



LEGAL MONITORING OF SERBIAN MEDIA SCENE

Report for October 2010



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I FREEDOM OF EXPRESSION

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

1. Threats and Pressures

1.1. On October 12, 2010, the daily “Danas” called the Ministry of Internal Affairs of the Republic of Serbia to call to account the police officers who took part in the beating of the reporter Aleksandar Roknic, one of the editors of the said newspapers. Roknic was reporting from the streets of Belgrade during the riots caused of the opponents of the Gay Pride March on October 10. In the mayhem that erupted after a group of hooligans attacked the police in the vicinity of Roknic, the police officers clubbed Roknic on his head, back, ribs and arms, even after he already fell to the ground and in spite of having shouted that he was a reporter and having flashed his press card at them. In the hospital, Roknic was diagnosed with minor bodily injuries. Journalists’ associations condemned the attack, while the Police Minister Ivica Dacic apologized to the reporter and the “Danas” content team over the incident. “The police want to protect journalists and we had set up a special unit with that task for this occasion, but unfortunately an incident happened when the police reacted to the attack of the mob”, Dacic said.

The Public Information Law says that public information shall be free and in the interest of the public. Furthermore, it expressly prohibits any restrictions on freedom of information, free flow of ideas, information and opinions, as well as any physical and other pressure on a public media and its staff or influence aimed at obstructing their work. The Law on the Police stipulates that police affairs shall be carried out with the aim and so as to provide to each individual equal protection of their safety, rights and freedoms and to support the rule of law. That law also provides that the performance of police tasks shall be founded on the principles of professionalism, lawfulness and proportionality in the application of police powers, as well as on the principle on trying to work with the least damaging consequences. In carrying out police tasks, the use of force shall be in accordance with the law, so as to achieve the most professional outcome, without unnecessary harmful effects. “Danas” called on the Ministry of Internal Affairs to handle the beating of Aleksandar Roknic in accordance with the Law and bring to account the police officers involved in the incident. Until the expiry of the period covered hereunder, the police failed to disclose whether the responsibility of police officers had been established, namely if it was determined whether the police officers had exceeded their powers in the incident.

Otherwise, during the riots of the opponents of the Gay Pride March on October 10 in Belgrade, the rioters attacked the RTS building in Takovska Street. One police officer was wounded in the attack and the building was damaged. Meanwhile, in downtown Belgrade, the mobile digital mammography facility was stoned and damaged while the checkup of female patients was underway inside. The mammography bus for early detection of breast cancer was purchased with donor funds collected in a campaign organized by RTV B92. The sole reason for the attack was B92's logo on the vehicle. The riots were initiated by radical extremist groups who tried to thwart the constitutionally guaranteed right to freedom of assembly of the citizens who came to support the rights of the LGBT population.

1.2. The Beta news agency has been told by the Zajecar police that B92's correspondent from that city Sonja Kamenkovic has been placed under police security due to the threats made against her by the suspended police officer Radomir Radovic from Majdanpek. Kamenkovic claimed that Radovic told a third person he would kill all journalists who had written about his case and directly singled out her and the correspondent of the daily "Alo!" from Majdanpek, Ivan Popovic. Radovic was suspended from office in August over the beating up of two youths with his gun.

The Public Information Law prohibits any restrictions on freedom of information, as well as any physical and other pressure on a public media and its staff or influence aimed at obstructing their work. According to the Law on the Police, on the other hand, the police shall, where legitimate reasons exist, take the proper measures in order to protect the victims of criminal offences and other persons threatened by the perpetrators of criminal offences or other individuals. In the Penal Code, the threat to attack a person carrying out tasks of public interest in the sphere of information, in relation to that person's duties, is envisaged as a qualified form of threats to security, subject to a prison sentence of up to eight years.

Definitively a positive sign is the fact that the police are proactively protecting persons facing threats and attacks. The above is most certainly not the first such case. We hereby remind that the police have been guarding the correspondent of "Vecernje Novosti" from Loznica for over three years. TV B92 investigative reporter Brankica Stankovic has been under police protection since last December. In December 2005, Mitric was clubbed with a baseball bat, suffering a broken left hand and two dozen concussions on his head and body. The attacker, former New Belgrade policeman Ljubinko Mitric, was sentenced to six months in prison. However, Mitric is still concerned for his safety, since the people who ordered the attack against him remain unknown. Brankica Stankovic, who was put under protection after she was targeted in December last year over her investigative program about the criminal doings

of the leaders of extremists football fan groups, reiterated several times that her work was seriously hampered by the police protection she was enjoying, namely when she was communicating with her sources. For that reason, police protection must be underpinned with the legal prosecution and punishment of the people who are threatening the safety of reporters, as well as with other adequate measures that aim at providing an environment in which they may work without fearing for their security.

