



LEGAL MONITORING OF SERBIAN MEDIA SCENE

Report for the period May - June 2009



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INTRODUCTION

Working for the benefit of its members and entire Serbian media sector as well, ANEM set as one of its primary goals the establishment of optimal legal framework for development of media, as a contribution to the continuance of media reforms. The project “ANEM and its Legal Department: Legal Monitoring of the Serbian Media Sector and Follow - up Activities”, supported by USAID and IREX Serbia, presents one step toward achievement of the mentioned goal.

The project predicts continuous monitoring of the entire Serbian media sector, and especially: freedom of expression, media legislation (implementation of existing laws and amending process/adoption the new ones), the practice of state authorities, regulatory agencies and collective societies, as well as monitoring of the process of privatization and digitalization, as the most important for media scene.

Monitoring is conducted by Law Office „Živković-Samardžić“, reliable, long-term ANEM partner, which, by its reputation and media-related expert knowledge of its lawyers, guarantees that the undertaken task will be performed according to the highest professional standards. Along with them, ANEM coordinator, as a lawyer and a long-term Law Office associate, will be engaged on monitoring, reports and all other planned activities.

The process of monitoring implies gathering and analysis of the data, collected by: following the media reports on daily basis; monitoring the work of public authorities, regulatory agencies and other relevant organizations; careful monitoring of implementation and practical outcomes of certain laws on every-day work of the media outlets; monitoring of processes important to media sector; participation at public debates and round tables; checking the documents on web sites of all relevant authorities; regular contact with ANEM Secretariat and its member stations etc.

Results of monitoring will point out good and bad sides of the existing media legislation and its implications, as well as the other relevant issues, important for the further development of Serbian media sector. The results will also serve as a starting point for further advocacy activities of ANEM and other interested organizations, aiming toward creation of an adequate environment for continuance of development and improvement of position of the media.

In the observed period, in May and June 2009, all planned monitoring activities are conducted, and the results are presented in the following report.

I FREEDOM OF EXPRESSION

Freedom of the Media and Freedom of Expression, through the Right on Public Information, are foremost regulated by the Law on Public Information. This Law guarantees the Freedom of Expression, bans FOE restriction and any kind of pressure or influence on media. However, media in Serbia did not yet reach the satisfying level of freedom. According to survey of American NGO “Freedom House”, media in Serbia are “partly free” and country takes 83rd place out of 195 states on the list, which this NGO made public on occasion of World Press Freedom Day, May 3rd.

In the observed period, numerous and various kinds of FOE infringement are recorded, but the characteristic ones are pointed out here:

1. Threats and pressure

- 1.1. Gornji Milanovac, May 5, 2009** - Vlastimir Zlatic, priest of the St. Nicholas Church in the village of Silopaj, has threatened Zoran Marjanovic, correspondent of “Glas Javnosti” and “Kurir” to kill him, after several Belgrade newspapers reported that Zlatic had beaten up the woman whom he had an extramarital relation with. The priest was apprehended and taken before the judge of investigation and ultimately released after questioning.
- 1.2. Belgrade, May 7, 2009** – “Vecernje Novosti” have published a text in which, based on the interpretation of Attorney at Law Nenad Popovic, Chairman of the Shareholders’ Assembly of the Port of Belgrade, the author contests the right of B92 to a national frequency, due to an alleged majority foreign ownership. This text ensued after an episode of B92’s “Insider” series had dealt with the land that is the subject of a dispute between the City of Belgrade and the Port of Belgrade – the land on which the owners of the Port, businessmen Miroslav Miskovic and Milan Beko plan on building a residential-office complex. The majority share in “Novosti” is owned by largely unknown foreign companies and there has been speculation in the public that these companies are, in fact, owned by Milan Beko.
- 1.3. Kursumlija, May 8, 2009** – President of the Municipality of Kursumlija, Zoran Vuckovic, has sent a letter to the Republic Broadcasting Agency (RBA) accusing the owner of the local station RTV Kursumlija Slavko Savic of „misusing his TV station“ by calling the

employees of the Kopaonik company from Kursumlija, who are on strike, to occupy the building of the Municipality. Vuckovic requested that the said TV station be fined.

- 1.4. Belgrade, May 8, 2009** – Sports reporter Nebojsa Viskovic has left RTS because the father of top Serbian tennis player Novak Djokovic threatened RTS to deny them the right to live broadcasts from the Serbian Open tournament – organized by the Djokovic family – if Viskovic remains the commentator of Novak’s matches, which condition RTS ultimately accepted.
- 1.5. Belgrade, May 8, 2009** - The Democratic Party and G17 Plus Party have forbidden their ministers and MPs to give statements to “Kurir”, claimed this daily newspaper.
- 1.6. Belgrade, May 11, 2009** - Businessman Stanko Subotic Cane claimed in an interview to the Zagreb-based daily “Jutarnji List” that the „Tobacco Affair“ for which he had been accused of was „invented by people from the cabinet of former Prime Minister Vojislav Kostunica“, namely Secret Service Chief, Rade Bulatovic, Head of Kostunica’s cabinet, Aleksandar Nikitovic, Police Minister, Dragan Jovic, with the „media support“ of RTS GM, Aleksandar Tijanac. RTS General Manager Aleksandar Tijanac rejected Subotic’s allegations, saying he considered them a direct threat.
- 1.7. Loznica, May 11, 2009** – According to judge of investigation of the Municipal Court in Loznica, Zivadin Lazic, a police inquiry has concluded that there was an attempted burglary of the apartment of journalist Vladimir Mitric, correspondent of “Vecernje Novosti” from Loznica, in which the door of Mitric’s apartment was damaged. The journalist is under 24/7 police protection more than three and a half years due to various threats.
- 1.8. Sabac, May 21, 2009** – Journalists of local media from Sabac Hanibal Kovac and Mirjana Cvoric accused Democratic Party of Serbia (DSS) members of having insulted them after the assembly of that party’s City Committee. The newly elected President of the DSS City Committee in Sabac has publicly apologized to Hanibal Kovac for the insults and announced the proper disciplinary measures against the perpetrators of the misconduct.
- 1.9. Belgrade, May 23, 2009** - The staff meeting of the Radio Television of Serbia announced that it has informed the European Broadcasting

Union that the Liberal Democratic Party „has recognized to have made cooperation with the ruling coalition conditional on certain personal and programme changes“ in RTS.

