



Report from ANEM round table “Reporting on court proceedings”

Aiming to gather judges, prosecutors and journalists to share their experiences and identify the problems they have in their work regarding the reporting on court proceedings, on June 15, ANEM organized a roundtable on this topic at the UNS press center, with the support of IREX Serbia and USAID. Panelists at this roundtable were **Aleksandar Ivanovic**, judge of the High Court in Belgrade, **Goran Ilic**, president of the Association of Serbian Prosecutors and Deputy Public Prosecutor, **Slobodan Kremenjak**, ANEM lawyer and expert in media law, **Veran Matic**, chief news editor of B92, ANEM member station and **Vukasin Obradovic**, NUNS president. Moderator of the roundtable was Vesna Zivkovic, attorney at law the law office “Zivkovic & Samardzic”.

The event was attended by a significant number of stakeholders, over 45 – of which a large number of representatives of the judiciary, presidents of the courts, judges, spokespersons and advisors from basic, higher and appellate courts in Belgrade and other courts in Serbia (Novi Sad, Kragujevac, Cacak, Zajecar, Jagodina and Požarevac), President of the Serbian Judges’ Association, representatives of the Faculty of Law and representatives of the prosecution, spokespersons and public prosecutor’s deputies (Prosecution for War Crimes, Appellate Public Prosecutors’ Office in Belgrade and Novi Sad, the First Basic Prosecutor’s Office in Belgrade, the Basic Public Prosecutor’s Office in Cacak), the Commissioner for Information of Public Importance and Personal Data Protection and Senior Advisor to the Ombudsman’s expert office and the Ministry of Culture, Media and Information Society. Also, a significant number of representatives of electronic and print media were present, as well as directors, chief editors and journalists (RTV B92, RTV Vojvodina, RTK Kragujevac, TV Panonija from Novi Sad, Sremska TV from Sid, Radio Srbobran, Radio Bus from Kovin, Radio Ozon from Cacak, Radio Plus from Pirot, dailies Press, Politika, Danas, Kurir, news agencies Beta, Tanjug, Bank Online); representatives of NGOs (Humanitarian Law Center, the Helsinki Committee for Human Rights) as well as several representatives of the donor community and international organizations (FOS, OSCE, USAID, IREX) and the representative of the Dutch Embassy.

ANEM President Sasa Mirkovic opened the event by welcoming participants and acknowledging the support of IREX Serbia and USAID for organizing this event. Moderator of the roundtable, **Vesna Zivkovic, attorney at law**, presented the panelists and general topics of their presentations, inviting participants to engage in the discussion in the second part of the roundtable, which will help reaching conclusions about solutions to problems occurring in reporting on court proceedings.

Aleksandar Ivanovic, judge of the High Court in Belgrade began his presentation by underlining the extreme importance of this meeting for both the court and the media and stressing that any form of cooperation between the two sides was welcomed. He pointed out the previous non-existence of legal framework that regulated reporting on court proceedings closer. However, today there are court rules containing

detailed provisions for reporting to the public, the powers of judicial spokespersons, their position, the departments for information, reporting from courts, accreditation of journalists etc. He also said that a lack of information among journalists was noticed about the courts' work system, procedures, organization, certain actions taken by the courts and participants in court proceedings. For this reason, during the 2003 and 2004, 2 brochures were published, namely guides primarily intended for the media, which detailed the organization of courts, court proceedings, the addresses of the courts, cited certain provisions of law regarding the powers, actions taken by the certain actors in judicial proceedings, legal institutes and their explanations. Judge Ivanovic said that the public had interest in court proceedings, but that journalists often reported by using information obtained from only one source, thus not providing complete information. Also, journalists continue to use certain terms improper for reporting on court proceedings. He stressed that the court proceedings had experienced drastic changes (today the proceedings are timeframed, while the courts are limited in terms of keeping the length of civil proceedings, the possibility of passing the verdicts without a hearing, the parties cannot be represented by persons who are not lawyers) – journalists now need to be informed about all those things, in order to properly inform the public on court proceedings. On the other hand, he considers it important to train spokespersons of the courts, whose task should not be merely to inform, but to be more active and have more meaningful role that involves explanation and detailed informing of the public.