1.3. On October 25, 2010, the reporters of the daily “Kurir” were attacked in the village of Mihajlovac, near Smederevo. They were investigating reports about the arrest of Ljubisa Vasic, the husband of the owner of “Nina” nightclub. According to the same reports, Vasic was apprehended together with eight girls, believed to be working as prostitutes in the said night club. The attack happened in front of the club and the media reported that the journalists were attacked by Rajko and Jagoda Jackovic, the parents of the nightclub owner Jelena Vasic. According to media reports, Rajko Jackovic kicked and punched “Kurir” reporter Oliver Nikolic several times in the chest, while Jagoda Jackovic was brandishing a kitchen knife.

The Public Information Law says that public information shall be free and in the interest of the public. Furthermore, it expressly prohibits any restrictions on freedom of information, free flow of ideas, information and opinions, as well as any physical and other pressure on a public media and its staff or influence aimed at obstructing their work. In relation to the above attack, journalists’ association requested an urgent reaction of the Public Prosecutor’s Office. The above described actions, as reported by the media, contain elements of the qualified form of the criminal offence of violent behavior. According to the Penal Code, violent behavior is “a major threat to the public order made by voicing serious insults at or ill-treating a person (s), violence against other people, causing fights or behaving offensively and disrespectfully. The qualified form of that criminal offence exists if the said offence has been committed in a group or has caused a minor bodily injury or major humiliation of citizens. In such a case, violent behavior may be subject to a prison sentence ranging from six months to five years. Only a month before, the attackers against “Vreme” columnist Teofil Pancic were indicted for the same offence: Milos Mladenovic and Danilo Zuza were, however, sentenced to merely three months in prison each, which is below the legal minimum. On July 24, about 11 PM, Mladenovic and Zuza clubbed and punched Pancic in a public transportation bus. The Court found that it was justified to sentence them to a penalty below the legal minimum due to their young age and lack of previous criminal record. On the other hand, the Public Prosecutor’s Office said it would appeal the verdict, estimating it was too lenient. The above described case of the attack against the journalists of “Kurir” in the village of Mihajlovac is yet another reminder that freedom of expression in Serbia is not safe,

in view of the practice of Serbian courts, in most cases where reporters are attacked, to sentence the perpetrators to penalties below the minimum provided for by Law. Such practice contributes to the growing self-censorship in the Serbian media and encourages new attacks against journalists.

2. Legal Proceedings

2.1. The Appellate Court in Novi Sad upheld the verdict of first instance of the Higher Court in Zrenjanin, sentencing the company NIP Zrenjanin, as the publisher of the weekly “Zrenjanin”, as well as the weekly’s Editor-in-Chief Dalibor Bubnjevic, to pay 300 thousand dinars of non-pecuniary damage to the spouse and children of the late Predrag Stiklica from Zajecar. On February 19, 2010, the above mentioned weekly magazine published a text about the assassination of Stiklica, who was shot on February 11 near his family home. Stiklica’s wife and children sued the weekly over the part of the text in which it was alleged that their husband and father had been killed in a showdown of criminal groups racketeering taxi drivers in Zrenjanin. The weekly stopped short of naming its sources, hinting however that they were close to the investigative department of the Zrenjanin Higher Court.

In keeping with the applicable regulations and according to the existing court practice in Serbia, family members are entitled to non-pecuniary damage caused by tarnished reputation of deceased kin. In the concrete case, although the authors of this report did not have access to court records, they wish to point to several disputable facts. Firstly, the Court failed to consider the circumstance that the plaintiffs had not resorted to the remedies they were entitled to according to the Public Information Law, which could have caused less harm. More specifically, the press releases of journalists’ association in relation to the “Zrenjanin” incident underlined that the court determined the plaintiffs to have failed to resort to the right to a correction and reply, which, according to the court, did not diminish the damage they have suffered. It remains completely unclear how the court found that a reply published in the “Zrenjanin” weekly would not have alleviated the damage. Namely, the existing Law on Contractual Relations stipulates that non-pecuniary damage where personal rights have been violated – including tarnished reputation of deceased kin – shall primarily be in the form of publishing the verdict and/or correction, at the cost of the party that has caused the damage, the withdrawal of the statement that caused the violation or any other form suitable to realize the purpose achieved by the payment of damages. Furthermore, the Law provides that, only as an exception – if justified by the circumstances of the case and particularly the intensity and duration of the suffering, anguish and pain suffered by the plaintiff – the court will rule that damages be paid. In other words, pecuniary damages in such cases are an exception and not the rule. At that, when ruling upon a claim for damages