- 1.10. Belgrade, May 25, 2009** – Attorneys of the Port of Belgrade have been, for two days, sending warnings to TV B92 ahead of the airing of the “Insider” program, requesting from that station, under the threat of legal action, to refrain from airing information about the land that is subject to a dispute between the Port and the City of Belgrade, namely that B92 may present only the position of the Port of Belgrade, claimed by the attorneys to represent the sole truth.
- 1.11. Belgrade, May 26, 2009** – The Journalists Association of Serbia (UNS) condemned the behaviour of the coach of the Partizan basketball club, Dusko Vujosevic. After the game against Red Star, Vujosevic insulted and swore on longstanding “Vecernje Novosti” sports journalist Vlada Preradovic.
- 1.12. Belgrade, May 26, 2009** - Liberal Democratic Party (LDP) deputy Ivan Andric accused, while addressing the Parliament, the RTS General Manager Aleksandar Tijanic of being a „war criminal“ and „warmonger“. Aleksandar Tijanic requested protection from the Speaker of the Parliament.
- 1.13. Belgrade, May 27, 2009** – Commenting Aleksandar Tijanic’s address to the parliamentary speaker, Liberal Democratic Party (LDP) leader Cedomir Jovanovic said „the conditions were met for setting up an investigation committee that would, amongst other things, establish the responsibility for the situation in RTS“.
- 1.14. Belgrade, May 30, 2009** - Rapper Dalibor Andonov Gru (36) was taken in by the police for an interview for having threatened the journalist of the daily “Kurir”, which has published photographs of Andonov with an unknown girl on a Belgrade boat restaurant.
- 1.15. Belgrade, June 5, 2009** – The “Futura plus” distribution company, of which the majority share is owned by businessman Stanko Subotic Cane, informed the “Novosti” Company that it was stopping the sale of all magazines of the said company. “Futura Plus” has also reduced the volume of the daily “Vecernje Novosti” from 54.000 to merely 2.240 copies, which is the legal minimum. Futura made that decision after Novosti issued it a 53 million RSD bill in order to collect all outstanding and unpaid liabilities of Future towards Novosti.

- 1.16. Belgrade, June 17, 2009** – Numerous media organizations, including Association of Independent Electronic Media (ANEM), strongly protested against the publication of the article titled "Olja's son, a drug dealer" in the Belgrade daily "Kurir", on Tuesday 16th of June this year. In that article, making a minor absolutely recognizable, the daily arbitrary found him guilty of a criminal act. Thus, „Kurir“ roughly violated minor rights, which is against the basic civilization standards, news and media codes and existing laws in the country. [See here](#)
- 1.17. Belgrade, June 19, 2009.** - In the night between June 17 and 18, unknown persons threw the fire torch on the B92 building, and tires of the Olja Beckovic car, parked in front on her building, where she lives with her son, were slashed. ANEM and B92 characterized the mentioned attacks as a continuance of the chase against this media outlet and Olja Beckovic, which for four days now, is lead by daily „Kurir“. "Kurir" accused the fifteen-years-old son of journalist Olja Beckovic to be a drug dealer and also attacked media outlet B92, trying to present the marketing contracts of this outlet with Petroleum Industry of Serbia (NIS) as a donations which provided bias reporting of TV B92 regarding the alleged malversations in this company. [See here](#)

The Public Information Law stipulates that no one shall be entitled to apply any kind of physical or other kind of pressure on a public media outlet or its staff, or any influence aimed at preventing them from performing their activities. A person engaged in the distribution of newspaper outlets must not refuse to distribute someone's newspaper without justified commercial reason. Endangering someone's security by making threats of bodily injury or death is a criminal offence according to the Criminal Code, subject to a 1-3 year prison sentence.

The information we have come in the possession of in the course of monitoring reveal that pressure/ intimidation against the media, with the purpose of preventing them to do their job, are a daily occurrence and that the public often fails to react to such attempts to intimidate the media. On the other hand, although the Public Information Law stipulates that the courts are to deal with breaches of public information freedom in a summary procedure, the court proceedings are way too lengthy. For example, in the observed period, eight years have passed since the correspondent of "Vecernje Novosti" from Jagodina Milan Pantic was killed. His killer was never found or tried. Before he was murdered, Pantic has written about corruption in the Jagodina brewery

and the Popovac cement plant, as well as about the death of journalist Dada Vujasinovic, which remain unsolved after 15 years.

What has particularly marked the in the observed period are organized and systemically managed campaigns of certain media against other media. A case in point is the campaign against B92, which “Vecernje Novosti” has joined. Namely, “Vecernje Novosti” as a media outlet with a utterly non-transparent ownership structure – which has been speculated in the public to be controlled by Milan Beko – have taken part in a campaign against B92, after an episode of B92’s “Insider” series had dealt with the land that is the subject of a dispute between the City of Belgrade and the Port of Belgrade – the land on which the owners, one of them being businessman Milan Beko plan on building a residential-office complex.

Such cases are also pointing to the necessity to have regulations governing media ownership transparency adopted as soon as possible.

2. Court proceedings

- 2.1. Bujanovac, May 4, 2009** – At the order of the District Prosecutor, the police is investigating the film about Ridvan Qazimi, the leader of the Liberation Army of Presevo, Medvedja and Bujanovac, broadcasted two years ago on the Bujanovac television. The aim is to find out whether that film contained elements of the criminal offence of stirring ethnic, racial and religious hatred and animosity. Deputy District Prosecutor, Slobodan Trajkovic, told “Vecernje Novosti” he did not know how information from the investigation had leaked into the public.
- 2.2. Belgrade, May 8, 2009** – The District Court in Belgrade ordered the “Press” daily newspaper to pay 300.000 RSD to the spouse and son of Liberal Democratic Party (LDP) leader Cedomir Jovanovic, for a breach of the right to privacy. Believing the verdict to be unsustainable, because the trial failed to prove that Jovanovic’s juvenile son was on the disputed photo “Press” has published, the daily announced it would lodge an appeal with the Supreme Court.
- 2.3. Belgrade, May 13, 2009** – Sports reporter Milojko Pantic was ordered by the First Municipal Court of Belgrade to pay the former President of the Serbian Olympic Committee (SOC), Ivan Curkovic, and former Secretary General of that organization, Predrag Manojlovic, a total of 600.000 RSD of damages for “psychic pain sustained over

stained honour and reputation” caused by the allegations of embezzlement while they were at the helm of SOC.

