

## **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. On Thursday, June 9, 2011, the company Ringier Axel Springer announced in a press release that the Editor-in-Chief of the daily "Alo!" Antonije Kovacevic was dismissed from that post over divergent views about the further course of development of that newspaper. The General Manager of the company Jelena Drakulic-Petrovic said that the decision came into effect immediately. The Journalists' Association of Serbia (UNS), which condemned Kovacevic's dismissal, said in a press release that it came just three days after the now former Editor-in-Chief had openly stood up to the pressure of the Serbian President on the editorial policy of his paper. In an interview for the daily "Frankfurter Allgemeine Zeitung", reported by the Serbian media on June 3, the German journalist asserted that Boris Tadic's efforts regarding Serbia's cooperation with the Hague Tribunal were criticized by certain nationalist media, including the tabloid "Alo!", owned by Ringier and Axel Springer, which, in the opinion of "Frankfurter Allgemeine Zeitung", was promoting extremist views. Asked if the political climate in Serbia was a turn-off for foreign investors in Serbia, Tadic replied: "Unfortunately, certain people investing in Serbian media are not overly concerned for the political and social consequences of their activities. They do not care about profit. I am very worried by this." "In the nineties", Tadic added, "when we fought against Milosevic's regime and were exposed to many threats of the then government, I harbored the illusion that a pro-European Serbia would be built as soon as the media were democratized and with the arrival of foreign capital. Today, we face the absurd situation that the newspapers owned by investors from EU and partner countries – in this case Germany and Switzerland – are the pillars of anti-European sentiment in Serbia. It's completely paradoxical", Tadic concluded. "Alo!" reacted to the President's interview by issuing a press release saying that it was exposed to pressure from the President Boris Tadic and his cabinet. According to the press release, "the President, had understood he was unable to control their editorial policy and had hence decided to try to silence one of the rare media not under the direct control of the Democratic Party and him personally." The tabloid went on saying it was an obvious attempt of muzzling, primarily aimed at the foreign owners of the newspaper, sending a clear message that any attempt to write anything unpleasant for Mr. Tadic was undesirable! "Alo!" rejected with indignation the allegations of extremism. "If 'extremism' and 'anti-Europeanism'

include criticizing in good faith the government and blowing the whistle on lies, crime, corruption, tycoons, poverty, hunger and failed promises, then this newspaper will remain an extremist one”, the press release concluded.

According to the Public Information Law, it is prohibited to restrict, directly or indirectly, the freedom of public information, especially by abuse of state power, influence or in any other way suitable for restricting the free flow of ideas, information and opinions. President Tadic’s words may definitely be understood as interfering with a newspaper’s editorial policy. A particular concern, however, is the fact that the President directly called out the owners of the media. Since Antonije Kovacevic, the Editor-in-Chief of the daily “Alo!”, was sacked only few days after Tadic’s interview, one can reasonably conclude that even large European media corporations, such as Ringier Axel Springer, as the joint venture of the Swiss Ringier and Germany’s Axel Springer, active on the markets of Poland, the Czech Republic, Slovakia and Serbia, are not able to resist to the intensity of the political pressure on the media that exists in Serbia.

1.2. On June 20, the Management Board of “Magyar Szo”, the only daily newspaper in Hungarian language in Serbia, adopted, by the majority of votes, the decision to propose to its founder – the National Council of the Hungarian Ethnic Minority – the dismissal of the Editor-in-Chief, Csaba Pressburger. Pressburger was criticized over the fact that the newspaper had allegedly neglected in its reports the work of the Speaker of the Vojvodina Assembly, Sandor Egeresi. His critics also said that “Magyar Szo” journalists have failed to show up at several press conferences held by the Association of Vojvodina Hungarians (SVM) and that the paper did not publish press releases issued by that political party. Csaba Pressburger said that “Magyar Szo” did not want to become the mouthpiece of a political party. “We believe that the essence of public information in minority languages is to report about events significant for the community, the activities of politicians, but also to criticize them. Some people from the National Council of the Hungarian Ethnic Minority and the Association of Vojvodina Hungarians are unable to accept that and that is the cause of the present move. Elections are coming, they need a media that will promote a single political party and omit any shortcomings in the policy of the said party. For obvious reasons I cannot accept that”, Pressburger said. The National Council of the Hungarian Ethnic Minority upheld on a session, held on June 23, the initiative of Magyar Szo’s Managing Board and dismissed Pressburger with 18 votes. Six members of the board voted against Pressburger’s sacking, while five were abstained. Although the session was open to the public, the journalists of “Magyar Szo” were introduced to the conference room only after the live transmission of the session on “Pannon” TV ended. The Independent Journalists’ Association