Goran Ilic, president of the Serbian Prosecutors Association and Deputy Public Prosecutor, addressed the issue of relationship between public prosecutors and the media, referring to the legislative framework and regulations that govern this relationship. He pointed out that, under Article 10 of the Law on Public Prosecutor's Office, the prosecution was obliged to inform the public about the state of crime and all the phenomena observed in the work, but that was not obliged to inform about specific cases – it might do so, but with two stern limitations. One concerns the privacy of participants in the procedure, while the other limitations in regarding the protection of the procedure as follows: by informing the public, the prosecutor must not undermine the value of proceedings such as the truth, unhindered course of the proceedings, as well as causing delays in proceedings for the purpose of reporting on them. The prosecution was closed to the media for a long time, and only with the emergence of the spokespersons after 2000, this practice had begun to change. This practice, however, has its drawbacks, because all information is exclusively provided by spokespersons, namely only 2 people – the spokesperson of the Prosecutor's Office for War Crimes, who is at the same time the spokesperson of the State Prosecutors' Council, and the other, the spokesperson of the Republic Public Prosecutor's Office. Ilic believes it is wrong and illogical, because when a journalist wants to acquire information, he/she must file a request with the competent prosecutor, the prosecutor then needs to ask the permission for requested information from the republic prosecutor's office and only then, depending whether the information is approved or not, it may be conveyed. He illustrated the relationship between the prosecution and journalists with a good example of Prosecutor's Office for War Crimes, whose public relations office changed attitude of the public toward the processing of war crimes. He also pointed out examples where the media, although unaware of the consequences, had published information that jeopardized the interests of the procedure. Ilic also noted the problem of many journalists not understanding some of the main institutes of criminal procedural law, institute of presumption of innocence before all, because they often reported on people suspected of or charged for committing a crime as convicted of a crime. When it comes to reporting on the judiciary, he believes that journalists often start from a prejudice of

courts being corrupt, inefficiency of the courts and prosecutors' offices, which are the result of a long campaign of political elites to prove that the judiciary as such.

Slobodan Kremenjak, ANEM lawyer and expert in media law said that there was a dose of mistrust between the two professions, but that education was very important to raise the quality of reporting on one hand, and on the other, to raise the level of understanding of the interests of the profession in reporting. From the media point of view, all is regarded through the right to freedom of expression. The same applies to the reporting on court proceedings. He noted that what was often forgotten when it came to reporting on court proceedings was that it was an element of the constitutionally guaranteed right to a fair trial and that it included publicity of hearings as well. The provisions of court rules and regulations relating to the prosecution prescribe the manner of informing of the media and the public on the procedures. On the other hand, the Law on Public Information defines the rules on information on matters of public interest, and what is very important for information on court proceedings is that the law provides for a basis for the elimination of liability in proceedings conducted under the Law on Public Information. That practically means that a journalist, editor or the media may not be held liable for such damage if the information is conveyed accurately, even if it is taken from the court proceedings. Problems arise, however, when it comes to the following limitations in reporting on court proceedings. First and most important limitation concerns the presumption of innocence. Secondly, regarding the protection of minors, the regulations are even more extreme. Namely, Serbian journalists cannot report on juvenile delinquency except at the level of a phenomenon. As a lawyer, he advised reporters not to report about minors at all, because the risk was all too great. The next limitation is related to the protection of confidentiality where the practice has shown that it is the messenger that is to be prosecuted, a carrier of information, rather than the holder of information. Finally, when it comes to protecting the authority of the court, Kremenjak believes that, if the reporting on court proceedings is important for all, the public and the participants in the proceedings, the court and the media, then we must not allow to have provisions in the criminal legislation so vague that we do not know how they might be applied one day. According to him, paradoxal is the situation where the proceedings must not be commented on before a decision becomes final, and then when the decision becomes final, one can do with it what one wants. He said that at BBC, while reporting on court proceedings, journalists were using a 800-page practical manual, whereas in Serbia, there were not enough specialized court reporters, nor was it determined who should have shown them how to report, when even the lawyers did not know the answers to all the questions.

