

I FREEDOM OF EXPRESSION

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

1. Threats and pressures

1.1. Local stations that failed to film the Mayor of Leskovac Goran Cvetanovic visiting the illegal dumpsites in the village Medja on September 22 shall have their budget remuneration reduced by 10%. Namely, last June, Mayor Cvetanovic signed contracts with the representatives of seven media on co-financing of news content. Under these contracts, TV Leskovac and TV Protokol K-1 have been receiving a monthly subsidy of 250 thousand dinars, TV Studio MT 150 thousand, while the stations TV 4S and TV Klisura receive 100 thousand dinars each. The weekly "Nova Nasa rec" receives 70 thousand and Radio Ekos 50 thousand dinars. The Mayor's visit to Medja was covered only by TV Leskovac and TV 4S. According to the report by TV Leskovac, Cvetanovic said that he had ordered the head of the financial department to have the subsidies of the media that were not present at the event reduced by 10% for the following month. "Since we have signed co-financing contracts with the media, the money has been paid regularly, sometimes even 10 days before it was due. This looks like slackness to me. If the people from the media want money from the local government, they will have to cover us all the time", the Mayor said. He added he was aware that some stations exchanged filmed material and said it was unprofessional. "I am ordering the present TV crews not to exchange their footage with their colleagues from other media", the Mayor Cvetanovic said in the presence of his associates.

Under the Broadcasting Law, relations in the field of broadcasting shall be based on the principles of freedom, professionalism and independence of broadcasters, as warranty of the overall development of democracy and social harmony, as well as on the prohibition of any form of censorship and/or influence on the work of electronic media, thereby guaranteeing their independence and that of their journalists. The Law on Local Self-Government prescribes that the local governments shall, among other things, provide for public information of local relevance and ensure the conditions for the provision of public information in Serbian language and the languages of ethnic minorities used on the territory of the municipality. Unfortunately, what happens in practice (and the case in Leskovac demonstrates that) is that, instead of "providing for public information of local relevance" and "ensuring the conditions" for the provision of such information, we have the situation where local officials use the funds they are

allocating to the media as a mechanism for influencing editorial policy, prescribing topics to be covered and even banning exchange of footage. In this way, public information of local relevance has become public information in the interest of local officials and mere propaganda, which is the very contradiction of the concept of public information. The latter is, in turn, in contradiction with the Law on Public Information, under which it is forbidden to directly or indirectly restrict the freedom of public information in any manner suitable to restrict the free circulation of ideas, information and opinions, particularly by abusing powers, rights or control over funds. Under the same Law, it is also forbidden to put physical or other pressure on a media and its staff, or influence that might obstruct their work. A particularly striking fact (from which one may infer that this is not an attempt to ensure public information of local relevance or to get value from public money) is the unreasonable prohibition of exchanging the footage recorded by the TV crews. As if the Mayor was more interested in being pompously escorted by five cameras everywhere he went than in the citizens being conveyed information that might be relevant for their environment (cleaning the dump). This is yet another proof that it is urgently needed to establish (according to the provisions of the Media Strategy) a completely different model of public information of local relevance and to ensure the proper conditions for such information, since what is happening at the local level in Serbia is tantamount to bribing and blackmailing the media and abusing public money in the interest of local oligarchies and not that of local communities.

1.2. In a press release issued on September 10, the daily "Kurir" claimed that that the owner of that newspaper Aleksandar Rodic and the Editor of the weekly "Akter" Tihomir Trisic had been subjected to pressure by the high-ranks in the police for "reporting about abuse, corruption and organized crime in the top brass of the Serbian police, as well as over the interview about the police mafia given to 'Kurir' by the editor of 'Akter' ". The press release also claims that "Kurir" learned that Rodic and Trisic would be targeted for a "staged arrest". The Prime Minister and Minister of the Interior Ivica Dacic stated that leaders of the state had never considered or even thought of arresting journalists. The Ministry of Culture and Media issued a short press release condemning interference with editorial policy and intimidation of journalists and calling all public authorities to refrain from putting any kind of pressure. A day prior to "Kurir's" press release, the Director of the Police did not allow the reporters of that daily (or those of "Blic") to attend the press conference. Such a decision was explained by the fact that "the conference was intended for electronic media only."

In the month of September, "Kurir" was releasing articles on alleged embezzlement, corruption and organized crime in the top brass of the Serbian police, rather on daily basis. After a series of

these texts, the daily came out with allegations of pressure by the police and a “staged arrest” being prepared against the owner and journalists of the newspaper. As it is well known, the Law on Public Information stipulates that it is forbidden to directly or indirectly restrict the freedom of public information in any manner suitable to restrict the free circulation of ideas, information and opinions, especially by misusing authority, rights or influence. It remains unclear who has threatened Rodic and Trisic, but it is a fact that the journalists of “Kurir” and “Blic” were prevented from attending the press conference of the Police Director, allegedly because “it was intended for electronic media only”. The latter is also a violation of the provisions of the Law on Public Information, under which state authorities, including the Police, must make information about their work available to the public, under equal conditions for all journalists and all media. Organizing a press conference and discriminating one type of media (in this case, discriminating the press relative to electronic media) is clearly discrimination, i.e. “influence that may obstruct the work of print media”, which is prohibited by the Law.

