

I FREEDOM OF EXPRESSION

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

1. Threats and pressures

1.1. The inspectors of the internal control department of the Ministry of Interior, in charge of shedding light on the circumstances in which posters with obituaries for TV B92 were plastered around Lazarevac, have been present in that town's police station, the daily Politika reports. Politika has learned that the inspectors are looking for answers in relation to a letter sent by a group of anonymous police officers to the Head of the Belgrade Police. The letter said that "the top brass of the Lazarevac police know who was behind the obituaries and they want to cover up the whole thing", because they were personally involved in the embezzlement reported about by TV B92. We remind that the obituaries were put up after B92 aired the series "Insider" dedicated to the fraud in the Kolubara mining basin. The Lazarevac police announced as early as back in February that they possessed clues as to who was behind the obituaries, which were taken as a threat to the authors of "Insider" and the editor-in-chief of TVB92. The anonymous letter of Lazarevac police officers to the Head of the Belgrade police, which had leaked to the media, named a police officer who had seen Nenad Pavlovic, nicknamed Neks, the driver of Dragan Tomic, the former Manager of Kolubara, among the persons who were plastering the obituaries for B92. The letter also alleged that Nenad Pavlovic was a close friend of the Head of the Lazarevac police Milan Stefanovic. Several days later, on April 9, the media reported the arrest of Pavlovic, under suspicion of having organized the plastering of obituaries. The police announced they had arrested three of the four young men who were believed to have been given the obituaries by Pavlovic in order to plaster them around in Lazarevac. Their fourth accomplice is still on the run. The police are also investigating where the posters with the obituaries have been printed.

According to the Public Information Law, public information shall be free and in the interest of the citizens. It is prohibited to restrict in any way freedom of public information so as to restrict the free flow of ideas, information and opinions. The Law expressly provides that it shall be prohibited to put any kind of pressure on a public media and its personnel, as well as to exercise any kind of influence so as to obstruct them in doing their job. In our report for the period January-February 2011, we wrote that putting the names of reporters and editors on obituaries such as those in Lazarevac may amount to endangering the security of a person by making threats against that person's life. Threats against the security of journalists, in

relation to their job, is provided for by the Penal Code of the Republic of Serbia as a criminal offense subject to between one and eight years of imprisonment. A major concern, however, is the information that, at least in view of the anonymous letter of a group of police officers from Lazarevac, there are groups within the police force that protect persons threatening journalists. The authenticity of the claims from the anonymous letter was further strengthened by the fact that, after the report about the letter on TVB92 and the internal control of the Serbian Ministry of Internal Affairs (the internal control was reported about by the daily Politika), the police arrested Nenad Pavlovic, who was, as said in the letter, one of the persons involved in the threats to journalists. In the last few months, the police crackdown on persons responsible for threatening and attacking journalists created the impression that the mechanism providing for such protection typically comes to a halt when the cases are to be prosecuted in court. The case in Lazarevac has demonstrated the fragility of the system of journalist protection in Serbia, as well as to what extent the attempts to bring to justice the perpetrators of threats and attacks against journalists are being obstructed left and right. It is also indicative that after Nenad Pavlovic's arrest, the police failed to say if his apprehension had confirmed the existence of a cover-up in Lazarevac and whether anyone had been subject to disciplinary or other proceedings.

1.2. Director of the Public Roads Company in Gornji Milanovac Jovica Carevic has threatened Zivko Perisic and Milorad Bosnjak, the correspondents of the Beta news agency and the daily Vecernje Novosti, over questions these media have asked in relation to the 560 thousand RSD for damages worth claim made by Carevic's son against the said company. Carevic's son Marko Carevic has filed a lawsuit against the Public Roads Company over a road accident that took place on January 4, 2000. Marko Carevic believes that the company, in which his father is the Director, is responsible for the damage he has suffered due to inadequate maintenance of the local road. Asked by Perisic and Bosnjak if he would resign if it was established that his son was right, Carevic yelled at the two journalists "to leave his family alone" and told them "to be careful what they do, or else", threatening with vengeance. Jovica Carevic is also the Chairman of the Municipal Board of the Socialist Party of Serbia in Gornji Milanovac. On April 8, the media reported that the President of the Municipality of Gornji Milanovac, Milisav Mirkovic, had publicly apologized to the journalists. "I apologize on behalf of all councilors to journalists Milorad Bosnjak and Zivko Perisic, who have been doing their jobs excellently and I invite Carevic to do the same", Mirkovic said in front of the councilors. Jovica Carevic took the stage, but refused to admit he had threatened the journalists. "I apologize if they really took it that way", he said.

