



LEGAL MONITORING OF SERBIAN MEDIA SCENE

Report for October 2009



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This Report is made possible by the support of the American People through the United States Agency for International Development (USAID) and IREX. The contents of this Report are the sole responsibility of texts' authors and do not necessarily reflect the views of USAID, IREX or the United States Government

I FREEDOM OF EXPRESSION

In the period covered by this monitoring report, several cases of potential violations of freedom of expression have been recorded.

1. Threats and pressures

1.1. In the night between the October 3rd and 4th, unknown attackers threw a bomb on the main entrance of the *RTV Pink* building. The entrance door of the station was completely destroyed, but fortunately there were no casualties. The police confirmed that the bomb was thrown from the motorcycle on the move. The attack was recorded by RTV Pink's security cameras, as well as by the nearby cameras of the traffic police. In cooperation with the Prosecutor's Office, the police arrested Milan S. (24) and Goran P. (32) under suspicion of committing the criminal offenses of: attempted murder; illicit holding, carrying and trade in firearms and explosive materials, as well as violent behavior. These individuals are believed to have participated, together with several other persons, in the events on the October 2nd, when the security staff of RTV Pink were attacked, as well as in the events on the following day, when a bomb was thrown on this station's building in the Nezmanog Junaka Street in Belgrade. On raiding the apartment and other premises of the suspects in Nis, the police recovered two illegally held handguns. After charges were pressed against them, the suspects were sent before the investigative judge of the District Court in Belgrade. The investigative judge determined 30-day custody until October 10, 2009, due to the risk of escape, possible intimidation of witnesses, repeating the criminal offense, as well as due to the circumstances under which the said offense was committed.

Although it was later established that the bomb was thrown over a row of a group of youth with the RTV Pink security a day earlier, it has contributed to an additional sense of insecurity among the media and their employees, fitting to prevent them in performing their work, and as such was a factor of limiting freedoms of public information and expression. It was due to the fact that the incident followed the wave of violence that had swept Belgrade in September (the cancellation of Gay Pride Parade, the murder of French citizen Brice Taton and several attacks on foreign citizens in Belgrade), as well as in view of the still unresolved bomb attacks on journalists and media from previous years (the attempted assassination of Dejan Anastasijevic, the bomb put under the broadcasting van of B92 in Raska Street). On the other hand, one may commend the swift reaction of the police and the fact that the judiciary took this attack quite seriously, sentencing the attackers to custody due to the circumstances of the attacks and the risk that they might repeat it.

The same day when it was announced that the attackers on RTV Pink were put into custody, the Radio Television of Serbia received an anonymous call about an alleged bomb placed on the parking lot in front of their building. The police have established that the bomb claim was false.

1.2. The memorial plaque placed at the site of the murder (on April 11, 1999) of Slavko Curuvija, the journalist, editor and owner of the Dnevni Telegraph daily and the Evropljanin weekly, was stolen on October 5th.

In the light of the fact that Curuvija's assassins remain at large for more than 10 years, as well as that the plaque was stolen on the 9th anniversary of the fall of the regime that Curuvija dared to criticize, for which he was subsequently murdered, this theft was symbolic and recognized as a serious threat to media freedoms and freedom of expression in Serbia.

1.3. The daily *Press* reported on October 10, 2009, that sports journalists in Valjevo refused to be accredited for reporting from the games of the local basketball team "Metalac" in the new season, because they were told by the team officials that they should "do their reporting taking into account the interest of the club" and "in accordance with the established business policy of the club".

The behavior of the Metalac management is in direct breach of the provisions of the Law on Public Information, which stipulate that nobody may restrict freedom of public information, in particular by abuse of power and abuse of right or in any other way that may restrict free flow of ideas, information and opinions.

1.4. The daily *Kurir* reported on October 10, 2009, that the security at the wedding of singer Leontina Vukomanovic threatened the daily's photographer Zoran Budjic that they will destroy his equipment and "beat him up to death" if he doesn't remain 500 meters away from the premises and delete the pictures he had previously taken. *Kurir* claims that, before she ordered security to throw the photographer out, Leontina Vukomanovic did not object to photographing and since she knew that Budjic was a photographer, she was fully aware she was being photographed.