- 2.4. Belgrade, May 16, 2009** – The Third Municipal Court in Belgrade has indicted Kurir’s reporter Ljiljana Kekovic for slander against LDP leader Cedomir Jovanovic. However, she was not fined and the court only ordered the newspaper to publish the verdict.
- 2.5. Belgrade, May 16, 2009** – The first Municipal Court in Belgrade fined Predrag Popovic 250.000 RSD for slander against B92 and its reporter Brankica Stankovic, published on July 6th, 2005 in the daily newspaper “Srpski nacional”, the publishing of which in the meantime has ceased.
- 2.6. Loznica, May 19, 2009** – In the case against a former police officer accused of assaulting “Vecernje Novosti” journalist Vladimir Mitric in 2005, the then Police Commander in Loznica, Slavisa Mitrovic, testified before the Municipal Court in Loznica that “the police did not want to go out on the crime scene, although he has ordered it personally to the on-duty unit”.
- 2.7. Belgrade, June 2, 2009** – The First Municipal Court in Belgrade ruled that the responsible person and the “Kurir” daily newspaper ought to pay solidary to Aleksandar Tijanic 900.000 RSD of damages for breach of honour and reputation in several texts about the alleged sacking of Tijanic from the office of RTS General Manager, embezzlement in the purchase of broadcasting rights for the World Football Championship, voting manipulation on a musical festival, as well as a text about “Tijanic’s made-up stay in Spain in Stanko Subotic’s villa”.
- 2.8. Belgrade, June 2, 2009** – The trial against the three attackers on TV B92’s cameraman Bosko Brankovic during the protest over the arrest of former Bosnian Serb leader, accused before Hague Tribunal, Radovan Karadzic, was postponed before the Third Municipal Court in Belgrade for June 17th, due to the no show of the attorney of first defendant Milan Savatovic and the witness – the reporter who was with Brankovic when he was hurt.
- 2.9. Belgrade, June 3, 2009** – The District Court in Belgrade upheld the ruling of the First Municipal Court finding Editor-in-Chief of the “NIN” weekly, Slobodan Reljic, guilty for slander against the former Head of the Communications Bureau Vladimir Popovic, for having associated

the latter in a “NIN” article to allegations of tobacco smuggling. Reljic was issued an admonition.

- 2.10. Cacak, June 6, 2009** – The Nova Serbia Party President Velimir Ilic sued the Director and Editor-in-Chief of the “Cacanske novine” weekly Stojan Markovic for slander in two texts, claimed to be “humoresques” by Markovic.
- 2.11. Nis, June 8, 2009** – The Third Municipal Court in Belgrade found guilty for the criminal offence of slander the former Editor-in-Chief of the daily “Kurir” Dragan Vucicevic. Vucicevic was ordered to pay 100.000 RSD to the former Serbian PM Zoran Zivkovic, who sued Vucicevic in the fall of 2004.
- 2.12. Belgrade, June 9, 2009** – The Ministry of Culture filed a request for misdemeanour proceedings and sent a letter to the Public Prosecutor’s Office requesting the investigation of potential criminal elements and the launching of criminal proceedings against the Editor-in-Chief of “Pravda” Predrag Popovic, over the texts entitled “Dinkic is the Evil – He is the Main Target” and “Dinkic Has Been with one Foot in the Grave a Long Time Ago for his Decisions”.
- 2.13. Belgrade, June 17, 2009** – The Ministry of Culture has filed misdemeanour charges against “Kurir” Editor-in-Chief Rade Jerinic, over the text entitled “Olja’s Son – the Drug Dealer”, for revealing the identity of a minor in the information which may harm his rights and interests.
- 2.14. Belgrade, June 18, 2009** – On the trial against the three attackers on TV B92’s cameraman Bosko Brankovic during the protest over the arrest of former Bosnian Serb leader and Hague indictee, Radovan Karadzic, the eyewitness of the event, journalist Vanja Lazin, confirmed that the first defendant Milan Savatic, had attacked and beaten up Brankovic.

The information learned in the course of monitoring point to the majority of cases against journalists being criminal proceedings for slander, namely damages litigations for slandering texts. Charges are most often pressed by former or current politicians, public figures, but also the journalists themselves against their colleagues.

In accordance with its authority pursuant to the Public Information Law, the Ministry of Culture has also pressed several charges for breach of the presumption of innocence and violation of a minor’s rights.

In the in the observed period, in several proceedings, typically the ones against journalists, not only first-instance rulings, but also final verdicts have been reached. On the other hand, there has not been a single ruling, not even a first-instance one, in proceedings against persons accused of physically assaulting journalists. There is even overt obstruction when proceedings need to be undertaken when assault on journalists are reported, as evidenced by the testimony of the commander of the police station in Loznica in a court case in that city (see 2.6 above). Namely, when interrogated as a witness in the proceedings against a former police officer for assaulting a journalist, the commander confirmed that the police officers did not want to intervene against their colleague who assaulted the journalist, until the commander finally explicitly ordered them to do so.

As an exception to the rule that the proceedings are mainly conducted for slander and privacy breach, is the pre-criminal proceedings against a Bujanovac journalist for the criminal offence of causing or stirring ethnic, racial or religious hatred or animosity, which is according to the Serbian Criminal Code punishable by a 5-year prison sentence and even 10 years in the most serious cases.

II MONITORING OF THE IMPLEMENTATION OF EXISTING LEGISLATION

1) Broadcasting Law

▪ RISE IN SUBSCRIPTION FEES FOR RTS

Belgrade, May 3, 2009 – Since April 2009, the subscription fee for television and radio went up to 434 RSD from the hitherto 387 RSD. Regardless of the increase, collection was also up in almost all Serbian cities, except in the South of Serbia, while in Belgrade it has reached 81%, the Chairman of the Republic Broadcasting Agency (RBA) Council, Bishop Porfirije, said.

According to the Broadcasting Law, the subscription fee for television and radio shall serve to finance activities of the Public Broadcasting Service's institutions aimed at achieving the general interest as provided for by the law. The owners of radio and TV sets are obliged to pay a single subscription fee for television and radio in the same amount on the entire territory of the Republic of Serbia. The increase in the subscription fee from April 2009 was the result of the yearly adjustment of the subscription amount with the growth of retail prices in the previous calendar year, as provided for by the Broadcasting Law.

