

III MONITORING OF THE PROCESS OF ADOPTION OF NEW LEGISLATION

In October, the Parliament of the Republic of Serbia did not adopt any legislation relevant for the media sector. However, the Draft Law on Classified Data is in procedure. Moreover, the public debate about the Law on Electronic Communications had been conducted during October.

1. Law on Classified Data

After the debate about the Draft Law on Classified Data and the criticism of that Draft by the Commissioner for Information of Public Importance Rodoljub Sabic and the Ombudsman Sasa Jankovic, as well as after the promises of the Ministry of Justice that it will amend it, the Government of Serbia shall submit the amendments to the Parliament. The Draft Law was mainly criticized because of the restricted authority of the Commissioner for Information of Public Importance and the Ombudsman to access classified information and to control the operation of secret services.

The Draft Law on Classified Data stipulates that, for accessing any classified document, the Commissioner for Information of Public Importance and the Ombudsman need to obtain an approval of the competent authorities – the Parliament, Government or National Security Council –thus obstructing them in protecting citizens' rights and freedoms. The Ministry of Justice has said that the amendments will introduce the accessibility to classified information for all state bodies, including the Commissioner for Information of Public Importance and the Ombudsman, the auditors, the Anti-Corruption Agency, as well as the Governor of the National Bank of Serbia. Moreover, the Ministry also claims that it will provide for judicial control of the decision whereby a security service denies access to information. Interested party will be entitled to lodge a complaint with the Ministry of Justice as the second-instance authority and it will also be entitled to administrative court proceedings against the decision of the Ministry. Amendments to the Law also provide for additional watching of the State Security Service activities, the Ministry of Justice competency for monitoring of Law application, as well as the Ministry's right to check whether the service's decision to designate a piece of information as classified is justified. Pursuant to such control, the Ministry may order to service to declassify such information. The Ministry of Justice shall be required to submit a report about all activities to the Parliamentary Defense and Security Committee.

2. Law on Electronic Communications

On October 2nd, the Ministry for Telecommunications and Information Society initiated a public debate on the Draft Law on Electronic Communications. The Law on

Electronic Communications is supposed to replace the Telecommunications Law from 2003 and harmonize the regulations in this area with the EU regulatory framework from 2002. The Law on Electronic Communications strives to further liberalize the communications sector, on technologically neutral basis and without influencing the content of electronic communications services. A regime of a general legal authority for building electronic communications networks and provision of services is introduced, in order to reduce the number of administrative barriers for entering a market. The Draft introduced several new concepts pertaining to regulating the market, managing the frequency spectrums, addresses and numbers on one hand, but also concerning the protection of the rights of users, their privacy and the security of electronic communication networks and services on the other hand. The public debate regarding this Draft was launched with the posting of the Draft Law on the internet presentation of the Ministry for Telecommunications and Information Society and lasted until October 30th. During debate, three round tables were held – on October 14th in Belgrade, on October 16th in Novi Sad and on October 27th in Nis.

The Law on Electronic Communications is of exceptional importance for the further development of the media scene in Serbia, particularly for broadcasting and new media. As a consequence of the liberalization of the communications sector, the development of new media platforms and new digital media services is expected, including particularly non-linear services or on-demand services. The expected adoption of the Law on Electronic Communications, as well as already adopted Strategy and Action Plan for the Transition from analog to Digital Radio and Television Broadcasting in the Republic of Serbia, will impose the necessity to regulate differently the content aspect of broadcasting, namely to change or adopt completely new regulations in this domain. The fact that the roles of those who produce program and those who broadcast it will be separated in the new broadcasting model, should facilitate combating radio piracy and block this problem that is seriously disrupting the media market in Serbia. In the following period, after the completion of the public debate and on the basis of a large number of objections and comments to the Draft Law, the Government is expected to adopt the Draft Law on Electronic Communications and send it to Parliament for approval.