

## **I FREEDOM OF EXPRESSION**

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

### **1. Threats and pressures**

1.1. In the night between December 10 and 11, 2010, unidentified perpetrators broke the glass on the entrance door to the apartment building in the Novi Sad district of Liman, where Editor of the crime column of the daily newspaper “Nacionalni gradjanski list” and correspondent of the daily “Alo” from Novi Sad Nikola Travica is residing. Although they were immediately alerted, the police came only an hour after the incident. Travica says he does not know if the incident is related to his journalist work. Meanwhile, the media have learned “off the record” from police sources that the perpetrators rang on the intercoms of other tenants too, but nobody opened the door. The Independent Journalists’ Association of Vojvodina (NDNV) requested from the authorities to find the perpetrators of the attack on Travica’s apartment building. “We want to remove every doubt over the potential connection of last night’s attack with Travica’s work and therefore we call on the authorities to shed light on the background of this case”, NDNV’s press release said.

In the situation where many attacks on journalists remain unsolved, acts of violence such as the one in Novi Sad, even if they do not involve serious consequences, fuel the insecurity of media professionals. Although it is possible that Travica was not the target of the attack, the slow reaction of the police – which were alerted by a person for which they must have known to be potentially in danger, as the editor of crime column, due to the texts he writes or because of the reports published in the newspaper he works for – is of particular concern. In that sense, the NDNV’s press release is justified. At the same time, it is imperative to remove all doubt as to whether the incident is related to someone’s journalist work, as the precondition for creating a more favorable environment for journalists, free of self-censorship and fear for personal safety.

1.2. On the evening of December 16, 2010, Branko Zivkovic, a journalist and a longstanding activist of the Helsinki Committee for Human Rights in Serbia (HCHR), was attacked in Belgrade while walking his dog. He suffered serious injuries from a blow on the head by an

unknown assailant. Zivkovic was administered an injection against Tetanus in the hospital and advised to rest for a week. He suffers from amnesia and doesn't remember the circumstances of the incident. Zivkovic, who is also the administrator of the web portal of the HCHR in Serbia, was the target of a similar attack a month ago, which he managed to escape, although he was threatened and insulted. That case was reported to the police, which arrested the attacker shortly and pressed charges with the competent prosecutor. The HCHR in Serbia issued a press release condemning the attack against Zivkovic, saying it was related to the journalist's criticism in his texts about the situation in Sandzak.

Amendments to the Penal Code from 2009 introduced tougher sanctions, namely a prison sentence ranging from one to eight years, for threats against the safety of persons occupying jobs of public interest in the field of information, related to the job of these persons. In relation to the previous attempted attack against Zivkovic, accompanied by threats of beating up and murder, the media had reported that the attacker was apprehended and that the police had filed charges with the competent prosecutor. The media, however, did not report the details of the charges pressed against the attacker. If it is proven that the threats made against Zivkovic are genuinely related to his journalist work, namely, as defined in the Penal Code, related to jobs of public interest in the field of information, the perpetrator could be found guilty of the qualified criminal offense of threats against security, pursuant to the above mentioned Amendments to the Penal Code introduced in 2009. As for the second attack, the attackers in similar cases in the past have typically been sentenced for violent behavior. For the said qualified form of violent behavior, where minor bodily harm or sever humiliation is involved, the Penal Code provides for a prison sentence ranging from six months to five years. However, Serbian courts have typically sentenced the perpetrators of this qualified offense to penalties below the legal minimum.

