

II MONITORING OF THE IMPLEMENTATION OF EXISTING LAWS

1. Public Information Law

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

1.2. On Saturday, March 26, 2011, the media reported that the founder of the newspapers “Kurir” and “Glas javnosti” Radisav Rodic has reached a plea bargain agreement with the High Prosecutor’s Office in Belgrade and that, if the court accepted this agreement, Rodic would not stand trial. Instead, he will be sentenced to two years in prison. According to the said plea bargain agreement, Rodic is also supposed to be banned from exercising his profession and duties in the duration of six years. Rodic has been charged for abuse of office, since he has used false documents to raise a bank loan in the amount of 22 million dinars, which he has not repaid. Rodic has been in custody since his arrest on October 27, 2009. At the beginning of the trial in December last year, Rodic claimed he was innocent. He also said that, as the owner of daily newspaper and someone who had the influence on shaping editorial policy, he resisted the pressure of certain politicians and tycoons who did not want the media to dissect their actions on the public scene.

We remind that, after the adoption of the Law on Amendments to the Public Information Law on August 31, 2009 – most of which provisions were later declared by the Constitutional Court, in a decision from July 22, 2010, to be in breach of the Constitution and ratified international treaties – one could have heard that the reason for passing such a law was in fact an attempted crackdown by the government against Rodic and his newspapers. Namely, the complex ownership structure and interrelations of Rodic’s companies, blocked accounts of affiliate companies due to claims of mother companies and frequent transfers of founder’s rights from one company to another, made it impossible to collect the claims under final court verdicts against Rodic’s newspapers, in cases where plaintiffs were suing them over controversial texts. Paradoxically, the amended Public Information Law was ultimately not used against Rodic, while he reaches a plea bargain agreement with the Prosecutor in the aforementioned case of the loan obtained using false documents. Certain experts said, at the time when the controversial law was adopted, that the problem had arisen when Rodic’s affiliate companies started blocking each other’s accounts in order to evade their due liabilities as ordered by the court. In these experts’ opinion, this issue could have been solved by simply enforcing the existing criminal legislation pertaining to protection of creditors. However, expert advice concerning this matter fell to deaf ears and the restrictive Law on

Amendments to the Public Information Law was ultimately adopted. Such restrictive legislation, even though the Constitutional Court decision subsequently revoked most of its provisions, undoubtedly contribute to the growth of self-censorship in Serbian media.

2. Broadcasting Law

2.1. On March 9, 2011, the Council of the Republic Broadcasting Agency (RBA) passed a Binding instruction on the conduct of broadcasters regarding reality shows. The Instruction was published in the Official Gazette of the Republic of Serbia no. 17/2011 and entered into force on March 23. It prohibits live broadcast of reality shows. The official explanation for the ban was the need to consistently enforce the Broadcasting Law and the General Binding Instruction on Broadcasters' Conduct (Broadcasters' Code of Conduct).

The Binding instruction banning live broadcasts of reality shows is a direct consequence of the incidents in such program we have written about in earlier reports, which culminated with anti-Semitic outbursts in the live transmission of the reality program "The Court" on Pink television in the night between February 24 and 25. Under the Broadcasting Law, the binding instruction is one of the mechanisms that the Agency may use in order to effectively enforce broadcasting policies. Under the Law, the RBA may pass a binding instruction if, in relation to a particular matter concerning the content of a program, it has established that the broadcasters are behaving inconsistently, whereas some types of behavior may be considered disallowed. In the concrete case, this formal requirement is allowed. Against the backdrop of a public appalled by the content of certain reality shows, such decision by the RBA has not been examined from the aspect of its proportionality of the restriction of freedom of expression in order to protect decency on one side and the protection of rights of other persons on the other. However, as we have pointed out repeatedly in these reports, the RBA failed to pass a regulation that would clearly classify the programs. In that sense, at least, the enforcement of the binding instruction banning live transmissions of an entire television genre, which remains undefined by the RBA, could lead to many problems and dilemmas in practice.

3. Law on Free Access to Information of Public Importance; Law on Personal Data Protection

3.1. Commissioner for Information of Public Importance and Personal Data Protection submitted to the National Assembly of the Republic of Serbia the Report on Implementation

of the Law on Free Access to Information of Public Importance and the Law on Personal Data Protection in 2010.

In this period, increasingly intensive addressing to the Commissioner by the citizens on account of protection of their rights has been recorded, 55 % percent more than it was in the previous year only in the field of access to information, namely seven and a half times more than in 2005. In this report is, however, ascertained that, when it comes to personal data protection, the situation in Serbia is far from satisfactory and that therefore relation of society and state toward privacy, especially toward personal data protection, must radically change.