



LEGAL MONITORING OF SERBIAN MEDIA SCENE

Report for August 2009



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I FREEDOM OF EXPRESSION

Freedom of media and the right to freedom of expression through the right to public information are primarily regulated by Law on public information. This Law guarantees freedom of expression, and prohibits its limitations, and any influence and pressures exerted on media. In the period observed, various violations of freedom of expression were noted; the characteristic ones are presented here.

1. Threats and pressures

1.1. Aleksandrovac, August 2nd, 2009 - Dobrila Vukojevic, Head of Administration of the Municipality of Aleksandrovac, banned the correspondent of *Blic* Gvozden Zdravic from entering the conference room of the Municipal Assembly of Aleksandrovac, where a press conference was held on the occasion of the visit by the Slovenian and Dutch ambassadors, the above daily newspaper reported. Dobrila Vukojevic told journalists the ban was introduced for protocol reasons, namely at the request of the marketing department of the AD „Vino-Župa“ company, which was the organizer of the ambassadors' visit to that municipality. The marketing department of AD „Vino-Župa“ said that, on the contrary, they had insisted that the press conference of the said ambassadors be attended by as many journalists as possible.

1.2. Lazarevac, August 3rd, 2009 – The local television station *Kolubara RTL* from Lazarevac was removed from the offer of the cable distribution network *Kopernikus*, in Lazarevac, Lajkovac, Arandjelovac and Topola. The initial explanation said it was due to technical reasons. However, *Kolubara RTL* said they believed the real reason was their reporting on embezzlement in the mining basin *Kolubara*. The Manager of *Kopernikus* Srdjan Milovanovic confirmed, in a response to the protest of the Journalists' Association of Serbia (UNS), that the exclusion of *Kolubara RTL* was not due to technical reasons. He tried to justify that saying that station didn't have the licenses of the Broadcasting Agency and Telecommunications Agency (more detailed in analysis on page 3)

1.3. Kraljevo, August 6th, 2009 – Journalist Jovan Slijepcevic, the correspondent of the daily *Alo!* From Kraljevo, was threatened by an unknown person over his texts about the alleged sexual harassment suffered by gendarmes in the doctor's office in that city. Previously, the daily *Kurir* claimed that Slijepcevic's texts were planted by the Croatian and Albanian secret services.

1.4. Priboj, August 7th, 2009 - Dragomir Minic, Deputy President of the Priboj municipality, threatened Danica Guduric, the Editor-in-Chief of *Radio Lim* and correspondent of *Sandzak Danas*. After she having heard that there were problems at

the city's swimming pool, Guduric called Misa Jecmenica, the Manager of the Sports Center. "Jecmenica was extremely fair in our discussion, but then Dragomir Minic, Deputy President of the Priboj municipality, took his phone and started swearing my mother and threatening he would close down *Radio Lim*", Danica Guduric said.

1.5. Guca, August 8th, 2009 – Reporters from the brass festival in Guca protested over the interrogation of the journalists of *Blic* and *Vecernje Novosti* by the police. The said journalists reported about the incident in which a French woman was thrown out of the House of Culture in Guca by the security personnel and was racially insulted by them. Petar Jeremic, JAS (UNS) Executive Board President, sent a letter of protest to the organizational committee of the Guca festival over the fact that the police have interrogated the reporters instead of the perpetrators of the incident.

1.6. Pristina, August 16th, 2009 – *Blic* journalist from Kosovo Nedeljko Zejak was assaulted by two members of the polling committee in Laplje Selo – one from the Socialist Party of Serbia (SPS) and the other from the Citizens' Group "Vidovdan", at the local elections held pursuant to the decision of the Government of Serbia. *Blic* wrote that the SPS polling committee member had physically attacked Zejak and tried to take his camera, while the "Vidovdan" member threatened him with "elimination" because of a critical text Zejak wrote about SPS policy in Kosovo.

1.7. Belgrade, August 17th, 2009 – After a hearing with the on-duty investigative judge, Sinisa Vucinic, the self-professed President of the Initiative Committee of the Serbian Chetnik Movement of Republika Srpska and former Yugoslav United Left (JUL) official, was sentenced to eight days in custody. Vucinic was interrogated at the proposal of the Third Municipal Public Prosecutor's Office in Belgrade on suspicion he has sent death threats to journalist Milos Vasic and Member of Parliament Zarko Korac. The investigative judge sentenced him to custody because of the risk that Vucinic could repeat that offense.

1.8. Belgrade, August 20th, 2009 – Member of Parliament Zarko Korac testified before the investigative judge of the Third Municipal Court in relation to the threats against him in the media by the Sinisa Vucinic. The journalist of the *Vreme* weekly Milos Vasic, who was also threatened by Vucinic, will also be heard at a later date, after his return from holidays. Korac said after the hearing that he had taken Vucinic's threats seriously, "since this is a person which, according to media reports, has been taken into custody over attempted extortion in Novi Sad and which has been in possession of firearms without a license". Korac also said he expected that the Prosecutor's Office would bring criminal charges against Vucinic.

1.9. Belgrade, August 26th, 2009 – The spokesperson of the Third Municipal Court in Belgrade Dragan Milosevic confirmed to the media that the Third Municipal

Public Prosecutor's Office had brought an indictment against Sinisa Vucinic for threats against MP Zarko Korac and journalist Milos Vasic voiced in the media in Republika Srpska.