The Law on Public Information stipulates that pictures from one's private life may be published without the consent of the photographed person, if that person did not protest while the pictures were taken, although it knew that pictures will be published.

1.5. On October 19, 2009, at the request of the management, the security of the Trepca mining company in Zvecan, Kosovo, prevented the reporters of "*Kontakt plus*" radio station

from entering the premises of that radio in the North Kosovska Mitrovica. Thereby they have obstructed the activity of the highest rated radio station broadcasting in Serbian language in Kosovo and Metohija. The above action was justified by the delay in payment of the rent for the premises that "Kontakt plus" radio hires from Trepca. Instead of exercising the legal remedies at their disposal for collecting the unpaid rent, the management of Trepca decided to arbitrarily restrain the movement of journalists and thereby prevent the radio from airing its program. According to the available information, the rental conditions for the Radio "Kontakt plus" are discriminative comparing with other media that also rent their premises from Trepca. On October 21, 2009, it was reported that Kontakt Plus had resumed broadcasting after the radio management reached an agreement with the Trepca management on repaying the debt.

2. Court proceedings

2.1. On October 7, 2009, Sinisa Vucinic, the President of the Initiative Committee of the Serbian Chetnik Movement of Republika Srpska, was sentenced to six months in prison before the Third Municipal Court in Belgrade, namely to a two-year suspended sentence, for threats against the personal safety of Member of Parliament Zarko Korac and journalist of the Vreme weekly Milos Vasic. Vucinic was charged for having threatened Korac and Vasic, in the media in Republika Srpska, that "they would suffer the same fate as their friend Zoran Djindjic". Vucinic also sent to Vreme a condolences telegram "over the premature death of journalist Vasic". He was arrested in mid-August and was released after 17 days in custody pending trial. The President of the Chamber, Judge Aleksandar Stepanovic, told Vucinic in explaining the verdict that the court took into account the fact he was a family man and that he was convicted only once and that the sentence in question from 1991 had been deleted from the register. Zarko Korac branded the sentence "scandalous" and said that it was illogical that Damir Dokic had been sentenced to 15 months in prison for threatening the Australian Ambassador in Belgrade, while at the same time individuals making threats against Serbian citizens were punished only by suspended sentences. Milos Vasic said he was completely indifferent and that he would prefer to forget the entire case. The Spokesman of the Republic Public Prosecutor's Office Tomo Zoric said that the sentence against Sinisa Vucinic was "yet another proof of the soft penal policy". He said the Prosecutor's Office would appeal the sentence.

The Penal Code incriminates threats against the physical security of a person made by threatening to attack the life or body of that person or a person closely related to him/her by a one-year prison sentence; threats against the physical security of multiple persons or threats against security causing public concern or other serious consequences. According to

the Code, these criminal offences shall be subject to a sentence of between three months to three years. Hence, Vucinic was in fact sentenced below the legal minimum. The latter is made possible by the Penal Code where the court establishes the existence of particularly extenuating circumstances and that a reduced sentence could, in the opinion of the court, help accomplish the purpose of the punishment. The court did precisely that, highlighting the fact that Vucinic was a family man, with only one prior conviction, eighteen years ago. The fact that the court has been, in its verdict that is, truth be told, not final, lenient in establishing the existence of extenuating circumstances, shows the lack of concern for the right to security of journalists and public figures in general.

2.2. The Municipal Court in Novi Pazar sentenced brothers Hasan and Faruk Lekic from that city to 30 days in prison for the criminal offence of violent behavior and attack against the then journalist and the cameraman of the local station *TV Jedinstvo*, Ivana Milic and Edis Klimenta. Milic and Klimenta were attacked on July 27, 2008 in downtown Novi Pazar, while they were filming reportage about the illegal construction of the house of the Lekic family. The Lekic brothers threatened Milic that they would cut her throat if she published the story, while they at the same time harassed and insulted the cameraman.

