



LEGAL MONITORING OF SERBIAN MEDIA SCENE

Report for November 2011



TABLE OF CONTENTS:

I	FREEDOM OF EXPRESSION	3
II	MONITORING OF THE IMPLEMENTATION OF EXISTING LAWS	9
III	MONITORING OF THE PROCESS OF ADOPTION OF NEW LAWS	12
IV	MONITORING OF THE ACTIVITIES OF REGULATORY BODIES, STATE AUTHORITIES AND COLLECTIVE ORGANIZATIONS FOR THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS.....	13
	REGULATORY BODIES.....	13
	STATE AUTHORITIES.....	16
V	THE DIGITALIZATION PROCESS.....	18
VI	THE PRIVATIZATION PROCESS.....	19
VII	CONCLUSION	21

I FREEDOM OF EXPRESSION

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

1. Threats and pressures

1.1. In a clash with students on November 3, the private security guards, hired by the management of the Faculty of Philosophy in Belgrade to curtail the two-week blockade, threatened the photographer of the daily “Pravda” to throw him out of the building, while insulting his reporter colleague from the same newspaper Srecko Milovanovic. The President of the Journalists’ Association of Serbia (UNS) Ljiljana Smajlovic called everything that had happened on the Faculty of Philosophy a disgrace and emphasized that the attack on a reporter was a violation of the Public Information Law. Smajlovic reminded that the Faculty was a public institution and that the students’ protest was an event relevant for the public interest. Hence, she said, the journalists were entitled to report from it.

The Public Information Law expressly stipulates that public information shall be free and in the interest of the public, as well as that it is forbidden to directly or indirectly restrict freedom of public information in any manner conducive to restricting the free flow of ideas, information or opinion, or to put pressure on public media and its staff so as to obstruct their work. The Media shall be free to release ideas, information and opinions about phenomena and events the public is entitled to know about. The freedom to publish information the public is entitled to know about involves the freedom to collect such information. The Public Information Law expressly stipulates that public services, including universities and faculties – and this inevitably involves the University of Belgrade as a state university, and the faculties it includes – shall be required to make information about their activities available to the public under equal conditions for all journalists and public media. In that sense, universities and faculties are put on equal footing with state bodies and organizations, territorial autonomy and local self-government bodies and public companies. Insulting reporters and photographers and throwing them out of the building where they were reporting from about the blockade of the faculty – undoubtedly an event of justified public interest – represents a serious and inadmissible violation of freedom of expression.

1.2. Journalist Rada Stajic and cameraman Slobodan Gabric, correspondents of Radio-Television Vojvodina (RTV – a provincial public service broadcasting) from Subotica, were attacked on November 4 in Bajmok, while interviewing people about the unsolved murders and kidnappings in that town. An attacker grabbed Rada Stajic by the neck and violently shook her head and he also tried to seize Gabric's camera. The RTV crew was making a story about unsolved murders in Bajmok and they were shooting the interviews on the funeral of the victim, which was found strangled and buried in the cellar of her house after a 12-day search. The media reported that the journalist and the cameraman were attacked by the man who was guarding the house of the victim – a woman that was working abroad. The daily "Vecernje Novosti" reported that the underage daughter of the attacker had also disappeared along with her boyfriend shortly after the strangled woman was reported missing.

