

I FREEDOM OF EXPRESSION

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

1. Threats and pressure

1.1. On Sunday, July 24, the leader of the Serbian Progressive Party (SNS), Tomislav Nikolic, in the interview for daily Press, told that if his party comes to power on the coming parliamentary elections, he will dismiss „that same evening“ Aleksandar Tijanic, the General Manager of the Serbian Public Service Broadcaster (RTS).

According to the Broadcasting Law, general managers of public service broadcasting institutions in the Republic of Serbia, including the Radio Television of Serbia as one of them, are appointed and dismissed by the Managing Board of the RTS, with a two-thirds majority of the total number of members. Under the said Law, the Managing Board has nine members appointed and dismissed by the Republic Broadcasting Agency (RBA) from the ranks of journalists and renown experts from the field of media, management, law and finances, and other prominent persons. Broadcasting Law stipulates that the members of the RBA Council are appointed and dismissed by the Serbian Parliament, in accordance with the conditions provided for by that Law. The members of the RBA Council are elected by the Parliament from the ranks of prominent individuals from the areas that are relevant for tasks from the RBA's competence, at the proposal of authorized proposers. Statements like the one made by Tomislav Nikolic – although the SNS leader has tried to justify it by his dissatisfaction with the quality and impartiality of the RTS program – are actually undermining the system of broadcasting regulation in Serbia and the legally established position of public service broadcasters. That system and that position are incompatible with the dismissal or appointment of political party personnel to positions in public service broadcasting institutions. On the other hand, the Public Information Law expressly forbids any forms of restrictions to freedom of public information, including by abuse of state powers, which powers Nikolic and his political party could acquire after the parliamentary elections, or in any other way that might restrict free flow of information, ideas and opinions. At the same time, the Law prohibits putting any other kind of pressure on public media and staff thereof, or influence that might hamper their work. In a period where media professionals, but also the public in Serbia, strive to establish certain rules of the game concerning the media through the adoption of the Media Strategy, which would guarantee genuine independence of public service broadcasters in the interest of the citizens and further democratization of

society, any attempt to reduce managing and editorial positions in public service broadcasters to the level of a mere political booty conquered on the elections, is a cause for grave concern and is absolutely unacceptable.

1.2. In the evening of July 27, two cameramen of the Tanjug news agency, Djordje Spasic and Davorin Pavlovic, were attacked and injured in the north of Kosovo, on the road from Leposavic to Jarinje, at a roadblock placed by the local Serbs. Djordje Spasic, who sustained severe injuries, said that he and Pavlovic had gotten out of the car and moved towards the border crossing in order to film the barricades and the blocked road, when they were attacked by group of hooligans. “One of them grabbed my camera and hit me on the head with it. I fell to the ground, blood was pouring out of my wound, all around me. They were beating up my colleague beside me and then they ran away”, Spasic told the daily Danas.

Each case of physical assault on journalists and cameramen, especially in the above described case involving injuries (severe injuries in the case of Djordje Spasic) represents a serious threat to freedom of information and a severe restriction of the right to free exchange of ideas, information and opinions. Of particular concern is the danger that the perpetrators of this act will never be discovered and brought to justice, due to politicization of incidents in Kosovo, mutual ethnic distrust and absence of elementary communication between the authorities in Kosovo and the Republic of Serbia. Against such a backdrop, the circumstance indicated by the President of the Journalists’ Association of Serbia (UNS), who told Danas that a sizable portion of the public believes that have right to beat up a cameraman if they don’t like what they see on their TV set, becomes a regional problem. All that said, in a time of political conflict and bickering over competencies and powers, that problem is steadily gaining momentum and is seriously threatening the right of the citizens, not only in Serbia and in Kosovo, to be informed about the issues they have right to know about.

1.3. According to the report by the daily Kurir, Dr. Slavko Tomic and persons accompanying him, described later by Dr. Tomic as his friends, threatened on July 27 Kurir’s journalist who was reporting from the trial in the First Primary Court in Belgrade. On that day, the said Court of first instance sentenced Dr. Tomic and anesthesiologists Miodrag Stojanovic and Olivera Jeremic, to 15 months in prison each for severe criminal offence against human health, in relation to the death of a female patient from sepsis after a routine operation they had performed in the private clinic “Decedra”. “I didn’t want to insult, threaten or humiliate anyone. My friends, who came to attend the pronouncement of the verdict, and I, were very emotional and the circumstances were such that this incident became something I never wanted. I deeply regret everything that happened in front of the

court house and I apologize”, Tomic said in a statement published by Kurir two days after the incident.