1.3. In its edition for December 26, the daily newspaper Pravda reported that their correspondent from Pozarevac Momcilo Veljkovic had been attacked while interviewing the President of the Democratic Party (DS) City Committee in Pozarevac. Veljkovic said that he had seen the Mayor Miodrag Milosavljevic in the café "Sansa" and approached him to take a statement about internal elections for local functions of the DS. Milosavljevic invited Veljkovic to join him on the first floor of the café, where he was sitting with other local leaders from the DS. While interviewing the President of the City Committee and Member of Parliament Zarko Pivac, Veljkovic was grabbed by the collar of his jacket by the owner of the café Zoran Petrovic. Petrovic pushed Veljkovic outside of the café shouting insults and threats at him, as ascertained in the police report. Pravda claims that the incident was witnessed by the Mayor of Pozarevac

Miodrag Milosavljevic, the Head of the Branicevo District Goran S. Petrovic, MP Zarko Pivac and the Director of the Water Management Company in Pozarevac Nenad Ratic. The spokesperson for the Police Department in Pozarevac Jasmina Tisma confirmed that the police interrogated Zoran Petrovic and that, after interviewing the remaining witnesses, it would forward the report to the competent Prosecutor.

We will not speculate here as to whether the Prosecutor's Office will infer from the report of the Pozarevac Police Department the existence of reasonable doubt that a criminal offense prosecuted ex officio has been committed in the above case and consequently, if the Police Department will press charges. However, the above case illustrates the life and work of the journalists in Serbia, especially outside of Belgrade. Momcilo Veljkovic was thrown out of a café in Pozarevac – even if the bully in this case was the owner of the café himself – in the presence of high local and state officials, the Mayor, the Head of the District and a member of parliament, who reportedly did not oppose the violent act in any manner whatsoever. At that, the fact that Veljkovic was interviewing these officials about matters of relevance for the public (internal elections of the ruling party on both the national and local level) is an indicator of the hostile environment in which the safety of journalists and the activities of the media are seriously compromised. The Public Information Law is perfectly clear as to incidents like the one described above: it is forbidden to directly or indirectly restrict the freedom of public information by abusing private powers or rights or in any other means suitable to restrict the free flow of ideas, information and opinions. The Law also prohibits putting physical or other pressure or influence on public media and journalists with the aim of obstructing their work.

## **2. Legal Proceedings**

2.1. The Higher Court in Belgrade has passed a first-instance verdict in the private libel case of singer Svetlana Raznatovic and her children Veljko and Anastasija against the daily newspaper Press and its Chief Editor at the time when the controversial reports were published, Dragan Vucicevic. The court ruled that the plaintiffs shall be paid the amount of two million dinars for “mental anguish and tarnished honor and reputation”. Press’ attorneys have announced they would appeal the verdict and said that the amount of the damages was not consistent with the practice of the court in similar cases. Press was namely sued over the interview with Radmilo Bogdanovic, who was police minister at the time of Slobodan Milosevic. In this interview, which was originally released by the weekly NIN and parts of which were

published by Press, Bogdanovic spoke about the assassination of Ceca's husband Zeljko Raznatovic Arkan. On March 18, NIN published the interview and asked Bogdanovic about his opinion on Arkan's murder. The former police minister said that "many things seemed peculiar to me as of day one and I told the police officers that they should investigate why Ceca went shopping with her sister to the boutique in the Intercontinental Hotel where the murder took place, while Arkan remained in front of the reception desk to wait for her". Radmilovic's words were conveyed the day after by Press in a text entitled "Ceca behind Arkan's Murder?" After NIN released the interview, Bogdanovic denied he had stated anything like that. In her lawsuit against Press, Ceca requested a mind-boggling 30 million dinars in damages.