According to the Penal Code, violent behavior is defined as harsh insults against or harassing of another person, violence, provoking fights or insolent or ruthless behavior threatening the tranquility of citizens or substantially disrupting the public order. Violent behavior entails a prison sentence of up to three years and between six months to five years for its more severe form, if the perpetrator has committed the offense as part of a group or if the offense involved a minor bodily injury or severe humiliation. The 30-day prison sentence against Hasan and Faruk Lekic is in fact the shortest possible prison sentence that may be delivered pursuant to the Serbian Penal Code, which only confirms the unacceptably soft penal policy in the cases where the victims are journalists.

2.3. The District Prosecutor's Office in Belgrade lodged on October 29th a request for investigation against Radisav Rodic, the owner of the dailies „Kurir”, „Glas javnosti” and Slavoljub Kacarevic, the former Editor in Chief of „Glas javnosti” and member of the Executive Board of the Association of Journalists of Serbia (UNS), for having allegedly committed the criminal offense of abuse of office. The request for an investigation was lodged against Rodic in his capacity of owner and Chairman of the Managing Board of the “Manami” company; Kacarevic is under investigation as the Director of this company and he is believed to have assigned the printing press purchased with the loan of Komercijalna bank to NIP “Glas”, thereby leaving the Manami company without assets, while Komercijalna bank was therefore unable to collect the debt. Rodic is under the suspicion of having illicitly earned

more than one million of the then Deutsch Marks. A day later, the investigative judge of the District Court in Belgrade sentenced both Rodic and Kacarevic to 30 days in custody. The District Prosecutor's Office in Belgrade is conducting an investigation against Rodic and two other persons over the suspicion that they have abused office by taking a 20-million euro loan with Komercijalna bank, which has never been repaid. The First Municipal Prosecutor's Office is conducting an investigation against Rodic for an alleged 200 million dinar tax evasion.

According to the information of the District Prosecutor's Office and the court, the investigation is being conducted about the business of the company in which Rodic is the Chairman of the Managing Board and Kacarevic is the Director and is therefore not necessarily related to their newspapers. What is nevertheless disturbing is the explanation of the investigative judge of the District Prosecutor's Office for sentencing Kacarevic to custody, namely that he could attempt to intimidate witnesses, which is another testimony of the mistrust of the institutions – including the courts – in even the most renown Serbian journalists and editors.

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.

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.

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

REGULATORY BODIES

1. REPUBLIC BROADCASTING AGENCY (RBA)

Certain RBA activities have already been dealt with in Section II concerning the implementation of existing laws (see subsection 2 – Broadcasting Law).

a) On October 6, 2009, the Republic Broadcasting Agency (RBA) posted on its website the Announcement of the Nova TV management to cable operators on the territory of the Republic of Serbia (available only in Serbian), whereby they publicly announced their decision to ban the rebroadcasting of the program of Nova TV on the territory of the Republic of Serbia, effective IMMEDIATELY! Namely, the management of the Croatian television station Nova TV banned the rebroadcasting of its program outside of Croatia, both by cable and satellite transmission, with the goal of protecting copyrights applying exclusively to the territory of Croatia.

Shortly thereafter, the RBA started “thinking out loud” on the topic of regulating broadcasting by cable and satellite. The public reacted with concern when the top RBA people announced the possibility of removing the programs of TV stations from the region (from Croatia - HRT1 and HRT2, RTL; from Bosnia-Herzegovina – BN i OBN and from Montenegro – TV Atlas) from the cable program in Serbia. The reason was, according to the RBA, to address the issue of unresolved copyrights of these broadcasters for the territory of Serbia. The agency has announced the passing of Rules to regulate that matter for November. In their view, there is no transitional solution and content for which there are no copyrights must be removed. However, the programs of the said stations will not be cancelled, but a large chunk of the program of certain stations will nonetheless be inaccessible for Serbian viewers, the RBA said. If the measure is implemented, as of mid-December, Serbian citizens will not be able to watch sports events, series and films aired by televisions from the region. Channels such as „Explorer”, „National Geography” „Discovery”, „History” and the like shall remain on the air during the entire program, because these broadcasters possess so-called Pan European rights. The Draft Rules have been announced for November, after which they will be submitted for public debate and likely be adopted in December.

