

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. In the night of May 4, 2011, the offices of the weekly “Vranjske” in downtown Valjevo were robbed, when seven laptops and two cameras were stolen, Nikola Lazic, the Deputy Editor-in-Chief said. “It is the fourth burglary since the newspaper was established 16 years ago, but this is the first time that something was stolen. Before the burglars used to just make a mess of everything and break the windows”, Lazic told the Beta news agency. “We had all kinds of different stuff in the stolen computers, I will not speculate now since the police are conducting an investigation”, Lazic added. The Editor-in-Chief of “Vranjske” Vukasin Obradovic, who is also the President of NUNS, told “Politika” that the police had until now failed to solve a single burglary in “Vranjske”’s premises, despite the fact that the latter are situated merely 500 meters away from the police station and less than 50 meters from the courthouse. “Fortunately, the thieves did not take away the main stationary computer containing important archives. Nonetheless, the damage is great, because all our work equipment has been stolen. I expect that the police will find the perpetrators and return our equipment,” Obradovic says.

According to the Public Information Law, public information shall be free and in the interest of the citizens. It is prohibited to restrict freedom of public information in any way 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 exercise any kind of influence so as to obstruct them in doing their job. In the concrete case, taking into account the threats that “Vranjske” have been exposed to almost constantly, as well as the fact that this was not the first burglary of the weekly’s premises and that previous police investigations were unsuccessful, it may be reasonably assumed that the latest incident was not a common burglary. The theft of equipment may have well been an attempt to intimidate the journalists of the weekly and put pressure on them, as well as to discover what topics they were investigating and preparing, or even worse – try to uncover the sources of “Vranjske”’s reports.

1.2. After the report in the daily “Blic” about a “rigged” tender for the fencing of several village football fields by the councilor of the Democratic Party of Serbia in the Aleksandrovac Municipal Assembly, on May 4, the President of the Assembly Tomisa Savkovic banned Blic’s correspondent Gvozden Zdravic from entering the assembly hall where the session was held. The heads of the Socialist Party and the Democratic Party’s parliamentary groups called on Savkovic to reverse his decision and enable all reporters to work without obstruction, in the interest of free information, but Savkovic remained relentless.

According to the Public Information Law, local self-government bodies must make information about their work accessible to the public under equal conditions for all journalists and all public media. In the aforementioned case, banning a reporter from attending the sessions of the Municipal Assembly over his previous reports about an issue the public had certainly the right to know about, since it involved expenditures of budget money, undoubtedly amounts to a serious violation of the right to freedom of public information.

1.3. On May 11, 2011, Ivona Palada, a five-month pregnant reporter of the daily newspaper “Kurir”, and photographer Damir Dervisagic, were physically attacked in Belgrade’s suburb Ledine. Palada and Dervisagic were checking on information they had received from a source, in relation to a report in the magazine “Story”. In that report, it was claimed that singer Ana Nikolic, who was taking care about a Japanese baby she claimed was entrusted to her by its parents – friends of the singer’s brother – after the earthquake, had in fact made everything up for PR reasons. “Kurir”’s source had claimed that the boy, photographed in the arms of Nikolic on a picture released by the newspapers, was in reality the son of a Chinese couple living in Belgrade in a rented apartment in Ledine. Palada claims she has seen the boy resembling the one from the picture published in the newspapers on the address provided by the source. She also claims that the woman, who opened the door to them, refused to corroborate the story they were told by the source, but that the neighbors had confirmed the claims. When the reporter and the photographers headed back to the office, they were approached by a fifty-two year old man, who started shouting on her, threatened her with a lawsuit, wrested away the documents from her hands and swung his hand towards her. The photographer prevented him from hitting Palada and the police came shortly.

The Public Information Law expressly provides that it shall be prohibited to put physical or any other 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. Journalists’ associations were quick to condemn the attack. “We hope that at least in this case, where it is clear who the attacker was, how the attack happened and how the threats were made, the reformed Serbian judiciary will

not find mitigating circumstances and that they will send a message that the practice of impunity and symbolic sentences shall have been terminated”, UNS’ statement said. NUNS said that it was seriously concerned over repeated attacks on journalists and stressed it was the consequence of disturbingly lax penalties for thugs”.

1.4. The police in Becej have filed a request for misdemeanors proceedings against four locals from Backo Petrovo selo under suspicion of having beaten up the journalist of the daily “Magyar Szo” Szögi Csaba, who sustained minor bodily harm. The suspects are Gabor Z (23), Tamasz E. (19), Atila S. (23) and a juvenile person, the police’s press release said. Szögi Csaba was attacked and beaten up on April 15. The victim said he believed the attack was related to a series of denigrating reports on journalism in Vojvodina, posted in late February on an extreme right-wing Internet portal in Hungarian language, since during the incidents the attackers have uttered a phrase posted on the portal.

