

I FREEDOM OF EXPRESSION

The period covered by this Monitoring Report features several cases that suggest possible infringements of freedom of expression.

1. Threats and pressures

1.1. On June 1, 2010, the daily “Novosti” reported that Nikola Jankovic, “Novosti” correspondent from Uzice, was threatened by telephone with warnings that he would “end up in the graveyard” because of his texts about the newly-opened carwash facility “Art” in the center of Zlatibor. The text about the facility concerned was published on May 28 under the headline “Regulations are not same for all”. An unknown person called the “Novosti” correspondent and threatened that he would “end up in the graveyard” on the day when the journalist was to meet with the owner of this facility, Aleksandar Andjic – clerk in the Municipality of Cajetina – his wife and the lessee of the carwash facility Mitar Djurovic. They all wanted to deny certain allegations from his text. Three days after this threat, Dragica Jevtovic, head of the Police Administration of Uzice, said that they had identified the person who had called the journalist by phone as Slobodan Djurovic from Cajetina, employed in Public Communal Company „Zlatibor“. The police filed criminal charges against Djurovic, who is a cousin of Mitar Djurovic, the lessee of the carwash facility.

The Law on Public Information provides that no one shall restrict freedom of public information, in any manner aimed at restricting of free flow of ideas, information and opinions. The same Law provides that no one shall exert any kind of pressure, physical or other, on media or media staff, or any influence that can impede them in doing their job. For compromising a person’s safety by threatening to attack his/her life or body, the Criminal Code envisages a prison sanction of up to three years of imprisonment. In accordance with the 2009 amendments, the Criminal Code also envisages an aggravated form of this criminal offence, in the event the person whose safety is threatened performs a function of public interest in the field of information, in connection with the job such a person is doing. In such an aggravated case, the envisaged sanction is between one and eight years of imprisonment. Please note that in the earlier trials for the threats directed at journalist Brankica Stankovic, conducted according to the amended provisions of the Criminal Code, Stefan Hadziantonovic from Belgrade was sentenced to 15 months of imprisonment in the first instance, Vladimir Samardzic from Novi Sad was sentenced to 3 months of imprisonment, also in first instance, whilst in the case of Goran Kljestan, Aleksandar Perisic, Milan Gudovic, Dragan Djurdjevic, Nemanja Odalovic, and Nemanja Bogdanovic, the First Basic Court in Belgrade rejected the

indictment finding that the relevant acts of the indicted contained no elements compromising safety. The First Basic Prosecutor's Office in Belgrade lodged an appeal with the Appellate Court against the decision on the rejection of the indictment.

1.2. As reported by media on June 20, the Meshihat of the Islamic Community in Serbia most sharply condemned the publishing of the photomontage impersonating the chief mufti Muamer Zukorlic in the uniform of an orthodox priest with a cross on his head in the "Blic" daily. The Meshihat demanded an apology from the "Blic" editor in chief and owner, as well as a "symbolic" compensation of one hundred million euro. If the request is not met, they said that they would file criminal charges and invite the Muslims to boycott the "Blic" distribution and sale. "This act sends out a clear message to the general public about converting the Muslims, not sparing even the highest religions authority", reads the announcement of the Meshihat of the Islamic Community in Serbia. It is added that the Muslims are sent a message that "their spiritual values do not enjoy protection of the law and the legal system". On the same day, the "Blic" editors apologized to Mufti Muameru Zukorlic, the Mechihat of the Islamic Community of Serbia and all the believers in the Islamic religion because of the, as it was stated, "inappropriate photomontage published in "Blic" in the entertainment section". The editors underlined that the photomontage was deemed to be "unnecessary and unwise", but also that it "is not a "Blic" invitation and message to the Muslims to convert". On June 26, the Assembly of the Islamic Community published an announcement in which they "indignantly and most sharply condemned the way in which the "Blic" shamefully insulted the Mufti and the Muslims", which, as they said, symbolized continuation of the "genocidal policy" against the Muslims. This religious community has called upon a boycott of the "Blic", and repeated the demand for criminal liability for the perpetrator of the insult and the symbolic damages of 100 million euro.

The photomontage of Mufti Muamer Zukorlic in the clothing of an Orthodox priest, published in the satirical column of the "Blic" daily, first resulted in a sharp reaction of the Meshihat, and then of the Assembly of the Islamic Community in Serbia. If the court action announced by the Islamic Community is truly launched, it would be worthwhile to remember that Serbian case law is all but glorious when it comes to satirical content in media. Only two months ago, Stojan Markovic, editor in chief of Cacanske novine, was ordered in a first instance ruling, made by the Higher Court in Cacak, to pay to Velimir Ilic, the leader of Nova Srbija, 180.000 dinars as a compensation for consequential damage incurred to him by blemishing his honor and reputation. The Higher Court in Cacak found on that occasion that Ilic's honor and reputation were marred, among other things, by the humoresque "The Impotent Mandarin", published in February 2009. Admittedly, the difference is that

