

II MONITORING OF THE IMPLEMENTATION OF EXISTING LAWS

1. Public Information Law

1.1. The implementation of the Public Information Law has been partly dealt with in the segment about freedom of expression.

1.2. According to a report in the daily Pravda, the councilors of the ruling majority in the local council of Ljig have passed, on a session in early September, the decision to suspend live transmissions of the sessions of the local parliament. The Ljig Council passed that decision at the proposal of Miodrag Starcevic Mikela, the President of the municipality and local leader of the Socialist Party of Serbia. In his words, the rationale was the impending local elections and the possibility to misuse the floor for electoral purposes. The Council of Ljig adopted similar decisions prior to elections in the past.

Article 10 of the Public Information Law says that local self-government bodies, including local councils and the councilors thereof, must make available to the citizens information about their work and under equal conditions for all reporters and all public media. The rationale behind this provision is not only to protect journalists and media from discrimination by guaranteeing access to information under equal conditions, but first and foremost to ensure transparency in the work of institutions. As much as it was perhaps passed in good faith, the decision of the Ljig local council – since it is a fact that live transmissions of council sessions in Serbia are often being misused for political propaganda purposes, especially if the publicity of the local council’s work is not ensured in another way – that decision would be in direct contravention of the provisions of the Public Information Law. The decision points to yet another characteristic of the relationship between the government and the media in Serbia. Namely, the politicians typically don’t trust the media when the latter are to decide about which specific session should be transmitted for the sake of the public interest. Hence, instead of allowing the media to decide on their own, taking into account the interest of the public and the preferences of their viewers, the media are put before a fait accompli. The consequence of that is, when it comes to the openness of the institutions towards the public, the decisive say lies with individual interest of politicians present in these institutions, rather than with the citizens.

2. Broadcasting Law, Electronic Communications Law

The Director of the Republic Electronic Communications Agency (RATEL) Milan Jankovic said that the number of radio stations operating without license was on the rise in the last couple of months. He went on to detail that in Serbia, in September 2011, 56 radio and television stations were operating as pirate stations. According to Jankovic, shutting down the illegal broadcasters falls within the competence of the inspectorate of the Ministry of Culture, Media and Information Society, which was expected, after numerous announcements, to start operating on September 19, since RATEL, while having control mechanisms, does not have an inspectorate that could shut down the aforementioned stations. Jankovic reminded that RATEL had two measuring centers and that the controllers in the Ministry and in the RBA may only submit measurements minutes, namely information about illegal operation of a broadcaster. The Ministry confirmed that an inspector had been appointed and that he/she would start working in September, provided that no appeals were lodged over his/her appointment. The Spokesperson for the RBA said in an interview for the daily Blic that the administrative procedure to prohibit the operation of a broadcaster, which procedure was at the disposal of the RBA, might not be completely effective in all situations. "In a number of cases, it is necessary to physically prevent the station operating without a license to air its program by removing or shutting down his equipment and the RBA is not authorized for that", Bogdanovic said.

Under the Broadcasting Law, nobody is allowed to broadcast radio or television program without a prior license obtained from the RBA. The exceptions are the two public broadcasting institutions – RTS and RTV – which are broadcasting program directly under the Law. The Electronic Communications Law stipulates that, when determining the conditions and the use of radio frequencies for the distribution and broadcasting of media content, RATEL shall cooperate with the RBA by issuing licenses for the usage of radio frequencies solely at the RBA's request. However, despite of these provisions, under the findings of RATEL, a total of 56 radio and television stations in Serbia are broadcasting without having obtained RBA's broadcasting license and the license for using radio frequencies issued by RATEL. The decisions issued in such a situation by RATEL and the RBA, providing for a ban on broadcasting activities, have proven to be ineffective, since they were not accompanied by punitive measures, which would consist of broadcasting equipment seizure. Inspection measures, which, among other things, include the possibility for seizure of equipment under the Electronic Communications Law, have been vested in the Electronic Communications Inspector with the Ministry of Culture, Media and Information Society. The delay of the Ministry in appointing the said inspector has not been helpful in enabling an effective fight against radio piracy and left commercial broadcasters, which regularly pay the

