LEGAL MONITORING OF THE SERBIAN MEDIA SCENE

Report for January – February 2013

ANEM

Kingdom of the Netherlands

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TABLE OF CONTENTS

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 early January, the right-wing organization "SNP NAŠI" plastered the walls of Serbian towns with posters containing the lists of organizations considered to be "foreign agents" and "anti-Serb media and NGOs financed by Western intelligence services". The list included RTV B92, the dailies Blic and Danas, the magazines Vreme and Republika and the Pescanik online portal, the Independent Journalists' Association of Serbia (NUNS), as wells and non-governmental organizations, such as the Helsinki Committee for Human Rights, Women in Black, the Youth Initiative for Human Rights, the Sandzak Committee for the Protection of Human Rights, the EXIT Foundation, the Autonomous Women Center, the Belgrade Center for Human Rights, Amnesty International, Civic Initiative, Queeria Center, the Gay-Straight Alliance, Dokukino and others. "NAŠI" said the goal of the campaign was to "raise awareness about the pressing need to ban and arrest the NGOs from the list, which overtly and publicly undermined the Constitution by committing a series of serious criminal offenses, starting from undermining the sovereignty and integrity of the Republic of Serbia, hate speech and discrimination against citizens of Serbia and the Serbian people and their mother state Serbia". The press release said "NAŠI" would continue putting pressure on the Serbian government to adopt the Foreign Agents Law and crack down on "criminal NGO factors and agencies that are waging propaganda terrorism in Serbia, so as to ensure the highest possible level of protection of the citizens, the sovereignty of the state and political stability of the Republic of Serbia". Ombudsman Sasa Jankovic told Danas he hoped that the competent judiciary authorities would examine the posters and their content "from the standpoint of their competences". In an interview for RTS, Jankovic pointed to the danger of pointing the finger at thousands of people "on the public stage" branding them foreign agents, which, in his words, might threaten somebody's security. Therefore, Jankovic concluded, this case should be clarified. Vladimir Cvijan, the Chairman of the Parliament's Constitutional Affairs and Legislation Committee and member of the Presidency of the Serbian Progressive Party (SNS) said that the Prosecutor had initiated proceedings against "SNP NAŠI", adding that NGOs, the media and private persons might petition the Constitutional Court in relation to this matter, regardless of the fact that late last year, the latter had rejected the proposal of the Serbian Public Prosecutor to ban the activities of "SNP NAŠI".

We remind that the Serbian Public Prosecutor had requested the Constitutional Court to ban the activities of the right-wing movement "SNP NAŠI". Article 55 of the Constitution of the Republic of Serbia guarantees freedom of association, but the Constitutional Court may ban an association whose activities are aimed at violent subversion of the constitutional system, violation of guaranteed human or minority rights, or instigating racial, ethnic or religious hatred. Nonetheless, on November 14, 2012, the Constitutional Court found that "the existence of constitutional reasons for banning the organization's activity could not be determined". At the same time, however, the Court noted that "the measures undertaken by the competent government bodies against members of the association did not constitute an adequate response of democratic society to the committed violations of rights, in view of which the Constitutional Court could and should have banned the activities of their association". The related press release said, "the Court has not found reliable assurance that, in the system of protecting freedoms and rights, the competent state authorities had previously exhausted all preventive measures and adequate penalties against the unlawful actions of these associations and their members. For that reason, all further similar punishable or disturbing activities of the associations should be subject to a ban on their activities, as the necessary and only possible response of the state in a democratic society". However, the press release stops short of explaining the "preventive measures and adequate penalties" that the Constitutional Court had in mind. Meanwhile, the statement by Mr. Cvijan, the Chairman of the Parliament's Constitutional Affairs and Legislation Committee, could be interpreted as an expression of his conviction that the latest actions of "SNP NAŠI" have extinguished the last hopes that the "preventive measures and adequate penalties" may be effective, e.g. the conclusion that the repeated disturbing activities of that group necessitate a ban as the required response of the state in a democratic society. This should be viewed in the context of the fact that the new campaign represented the continuation of a series of activities by "SNP NAŠI" that ensued after the decision of the Constitutional Court. We remind that in early December 2012, "SNP NAŠI" requested from the authorities to revoke the national frequency from RTV B92, shut down the dailies Blic and Danas, the magazines Vreme and Republika, the online portal Pescanik, as well as to ban the activities of Voice of America and Radio Free Europe on the territory of the Republic of Serbia. Back at the time, such request was explained by the "reasonable doubt that certain media in Serbia were financed by dirty money of the Albanian and Croatian mafia" and the allegation that in the last 20 years, the said media "worked exclusively on demonizing their own people by subtle media manipulation and depicting the Serbs as a criminal and genocidal nation responsible for the wars in the 90s; proof of such activities is legion and therefore the entire public believes them to be enemy stooges". As it turned out, in only a month, after the "Albanian and Croatian mafia", the liberal media had gotten new financiers – "foreign intelligence services". The latter, however, did not make them become less "anti-Serbian". What is striking about the Serbian media, however, is that they are typically the first

to come under fire from extremists. At that, the pressure and intimidation of journalists (branding them "anti-Serbian", "financed by Western intelligence services" and "criminal stooges waging propaganda terrorism in Serbia") represent incitement to discrimination due to personal attributes (forbidden by the Criminal Code), such as political or other convictions, but also incitement to spreading or presenting ideas or theories that encourage or incite hatred, discrimination or violence against any person or group of persons, based on personal attributes, or violent behavior in the form of serious insults or harassment that significantly undermine the serenity of citizens, and they also represent restricting freedom of public information, which is prohibited by the Constitution and the Public Information Law.

1.2. On January 15, the daily Kurir issued a press release, saying they had received a threat addressed to the owner of the newspaper Aleksandar Rodic. The message, signed by "the assassin", says that Rodic is the same as his father Radisav Rodic and that he will fare like the slain Croatian journalist Ivo Pukanic. Kurir believes the reason for receiving the message is their reporting on a number of cases of embezzlement in high places, relations between tycoons and criminals and the unbelievable wealth of government and city officials. The threat against Aleksandar Rodic came only a day after Kurir had received a message threatening to blow up the building with the newspaper's offices. State authorities have been informed about the threats. We remind that Radisav Rodic, the father of Aleksandar Rodic, was sentenced in mid-2011 to two years in prison, under a plea bargain with the Higher Prosecutor's Office. Rodic had previously been in detention for two years and hence was set free almost immediately after the verdict was passed. He was also prohibited from exercising his profession, activity and duties in the period of six years. Rodic was indicted for abuse of office. Ivo Pukanic, the owner and editor of the Croatian weekly Nacional, was killed on October 23, 2008, in an explosion that ripped his car apart and killed his associate Niko Franic. The OSCE Mission to Serbia vehemently condemned the threats against Aleksandar Rodic, saying that "intimidations of and threats against a journalist may lead to self-censorship and threaten freedom of expression, which is the key prerequisite for the development of democracy". The Ministry of Culture and Media said it stood against any form of violence, threats and pressure against the media and journalists. The Spokesperson of the Republic Prosecutor's Office Tomo Zoric said that his office had ordered the police to urgently investigate the threats made to the owner and journalists of Kurir.