Zukorlic, as opposed to Ilic, is a religious leader; however, these two cases have a number of similarities as well. In the first place, the Constitution of the Republic of Serbia guarantees not only freedom of opinion and expression, but also the freedom of demanding, obtaining and disseminating information and ideas in speech, writing, image or otherwise, as well as freedom of artistic creation. Secondly, Muamer Zukorlic, as a public figure, should be obliged to demonstrate a higher level of tolerance towards media content concerning his role of the Chief Mufti of the Islamic Community in Serbia, satirical content included, regardless of its form in this specific case. Finally, demanding such huge claims for damages and invitation to a boycott, and particularly accusing media that their satirical content directed to one person, irrespective of the function such a person holds, constitutes not only an attack against all Muslims but continuation of “genocidal policy” against the Muslims as well, even the editors’ message to the Muslims that they should convert, doubtlessly restrict freedom of public information, namely free flow of ideas, information and opinion, and may doubtlessly lead to further intensification of self-censorship in media.

2. Legal proceedings

2.1. On June 2, a hearing was held before the Higher Court in Novi Sad in a lawsuit brought by Nebojsa Kolarski, Serbian Radical Party member from the Becej Municipal Assembly, against “Becejski mozaik“ weekly and journalist Kristina Demeter Filipcev. Kolarski brought a claim against the publisher and the journalist for consequential damage compensation at the amount of 0.5 million dinars, because of the mental pain and anguish caused by an injury to his honor and reputation by the text “Radically black on white” from February 2010. In the said text, Kristina Demeter Filipcev said that, speaking about local action plans for Roma employment at a meeting of the Municipal Assembly, Kolarski used hate speech dividing the citizens to “black“ and “white”. The “Becejski mozaik“ editorial stated earlier that it was only two months after the text was published that Kolarski came into the editorial and demanded that an “apology“ be published. “As the legally prescribed deadline expired, the editorial offered to write a commentary, but Kolarski left the editorial saying ‘you are insane’”, stated “Becejski mozaik“.

Pursuant to the provision of Article 82 of the Law on Public Information, a journalist, editor in chief, and a legal person – founder of the media shall not be liable for damage if incorrect and incomplete information from a public parliamentary debate was truthfully reported. Nebojsa Kolarski could have legal grounds to win this dispute only if his speech from the Becej Municipal Assembly was quoted wrongly or placed in an unacceptable context. Also, with regard to Kolarski’s request relating to publication of an “apology” – this is not provided

as a right in the Law on Public Information. Namely, an apology is a personal act, whereas the Law on Public Information provides only for the right of the individual, whose rights or interest the information was suitable to violate, to request that the editor in chief, without any compensation whatsoever, publish a reply in which it would be claimed that the information is untrue, incomplete, or inaccurately reported. The request for publication of a reply shall be submitted within 30 days after the date of publication of the information in question in daily newspapers or daily broadcast program, or 60 days after the information was published in a periodical or periodically broadcast program. Finally, having in mind that Nebojsa Kolarski is a member of the Becej municipal parliament, his case is to be viewed from the standpoint of the provision of the Law on Public Information which explicitly provides that holders of public functions shall be restricted the rights the individuals the information relates to are entitled to if the information is of public importance, considering the fact that the person the information relates to performs a particular duty, proportionately to the reasonable public interest in each individual case.

2.2. On June 10, “Vecernje Novosti” reported that, for the first time since the 2009 Law on Amendments to the Law on Public Information came into force, the public prosecutor had filed a case against a media for violation of presumption of innocence. The hearing after the lawsuit against “Tabloid” magazine for violation of presumption of innocence of Dragan Sutanovac, Minister of Defense, was to be held before the Belgrade Commercial Court on June 9, but was postponed. The lawsuit is caused by the texts published in “Tabloid” in which Sutanovac was accused of abuse of office.

The 2009 Law on Amendments to the Law on Public Information envisages that, in case a newspaper identifies a person as a perpetrator of a punishable offense, or if a person is declared guilty or responsible before the final and enforceable decision is passed by the court or other competent authority, a fine between 25% and 100% of the total sum of the value of sold circulation, delivered to the distributors on the date of publication of the information and the value of the advertising space sold for that particular issue of the newspapers, shall be imposed for economic misdemeanor against the founder of the newspapers. For the same economic misdemeanor, a fine between 200.000 and 2.000.000 dinars shall be imposed against the responsible person in the founder of the newspapers, as well as the editor in chief of the newspapers. The Law further provides that, if the offense is committed for the first time, the court shall impose a suspended sentence and a protective measure of public announcement of the ruling. Here it is important to recall that the professional public assessed this provision of the Law on Amendments to the Law on Public Information, as well as the entire Law, as seriously restrictive of freedom of expression. In September 2009, the

Ombudsman filed a motion with the Constitutional Court of the Republic of Serbia to find that the provisions of this Law were not in the compliance with the Constitution, Article 10 of European Convention for Protection of Human Rights and Fundamental Freedoms, and Article 19 of the International Covenant on Civil and Political Rights. Even though the Constitutional Court was to pass the decision on constitutionality of the Law on Amendments to the Law on Public Information in the end of March, it is still pending at end of June.