One may not deduce from the press release of the police in Becej what offense the attackers have been charged with. However, the media reported that these individuals had inflicted minor bodily injuries, which points out to potential criminal liability, either for the said injuries – which may be prosecuted on the basis of a private lawsuit – or for a qualified form of violent behavior. Under the law, a qualified form of violent behavior involves harassment or violence posing a considerable threat to public order, if committed as part of a group, or if the victim should suffer minor bodily harm or severe humiliation. Since the highest penalty under the law for a misdemeanor is 60 days in prison and from 6 months to five years for a qualified form of violent behavior, we may see that in the aforementioned case of an attack against a reporter, even before the start of the proceedings, without stating clear reasons and arguments that made the police make such a decision, the one carrying the lightest penalty was chosen out of several different proceedings that might have been initiated.

1.5. On May 14, 2011, local radio and television station “Spektri” from Bujanovac reported that Agim Zeka Islami, an official of the Party for Democratic Action (PDD), had physically assaulted the owner of the said station Nedzhat Beluli. Islami, who is the head of the PDD office and Coordinator of the local Human Rights Committee, attacked Beluli on Friday evening in a fast-food restaurant in Bujanovac. The press release also said that the police in Bujanovac were informed of the attack and that they immediately came to make a report. According to the press release, the reason for the attack on Beluli is most probably the comment that was aired two days earlier under the title “No end in sight for the scandals of the municipal leaders in Bujanovac.” RTV Spektri claims the report has laid bare the abuse of office by the head of the local self-government Farus Islami, a high PDD official, who has

found a job for his wife, with the help of the President of the Municipality of Bujanovac Shaip Kamberi. Agim Zeka Islami, the attacker on the owner of RTV Spektri Nedzhad Beluli, is the brother of the President of the local self-government Farus Islami.

The Public Information 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. We remind that, after the amendments to the Penal Code from 2009, “occupations relevant for public information” are considered activities of public interest and that stiffer penalties have been provided for a certain number of criminal offences against performing such activities, if these offences are related to the media job of the victims. Unfortunately, the decisions of the courts to typically sentence attackers on journalists, editors and media owners to lax penalties are obviously not a deterrent for attackers and these attacks are on the rise.

1.6. In its edition from May 19, 2011, the daily “Politika” wrote that attorney-at-law Zoran Ateljevic issued a letter to reporters and media owners threatening damage claims against the founders of media, as well as private criminal charges against responsible persons in the media, if they were to continue to write about his client Milo Djuraskovic, the owner of “Nibens grupa” company, who is in custody, under suspicion of having embezzled 32 million Euros from the Krusevac-based company FAM, with the help of seven associates. Invoking Article 504v of the Criminal Proceedings Code, Ateljevic said that participants in legal proceedings might not divulge details from the investigation and warned journalists that “this information may be released only on the basis of a written approval of the competent public prosecutor, namely investigation judge”. Ateljevic said that his client’s reputation and honor were being stained by what he believed to be lies in the media campaign. He also pointed out that facts representing an official secret were being disclosed, with the media invoking “sources” close to the police and the investigation.

Article 504v of the Criminal Proceedings Code stipulates that information about pre-criminal and investigation proceedings for criminal offenses provided for by Article 504a of the Code (organized crime, corruption and other serious criminal acts) represent an official secret and this information may not be divulged by officials or other participants in the proceedings which this information becomes available to. The Code further stipulates that this information may be released only subject to a written approval of the competent public prosecutor or judge of investigation. Since information about pre-criminal and investigation proceedings, which represent an official secret, may not leak or be disclosed by a participant in the proceedings, it seems that Ateljevic’s warning to the media represents a threat, in view

of the fact that it has not been determined if an official secret has actually been leaked or not. A particular concern is the fact that the provision of the Code is imprecise and that it may lead to self-censorship and avoidance to publish analytical texts about organized crime, corruption and other serious criminal acts.

2. Legal proceedings

2.1. On May 9, 2011, three attackers on RTV B92 cameraman Bosko Brankovic were sentenced in first instance proceedings before the First Basic Court in Belgrade to house arrest and suspended sentences. Defendant Milan Savatovic was sentenced to ten months of house arrest, Stevan Milicevic to six months in prison three years on probation and Nikola Lazovic to four months in prison three years on probation. The chamber of the First Basic Court, presided by Judge Ana Trifunovic, found that the defendants were guilty of physically attacking Brankovic on July 24, 2008, during the unrest following the rally over the arrest of Radovan Karadzic. In the said attack, Savatovic kicked Brankovic first, while Milicevic and Lazovic put their hoods on and continued abusing and kicking him, along with other rioters. Brankovic was beaten up and suffered a serious bodily injury, namely knee fracture. The media reported that the immediate reason for the attack on the cameraman was the fact that he had previously filmed the attack on his colleague, the photographer for the Fonet news agency. The Association of Independent Electronic Media (ANEM) said it was appalled with the outcome of the proceedings against Brankovic's attackers. ANEM's public statement said that the sentences were inadequate, not only relative to the severity of the injuries sustained by the victim, but also in view of the threat to freedom of expression and media freedoms entailed by such an attack on journalists and cameramen who were doing their professional duties. Inadequate penalties against attackers on reporters and other media professionals, which have, in Serbia, become more a rule than an exception, represent a serious burden for freedom of expression. Instead of sending a message to thugs that violence against journalists, cameramen and reporters was unacceptable, ANEM said, the Court's message to the media was that some things were better be left unreported about. The Independent Journalists' Association of Serbia (NUNS) addressed an open letter to the public, expressing dissatisfaction over the sentences against the attackers. "The fear from the thugs and the understanding, and even vindication of violence as an unavoidable part of our social life, has reached unbearable proportions," the letter said. The Republic Public Prosecutor's office said it would do everything within its powers to remedy the injustice suffered by Bosko Brankovic due to the verdict of the First Basic Court in Belgrade. The Prosecutor's Office announced it would lodge an appeal against the decision on the duration of the sentences and request stiffer penalties. The Prosecutor estimated that such inadequate penalties did not contribute to the purpose of punishment and that they sent a poor message, which encouraged violent