prescribed fees, at the mercy of the unfair competition of radio pirates. To make things worse, according to RATEL's press release from September 9, radio piracy is endangering a whole array of agencies using radio communications, including those in charge of civil aviation safety. In the mean time, the Prosecutor has filed criminal charges against radio pirates in a number of cases, typically for the criminal offense of unauthorized performance of activity, under Article 353 of the Criminal Code. The said article provides for a fee or a prison sentence ranging from 1 to 2 years for a person engaging, without a license, in an activity requiring the issuance of such license by a competent authority. There is no information as to whether a final verdict has been reached in any of the said criminal procedures. In such a situation, unfortunately, the increasing number of illegal broadcasters doesn't come as a surprise.

3. Law on National Councils of National Minorities

3.1. The Director of RTV Pannon, the regional station in Hungarian language seated in Subotica, Rudolf Mihok, has been dismissed from office. The decision on his dismissal was passed by the Assembly of the Panonija Foundation, on a session held on September 17, at the proposal of the Executive Board. The Vice-President of the Hungarian National Council (MNT) and member of the the Assembly of the Panonija Foundation, Ferencz Zoldos, told the daily Magyar So that one of the reasons for Mihok's dismissal is the interruption of the live broadcast from Palic on August 20, from the central festivity on the occasion of the Hungarian national holiday dedicated to the founder of the Hungarian state and first Hungarian king Istvan. In the meantime, under the Law on National Councils of National Minorities, last year MNT became the co-founder of RTV Pannon and accordingly has its representatives in the managing bodies of that station. RTV Pannon holds a regional radio and local television broadcasting license in Subotica.

This is the second time that an editor in Hungarian media is sacked in the span of only several months. Early last summer, the Editor-in-Chief of Magyar So Czaba Pressburger was sacked. The MNT objected Pressburger was not giving regular coverage to the strongest Hungarian political party – the Union of Hungarians of Vojvodina – as of not sending reporters to report about the activities of the Speaker of the Vojvodina Assembly Sandor Egeresi. The MNT did not comment the dismissal of the director of RTV Pannon. However, it is interesting to remind that Pannon has received broadcasting licenses as a commercial broadcaster, although its founder was the non-profit Foundation Panonija. In the course of 2010, in line with the provisions of the Law on National Councils of National Minorities, the MNT became the co-founder of RTV Pannon. The said Law says that a National Council shall

represent the respective ethnic minority in the areas of education, culture, information on the language of the ethnic minority and official use of language and alphabet. The Council participates in the decision-making process and or decides about issues from the aforementioned areas and establishes institutions, companies and other organizations from these areas. The national councils are primarily funded from the budget, although the councils may be financed from donations and other proceeds. In the media field, the Law stipulates that a national council may, independently or together with another legal person, establish institutions and companies to engage in news/publishing and radio-television activities, printing and reproduction of recorded media and perform the rights and obligations of the founder. Furthermore, the republic, autonomous province or local self-government unit, as the founder of companies and institutions in the area of public information, which companies and institutions entirely or predominantly provide information on the language of the respective ethnic minority may, in agreement with the national council, entirely or partially, assign the founding rights to the national council. On the first of these grounds, the MNT in Serbia has become the co-founder of RTV Pannon. On the second, it became the founder of the daily Magyar So. The dismissals of the Director of RTV Pannon and the Editor-in-Chief of Magyar So a couple of months earlier, have demonstrated that the concept from the Law on National Councils of National Minorities, which have enabled the councils to control minority media, have completely neglected the mechanisms for the protection of the management and the staff of these media, particularly in view that the said media are funded predominantly from the budget. At the same time, situations are happening where the founding rights are misused for the benefit of the political parties that have the majority in the respective national council.