From Zoric's statement, it stems that still unknown persons who threatened the owner and journalists of Kurir are believed to have committed a qualified form of threats against security. The Criminal Code of the Republic of Serbia says that threatening the security of a person by

threatening to attack his life or body, namely the life of a next of kin, shall be punishable by a fine or a prison term of up to one year. A qualified form of that offense exists if the threat is directed at a person performing tasks of public interest in the field of information; it will be subject to a jail term of between six months and five years.

1.3. In January and February 2013, the weekly Pecat, whose editor-in-chief is an earlier RTS manager and former high official of the Socialist Party of Serbia, released a series of texts authored by Miodrag Zarkovic, attacking the managers and journalists of Radio-Television Vojvodina (RTV) and the President of the Independent Journalists' Association of Vojvodina (NDNV). In the weekly's edition from January 18, for instance, Zarkovic accused RTV journalists of being "the storm troopers of anti-Serbians" that were inflicting "long-term cultural and political damage". He went on calling them "anti-Serbian professionals harboring proven hatred for the nation whose state they live in". According to Zarkovic, the RTV Programming Director Sanda Savic is "a woman completely dedicated to anti-Serbian activities and the ringleader of the anti-national course of the Vojvodina television". The President of NDNV Dinko Gluhonjic, in Zarkovic's words, is a "proven Serb-hater, whose overall body of work is imbued with advocating the continuing decline of Serbia and the Serbs". The text concludes, "in view of the ethnic origin of the majority of RTV managers, it is difficult not to conclude that the Croatian lobby is hiding behind that crime". As early as in the following edition of the weekly, released on January 25, Zarkovic continued in the same vein – the managers and journalists of RTV "are of Croatian descent", which allegedly makes them immune from responsibility. In the edition released on February 1, Zarkovic expressed his concern over "who, if anyone, is taking care in the RTV management about the interests of the state of Serbia, Serbian society and Serbian people". He was alluding at the broadcast of a concrete program he described as an "endeavor serving the sole purpose of inciting puberty-like enthusiasm in the local Croat-lovers".

All media associations have strongly condemned Pecat's writing in their statements. ANEM called the competent institutions to react and suppress all media and public speech stirring up hatred for the ethnic communities living in Serbia. We remind that the Criminal Code prohibits instigation or spreading of ethnic, racial or religious hatred or intolerance among people or ethnic communities living in Serbia, a criminal offense punishable by a prison term of between six months and five years. RTV pressed criminal charges against Zarkovic and Vucelic, but the Prosecutor's Office has remained silent so far. The texts in Pecat, as well as the press releases and posters by "SNP NAŠI", are reminiscent of the notorious public speech in the 90s that was promoted, among others, by Milorad Vucelic, who was the Director of RTS at the time. That kind of speech involves brutal

vilification of political opponents by employing half-truths or ruthless lies, where one's invented or actual minority ethnic affiliation suffices to declare the person "a proven Serb-hater", whose overall body of work is imbued with advocating for the continuing decline of Serbia and the Serbs, whereas political dissent is enough to make one a traitor, foreign stooge or, in the case of Pecat and the journalist of RTV, "a storm trooper of anti-Serbians". Although Pecat's attacks on the journalists of RTV were grilled by media and journalists' associations, the state failed to respond adequately. Unfortunately, in this case, similar to the case of the Constitutional Court rejecting the proposal of the Republic Public Prosecutor's Office to ban the activities of "SNP NAŠI", in the system of protection of freedoms and rights in Serbia, the competent state authorities have not only failed to exhaust all preventive and penal measures against unlawful activities aimed at violating guaranteed human or minority rights or instigating racial, ethnic or religious hatred, but are obviously still hoping that public hate speech will somehow vanish on its own if ignored long enough. At the same time, the public vilification of the managers of RTV constitutes pressure that is in direct contravention of the Broadcasting Law, namely the provision stating that programs of public service broadcasters, and news programs in particular, shall be protected from all kinds of undue influence by government authorities, political organizations or centers of economic power.

2. Legal proceedings

2.1. The Belgrade Mayor and President of the Democratic Party Dragan Djilas has taken legal action against the daily Kurir for injured honor and reputation by releasing information. According to Djilas' statements to the media, he had decided about the amount of the damage claim in three separate actions he filed by linking it to the amounts Kurir accused him of having embezzled. According to publicly available data, between December 26, 2012 and January 29, 2013, Dragan Djilas filed three legal actions before the Higher Court in Belgrade. In two cases, he claimed two million dinars (one in each case), while the third claim was astronomic – 120 billion dinars. The Mayor told the Tanjug news agency he was aware that his claim was ridiculously high, but pointed that the writings of Kurir were also ridiculous. On the other hand, the newspaper said, "Djilas' intent is clearly to attempt, through this outrageous claim, to shut down the highest circulated daily newspaper in Serbia and intimidate its reporters and editors after unsuccessful attempts to put Kurir under his control". According to Kurir, "Djilas is thereby introducing censorship in Serbian media, while trying to discipline those he did not manage to put under his control through his agency "Direct Media", which enjoys a monopoly on Serbia's advertising market and determines which media the commercials of private and large state companies will appear on.

