



LEGAL MONITORING OF THE SERBIAN MEDIA SCENE

Report for June 2015



SERBIAN MEDIA SCENE IN JUNE 2015

The threats and pressure the editors and journalists are exposed to remain an important trait of the Serbian media scene. In June, journalists were threatened and pressured by mostly by politicians and advertisers. Particularly concerning is the fact that, amid the practice accepted by the prosecutors and courts in Serbia, legal protection from threat is ineffective, as if it didn't exist at all. The Penal Code prescribes threats against one's security as a criminal offense ("the threat to attack someone's life and body"). When such threat is made against a journalist or person performing an activity of public interest in the field of the media and in relation to the task it carries out, the Penal Code provides for a qualified form of the said offense, subject to a prison term of between 6 months and 5 years. Nonetheless, the threats the journalists face almost on daily basis (that someone will "find them" and "explain to them how things work") are typically not considered by Serbian prosecutors as serious and imminent threats against their "life or body". Consequently, such threats, when reported, are typically rejected by the prosecutors and the courts. Therefore, it is necessary to find or ensure a different means of effective protection. Practice is yet to provide an answer as to what kind of protection this could be. The consequence is an increasing feeling of insecurity of journalists and an ever deeper mistrust in the judiciary.

The month of June has seen yet another case of improper communication between politicians and editors, as a typical example of Serbian politicians call "private communication" with the people they know privately. Meanwhile, editors call it improper pressure against editorial autonomy. In the concrete case, the Serbian Foreign Minister Ivica Dacic had sent a text message to the Editor of the daily "Kurir" Milan Ladjovic, telling him "he will not forget" the headline of the text Ladjovic had published in the said newspaper. While not disputing that the headline was inappropriate, such practice is used by other politicians too – the most pertinent example, as detailed in one of our previous reports, was the communication between the author of the TV Program "Utisak nedelje" Olja Beckovic and the Serbian PM Aleksandar Vucic.

Politicians forget all too often one of the basic principles of European media law, as well as the express provision of the Serbian Law on Public Information and Media, according to which the holders of public and political office are obligated to tolerate criticism of the results of their work or policies in relation to the performance of their duties, regardless of whether they fell personally offended by such criticism. Reducing pressure against journalists, editors and media to mere private

and informal occurrences in the relations between them and politicians, is yet another testament to the unenviable position of journalists in Serbia.

In the Report we also analyze the first case where the Council of the Regulatory Body for Electronic Media ruled about the reported change to the ownership structure of a media service provider, amid new, more liberal rules on unlawful concentration of media ownership. The press release issued by the Council on that occasion said that the programming specificity of the two media service providers needed to be preserved regardless of the merger and that they must continue to operate as separate entities, with clear programming content, management, editorial team, journalists and technical capacities. Furthermore, the press released emphasized that the number of employees stated in their original surveys based on which their licenses were issued, must not be reduced. The decision of the Council is everything but controversial, but the press release, though based on good intentions, is. Namely, under the Law on Electronic Media, it is permitted to assign licenses issued on open competitions in the case of status changes. Hence, it is possible to imagine a situation where the decision of the new owners to merge two service providers they control would be completely legitimate. Furthermore, it is unclear on what grounds REM could prevent two media service providers, which are merged in terms of ownership, to share technical and production capacities (let alone the fact that this would be in the public interest, since it would enable the realization of some hitherto unfeasible, expensive and complicated production endeavors) or not change the number of employees stated in the surveys based on which they had their licenses issued back in 2006. Moreover, in view of the technological advances since 2006, it is pertinent to ask how realistic would be to seriously consider ten-year old surveys and ten-year old job systematizations. It seems that REM's struggle for content diversity and media pluralism should rather be based on drafting the Strategy of Development of Radio and Audio-Visual Media Services, based, among other things, on market analysis. Instead of warning TV stations nine years after they were issued broadcasting licenses that they must not rectify their programming concepts, the Regulator should anticipate the changes and to guide them so as to fulfill the requirements of the media market and the needs of the population, which REM needs to identify in its analysis and Strategy. This is indeed difficult, but not impossible, but if REM is not capable of achieving it, then its capacities need to be further strengthened.