The Constitution of the Republic of Serbia ("The Official Gazette of RS", No. 98/2006) guarantees the freedom of thought and expression, as well as the freedom of requesting, receiving and distributing information and ideas in speech, writing, picture or any other manner. Furthermore, the Constitution establishes that the freedom of expression may be limited by law, provided this is necessary for the purpose of protection of rights and reputation of others, preservation of authority and impartiality of courts and protection of public health, ethics of the democratic society and national security of the Republic of Serbia. Law on public information ("Official Gazette of RS", No. 43/2003, 61/2005) stipulates that no one shall, not even in an indirect way, limit the freedom of public information, in any manner suitable for restricting free flow of ideas, information and opinions. The Law especially stipulates that no one shall exert any physical or other pressure on a public media outlet and its employees, as well as influence aimed at obstructing their work.

The law also specified the obligation of government authorities and organizations, territorial autonomy and local self-government authorities, public agencies and public companies, as well as MPs and councilors, to make the information about their activities publicly available under equal conditions for all journalists and all media outlets. Unfortunately, contrary to this legal provision, it is often the case, particularly with local self-governments, as it was the case in Aleksandrovac during the period observed, that certain journalists are denied the right to information about the activities of the authorities or access to certain events and press conferences (point 1.1.).

A case in point is the one of the local television Kolubara RTL from Lazarevac, which was denied cable broadcasting of its program on the territories of Lazarevac, Lajkovac, Arandjelovac and Topola municipalities (point 1.2.) The Law on Public Information stipulates that a person engaging in distribution of public media must not refuse to distribute someone's public media without a valid commercial reason, or to impose conditions for distribution that are contrary to market principles. The provision primarily pertains to the distribution of print media, since there are technical limitations of the distribution networks' capacity in regard to cable distribution of television program. In the above case, the editorial team of Kolubara RTL from Lazarevac accused the cable distributor Kopernikus of removing their program from the network in the attempt to prevent reporting about embezzlement in the energy giant Kolubara Mining Basin. In a response to the protest of the Journalists' Association of Serbia (UNS), the Manager of *Kopernikus* Srdjan Milovanovic confirmed that the exclusion of *Kolubara RTL* was not due to technical reasons, as it was initially stated. Milovanovic said that the problem was in the Kolubara RTL, which didn't have the licenses of

RRA and RATEL. Such explanation of the Manager of Kopernikus doesn't hold ground. Namely, the RRA issues a unified broadcasting license, which also includes a license or licenses for RATEL transmitters, only in case of terrestrial broadcasting. In the case of cable broadcasting, when a station does not have a license for terrestrial broadcasting under the Broadcasting Law, the license may be issued without a public competition and at the request of the cable operator itself. An additional problem is the fact that, although the current Broadcasting Law was adopted back in 2003, the RRA has not yet started issuing licenses for cable broadcasting, nor adopted the Rule books to which such licenses would be issued. The consequence of this is that in Serbia almost all cable channels that do not hold terrestrial licenses (because they do not intend to broadcast terrestrially or because they have failed to receive such licenses on public competitions) are practically distributed over cable networks without a license. The fact that Kolubara RTL didn't have a terrestrial license – the issuance of which is impossible to apply for due to the lack of the appropriate RRA by-laws – wasn't an obstacle for Kopernikus to distribute Kolubara RTL's program for the previous three years. Finally, although in the month of August – due to the holiday season – there are, as a rule, fewer cases of threats and pressure on journalists and the media, this year this was not the case. The swift reaction of the Prosecutor's Office and the police in the case of threats by Sinisa Vucinic to journalist Milos Vasic and MP Zarko Korac is commendable. An indictment against Vucinic was brought as early as in late August and the court is expected to schedule the main hearing soon. Bearing in mind that in other similar cases proceedings are not launched at all or at least not that fast, one could ask whether the same would have happened if Vucinic had not threatened a member of parliament and President of the Social Democratic Union Zarko Korac, in addition to menacing a journalist, Milos Vasic.

2. Court Proceedings

2.1. Nis, August 11th, 2009 – The Municipal Court in Nis has declined jurisdiction for conducting proceedings against the daily “Press”, which has been sued by the former Head of the Army Directorate for Property and Legal Affairs Zarko Surbatovic. At the request of the said plaintiff, because of the same information by the same author (Dragana Kocic), but for a different newspaper - the Nis daily “Dnevne novine” - the Court has sentenced the journalist and the Editor-in-Chief of that paper to pay one million dinars of intangible damages to Surbatovic and his wife. In reports in Press and Narodne novine, the journalist Dragana Kocic cited excerpts from the indictment filed against Surbatovic and his wife by the District Prosecutor's Office. In the meantime, Surbatovic and his wife have been convicted for the criminal offense stated in the criminal charges before the court of first instance.

2.2. Sid, August 11th, 2009 – The District Court in Sremska Mitrovica ordered that Tatjana Pejic, the former Director of Radio Sid, be readmitted to the full-time journalist position. After the elections in the fall of 2004, Pejic was dismissed and offered the position of journalist, but with a part-time contract, which she had refused. Radio Sid has been ordered to pay Tatjana Pejic about 3,5 million dinars for salaries lost and unpaid contributions, as well as court expenses.

We have written about the first-instance verdict of the Municipal Court in Nis dating from April 2009 as an example of the unacceptable practice of domestic courts in the first edition of the specialized publication “Monitoring of the Media Scene in Serbia”, available at:

<http://www.anem.org.yu/admin/article/download/files/Publikacija%201%20%20FV2%2031.08.2009..pdf?id=188>.