for suffering, anguish and pain and the amount of such damages, the court should take into consideration the purpose of the damages, namely if these damages are incompatible with its social objective. At that, the restriction to freedom of expression – and the non-pecuniary damage due to violated personal rights charged to journalists and media obviously represent such a restriction – may not be considered compatible with the social objective of such a ruling. Secondly, it is difficult to discern from the media reports how the court considered the fact that, according to the defendants, their source was someone in the investigative department of the Higher Court in Zrenjanin. Namely, the Public Information Law says that a reporter, editor-in-chief and the legal person that is the founder of the public media shall not be liable for damages, even if these damages have been caused by untrue or incomplete information, if the said information was authentically conveyed from the court proceedings or from the documents of the competent public authority. It remains unclear if the first instance Court in Zrenjanin and the second instance Appellate Court in Novi Sad had access to the investigative records of the Higher Court in Zrenjanin, or whether the information about the circumstances of the violent death of the late Predrag Stiklica, which was published in the controversial text, has really been authentically conveyed from the court records. We hereby underline that, pursuant to the Public Information Law, the right to freedom to publish ideas, information and opinions about occurrences, events and persons of legitimate interest for the public shall be enforced regardless of how the information has been obtained.

2.2. Darko Saric, the alleged ringleader of a gang accused of smuggling of more than two tons of cocaine, has sued the dailies “Pravda” and “Press” for libel, as well as the member of the Security Committee of the Serbian Parliament Konstantin Samofalov. The Tomanovic Law Office, which is representing Saric, announced that they had pressed charges against the said newspapers and the said MP before the First Primary Court in Belgrade. The reason for the lawsuit are the statements made to the media, as well as media reports in which Saric was accused of being the mastermind of the riots in Belgrade on October 10, as well as on the football match between the national teams of Italy and Serbia in Genoa two days later. Saric’s attorneys have claimed damages in the amount of 10 million dinars from “Pravda” and Samofalov, over the latter’s claim that “the riots by the hooligans in Genoa represented an attack against the state, masterminded by organized crime and Darko Saric, with the aim of hurting Serbia”, as reported by “Pravda”. Ten million dinars are also claimed from “Press”, due to reports published in that newspaper claiming that “Saric is the mastermind of the riots in Italy and he is trying to wreak havoc in Serbia”.

According to the Public Information Law, it is prohibited to label someone as the perpetrator of a criminal offense, or identify a person to be guilty or responsible, prior to the final

decision of the Court or other competent state authority. In the concrete case, however, Darko Saric did not resort for protection under the Public Information Law, but opted to act under criminal legislation and decided to sue the newspapers for libel. Under the Penal Code, libel is defined as publicly making or communicating untrue assertions about a person so as to tarnish his/her honor and/or reputation. As of the passing of the amendments to criminal legislation in 2005, libel is not subject to prison sentences anymore, but only fines. These fines vary depending on whether the libel was made in the press, radio, television and other means of public information or on a public rally, namely whether it has caused severe consequences for the plaintiff, and may amount to up to 300.000 dinars or alternatively up to 180 daily amounts. A daily amount is the difference between the income and the essential costs of the perpetrator of the criminal offence in the previous calendar year, divided by the number of days in the year, which will not be less than 500 dinars and shall not exceed fifty thousand dinars. Damages are awarded in criminal proceedings. However, the Criminal Proceedings Law stipulates that, if the information from the criminal proceedings fails to produce reliable grounds for a complete or partial sentencing, the court will instruct the plaintiff to claim damages in civil litigation. This is typically what happens in practice and hence it is safe to expect that the Court, if the dailies “Pravda” and “Press”, as well as the MP Konstantin Samofalov, are found guilty of libel, will instruct Darko Saric to claim damages in civil litigation. In the practice of Serbia litigation courts, damages in similar cases are awarded in amounts that are typically up to twenty times lower than the one claimed by Saric in criminal proceedings. For that reason, the libel claim of the Tomanovic law firm should be viewed as illicit pressure on a newspaper and its staff, as opposed to a genuine financial threat against the defendants.

II MONITORING OF THE IMPLEMENTATION OF EXISTING LAWS

1. The Public Information Law

1.1. The implementation of the Public Information Law was partly elaborated on in the section about freedom of expression.