According to the Public Information Law, public information shall be free and in the interest of the citizens. It is prohibited to restrict in any way freedom of public information so as to

restrict the free flow of ideas, information and opinions. The Law expressly provides that it shall be prohibited to put any kind of pressure on a public media and its personnel, as well as exercise any kind of influence so as to obstruct them in doing their job. The latter should especially pertain to state officials, political party officials, as well as appointed persons in government authorities and public companies and institutions. The journalists threatened by Carevic ultimately commended apology of the President of the Municipality of Gornji Milanovac, which has, as the founder of the Public Roads Company, appointed Carevic to his position, calling the said apology “a victory of democracy”.

1.3. On April 15, Szögi Csaba, journalist and associate of the youth bulletin „Kepeš ifjušag“ in the daily Magyar So, was attacked and beaten up after a debate organized with the readers, held on the final evening of the art competition for secondary school students in Becej. Csaba was attacked by three or four attackers who kicked him and punched him in the head, after which they ran away. He was taken to the hospital for medical treatment. In the words of the victim, the perpetrators have probably plotted their attack in advance. Namely, in late February, an extremist right-wing internet portal in Hungarian language posted a series of degrading texts about journalism in Vojvodina, slandering first Szögi Csaba and then the publicist Szabó Palócz Attila. In the part dedicated to Csaba, excerpts from his texts, as well as from his Facebook profile were posted. While beating him up, the attackers quoted a phrase that was published there. The Independent Journalists’ Association of Serbia (NUNS) and the Independent Journalists’ Association of Vojvodina (NDNV) condemned the attack on Szögi Csaba and expressed concern over the possible involvement of extremist organizations, which are increasingly threatening the security of journalists. NUNS and NDNV informed the Director of the Police Milorad Veljovic about the incident, as well as all competent state authorities, calling them to take all necessary measures in order to shed light on this attack as soon as possible.

In previous cases of similar attacks against reporters, the attackers who had been apprehended were typically prosecuted for violent behavior. That criminal offense, when committed as part of a group or when the victim has suffered a minor bodily injury or serious humiliation, entails a prison sentence of between six months and five years, according to the Penal Code. However, in determining the penalties, courts have often opted for sentences below the legal minimum. For example, in the famous case we have referred to in our previous reports – the attack on Vreme’s columnist Teofil Pancic – the attackers were sentenced to 3.5 months in prison each. We also want to point out to yet another illogical concept in Serbia’s penal policy. Namely, in line with the Amendments to the Penal Code from 2009, stricter penalties for threats against the security and minor bodily harm inflicted to journalists were introduced. However, the penalties for violent behavior remained the

same and hence we now have an utterly irrational situation, where a person making a serious threat against a journalist may be condemned to 1 to 8 years in prison, while in the situation where this threat is materialized but without resulting in a serious bodily injury, the penalty provided for by the Law is lower – from six months to five years. This paradoxically means that the attackers on Szögi Csaba, if established that they are the same persons as those who have threatened him on the Internet, could be more severely punished for the threat itself than for the realization of that threat in the form of the physical attacked that subsequently took place.

2. Legal proceedings

2.1. Under the enforceable decision of the Appellate Court in Belgrade, the daily Danas is required to pay damages in the amount of 600.000 RSD, along with default interest since November 24, 2009, as well as court costs in the amount of 138.500 RSD, to three police officers from Pozarevac, over texts published in the dailies Kurir and Glas Javnosti, as well as in the supplement to Danas – Branicevo, which have been determined to have tarnished their reputation. The author of the texts Dusanka Novkovic from Pozarevac was also one of the defendants in this case. Danas claims that the amount of the damages, including the interest, has reached 942.000 RSD and that the plaintiffs – since the Court ruled that Kurir, Glas javnosti, Danas and the journalist Dusanka Novkovic should pay in solidarity – have decided to collect the damages from Danas. “This is the continuation of the scandalous practice of the courts towards our newspaper,” the Editor-in-Chief of Danas Zoran Panovic said. The President of the Journalists’ Association of Serbia Ljiljana Smajlovic said that the best paper among the defendants had fared the worst. The Independent Journalists’ Association of Serbia urged in a press release the competent state institutions to stop with the practice of shared liability of the media, which had, in the case of Danas, put the survival of that paper in jeopardy. The former President of the Constitutional Court Slobodan Vucetic told Danas that it was completely absurd for the law to provide for the possibility of one media paying damages for texts previously written by other newspapers, as well as for the author of these texts. “At the same time, this should incite all media professionals to launch an initiative for amending the controversial provisions as soon as possible, in order to avoid such situations”, Vucetic told Danas.