In that verdict, Judge Jasmina Andrejevic ordered journalist Dragan Kocic and the Editor-in-Chief of “Narodne novine” from Nis, Timosenko Milosavljevic, to pay one million dinars of damages to Major Zarko Surbatovic, the former Head of the Army Directorate for Property and Legal Affairs and his wife Gordana Surbatovic. It is interesting to point out that in the new case, despite the fact that the details are identical, the Municipal Court in Nis has declined jurisdiction and sent the case for further procedure to the District Court. Pursuant to the current provisions of the Law on Public Information, the District Court is competent for conducting proceedings for breach of the right to privacy.

II MONITORING OF THE IMPLEMENTATION OF EXISTING LAWS

1. Public Information Law

The implementation of the Law on Public Information was detailed in the freedom of expression section.

2. Broadcasting Law

The Republic Broadcasting Agency (RBA) published on its website, on August 20th, instructions for submitting petitions, namely objections related to program content and conduct of broadcasters. The instructions include a form of the petition, namely objection. The instructions are available [here](#).

The Broadcasting Law stipulated the RBA’s competence to decide upon petitions of natural and legal persons related to the content of broadcasters’ program, namely if they believe such

program is violating or threatening their personal interest or the interests of the general public. According to the Law, the RBA is also competent to decide upon the objections of broadcasters. The broadcaster may lodge an objection to the actions of another broadcaster, if these actions have caused or may cause the former to suffer damage.

If it establishes the petition to be valid, the RBA is required to take measures against the broadcaster, as well as to instruct the applicant on how to protect his interests. The measures at the disposal of the RBA, according to the Broadcasting Law, range from notices and warnings to temporary or permanent revoking of the broadcasting license.

The publication of instructions for lodging petitions and objections on the RBA website may point to the Agency's intention, in the monitoring of the broadcasters' activities, to rely more on information obtained from the viewers and/or listeners and the broadcasters themselves, instead of or in addition to the results of its own monitoring, namely monitoring performed by agencies engaged for that purpose. Such a change would also be economically justified, since it could result in a more economical regulatory activity. Namely, the share of monitoring costs in RBA's overall expenditures is unknown, but is definitively not negligible. According to the information from the Newsletter about RBA activities, the Agency's Supervision and Analytics Department, which is involved in the monitoring of broadcasters' activities, employs 31 persons. Just for comparison purposes, the Legal Affairs Department of the Agency, which is supposed, among other things, to deal with regulatory activities – the core activity of the RBA as the sectorial regulator – has only five members of staff.

3. Personal Data Protection Law

The overview of the activities of the Commissioner for Information of Public Importance and Personal Data Protection published in August, states that cases requiring inspection supervision remain unsolved. The reason is the lack of the necessary capacities of the Commissioner for these tasks, because that the funds for the salaries of employees that would do the job have not been approved.

We hereby remind that the Law on Personal Data Protection was adopted in the Serbian Parliament in October 2008 and has been formally applied since January 1st, 2009. However, its application remains limited due to a lack of financial and technical conditions and insufficient staff.

III MONITORING OF THE PROCESS OF ADOPTION OF NEW LAWS

1. Amending Law to the Law on Public Information

On August 31st, the Parliament adopted the Amending Law to the Law on Public Information, the draft of which was sharply criticized by all media associations. Since certain parties of the ruling coalition voted against the Draft Law or remained abstained, the majority for passing the Law in the Parliament came from the opposition Liberal Democratic Party (LDP). The LDP had previously held consultations with journalist associations. After consultations with the Independent Association of Journalists of Serbia (NUNS), it was announced that the LDP and IJAS (NUNS) agreed that a media strategy should urgently be brought about in order to define the course of development of the media and create the preconditions for passing concrete legislative solutions. The LDP and IJAS statement also said that the LDP had accepted the request of IJAS to discuss with the proposers of the Law possible amendments thereto, which would make it more acceptable for the media and the public, in the situation that voting majority has already been gained. After the meeting with the Association of Journalists of Serbia (UNS), it was announced that JAS (UNS) had accepted to take part in the drafting of the media strategy together with other media associations. The JAS stood by its objections to the Amendments to the Public Information Law and voiced its opposition to their adoption.

Six Government amendments to Draft Law on Amendments to the Public Information Law were adopted on voting day, as well as one amendment of the opposition. The amendments have altered certain solutions branded unacceptable by media associations, such as the enforced high deposit for the establishment of media companies or the suspension of the publishing of media for founders whose account has been blocked for longer than 90 days over the period of one year. Other solutions deemed equally unacceptable by media associations, where nevertheless adopted by the Parliament. The Law provides for a ban on publishing a media for failure to register, the prohibition to transfer ownership rights to the media to another owner, as well as excessively high fines for violations of the presumption of innocence and minors' rights, respectively.

As early as in the afternoon hours the same day, the President of the Republic enacted a decree promulgating the Law. Until that moment, only the text of the Draft, without the seven adopted amendments, was available on the Parliament website. The final text of the Law, with the adopted amendments, was unavailable to the public at that moment. The very moment of the promulgation of the law is important because, pursuant to Article 169, paragraph 1 of the Constitution, the time between the passing of the law and its promulgation is the period when one third of Members of Parliament (MPs) may lodge a request for prior assessment of constitutionality. The early promulgation of the Law actually restricted the MPs in exercising that right.

2. Law on National Councils of National Minorities

On the same day, August 31st, the Parliament also adopted the Law on National Councils of National Minorities. This Law stipulates that the National Councils are representative bodies representing national minorities in the area of education, culture, information on minority languages and the use of language and alphabet. Furthermore, according to the Law, National Councils may establish media companies; the Republic, Province or local self-governments may transfer their media founding rights to National Councils, where the said media entirely or predominantly provide information on minority languages. The Law also provides that the funding for the media whose founding rights have been transferred must come from the same sources as before the transfer. This decision is not in accordance with the Law on Public Information and the Broadcasting Law, which, on one hand, provides for mandatory privatization of public media and on the other, stipulates that the founder of a public media may not be an institution, company and other legal person that is entirely or predominantly funded from public sources.