Under the Public Information Law, each person affected by the release of inaccurate, incomplete or other information, whose release is prohibited under the Law, as well as a person whose response/correction has not been released, or other information whose release they are entitled to request from the media, because of which the person has suffered damage, shall be entitled to financial and non-financial damages. The Law also says that a journalist, responsible editor and a legal person-founder of the media, who could, prior to releasing the information, have checked the inaccuracy or incompleteness of the information or inadmissibility of its release with due attention, shall be jointly responsible for the damage. On the other hand, the Broadcasting Law stipulates that the rights to protection of the privacy of holders of state and political functions shall be restricted, if the information in question is relevant for the public, in view of the fact that the person the information concerns is occupying a public post. The restriction shall be proportionate to the justified interest of the public in each concrete case. Under the practice of the Serbian courts, damages are awarded (if at all) in much lesser amounts than the ones claimed by the Mayor of Belgrade in the aforementioned case and these amounts seldom or never exceed several hundred thousand dinars. There were cases where holders of state and political functions were successful in their claims against the media; however, after several decisions by the European Court of Human Rights (ECHR) in claims against the Republic of Serbia (Lepojić vs. Serbia, petition no. 13909/05; Filipović vs. Serbia, petition no. 27935/05; Bodrožić vs. Serbia, petition no. 32550/05 and Bodrožić and Vujin vs. Serbia, petition no. 38435/05), these cases are on the decline, or at least the damages that are typically awarded to holders of state and political functions do not exceed those awarded to ordinary citizens. Hence, it is improbable that a claim for damages amounting to billions of dinars will have a deterrent effect. Judging from the statements he has made, Djilas is probably aware of that and hence it is difficult to understand what is the purpose of his excessive claim, although it is clear Kurir has been waging an overt and dirty campaign against him for months. Kurir has also been highlighting Djilas' ownership of a company that is the regional leader on the communications market providing a wide range of services, from communications planning, to media research and media planning and buying. The force of the company on the media buying market is a tool that may be used to influence media coverage about issues of public interest, as the Anti-Corruption Council has pointed out in its Report on the Pressure and Control over the Media in Serbia from 2011. Many have understood the lack of media interest in the said report as the ultimate proof that the media in Serbia are indeed controlled in the ways described in the Report. Whatever the case may be, according to the Business Registers Agency, Dragan Djilas holds 25% of the shares in the Multimedia Communications Company MULTIKOM GROUP d.o.o. from Belgrade (his former spouse also holds 25%). MULTIKOM GROUP is the majority owner of the company "Direct Media". However, the question if "Direct Media" has a dominant position on the advertising market and especially on the media buying market, as well as whether it is abusing such dominant position, will

not be discussed in the proceedings between the Mayor and Kurir. It is in the competence of the Commission for Protection of Competition, which, on the other hand, has never dealt with the advertising market, at least to the knowledge of the authors of this Report.

2.2. On January 24, 2013, the Higher Court in Sabac convicted the attacker on the crew of TV Sabac Rade Kulezic to 10 months in prison (two years suspended) and prohibited him from attending sports events on the territory of Prnjavor for the period of one year. Kulezic was also fined 50.000 dinars. Since the verdict has not been appealed, it became final and enforceable. On August 26, 2012, without any apparent reason, Kulezic first insulted the reporter of RTV Sabac Marija Damnjanovic and shortly thereafter physically assaulted her, as well as the camera operator Zoran Milutinovic, while they were reporting from the Village Olympic Games in Prnjavor.

Under the Criminal Code, when sentencing the perpetrator of a felony to a suspended sentence, the Court determines the penalty and at the same time rules out that it will not be executed if the convicted person does not commit a new criminal offense in the time period determined by the Court, which may be from 1 to 5 years (probation period). Kulezic has been convicted for violent behavior at a sport event or public gathering. This offense is subject to six month to five years in prison and a fine, as well as an injunction prohibiting him from attending certain sports events. What is specific about this case is that the attacker on journalists was not, according to the hitherto practice of Serbian courts, sentenced at the level of the legal minimum or below it (the legal minimum here is six months in prison, while Kulezic was sentenced to ten months). Even more importantly, less than six months expired between the attack itself and the verdict, which stands out as an atypically quick procedure for Serbian courts.

2.3. On February 12, 2013, Milovan Brkic, the Editor-in-Chief of the newspaper Tabloid, pressed charges before the Higher Court in Belgrade against NUNS for damages over injured honor and reputation. The charges were pressed over a press release by NUNS condemning an article published in Tabloid about the First Deputy Prime Minister of the Serbian Government Aleksandar Vucic and his son. In its press release, NUNS condemned the release of fabricated information injuring personal dignity, mocking individuals and misusing children. As the last drastic example of it, the press release quotes the text in which “controversial daily with the eloquent name “Tabloid” accuses Deputy Prime Minister of Serbia, Aleksandar Vucic, for illicit relations with his underage son and it also provides full visual identification for it”. Namely, the controversial text was accompanied by photographs of Vucic’s juvenile son with his face obscured, but he was clearly

identifiable from the signatures below the photo. In its press release, NUNS called on authorities to protect children from abuse. Brkic insisted in his lawsuit that NUNS had no grounds in claiming that Tabloid had written that Vucic himself, or some of the people from his entourage, had sexually abused a juvenile person, since (the reporter claimed) such an allegation did not exist in the text.

The Public Information Law provides for particular protection of minors. A minor must not be made recognizable in information that may hurt his/her right or interest. Any violations to this ban shall entail a fine ranging from between 30.000 and 200.000 dinars to be paid by the responsible editor. It remains unknown if the competent Ministry of Culture and Media has filed a minor offense charge against the editor of Tabloid in the concrete case, but the proceedings that Brkic has initiated against NUNS will be interesting, since the Court will have to determine if association's press release contains the factual description of the text released by Tabloid and if that factual description is accurate, or merely constitutes a value judgment by the Court that accurately or inaccurately reflects the content of the text.

II MONITORING OF THE IMPLEMENTATION OF EXISTING REGULATIONS

1. Public Information Law

The implementation of the Public Information Law has been elaborated on in the section about freedom of information.

2. Broadcasting Law

2.1. On February 13, 2013, the Council of the Republic Broadcasting Agency (RBA) ended the proceedings for pronouncing measures against TV Pink over the program "The Cheaters", aired on February 8, the content of which, in the RBA's opinion, could harm the physical, mental or moral development of children and youth. TV Pink was ordered to air "The Cheaters" and similar programs after midnight. The Council warned the station to adhere to the obligation of airing a special warning or labeling programs that might harm children and youth in the manner provided for in the Broadcasters' Code of Conduct. The Council said it expected the competent authorities to investigate all circumstances under the Law in relation to the aforementioned program, which

followed a dramatized investigation of a private detective agency that had allegedly uncovered incest and regarding the possible knowledge of the authors about the offense, based on which the scenario was written. The Council warned TV Pink that the content of the program was contrary to the Broadcasting Law and the Broadcasters' Code of Conduct and obligated the station to air the related RBA statement in its central news bulletins, accompanied by an apology to the viewers. The RBA has also filed a request for initiating a minor offence procedure against TV Pink.