Pursuant to the Broadcasting Law, the RBA issues licenses for cable and satellite broadcasting, except for foreign programs that may be received by the means of non-coded satellite broadcasting. In practice this did not happen, because of the absence of Rules that would regulate this matter comprehensively. The announced adoption of the Rules raises the question of the proper regulation of cable broadcasting, which should not violate the provisions of the European Convention on Cross-Border Television – ratified by our country – and the current Law on Copyright and Related Rights. The Convention guarantees freedom of reception and non-restriction of broadcasting of programs that are in compliance with it. The assumption is that all programs licensed in CE member countries are in compliance with the Convention. According to the Law on Copyright and Related Rights, more specifically Article 28, Paragraph 6, which has been applied as of January 1, 2007, in the case of cable rebroadcasting, protection is exercised only collectively. Serbia is yet to set up a collective organization for exercising the rights of videogram producers or the authors of cinematographic and television works, which creates vicious circle hard to brake out of in this moment.

b) In its annual progress report for Serbia in 2009, the European Commission has acknowledged progress in the area of transparency, accountability and efficiency of the Republic Broadcasting Agency. On October 20, 2009, the RBA website posted a press release containing excerpts from the report of the European Commission.

The report stresses that, as of 2008, all decisions of the Agency are posted on the internet; that in December 2008, the RBA Council issued 63 radio and TV broadcasting licenses on the local level and in the area of the city of Belgrade. After the completion of the last competition, a total of 467 radio and TV broadcasting licenses will be issued.

It was particularly stressed that the Agency had opened a new branch for supervision and analysis in Novi Sad and that similar branches were planned in Nis and Kragujevac. It was concluded that the Agency's capacities have been boosted with the procurement of new equipment enabling a more effective oversight of the activities of broadcasters.

2. REPUBLIC AGENCY FOR TELECOMMUNICATIONS (RATEL)

a) On October 26, RATEL posted on its website an announcement on the periods for drawing up technical documentation and issuance of licenses for radio stations, pertaining to broadcasters that, according to RBA decisions, have been issued broadcasting licenses for regional and local areas. The applicant that has been assigned a radio frequency is required to submit to RATEL by the November 23rd all the necessary technical documentation and RATEL shall issue radio station licenses by January 11, 2010. Where there are shortcomings, if such shortcomings are not remedied, the license will not be issued. You can see the entire announcement [here](#) (available only in Serbian)

Pursuant to Article 82 of the Law on Telecommunications and Article 39 of the Broadcasting Law, RATEL issues licenses for one or several radio stations, which is an integral part of the broadcasting license. The issuance of the license requires the application to be in compliance with the radio frequency assignment plan and for other conditions to be met, as stipulates by the Law on Telecommunications and other regulations covering this area.

b) At its session on October 10, 2009, RATEL's Managing Board passed several decisions on extending the deadline for putting into operation of radio stations for those broadcasters that have filed a request for an extension in the legally prescribed 15-day period before the expiry of the deadline, providing at the same time justified reasons for such extension, according to the estimation of the Agency.

At the same session, a decision on remedying irregularities was passed, ordering the "Radio S" radio station to deal with the cause of harmful interferences affecting other broadcasters within 3 days. RATEL has established that the said radio station is creating harmful interference by failing to comply with the conditions of its license, unauthorized emission and deviation. Because of this, RATEL has set a deadline for Radio S to remedy this irregularity; failing to do so will be a ground for launching the process to revoke station's license.

At RATEL's Managing Board session held on October 10th, a decision was passed approving the request of RTV Pink for an extension of the period for putting into operation of 78 radio stations, but also several decisions barring the operation of radio stations possessing a broadcasting license, for unauthorized utilization of links in the 370-396 MHz range or for unauthorized use of frequency. These decisions are final and may be subject only to administrative court proceedings.

Although RATEL has, in the observed period, proceeded in accordance with its powers in passing the said decisions, the absence of an organized action for preventing illegal broadcasters to operate, which increasingly emerge in Serbia is worrying. There is a lack of harmony between the strict adherence to the law in the case of legal broadcasters – that are subject to excessively stringent conditions – while on the other hand, there is a total ineffectiveness when dealing with serious problems making it impossible for such broadcasters to exercise their rights and generate profit in the manner and to the extent of which the state and both regulatory bodies are obliged to guarantee.