Some time before the adoption of the Law, the media have reported about the row between the National Council of the Bunjevci ethnic minority and the Bunjevci Information Center, which is the founder of the “Bunjevacke novine” newspaper. The National Council attempted to dismiss the Management Board of the Information Center, with the obvious intention of influencing the editorial policy of the said newspaper. The Director and Editor of Bunjevacke novine Suzana Kujundzic-Ostojic told the Politika daily that the National Council had been politically divided between a pro-Radical and a pro-democratic fraction and that the former had tried to dismiss the management board of the Bunjevci Information Center.

This information only confirms the view that the transfer of media founding rights to the National Councils of national minorities is not a model that would guarantee and independent editorial policy of minority language media.

3. Law on Illegal Media Concentration and Transparency of Media Ownership

The Law on Illegal Media Concentration and Transparency of Media Ownership, the draft of which was completed back in April by the working group established by the Ministry of Culture, has been, as it was announced by the Ministry, submitted for opinion to the competent authorities in accordance with the Government’s Rules of Procedure and the Broadcasting Law. Namely, the Rules of Procedure of the Government stipulate that the proposer (in this case the Ministry of Culture) is required to obtain the opinion of the Republic Secretariat for Legislation, the Ministry of Finance and the Office for EU Accession for each draft law. In line with the same regulation, in the concrete case the Ministry of Culture must also obtain the opinion of the Ministry of Justice – since the draft lays down certain offences – but also from other state administration authorities, whose scope of

activities is related to the matter governed by the draft. In the concrete case, this could be the Ministry of Economy and Regional Development. The Broadcasting Law stipulates that the competent authorities, in preparing regulations concerning the area of broadcasting, must also obtain the opinion of the Republic Broadcasting Agency. The Government's Rules of Procedure stipulate that everyone who has been furnished the draft or proposal of an act by the proposer for opinion must deliver the opinion in writing within 10, that is, 20 days where the act is a draft of systemic law. If the opinion is not delivered on time, it shall be considered that there were no objections. The Broadcasting Law does not provide for a specific time limit for the RBA to deliver its opinion.

However, a special problem lies in the fact that, in the meantime, the Law on Amendments to the Public Information Law, adopted on August 31st, has already introduced a Media Register, which is perhaps an indication that the government is not happy with the concept of the Media Register as provided for by the Draft Law on Illegal Media Concentration and Transparency of Media Ownership. The differences between the two laws concerning the concept of the Media Register are substantial. The Law on Amendments to the Public Information Law has been criticized, among other things, for providing for the suspension of publishing activity of a public media that has not been registered with the Register. In other words, registration with the Register has become a condition for the publication of media. This concept is problematic both from the aspect of constitutionally guaranteed freedom to establish newspapers and other public information means without approval, and the constitutionally guaranteed right to freedom of expression. Contrary to the Law on Amendments to the Public Information Law, the Law on Illegal Media Concentration and Transparency of Media Ownership does not require registration with the Register as a precondition for publication of media. Moreover, it regulates in far more detail the purpose of keeping the Register, as well as the information kept therein and the legal remedies available to the founder of the media in case he is unsatisfied with the decision of the registrator.

4. Law on Data Secrecy

The Commissioner for Information of Public Importance and Personal Data Protection has criticized the Draft Law on Data Secrecy – laid down by the Government of Serbia and forwarded to Parliament for adoption – as unsatisfactory, both from a conceptual and from a legal and technical standpoint. Namely, according to the Law on Free Access to Information of Public Importance, the Commissioner for Information of Public Importance is entitled to access any document and information carrier without limitations, which right has never been disputed in his longstanding practice. In his letter to the Prime Minister, the Commissioner pointed to the fact that, according to the Draft Law on Data Secrecy, he would not be entitled

anymore *ex lege* to access any document designated as confidential. His position will thus qualitatively change and his ability to perform certain duties in keeping with the Law on Free Access to Information of Public Importance will be severely hampered.

At the end of the month, the Ministry of Justice said it was ready to accept objections by the professional circles to the Draft Data Secrecy Law. Moreover, it expressed the willingness to propose to the Government even to withdraw the same from procedure in the case of Draft's shortcomings to such an extent that it couldn't be remedied by amendments. The Commissioner for Information of Public Importance and Personal Data Protection has assessed the Ministry's standpoint as responsible and constructive.

The Provision of the Draft Law on Data Secrecy that has suffered the most criticism by the public stipulates that the authority in possession of secret information, classified as a strictly confidential or state secret, may limit to Ombudsman and Commissioner for Information of Public Importance the access to that information.

The adoption of the Law on Data Secrecy, but whose provisions will not restrict the authority of the Commissioner and the Ombudsman, is important for the media. The reason is that journalists, particularly those engaging in investigative journalism, often find themselves in the situation to weigh, on their own, whether they are allowed to publish the information they come across. Until now, when they were unsure if they were allowed to publish a piece of information, journalists had to look for answers in a sea of typically obsolete regulations, often inherited from the period of the undemocratic regime. The journalists' task should be facilitated with the adoption of the law providing for a uniform system of designating and protecting secret data relevant for national and public security, defense, internal and foreign affairs, as well as access to such data, the manner in which they cease to be secret, secrecy periods and the powers of authorities in the application and supervision of the implementation of the law.