The RBA Council also dealt with the program "The Cheaters" in late April 2012, when TV Pink was requested to clearly label that program as a feature program, at the start and in the end, in order to avoid confusing the viewers into believing it is a documentary program. The station was also ordered to completely cover all foul speech and insults, as well as to label it as inappropriate for persons under 16 years of age and, where the content was not appropriate for persons younger than 18, to air it after midnight. Under the Broadcasting Law, the RBA is competent, among other things, for overseeing the work of broadcasters and controlling the consistent enforcement of the Broadcasting Law. The latter went on saying that all broadcasters were obligated not to air programs that might harm the physical, mental or moral development of children and youth, as well as to clearly label these programs as such. If they opt for airing such programs, they must do so only between midnight and 6 a.m. The Law expressly stipulates that the broadcasters must not air pornographic programs, or those the content of which promotes or supports violence, drug addiction or other forms of criminal behavior, or programs taking advantage of the viewers' or listeners' gullibility. The Broadcasters' Code of Conduct stipulates that content that may threaten the integrity, as well as health, moral, intellectual and social development of minors may be aired only at a time when children and youth are not supposed to watch television and listen to the radio. Furthermore, the Code obligates broadcasters to air special warnings or to have special labels for programs that may harm children and youth. The RBA is authorized to pronounce cautions and warnings against broadcasters, but also temporary or permanent revocation of the broadcasting license. The cases when the warning is pronounced include a broadcaster's first violation of an obligation provided for by the Law, when the violation seriously threatens the realization of the principles of regulating the relations in the field of broadcasting. The warning shall be released in public media and particularly in the program of the broadcasters that were given the warning. The protection of minors is one of the key objectives the RBA realizes in the scope of its regulatory function. Interestingly enough, this measure, provided for by the Broadcasting Law from 2002 – although there were complaints as to the prevalence of television programs inappropriate for children – has never been pronounced over violations of obligations pertaining to the protection of

minors. Meanwhile, the RBA did not think twice when pronouncing measures for violations concerning, for example, election campaign coverage.

3. The Law on National Councils of National Minorities

At the session on January 17, the Constitutional Court launched a procedure for assessing the constitutionality of certain provisions of the Law on National Councils of National Minorities, regarding certain powers of the National Minorities' Councils, which pertain, among other things, to the provision of information to ethnic minorities. The Constitutional Court decided to launch a constitutionality assessment procedure concerning:

- The provisions of Article 2, paragraph 2, stipulating that the Council shall be entitled to establish institutions, companies and other organizations from the field of information in the language of the national minority;
- The provisions of Article 2, subparagraph 6) stipulating that, under the Law and in accordance with its Statute, the Council shall, through its bodies, establish institutions, associations, foundations, companies in the field of information, among others;
- The provisions of Article 19, paragraph 2, stipulating that the Republic, autonomous province or local-self government unit, as the founder of public companies and institutions in the field of public information, which completely or predominantly provide information in the language of the national minority, may, in agreement with the Council, completely or partially assign the founding rights to the Council;
- The provisions of Article 20, providing for the participation of the national minorities' councils in managing public service broadcasting institutions;
- The provisions of Article 23, stipulating the invalidity of legal acts adopted without the proper proposal or opinion of national minorities' councils, which would undermine the right of these councils to participate in managing public service broadcasting institutions;
- The provisions of Article 24, governing the assignment of founding rights to public information institutions exclusively in the language of the national minority, from the Republic of Serbia, autonomous province or local self-government unit, to the Council.
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It may not be deduced from the press release from the session at whose initiative the Constitutional Court acted. Back in January 2011, ANEM filed an initiative for the assessment of the constitutionality of the aforementioned Law and several other laws, primarily in the terms of the possibility to establish media that would be directly or indirectly owned by the state. Regarding the

Law on National Councils of National Minorities, ANEM has filed its constitutionality assessment procedure in relation to Article 19, paragraphs 1 and 2 and Article 24, paragraph 1, subparagraph 3). It remains unclear why has the Constitutional Court found that there were no grounds for starting a procedure related to Article 19, paragraph 1, as well as at whose initiative it had launched a procedure regarding articles that were not branded unconstitutional by ANEM. Whatever the case may be, since the adoption of the Law on National Councils of National Minorities (and particularly in the public hearing preceding the adoption of the Media Strategy), ANEM has insisted on the complete withdrawal of the state from media ownership, as well as on the amendments to the regulations whose provisions were in collision with the Public Information Law and the Broadcasting Law. Namely, the Public Information Law and the Broadcasting Law foresee the transformation of the state television into public service broadcasting and mandatory privatization of all remaining state-owned media. Unfortunately, the privatization has been suspended, one of the reasons being the adoption of laws that have been in direct collision with media regulations, which has seriously undermined the uniformity of the legal system. This constitutional principle stipulates that the main principles and legal institutions foreseen by the laws systemically regulating a field of social relations must be adhered to in the separate laws, unless these systemic laws expressly prescribe that the same matters may be regulated otherwise. In the initiative, ANEM also said that the disputed provisions constituted inacceptable interference of the public authorities in the realization of the right to freedom of expression, which lacked legitimate grounds. Even if such grounds would exist, ANEM said, the interest of having public information in minority languages might be realized without keeping such media in state property, adding that the said interest was already realized through non-state owned media.

4. The Criminal Code

The Law on the Amendments to the Criminal Code ("Official Gazette of the Republic of Serbia" no. 121/2012), which has decriminalized defamation and the criminal offense unlawful commenting of legal proceedings, was passed on December 24, 2012 and came into force on January 1, 2013 (excluding the provisions concerning criminal offenses abuse of office and abuse of the post of responsible person, which will come into force on April 15, 2013). For the most part, the public welcomed the decriminalization of unlawful commenting of legal proceedings, since it was a confusing and unclear incrimination with a probable result in self-censorship and restriction of the freedom to express opinions and media freedoms in general. On the other hand, the decriminalization of defamation (as we have written in our earlier reports) has resulted in the situation where those believing to have been defamed (including through the media) will be able to

obtain satisfaction in civil litigation only. Although it seems at first glance that the decriminalization of defamation constitutes important progress in the field of protecting the right to freedom of expression, the journalists in Serbia have actually had more success in criminal proceedings conducted against them than in civil litigation. Although many lawsuits were filed against the media, convictions were rare and came mainly in the form of fines, which were typically lower than the damages awarded over the same texts or programs in civil litigation. Nonetheless, media and professional associations advocated for decriminalization, but not only of defamation but also insult, requesting also that more effective mechanisms be found for protecting the right to freedom of expression in civil litigation. As many times before, the legislator opted for a half-baked solution, namely the decriminalization of defamation, while keeping insult in the criminal legislation. The main difference between the two offences is the fact that defamation involves an inaccurate factual claim, while insult is typically committed by stating a value judgment.