To the knowledge of the monitoring team, the Government did not approve RATEL's draft decision on reducing the fees for broadcasters in 2009 for formal reasons. Therefore, RATEL could help legal broadcasters in overcoming the financial crisis by setting reasonable deadlines and reducing requests to a realistic level, appropriate for the existing situation.

STATE BODIES

3. THE PARLIAMENT OF THE REPUBLIC OF SERBIA

In this period, on October 6, the Parliament commenced its Second Sitting in 2009.

a) The First Session of the Second Sitting lasted from October 6 to October 26, 2009, and it was especially interesting for the media sector. One of the items on the agenda was the election of the members of the RBA Council from the list of candidates submitted by the media associations. The Culture and Information Committee submitted on July 27 the said list to the Parliament as legitimate. It contained two names: Gordana Susa, the candidate of NUNS and NDNV and Milan Becejic, the candidate of UNS. Such list received the support of both ANEM and APRES. On voting day, October 26, the Parliament did not elect any of these two candidates from the list for membership in the RBA Council.

Pursuant to Article 105 of the Serbian Constitution, the Parliament shall, by a majority of votes of all MPs, exercise its electoral powers. Candidate Gordana Susa received 120 votes, while Milan Becejic obtained one vote. Susa needed six more votes to be elected in the RBA Council. The MPs have thus shown a total lack of respect for the choice of media associations, preventing them to have at least one representative in the sectoral regulatory body. The agony over the election of the media sector representative in the RBA Council was hence prolonged: the process started late last year and its outcome remains uncertain. We remind that the term of office of two members of the Council, of which one is elected at the proposal of the media and culture sectors and the other at the proposal of the civil sector, expired back

on February 17 and since then RBA Council is acting in incomplete composition. According to Article 24, paragraph 9 of the Broadcasting Law, if no candidate from a list receives the sufficient number of votes, the election shall be made from a new list of candidates that the authorized proposers are required to submit no later than within 15 days from the day of election of candidates from the previous list.

b) The Second Session of the Parliament's Second Sitting of began on October 26. On the agenda were three laws not strictly related to the media, but that would nevertheless substantially change the legal framework for the operation thereof. These are the Law on Amendments to the Law on Free Access to Information and the Law on Classified Data, which are very important for the exercise of media freedom. The Law on Copyright and Related Rights will significantly affect the position of broadcasters. Namely, instead of the collective organizations deciding themselves about the level of their tariffs – which has been the case so far – the tariffs will be determined in negotiations with the broadcasters. The session is still underway. The final text of the adopted laws will determine to what extent these regulations will have a positive or negative effect on the media.

The agenda of this Session also includes the list of candidates for membership in the RBA Council from the ranks of domestic non-governmental organizations and citizens associations, as well as the list of candidates for membership in the Program Committee of the Broadcasting Institution of Serbia. More about both lists, under c.1.

c) **The Culture and Information Committee of the Parliament** held three sessions in October.

c.1. At the first session on October 19, the Committee laid down a joint list of 19 candidates for membership of Serbian Broadcasting Institution's Program Committee and submitted it to Parliament, with a proposal for urgent consideration.

The Program Committee of the Broadcasting Institution of Serbia has 19 members elected by Parliament, of which - seven MPs and twelve proposed by the RBA from the ranks of professional associations, scientific institutions, religious communities, citizens' associations, NGOs, etc. The RBA Council passed the decision on the appointment of 12 candidates back on the 3rd of June. Pursuant to Article 92 of the Broadcasting Law, the Program Committee represents the interests of all viewers and listeners and it also deliberates on the realization of the program concept of the Broadcasting Institution of Serbia, making suggestions and proposals to the General Manager and the Managing Board. The mandate of previous members of the Program Committee expired on the 25th of May.

At the same session, the Committee determined the list of two candidates for membership in the RBA Council from the ranks of NGOs and citizens' associations and putting forward it to Parliament, with a proposal for urgent consideration. The list included candidates Goran Pekovic and Milovan Vitezovic.