Reporting back in April 2010 about this libel case, we pointed out to the following. Firstly, it is absolutely indisputable that excessively high damage claims, even before they are approved, may lead to self-censorship, which is fatal for freedom of expression. Secondly, it is also indisputable that, according to applicable Serbian legislation, Svetlana Raznatovic was in the concrete case entitled to chose whether she would press charges against either the person who had made the controversial statement, the outlet that had initially published that statement, a third party that had later conveyed the same statement or all of the said parties altogether. We also indicated that the positions and practice of Serbian courts regarding the damages awarded for mental anguish and tarnished reputation were not supportive of such high claims and that not a single actual case had ever involved such a high amount of damages claimed. The fact is, however, that the present claim, as sustained by the verdict of first instance, i.e. in the amount that is fifteen times lower than initially requested one, remains much higher than the ones typically awarded by Serbian courts. The latter especially in light of the fact that, pursuant to the Public Information Law, the responsible editor and the founder and/or publisher of the public media, shall be held accountable only if they have been able, prior to releasing the information in question and with reasonable care, to determine the inaccuracy or incompleteness thereof. In the article defining the term "reasonable journalist care", the Public Information Law expressly states that reasonable journalist care involves that information – if conveyed from another public media – shall be conveyed accompanied by a reference to the media from which it has been passed on. Since the explanation of the verdict has not been released, it is difficult to guess why the court decided to award two million dinar in damages. In the case of Raznatovic vs. Press, it should be indisputable that the controversial statement, regardless of the fact that it was later denied, has been faithfully transmitted from a reputed political weekly, which has never been sued for its initial release. It is also undeniable, on the other hand, that such a decision, even in

first instance, may further strengthen self-censorship, even in cases where already released information are conveyed from respectable sources.

2.2. The Supreme Court of Cassation of Serbia for the City of Pozarevac ordered the local publishing company “Rec naroda” (*the People’s Say*) and its former Director Ilija Dimitrijevic and Editor Sinisa Ristic to pay Momcilo Veljkovic damages in the amount of 100.000 dinars for tarnished honor and reputation and mental suffering, the daily Danas has reported. The plaintiff Momcilo Veljkovic is the same Veljkovic who is, in the capacity of correspondent of the daily Pravda from Pozarevac, mentioned in the part of this Report concerning threats and pressures and who was attacked while interviewing local officials of the Democratic Party. The verdict of the Supreme Court of Cassation was delivered in the civil case of Veljkovic against the director and editor of the local weekly “Rec naroda” and the Municipality of Pozarevac, as the founder of the said weekly. Veljkovic has sued the latter over a series of articles in the weekly in July 2007, in which the Editor-in-Chief Ilija Dimitrijevic smeared Momcilo Veljkovic, as the Coordinator of the organization “Otpor” (*Resistance*) in Pozarevac and his late brother, journalist Mile Veljkovic. In earlier rulings in the same case, which were now scrapped by the Supreme Court of Cassation, the defendants were acquitted, while Veljkovic was ordered to pay them 450.000 dinars of court costs.

What makes this case specific is the fact that prior to the passing of the now scrapped rulings, the court sentenced Dimitrijevic in criminal proceedings for libel and fined him 20.000 dinars. On the other hand, the courts in the litigation for damages have ruled that Veljkovic has already obtained satisfaction in criminal proceedings. Namely, the Law on Contractual Relations, which contains general rules on damages, says that damages may be awarded for mental suffering due to tarnished reputation, honor or violated personal rights, if the court finds that the circumstances of the case and especially the intensity of the suffering and the duration thereof, justify such damages. Furthermore, the Law expressly says that, in case of violation of personal rights, the court may order the verdict or correction to be published at the expense of the defendant or order the defendant to withdraw the libelous statement or perform any other act in order to achieve the purpose attained by the damages. Unfortunately, such rulings are rare in practice and Serbian courts typically opt for financial damages for mental suffering. In that sense, the decision concluding that the plaintiff had already obtained satisfaction in criminal proceedings, in which the defendants were found guilty, was an exception. Another element making this example specific is the fact that, contrary to most cases, in which journalists typically find themselves better off in libel proceedings than in litigation for damages, in this

instance the editor was quickly criminally indicted, while the verdict ordering him to pay damages was pronounced only by the Supreme Court of Cassation.

2.3. The Director of RTV Vranje Zoran Velickovic has pressed criminal charges with the Municipal Prosecutor against NUNS' Commissioner for the Peinja District Radoman Iric, over the press release issued by Iric related to Veljkovic's decision to ban a film about the Serbian democratic revolution on October 5, 2000. In Iric's press release issued in his capacity of NUNS Commissioner, more than thirty journalists extended their support to the Editor in Chief of RTV Vranje Ljubica Zdravkovic Dzonov. The media reported that the police in Vranje contacted several signatories of the statement of support to the editor in order to check the authenticity of their signatures.