The beginning of the enforcement of this Law resulted in the suspension of a large number of proceedings in January and February 2013: several acquittals were delivered in proceedings against journalists for defamation. Since insult, as we have already pointed out, has not been decriminalized, many plaintiffs attempted to prequalify the offense in their private lawsuits from defamation to insult. However, the courts rejected such prequalification in most of the cases, which should be commended, since the opposite decision would have opened the door to circumventing the law by penalizing journalists for insult instead for defamation. In any case, the confusion created by the dilemma whether already filed private lawsuits for defamation may be prequalified into lawsuits for insult shows that the decision of the legislators not to decriminalize insult was wrong, since it is difficult to find a single plausible argument justifying different legal treatment of defamatory factual claims as opposed to insulting value judgments. All the above in view of the fact that the injured party may also seek protection for insult in civil litigation.

III MONITORING OF THE PROCESS OF ADOPTION OF NEW LAWS

In the period covered by this Report, public discussions were held about several new laws with implications for the media sector. Particularly important is the work on a set of media laws and the beginning of the public discussion about the Draft Law on Public Information and Media.

1. Draft Law on Public Information and Media

On February 27, the Ministry of Culture and Media initiated a public discussion about the Draft Law on Public Information and Media. The public discussion will lasts until March 22 and four round tables are scheduled to take place in Novi Sad, Novi Pazar, Nis and Belgrade, respectively. In this way, after almost ten years after the adoption of the Public Information Law, a new umbrella law shall be enacted in order to set the legal basis of the media reform that has started with the adoption of the Strategy on the Development of the Public Information System in the Republic of Serbia until 2016. The Draft Law leans on the previous law, but it also introduces many new institutes that, according to the announcements by the Ministry, should enable further development of the media sector. However, in spite of some positive trends, the Draft Law abounds with shortcomings identified in the separate opinion, which the Media Coalition, consisted of the most significant media and journalists' associations presented through its representatives in the working group. First, the Draft Law does not put sufficient emphasis on journalists' rights and the overall impression is that it is very restrictive against the media. A greater emphasis is on obligations, while the rights remain at the level of insufficiently worked up principles. Nonetheless, the good news is that the Draft Law sets the principles determining that the provisions of the legislation are interpreted and enforced in line with the rules of the European Convention on the Protection of Human Rights and Fundamental Freedoms and decisions of the ECHR (Article 30, paragraph 2 of the Draft Law). In addition, the Draft Law has made a clearer attempt than before to define the public interest in the media sphere and so recognize the significant role the media must have in a democratic society. Such a commitment is important not only from the standpoint of principles, but it also opens the way to certain forms of public-private partnerships in the interest of finding the best model for creating a favorable environment for the development of media and freedom of expression in general. We will explain some of the proposed solutions below.

1.1. The media, media publisher and publishing rights

Instead of the hitherto term "public media", the Draft Law has introduced the concept of "media". Such a solution is not a mere aligning of the wording with the European regulations; it rather determines the very essence of the media. The media still does not have the attribute of a legal person and instead of the term "founder of a public media", the term "media publisher" is used. An important novelty is the definition of publishing rights to media as the right to establishing and implementing the programming concept of the media, which may be part of legal transactions (Article 31 of the Draft Law). Although the authors of the Draft have clearly attempted to enable a

more flexible system of disposing with an individual media outlet, such a provision may result in problems in practice, since it is not clear what does "establishing and implementing the programming concept" means. This was the point of the Media Coalition's objections in its separate opinion.

1.2. Project financing

The second significant novelty in the Draft Law is the chapter on project financing, which generally lays down the manner of distribution of public funds, the criteria for the allocation of these funds and the related procedure. The main intent of the authors of the Draft Law has been to clearly put an end to the practice of budget financing and have the financing of public interest based on the financing of quality programming content. This is correlated with the obligations Serbia has under the SAA to harmonize with the EU its regulations in the field of state aid control, including aid to public companies. Nevertheless, the main objection related to this part of the Law is the fact that the rules on the allocation of funds from public sources are set too broadly, thus opening the possibility of different interpretation on various levels of government. The Media Coalition said that the criteria ought to be clearly set in the Law itself and that they should be clear, measurable and non-discriminatory (especially having in mind the uneven starting position for privately-owned media and those that have been publicly owned to date). This particularly applies to the importance of recognizing the observance of professional and ethical standards manifested by the readiness to accept the competence of self-regulatory bodies, adhering to the decisions of the regulatory body from the field of electronic media, but also accepting objective and transparent rules on measuring ratings and circulation (independent circulation audit, etc.). Additionally, the provisions on the manner of appointing a commission that would allocate public funds have not been clearly set, failing to recognize the importance of such commission. At that, it should be emphasized that the decision on allocating the funds is ultimately always taken by the authorized person of the competent body allocating the funds (the minister, the competent authority of the autonomous province and competent authority of the unit of local self-government). Moreover, it is not specified if the decision of the expert commission is binding for the competent authority, or if that authority has the discretionary right to pass a decision differing from the proposal of the commission. Furthermore, the provisions on the procedure are very vague and may lead to uneven application in practice, depending on the applying authority. For example, under the Law on General Administrative Procedures, the decision passed by the ministry may be subject to an appeal, if a separate law provides for the appeal. Since it is not provided for by this Draft Law, it may happen that the decision on the allocation of funds passed by the minister becomes final and that it may be challenged only in administrative procedure, while the decisions passed by the authorities of the

autonomous province or local self-government may be challenged by an appeal (second-instance administrative procedure), or action in administrative procedure. Furthermore, the concept, under which different levels of government may pass a bylaw regulating in more detail the procedure of allocating the funds, is not a good solution, since it may result in legal uncertainty and uneven practice in the enforcement of the Law at different levels of government. The Media Coalition pointed out to that problem too in its separate opinion.

1.3. Transparency of ownership, excessive concentration, merger and the media register

The provisions on transparency of ownership, excessive concentration and the media register are also new to the media-related legislation and constitute an important step forward. Transparency of ownership is one of the basic principles of the European legislation in this field as well, but it seems that the provisions concerning the register contain too many norms, exceeding the purpose of establishing the register. The information that is public in the register must be reduced to data enabling the citizens to know who are the owners/publishers of media, in order to make an informed opinion about that media. The Media Coalition pointed out that the provisions of the register greatly departed from the objective of establishing the register and particularly in terms of the provisions on connected parties (involving also the issue of protection of personal data). In accordance with the Draft Law, the republic authority in charge of protecting the competition (the Commission for Protection of Competition) shall settle cases of excessive concentration of media. However, it might happen in practice that the prerequisites for conducting the procedure by the Commission for Protection of Competition will not be met (especially due to the underdeveloped media market and low revenues generated by media publishers, even when they are clearly dominant in a specific media market). In that case, the Commission will be unable to conduct a procedure and pronounce proper measures in spite of a clear case of excessive concentration. The Draft Law should therefore recognize such cases, which are not rare in practice.

