

II MONITORING OF IMPLEMENTATION OF THE EXISTING LAWS

1. Law on public information

Implementation of Law on public information, as the main media law, is treated in the chapter on freedom of expression.

2. Law on broadcasting

Belgrade, 10 July 2009 – Council of the Republic Broadcasting Agency (RBA) lodged an appeal against the decision of the Municipal misdemeanor body in Majdanpek pronouncing a notice to Gordan Ursulovic for broadcasting program without a license. The statement of the Council states that this notice was an insufficient sanction for the offence having in mind the level of social threat imposed, making the efforts of RBA to eradicate pirate stations meaningless.

Law on broadcasting stipulates that a legal entity which broadcasts program without an RBA license shall pay the fine at the amount of 300,000 – 1,000,000 dinars, whereas a natural entity within the legal entity committing the same offence shall pay the fine at the amount of 20,000 – 50,000 dinars. In accordance with Law on misdemeanor, which was enforced in this particular case, a notice may be ruled instead of the stipulated fine in case there are circumstances which considerably diminish accountability of the perpetrator, and if it may be expected that this person will not commit further offences and will not be sanctioned in future. It is unclear which particular circumstances in this particular case considerably diminished accountability of the perpetrator, and what were the grounds for the Misdemeanor court in Majdanpek to rule that in case of Gordan Ursulovic it may be expected that he would not commit further offences and remain unpunished in future. This decision, however, confirms the previous RBA statements that the penal policy for pirate broadcasting is unacceptably lenient and that it makes efforts to eradicate pirate broadcasting quite meaningless.

Belgrade, 10 July 2009 – The Official Gazette of the Republic of Serbia No. 50/2009 published the Rulebook on additions and amendments to the Rulebook on measures for establishing the amounts of fees for broadcasting radio and/or TV program. According to the amendments, the base for establishing the amount of fee was reduced from 13.5 to 12.825 dinars. A single formula was also established to calculate the amount of fees for all zones of coverage. The amount of fee for each individual broadcaster is established by multiplying the number of population in the zone of coverage with the 0.6 coefficient

and the base as established by the Rulebook. The 0.6 coefficient is proportional to the obligation of commercial broadcasters to provide quality reception of signal for not less than 60% of the populating living in the zone of coverage.

The amendments of the Rulebook, announced within the emergency measures to assist media in crisis adopted by Serbian Government on 25 July, present a real reduction of fees to be paid by certain regional and local broadcasters by up to 40%. Fees for national broadcasters were reduced by 5% only. On positive side, the formula for calculating fees is less complicated, so that broadcasters may check accounting performed by RBA much more easily. However, the issue remains that even though the Law envisaged two criteria for calculation of fees (number of population on the territory on which program is broadcasted and the broadcasters' program concept), the Rulebook does not take the program concept as a criterion to a sufficient extent. The program concept of the broadcaster, i.e. the origin and type of program, is treated in the Rulebook only as a base for subsequent reduction of the fee by not more than 20%. In practice, such reduction was granted only to B92 due to a high portion of own production and, especially, own production of news programs within the total programming broadcasted by this broadcaster. There is the impression that RBA does not enforce the mechanisms to stimulate quality programs, i.e. programs of special public interest through a more flexible manner of accounting for fees to a sufficient extent.

Belgrade, 17 July 2009 – On the occasion of passing the Serbian Government decision on proclaiming the day of national mourning due to the death of Serbian tourists in a grave traffic accident in Egypt, the Council of the Republic Broadcasting Agency (RBA) published within its Internet presentation a notification stating program-related obligations of broadcasters on the National day of mourning.

By publishing the notification on the obligations of broadcasters on the National day of mourning, RBA considerably prevented unequal practices of broadcasters in cases of grave accidents or other tragic events. The notification contained the instructions which were entirely in line with the provisions of Law on marking the national days of mourning on the territory of the Republic of Serbia ("Official Gazette of RS", No. 101/2005), which establishes the obligation of broadcasters to publish the decision on proclaiming the National day of mourning and programs to mark it in such occasions, informing the public about memorial events on the occasion of the National day of

mourning, and adapting the programming to the occasion, broadcasting programs suitable for the National day of mourning instead of regular programs, primarily those of entertaining nature.

3. Law on free access to information of public importance

Belgrade, 2 July 2009 – Since the beginning of its work four years ago, the office of Ombudsman for information of public importance has received the total of 6,426 cases to be processed, out of which 5,600 have been settled. Rodoljub Sabic, Ombudsman, assesses that the Office has grown into a body of authority trusted by the citizens, which has, however, never been extended necessary support of the Government. He illustrated this with the fact that the Office should have as many as 69 employees, but has only 12 instead. Sabic also pointed to the growing number of unresolved cases, 220 of them at the moment, which is „an invitation to others to engage in violations”.

In accordance with provisions of Law on free access to information of public importance (“Official Gazette of RS”, No. 120/2004, 54/2007), decisions and conclusions passed by the Ombudsman for information are binding by nature, and their implementation is to be secured by the Government, if necessary. The fact stated by Mr. Sabic, that there are 220 outstanding cases at the moment, points to the fact that, regardless of its legal obligation, the Government of the Republic of Serbia actually fails to provide for execution of the decisions passed by the Ombudsman, which further points to obstructions in enforcement of law.

4. Other media-related laws

No important novelties in implementation of other laws relevant from media were observed in monitoring conducted through this period.