- **RTV DIRECTORS AND EDITORS APPOINTED**

Novi Sad, May 4, 2009 - The Radio Television of Vojvodina (RTV) Steering Committee has appointed Aleksandar Dotlic to be the Director of TV Novi Sad, at the proposal of General Manager, Blazo Popovic. Pavle Milivojev has been appointed Director of Radio Novi Sad; Ljubisa Nikolin is the new Editor-in-Chief of TV Novi Sad, while Radovan Balac shall be the new Editor-in-Chief of Radio Novi Sad.

According to the Broadcasting Law, the Steering Committee of the Vojvodina Public Service appoints and dismisses the directors of radio and televisions, as well as program editors-in-chief, by a two-third majority, whereas the decision on appointment is passed by the said Committee at the proposal of the General Manager, after holding a public competition. Members of the Steering Committee are appointed and dismissed by the Republic Broadcasting Agency.

- **A DOZEN BROADCASTERS LOSE OPERATING LICENSES**

Belgrade, May 4, 2009 – The Chairman of the Republic Broadcasting Agency (RBA) Council, Bishop Porfirije, has said that a dozen local and regional television and radio stations have lost their operating licenses due to unpaid debts. He stressed though that he believed that the percentage of revoked licenses was not high, since there were 467 issued licenses in Serbia.

- **TV ENTER LOSES LICENSE**

Belgrade, May 12, 2009 – Belgrade’s television stations, Enter and SOS kanal, have lost their operating licenses due to unpaid debts, while TV Art could soon suffer the same fate. Previously, TV Plus, also based in Belgrade, has lost its license.

One of the grounds for a broadcasting license to cease to be valid prior to its term of issuance is the case if the broadcaster, in spite of a written warning, fails to discharge the obligation to pay the broadcasting license fee. The said obligation is provided for by the law, while the amount of the fee is determined by the RBA, based on the criteria contained in the Law. Exempted from the obligation to pay the fee are Public Service institutions, state-owned local and regional communities’ stations pending privatization, as well as civil sector stations.

- **RTS AND RTV UNDER „POPULAR“ CONTROL**

Belgrade, June 6, 2009 – The Republic Broadcasting Agency Council has proposed 24 candidates for members of Radio Television of Serbia and Radio Television of Vojvodina program councils. The competition for members of the said program councils has received applications from only 32 candidates.

According to the Broadcasting Law, members of the Program Committee of the Broadcasting Institution of Serbia are appointed by the Parliament of the Republic of Serbia, while the members of the Program Committee of the Broadcasting Institution of Vojvodina are appointed by the Parliament of the Autonomous Province of Vojvodina. The RBA Council is authorized to propose candidates, on the basis of a public competition. By having proposed these candidates, the RBA Council has fulfilled its legal obligation.

- **COMPETITION FOR FREQUENCIES TO BE HELD IN JULY**

Sremska Kamenica, June 9, 2009 – Deputy RBA Council Chairman, Goran Karadzic, announced that the competitions for allocation additional frequencies in Serbia would be called for in July.

According to the Broadcasting Law, the public competition for the issuance of broadcasting licenses shall be called for when, on the basis of the Radio Frequencies Distribution Plan, the possibility exists for new broadcasting licenses to be issued. The public competition, announced for July, is the result of the fact that previous competitions were marred by poor turnout, namely certain broadcasters that have obtained licenses earlier, have lost the same due to unpaid fees.

OPINION

The Monitoring of the Broadcasting Law implementation apparently points to no irregularities in the observed period. However, although not visible in the said period, the main problem in the implementation of the aforementioned law occurred as back as late last year and has persisted to this period: this is namely the uncompleted procedure of election of two new RBA Council members for vacancies in that Council. The Culture and Information Committee of the Serbian Parliament has not provided for the election of these members, putting thereby the Council in the position to operate in incomplete composition, although the proposers of the said candidates – the media, media associations and organizations, as well as non-governmental organizations – insisted on that, believing that all legal conditions for

such election had been fulfilled. This matter has been considered in more detail in the Section about the monitoring of activities of state authorities, namely of the Parliament of the Republic of Serbia.

2) Personal Income Tax Law

▪ HIGHER TAXES ON AUTHOR'S FEES

Belgrade, May 14, 2009 – The representatives of ANEM, NUNS, NDNV and Lokal Press have requested the Government and the Serbian Parliament to reconsider the negative effects of the Personal Income Tax Law and to restore the charges on authors' fees on the previous level.

Changes and supplements to the Personal Income Tax Law, adopted by the Serbian Parliament in late April, have cut in half – in some cases completely revoked – the standardized costs that were, directly pursuant to the law, deducted from the said fees pre-taxation, which has resulted in an actual rise of taxes on fees. Since it is in the nature of the media activities to enter a large number of authors' contracts, the adopted changes to the Law had posed a realistic threat of deteriorating the position of media staff. After an outcry of media and artistic associations, the Government proposed to the Parliament new amendments to the Personal Income Tax Law that were adopted and became effective on the 8th of June, 2009 and that have increased the standardized costs deducted from the fees pre-taxation. However, these changes failed to restore the prior tax level. The said tax increase may contribute to the further impoverishment of journalists and other media staffs, for it is realistic to expect less employment or lower fees. See [here](#)

3) Personal Data Protection Law

a. GUIDE TO THE PERSONAL DATA PROTECTION LAW

Belgrade, May 19, 2009 – The Commissioner for Information of Public Importance and Personal Data Protection has published a Guide to the Personal Data Protection Law, whose text has also been posted on the Commissioner's website. The Commissioner has highlighted the importance of raising the level of privacy protection culture for preventing privacy violations.

b. INSUFFICIENT PERSONAL DATA PROTECTION

Belgrade, June 5, 2009 – The Commissioner for Information of Public Importance and Personal Data Protection, Rodoljub Sabic, has warned

that Serbia was seriously lagging behind in personal data protection, indicating that not only the Personal Data Protection Law was long overdue, but also that, after the adoption of the same, the conditions for its implementation were yet to be provided.