1.4. Retraction

Retraction, as a new institute (in addition to the response to the information and correction of the information) is conceived as the possibility to avoid overly frequent damage claims. In this way, the authors of the Draft Law have attempted to introduce the principle of gradation of different legal measures at the disposal of the person to whom the information applies. However, the formulation of the right itself in the Draft Law is problematic that seemingly might cause major problems in practice and significantly affect the course of journalistic research and reporting.

1.5. Mandatory privatization of media

The concept of media privatization contained in the Draft Law has been elaborated on in the section of this Report concerning privatization.

2. Draft Law on Fees for Use of Public Goods

On February 20, 2013, the Ministry of Finances and Economy launched the public discussion on the Draft Law on Fees for Use of Public Goods. Particularly relevant for the media are the provisions concerning the fees charged by regulatory bodies and those paid for the public service broadcasting. In keeping with this Draft Law, three fees are envisaged: the broadcasting fee, the fee charged for public service broadcasting (jointly called "fees for using broadcasting space) and the fee for the use of radio frequency. The Draft Law says that laws on electronic media and on electronic communications will regulate the payers, the amount of the fees, allocation, designated purpose and other important issues related to the aforementioned fees. Furthermore, the Draft Law stipulates that no new fees outside of the Law on Fees for Use of Public Goods shall be introduced by sector laws, which should guarantee the legal security of the payers. It seems, however, that the Draft Law is mixing up two different things. While radio frequencies and, to some extent, the public service broadcasting may be considered public goods, the broadcasting fee is entirely a regulatory charge, namely cost of the regulation. In principle, the regulator may use this fee as a means of achieving regulatory objectives, but that does not make it the fee that is charged for the use of public goods. Moreover, even if we accept the claim that the intention of putting order into the system of fees is a good one, certain provisions of the Draft Law undermine the independence of regulatory bodies (the financial aspect of it, before all). While the provisions of the Draft Law concerning the manner of determining the amount of the fees and payment terms do not infringe upon the independence of the regulators, the provisions determining whom the revenues from the fees belong to, as well as those regulating the payment technique, constitute a serious threat to independence. According to the Draft Law, the revenues from the fees belong to the regulatory bodies only up to the amount necessary to cover the expenditures foreseen by the financial plan. This is contradicting to both sector laws, which say that the balance between the revenues and the expenditures shall belong to the budget of the Republic of Serbia. Under the provisions regulating the payment technique, the payments shall be transferred to the designated public revenues accounts in the Treasury Department. From these accounts, the funds are automatically channeled to the account of regulatory bodies until the amount reaches the level of expenditures provided for in the regulator's financial plan. Such a concept fundamentally infringes upon the financial

independence of the regulatory bodies in two ways: by reducing the amount of funds (only up to the level of expenditures provided for in the regulator's financial plan) and through the payment technique, which stops short of foreseeing the possibility for regulatory bodies to directly levy revenue from the fees. As for public service broadcasting, it is determined in principle that the fee charged for the public service broadcasting shall belong to the public service broadcaster at the national level, while the 70% of the fee for the public service broadcasting levied in Vojvodina shall belong to the public service broadcaster of the autonomous province, with the restriction that any surplus of the revenues over the expenditures shall belong to the budget. The payment procedure is the same as for the regulatory bodies and hence the public service broadcasters are prevented from receiving the payments directly – they will receive them indirectly, through a central account, but without any guarantees and penalties for not transferring the funds upon payment. ANEM pointed to these shortcomings of the Draft Law during the public discussion and in its written comments and suggestions for amending the Draft Law, which were supported by other organizations of the Media Coalition as well.

IV MONITORING OF THE WORK OF REGULATORY BODIES, STATE AUTHORITIES AND COLLECTIVE ORGANIZATIONS FOR THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS

REGULATORY BODIES

1. Republic Broadcasting Agency (RBA)

1.1. We have elaborated on the activities of the RBA in the part of this Report concerning the implementation of the Broadcasting Law.

1.2. On the currently active competition for the issuance of broadcasting licenses (one regional license for television for the region of Zajecar, Negotin and Zagubica, two regional licenses for radio in Belgrade, as well as three local licenses for television in Negotin, Krusevac and Partizanske vode and seven local radio licenses in Lazarevac, Jagodina, Razanj, Smederevska Palanka, Kostolac, Sremski Karlovci and Kula), the RBA has issued a list of applicants, whose applications have been completed and submitted on time. This is a phase in the procedure of issuance of broadcasting licenses preceding the actual decision by the RBA about the submitted applications, based on predetermined criteria and prescribed requirements and standards. What is interesting is that

many participants have applied – as much as eight contenders for two licenses in Belgrade or seven for the license in Jagodina.

1.3. The RBA Council was involved in a bizarre situation in relation to announcements that a candid camera program, starring the PM Ivica Dacic, could be aired on television. The media reported that Dacic was filmed while being interviewed by a Playboy playmate impersonating a reporter, who did not wear any underwear and "made it sure that the Prime Minister noticed it", emulating Sharon Stone in the famous "Basic Instincts" movie scene. The RBA Council issued a press release saying, "it is seldom in the situation to react before a specific program is actually broadcast, since there is no legal obligation for the broadcasters to submit any content to the RBA prior to airing". However, the Council recommended to all broadcasters in the press release "to refrain from airing the aforementioned candid camera piece, or similar content not meeting the basis ethical or aesthetical criteria, insulting personal dignity, threatening the right to privacy and undermining the protection of children and minors". We will not delve into the discussion about how it is possible that such a program was made without the consent of the Prime Minister. Instead, we will merely look into the provision of the Broadcasting Law authorizing the RBA to enact recommendations. That provision says that the RBA shall do it in the event of a "lack of consistency in the practice of broadcasters when applying the provisions of this Law concerning the programming content". There was clearly no practice whatsoever in the above case, since the program had not been broadcast. Hence, it is impossible for non-existent practice to be consistent with anything. Finally, it seems that the RBA was manipulated with the purpose of personal promotion and that the recommendation was not only problematic, since it concerned a program that was not aired at all and hence it could have constituted an illicit preliminary ban. Furthermore, it was unnecessary, since it stopped short of recommending anything that was not already provided for in the Broadcasters' Code of Conduct. The said Code has already stipulated, "TV stations shall … avoid indecent dressing", which involves "presenters and other actors in the program wearing clothes showing predominantly nude body parts or clothes with erotic connotation". Furthermore, the Code says that "broadcasters must adhere to the principle of protecting fundamental human dignity in all programs", as well as take all precautionary measures in order to protect juvenile persons from program content that may threaten their integrity and health, moral, intellectual and social development.

