

I FREEDOM OF EXPRESSION

In the period covered by this Monitoring Report, there were several cases pointing to possible violations of freedom of expression.

1. Threats and Pressures

1.1. On March 9, 2010, the Politika daily reported that the police in Novi Sad had been guarding for several days the building in which the newspapers „Građanski”, „Subotičke”, „Kikindske”, „Somborske novine”, „Poljoprivredni oglasnik”, as well as the „Tabloid” magazine, are printed. Security was set up after the owner of the printing company had notified the police that he had received serious threats from Petar Matijevic, the owner of the Matijevic meat company, urging him to stop printing „Tabloid“, the paper that has published critical texts about Matijevic in several editions.

Article 2, paragraph 4 of the Law on Public Information stipulates that it is prohibited to put any physical or other kind of pressure on a public media and its staff or exercise any influence in view of obstructing the activities thereof. Article 149, paragraph 1 of the Criminal Code says that unauthorized obstruction of printing, sales or distribution of magazines, newspapers or other similar print items will be subject to a fine or a one-year prison sentence.

1.2. Montenegrin businessman and former associate of Montenegrin Prime Minister Milo Djukanovic has written on the Daily News Montenegro blog that journalist Jugoslav Cosic „isn't any different from the assassins and criminals he lets speak in his program“. Knezevic's text is part of a campaign against Jugoslav Cosic and the B92 television station that was launched after Cosic's interview with Montenegrin opposition politician Nebojsa Medojevic. At one point during the program, Cosic and Medojevic were joined on the air by telephone by businessman Stanko Subotic. Although during the live program Medojevic accepted such arrangement, he later claimed that it was a set-up and that he could have been consulted about Subotic joining them on the air before the show and not while it was underway. Medojevic had claimed in the past that Subotic, who is wanted by the Serbian police, was hiding in a house owned by the Montenegrin police in Zabljak. After he joined B92's program by telephone, Subotic said that he was calling from Geneva and accused Medojevic of attacking him for the account of Serbian businessmen Miroslav Miskovic and Milan Beko.

Stanko Subotic is charged in Serbia with abuse of office, a criminal offence subject to a prison sentence ranging from 2 to 12 years. Switzerland, the country where Subotic resides, has refused to extradite him; namely, the Swiss law does not provide for such criminal offence in the case of private companies. In the concrete case and the said accusations against Yugoslav Cosic and TVB92, their critics said they should not have allowed a person wanted by the law in Serbia to join their television program on the air. However, the latter is not correct. Namely, Article 37 of the Law on Public Information stipulates that public media are obliged to observe the presumption of innocence of defendants in criminal proceedings (in this case Stanko Subotic), who must be regarded as innocent until a final verdict is reached. We hereby remind that one of the reasons why the media protested over the Broadcasters' Code of Conduct, passed by the Republic Broadcasting Agency ("Official Gazette of the Republic of Serbia", no. 63/2007), was the fact that the said Code prohibits the media from interviewing "perpetrators" in the course of the investigation. In the motion for the assessment of constitutionality filed to the Constitutional Court by the Belgrade Center for Human Rights (BCHR), that organization claims that the absolute ban on interviewing a defendant during the investigation, without any regard for the public interest, may not be considered necessary in a democratic society. The BCHR stressed that such prohibition is not appropriate for the protection of the authority of the court or for any other goal that would require a restriction of freedom of expression.

1.3. In the night between March 18 and 19, 2010, the premises of the Cacak television "Galaksija" were burglarized. Three cameras were stolen, as well as the discs with the archive footage from the program "Krajem nase ulice", which dealt with fascist graffiti in Cacak. Misula Petrovic, the owner and director of TV Galaksija said that the employees had discovered the demolished offices when they came to work in the morning. According to Petrovic, the news program of the station had been obstructed because the burglars tore out cables from the wall. "This wasn't a classic robbery, because the burglars didn't take laptops and expensive equipment, they have only stolen archive footage. We believe that the ones we dubbed hooligans in our program are trying to stop us from airing it", Petrovic said.

Article 2, paragraph 4 of the Law on Public Information stipulates it is prohibited to exercise any influence on a public media and its staff so as to obstruct them in their work. The described case, in addition to certain classical criminal offences (for example aggravated theft from Article 204 of the Criminal Code), could be considered as a case of obstruction of broadcasting referred to Article 149, paragraph 2 of the Criminal Code, in view of the fact that the theft of cameras and discs with archived footage, as well as the tearing out of cables from

the walls, has unlawfully prevented, namely obstructed TV Galaksija in broadcasting its television program.

1.4. On March 2, 2010, several media reported that the journalist and the cameraman of the Sremska television station had been attacked and their equipment destroyed while trying to report on a fire in a refrigerator facility in Indjija. The son of the owner assaulted the cameraman, took away his camera and smashed it to the ground. The television station said that a possible reason for the attack could be an attempt to conceal the real cause of the fire, namely that it was a case of deliberate arson in order to cash in from insurance.