1.2. The decision of the Constitutional Court from July, finding most of the provisions of the Law on the Amendments to the Public Information Law – adopted on October 31, 2009 – to be unconstitutional and in discord with ratified international treaties, remained unpublished in the Official Gazette of the Republic of Serbia until the end of October, more than three months after it was adopted.

Article 58 of the Law on the Constitutional Court stipulates that a Law found by the Constitutional Court to be unconstitutional and in discord with ratified international treaties shall cease to be effective only on the day of publication of such decision in the Official Gazette. The failure to publish the decision more than three months after it was passed has extended the validity of a Law that has already been declared unconstitutional, thus causing serious and unjustified legal insecurity.

2. The Broadcasting Law

2.1. The Independent Journalists' Association of Serbia (NUNS) has blasted the Prva TV station over the participation of Milos Radosavljevic Kimi in the program "Hospot – Who is to Blame" aired on October 13. The program dealt with the riots on the streets of Belgrade that occurred a few days earlier. NUNS press release said that the presenter of the program Zoran Baranac had committed a serious breach of the code of ethics "by not having introduced Radisavljevic as a person that has been indicted for a criminal offence and for failing to react adequately to the scandalous assertions of his guest". Radosavljevic has been sentenced in first instance to 16 months in prison for threats against the security of TVB92 investigative reporter Brankica Stankovic.

We are including this case in the Report's section dealing with the implementation of the Broadcasting Law, since we believe that it contains implications transcending mere violations of the journalists' code of ethics. Namely, Article 68 of the Broadcasting Law itemizes the general obligations of broadcasters relative to programming content, including the obligation to ensure free, complete and timely information of citizens. Accordingly, the fact that the leader of the supporters of the Partizan football club Milos Radosavljevic Kimi was invited to a talk show as a relevant collocutor on the topic of violence in the streets of Belgrade and the football stadium in Genoa – where Serbian hooligans caused the football match between Italy and Serbia to be interrupted – in the company of Serbian MPs, former secret service staff and journalists, might be considered as a matter of journalist ethics. However, the fact that the presenter failed to inform the viewers during the talk show that a person taking part in the program had been freshly sentenced in first instance to 16 months in prison for threats against the security of TVB92 investigative reporter Brankica Stankovic represents, in the opinion of this Report's authors, the most blatant violation of the broadcasters' obligation to ensure comprehensive information of the citizens. At the end of the program, the viewers were finally informed of Radisavljevic's prison sentence, but it was Radisavljevic himself that had told them the facts, albeit in a way that could be interpreted as making public comments about legal proceedings, which is prohibited under the Penal

Code. Namely, under Article 336a of the Penal Code, making public statements on public media, with the aim to breach the presumption of innocence or independence of the court, in the duration of legal proceedings before the court and prior to the delivery of a final court decision, shall be punishable with a penalty of imprisonment of up to six months or a fine. It has lately been reported at length about the fact that the media are, as a rule, violating the presumption of innocence. The above case is an example of opposite, but equally unacceptable extreme media conduct.

3. The Penal Code and the Law on Juvenile Offenders and Criminal Legal Protection of Minors

3.1. In its October 25 edition, the daily “Kurir” announced that it had “acquired” documents confirming that the son of Sladjanka Milosevic, the Serbian Judiciary Trade Union Secretary – which was, at the time of “Kurir”’s report, on strike, after having rejected an offer of the Justice Ministry’s to end the strike – has a “criminal past”. The report specified punishable offenses he had committed in 2004 and 2006 while he was a minor, as well as corrective measures imposed upon him in 2006. The Journalists’ Association of Serbia (UNS) said it feared that “Kurir” had been misused to political ends in order to tarnish the reputation of the trade union strike leaders. UNS also called the Justice Ministry to explain how had the confidentiality of the juvenile proceedings been breached and under which circumstances personal data from these proceedings had been utilized for an improper purpose.

Under Article 55 of the Law on Juvenile Offenders and Criminal Legal Protection of Minors, it is prohibited, without the permission of the court, to release information about juvenile proceedings or publicly communicate the decision delivered in these proceedings. The court may, as an exception, allow the part of the decision to be released, provided that the name of the juvenile person and other data that might serve to identify that person, remain confidential. In the concrete case, “Kurir” published a decision delivered in proceedings against a juvenile person, the details of these proceedings, the full name of the person that was tried in juvenile proceedings at the time when he was a minor, as well as the full name and position of his mother in the Judiciary Trade Union of Serbia – information on the basis of which it was possible to identify the person. Under the Penal Code, data from criminal records may only be disclosed to the court, Public Prosecutor’s Office and the Police in relation to criminal proceedings against a person with a criminal record, to the authority in charge of enforcement of criminal penalties and the authority involved in the proceedings of granting amnesty, pardon, rehabilitation or deciding about the cessation of legal consequences of a verdict, as well as to guardianship authorities, when such disclosure is