2. Republic Agency for Electronic Communications (RATEL)

2.1. The Republic Agency for Telecommunications has completed the public consultations about the Draft Rulebook on the Amendments to the Rulebook on the Control of Use of Radio Frequency Spectrum, Technical Checks and Protection from Harmful Interference. These Amendments to the Rulebook authorize the Agency to identify, *ex officio* or at request, unauthorized use of the spectrum. When such unauthorized use is discovered, the Agency notifies the competent inspectorate and when the broadcasting spectrum is used, the broadcasting regulatory body is notified too. The Amendments also provide for a ban on the use of devices that may produce harmful interference, unless the use of such devices is permitted to defense and security authorities. Unfortunately, it seems that the proposed amendments to the Rulebook fall short of resolving the problem of illegal TV and radio stations.

2.2. In late November 2012, RATEL conducted the second analysis of the retail media content distribution market. Upon completion of the analysis, the Agency made a report, which was, according to the Law on Electronic Communications, tabled for public discussion. Upon testing three specific criteria, the Agency established that there was no effective competition on the aforementioned market. It is established that the operator Serbia Broadband – Srpske kablovske mreže d.o.o. is an operator with substantial market strength due to: market share exceeding 50%; substantial advantage over the competition due to the lack of negotiating power of the buyers, as well as the fact that SBB was, at the same time, both KDS (cable distribution) and DTH (distribution of media content via satellite) operator; due to enjoying substantial advantage over competitors, owing to service diversification and economy of scale, since SBB is also a broadband Internet operator; owing to the extent of its sales network in the cities; and owing to its substantial advantage over the competitors, since the latter are unable to influence SBB' policies, particularly in terms of sales prices policy. The Report proposes the imposition of regulatory obligations to the operator, namely: a ban on charging excessive prices, ban on obstructing market access or restricting competition by practicing excessive or dumping prices, ban on allowing unjustified advantage to certain end users, restricting retail prices, the duty to obtain prior consent from the Agency when formulating and changing the content and the price of a service package, introducing measures of control of individual tariffs, the obligation to have the prices based on service provision costs, or on the prices on comparable markets. In relation to this Report, the Agency also consulted the Commission for Protection of Competition as to whether the Market Analysis Report and the imposed regulatory obligations comply with competition protection regulations. The Commission found both the Report and the regulatory obligations to comply with competition protection

regulations, while pointing to certain wording discrepancies arising from the nature of *ex post* and *ex ante* regulation. Upon the completion of the public consultations, the Agency will pass a conclusion on the adoption of the Report.

The Report on the analysis of the retail media content distribution market from August 2011 has also pointed to the absence of effective competition on that market. The new Report merely confirms that the imposed regulatory obligations still have not achieved their purpose. Problems remain as to the implementation of the obligations and the control mechanisms that RATEL possesses in relation to the realization of regulatory obligations in practice. A serious shortcoming of such analysis is also the fact that it pertains solely to the retail media content distribution market and fails to touch upon the segment of services the operators provide to broadcasters. It has failed to recognize the need to find the proper mechanisms of protecting broadcasters from discrimination in the access to the network, something we have witnessed in the previous period.

STATE AUTHORITIES

3. The Parliament of the Republic of Serbia

On January 28, 2013, the Serbian Parliament's Culture and Information Committee organized a public hearing on the topic of media freedoms, with the poor position of the media (especially at the local level) being the main theme. However, certain MPs claimed that the media laws were not the problem, but rather the lack of professionalism among journalists. The MPs, especially those of the opposition, insisted that media associations should figure out who were the propagandists in their ranks and who were the real journalists. Rade Veljanovski, a professor at the Faculty of Political Sciences, said the Parliament was responsible for respecting freedom of media and speech, not only the government or journalists' associations. The Ombudsman Sasa Jankovic said he was worried after the session, adding, however, that media freedom might progress if Serbia, as a state, started to consistently enforce the laws and the journalists' associations openly stood up to those that were a disgrace for their profession.

4. The Commission for Protection of Competition

On February 12, 2013, the Commission for Protection of Competition announced that the Supreme Court of Cassation had rejected the request filed by "Serbia broadband – Srpske kablovske mreže" d.o.o. from Belgrade to reconsider the verdict of the Administrative Court dated October 6, 2011, in the case of establishing injuring the competition by abuse of dominant position. The Administrative Court reached that verdict in the legal action against the decision of the Commission for Protection of Competition in the repeated procedure on October 4, 2010. In the decision, it has established that the aforementioned company enjoys a dominant position on the market of radio and television program distribution through cable network on the territory of Belgrade and that this dominant position was abused by conducting a promo campaign on the territories of the municipalities of Palilula and Stari Grad in March 2006. This verdict may be understood as yet another proof of the inefficiency of the system for protection of competition in Serbia, since the event from March 2006 will see its epilogue in a court of law after seven years. In the meantime, the aforementioned promotional campaign from 2006 has lost its topicality and relevance. The excessive length of the procedures initiated before the Commission for Protection of Competition discourages the market participants, which recognize certain practices as anti-competition. We have written in these reports too about the practice of cable operators of applying uneven business conditions to the same jobs (media content distribution) relative to different market participants, namely relative to foreign and local media companies or local and regional media. Unfortunately, the circumstance of the excessively long period until the final decision is made about whether a concrete practice is restrictive or not results in the media becoming reconciled with unequal conditions on the media market and ultimately with the further closure of that market, although such thing is in nobody's interest. In any case, although it seems that it is high time for a comprehensive sector analysis of the media market and related markets, the Commission for Protection of Competition has, for the time being at least, stopped short of conducting one. The Law on Protection of Competition says that the Commission can do such analysis when the prices or other circumstances point to the possibility of having competition restricted, undermined or obstructed in a certain industry.

COLLECTIVE ORGANIZATIONS FOR THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS

5. Organization of Music Authors of Serbia (Sokoj)

After the talks held in December and January, ANEM signed, on February 4, a Protocol on Cooperation with SOKOJ, providing radio and TV stations with discounts on the payment of the minimum fee for the use of copyrighted music works for 2013. The Protocol came into force the eighth day upon publication in the Official Gazette of the Republic of Serbia. Comparing to the old protocol, the new one shall provide an even higher discount on the amount of the minimum fees: for the year 2013, the discount is 60% of the applicable tariff. Furthermore, civil sector stations, as well as local stations airing the predominant part of their program on one or more minority languages (with the RBA confirmation), shall be able to pay the fee discounted from the base tariff in the amount of 75%. All stations will be entitled to enjoy the agreed discounts, regardless of the existence of old debs or even disputes with SOKOJ. The Protocol also stipulates the requirements the operator must fulfill in order to enjoy the discounts, as well as the manner of paying the debts from the previous period. The Protocol will be enforced until the end of 2013, namely until a new Tariff Agreement is reached, if such new agreement is reached in the course of this year. All radio and TV stations paying the minimum fee, regardless if they are members of ANEM or not, may refer to the Protocol; its signature was supported by the organizations RAB Serbia, Consolidated Television Stations of Serbia and the Group of Broadcasting Organizations of the Serbian Chamber of Commerce.