The Public Information Law expressly stipulates that it is forbidden to put physical or other type of pressure on public media and its staff so as to obstruct their work. The task of the RTV crew was by no means easy, since they were reporting about an unfortunate and tragic event, involving personal pain and the shock of the community that knew the victim. There are no indications, however, that the reporter violated the Ethical Code or the Public Information Law. We remind that, under the applicable Serbian Journalists' Code of Ethics, the journalists are required to respect the privacy, dignity and integrity of the persons they are writing/reporting about. The right to privacy is restricted only when it comes to public figures and public officials in particular. The Serbian Journalists' Code of Ethics particularly emphasizes that the journalists and editors must especially refrain from speculation and communication of insufficiently verified positions in reporting about accidents and tragedies involving casualties or major losses for society. The media are also advised, in reporting about events involving personal pain and shock, to make sure they reflect empathy and discretion. Journalists are especially obligated to ensure that a child, whose name, photograph or footage are released – including photographs and footage of his/her home, community where he/she lives or recognizable surroundings – is never threatened or put at risk because of that. The same is stipulated by the Public Information Law, under which a minor must not be made recognizable in a piece of information that may harm his/her rights or interests. In the concrete case, based on available information, journalists acted in line with ethical rules of the profession and existing regulations. As this could also be relevant to some other cases, we point out the fact that the prohibition of physical, or any other pressure on media and journalists, is unconditional and that any violation of the Code of Conduct or provisions of Public Information Law, even in the case in which such violation occurred, does not justify the vigilantism. On the contrary, such

violation only provides the basis for possible litigation. Vigilantism is a criminal offense punishable under the Criminal Code by a pecuniary penalty or sentence of up to one year imprisonment.

1.3. The journalist, editor and presenter of the news program of TV Prva, Branka Nevistic, has left the said station due to, in her words, “strong pressure and impossibility to do her job professionally”. The media reported that Nevistic was prohibited from working on certain topics and that she was not allowed to invite certain guests. The daily “Blic” reported that the heat was on Nevistic because of the political analysts with differing opinions who discussed the state policy towards Kosovo in her shows. Everything reportedly began when she was reprimanded for the harsh tone in the interview Nevistic made a year ago with the then Telecommunications Minister in the Serbian Government. TV Prva declined to comment on the reasons put forward by Nevistic to explain her departure, but nonetheless said that she behaved “utterly unprofessionally and with lack of respect for her colleagues”. The station’s press release also said that she had left her workplace refusing to hear out what her daily duties were. UNS stated in a press release that Nevistic informed them back in August that she was being censored on TV Prva and threatened with dismissal, the reason reportedly being the pressure her employer was under from the “powers that be” over the content of her news show. “They punished her by sacking her from the position of producer and presenter of the news program because she had invited someone who expressed, on the air, a political position about Kosovo that differed from that of the state and political leadership,” UNS said. TV Prva responded that UNS failed to hear the other party involved in order to establish the truth, “with the aim of putting pressure, smearing and publicly lynching a reputable television station”.

The Public Information Law stipulates that a journalist may not be laid off, have his salary cut or position in the media degraded as a reprisal for a truthful claim released in his/her media; for the refusal to obey an order that would violate the legal and ethical rules of the journalist profession or an order contrary to the editorial concept of the public media; or for having expressed an opinion outside of the public media, as a personal position. On the other hand, the Serbian Journalists’ Code of Ethics says that journalists must consult as many sources as possible and enable those sources to express their respective positions. The case of Branka Nevistic, which will, as announced by both sides, end up in court, has once again demonstrated that the Public Information Law lacks sufficiently precise provisions protecting journalists from editorial orders requiring him/her to act contrary to the Journalist’s Code of Ethics. The provisions contained by the Law are namely not underpinned by case law, based on which it

may be predicted how courts ought to interpret the aforementioned provisions. This is relevant for private media, but even more so for media funded from public sources, which should operate as public service broadcasters and which also lack their own code of professional ethics regulating the rights of journalists that might enter in conflict with the editorial policy of their media for their differing opinion.

1.4. In its November 17 edition, the daily “Danas” reported that, during an interview on the local TV “Aldi” in Presevo, the President of the National Council of Albanians Galim Beciri attacked the Editor of the Internet portal preseva.com Driton Salihu, accusing him of being a collaborator of Serbian secret services and organizations. Salihu had previously requested, on his online portal, information about the budget expenditures of the National Council of Albanians. Citing information of the Local Self-Government and Human and Minority Rights Ministry, the portal wrote that the National Council of Albanians had received 16.5 million dinars from the Serbian budget in the period between July 1, 2010 and October 15, 2011. Salihu claims that the citizens have the right to know how and where that money was spent. Since he had not received the answer from the Council itself, he posted on his website the scanned document obtained from an insider from within the Council, which pointed to non-transparent expenditures.