necessary for carrying out duties from their competence. Such data may also be disclosed to other state authorities that are in charge of investigating and preventing criminal offences, but only in cases provided for by a separate law. The Penal Code also provides for the criminal offence of breaching the confidentiality of legal proceedings: Article 337, paragraph 2 of the Penal Code makes it a criminal offence, punishable by up to two years of imprisonment, to publicly release information about criminal proceedings that have been restricted to the public or a decision delivered against a juvenile person in criminal proceedings, or to publicly release the name of a juvenile person that has been tried in juvenile proceedings, or information which may lead to the identification of the juvenile person.

The above case is to a certain extent a reminiscence of the case of “Glas javnosti”. Back in early March 2004, this daily reported that the then Interior Minister Dragan Jovic had been sentenced in 1981, before the Third Municipal Court in Belgrade, to a six-month probation term for robbing a kiosk and petty theft. “Glas Javnosti” also reported that Jovic’s sentence was annulled and deleted from the records back in December 1985, since he had not committed any other criminal offence in the meantime. However, in that case, the rights to privacy of Dragan Jovic were restricted, since he was occupying the position of Police Minister and the information reported by “Glas Javnosti” was relevant for the public interest in view of such an important position. In that concrete case, the only persons that could have been brought to account were the ones in charge of criminal records in the Court. These persons had presumably leaked the information from these records to the press, including the information about sentences that were deleted from the records. In the case of the report by “Kurir” on October 25, it is justified to question the responsibility of reporters and the media, since the rights to privacy of the persons mentioned in the “Kurir” report were in no way whatsoever restricted.

III MONITORING OF THE PROCESS OF ADOPTION OF NEW LAWS

In the period covered by this Report, the Parliament of the Republic of Serbia did not discuss any laws of special relevance for the media sector. Shortly before the expiry of the said period, the series of round tables organized by OSCE in cooperation with the Ministry of Culture and the EU Delegation in Serbia, with the support of the British Embassy to Belgrade, came to an end. The topics of the round tables were the Media Study, prepared by European experts, as well as subjects related to future media regulations in Serbia. It was announced that the government signed an agreement with the consulting company hired by

the Ministry of Culture to write the draft of the Media Strategy. The said Draft was not, however, released by the Ministry by the time the reporting period expired. The strategic decisions to be chosen by the Ministry, namely the Government of the Republic of Serbia in the Media Strategy, will determine the ensuing legislative work on a whole set of new laws. The questions that remain unanswered and that stirred controversy on the round tables pertain to state financing of the media and state ownership in the media.

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

REGULATORY BODIES

1. REPUBLIC BROADCASTING AGENCY (RBA)

1.1. On October 6-9, 2010, the RBA was the host of the 32nd meeting of the European Platform of Regulatory Agencies (EPRA) in Belgrade. The EPRA consists of 52 regulatory agencies in the sphere of electronic media from 47 European countries. The EPRA meeting in Belgrade is one of two such symposiums held each year. The topics discussed related to digitalization, advertising in media and EU regulations concerning broadcasting. The meeting was opened by the Culture Minister Nebojsa Bradic and the President of the RBA Council, Vicar Bishop of Jegar, HE Porfirije. The plenary session dedicated to the regulation of advertising dealt particularly with the challenges this field shall face in the future, such as the defining of legitimate product placement, preserving editorial independence from advertisers and sponsors, as well as keeping different regulatory regimes on various content distribution platforms, with advertising being strictly regulated on classical television and softly regulated on Video on Demand (VOD) or mostly unregulated (Internet). The second plenary session dealt with various models of regulation and issuance of licenses for digital terrestrial television broadcasting in Europe. In addition to plenary sessions, working groups were organized to deal with product placement, the integration of the Internet in classical television sets and evaluation of the content of the public broadcasting service.

1.2. Although the Culture and Information Committee of the Serbian Parliament unanimously laid down the list of the Conference of Universities as the authorized proposer for the appointment of the member of the RBA Council, which includes Natasa Gospic and Goran Petrovic and which had to be furnished to the Parliament for approval. However, the

Parliament has not voted about the list yet. We hereby remind that a position in the RBA Council – to be occupied by a candidate from the list proposed by the Conference of Universities – became vacant with the death of Professor Svetozar Stojanovic last May. According to the Broadcasting Law, the Parliament was obliged to elect a new Council member within 30 days from having received the list. Since it is obvious Parliament indeed received the list prior to September 30, when it was discussed in the Culture and Information Committee, the MPs have again exceeded the time limit provided for by the Broadcasting Law for the appointment of the RBA Council.