V THE DIGITALIZATION PROCESS

The Ministry of Domestic and Foreign Trade and Telecommunications said in February that the key prerequisites for digitalization had not been realized and hence it was not possible to foresee the date for the completion of that process. In order to resume digitalization, a working group has been set up (consisting of the representatives of RATEL, the Public Company Broadcasting Equipment and Communications – ETV and the Ministry), tasked with speeding up the activities of this process, ensuring greater coordination among the participants and responding to all open issues creating confusion in the overall process. The Ministry said that the preparations for drafting the Network Project had already started and would probably be finished within three months. In addition to working on the design of the network, a new action plan accompanying the Digital Switchover

Strategy was agreed on, with clearly defined tasks and deadlines. The action plan is expected to be adopted as early as in March 2013. The first stage of switching off the analog and switching on the digital TV signal is expected in the course of 2014, while the Switchover Plan, as the key document, will specify the period of the switchover by regions. As for the need to purchase STBs, the Ministry said the citizens did not need to rush with it until they got specific information about the switching off the analog signal. The Ministry is currently working on finding a model of assistance to some categories of the population with the purchase of STBs and the funds in question will be allocated in the 2014 budget. In the scope of its part of the job, on February 12, RATEL ended the public consultations about the Draft Rulebook on Establishing the Frequency/Location/Region Allocation Plan for Terrestrial Digital TV Broadcasting Stations in the UHF Range for the territory of the Republic of Serbia. After the public hearing, this document was sent to the Ministry of Domestic and Foreign Trade and Telecommunications for adoption. The Rulebook determines the allocation of digital frequencies after the completion of the digital switchover. As such, the enforcement of this document will begin only after the digital switchover is completed, in accordance with the Switchover Plan. The Digital Allocation Plan is aligned with the relevant international regulations and it constitutes one of the most important regulatory documents concerning digital broadcasting.

The digital switchover process is continuously late relative to the plan. The activities of the Ministry, RATEL and the Public Company ETV in the previous period provide hope that the process could still rebound and accelerate and perhaps be completed until June 17, 2015, as a deadline embraced by Serbia in keeping with ratified international treaties. In the meantime, it is necessary to create all regulatory and technical conditions for that to happen. First and foremost, the Design of the digital network needs to be adopted, which will open the door to the adoption of the Switchover Plan, so as to regulate in more detail the time periods and other issues relevant for the digital switchover. In view of the complexity of the process, collaboration must exist between all stakeholders, particularly state authorities, and regulatory bodies on one hand and broadcasters on the other, in order to enable all prerequisites for a smooth switchover.

VI THE PRIVATIZATION PROCESS

Leaning on the Media Strategy, the Draft Law on Public Information has established the principle of withdrawing of the state from ownership in media in several provisions. First, the Draft Law stipulates that only a legal entity may establish media. This legal entity, in turn, must not be

established, directly or indirectly, by the Republic, autonomous province and local self-government unit, or an institution, company and other legal entity that is completely or partially owned by the state, or completely or partially financed from the public budget. Exceptions to this rule exist only in several cases: public service broadcasters (RTS and RTV); institutions or foundations established by national councils of national minorities as publishers in an ethnic minority language; foundations or institutions established by the Republic, as the publisher of media for providing information to the population on the territory of the Autonomous Province of Kosovo and Metohija; an university established by the Republic or autonomous province, as the publisher of media whose purpose is to inform and train students. The Draft Law regulates the way in which these institutions and foundations are managed in order to prevent improper influence of the executive branch or national councils as media founders. Furthermore, the Draft Law envisages that the publishers, directly or indirectly established by the Republic, autonomous province or unit of local self-government (excluding the aforementioned exceptions), will cease to operate on December 31, 2014. This article foresees two models of privatization: sale, or transfer of state capital in the media without remuneration. The Draft Law also itemizes the provisions of other regulations that shall cease to be valid after December 31, 2013, including the controversial provisions of the Law on Local Self-Government, the Law on Capital City, the Law on the National Councils of National Minorities, the Law on the Protection of Rights and Freedoms of National Minorities, the Law on Public Service Broadcasting, but also the entire Law on the Public Company "Tanjug News Agency", the Law on the Establishment of the Public Publishing Company "Panorama" and the Decision on the Establishment of the Public Company for the Improvement and Development of Information through Electronic Media in Serbian language on the territory of the Autonomous Province of Kosovo and Metohija "Mreza most". Clear intent of the legislators to regulate the complete withdrawal of the state from media ownership stems from the aforementioned provisions. The list of provisions that will cease to be valid according to the Draft Law almost completely coincides with the provisions stated in ANEM's initiative tabled to the Constitutional Court to assess the constitutionality of various regulations that have obstructed the privatization process for years.

VII CONCLUSION

The beginning of the year was marked by the release of the Draft Law on Public Information and Media and the start of the public discussion on the Law, as an important stage in the long-awaited media reform in Serbia. It is definitely positive that the Draft Law focuses on the issue of regulating

financing of the media from public funds, starting from the fact that, on a weak media market, the state is actually the key player on the media scene with its money. Therefore, the enforcement of rigorous standards of state aid control and regulations for protecting competition in this field is crucial to media reforms. A concern is the fact that many actors on the political and public stage in Serbia are yet to comprehend this, or are perhaps reluctant to do so. An indicator of that is the public hearing on the topic of media freedoms in the Serbian Parliament's Culture and Information Committee, where certain MPs identified the journalists' lack of professionalism as the key problem of the media, instead of unprincipled enforcement of the laws by the executive branch, or the opaque expenditures of public money as a means of influencing the media and tool that actually encourages the unprofessionalism of journalists. The latter is evidenced by the absence of a more energetic reaction to the return of notorious hate speech from the 90s on the public stage, repeated attacks on journalists and civil society representatives, the division to patriots and traitors, Serbs and anti-Serbs, Serb-haters and even a "census" of non-Serbs among the journalist staff of certain media, as arguments for cracking down on political opponents. The fate of the reforms in the media sector in Serbia will depend on both the decisiveness of the government to create conditions in which quality on the media scene will prevail, instead of obedience and servitude, and the swiftness of its response to the calls for discrimination and hate, irrespective of the source of such calls.