We remind that on October 5, 2010, Velickovic removed the documentary about October 5, 2000 of author Predrag Bambic from the programming list, on his own initiative, in breach of his powers and without the consent of the editor-in-chief. Dzonov informed the local self-government and NUNS about the incident. "I am responsible for the program aired on RTV Vranje, and I insist on respecting the rules. Although I had scheduled Bambic's film the day before, to be aired on October 5 at 9 p.m., it was not aired at the request of the Director", Dzonov said. She explained that the documentary was not made using RTV Vranje's footage, because the station did not keep any material of the events on October 5 in Kraljevo ten years ago. Velickovic said that "the documentary about October 5 was removed from the programming because RTV Vranje, as regional station, exclusively leaned out on its own production in its programming grid. At the same time, the events of October 5, 2000 were already elaborated on in the station's news program". The charges pressed against NUNS' Commissioner for the Peinja District are reminiscent of the ill fate of local public media and the fallout of local political rows on their management and editorial policy. In the concrete case in Vranje, the Director Zoran Velickovic is, according to media reports, a member of the Socialist Party of Serbia, while the Editor Ljubica Zdravkovic Dzonov is affiliated with the Democratic Party. The two political parties are currently coalition partners, while on October 5, 2000, they were on the opposite sides of the barricades. What is also indicative in this case is the politically appointed managers' poor knowledge of local public media as to the legal framework they are operating in. Velickovic, for example, claims that the documentary was removed because his station is relying solely on its own production, which argument is contrary to the provision of the Broadcasting Law, obliging public media to open their airwaves to independent production and even prescribing certain quotas for that.

2.4. On December 17, 2010, the daily Dnevnik reported that the Higher Court in Zrenjanin had rejected the claim of Dusko Markovic from Zrenjanin, filed by this unemployed heating and air conditioning installer and small dog breeder, against the newspaper “Zrenjanin” and its Director and Editor-in-Chief Dalibor Bubnjevic. Markovic claimed 300.000 dinars in damages for mental suffering caused by the text “Predrag Stiklica Murdered with a Gun”, published in the regional weekly on February 19. In his claim, Markovic stated that the allegation in the text, claiming the incident in which Stiklica was killed and Markovic himself wounded, had been the result of a prior conflict between Goran Dragic and the group including the late Stiklica and the plaintiff, was untrue.

We remind that in our report for October 2010 we have mentioned the decision of the Appellate Court in Novi Sad sustaining the verdict of first instance of the Higher Court in Zrenjanin, ordering the publishing company NIP “Zrenjanin”, as the publisher of the regional weekly “Zrenjanin”, as well as the weekly’s Chief Editor Dalibor Bubnjevic, to pay a fine of 300.000 dinars, as well as to bear the court costs, for having caused mental suffering and violation of personal rights to the wife and children of the late Predrag Stiklica from Zrenjanin. Stiklica’s wife and children sued the weekly over a part of the same text dated October 19, which claimed that the violent death of their husband and father represented a continuation of the showdown between criminal groups that were racketeering taxi drivers in Zrenjanin. In the meantime, in its verdict of first instance against Djordje Blazic from Zrenjanin, sentenced to 35 years in prison for the murder of Stiklica, the Higher Court in Zrenjanin confirmed the allegations from the controversial text in the weekly “Zrenjanin”. In these proceedings, Dnevnik reported, Goran Dragic was found to have brandished a gun in front of his house on Nenad Velisaljev, Dusko Markovic, Dragan Zdravkovic and Predrag Stiklica. Dragic later met with Djordje Blazic and told him that the four men had threatened to kill him. Blazic, who had an old grudge with Dragan Zdravkovic, drove his car near Stiklica’s house, where a car with Zdravkovic, Markovic and Stiklica was parked. Blazic fired several shots at them, wounding Markovic and killing Stiklica on the spot.