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

REGULATORY BODIES

1. REPUBLIC BROADCASTING AGENCY (RBA)

Certain activities of the RBA have been elaborated on in Section II of this report, namely in the part concerning the monitoring of the implementation of the Broadcasting Law.

During August 2009, the press reported on the issue of illegitimate broadcasting of TV and radio program in the South of Serbia. According to the reports of several newspapers, TV Presevo, established by the local self-government, has restarted to broadcast illegitimately on the frequency obtained by the private TV station "Aldi" after its transmitters were sealed for lack of broadcasting license. TV station "Aldi" has informed the public about that, as well as the RBA and RATEL, requesting that the competent authorities enable it to broadcast its program unhindered. In mid-August, the open letter of the owner of RTV "Spektri" from Bujanovac drew special attention. In that letter, the owner informed the public that he had decided to illegally broadcast the signal of his radio station (he holds a license for the TV station), in protest over the non-compliance with broadcasting laws in the South of Serbia, namely because of the renewed illegitimate operation of TV "Presevo". The press also reported that, according to the representatives of this regulatory body, most illegal broadcasters were located in Novi Sad and Pozarevac, that they even had their associations and that the hands of regulatory bodies were tied, for they were neither entitled to seize equipment, nor did they get adequate help from the police.

Article 64a of the Broadcasting Law stipulates that the RBA Council shall pass a decision to prohibit broadcasting, which will be furnished without delay to the natural or legal person who illegitimately broadcasts the program. That person is required to suspend broadcasting immediately after the decision becomes final (after the expiry of the time limit for filing an objection or rejection of the objection as groundless). If that person fails to comply, the RBA Council's decision shall be enforced forcibly, with the authorized RBA officer sealing the premises where the telecommunications equipment is held, as well as the radio station (transmitter) used by the illegal broadcaster. On the occasion of the said forcible enforcement, the authorized officer is entitled to request the assistance of the police. One of the reasons for the ineffectiveness in shutting down "pirate" broadcasting outlets is the slow and complicated procedure, preceded by the procedure conducted by RATEL for identifying illegitimate broadcasting. The representatives of regulatory bodies say, another reason is their insufficient powers in the procedure of shutting down illegal stations, which should be, in their view, boosted with a new right – to temporarily seize the broadcasting equipment of the person broadcasting without a license. Regulatory bodies could also benefit from and they are proposing the introduction of a new criminal offense – unauthorized possession of a radio station. The third reason is the lack of assistance by the police, as representatives of RBA and RATEL state.

Notwithstanding the reasons, there is no doubt that regulatory bodies are yet to clear the air from illegal broadcasting. As this is one of the main reasons for the non-functioning of the media market and thus for the poor economic situation of legal broadcasters, an urgent

and coordinated action is needed both by regulatory bodies and competent state authorities in order to solve this problem.

2. REPUBLIC AGENCY FOR TELECOMMUNICATIONS (RATEL)

RATEL has published on its website information dated August 14th , 2009, on the digital broadcasting Service, explaining whom the transition from analog to digital broadcasting (scheduled for completion for April 04th ,2012) applies to. The information says:

„The digital terrestrial broadcasting service, in line with the Geneva 2006 Agreement (GE06), involves digital television (DVB-T) in the ranges 174-230 MHz and 470-862 MHz and digital radio (T-DAB) in the range 174-230 MHz.

The introduction of the digital broadcasting service in the frequency range 87,5-108 MHz (VHF-FM) was not the subject of the Geneva 2006 Agreement (GE06) and we want to inform the users of radio frequencies from this range (radio broadcasters) that the planning of frequencies and use of this range are still done in accordance with the Final Acts of the Regional Agreement pertaining to the use of the range 87,5-108 MHz for FM sound broadcasting, Geneva, 1984 (GE84).

The Strategy and the Action Plan for the transition from analog to digital broadcasting of radio and television program in the Republic of Serbia, which have been published in the Official Gazette of the Republic of Serbia (no. 52/09) have determined that the Analog Switch-Off (ASO) will be on April 04th , 2012. We hereby underline that the cessation of operation of the analog service solely pertains to television, namely in frequency ranges 174-230 MHz and 470-862 MHz.

That means:

- 1) Digital broadcasting of television program shall begin on 04.04.2012, in the frequency ranges 174-230 MHz and 470-862 MHz.**
- 2) Digital broadcasting of radio program in the range 87,5-108 MHz is still not considered and there aren't any plans for it.”**

The digitalization issue is a narrowly specialized one and the general public, as well as the broadcasters, are not sufficiently familiar with. The process of transition from analog to digital broadcasting in Serbia – although the Strategy, along with the Action Plan, has already undergone public discussion – is still visibly causing confusion among broadcasters. Therefore, it is good that RATEL, although it is not obliged to, has provided the basic information explaining whom digitalization applies to.

Our opinion is that other competent authorities participating in this process should already start informing or educating those broadcasters to whom the cessation of analog broadcasting and transition to digital broadcasting applies. That would significantly contribute to their better preparedness for the coming changes.

STATE AUTHORITIES

3. THE PARLIAMENT OF SERBIA

a) After the summer recess, the Parliament resumed its work on August 31st 09. The 11th extraordinary session of the Parliament in 2009, which started on July 16th, 2009, was resumed.

On voting day, August 31st, the members of Parliament addressed the items on the agenda in principle and in detail. Among other things, the Members of Parliament (MPs) adopted with the required majority of votes the Draft Law Amending the Law on Public Information and the Draft Law on National Minorities' National Councils.

The same day, of all the laws adopted on the said Parliament session, the President promulgated by passing a decree only the Draft Law on Amendments to the Public Information Law, which is the only law from adopted that day, that has been published in the Official Gazette of the Republic of Serbia no. 71/09 dated August 31st, 2009.