Article 2, paragraph 4 of the Law on Public Information says that it is prohibited to put any physical or other type of pressure on public media and its staff or exert any influence with a view of obstructing their work. The above incident involves several classic criminal offences (e.g. destroying and damaging someone else's belongings from Article 212 of the Criminal Code), but could be considered as a case of obstruction of broadcasting referred to Article 149, paragraph 2 of the Criminal Code, since by the destruction of its camera, Sremska televizija was unlawfully prevented from recording the said refrigerator fire and hence from program broadcasting.

2. Legal Proceedings

2.1. On March 4, 2010, the First court of original jurisdiction in Belgrade sentenced Stefan Hadziantonovic from Belgrade to a year in prison for threats made against TVB92 journalist Brankica Stankovic. Hadziantonovic, who has been convicted of the criminal offence of threats against personal safety, admitted during the trial that he had posted the threats against Stankovic on Facebook. He also apologized to the journalist. Hadziantonovic was sentenced to a single sentence of a year and three months in prison, since he had been previously sentenced to three months in jail for violent behavior.

Article 138, paragraph 1 of the Criminal Code stipulates that threats against personal safety made by death threats or physical threats against a person or its close relatives or friends shall be subject to a prison sentence ranging from one to three years. Paragraph 3 of the same Article says that the same offence committed against a person occupying jobs of public interest in the area of information, which is related to the job of that person, shall be punishable by 1 to 8 years in prison. Since in the above case the threats were made in relation

to the program “Insajder” that was dealing with the criminal proceedings against the leaders of extremist supporter groups, the sentence pronounced was actually the lowest possible punishment provided for by the Criminal Code.

2.2. On March 15, 2010, the trial against priest Vlastimir Zlatic from Silopaj village started before the Court of original jurisdiction from Gornji Milanovac. Charges against Zlatic were pressed by daily “Kurir” journalist Zoran Marjanovic from Gornji Milanovac. After a text published in “Kurir” and “Glas Javnosti” in May 2009, the priest told Marjanovic by telephone: “I will show you the gun, you will fare the same as Curuvija”. After failing to appear at the trial several times, Zlatic denied, at the first hearing yesterday, the allegations from the indictment. The proceedings will be resumed on June 10,, 2010.

Prior to the latest amendments to the Criminal Code, which became effective in September last year, threats against personal safety made in the form of death threats or physical threats against a person or its close relatives or friends were only prosecuted if private charges were pressed (unless threats have been made against a larger number of persons or if such threats have caused widespread concern among the citizens or other serious consequences) and were subject to up to one year in prison. After the amendments in September, which however do not pertain to threats made before these amendments became effective, any threats made against journalists in relation to his/her work shall be always prosecuted *ex officio* and subject to between one and eight years in prison.

2.3. TVB92 and its news editor Sanda Savic have been sentenced before the Trade Court in Belgrade for the commercial offence of breach of authors’ rights in the program “Dada Vujasinovic – the First Victim”. The verdict is not final, the attorney of the plaintiff Nenad Krasavac announced. B92 said it would appeal the verdict.

The object of the dispute in the above case is the footage of the court reconstruction of the death of journalist Dada Vujasinovic, which was carried out in 1998 by experts Branimir Aleksandric and Milan Kunjadic before the investigative judge of the District Court in Belgrade, Dobrivoje Gerasimovic. The family of the deceased journalist was unhappy with the appointed experts, who had initially found that Dada Vujasinovic had committed suicide. The parents namely requested for the reconstruction to be recorded with a camera, which was approved by the investigative judge. Nine years later, since other experts, hired by Vujasinovic’s parents, found that it was a case of murder and not suicide, the family furnished the footage to TVB92. The Serbian public had the opportunity to see it in June 2007 in the program “Dada Vujasinovic – the First Victim”, aired as part of the series “B92

Investigates". Immediately after the program was aired, Nenad Krasavac, who taped the reconstruction in 1998, pressed criminal charges against B92, commercial offence charges with the Public Prosecutor, as well as charges with the then District Court in Belgrade with a proposal for prohibiting TVB92 from rebroadcasting the program. Krasavac also filed a claim with the Republic Broadcasting Agency. In his complaint and lawsuit, he alleged that his authors' rights were violated. The first-instance verdict for commercial offence is the first such verdict passed in these proceedings. B92 has filed an appeal. The hearing in the Criminal proceedings against the author of the program is scheduled for September 2010. The litigation is still underway. The Republic Broadcasting Agency was the only one to dismiss the claim. However, these proceedings have raised the awareness about how the program about Dada Vujasinovic's death – which, among other things, shows how court experts Aleksandric and Kunjadic had carried out the reconstruction – is being kept from the eyes of the public. In the meantime, based on the findings of other experts hired to investigate the case, the Prosecutor's Office has announced it believes that Vujasinovic was murdered and did not commit suicide. The investigation is still underway.