The Personal Data Protection Law was adopted in the Parliament of the Republic of Serbia in October 2008 and has formally been in effect since January 1st, 2008. Unfortunately, its implementation has been merely formal, since the conditions related to funding, equipment and staffing are yet to be created.

4) Law on Free Access to Information of Public Importance

- **GOVERNMENT FAILED TO PROVIDE FOR WHISTLEBLOWER PROTECTION**

Belgrade, May 8, 2009 – The Commissioner for Information of Public Importance and Personal Data Protection Rodoljub Sabic has said that the amendments to the Law on Free Access to Information of Public Importance shall remove the inconsistencies and regretted that lack of protection of whistleblowers uncovering corruption in their companies and inform the public thereof.

- **INITIATIVE FOR WHISTLEBLOWER PROTECTION**

Belgrade, June 12, 2009 – The Commissioner for Information of Public Importance and Personal Data Protection has sent a formal initiative to the Ombudsman of the Republic of Serbia proposing the Ombudsman to submit, in accordance with his constitutional authority, an amendment to the Draft Law on Changes and Supplements to the Law on Free Access to Information, which amendment would serve to protect whistleblowers.

The regular reports published by the Commissioner for Information of Public Importance and Personal Data Protection are pointing to an increase of the extent of usage of free access to information of public importance rights. The Commissioner has in the previous period been particularly engaged in raising the awareness about the need to protect whistleblowers.

Implementation of other media legislation

The implementation of the **Public Information Law** – the core media law – has been reviewed in the Section about freedom of expression.

The Advertising Law is also an important law for the media. Commercial radio and TV stations, as well as print media, are making their living mainly from advertisers. In that process, they are obliged to comply with the rules provided for by the said Law. The existing law has shown in practice certain concepts to be obsolete or too rigid and hence the line ministry has, amid requests by the Broadcasters' Association, decided to effect changes to this Law. Find more details about this matter in the following Section – adoption of new laws.

Copyright and Related Rights Law is important for broadcasters, for they are to a great extent the beneficiaries of the object of protection of copyright and related rights. The implementation of the existing law has revealed certain shortcomings, imposing the need for new solutions. Find more details about the new law in the following Section.

III MONITORING OF THE PROCESS OF ADOPTION OF NEW LAWS

1. LAW ON ILLEGAL MEDIA OWNERSHIP CONCENTRATION AND TRANSPARENCY OF PUBLIC MEDIA OWNERSHIP

The Law on Illegal Media Ownership Concentration and Transparency of Public Media Ownership, the draft of which has been made by the work group set up by the Ministry of Culture, which draft was tabled to the Ministry as back as in April this year, is yet to be adopted by the Government and sent to the Parliament. The draft has undergone public discussion late last year and early this year and the working group has accepted certain objections voiced during the said discussion by the representatives of the media industry. The draft is posted on an Internet presentation at <http://www.kultura.sr.gov.yu/dokumenti/Zakon-o-nedozvolj-objedinjavanju-i-javnosti-vlasnistva.doc>

2. BROADCASTING LAW

The working group set up by the Ministry of Culture is working on the amendments to the Broadcasting Law. The draft is expected to be presented to the public in the second part of 2009.

3. ADVERTISING LAW

The working group set up by the Trade Ministry is working on the amendments to the Advertising Law. The said Ministry has announced that the draft amendments, expected to be more liberal, should be presented to the public in the second part of 2009.

The current law has been – at the request of broadcasters and their associations – slightly changed in its implementation, by the acceptance of their justified suggestions and a less rigid interpretation of certain provisions of this law by the competent authorities overseeing compliance with advertising rules (RBA). Since there are a lot of these provisions, the Law ought to be changed for the sake of legal security, because its interpretation may easily vary and be selectively applied. Changes to the Law are expected to involve the said changes occurred in practice. More over the Law is also expected to be thus put in line with new European standards and regulations governing this area.

4. CRIMINAL CODE

By Amendments to the Criminal Code, which are, as announced by the Justice Ministry, expected to be tabled to the Parliament in July, the criminal offences of attempted murder or murder of a journalist shall be subject to no less than 10 years in prison. Threats against journalists shall be punishable by a jail term from 1 do 8 years. “We must send a message and only this will protect journalists. If someone threatens you not to do reportage, that person will be held accountable”, the State Secretary in the Justice Ministry Slobodan Homen said.

For the time being there is no information as to whether the Justice Ministry, as the proposer of the announced changes to the Criminal Code, is considering the possibility to decriminalize slander and libel. The Code from 2005 had revoked only jail sentences for these criminal offences.

On the other hand, in view of the many threats, assaults, and even unsolved murders of journalists, as well as the long foot-dragging of the cases of assault even when the perpetrators are known, stiffening the sanctions in these cases could contribute to the function of general prevention.

5. COPYRIGHT AND RELATED RIGHTS LAW

In the period from April 29, 2009 to May 15, 2009, a public discussion was held about the draft version of the Law on Copyright and Related Rights prepared by the experts of the Intellectual Property Office and the Ministry of Science and Technological Development. As opposed to the current Law, which gives right to organizations for collective realization of copyright and related rights to completely independently set the tariff of fees for usage these rights, the Draft Law provides for a tariff of fees resulting from an agreement between the organization and the representative users association. If an agreement is not reached, the Draft stipulates that a new body – the Copyright and Related

Rights Commission – shall give the approval for the tariff, as the condition for the entry into force thereof.

In the course of the public debate, in proposals and comments, ANEM has insisted on specifying the mechanisms based on which the attribute of a particular association as the representative association of beneficiaries would be determined, as well on enabling the beneficiaries' associations to have their representatives in the Copyright and Related Rights Commission. [See here](#)

OPINION

Although the previous period has seen increased activity of the relevant ministries on producing the changes of existing or preparing the draft of new laws, the general conclusion is that changes of media regulations are insufficient and slow. The very procedure for their adoption is complicated and long-lasting for it involves the participation of multiple authorities and it is often marred by political pressure or subordinated to the interests of influential individuals or groups. Therefore it often happens that initially good solutions are excluded or changed in that procedure to the extent that they become obsolete due passage of time. Nevertheless, the main shortcoming for achieving a stable regulatory framework is the lack of a state media strategy, resulting in partial, often conflicting solutions for certain problems.