Reporting on legal proceedings in Serbia has become increasingly complex, especially after the amendments to the Criminal Proceedings Law from 2009, which introduced a new offense – unlawful commenting of legal proceedings. Since there is no clear practice as to what kind of commenting of legal proceedings is punishable by law, self-censorship is rife. To make things worse, journalists are often threatened and attacked by friends and relatives of the defendants and the court security often fails to ensure the proper conditions for the media to do their job without obstruction. The attack on the reporter of Kurir is a rare, yet commendable case, where the attacker Dr. Slavko Terzic, fairly soon after the incident happened, publicly apologized to the journalist and the newspaper for the insults and threats.

1.4. The regional radio and television station RT Novi Pazar issued a press release, signed by the Editor Edo Celebic, claiming that hackers from Kosovo attacked their website on July 10. The press release said it was the sixth attempt to crash the website of that regional station since December 2010. On July 27, the website of City Radio from Nis was also attacked. In their press release, the management of the station said that, in their opinion, the reason for the attack was the joint program of a network of local Albanian and Serbian radio stations from Kosovo and Serbia entitled “A Bridge beyond Borders”. The said program explored the possibility for the coexistence of Albanians and Serbs in Kosovo, whether the Kosovo issue may be solved by partition or independence and if the Kosovo institutions provide equal protection to all. The first episode of “A Bridge beyond Borders” was aired on City Radio on Sunday, July 23.

The article published by the daily Politika about the attack on RT Novi Pazar’s website says that such attacks on Serbian websites are on the rise, whereas the targets are increasingly the websites of state and public institutions. Politika writes that the attackers are predominantly hackers from Kosovo. They typically get away with it, like in a case from 2009, when multiple attackers disabled Pescanik’s website. Contrary to the disruption of printing and dissemination of print items or obstruction of the broadcasting of radio and television program, which in Serbia are provided as separate criminal offences, attacks on internet media or internet portals of traditional media are treated only as unauthorized access to a protected computer, network and electronic data processing, or as obstruction and restriction of access to a public computer network. Politika writes that in 2010 criminal charges before the Supreme Public Prosecutor in Belgrade were pressed for hacking of websites only six times and concludes that many cases remain unreported. Until the law enforcement

authorities fail to show some concrete results even with this small number of cases and bring the perpetrators to justice, the media using new electronic platforms will be on their own. Even worse, some media are still portraying hackers like some romantic heroes, when these hackers are “our” hackers attacking “their” websites, or as a necessary evil, disregarding the devastating impact of these attacks on media freedom and freedom of expression in general. These attacks, as a rule, have also the typically political goals, as evidenced by the attack on City Radio from Nis, whose website was attacked in the time when this station, in cooperation with a network of local Albanian and Serbian radio stations from Kosovo and Serbia, broadcast the joint program about the possibility for the coexistence of Albanians and Serbs in Kosovo.

2. Legal proceedings

2.1. The Appellate Court in Belgrade sentenced journalist Milenko Vasovic to pay 100.000 dinars in respect of non - pecuniary damage to the plaintiff Radovan Vukovic, over Vasovic's text published in the daily Dnevni Telegraph 14 years ago. Vasovic would also pay 107.960 dinars of court costs. The reason for the claim was Vasovic interview with Radovan Vukovic. Vukovic, at the time an advisor in the Government of the late Federal Republic of Yugoslavia, was put in prison in Montenegro for the statements he made on that occasion, but was released from custody after two months and later successfully sued the government for the time he spent behind bars without justification. However, the Appellate Court found that Vasovic had falsified Vukovic words by publishing the statements of a third person under Vukovic's name, that third person being a former minister in the then government. By doing so, the Court found, Vasovic damaged Vukovic's honor and reputation, causing him suffering.