Under the Public Information Law, public media shall be free to release ideas, information and opinions about phenomena, events and persons the public is entitled to know about, unless provided for otherwise by the Law and irrespective of the manner in which such information has been collected. Expenditure of budget money is definitively a topic relevant for the public interest. The national councils are bodies representing ethnic minorities in the fields of education, culture, information on their native language and official use of language and alphabet. The national councils participate in the decision-making process or decide about issues related to the aforementioned fields and establish institutions, companies and other organizations operating in these domains. The Public Information Law does not contain provisions concerning the transparency of the national council’s operations, but these councils are necessarily part of the group of bodies which, under the Public Information Law, are obligated to make information about their activities available to the public, under equal conditions for all public media and all journalists. On the other hand, in view of the reserved attitude of the National Council of Albanians towards a particular media and taking into account the unacceptable attack of the Council’s President on that media’s Editor Driton Salihu, it is pertinent to ask how the Council will fulfill its competences in the media sphere under the Law

on National Councils of Ethnic Minorities. We remind that the national councils are authorized to establish media and to assume founding rights to state minority media, but also to give proposals for the distribution of funds from the budget allocated to the minority media by the means of public competitions.

2. Legal proceedings

2.1. The Appellate Court in Belgrade has increased the sentences of Milos Mladenovic and Danilo Zuza by seven months each, to one year in prison for the attack on weekly Vreme columnist Teofil Pancic on July 24, 2010 in Belgrade. The press release of the Appellate Court said that the court had accepted the appeal of the First Basic Prosecutor in Belgrade concerning the sentence, because the court of first instance had attributed too much weight to the alleviating circumstances benefiting Mladenovic and Zuza. The Appellate Court found that there were no grounds for alleviating the sentence against the defendants below the legally prescribed minimum for the criminal offense of violent behavior. The Court reminded that Mladenovic and Zuza had attacked Pancic without any reason whatsoever, after having followed him in the public transportation, while he was switching bus lines. This is the evidence that they were extremely perseverant in trying to realize their decision to attack Pancic, regardless of the fact that they were obstructed by „victim’s switching transportation means“. The Court found that the one-year sentences were proportionate to the degree of the defendants’ guilt and that they were necessary in order to reflect society’s condemnation of the criminal act.

We remind that Danilo Zuza and Milos Mladenovic were arrested nine days after the attack on Teofil Pancic. They got caught by the security cameras from the back and hence they could not have been identified just on the basis of the security footage. However, their identity was confirmed by DNA analysis, since their DNA was found on the object they had used to beat up Vreme’s journalist. This was confirmed on the day of their arrest by the Minister of Interior Ivica Dacic. The First Basic Court in Belgrade sentenced them in September 2010 to three months in prison each. In May 2011, the Appellate Court revoked that sentence, having found that the First Basic Court in Belgrade failed, in the course of the first-instance proceedings, to reliably conclude that Mladenovic and Zuza were aware that the person they were attacking was Teofil Pancic the journalist, as well as they were motivated by Pancic’s occupation and the disagreement with his texts. The new verdict of the First Basic Court on July 1, 2011 saw them again sentenced to three months in prison each. Acting upon the appeals to that verdict, the

Appellate Court accepted the appeal of the First Basic Public Prosecutor in Belgrade and reversed the verdict of first instance in the part concerning the sentence and sentenced the defendants to one year in prison each. The criminal offense of violent behavior that Mladenovic and Zusa were sentenced for is subject to a prison term ranging from six months to five years. This sentence is a rare example of a sentence for an attack on a journalist that is not at the legal minimum or below it.