The Committee has thus, for the first time, resorted to the powers vested in it by the Amendments to the Broadcasting Law from May 2009. Namely, where a list for membership in the RBA Council has more than two candidates, the Committee may choose two candidates it will propose to the Parliament. It is known that this proposer (NGOs and citizens' associations) has retained six candidates after the additional period for adjusting the list. The Committee therefore interviewed all six candidates on September 4 and made the decision a month and a half later, choosing, without clearly established criteria, the candidates that do not enjoy the support of the largest and most prominent representatives of the civil sector. Reacting on such a decision, a group of nearly 30 non-government organizations submitted on the 27th of October to the Committee a request for cancellation of such a decision, saying it has made a charade of the election process. By the day when this Report was completed (October 31st), there were no reactions by the Committee to the said request. Such action of the Committee is a dangerous precedent that might reoccur in the case of proposers from the media and culture sectors, if these sectors propose more than two candidates in the repeated procedure.

c.2. At the remaining two sessions held in the observed period, the Committee has reviewed the draft legislation that was on the agenda of the Second Session of the Parliament's Second Sitting. On October 27, the Parliament considered and accepted in principle the Draft Law on Amendments to the Law on Free Access to Information of Public Importance, which provides for a transfer of the supervision over the application of this Law from the Ministry of Culture to the Ministry for State Administration and Local Self-Government within six months of coming into force. On October 30, the Committee also considered the Draft Law on Copyright and Related Rights, also on the agenda of the current session of the Parliament.

4. THE MINISTRY OF CULTURE

a) The observed period saw the beginning of the application of the controversial Law on Amendments to the Public Information Law, with the passing of the Rules on the Keeping of the Public Media Register, which came into force on October 14. This topic was elaborated on in more detail in Section II of this report dealing with the implementation of legislation, under subparagraph 1 – Law on Public Information.

b) The previous report outlined the results of the competition for the co-financing of projects in the area of information, announced on September 21st. The Ministry was late by more than a month with signing the contracts with the applicants whose projects were endorsed. According to many opinions, the contracts were signed in October only after media associations had publicly criticized the Ministry and the Government at an ANEM press conference on October 21st. More about the said press conference, [here](#).

c) In the last report, we have indicated that on September 1, 2009, the Ministry of Culture called a competition for the co-financing of projects/programs of electronic media from Kosovo and Metohija in the total amount of 8 million dinars. Although it was supposed to publish the results of the competition on October 15 on its website, the Ministry failed to do so by the day this report was completed (October 31st).

In view of the difficult situation of the Serbian media in Kosovo and Metohija, we consider that such delay with the decision is not good. Furthermore, it is not good that there is no any official information on Ministry's web site regarding the reasons for the delay and the new date when the results will be announced.

d) On October 16, 2009, the Delegation of the European Commission to the Republic of Serbia held in Belgrade Media Center a presentation of Project “*European Integration Media Fund*”, funded by EU funds, through the IPA 2008 instrument. The total value of EU contributions is 3 million EUR (there is no co-financing by the Ministry of Culture). The goal of the project is to boost the capacity of local, regional and national media for reporting about all aspects of the European integration process.

This project – applied by the Ministry of Culture for obtaining IPA funds – comprises two components:

1. **Training for journalists and management (value 1.200.000 EUR);** the tendering procedure is underway for the selection of a company/consortium that is to implement this part of the project. The European Commission shall sign a service contract with them.

2. **Grant for media production (value 1.800.000 EUR of EU funds + 330.000 – total participation of companies to receive the grants).** Grants ranging from 20.000-100.000 EUR are intended for local, regional and national print and electronic media in Serbia for reporting about various aspects of the European integration process. The Delegation of the European Commission in Serbia has called on October 8 a competition for the financing of media production with the aim of better understanding the process of European integration and the European Union. The deadline for application is December 11, 2009. The documents and the necessary information about the competition may be

downloaded from the website of the [Delegation of the European Commission in Belgrade](#).

The efforts of the Ministry of Culture are praiseworthy in obtaining the EU support for this project, which has secured substantial funds to help the media in Serbia. It is particularly important that the said project has allocated significant funds for the education and training of journalists and the management of media, which will definitively increase the level of professionalism and quality of the work of media professionals.

e) In the observed period, the work on the Media Sector Development Strategy remained at a standstill. The working group has not been set up and the Government didn't say whether it accepted the request of the media sector that – as the mainstay of this task – the Government should be the guarantor of the seriousness and the significance of whole undertaking, which may not be accomplished by one sole ministry. It remains to be seen whether the working group will be established at all, what will be its tasks, what will be the period for drawing up the Strategy and how will be addressed the many concepts that affect media, but are contained in regulations from other domains, and in contradiction with media legislation. The Government's stand will also determine the readiness of the media sector to participate in this challenging task, which suffers from a lack of clear motive and determination of the authorities to assume responsibilities and duties entailed by this process.

