

II MONITORING OF THE IMPLEMENTATION OF EXISTING LAWS

1. The Law on Public Information

The implementation of the Law on Public Information has been elaborated on in the section on the freedom of expression. Here we shall point out only the first case in which resorting to new procedures has been announced, i.e. measures stipulated in the recently adopted Amendments to the Law on Public Information.

Zora Dobricanin Nikodinovic, the attorney of Milan Radonjic, the former head of the Belgrade State Security Center, has announced intention to press charges against the daily *Blic*, in accordance with the recently adopted Amendments to the Law on Public Information, over the publishing by the said daily of the statement by SPO leader Vuk Draskovic, who said that there were proofs against Radonjic and Stevan Basta in relation to the assassination of Slavko Curuvija. The attorney of Milan Radonjic claims that *Blic* and Vuk Draskovic have violated the presumption of innocence to which her client is entitled.

The recently adopted Amendments to the Law on Public Information stipulate that a violation of the presumption of innocence is a commercial offense subject to a fine ranging from 25% to 100% of the sum amount of the total sales of copies of the public media, delivered to the distributors on the day the information was published, and of the amount of the sales of advertising space in the same issue. The Law also stipulates that, where the offense has been committed for the first time, the court will pass a suspended sentence and order that the sentence be publicly published.

2. Law on Free Access to Information of Public Importance

The Journalists' Association of Serbia (UNS) received in mid-September, 21 months after a petition filed pursuant to the Law on Free Access to Information of Public Importance, the confirmation that the Cacak police did not possess an official record of the incident where Vladimir Ilic, the correspondent of "Vecernje Novosti" from Cacak, molested the sheep of Velimir Ilic, the leader of Nova Srbija and the former Minister in the Serbian Government. Vladimir Ilic was assaulted on October 4, 2007 by the security personnel of Velimir Ilic while reporting on the construction of the former Minister's clinic in the village of Kaculice. The leader of Nova Srbija said at the time that his security "did not attack a journalist, but a person that was caught with his pants down among sheep, of which the police made an official record". Velimir Ilic also said that the police had established that his sheep and goats were molested on the property of his neighbor and that one of the persons who had molested the animals resembled the Novosti reporter.

It was established later that it was only the keeper of Ilic's property, Dragan P., – suspected of having attacked the reporter – who has mentioned the molesting of sheep in his statement given to police after the incident. Dragan P. said that the then minister Ilic asked him to attend to his property and that the person he had found in the property (the reporter Ilic) seemed to him to be "a tramp and drug addict" who had previously molested sheep! The police in Cacak ignored several requests by UNS and the commissioner for Information of Public Importance to submit a document mentioned by Velimir Ilic; therefore the ombudsman, Sasa Jankovic, initiated proceedings for checking the legality of the activities of the Police Administration in Cacak.

In accordance with the provisions of the Law on Free Access to Information of Public Importance, the Police Administration in Cacak was required, immediately and no later than 15 days after receiving the request, to inform the applicant about whether it possessed the requested information and to deliver the applicant the document containing the requested information, i.e. to issue or send the applicant a copy of that document.

In this case, by failing to proceed by the request submitted in accordance with the Law on Free Access to Information of Public Importance, the Police Administration in Cacak has, on one hand, made it more difficult to Vecernje Novosti's correspondent from Cacak, Vladimir Ilic, to defend himself from libel and, on the other hand, it has prevented that it be established that the attack of Velimir Ilic's security on Vladimir Ilic represented a clear attempt to stifle the freedom of expression.

3. Personal Data Protection Law

The commissioner for Information of Public Importance and Personal Data Protection, Rodoljub Sabic, has submitted to the Government of the Republic of Serbia the Draft National Strategy for Implementation of Personal Data Protection. This document has been drafted in cooperation with EU Commission experts. It was the subject of a professional debate at the international regional summit held in mid-May in Belgrade. Following the debate, it was a subject of consultations with domestic experts, as well as to a three-month public discussion. After the analysis proposals, the final version was formulated and delivered to the Serbian government on September 11th.

The text of the Draft Strategy is available only in Serbian, at the commissioner's internet presentation here:

<http://www.poverenik.org.rs/images/stories/dokumentacija-nova/podzakonski-akti/predlogstrategijelat.doc>

4. The Law on National Minorities' National Councils

As early as in the first days after the adoption of the Law on National Minorities' National Councils, after having realized that the Law was not harmonized with the laws in the area of public information, the Minister of Human and Minorities' Rights, Svetozar Ciplic, said that certain laws would have to be amended in order for national minorities to be able to establish their own media outlets. "The media laws do not allow national councils to establish their own media outlets, since these laws have been adopted before the Constitution", Ciplic said, adding that they would accordingly have to be changed and harmonized with the Serbian Constitution. Namely, the Law on National Minorities' National Councils, adopted by the Parliament on the 31st of August, stipulates that national councils may establish media outlets. It also specifies that the Republic, autonomous provinces or local self-governments, as founders of public media outlets that are entirely or predominantly disseminating information in minority languages, may, in agreement with the national council, entirely or partially transfer the founding rights to such media onto the national council.

We are assuming that Minister Ciplic, when talking about the necessity to harmonize the media regulations with the Constitution, had in mind its Article 50, paragraph 1, which states that everyone is free, in a manner allowed by law, to establish without any kind of approval their own newspapers and other public information outlets. The word "everyone" within the meaning of Article 50, paragraph 1 of the Constitution, does not include the national councils of national minorities, since the provision regulates human rights, i.e. the rights of every man, physical person and individual, and consequently, the rights of each member of any national minority. This constitutionally recognized right was not actually violated by the provisions of the media laws considered by Ciplic, but rather by the Amendments to the Public Information Law adopted on the same day when the Law on National Minorities' National Councils was passed. These Amendments, amongst other things and in violation of the Constitution, has deprived physical persons (whether they are members of the majority nation or national minorities) of the right to establish media outlets. According to the Amendments to the Public Information Law, this right is vested only with legal persons.