thugs and made the citizens feel unsafe. The statement also said that the court had ruled differently in similar situations – the attacker on Member of Parliament Velimir Ilic had been sentenced to two years in prison, while it had practically rewarded the hooligans who had injured B92's cameraman.

Savatovic, Milicevic and Lazovic were sentenced under the indictment for the criminal offense of participating in a group that committed a criminal offense provided for by Article 349 of the Penal Code of the Republic of Serbia. Under the said Article, the person participating in a group that has collectively inflicted a serious bodily injury to another person, may be sentenced to between three months and five years in prison, while the ringleader may be sentenced to imprisonment ranging from one to eight years. House arrest is a possibility under the Penal Code, which says that a one-year house arrest shall be implemented by having the indicted confined to their residence, with the exception of situations provided for by the law governing the enforcement of criminal sanctions. The provisions of the Penal code concerning the weighing of the penalty stipulate that the court shall weigh the penalty within the limits prescribed by the Law for a specific criminal offense, taking into consideration the purpose of punishment and all mitigating and aggravating circumstances, namely: the degree of guilt; the motives behind the commission of the offence; the degree of threat or injury to the protected property; the circumstances under which the offense was committed; the previous record of the perpetrator; his personal situation; his demeanor after the commission of the criminal offense and particularly his attitude towards the victim; as well as other circumstances pertaining to the personality of the perpetrator. We may only hope that we will be able to see which of the aforementioned circumstances did the court consider in such a drastic case of an attack against a cameraman discharging his professional duties in the detailed written explanation of the verdict, which is yet to be written and furnished to the parties. Until then, we have no choice but to agree with the estimation voiced by, among others, the Republic Public Prosecutor, that such inadequate penalties are not conducive to achieving the purpose of punishment and that they send a bad message that encourages violent thugs.

2.2. The Appellate Court in Belgrade has revoked the first-instance verdict against Milos Mladenovic and Danilo Zuza, under which they have been sentenced to three years in prison each for the attack on the columnist of the weekly "Vreme" Teofil Pancic and ordered a new trial to be held, the Court's statement said. The first-instance verdict was revoked due to substantial infringement of criminal proceedings, because the verdict did not contain "reasons about decisive facts and the proper explanation as to the circumstances that are crucial for the criminal penalty". In the Appellate Court's view, the First Basic Court has failed in the proceedings to infer an reliable conclusion that Mladenovic and Zuza knew they

were attacking journalist Teofil Pancic, or that that the motive of their attack was Pancic's status as a journalist or their disagreement with the content of his texts, which was the reason why the first-instance verdict could not have been reviewed in the part of the decision about the pronounced penalty. Teofil Pancic said that the Appellate Court in Belgrade had revoked "a poor verdict". However, he indicated he was not clear about the motive for such decision, the daily "Danas" reported. "I'm still not clear about whether the Appellate Court has seen the same problem I see with that verdict, which is the fact that the first-instance verdict has totally disregarded my occupation as a journalist and has fallen for the explanation of the attackers, who claimed they had assaulted me randomly. I don't contest the revoking of the verdict, but I question the motive behind such decision – was the motive to establish the truth, or to further weaken an already shaky verdict?", Pancic said.

The attack on Pancic took place on July 24, 2010, at about 11 PM, in a public transportation bus in Zemun. Zuza and Mladenovic stalked Pancic and attacked him inside the bus with a club, hitting and kicking him. The First Basic Court in Belgrade sentenced them on September 21 to three months in prison each, for the criminal offense of violent behavior. They were also sentenced to restraining order. Under the Penal Code, violent behavior is defined as a substantial threat to citizens' peace or public order committed in the form of grave insults or abuse of others, violence, instigating a brawl or ruthless behavior. Such behavior shall be subject to a prison sentence of up to three years. If it results in a minor bodily harm, which actually did happen in the concrete case, the Penal Code provides for a prison sentence ranging from six months to five years. The verdict against Mladenovic and Zuza, under which they were sentenced to a penalty that is below the minimum provided for by law, was criticized by the public as inadequate, just like the verdict against the attackers on Bosko Brankovic. The decision of the Appellate Court to revoke such verdict represents an opportunity to weigh the penalty differently in the repeated proceedings. Unfortunately, the track record of Serbian courts in many similar cases involving attacks on journalists and the media does not leave much space for optimism.