The verdict against Vasovic is yet another evidence of the problems faced by journalists in Serbia due to excessively long legal proceedings against them. Namely, Vasovic was sentenced to pay damages, since, 14 years after the interview with Vukovic, he was unable to prove that the statements published in Dnevni Telegraph were really Vukovic's own. The Court chose to believe Vukovic's witnesses who have claimed that the controversial statements were made by a third person, a minister in the government in which, more than a decade ago, Vukovic was a mere advisor. The Court disregarded the fact that initially, at the time when he was arrested over these statements in Montenegro, Vukovic didn't deny he was the one who made them. Moreover, after he was released from custody, Dnevni Telegraph published his reply, in which Vukovic raised some objections as to the headline of the interview and the conclusions the interviewer had inferred from what he had said, but didn't dispute the statements as such. In the concrete case, the courts in Serbia have passed two first-instance

verdicts – one in favor of the journalist and the other in favor of the plaintiff, while finally the Appellate Court ruled in favor of the plaintiff, but reduced the amount of the damages. However, in view of the fact that 14 years have passed since the controversial interview, the reliability of the evidence based on which the Court reached its decision casts a shadow on the verdict.

2.2. On July 11, the Appellate Court in Belgrade announced in its press release that it had sustained the verdict against one of the leaders of the fans of the Partizan, Milos Radisavljevic Kimi, under which he was sentenced to six months in prison for violent behavior. However, the Appellate Court revoked the part of the verdict concerning the threats made against the security of B92 journalist Brankica Stankovic. We remind that in August 2010 Radisavljevic was sentenced before the First Primary Court in Belgrade to 16 months in prison for violent behavior and threats against Stankovic. Radisavljevic had been leading the fans on Partizan's football match against Ukraine's Shaktyor, when the crowd shouted insults from the stands against Stankovic, calling her a snake that will fare like the assassinated journalist Slavko Curuvija and punched and kicked a doll in the likeness of the B92 journalist. The Appellate Court found that the lyrics of the chants amounted to a gross insult against the person of Brankica Stankovic and the peace of citizens. Pertaining to the threats against the security of the reporter, the Court found that no clear and convincing reasons have been voiced, which would explain why Radisavljevic is considered to have committed the criminal offense of threatening security as described in the indictment.

The Appellate Court found that, from the court records, it may be concluded that the defendant Radisavljevic did not chant "You're venomous as a snake, you will fare like Curuvija" himself, but that he did impale the doll on a metal rod. The Court also found that the first instance verdict lacked the explanation as to which specific actions by the defendant were considered as a threat by the plaintiff. The court of first instance was ordered to present the evidence once again and re-interview Stankovic. While the purpose of second-instance proceedings definitively is to establish beyond all doubt all the circumstances related to the actual case and admitting that the first instance proceedings might well have suffered from certain shortcomings, as found by the Appellate Court, it is difficult to understand that it accepted that kicking, punching and impaling the doll in the likeness of the plaintiff on a metal spike represented behavior threatening the peace of the citizens, but not a threat against the security of the plaintiff. Such qualification is even more bizarre if one knows that Brankica Stankovic remains, more than a year and a half after the incident, under police surveillance 24/7, due to police assessments that her security is severely threatened.

2.3. The Appellate Court in Kragujevac revoked the verdict against the Editor-in-Chief of *Cacanske novine Stojan Markovic*, the daily *Danas* reported. Markovic was convicted before the Primary Court in *Cacak* for slander and ordered to pay 100 thousand dinars of damages to plaintiff *Velimir Ilic*, who recognized himself in the satire “The Impotent Mandarin”. According to the explanation of the first-instance verdict, Markovic slandered Ilic with that satire published in February 2009, as well as with the comment about how “the time has come to settle the accounts”.

The verdict against Stojan Markovic and particularly the explanation that, with a satirical texts that was not sufficiently based on facts, he had slandered a member of Parliament, former Mayor of Cacak and former minister in the Serbian government and leader of the parliamentary party New Serbia, prompted a strong reaction from the media professionals and the general public. The revoking of that verdict, which has considerably contributed to the rise of self-censorship in Serbia, is without any doubt good news. On the other hand, however, the revoking of one verdict does not necessarily indicate a U-turn in the case law in Serbia regarding the treatment of politicians in the media. Reaching the standard, under which politicians would not be protected from critical texts more than ordinary citizens, remains an aspired goal for the Serbian judiciary. The verdict of the Appellate Court in Kragujevac is a step in that direction.