In the concrete case, Danas published the text by Dusanka Novkovic from Pozarevac in its supplement, which was published several days earlier by Kurir and Glas javnosti. In the meantime, Glas javnosti has ceased to be published, while its publishing company has been deleted from the register. Also deleted from register was Kurir-net, the company that was

publishing the daily Kurir in the relevant period. Hence, the plaintiff was forced to opt for collecting the damages from one of the three remaining existing publishers. However, one may ask on what grounds has the Court ruled that the three newspapers must be liable in solidarity? According to the Public Information Law, shared liability exists only within the same newspaper, namely only for the editor-in-chief, the journalist who is the author of the information and the publisher of the paper that transmitted that information, and not for several publishers mutually. Such shared liability between several publishers could only stem from general provisions of the Law on Contractual Relations. Under those provisions, for the same damage caused jointly by several persons, while acting independently ones from the others, those persons may be held liable in solidarity, but only if the exact individual shares of each of those persons of the blame for causing the damage may not be determined. In the concrete case, however, the share of the responsibility could have been determined by, for example, pondering the time of release or the number of copies released for each particular newspaper. In the case of Danas, the Court disregarded these factors. From the explanation of the verdict, which was passed back in November last year, it may be concluded that in the concrete case the Law on Contractual Relations had not been implemented, but rather the Public Information Law, which we believe is wrong. Unfortunately, it was a second-instance verdict that was not subject to the usual remedies. From the information that may have been heard in the public related to this case, we were unable to establish whether Danas had used any extraordinary remedy. As it appears, this case might be indicative of the fact that the media often fail to use all remedies at their disposal in order to protect their interests and that it is necessary to work not only on strengthening the capacities of the courts to rule on media cases, but also on boosting the capacity of legal assistance utilized by the media in legal proceedings.

2.2. On the occasion of the anniversaries of the death of journalist Dada Vujasinovic, who was found dead in her apartment in Novi Beograd on April 9, 1994, as well as of the assassination of Slavko Curuvija, the owner of the daily “Dnevni telegraf” and weekly “Evropljanin”, who was also gunned down in Belgrade, on April 11, 1999, the daily Politika published several texts about the developments in pre-trial proceedings. In the text about the Vujasinovic case, Politika interviewed the Republic Public Prosecutor Zagorka Dolovac, who said that the case had finally been reclassified from suicide to homicide and that the old witnesses have been re-interrogated and new ones interviewed. Dolovac also said that the records of the case are being examined by the members of the court medical commission from Novi Sad, the findings of which are expected to be released soon. In spite of mentioning that she was not allowed to speak in detail in this phase of the proceedings, Dolovac said it was indicative that the witnesses had never been asked by the police about what the late Dada wrote about in the eve of her death, if she was receiving threats or who she was seeing at the

time. On the contrary, they were interrogated about if she was seeing a psychiatrist. In the text about the Curuvija assassination, Politika wrote that members of the Zemun criminal gang Milos Simovic and his brother Aleksandar had been interrogated in the scope of the pre-trial proceedings. Politika reminded that after last year's arrest of Milos Simovic, the media reported that Simovic tried to bargain in the information about Curuvija's murder in return for the status of protected witness. The same reports said Simovic told the deputy president of the Special Prosecutor that he knew the name of Curuvija's killer and that he was introduced to this person by Milorad Ulemek, the former commander of the Special Operations Unit of the Serbian Police, who is serving a prison sentence for his role in the assassination of the late Prime Minister Zoran Djindjic.