The legal effects of the adoption of these two laws have been elaborated on in Section III – Monitoring of the Process of Adoption of New Laws, as well as in the same section of the previous edition of the Monitoring Report available at ANEM web site here

<http://www.anem.org.yu/admin/article/download/files/III%20%20MONITORING%20OF%20THE%20PROCESS%20OF%20ADOPTION%20OF%20NEW%20LAWS.pdf?id=166>

b) The Parliament has, in the section *Activities of the Speaker* on its website, posted the information dated August 03rd 09, that “the Speaker of the Parliament of the Republic of Serbia, Prof. Dr. Slavica Djukic-Dejanovic has made a public call for the submission of a proposal of a candidate list for membership to the RBA Council. The call was made to authorized proposers who have nominated candidates whose mandates are to be expired: the Parliament of the Autonomous Province of Vojvodina, the Conference of Universities and traditional churches and religious communities. Each of the authorized proposers is required, no later than within two months from the public call, to furnish the competent parliamentary committee with a proposal of the list containing two candidates for filling the vacancies in the Council. Each of the authorized proposers shall submit a proposal of the list with two candidates, by mutual agreement and harmonization. The Speaker of the Parliament shall, no

less than 10 days before deciding upon the election of the members of the Council, publicly announce in an appropriate manner the candidates lists that the authorized proposers have submitted, along with the basic information about the candidates. The call will be published in the Official Gazette of the Republic of Serbia and the daily “Politika”.

Article 27 of the Broadcasting Law stipulates that members of the RBA Council are elected for a term of six years. But, as an exception, when Council members are elected for the first time, three of them will be elected for a six-year term, three for a five-year term and the remaining three for a four-year term. This call was sent to authorized proposers (the Parliament of the Autonomous Province of Vojvodina, the Conference of Universities and traditional churches and religious communities) that have proposed candidates whose term of office expires on February 17th 2010, five years after their election to the first composition of the RBA Council. The public call was published in the daily “Politika” on August 03rd, 2009 and in the Official Gazette of the Republic of Serbia not until on August 27th 2009 (no. 70/09). The period for the submission of lists is no later than within two months from the public call and hence it remains unclear on which day this period will start, which may be important, because the submission of lists by mutual agreement, through the process of mutual harmonization, requires more time.

4. THE MINISTRY OF TELECOMMUNICATIONS AND INFORMATION SOCIETY

The activities of this Ministry shall be elaborated in Section V – the Digitalization Process.

5. THE MINISTRY OF CULTURE

a) The Ministry of Culture has announced on its website a statement dated August 25th, 2009, setting of a working group for the drafting of the media strategy, which would consist of representatives of the journalist profession and the media industry. Stressing that independent media are indispensable for creating and developing a democratic culture in each country, the Ministry has said that the media strategy involves the determining of long-term goals and tasks, defining the courses of action and allotting the resources necessary for their realization, aiming at regulating the media, legislation and practice. You may download the entire statement (available only in Serbian) at <http://www.kultura.sr.gov.yu/?jez=sc&p=4617>

b) The Ministry’s statement dated August 27th, 2009, says that media associations have supported the proposal for drafting the media strategy and that all invited participants attended the meeting held on that day: IJAS (NUNS) President Nadezda Gace, JAS (UNS)

President Ljiljana Smajlovic, ANEM President Sasa Mirkovic, Executive Director of the Media Association Zoran Papic and the President of the Association of Local Independent Media “Local press” Vladan Filipcev. At this meeting it was agreed that, in less time, each association should choose two of its representatives who will work, together with the representatives of the Government of Serbia, on the drafting of this document. The working group will soon start working after the appointment of the members and the starting point will be the existing documents of UNESCO, OSCE and the Council of Europe. Furthermore, it was proposed that the representatives of universities and other expert institutions join the activities of drafting the strategy.

The drafting of the media strategy is the main precondition for the further development of the media sector. As it was shown by the 4-month monitoring conducted so far, a lack of strategy is one of the causes of the halted reforms in this area. Many have been pointing to that for a long time, with ANEM among the first. As it became evident, without a strategy, partial solutions to certain media issues were poor and at the same time, many other solutions remained incomplete. In view of the importance of the media for the development of democracy in society, the strategy should be the result of a wider social consensus and not merely the outcome of the work of just one Ministry, in order to be respected and contributed to by everyone. The strategy would have to be comprehensive and to provide for effective solutions to all relevant media issues.

According to the information of the monitoring team, the terms of office of the working group members should be verified by the Government, which thereby wants to show that it is its priority in the media sector and that it will support it. In view of the inconsistency of the Government towards the media, one should be cautious and wait to see how serious the intentions it has proclaimed will be.

c) In the same statement from August 27th, 2009, the Ministry said that, after the summer recess and on the said date, a meeting had been held with the representatives of the Ministry and the Working Group for the Drafting of the Broadcasting Law, also attended by the representatives of OSCE and the Council of Europe. Among other things, the statement said that “...the Working Group informed the representatives of the Ministry that two thirds of the Broadcasting Law has been completed so far. The Ministry of Culture and OSCE have called on the Working Group to complete the drafting of the said Law as soon as possible. It was agreed that, at the meeting next week in the Ministry of Culture, to be attended by all members of the Working Group, the timeline and manner of completion of this Law would be agreed upon in more detail.”