V THE DIGITALIZATION PROCESS

On October 9, 2009, The Serbian Government passed the decision on establishing a public company for the management of broadcasting infrastructure on the territory of Serbia "Broadcasting Equipment and Communications". This company was established by separating the broadcasting equipment from the Broadcasting Institution of Serbia. Pursuant to this decision, the Government will appoint the Manager, Chairman and members of the Managing Board by December 20. The assets for the establishment of the said company comprise movable property and real estate such as buildings, antenna systems, radio relay systems, as well as property rights and other means of broadcasting infrastructure. The total value of the business assets taken over from PBS (RTS) is estimated at 13.8 million EUR.

The separation of broadcasting infrastructure from PBS was made possible by the Broadcasting Law from 2002. The Law stipulates that the PBS will use the property and equipment of the broadcasting infrastructure (buildings, antennae systems, radio relay systems, etc.) in accordance with the contract with the Property Directorate of the Republic of Serbia. Since this contract was not been concluded for seven years, the PBS managed the broadcasting infrastructure on its own, which created a situation in which PBS was able to

control the distribution of the signal of commercial broadcasters, which at the time were still its competitors on the advertising market. This problem was recognized in the *Broadcasting Development Strategy until 2013*, adopted by the RBA. Namely, the Strategy acknowledges that the situation in which one broadcaster (PBS) controls key broadcasting facilities and their respective infrastructure is not a guarantee of an equal position of all electronic media. The Strategy indicates that this issue may be resolved by establishing a public company that will guarantee all broadcasters that obtain the license equal access to broadcasting facilities. The Strategy for Transition from Analog to Digital Radio and TV Program Broadcasting in the Republic of Serbia from July 2009 also says that at the beginning of the transition, a company will be set up that will manage broadcasting infrastructure of the broadcasting system of the Republic of Serbia. This company would be created by separating the broadcasting system from the Broadcasting Institution of Serbia (PBS). The Strategy furthermore says that the company will be obliged to apply identical, non-discriminatory conditions with regard to quality, accessibility and fees to all broadcasters. The fee for broadcasting services will be – as it is envisaged – based on the cost principle, while the role of the company will be a purely technical one, without the possibility to influence the program and program content to be aired.

The separation of the broadcasting infrastructure from PBS was the necessary precondition for an array of tasks that must be dealt with in order to digitalize terrestrial broadcasting. From a more general standpoint, it also improves the framework for the operation of particularly commercial electronic media in the Republic of Serbia.

VI THE PRIVATIZATION PROCESS

After an almost 2-year break, the Privatization Agency called for December 11, 2009, auctions for the privatization of 12 media companies, employing a total of 236 people. The first on the list is the public company Radio Smederevo, whose capital, intended for privatization, is estimated at about 285 thousand EUR. It is 82.4% of the total capital of that company, comprising slightly over 42% of state capital, while the remainder is socially owned capital. The starting price for Radio Smederevo, which employs 17 staff members, is 5.4 million dinars, while the obligatory investment is 4.9 million dinars. Part of the state capital, as indicated in the public call, will have to be paid immediately and in full, while the rest shall be subject to the same conditions as with all other media – which means that the permitted payment means will include old foreign currency savings bonds, valid on the day of sale, in the first and all other deadlines in the second auction. The list for privatization also includes TV Smederevo with 39 employees, with a starting price for 70% of its capital of 90 thousand dinars, while the minimum investment is 2.5 million dinars. As two separate companies, the