2. REPUBLIC AGENCY FOR ELECTRONIC COMMUNICATIONS (RATEL)

2.1. The Management Board of the Republic Agency for Electronic Communications (RATEL) unanimously elected Milan Jankovic, PhD to the position of Director. The term of office of the Director is five years and the Jankovic was elected on an open competition. Milan Jankovic was the Executive Director of RATEL in 2006. In keeping with the Law on Electronic Communications adopted this year, the Director of RATEL shall be responsible of the lawfulness of the Agency's operations, represent the Agency, manage its activities and business, prepare and enforce the decisions of the Managing Board, decide upon the rights, obligations and responsibilities of Agency employees, ensure the transparency of the work of the Agency and perform other duties provided for by Law and the Agency's Statute. The Law on Electronic Communications stipulates that the Director of the Agency shall decide upon the rights and obligations of operators and users of electronic communications.

2.2. In October, RATEL launched public consultations about the drafts of Rules on the amount of the fee for performing electronic communications related activities, the Rules on the amount of the fee for the use of radio frequencies and the Rules on the forms of the requests for issuing single licenses for the use of radio frequencies. The said Rules are relevant for radio and TV stations, particularly in the wake of the impending digitalization. The difference compared to currently applicable rules, especially the Rules on the amount of the fee for the use of radio frequencies, is that the level of economic development of the municipality covered by the coverage zone of the radio network is not anymore one of the criteria for determining the amount of the fee. The latter is the consequence of allignment with Article 31 of the Law on Electronic Communications, according to which the amount of the fee for the use of a radio frequency shall be associated solely to the type of service provided by the use of the allotted radio frequency, namely the purpose for which the allotted radio frequencies are used, and where appropriate, to the number of inhabitants in the coverage zone, according to the official data of the relevant statistics agency. From the practical standpoint, if the Rules are adopted as proposed, the fee that the broadcasting

media will pay for using the frequencies shall remain at the present level in the more advanced regions, while it will be raised in underdeveloped areas.

STATE AUTHORITIES

3. THE PARLIAMENT OF THE REPUBLIC OF SERBIA

October has seen four sessions of the Second Regular Sitting of the Parliament of Serbia in 2010, but the MPs did not discuss any laws of relevance for the media sector. The 27th session of the Culture and Information Committee of the Parliament was also held in October. However, members of the Committee only discussed a draft law from the field of culture and did not deal with any issues from the sphere of information.

4. THE MINISTRY OF CULTURE

4.1. On October 7, 2010, Culture Minister Nebojsa Bradic said in an interview for the International Radio Serbia, that the making of the Draft Media Strategy was underway and that it would be introduced to the general public in early November, after which there would be a public debate and adoption of the Strategy by the end of the year. “We are not starting to write new laws or determining what kind of media will exist in Serbia. We are rather defining the main courses of development of the media sphere and creating the conditions for free and unhindered media development. I believe that this is at the core of our efforts and I am convinced that, in the coming period, we will define the public interest as one of the main postulates the media, state and society should adhere to. On the other hand, we shall determine the obligations, place in society and role of the state in protecting the public interest, as well as in regulating the media sphere, and we shall protect freedom of speech, freedom of the reporters and the journalist profession”, Bradic replied when asked about the innovations that would be delivered by the Media Strategy. The Minister also announced that the Ministry would, after the production of the Strategy, turn towards the conforming of the media regulations to the principles contained in that document. The Draft Media Strategy, which Bradic announced to be introduced to the public in early November, was not released by the time this Report was completed.

COLLECTIVE ORGANIZATIONS

5. OFPS – the collective organization for the protection of phonogram producers' related rights

5.1. On August 23, 2010, the first consultation meeting of employees and representatives of the OFPS was held in Jarmenovci. The invitation was extended to all legal representatives (attorneys) of that Organization, all controllers in the field, the representatives of each sector/department of the organizations, as well as to the representatives of the Intellectual Property Office. The meeting saw the setting up of a commission for the preparation of the consultation meeting of employees and representatives of OFPS, consisting of one representative each of the Legal Affairs Department, the Independent Control and Records Department, controllers in the field and OFPS legal representatives. The aim of the four-strong Commission was to achieve a higher level of mutual collaboration of the representatives (attorneys and controllers) and employees of OFPS, in order to more easily ponder and resolve the problems of the Organization.

