

II MONITORING OF THE IMPLEMENTATION OF EXISTING LAWS

1. Law on Public Information

1.1. The implementation of the Public Information Law has been partially elaborated on in the section on freedom of expression.

1.2. Here we point to the fact that on October 2nd, according to the amendments to the Law adopted on August 31st, the Culture Minister Nebojsa Bradic passed the Rules on Keeping the Register of Public Media. The Rules have been published in the Official Gazette no. 82/09 dated 6.10.2009, which came into force on October 14th. The Rules provide that the Register shall contain: the name of the public media outlet, the year of establishment, the information on cataloging of print media, information contained in the broadcasting license for radio and television programs, namely the Internet address for Internet media, the address of the registered offices, the name and company number of each founder, information about the cash share of the fixed assets and the overview of all public media outlets of the same founder, information about the territorial coverage and publishing, namely broadcasting dynamics and information about the Internet, electronic and other forms of the media in question. Registration with the Register is free of charge and is carried out in the Business Registers Agency.

According to the Law, the founders of daily newspapers must submit an application for registration with the Register within 30 days from the entry into force of the said Rules, while the founders of other public media outlets must do the same within 90 days. The legislators has provided for very high fines for non-compliance. Where a public media is published without prior registration with the Register, “the competent public prosecutor shall forthwith launch commercial offence proceedings before the competent court and request a temporary suspension of the publishing of the public media in question” (Article 14a of the Law). If he publishes a public media without prior registration with the Register, the founder of the public media shall pay a commercial offence fine amounting from one million to 20 million dinars, while the responsible person of the founder shall pay a fine of between 200,000 to two million dinars. They shall also be prohibited from further conducting their activity.

2. Broadcasting Law

2.1. In the program „Moment of Truth”, aired on TV Pink on October 7th, the program’s host Tatjana Vojtehovski asked her guest Julka Mitrovic (49) from Veliko Selo: “Did you ever

have an orgasm while sleeping with your father?” Ms. Mitrovic was first raped by her father at the age of 11. “I had three children with him and had more than 50 abortions”, Julka told the audience of the quiz in which the guests – hoping for receiving a potential prize – must answer honestly to the host’s questions. If the lie detector shows that it is not the case, the contestant will be eliminated. Julka Mitrovic earned 500 thousand dinars.

Article 68 of the Broadcasting Law stipulates that broadcasters should not air program “with the content that may harm the physical, mental or moral development of children and youth” or programs “with the content that promotes and glorifies violence”. The general opinion of the public was that the controversial question in the Moment of Truth amounted to promoting violence against the rape victim, because it implied that the victim might have enjoyed it.

In a press release from mid-October, RTV PINK said it had – after a meeting of its representatives with the RBA Council President Bishop Porfirije and Vice-President of the RBA Council Goran Karadzic – accepted the suggestions and recommendations of the RBA concerning the airing of the Moment of Truth and decided to air it at a later time slot, as well as not to rebroadcast it in the morning hours.

At a session on October 29th, the RBA Council issued a caution to TV Pink and filed a request for misdemeanor proceedings over the episode of the “Moment of Truth” aired on October 7th. The press release by the Council said that the airing of the controversial program was in breach of Article 68 of the Broadcasting Law. It added that the expert departments of the RBA had been ordered to intensify their surveillance of formats similar to the “Moment of Truth” on all television stations.

According to the Broadcasting Law, the measures the RBA may issue against radio and TV stations include cautions, warnings and temporary or permanent revoking of broadcasting licenses. The caution is issued against a broadcaster that is for the first time breaching an obligation under the Law or by-law of the Agency. A warning is issued against a broadcaster that, in spite of the issued caution, continues to act in breach of the obligations provided for by this Law, so as to seriously threaten the principle of regulating the relations in the area of broadcasting. A warning is also issued against the broadcaster that violates any of the conditions contained in the broadcasting license. In the above case, the RBA resorted to issuing a caution and simultaneously launched misdemeanor proceedings, providing for fines ranging from 300 thousand to one million dinars for the legal person and between 20 thousand and 50 thousand dinars for the responsible person.

2.2. In October was recorded another case that could also be considered as a breach of Article 68 of the Broadcasting Law, in the part concerning the content that may harm the physical, mental or moral development of children and youth. Namely, according to media

reports from mid-October, the association *Freedom for Animals* filed with the RBA and the Veterinarian Inspection charges for breaking the Animal Welfare Law in the reality show *Farma* (on TV Pink) by showing scenes of animal slaughter. It is not known, for the time being, whether the RBA, or the Veterinarian Inspection, have reacted.

The Animal Welfare Law provides for a fine ranging from 100 thousand to one million dinars against legal persons for killing or mistreating an animal in the production of films, commercials and other film, video or other media or for trading in, renting or publicly showing such a film, commercial or other product.

3. Personal Data Protection Law

On the first anniversary of the adoption of the Personal Data Protection Law (by Serbian Parliament, on October 23, 2008), the Commissioner for Information of Public Importance and Personal Data Protection, Rodoljub Sabic recalled the Government of Serbia to define and lay down the Personal Data Protection Strategy. The Commissioner said that it was good that the recent EU Commission report concluded that Serbia had made step forward, but that this assessment should be taken as an incentive rather than praise. The specific significance of the assessment should be weighed in the light of what had been accomplished, but even more what we have failed to accomplish.

A new Personal Data Protection Law (2008) has been adopted. However, in spite of timely warnings by the Commissioner for information, later corroborated by the opinions of EU and EC experts, the Law contains concepts that are in contravention of EU standards. As for by-laws, the Commissioner has timely enacted two Rules within the area of his competence. The Government had the obligation to pass two decrees, but it has adopted just the first one. The second, very important decree, concerning very sensitive information, is yet to be passed.

Although the Parliament created the preconditions for the necessary substantial increase of the number of staff of the Commissioner for Data Protection, due to a rigid stance of the Government, the Commissioner has worked the whole year with five times less staff than prescribed (12 out of 69). He was not able to hire a single new staff member for personal data protection matters and has continued to work with the same small team that was previously involved in tasks related to freedom to access to information. Nevertheless, the reaction of the Commissioner to certain cases yielded useful effects. Good examples of general interest are the results obtained in communication with the Defense Ministry concerning the handling of information about conscripts; the Education Ministry concerning student records; RATEL concerning the Guidelines for Intercepting Internet Communications”; etc.

The education of citizens and entities engaged in handling citizens' information – with a few exceptions – is practically yet to start. In order to prevent any human rights damage and upon complying with our SAA Agreement, priorities, goals, deadlines, executors and responsibilities need to be defined. With that aim, the Commissioner has prepared, in cooperation with EU experts, the Draft National Strategy for the Implementation of Personal Data Protection and forwarded this Draft to the Government of Serbia. Unfortunately, the Government did not react, the Commissioner has said.