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

REGULATORY BODIES

1. THE REPUBLIC BROADCASTING AGENCY (RBA)

- a) The activities of the Republic Broadcasting Agency (RBA) in the observed period were marked by the revoking of licenses of a number of broadcasters due to unpaid broadcasting fees. The decisions have not been published on the RBA website, nor have the broadcasters in question deleted from the Licenses Registry available on the website. However, from the statements of RBA Council members given to the media in early May, it could have been concluded that the licenses of a dozen local and regional television and radio stations were revoked, including Belgrade-based television stations Enter, SOS kanal and TV Plus.

- b) The National Assembly of the Republic of Serbia passed the decision on the May 29th, 2009, to appoint Zivojin Rakocevic from Gracanica as member of the Republic Broadcasting Agency from the Autonomous Province of Kosovo and Metohija. Including Mr. Rakocevic, the RBA Council has 7 of the required 9 members now.
- c) Relative to its authority to propose members of Public Services' Program Committees, the RBA Council proposed 24 candidates on June 3rd, 2009, out of 32 that have applied on the competition for membership in program committees of Radio Television of Serbia and Radio Television of Vojvodina. The program committees are tasked with representing the interests of viewers and listeners in the Public Broadcasters Services.
- d) On the same session, the RBA Council has passed the decision to submit to the Ministry of Culture a proposal of changes to the Rulebook on Standards for Determining the Fee for Broadcasting Radio and/or Television Program, reducing the base for calculating the fee by 5%. In accordance with the Broadcasting Law, the amount of the broadcasting fee shall be determined by the Agency, with the consent of the Government of the Republic of Serbia.

Dissatisfied with the results of combating broadcasting piracy – it is estimated that there are around 130 pirate broadcasters in Serbia – the RBA Council sent on June 19th to the Ministry for Telecommunications and Information Society a request for changes and supplements to the Telecommunications Law by introducing provisions that would enable temporary seizure of broadcasting equipment from pirate broadcasters. A request was also submitted to the Justice Ministry for amending the Criminal Code, so as to incriminate unlicensed possession of a radio station.

2. REPUBLIC TELECOMMUNICATIONS AGENCY (RATEL)

- a) In late April, RATEL informed the public with the details of its activities report for the period 2005-2008. The report indicates that the telecommunications market in Serbia is worth 10 billion EUR, with a 4-6% BDP share. Regarding data relevant for broadcasters, according to RATEL, the penetration of cable distribution of radio and television programs has reached 11%, namely cable operators had 856.000 subscribers in 2008, which is an increase of more than 300.000 in only two years.

- b) In May, RATEL started with the registration of satellite DTH operators, pursuant to the new Bylaw that came into force in April.
- c) In public addresses of the Chairman of the Steering Committee and the Executive Director of RATEL that agency has demonstrated the readiness to reduce the fees for the use of radio frequencies charged to broadcasters, but that good will is yet to be put into practice to date.
- d) In mid-July, RATEL's Radio Communications Control Sector began sending reports to radio stations, proposing to ban the work of radio relay links for signal delivery from studios to transmitters in the 370-396 MHz range. The said range for signal delivery from studios to transmitters is used by a large number of radio stations in Serbia. In keeping with the Radio Frequency Range Function Plan, it stems that this range may be used for the said purposes (functions), if it is not causing harmful disturbances for other users operating in accordance with the Plan. ANEM requested from RATEL that the matter of switching to other signal delivery types or switching to other planned bands – due to related costs in a situation of economic crisis – be dealt systemically and in reasonable time frames.

ANEM activities regarding the closure of illegal broadcasters [see here](#)

OPINION

The main impression is that RBA and RATEL have so far failed to create a favorable environment for undisturbed+ operation of electronic media. In the observed period, the regulatory agencies were not efficient in shutting down illegal broadcasters, contributing thus to making the position of legal broadcasters even more difficult. These legal broadcasters may not fully exercise their broadcasting right and generate the expected marketing revenues. In addition, the announced reduction of RBA fees is not an adequate solution to this matter, because the purpose of the said fees is to ensure the financial independence of the regulatory agency and cover regulatory costs. Even after the announced reduction, these fees far exceed that level. Contrary to what it has announced earlier, RATEL has to date failed to reduce fees collected from broadcasters. However, it is expected that it will soon do so at the recommendation of the Government.

GOVERNMENT AUTHORITIES

3. THE NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA

The National Assembly of the Republic of Serbia has, in the observed period, passed several laws relevant for the media. In late April, the Law on Changes and Supplements to the Personal Income Tax Law was adopted, drastically worsening the position of part-time associates of the media, by increasing taxes on authors' fees. Under pressure of media and journalist associations – ANEM among them – as early as in early June, the Government adjusted these changes to the new Law on Changes and Supplements to the Personal Income Tax Law. Nevertheless, the taxes on authors' fees remained slightly higher than prior to the introduction of changes to the Law in April.

In late May, the Law on Confirmation of the European Cross-Border Television Convention was adopted. At the same time, the Law on Amendments to the Broadcasting Law was adopted. Changes to the Broadcasting Law that only regard to the procedure of election the members of RBA Council were fiercely criticized by ANEM and other media and journalist associations. Those changes has authorized the Parliamentary Culture and Information Committee, in case of a greater number of NGO candidate lists, as well as a greater number of candidate lists of public broadcasting media, journalists, film and drama artists and composers, or candidate lists with more than two candidates, to perform the pre-selection of candidates. At that, the Culture and Information Committee is not bound by any criteria for pre-selection, thus opening the way for an ignorant attitude towards authentic candidates from the civil society sector and the media profession.

Of particular concern is the fact that these changes have been put forward without any consultation with professional media associations and NGOs. Namely, these NGOs and media associations, at the session of the Culture and Information Committee of the Parliament of Serbia, held on March 18th, voiced their opposition to the conclusions of the Committee about the need to amend the articles of the law governing the election of RBA Council members, since the elections for Council members were already underway. The adopted amendments to the Law have devoid the role of authorized proposers in the procedure of candidacy for membership in the Council of any meaning and have also abolished the responsibility of the Parliament and the parliamentary committee for unlawfully stopping the election of candidates for members of the RBA Council, which elections were already underway prior to the adopted amendment to the Law.

