

I FREEDOM OF EXPRESSION

In the period covered by this Report, there were several cases pointing to possible violations of freedom of expression.

1. *Threats and pressures*

1.1 The Environment Protection Fund, whose Chairman of the Managing Board was the minister Oliver Dulic, has granted to the company Ringier Axel Springer (the publisher of the daily "Blic") the amount of 60.560.000 dinars from the budget, the daily "Informer" reports. The first contract, based on which 49.560.000 dinars were granted, was signed in January 2011 and it pertained to the co-financing of the project "Environment Protection and Ecological Problems". The second contract, concerning the co-financing of the project "Preserving and Improving the Environment in the Republic of Serbia" was concluded in March 2012, granting an additional 11 million dinars. According to the daily "Informer", the said agreements have led some to doubt that the former government was bribing the widely circulated daily "Blic". The former minister Dulic denied such allegations, explaining that the state co-financed projects due to poor awareness about the importance of protecting the environment. Dulic claims that less money was paid than originally agreed, stressing that the grants did not pertain solely to the daily "Blic", but also to various editions of Ringier Axel Springer. He also said that the project was opened for the whole year and that almost all media participated. The former minister believes that the results are visible, namely that the topic of environment protection was quite present in the media. Ringier Axel Springer said that they had performed their job in a professional and responsible manner, as well as that the contracts that were signed could not affect their editorial policy in any way whatsoever.

As early as back in September 2011, the Report of the Anti-Corruption Council, about the pressure against and control of the media in Serbia, said that Dulic's Environment and Spatial Planning Ministry had been spending at least 1.5 million Euros annually for promotional activities. The same report mentioned contracts that minister Dulic concluded with Ringier for the provision of environment research related services, the results of which Ringier was required to release in its daily newspapers "Blic" and "Alo", so as to make them publicly available. The Anti-Corruption Council said the latter was related to the many texts in "Blic" mentioning Oliver Dulic, mainly in a positive light and rarely criticizing the former minister. Whatever the case may be, insisting only on the case of Oliver Dulic and Ringier Axel Springer may be interpreted as an attack against that Group's media and especially against the highest circulating and most influential newspaper among them, the daily "Blic". Unfortunately, the

problem runs much deeper. At its core is the absence of effective mechanisms in Serbia for controlling the expenditures of budget money and controlling of state aid, which is not only the case in the media, but in other sectors too. Therefore, each deal concluded between the media and the government/public companies is branded suspicious in advance. Ultimately, it all ends with a few texts in the media that resemble more a witchhunt against certain media or politicians, typically without any serious analysis and research. At the same time, legal proceedings in these cases, over alleged abuse of public funds or repayment of illicit state aid (even if reasonable doubt has been established) are most often never initiated.

1.2. On September 11, at the entrance of the premises of the Romanian association and the Romanian-Serbian radio-television station "Viktorija", unknown persons wrote a nationalist graffiti "Romanians out!". "We saw it when we came to work. I do not understand how we could have possibly caused someone to react like this, especially since our station, which broadcasts in two languages and is unique for that in the region, employs both Serbs and Romanians. All our employees have strongly condemned such vandalism", said Mirjana Dedic, the Editor of TV "Viktorija". The Vrsac municipality said that they were renowned for being a multiethnic and multicultural environment and that Vrsac had always been a place of peace, tolerance and religious and ethnic diversity. "We support the efforts of law enforcement agencies in identifying the perpetrators of this act," the press release said. The nationalist graffiti on the entrance of the bilingual television station was also condemned by journalist associations.