of Serbia (NUNS) and the Independent Journalists' Association of Vojvodina (NDNV) issued a press release saying that the decision of "Magyar Szo's" Managing Board was a flagrant and overt attempt of political pressure on the media and on freedom of expression. They called on the newspaper's journalists to "stand up to the arrogant conduct of the founders, who aim at transforming the paper into a nondescript mouthpiece of a political party and, to make matters worse, are not hiding their intentions." The South East European Media Organization (SEEMO) joined Serbian associations in condemning Pressburger's dismissal.

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, especially by abuse of state power, influence or in any other way suitable for restricting the free flow of ideas, information and opinions. In the above case, the statements of the members of "Magyar Szo's" Managing Board on the session of the National Council of the Hungarian Ethnic Minority make it abundantly clear that Pressburger's sacking was purely political. For instance, member of "Magyar Szo's" Managing Board Zoltan Siflis said that "Magyar Szo' not only failed to report from the Association of Vojvodina Hungarians' press conferences, but also reported about events relevant for the Hungarian community, namely the readers, 'with insufficient sympathy'". According to Siflis, the newspaper "poisoned the community, instead of supporting it". Istvan Bodzoni, also a member of the Managing Board, asserted that, instead of being the daily of the Hungarian community, "Magyar Szo" had become the newspaper of the democratic and liberal public in Serbia, in the Hungarian language. Pressburger's dismissal has laid bare the fatally flawed concept, under which the founding rights to state media in minority languages have been transferred to national councils and has shown once again that political parties – in this case the Association of Vojvodina Hungarians – have retained and are still using the mechanisms of political control over state media.

## **2. Legal proceedings**

2.1. The Higher Court in Belgrade passed a first-instance verdict upholding the claims of the non-governmental organization "Gay-Straight Alliance" (GSA) against the daily "Press". The verdict said that the readers' comments, published on July 2, 2009 on "Press" website, represented hate speech against the LGBT population and that "Press" has discriminated LGBT persons by enabling such comments to be posted on its website. GSA's press release said that this was the first verdict in the history of the Serbian judiciary for hate speech against LGBT persons and one of the first sentences delivered under the Anti-Discrimination

Law. GSA pressed charges against “Press” for allowing the publication of readers comments on the text “I will be a Gay Icon”, also released in the print edition of the daily. According to the GSA, these comments contained hate speech against the LGBT population. Most of the comments contained harsh insults, calls for murder, slaying and threats against the life and property of LGBT persons. According to the explanation of the verdict reached by the Chamber of the Higher Court in Belgrade, presided by Judge Predrag Vasic, these comments containing insults against LGBT persons, saying that these persons should be “put into a ghetto”, “shot”, calling them “sick, in need of treatment”, “perverted”, “inciting hate and violence against LGBT persons and the discrimination thereof”, represent hate speech. By publishing such comments, the defendant violated the ban on expressing ideas, information and opinions representing hate speech, in the concrete case against LGBT people, in the media, under Article 11 of the Anti-Discrimination Law and Article 38 of the Public Information Law. Furthermore, the defendant published the comments, despite the fact that he had previously warned, in the rules for using the portal, that comments containing hate speech would not be published. “Press” was ordered by the court to “publish the verdict at its own expense and in its entirety, without any comment or delay and no later than in the second edition of the newspaper after the verdict becomes final.”