According to the information of the monitoring team, the drafting of the Broadcasting Law will not be continued under the auspices of the Ministry of Culture, but under the OSCE. The reason is the discontent of members of the Working Group over the fact that they were not consulted about and at the occasion of amendments to two very important media laws – the Broadcasting Law (from May 2009) and the Public Information Law, which, in their opinion, was an omission by the Ministry. The members of the Working Group believe they were responsible towards OSCE, which has funded their activities in one part, to finish their draft of the new Broadcasting Law.

d) The Ministry of Culture published in August the results of the competition for co-financing projects/programs in the area of public information in minority languages. The competition was called back on January 17th, 2009, and the deadline for application was by February 06th, 2009. The explanation of the Decision on allotting funds for projects, passed by the Minister of Culture on July 31st, 2009, says that the grounds for passing his decision was the proposal of projects that should be supported, which the expert commission of that Ministry unanimously laid down on July 17th, 2009. The proposal of the decision consists of programs that are significant for the exercise of citizens' rights to be objectively, adequately and timely informed in their own language about everything they need to know, as well as for the development of a culture of dialogue. The funds earmarked in the budget of the Ministry of Culture for this competition amounted to 33.000.000, 00 dinars. A total of 17.578.604, 00 dinars have been allotted and 48 projects of the applicants – public media founders/publishers and legal and natural persons registered for the production of TV and radio program, excluding the media founders/publishers of print media in minority languages that are funded from the budget - have received support. The Ministry is co-financing the projects with up to 90% of the project value and with up to 50% of the project value in the case of public enterprises' projects. The approved projects must be realized through a public media. The entire Decision on the allotment of funds is available (only in Serbian) at <http://www.kultura.sr.gov.yu/dokumenti/Mediji-na-jezicima%20manjina,-31.07..doc>.

According to Article 5 of the Law on Public Information, for the purpose of realizing the right of national minorities and ethnic communities to information in their own language and cherishing their own culture and identity, the Republic, namely the autonomous province and the local self-government, shall provide part of the funds or other conditions for the operation of public media in minority and ethnic community languages. The Ministry of Culture, as the competent authority for media and information, has planned the funds for this purpose and by the means of a competition for supporting the projects from this area, has allotted these funds, in accordance with competition results.

COLLECTIVE SOCIETIES

6. OFPS – collective organization for the protection of phonogram producers' related rights

In August 2009, OFPS invited in the period from August 10th, 2009 to August 25th, 2009 every interested participant in the procedure of allotment of fees generated from the use of phonogram for the year 2008, to examine the documentation related to the said allotment procedure.

Although this decision does not concern broadcasters, the publication of such a call indirectly shows that this organization has started to work much more transparently than it was the case until recently.

According to the information of the monitoring team, this organization has demonstrated its readiness to continue the talks with broadcasters, namely with ANEM. These talks will pertain to improving the broadcasters' position before this organization, stimulating measures, as well as tariffs that apply to broadcasters.

7. SOKOJ – collective organization for musical authors' copyrights protection

Since the leading people of SOKOJ were on study trips and holidays, there wasn't much activity by this organization in August, especially not preparedness to talk with broadcasters.

IMPLEMENTATION OF EMERGENCY GOVERNMENT MEASURES TO ASSIST MEDIA IN CONDITION OF CRISIS

a) One of the measures from the Government's package of emergency measures to help media in the economic crisis, passed back on June 25th, 2009, was the prohibition of operation for broadcasters not possessing a license. The Government committed to providing help and assistance via its competent ministries – the Ministry of Telecommunications and Information Society and the Ministry of Internal Affairs – to RBA and RATEL in implementing the measures preventing the operation of illegal broadcasters. However, judging by the media reports and unofficial statements of regulatory bodies' representatives, but also the information of legal broadcasters, it is clear that this measure has not been implemented at all and that regulatory bodies are still lacking the appropriate assistance of the competent bodies in shutting down "pirate" broadcasting stations. In the meantime, the economic decline of many broadcasters continues, with broadcasting "piracy" being one of the main reasons. Article 64a of the Broadcasting Law stipulates that the RBA is entitled to solicit the assistance of the police in sealing the premises and radio equipment (transmitters)

used by the illegal broadcaster. The Government measure should have meant that police assistance will be provided, which is, however, still not the case. Moreover, according to that measure, all other competent government authorities need to be more effective in their tasks and thus to contribute to a successful battle against “piracy” in the broadcasting area, but this is still not happening.

The failure to implementation of this measure points to the insufficient readiness of the state to prevent further economic ruin of electronic media. By failing to provide the promised assistance, the Government has also brought into question the seriousness of its intent to help the media, as well as the capability of the competent regulatory bodies to discharge their statutory functions. Both are bad for the media sector.

b) Back on July 21st, 2009, the Managing Board of RATEL adopted the Decision on the temporary reduction of fees for the use of radio frequencies by 5%, which applies to 2009, after which it was submitted to the Government for approval. The Government failed, both in July and August, to consider giving approval to this Decision.

c) Beside two measures cited in the July report (reduction of the RBA fee and earmarking 60 million dinars for the co-financing of project in the area of information), there is still no concrete information or proof that the remaining measures from the Government Conclusion are being implemented. On the contrary, it is evident that they are not.

Therefore, the monitoring findings about this issue remain unchanged relative to the previous report. The fact is that, two months after the adoption of the Government measures, most of them have not been implemented. Paradoxically, independent regulatory bodies have shown more respect for the Government and its measures than the ministries or the Government itself. Namely, the said bodies have immediately undertaken activities so as to put in practice the Government proposals. By such omissions, the Government is bringing into question the sincerity and the purpose of its measures.

