strategy, as well as the election of the State Secretary for Information in the Ministry, may be interpreted as a promise of a different attitude of the Government towards media and media associations in the future. On one hand, the Protocol defines the steps for formulating the Draft Strategy, while the Ministry has accepted the experts appointed by the associations to represent the absolute majority in the working group. The final text of the Draft Strategy, which shall be released for public discussion, will most definitely be determined by the Ministry. However, the Ministry might have a problem to successfully explain in the public discussion the potential major derogations from the proposals by the majority in the working group. On the other hand, the appointment of the State Secretary in the Ministry of Culture, Media and Information Society who will be directly in charge of media and information, shows that the Ministry understands the importance of dealing with the media sector. Namely, the Government has hitherto typically appointed civil servants of lower rank than state secretaries – assistant ministers. Today, it seems that for the first time, the two-year efforts invested by media associations in their advocacy for the adoption of the Media Strategy – as a mechanism that is supposed to commit the government to a more consistent and responsible media policy – is beginning to bear fruit. Media associations and media professionals in general would be well-advised to immediately start preparing new efforts that will certainly be required to avoid the relativization of the fundamental reforms of the media in the final text of the Media Strategy, as well as in order to ensure a consistent implementation of that Strategy, once it is finally adopted.