Article 38 of the Public Information Law says that it is prohibited to publish ideas, information and opinions inciting discrimination, hate or violence against persons or a group of persons over their affiliation or non-affiliation to a particular race, religion, nation, ethnic group, gender, or due to their sexual orientation, regardless of whether a criminal offense has been committed by publishing such opinions or not. According to Article 39 of the same Law, charges may be pressed for hate speech against the author of the information and the responsible editor of the public media that has published the information, by the person the said information relates to as a member of a group and by a legal person, whose goal is to protect freedoms and rights of citizens, as well as by organizations protecting discriminated groups. The legal action may request a ban on the further publishing of hate speech and the publishing of the verdict at the expense of the defendant. Article 11 of the Anti-Discrimination Law says that it is prohibited to publish ideas, information and opinions inciting discrimination, hate or violence against persons or a group of persons over their personal attributes, in public and other media, on rallies and places accessible to the citizens, by writing or displaying messages or symbols or otherwise. “Press” claimed in a press release that the comments in questions were removed as soon as they were seen by the website administrator. The press release, however, did not say if the period, during which the comments remained on the website, was to be measured in minutes, hours, days or weeks. What is undisputed in this whole affair is that the comments represent hate speech and that,

in that sense, the Higher Court in Belgrade did deliver a verdict in accordance with the Law. What is also undeniable is that the opportunities Internet provides to the media, including, among other things, opening new communication channels with the viewers/readers and the possibility for the latter to participate in the creation of media content, are often used irresponsibly. The existing legal framework in Serbia is already out of step with the technological changes, which has led to an absence of concepts applicable to the websites of traditional media, which in turn means that a great deal will have to be managed by case law. Interestingly enough, the Draft Strategy for the Development of the Public Information System in the Republic of Serbia until 2016, which was submitted by the working group to the Ministry of Culture, Media and Information Society in early June, contains a concept which the aforementioned verdict is founded upon. The Draft Strategy namely says that, since public media are traditionally regulated as print and broadcast media, subject to different rules and in view of the rapidly changing new media platform that must not be hampered, the Republic of Serbia will, when it comes to the Internet editions of print and broadcast public media, insist on the respect of the relevant principles governing press, radio and television. On the other hand, the Draft Strategy stipulates that various forms of expression on the new platforms will be subject to rules depending on the circumstances of each particular case, especially bearing in mind the editorial content control. This practically means that, with regard to the internet portals of daily newspapers, such as “Press online” or those of television and radio stations, the level of responsibility for readers’ comments must correspond to the level of responsibility for content created by the journalists of these newspapers and/or television and radio stations. Accordingly, the comments need to be moderated prior to being posted online, i.e. it is not sufficient to remove controversial comments only when the administrator notices them. The level of responsibility in the case of other forms of expression on the Internet, other than online editions of print media or web portals of radio and television stations, could be lower, depending on the circumstances of each particular case.

2.2. The Misdemeanor Court fined Mileta Dzopalic from Aleksandrovac with 5000 dinars for physically assaulting the correspondent of “Blic” Gvozden Zdravic on September 26, 2010, at the commerce and tourism fair “Zupska berba” in the aforementioned town.

In our Report for September 2010, we wrote about this case, as an episode in a series of attacks Zdravic was exposed to in a short period of time. When describing the incident, the reporter said that Dzopalic had threatened him not to make photographs of the fair, while mentioning local municipal officials. Only two days later, according to media reports, Dzopalic again attacked Zdravic, preventing him from reporting from the meeting of the

Union of Winegrowers and Winemakers of Serbia. Finally, Zdravic was attacked for a third time on September 30, in front of the courthouse in Aleksandrovac, where he had come to report about a dispute between the Municipality of Aleksandrovac and the Socialist Party of Serbia. According to media reports, Zdravic was beaten up by Cedomir Cirkovic, the driver of the Mayor Jugoslav Stajkovac. After the incident Zdravic said he believed that Stajkovac had ordered the attack, infuriated over the correspondent's texts about irregularities in municipal budget spending. If the media reports are correct, as the Misdemeanor Court in Krusevac dealt with an isolated incident and not with the series of attacks on Gvozdic in a span of just a couple of days and since the background of this episode remains unsolved, one may not be satisfied with such epilogue. The Serbia judiciary has failed, as usual, to shed light on all relevant facts and particularly on the role of high municipal officials in Aleksandrovac, invoked by Dzopalic when he attacked the reporter. The fact that the Court has found that "there was no obvious reason for the attack" seems more like pushing things under the rug than trying to solve them.