Communication and introducing uniform practices in the actions of the Organization's representatives is important both for the media and the users, particularly since the OFPS has in the previous period pressed charges against them on several occasions over alleged breaches of the Law on Copyright and Related Rights. Therefore it would be most useful to include the users in the consultations, in order to avoid the already many misunderstandings, which are leading to numerous costly legal cases.

5.2. According to information obtained by the authors of this Report, which hasn't been confirmed on the websites of the organizations for the collective realization of Related rights or the one of the Intellectual Property Office, the Office has put forward certain objections to the business cooperation agreement between the PI and OFPS, signed on June 21, 2010, which we have mentioned in our previous reports. Namely, according to the Law on Copyright and Related Rights, the fee charged by phonogram producers for broadcasting and rebroadcasting of phonograms, public communication of phonograms and public communication of phonograms that are broadcast, as well as the performers' fee for broadcasting and rebroadcasting a performance from a recording issued on a sound carrier and public communication of a recording issued on a sound carrier, shall be charged from the user as a single fee. The single fee shall be collected by one organization, determined by the agreement concluded between the organization of performers and the organization of phonogram producers. The said agreement requires these organizations to determine the

amount of the costs of collection of the single fee and the frequency of the disbursement of part thereof to the other organization. According to the information obtained by the authors of this Report, the above mentioned objection of the Office was that the agreement, entered into between PI and OFPS, was not entirely conformed with the Law on Copyright and Related Rights.

6. PI – Organization for the collective realization of performers' rights

6.1. On October 23, 2010, PI – Organization for the collective realization of performers' rights held an extraordinary session of its Assembly. According to the agenda of the session, the organization was to pass a decision about the adoption of amendments to the Rules on the protection of performers' rights and the allocation of performers' fees. The minutes or report from the Assembly's session are not available to the public, but the session has seen the adoption of the amendments to the Statute in the form of a consolidated text thereof posted on the Organization's website.

7. SOKOJ – the collective organization for the protection of copyrights of music authors

7.1. Acting *ex officio* and in the scope of its powers provided for by the Law on Copyright and Related Rights to oversee the activity of the collective organization and ascertain if it is working in accordance with the issued license and the Law, the Intellectual Property Office identified in late September certain irregularities in the work of SOKOJ and ordered that measures be taken to remedy these irregularities. The time limits for implementing these measures expired in October and it remains unknown if SOKOJ has complied with them and how. The identified irregularities and the said measures mostly pertain to the allocation of author fees for 2008. The fact that the Intellectual Property Office is increasingly focusing, in its oversight of the work of collective organizations, on the issue of allocation, will have its repercussions both on the media as users – since it brings to light the question of informing the organizations by the media, as users of musical author works, phonograms and interpretations, about the name of the protected object, frequency and scope of exploitation, as well as about other circumstances that are relevant for calculating the fees that are paid under the tariff. The above will also affect the subject of the allocation of the funds collected. Namely, the failure to furnish or delay in furnishing data about the name of the protected object, frequency and scope of exploitation, as well as about other circumstances that are relevant for calculating the fee, according to the provisions of the Law on Copyright and Related Rights, is provided for by the said Law as an economic offense punishable by fines

ranging from 100.000 to 3.000.000 RSD for a legal person – in our case the media, as a user – and between 50.000 and 200.000 RSD for the responsible person in the media. The latter, depending on the circumstances, could be the Director or Editor in charge for making the programming timetables containing data about broadcast musical author works, phonograms and interpretations.

V THE DIGITALIZATION PROCESS

Although the Strategy for the Transition from Analog to Digital Radio and Television Broadcasting in the Republic of Serbia has set April 4, 2012 as the date of the total switchover to digital terrestrial television broadcasting in Serbia, which means that there is less than 18 months until the switchover is complete, most obligations provided for by the Action Plan accompanying the Strategy are still behind schedule. We remind that the defining of rights and obligations of commercial broadcasters in the digital switchover process – with the respect of the rights those broadcasters enjoy under the licenses expiring after the deadline for the switch-off of the analog signal, namely the adoption of the Rules for switchover to digital radio and television broadcasting and access to multiplex in terrestrial digital broadcasting – was to take place in the second quarter of 2010. In the meantime, although that time limit expired, the public hasn't even seen the draft of these Rules. The fourth quarter of 2010 was expected to see the issuance of decisions on amendments to the existing analog licenses, but these developments are also delayed. During the summer, the Ministry of Telecommunications and Information Society announced several times that the Faculty of Electrical Engineering in Belgrade was working on a conceptual design of a distribution network, which was to be completed by mid-August. This was already behind of schedule relative to the Action Plan, which provided the completion of the conceptual design in the first quarter of 2010. Judging from publicly available information, the said design wasn't completed by the end of October. The Ministry of Telecommunications and Information Society had also announced that the drawing up of media plan for the promotion of digital television had been started. That media plan was supposed to be finished in September, but by the end of October, the public was yet to see any sign of it. These are only some of the activities that are seriously delayed. What particularly concerns the media is the fact that the obligations of commercial broadcasters in the digitalization process remain undefined, which means that media owners are unable to plan their operations, even in the short term.