The unsolved murders of journalists Dada Vujasinovic and Slavko Curuvija, but also that of Milan Pantic, the correspondent of Vecernje Novosti who was killed in Jagodina on June 11, 2001, remain a burden for the Serbian media. Unfortunately, despite numerous assurances of the authorities that these cases will be solved and occasional information pointing to progress in the investigations (which typically surfaces at the time of the anniversaries of these killings), the proceedings remain in pre-trial phase and charges are yet to be pressed. These cases remain a test of the resolve of each successive government in Serbia in the last decade, not only to reform the legislative framework in order to protect freedom of expression more effectively, but also to bring to justice the persons responsible for the most heinous crimes against journalists in the past, the goal being to reestablish trust between the government and the media. The Serbian media are still waiting for a government that will successfully pass the aforementioned test.

2.3. The Primary Prosecutor's Office in Sombor rejected the criminal charges pressed by the reporter of Vecernje Novosti Branka Baletic and her colleague from Blic Ranka Ivanoska, against the officials from Kula, over the incident we have reported about in our prior reports, when the two journalists were forcibly kicked out by private security guards from the session of the local council in Kula. The Prosecutor in Sombor found that the actions of officials from Kula did not amount to a criminal offence prosecuted ex officio and recommended Baletic and Ivanoska to press private criminal charges with the Primary Court in Sombor.

We remind that the incident happened when the journalists of Blic, Vecernje Novosti, Dnevnik and TV Kula were ejected from the session of the local council in Kula on February 16. Two of them were even taken to the police station. Most journalists were also barred from entering the following session on March 4. The formal reason provided is the Rules on ensuring publicity of the work on the sessions of the local council and working bodies of the

Municipality of Kula, which are considered restrictive by the journalists due to excessive formalities related to accreditation. In our earlier reports, we pointed out to the fact that the Public Information Law stipulated that state authorities and organizations, territorial autonomy bodies and local self-government bodies, public services and public companies, as well as members of parliament and councilor, ought to make information about their work accessible to the citizens and under equal conditions for all journalists and all public media. Obstructing such obligations by having Rules regulating the issue of journalist accreditations, is in contravention with the express provision of the Public Information Law, which stipulates in Article 8 that no provision of that Law may be interpreted and enforced so as to result in revoking a legally guaranteed right or restricting such right more than prescribed by Law. The fact that the Prosecutor in Sombor has rejected the criminal charges pressed against municipal officials, who have denied citizens the access to information about the activities of the local government by misusing technical regulations about accreditations, reveals the lack of robust and effective mechanisms for the protection of freedom of expression in the Serbian law.

2.4. In its edition on April 22, the daily “Alo!” reported that under the decision by the Court in Kragujevac, the said newspaper was required to pay Judge Dragan Lekovic damages for “mental suffering and tarnished reputation and honor” in the amount of 200.000 RSD. The paper particularly emphasized the unacceptable fact that the whole case had been handled by the same court where the plaintiff Lekovic was the judge, which brings into question the impartiality of the Court and the legitimacy of the verdict. The controversial text was related to a case from June 2009, when, according to the report of the Kragujevac police, Dragan Lekovic punched Ivan Riznic from Kragujevac in the face with a pistol grip. “We have requested that the judge be exempted from the case and we challenged the competence of the Court in Kragujevac, where Lekovic worked as a judge. However, our request was denied”, the attorney of “Alo!”, Dusan Stojkovic, said. In his words, “Alo!” was denied a fair trial. Lekovic, who has in the meantime been appointed to the Appellate Court, pressed charges against “Alo!” for having written that he had inflicted serious bodily harm to Riznic, claiming that the injury was a minor one. He also contested the title of the report “Look at how a Serbian judge beats a man up”. The police pressed criminal charges against Lekovic for having allegedly inflicted minor bodily harm to Riznic, thus committing the criminal offense of causing general danger. However, the Prosecutor in Kragujevac suspended the trial against him, after having determined the judge had acted in self-defense.

What is particularly interesting about this case is that it represents the continuation of a practice established in the Kragujevac judiciary back in 2008. Namely, the then District Court in that town did not refrain from prosecuting the weekly Svetlost, under the charges

filed by the judge of that same court Simonida Miloradovic. In that case too, the Court ignored the request to delegate the case to a court of law in some other city, in order to ensure the impartiality and neutrality of the proceedings. Irrespective of the fairness of the verdict in any of the above two cases, the mere fact that a party in the proceedings has been working for years in the court that is supposed to pass the verdict, undeniably compromises the impartiality of the court and the legitimacy of the verdict and hence this whole practice ought to be changed.