Veran Matic, the Chief news editor of B92 believes that a mutual strategy should be devised to improve journalism and ethics, but also to be considered as to how to regulate a justice system to be more functional, and in parallel to work on elimination of any possible ignorance through joint efforts and cooperation of media and the judiciary. It is necessary to make a permanent forum that would include the leading chief editors, representatives of associations, their legal department, the association of prosecutors and judges' associations working together on a very serious assignment that will aim at improving mutual communication and journalistic knowledge of the judiciary, and vice versa – their knowledge of the media. There should be a serious strategy of mutual understanding and protection of the integrity of the profession and the people working there. He believes that spokespersons convey messages incomprehensibly to the media, which is an operative matter that could be corrected through the courses of contact with the media. He says that it is also true that there are no specialized media journalists

reporting from the court, but also there are no specialized judges who are experts in court proceedings concerning media. He believes that most of the omissions that occur in the reporting of court proceedings are tendentious and deliberate and that the direct product of relationships between those who call themselves journalists and editors and those who want to affect the course of the case by spinning the information. He said that in Serbia there was an investigative and so-called research journalism in the form of publishing material submitted by the sources that they have an interest in revealing such information. Matic concluded that the safety of journalists was threatened due to some institutions' work and that, by publishing information, journalists became targets of criminals, because of which the journalists were in a position to have a 24-hour police protection, which then prevented them from unhindered practicing of investigative journalism.

Vukasin Obradovic, NUNS president, elaborated on unsolved murders of Slavko Curuvija, Dada Vujasinovic and Milan Pantic, presenting the chronology of these cases and reporting on them, as to how much information about these proceedings were available, whether they were sufficient and whether they had affected the the course of proceedings. He noted that this chronology showed that even after so many years since the murders, there were no new information, neither in terms of finding those who had ordered or committed the murders, nor their legal prosecution. He suggested that journalists, but also representatives of the democratic public, should establish a NGO that would not deal with shedding light on these murders, but with efforts to obtain information about the developments and new findings relevant for the cases, as well as to find out who was responsible for those investigations and pre-trial proceedings being stuck at the stage where they were now. Following the lead of Obradovic on unsolved murders of journalists, **Veran Matic** added that he had forwarded the proposal to the Council of Europe's Commissioner for Human Rights, to launch an international revision of these trials, so that recognized foreign experts, working together with our prosecution and police and also with the participation of representatives of the Serbian journalists' associations, would review all documentation related to these cases of murder and give their evaluation of mistakes made so far.

After accounts of the panelists, the discussion was opened and representatives of the judiciary and the media shared their views and opinions on reporting on court proceedings, discussed the cooperation of the courts, prosecution and the media, lack of trust between them, but also future steps that would help improve relations and cooperation between these two sides. **Rodoljub Sabic**, Commissioner for Information of Public Importance and Personal Data Protection, opened the discussion by elaborating on confidentiality of sources as a fundamental right of journalists to protect their sources of information, protection of classified data in a situation where there were no criteria by which something was classified as a state secret, and the fact that it was possible to accuse someone for publishing classified data. Sabic also spoke of the discrimination of journalists, pointing out that some were privileged over the others when publishing exclusive information obtained from the government and the judiciary. As for the independence of the judiciary, the Commissioner said that the independence was defended with conscience, knowledge and self-willingness to respond to criticism, asking what would independence really be if a journalist could undermine the independence of the judiciary with only one text.

After Commissioner's address, the present judges, spokespersons, deputy prosecutors on one side and representatives of print and electronic media on the other, exchanged their

experiences discussing the confidence in the judicial system, judicial reform, differences in the professions and insufficient knowledge of each other professions, the ethics, problems in media and the judiciary and the independence of both professions. All present agreed that it was necessary to develop mutual cooperation and education by organizing similar events, aimed at solving problems in order to avoid consequences generated from the mutual ignorance and misunderstanding, and to provide complete, accurate and timely information to the public about the work of the judiciary and ongoing court proceedings.