The Public Information Law expressly stipulates that it is forbidden to directly or indirectly restrict freedom of public information in any manner conducive to restricting the free flow of ideas, information or opinion, or to put physical or other type of pressure on public media and the staff thereof so as to obstruct their work. Writing nationalist graffiti on the door of a bilingual media outlet undoubtedly amounts to illicit pressure and under the Criminal Code such messages amount to inciting ethnic, racial and religious hatred and intolerance, which is subject to a prison term of between six months and five years. The Criminal Code also provides for two more severe cases of inciting ethnic, racial and religious hatred and intolerance, when the offense has been committed by applying coercion, harassment, threats against security or mocking national, ethnic or religious symbols, damaging other people's belongings, desecration of monuments or graves. In the latter cases, the prison term ranges from one to eight years, as well as up to ten years, when the offence has been committed by abuse of office or authority, or if the offence resulted from unrest, violence or other severe consequences for the coexistence of people, ethnic minorities or groups living in Serbia. In parallel with protecting the media and society as a whole from ethnic, racial and religious hatred and animosity, the legislator has imposed strict standards against hate speech in the media. The latter are prohibited to publish

ideas, information or opinions inciting discrimination, hatred or violence against a person or group of persons for their affiliation or non-affiliation to a particular race, religion, nation or ethnic group regardless if such publication constitutes a felony, namely even if it does not constitute a felony.

1.3. Ljubomir Bradic, a councilor representing the Citizens' Group "Pobeda" in the Valjevo Town Council, has sent to Milan Milinovic, the Director and Editor-in-Chief of the *Vujic Television* from Valjevo, the following text message: "Due to your biased reporting, you will not get a cent from the city anymore, nor will you get to do live transmissions of the Council sessions. If someone tries to back you on that, no sessions will be held." Bradic confirmed to "Novosti" that he had sent such a message to Milinovic. In his own words, he did it because Milinovic's station omitted, in its report from the Council session, the speech of the Vice-Mayor, a member of the Citizens' Group "Pobeda". The questions asked on the session by certain councilors of SNS, SPS and "Pobeda" (which together make the ruling coalition in Valjevo) were apparently also omitted from the report. According to Bradic, the same report contained several statements by the former DS Mayor. In relation to that case, the Journalists' Association of Serbia (UNS) issued a press release, saying that when they asked Bradic if he had sent the controversial message, he denied it, adding that "since Milinovic had complained, the decision would most certainly be made to ban Vujic Television from broadcasting Council sessions ever again". According to "Radio Patak" from Valjevo, Bradic sent another message to the Vujic Television's Director and Editor-in-Chief Milinovic, telling him once again he would see that his station be banned from broadcasting Council sessions and advising him to complain to UNS and ask UNS to pay them. Milan Milinovic said that Vujic Television had never allowed anyone to meddle in its editorial policy. "This was true in Milosevic's period, during DOS' rule and while the DS was in power and it remains the case today". "Radio Patak" aired two months ago the text message (SMS) in which Bradic asked from other councilors to initiate an inspection control of this radio station, after the station posted on its website the photographs of the leaders of the new ruling majority in town smoking in non-smoking areas of the City Hall.

The example from Valjevo is yet another account of how the authorities use the budget financing of the media in Serbia as a pressure tool for influencing editorial policy. According to the Public Information Law, the local government is required to make information about their work available to the public, under equal conditions for all journalists and public media. According to the Law on Local Self-Government, municipalities and cities/towns must attend to public information of local relevance and provide the conditions for it. In practice, this means earmarking money for live broadcasts of the local council sessions and reporting on the activities of the mayor and city and municipal councils. Unfortunately, it most often happens that

local governments use the aforementioned earmarked funds as a tool of pressure and blackmail: instead of providing conditions for information in the interest of the citizens, they make the financial support conditional on the media working in the interest of the local government. Journalist and media association have been pushing for some order to be brought to this domain for years. The aim was to avoid the support to local media, which is extremely important in the situation of economic crisis, to turn into a means of stifling critical reporting. Unfortunately, the most that was done in that respect came in the form of a non-binding recommendation adopted by the Ministry of Culture and Ministry of Local Self-Government, suggesting to municipalities and towns to appoint independent commissions to determine the designated purpose of the funds. The case in Valjevo has shown that the recommendation in question is typically shunned and that the local power players still believe that providing for the conditions for information of local relevance refers to the right to buy the obedience and servitude of the media, in the interest of maintaining power rather than fulfilling their legal obligation in the interest of the public.