June was also marked by the end of the process of digital switchover and the switch-off of terrestrial analog signal in Serbia. According to official estimates, about 97,8% of the population is covered by digital signal and the programming offer has an average of 15 television channels. The citizens obtained a better signal and more channels, while the state will benefit from the digital dividend. On the other hand, the broadcasters were relieved from paying the fee for using the radio frequency they used to pay to RATEL. They remain, however, obligated to pay the fee to REM and the tax to the

public company Broadcasting Technology and Links (ETV) for multiplexing and channel distribution services. At that, the price of digital distribution exceeds several times the fee hitherto paid to RATEL. ETV has approved a substantial discount to local and regional TV stations, which will apply as of January 1st, 2017. The question remains, however, what will happen after that, when the fee increases fourfold. The challenge will also lie with the programming obligations of local broadcasters, which are now set to become regional. It seems the solution should be sought in redefining the concept of regional television in Serbia, since the existing division, according to which each station covering the territory of at least two municipalities is a regional one, is completely unsustainable.

The Report also deals with privatization, which has seen yet another delay, hopefully the last one. The deadline for privatization has been postponed until October 31, 2015 for technical reasons mostly, as well as due to the irresponsibility of local governments and management structures in a series of public media companies, which have failed to fulfill their obligations in the privatization process. By the time we will have closed this Report, the Privatization Agency has called open competitions for the sale of 50 of a total of 73 media with government stake in the ownership structure. Meanwhile, the Ministry of Labor, Employment, Veterans' and Social Affairs, acting upon on a request for approving social programs for employees filed by 17 media, approved on June 20 such programs for 281 journalists and media professionals from 13 media in the privatization process. One may rightfully ask what happens with the rest of the media that are being privatized – are they also facing a problem of an excess of employees. Or is it rather a case of intolerable sluggishness and irresponsibility by the competent authorities in preparing the required documentation, which someone should be held accountable for.

As early as back during the adoption of the set of new media laws in the summer of 2014 it was clear that 2015 was a year of transition that will bring tectonic turbulences on the Serbian media scene. These changes are both technological (digitization) and systemic (privatization – a new model of financing media content from public sources). It was clear that the problems will be many, complex and will have to be dealt with on the go. After the expiration of the first six months of this transition year, it is time to settle some accounts. The digital switchover has been implemented and the consequences that could have hit the media scene with dramatically increased signal distribution costs were postponed for two years. Privatization was postponed for a couple of months, but it's clear that the advocates of its obstruction are unlikely to win again. Public calls for the sale of the shares of some of the biggest public media have already been issued and the Rubicon has seemingly been crossed – there is no going back. Unfortunately, some old habits remain. Pressure against media persists and it is necessary to redefine the means for us to counter this phenomenon as a society. It seems that the key task we face in the second half of the year is adopting the new Media Strategy and the new Strategy of Development of Radio and Audio-Visual Media Services, as well as the attempt to

recognize through these documents the challenges we face and propose ways to overcome them. The sooner everybody understands that the media reforms are a lasting process and that the completion of the digital switchover and imminent end of the privatization should not be the reason for the reforms to stop, the better it will be for all of us.

The full ANEM Legal Monitoring Report No. 61, for June 2015, is available in Serbian on the ANEM website [here](#).

The creation of this Report is supported by the Swiss Cooperation Office Serbia within the Small Projects Fund, but the views presented in this Report are the sole responsibility of its authors and do not necessarily reflect the views of the Swiss Cooperation Office Serbia.

Association of Independent Electronic Media (ANEM) is a non-governmental and non-profit media association, founded in 1993 and registered in 1997, active in the development and improvement of the freedom of opinion and expression, and of freedom, professionalism and independence of the media in accordance with the highest internationally recognized norms, principles and standards. ANEM is the largest association of electronic media in Serbia gathering more than 100 radio and TV stations across the country, and online media. ANEM's activities contribute to the improvement of the media regulatory framework and the establishment of favorable media environment in the interest of the media sector, as well as to better position, conditions, and the quality of work of its members and other media. ANEM is nowadays recognized by the media sector and responsible institutions as an unavoidable stakeholder in the development of media policy and legislation. It is recognizable in Serbia and abroad by its active advocacy for media reforms, protection and promotion of the freedom of expression and freedom of the media, while ANEM's membership is recognizable by its dedication to the highest professional standards and professional ethics.