VI THE PRIVATIZATION PROCESS

According to the information obtained from the Privatization Agency, the auction scheduled for October 29 for the sale of the public information media Radio Televizija Indjija was declared unsuccessful. The initial price on the auction was set at 3.361.000 RSD. The Agency announced a new auction to be held on December 10, as well as a new initial price of 2.263.000.00 RSD. We remind that Radio Televizija Indjija was one of the eight public companies included in the Report of the Executive Council of the Autonomous Province of Vojvodina tabled in September 2007 to the State Administration and Local Self-Government Ministry. In that Report, the Vojvodina Executive Council called the Government of the Republic of Serbia to suspend the privatization process of the municipal media in Srbobran, Novi Becej, Bela Crkva, Indjija, Pancevo, Kikinda, Subotica and Stara Pazova, which are broadcasting in the languages of ethnic minorities. On a session held on December 27, 2007, the Government of the Republic of Serbia – pursuant to the said initiative – adopted a decision to suspend the privatization of radio and television stations and other electronic media broadcasting in the languages of ethnic minorities. Two days later, the Parliament adopted the Law on Local Self-Government, which enabled the municipalities to establish television and radio stations for the purpose of reporting in the languages of ethnic minorities officially used in the given municipality, as well as for reporting in the languages of ethnic minorities not in official use, when such use represents the attained level of minority rights. Both the report of the Government of the Republic of Serbia and the Law on Local Self-Government adopted after that report, as well as the Law on the Capital City adopted the same day, have practically led to the suspension of all privatizations in a period exceeding one year.

VII CONCLUSION

October has seen several drastic cases of physical assaults on journalists, one of which, to make things worse, was perpetrated by the police during the riots of the opponents of the Gay Pride March on October 10 in Belgrade. There were also new threats that had increased the number of reporters in Serbia put under direct police protection, since their lives were at risk. On the other hand, there is no information as to whether the police officers that took part in the beating of “Danas” reporter Aleksandar Roknic have been subject to at least disciplinary action. Similarly, it remains unknown if any charges have been pressed against the attackers on “Kurir”’s reporter Oliver Nikolic and his associates in the village of Mihajlovac near Smederevo. The putting under police protection of B92 correspondent from

Zajecar Sonja Kamenkovic, who was threatened by a suspended police officer from Majdanpek, is perhaps a sign that law enforcement authorities are taking threats against journalists seriously this time. On the other hand, the fact that other reporters, such as for example Vladimir Mitric, the correspondent of “Vecernje Novosti” from Loznica, who has been under police protection for more than three years – during which time the people who ordered the attack against him were never identified – or Brankica Stankovic, who has been under police guard for ten months, can hardly serve as consolation to anyone. The same is true for the case of the person indicted for threatening the Stankovic’s security showing up in a talk show of a public service broadcaster as a relevant collocutor in the company of members of parliament, as well as for the fact that police protection makes the job of the protected reporters difficult. The month of October has also seen a drastic misuse of freedom of expression, with an unprecedented violation of privacy and illicit release of information about criminal proceedings against a juvenile person, with the purpose of suppressing the strike of the Trade Union of the Serbian Judiciary. The extent to which the journalist profession, as well as the judiciary, have been downgraded in Serbia, is well illustrated by the fact that someone in the judiciary is prepared to leak confidential information to the media in order to smear a trade union leader and the members of her family, as well as the fact that the media are willing to publish such information, in breach of all ethical and professional standards. The Penal Code also seems to make life difficult for journalists, by providing for a penalty of up to two years for such acts. The public is also waiting for the Draft Media Strategy announced for early November by Culture Minister Nebojsa Bradic, hoping that it will point to possible directions for the development of Serbian media and mechanisms for the protection thereof from similar attacks. It remains to be seen if the Strategy will help achieving those goals.