1.4. The media reported in September about a fresh case of verbal and attempt of physical assault on Novosti's correspondent from Loznica Vladimir Mitric. The police forwarded the report about the attack to the Basic Public Prosecutor in Loznica. According to media reports, the attack happened on September 15, while Mitric was sitting in a restaurant with a friend during the closing of the Vukov sabor ceremony in Trsic. He was approached by a person that started threatening him over the text he wrote "about his friend". According to media reports, the attacker was identified as R.N. from the village of Grncari near Loznica, who works in Austria. At the time of the attack, Mitric (who has been under police protection for years due to prior attacks) did not call security for help. Some time before the incident, the policeman, who was escorting Mitric, received a telephone call from a colleague who asked about their whereabouts. This second policeman then came to the same restaurant and attacked Mitric over texts where he allegedly "conspired against his security", which, again, allegedly resulted in that policeman's reassignment from his border crossing job. When the owner of the restaurant attempted to intervene, R. N. punched him twice in the face and tried to attack Mitric.

We have often written about the case of Vladimir Mitric in our reports. Due to his texts on corruption in Western Serbia and Republika Srpska, he was attacked for the first time back on September 12, 2005 in downtown Loznica, at 10 p.m. in front of the entrance to his apartment building, from the back with a wooden object resembling a baseball bat. He suffered a broken left arm and other severe injuries. Since then he has been under constant police protection. Late last year, the Appellate Court in Belgrade sentenced a former police officer, Ljubinko Todorovic, for the attack. The news about the latest attack on Mitric is unfortunately evidence of a possible serious omission in the work of the police officers protecting him. Not only were they not in his

vicinity at the moment of the attack, but they disclosed Mitric's whereabouts to one of the attackers, thus enabling the incident to take place. This raises serious doubts about the level of training of the persons guarding Mitric and questions their commitment to the task assigned to them. We remind that Mitric is not the only journalist in Serbia that has been put under round-the-clock police protection. He is, nonetheless, the longest guarded journalist in this country. After the latest incident, the Internal Affairs Ministry should address more seriously the training level of its officers protecting threatened journalists. We will once again point to the fact that the persons that have ordered the attack on Mitric seven years ago are yet to be identified and that no investigation has been underway. This fact has undoubtedly been a disincentive for the people that have been protecting Mitric for seven years now, but also for other journalists that might find themselves in a similar situation. In that sense, the media and journalists' associations must continue to insist that the persons that have ordered the attacks on Mitric, but also on other journalists, to be identified and prosecuted, especially in cases of long-term police protection provided for attacked journalists, since it is not enough to merely indict the perpetrators of the attacks.

1.5. On September 23, the family of B92 journalist Tanja Jankovic was attacked during the wedding of her relative in Vranje. Jankovic's father Zoran suffered fractured jaw and nose, her sister Bojana a cracked nose (after which she had to undergo an emergency procedure), her fiancé a contusion of the sternum, while Jankovic herself suffered multiple bruises. Tanja Jankovic told the media that one of the attackers was a police inspector from Vranje Nenad Jovanovic. Bojana Jankovic claimed her family was being insulted and provoked during the festivity. Tanja Jankovic said the reason for the attack was her campaign on social networks and blogs about the disastrous security situation in her hometown of Vranje. In her campaign, Jankovic questioned the impunity for the crime wave that had swept Vranje in the last few years, from last year's setting ablaze of the Mayor's car to the fire in the Vranje Theater early July. After the incident, Tanja Jankovic said she came in the possession of a police report about that case, which says that the brawl was caused by the fiancé of her sister Bojana, which is inconsistent, among other things, with the CCTV tapes. After her deposition, the Police Minister requested the Internal Control Department of the Ministry to establish all the relevant facts about the incident.