Adopting amendments of Personal Income Tax Law and Broadcasting Law, the parliamentary majority has shown not only the lack of a minimum understanding for the position of the media, but have also realized their intention to set up the mechanisms of absolute control of the election of members of the sector regulator for broadcasting. [See here](#) and ANEM statement [here](#)

4. THE MINISTRY FOR TELECOMMUNICATIONS AND INFORMATION SOCIETY

The Ministry for Telecommunications and Information Society launched on May 22nd, 2009 a public debate about the Draft Strategy and Action Plan for the transition from analog to digital broadcasting of radio and television program in the Republic of Serbia. The public debate lasted until the 12th of June, including round tables in Belgrade, Novi Sad and Nis.

Find more details about the draft strategy and the proposals put forward during the public debate in the part of this report concerning digitalization.

5. THE MINISTRY OF CULTURE

The Ministry of Culture sent on May 8th to the line ministries a proposal of urgent measures for helping the media in crisis. In the course of the month of April, the Ministry has set up working groups for professional associations and the media industry, with subgroups for print and electronic media, which groups also included representatives of the media industry, who have drafted a proposal of the said measures. The measures that were finally adopted on June 25th include:

- Providing 60 million dinars for co-financing projects in the area of information from the current budget reserve;
- Announced help for media by coordinated advertising of Government activities, according to clearly established criteria, which have not, however, been disclosed;
- The recommendation to RBA and RATEL to reduce fees for broadcasters, as well as the positive opinion of the Ministry of Culture about the new Bylaw on the Amount of RBA Fees, involving a fee

reduction of 5% for national and up to 50% for certain local broadcasters;

- Support to RBA and RATEL in urgently cracking down on pirate broadcasters;
- Recommendation to organizations for the collective realization of copyright and related rights to mutually reconcile the tariffs through a process of consultation with users;
- Announced affordable loans for the media from the 250 million package of the European Investment Bank, provided for support to small and medium enterprises, as well as subsidized loans through the Development Fund.

The drafting of a proposal of changes and supplements to the Advertising Law has also been announced, which would relax advertising related regulations. [See here](#) and ANEM statement [here](#)

OPINION

Media professionals have branded the measures insufficient and belated, as well as insufficiently specific, for they mainly include recommendations and fail to regulate the time limits and the manner of their implementation.

COLLECTIVE SOCIETIES

6. OFPS

OFPS, a collective society for the protection of related rights of phonogram producers, adopted on May 8th, 2009 certain incentives for broadcasters, namely:

- The possibility to pay the difference between fees paid in advance and the amount of the final settlement for 2008, in six installments, provided that the debt for 2008 be paid within 30 days;
- A reduction of fees as per the final settlements for 2009 in the amount of 20%, provided that the debt for 2009 be paid, as well as earlier debt;

At the suggestion of ANEM, the OFPS performed on June 18th, 2009 and additional adjustment of the approved incentives, by extending the deadline for paying-off the 2008 debt until September 15th, 2009 and approving a certain number of benefits for ANEM members. Additionally, OFPS has

publicly supported the determining of the tariff in agreement with the users, as stipulated by the Draft new Law on Copyright and Related Rights and has shown the readiness to negotiate about the tariff with the broadcasters even before the new Law is adopted.

7. SOKOJ

SOKOJ is a collective society for the protection of musical works, charging the broadcasters fees for using these copyright works by broadcasting. In the observed period, in spite of the principal support to the Draft new Law on Authors' and Related Rights envisaging the determining of the tariff in negotiations with user associations, SOKOJ did not reduce the fees as requested by the broadcasters. At ANEM's call, that organization voiced its readiness for organizing a meeting in next period.

ANEM activities regarding reduction of tariffs of OFPS and SOKOJ are available [here](#)

V MONITORING OF THE PRIVATIZATION AND DIGITALIZATION PROCESS

PRIVATIZATION

The privatization of state-owned media was stopped in late 2007, with the adoption of the Local Self-Government Law and the Law on the Capital City. These laws – contrary to the previously adopted provisions of the Public Information Law and the Broadcasting Law, which had provided for mandatory privatization – have allowed the municipalities and the City of Belgrade to establish media, namely to municipalities to establish TV and radio stations for the purpose of reporting on the language of ethnic minorities and to Belgrade for setting up television and radio stations, newspapers and other public information outlets without any limits.

At the same time, the economic crisis has created problems in a major number of formerly privatized media, which resulted in strikes over unpaid salaries and the termination of a number of privatization contracts, which is being used by opponents of privatization in public appearances as a proof that this process is destructive.

ANEM held on the 23rd and 24th of July two workshops dedicated to privatization and attended by the representatives of the Ministry of Culture,

Ministry for Human and Minority Rights and the Ministry of State Administration and Local Self-Government. From the positions held by the present ministry representatives, it is visible that pressure applied by ANEM and other media associations, which insisted for more than one year that the privatization be continued, has yielded certain results and led to a certain adjustment of their positions. The Ministry of Culture has announced it would conduct a comparative analysis about the manner in which the issue of state-owned media had been solved in other European countries, as well as that, on the basis of the results of such analysis, the Ministry would propose the proper strategy in this area. The representative of Ministry for Human and Minority Rights said the Ministry would support the media privatization model allowing that the existing level of minority rights be sustained. The representative of the Ministry for State Administration and Local Self-Government indicated that the Ministry would not oppose changes in the media that may be branded systemic and announced it was prepared to put the Local Self-Government Law and the Law on the Capital City in line with the legal media framework.

DIGITALIZATION

The Draft Strategy and Action Plan for the transition from analog to digital broadcasting of radio and television program in the Republic of Serbia, prepared by the Ministry for Telecommunications and Information Society, initiated on the 22nd of May 2009 a public debate on the process of digitalization. Serbia opted for switching off analog signal broadcasting on April 4th, 2012. MPEG-4 was chosen as the data compression method, while DVB-T2 will be the standard for broadcasting digital television signal.