2. Legal proceedings

2.1. In early September, the Higher Court in Novi Sad passed a verdict rejecting the claim of Todor Bukinac (the owner of stable “Bukinac) against several media (Radio 021, RTV B92, the Ringier Axel Springer publishing company, Beta news agency) and their editors, for reporting about his horses leaving the stable and walking freely among the apartment buildings in Novi Sad’s Novo naselje district. The plaintiff Bukinac claimed one million dinars of damages (from each media, four million in total) for injured honor and reputation by the release of untrue information. He did not deny the allegation in the reports that the horses were outside of the stable, claiming instead that the media had wrongly reported that these animals were the famous Lipizzaner stallions that are the object of a longstanding dispute between Croatia and Serbia. That dispute was resolved and the horses were returned to Croatia back in 2007. In addition, Bukinac claimed that he had not claimed 300 thousand Euros from Croatia for returning the horses, as the media reported. In its verdict, the Higher Court found that the wrong information, that the dispute between Croatia and Serbia was still underway (while it has in fact been finished), could not have damaged a third party (Todor Bukinac), namely that such news, in addition to being incorrect, may not be causally related to the plaintiff’s injured honor and reputation. Taking into account the plaintiff’s claim that he has wrongfully been subjected to such reporting in the last 10 years, the Court has found that the text in question only reminded of these events, stating that the courts must consider the existence of the proper causality when deciding about damage claim, which, in the given case, has not happened. Related to the second allegation by Bukinac – that his honor and reputation were injured by the information he had

requested 300 thousand Euros from Croatia for returning the horses – the Court established, by reviewing the evidence, that this information was in fact not false and that the compensation had actually been received, but in kind, since Bukinac got to keep the offspring of the horses that had to be returned to Croatia. The plaintiff lodged an appeal against the verdict, which is pending before the Appellate Court in Novi Sad.

The information that the horses of the “Lipizzan” breed had left the stable overnight in order to graze the grass between apartment buildings in Novi Sad was conveyed by several media not only as yet another bizarre story, but in the context of these horses origins. These were actually the descendants of the Lipizzaner horses that were moved from war-torn Croatia to Serbia during the wars of the ‘90s. These horses were later the subject of a dispute between the two countries and were ultimately repatriated to Croatia. However, the significance of this ruling for the Serbian media (and it will become even more significant if upheld by the Appellate Court in Novi Sad) is in the fact that the Higher Court in Novi Sad (contrary to the predominant practice of Serbian courts) has found that not every mistake in media reporting may constitute grounds for damages, namely that a strong causal relationship must exist between the injured honor and reputation of a person and the said mistake in reporting. In the Bukinac case, the Court found that such causal relationship did not exist. According to the same standard, the Court has also found that the information that the plaintiff claimed 300 thousand Euros from Croatia for returning the horses was not essentially incorrect and that the plaintiff could not claim damages only because he had not received that amount in money, but in kind (the offspring of the repatriated Lipizzaner horses). Such verdicts are extremely important for strengthening freedom of expression in Serbia, because they prove that a journalist is entitled to make a mistake and that not every mistake may be grounds for damages. The standard a journalist must fulfill is that of due journalist care and not that of the absolute truth.

2.2. In our Report for May 2013, we wrote about the SNS MP and President of the Parliamentary Committee for Constitutional Issues Vladimir Cvijan filing criminal charges against the director and editor of “Nase novine” Vuk Vucurevic and Antonije Kovacevic. The reason was the alleged threat against the security of his six-year old son. Speaking to journalists in the Parliament, Cvijan accused Vucurevic and Kovacevic of being maniacs and pedophiles and called parents to see that they never get close to their children. After Cvijan’s accusations in the Parliament, leaflets with photographs of Vucurevic and Kovacevic (reading “Attention! Pedophiles!”) were stuck on private vehicles parked in the area around the offices of “Nase novine”. Cvijan had previously shown these leaflets to the journalists. In late September, “Nase novine” reported that the First Basic Prosecutor’s Office in Belgrade rejected as unfounded

Cvijan's criminal charges against Vuk Vucurevic and Antonije Kovacevic. As the newspaper said, the Court concluded that "Cvijan's claims that the director and chief editor have undermined the security of his family were unfounded". Meanwhile, according to "Nase novine", the investigation continues in relation to the charges brought against Cvijan by Vucurevic and Kovacevic, for threats against their security.

The text that triggered the criminal charges was published under the title "Serbia in Dubiety, Cvijan in Dubai". It was published on the front page along with the comment "Cvijan indulges in luxury and threatens journalists". It also said that Cvijan's trip costed 1.400 Euros and quoted his words that it was his wife that had paid for the travel. Cvijan claimed that "Nase novine" had undermined his family's safety by coming into the possession of a photograph of his infant son from his wife's Facebook profile. Under the Law on Public Information, it is forbidden to put physical or other pressure on a public media and its staff or influence that might obstruct their work. Furthermore, it is stipulated that holders of state and political office shall have their privacy rights restricted (proportionately to the right of the citizens to be informed, in a particular case), if piece of information is relevant for the public interest, precisely because the person the information concerns occupies a public office. The decision of the prosecutor to reject Cvijan's charges against journalists as unfounded did not come as a surprise. Much more interesting and relevant for the Serbian media scene will be the prosecutor's decision about the charges filed against Cvijan himself. The fact that these charges have not been promptly rejected and that an investigation is still underway is good news, since it is necessary to establish the liability for the dissemination of leaflets accusing journalists of pedophilia (thereby obstructing their work), a previously unrecorded case of intimidation against the media.