There is no doubt that the physical attack on the journalist and members of her family (over the information she publicly posted on social networks and blogs) amounts to "influence that might affect her work". What is particularly disturbing in the case of the attack against Tanja Jankovic is the fact that the police may have attempted to minimize or conceal the responsibility of its officers. The police in Vranje issued a press release saying that it would file criminal charges against the fiancé of Bojana Jankovic for allegedly inflicting minor bodily harm (with a bottle) to

one person, while another three persons will be subject to misdemeanor charges for disturbing public order. However, the press release does not show if the police is intent on pressing charges over severe bodily harm (documented by photographs and medical reports released by the media) suffered by Zoran and Bojana Jankovic. If the internal control of the police fails to establish what really happened and if responsible for the injuries, but also for the possible police cover-up (for which, it seems there is some evidence) are not punished, this will continue to be a serious burden for the media in Valjevo and beyond. Such failure would demonstrate that if journalists publicly try to point to actual problems, they might put themselves and their families in harm's way. Only a thorough investigation of all the facts related to this incident will prevent the ensuing rise in self-censorship.

2. Legal proceedings

2.1. The Higher Court in Negotin rejected as unfounded the claim filed by a member of the Majdanpek municipal council Predrag Djordjevic, requesting 250 thousand dinars of damages from the Beta news agency for injured honor and reputation, allegedly caused by the text "Councilor in Majdanpek Allocates Scholarship to Himself". The Appellate Court in Belgrade upheld the verdict in the appeals proceedings. In addition to being a Councilor in Majdanpek's Municipal Council, Djordjevic is also the President of the Municipal Committee of the Nova Srbija political party in that town. In his claim against Beta, he said that the aforementioned text falsely claimed he had granted a scholarship to himself, since it was actually a decision made by the Municipal Council of the municipality as a collective body and not by himself as an individual. Both the Higher Court in Negotin and the Appellate Court in Belgrade rejected his claim, finding that Djordjevic, as a politician, was required to demonstrate a higher degree of tolerance of criticism than private persons, i.e. ordinary citizens.

According to what the authors of this Report have learned, Djordjevic also sued (apart from the Beta news agency) a number of media that have conveyed Beta's original information. The Higher Court in Negotin rejected, with the same explanation, at least two more identical claims (against the daily "Danas" and the B92 Television) and it is to be expected it will deliver the same verdict in a series of lawsuits filed by Djordjevic against the media that have conveyed Beta's information. The verdict shows that the case law of the European Court of Human Rights instituted back in the 80s of last century (e.g. in the case *Ligens vs. Austria* from July 8, 1986) is starting to be implemented by Serbian courts. In the aforementioned case *Ligens vs. Austria*, the ECHR found that "while the press must not overstep the limits drawn in order to "protect other people's reputation", it still must convey information and ideas on political issues, as well as on issues in other domains of public interest. The press is tasked not only with conveying such

information and ideas; the public is also entitled to receive them.” According to the findings of the Court in the same verdict, “freedom of press provides the public with one of the best tools to get to know the ideas and positions of political leaders and to create opinions about such ideas and positions”. “Hence, the limits of acceptable criticism are wider when they concern a politician than they would have been in the case of a private person. Contrary to the latter, the politician is conscientiously and unavoidably exposing himself to thorough scrutiny of every word he says and act he commits by the press and the wider public and hence must demonstrate a higher degree of tolerance.” We remind that the verdicts delivered by the ECHR in cases against Serbia for violations of Article 10 of the European Convention on the Protection of Human Rights and Fundamental Freedoms concerned the fact that the Serbian courts, in the hitherto practice, tended to provide politicians and public figures a higher degree of protection than to ordinary citizens. The example from Negotin is evidence of the extent to which the practice of Serbian courts in protecting freedom of expression has changed to the better in the last decade.