V THE DIGITALIZATION PROCESS

The recently adopted Strategy for the Transition from Analog to Digital Broadcasting of radio and television program in the Republic of Serbia and the Action Plan that is the integral part of the Strategy, provide for proposing, in the current quarter of 2009, the adoption of the Law on Confirming the Final Act of the Regional Conference on Radio Communications for the Planning of the Digital Terrestrial Broadcasting Service in parts of the regions 1 and 3, in

the 174-230 MHz and 470-862 MHz (RRC-06). The Ministry of Telecommunications and Information Society, namely the Government of the Republic of Serbia, acting in accordance with the Action Plan, have sent the Draft Law to the Parliament for adoption. Furthermore, the Action Plan provides for the setting up, in the current quarter, of an Internet portal about the digitalization process. The setting up of the Portal is the obligation of the Ministry of Telecommunications and Information Society.

In the meantime, it was announced that, in mid-August, RTS would broadcast live the Brass Festival in Guca in High Resolution. The Radio Television of Serbia (RTS) has been, since the 6th of April 2005, from Avala and since the 29th of November the same year from Fruska Gora, broadcasting a package of TV programs in digital format. This format contains, in addition to two regular RTS channels, a Culture Channel – RTS Digital. This broadcasting is undoubtedly in contravention of the Broadcasting Law, which provides that RTS will broadcast its program only on two networks (RTS1 and RTS2). RTS, on the other hand, claims that, with the said digital broadcasting, it is merely fulfilling its statutory obligation to allow the use and development of modern technical and technological standards in the production and broadcasting of programs, as well as to prepare and realize in due time the plans related to transition to new digital technologies (Article 78, paragraph 1, point 9 of the Broadcasting Law). Of particular concern is the fact that RTS' digital broadcasting is also in contravention of the Digitalization Strategy adopted by the Government of the Republic of Serbia. RTS has been broadcasting its package of programs in digital format in the DVB-T standard, although the Government has, in the Strategy, opted for the DVB-T2 standard, applying at that the MPEG-2 compression standard although the Government has opted for the MPEG-4, version 10 (H.264/AVC).

The above is creating confusion and raising questions in the public about how the transition from analog to digital broadcasting in Serbia will take place at all: whether in accordance with the Government Strategy or in line with the ambitions of the RTS, which are clearly out of synch both with the existing legislation and the adopted Strategy.

VI THE PRIVATIZATION PROCESS

The process of privatization of public media in Serbia remains completely blocked for the last year and a half. Four public radio and television stations from Kragujevac, Novi Pazar, Nis and Pancevo (RTV Kragujevac, Niska TV, TV Novi Pazar and TV Pancevo) officially requested in early August from the competent institutions to be definitively exempted from privatization and allowed to establish public services. At the same time, in Radio Sombor, whose privatization contract was terminated last year, there are different positions about the manner in which the status of this media should have been addressed. Sinisa Stricevic, the

representative of Radio Sombor's "Nezavisnost" trade union told the daily "Pravda" that the only solution was to return his station under the umbrella of its original founder, the city of Sombor. On the other hand, Anita Beretic, the representative of the shareholders, believes that privatization is imminent, but that the said radio station needs the assistance of the city of Sombor and the municipality of Apatin. Of particular concern is the fact that the opponents of the privatization of public media have failed to mention the most serious consequence of stalled privatization – the lack of systemic mechanisms for protecting the program of public media from the influence of government, political organizations or economic power brokers. The said opponents of the privatization have failed to offer any solution to ensure such protection. Furthermore, the mere concept of public service is unthinkable without a generous financing model that would be predictable at least on the mid-term – which would allow for the making of development plans – and that would be independent from unwarranted influence by the state. The current model of budget financing of local and regional public media is precisely the one whose abundance and mid-term predictability will be impossible to rely on, considering the general need to cut public expenses. At the same time, this model brings local and regional public media in the position to be completely dependent of the good will of ruling politicians, which opens the door wide, if not to sycophantic reporting, then at least to conformist journalism and self-censorship. It remains to be seen what kind of funding model will be proposed by the proponents of regional public services. Until then, in the vacuum created by the privatization blockade, the editorial and HR policy of local and regional public media, as well as their financial position, shall remain under the direct control of local authorities.

VII CONCLUSION

In the period observed there was no progress whatsoever in the media sector. Nothing was done to alleviate the plight of the media. The economic decline of the broadcasters is continuing and the Government is showing a lack of interest for implementing its own measures and helping the media. Instead of that, bad changes to the regulatory framework, against the will of the media, are still being forced upon them. The situation of the media is made even more difficult due to the manner in which these changes have been introduced as well as their potential consequences.

The crisis in the relations between the media and the authorities and the mistrust that the latter have caused with their lack of care and understanding for the media may significantly slow down the development of the sector, which is one of the preconditions for the further democratization of society. The announced development of the Media Strategy is evidently

belated, but is nevertheless an opportunity for making a step forward. An agreement between the authorities and the media sector on overcoming the present problems and setting forth the course of development, the mutual definition of goals and priorities, as well as the principles and values that ought to be protected and everything else comprised by the Strategy, is a serious task transcending the capabilities of only one Ministry. Therefore, the Government should be the mainstay of this task, as a guarantor of the actual realization of what has been agreed. In the meantime, the Government should without delay ensure the realization of all its measures, which would show its ability and determination to create the conditions and a favorable environment for the development of the media.

On the other hand, in order to properly formulate the Strategy, the media sector should clearly define its requests and offer solutions to all significant media issues. In order to achieve that, better cooperation should be gained within the sector itself. It implies that all media associations should be more prepared to overcome their partial interests – as some of them have already done – and aim all their energy at achieving goals that are or should be their mutual ones. As experience has shown in the past, unified in such a way, they stand a better chance for success.