ANEM participated in the public debate with proposals, which were coordinated by ANEM B92 with national broadcasters, TV Pink and TV Fox. The text of the Draft Strategy includes the following provisions:

- A place in multiplexes, in the moment when the analog broadcasting of television signal ceases, will be guaranteed only to broadcasters holding a valid broadcasting license;
- The said provisions guarantee an equal application of the same, non-discriminatory conditions regarding quality, accessibility and fees for all broadcasters by the future network operator, whereas the fees will be based on a cost-principle and exclusion of the possibility of the operators affecting the content of the program;

- The rights and the market position of operators holding valid licenses will be guaranteed;
- The provisions guarantee that no special simulcast fee will be charged;
- The provisions guarantee that service zones from the existing broadcasting licenses will be maintained;
- The provisions guarantee the supply of the same throughput for all programs in the scope of the multiplex;

The Strategy is pointing to the necessity to address the many regulatory challenges, namely:

- The manner and procedure of electing the operator of the digital broadcasting network;
- The manner of operating the multiplex and the conditions of the tender for multiplex operators;
- The manner and procedure of issuance of licenses for program content;
- Establishing the amount of the fees for broadcasting program;
- Adjusting the regulations aiming at protecting competition on the newly created digital television market;
- The regulatory framework on rights and obligations of the Public Broadcasting Service in the digitalization process;
- The conditions of distribution and use of the digital dividend.

Part of these issues will be handled by the working group established by the Ministry of Culture, which group is working on the amendments to the Broadcasting Law.

VI OVERALL CONCLUSION

During the observed period pressure on media, aimed at hindering their operation, occurred on a daily basis, with the absence of suitable public reaction. The judicial processes that are conducted because of the assaults on journalists last too long and are sometimes actively obstructed. Also, media conduct campaigns against each other in an organized and systematic manner. The media participating in these assaults have extremely non-transparent ownership structure as well as non-transparent financing, which make it still more difficult to see who is behind those campaigns. The court proceedings against journalists are usually conducted for slander or damages for tarnished honor and reputation. Regardless of the fact that legal framework is mostly

harmonized with international standards, the practice of indigenous courts often diverges from that of the European Court of Human Rights when it comes to the application of the Article 10 of the European Convention.

No major irregularities were observed in the implementation of the Broadcasting Law. However, the RBA Council is still incomplete since the Parliament has not yet elected new members for the vacant seats in this body, which surely casts a shadow on the Council's activities. Compared to other media relevant regulations, the implementation of the Personal Data Protection Law is seriously lagging behind. On the other hand, responding to sharp criticism coming from media industry, the Government proposed amendments to the Personal Income Tax Law. These amendments that were adopted and came into force on June 8th 2009 reduced the tax on authors' fees to a level that is much lower than the one previously in place. However, it failed to restore the prior tax level, the one before changes.

The Draft Law on Illegal Media Concentration and Transparency of Media Ownership, prepared by the work group of the Ministry of Culture, has still not entered the parliamentary procedure. Alteration of the Broadcasting Law, the Law on Free Access to Information of Public Importance, the Advertising Law, the Criminal Code and the Law on Copyright and Related Rights, has been announced. However, it is still to be seen what versions of this legislation will be adopted. On the other hand, the engagement of competent authorities in adoption of Digitalization Strategy is a step forward, as is transparency of this process and the participation of media industry representatives in it. It is encouraging, also, that public debates regarding the alterations of the laws are being held, and that requests by the media industry are duly taken into account, notably in the case of the Law on Copyright and Related Rights. But, the general conclusion is that changes to media regulations are inadequate and slow, even though in the past period more intense activity of relevant ministries on drafting the amendments to existing laws and preparation of the drafts of new laws is noticed.

Regards to monitoring of competent authorities and organizations work, the main conclusion is that these bodies in charge have not yet managed to provide the favorable environment for functioning of electronic media. Inefficiency of regulatory bodies in closing the stations broadcasting illegally, the same as the too high mandatory fees, contributes to worsening the position of electronic media. Even though RBA has decreased its broadcasting fees in certain amount, the effect of this reduction is not identical for all broadcasters due to criteria for fees level and it does not sufficiently affect the improvement of economic situation of broadcasters. By amending the Personal Income Tax Law the parliamentary majority displayed a lack of understanding for the position of media and, by amending the Broadcasting Law it

also managed to provide the mechanisms of absolute control over the election of RBA Council members, the sectoral regulatory body. At the proposal of the Ministry of Culture, on June 25 the Government adopted the regulatory measures to assist the media in crisis. Media experts judged these measures as insufficient and belated. It would be possible to assess the effect of these measures only after they are specified and put into practice. Collective societies did not reduce their rates, but Organization of Phonogram Producers of Serbia (OFPS) provided some payment relief. It is expected that both organizations will meet the demands of broadcasters and reduce the fees, in line with the recommendation of the Government.

No progress in media privatization was reported in the observed period. The laws relevant for this issue (Law on Public Information, Law on Local Self-government, Law on Capitol City and Law on Protection of Rights and Freedom of Minorities) remain unchanged even though they are in a mutual collision what contribute to continuance of status quo in this area. Also, media privatization processes suspended by Government Conclusion from December 27th 2007 and by acts of Agency for Privatization were not resumed. As the period of 180 days for permitted suspension is long overdue, the not yet privatized media are in legal vacuum. It makes them extremely vulnerable and dependable on political will and will of authorities. The Ministry of Culture unofficially announced that a media sector strategy will be adopted and it would include the privatization issue. Also, at some public meetings representatives of competent ministries expressed the willingness to harmonize the colliding provisions and continue the media privatization process. On the other hand nothing of this was put into practice in the observed period.

This period is especially characterized by discontent of legal broadcasters with inefficiency of regulatory bodies in closing the stations broadcasting illegally. Authorized regulatory agencies, RBA and RATEL, did not clear the spectrum from pirate stations and did not enable to legal stations to use their right to broadcast without disturbance and in full range. According to statistic data, from identified 151 frequencies used without licenses, only one third of them (55 frequencies) were released, from September 1st, 2008 to April 2009. Pirate broadcasters, besides the creating of harmful interferences, directly economically endanger legal broadcasters by their dumping prices. This way they decrease expected advertising income of legal media outlets, which is especially negative at the time of financial crises. Pressured by the media associations, RBA has submitted official letters to state authorities, demanding changes of the laws in order to increase efficiency in closure of illegal broadcasters. Government will additionally support RBA and RATEL in disabling of pirate broadcasters, on urgent procedure, according to its regulatory measures. It is

still to be seen how these measures will be specified. It would be possible to assess the effect of these measures in solving this issue only after they are put into practice.

The main conclusion of the monitoring is that state does not have a clear and consistent strategy for the development of the media sector. It results in the adoption of contradictory measures and regulations (especially in the area of privatization of public media) and creation of unstable environment for development of media and media market.