list includes Radio Cacak, with a starting price of 6.1 million dinars and the minimum investment of 582 thousand dinars and 14 employees and TV Cacak, for which the starting price was set at slightly more than six million dinars and an investment of no less than 1.7 million dinars. Television Cacak has 41 employees and, contrary to the radio, its incomes in the previous year exceeded the expenditures by nearly one million dinars. Radio Pozega, employing five people, is offered for privatization at the starting price of 1.2 million dinars and a minimum investment of 352 thousand dinars. TV Pozega has 21 employees; its starting price is slightly above three million dinars, while the minimum investment is 316 thousand dinars. RTV Vrnjacka Banja, employing 44 staff members and whose capital to be privatized is estimated at about 30.100 EUR will be offered at the starting price of 283 thousand dinars and a minimum investment of 1.4 million dinars; Radio Obrenovac (18 employees) will be offered at an starting price of 134 thousand dinars and a 75 thousand dinar investment, while the Regional Television Valjevo (16 employees) at the starting price of 289 thousand dinars and a 1.3 million dinars minimum investment. Finally, in the same auction, Radio Mladenovac will look for new owners: it has four employees and its starting price is 2.5 million dinars, while the minimum investment is a puzzling one thousand dinars; Radio Valjevo (27 employees), at the starting price is 5.7 million dinars and an obligatory investment of 396.000 dinars and RTV Barajevo (six employees) with an starting price of 3.2 million dinars and a minimum investment of 180 thousand dinars.

While it is very good that the privatization process has been resumed, the problem remains that, with the changes to the legal framework that have taken place in the meantime, the Agency does not consider privatization to be obligatory anymore. Namely, according to the Law on Local Self-Government and the Law on the Capital City, local self-governments are entitled to establish television and radio stations for reporting on the language of national minorities officially used in the respective municipality, as well as for reporting on the language of national minorities that is not in official use, when such reporting constitutes the achieved degree of minority rights. The City of Belgrade may establish television and radio stations, newspapers and other public information means. The Law on National Councils of National Minorities provides for the possibility that the founding rights to the media that are entirely or predominantly reporting on minority languages be assigned to the National Council of the national minority in question. Instead of making it obligatory, this is turning privatization into merely a possibility, while the decision whether it will take place at is entirely left to the discretion of local self-governments.

In the meantime, concerning previously privatized media, the public is abuzz with stories about failed privatizations, strikes, unpaid wages and benefits. The media have reported about the strike of the employees of RTV Jasenica in Smederevska Palanka over 11 unpaid wages and benefits for pension and health insurance. RTV Jasenica was privatized in May 2006. At the same time, the media reported about strikes in non-privatized media, such

as “Dnevnik Holding”, whose employees have had the same problem with joining years of service, unpaid health insurance benefits and unpaid salaries. The strike ended on October 29, when the employees reached an agreement with the management and representatives of the Vojvodina Executive Council about their requests. The employees will receive three unpaid wages in the coming month and a final settlement of the remaining requests is also expected. Although these requests included privatization, it remains unclear how they reached an agreement about this matter with the Vojvodina Executive Council.

VII CONCLUSION

In the period observed, further deterioration of the relationship between the Government and the media sector was noticed, with two facts being of particular concern. First, there was no progress at all in drawing up the media strategy, which seems more and more as an excuse of the authorities and stalling so that things would remain unchanged. And secondly, even more worrying is fact that the Government is openly showing it does not respect the will of the representatives of the media sector, by refusing to select one of its candidates for membership in the RBA Council. This has opened the way for a renewed procedure, in which the authorities would be well positioned to impose someone more to their liking, through the Parliament’s Culture and Information Committee and its arbitrary selection of candidates.

The Government is lately working only on raising fines for the media, in an attempt to discipline them. At the same time, when journalists and the media are victims of threats and attacks, the perpetrators receive mild sentences or are not sentenced at all. This is all contributing to an increased level of frustration that is additionally complicating the situation on the media scene.

The paradoxical combination of zero tolerance for the media when the latter have to comply with their obligations and the lack of any responsibility of the competent authorities, when their obligations towards the media are concerned, creates an uneven balance of power, where the media are typically on the losing end. At that, the Government is failing to consider the importance of media for the development of a democratic society, thus compromising the so far achieved results of social changes.

The ability of the authorities to recognize the buzz of discontent of the media with how the Government deals with them, their needs and problems, will determine the depth of the gaps in their mutual relations and the time needed to bridge those gaps, in order for things to move forward.