2.2. The Appellate Court in Belgrade has reversed the verdict of first instance of the Basic Court in Loznica against Ljubinko Todorovic, the attacker on the journalist from Loznica Vladimir Mitric, doubling the sentence for the criminal offense of serious bodily harm and sentencing him to one year in prison. Mitric told the Tanjug news agency that he had received the written copy of the verdict, which was pronounced after two hearings in September and October respectively, before the three-member council of the Appellate Court, presided by Sretko Jankovic. The Appellate Court was deciding about the appeals submitted to the first-instance verdict by the Basic Public Prosecutor in Sremska Mitrovica and Todorovic's attorney. The Appellate Court upheld the first-instance verdict declaring Todorovic guilty "of the criminal offense of serious bodily harm". The Appellate Court reversed the first-instance verdict "only in the part concerning the punishment", sentencing the defendant "to a total of one year in prison". The Appellate Court explained the verdict by saying that the first-instance court had found Todorovic "guilty of the criminal offense of serious bodily harm provided for in Article 53, paragraph 1 of the Criminal Code", sentencing him to six months in prison, which time would include one month period spent in custody. The Appellate Court found that, regarding the decision about the criminal penalty, the first-instance court failed to sufficiently weigh the aggravating circumstances, namely the fact that the defendant attacked the victim, inflicting him serious bodily harm, over the texts he (the journalist) had written, as well as the fact that the defendant had demonstrated obstinacy in committing the crime, since he had hit the victim several times. Furthermore, the first-instance court was found to have failed to take into account, as an aggravating circumstance, the behavior of the defendant after the commission of the criminal act. Hence, in the opinion of the Appellate Court, the six month-prison sentence was inadequate for realizing the purpose of punishment as provided for by the Law. Todorovic shall also be obligated to pay the court costs in the amount of around 100 thousand dinars, as well as Mitric's court costs in the amount of 255 thousand dinars. The attack on Mitric, a correspondent of "Vecernje Novosti", took place on September 12, 2005 in downtown Loznica, in front of the entrance of the building where he lived, at about 10 p.m. The attack was carried

out in a cowardly manner, from the back, with a wooden object similar to a baseball bat. Mitric sustained a fractured left forearm and other severe injuries.

The fate of Vladimir Mitric is a case in point, particularly due to the fact that he has been living under constant police security from the day he was attacked, i.e. in the last six years. Moreover, although he was attacked almost identically as the late Milan Pantic, the slain correspondent of “Novosti” from Jagodina, Mitric’s attacker Ljubinko Todorovic was accused and convicted of inflicting serious bodily harm and not attempted murder. Had Mitric’s criminal act been qualified as attempted murder, the penalty would have ranged from five to fifteen years in prison, while for serious bodily harm it ranges from six months to six years. Serbian courts typically sentence attackers on journalists to penalties below the legal minimum and Todorovic was no exception – he was sentenced to the minimum prison sentence both in the first and second instance trials. The Appellate court doubled the sentence and sentenced the former police officer Todorovic to one year in jail. Those who ordered the attacker on Mitric are however yet to be discovered and there is no information whatsoever about any investigation being led in that direction. However, the mere fact that the Appellate Court – just like in the case of Teofil Pancic – finally delivered a verdict explaining that “the legal minimum sentence may not adequately realize the purpose of punishment” points to a possible U-turn in the Serbian case law, under which attackers on journalists were typically sentenced to minimum penalties under the Law and often to even milder sentences.

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 concerning freedom of expression.

1.2. The first-instance verdict of the First Basic Court in Belgrade, delivered for serious form of discrimination against the LGBT population, against Dragan Markovic Palma, the Mayor of Jagodina and the President of the parliamentary political party Jedinstvena Srbija (JS) and until recently the MP of that party in the Serbian Parliament, received its epilogue on Pink Television.

The editor of the gay magazine “Optimist“ Predrag Azdejkovic stated that the Jagodina Mayor had first threatened him on November 7 in Pink’s building and had then shook his arm vehemently. Azdejkovic and Palma were supposed to participate in the TV show “Magazin In“, the topic of which was diversity in Serbia on that particular evening. “As soon as he saw me, he got mad saying he was set up and that he didn’t know he was going to participate in the show with me. He was angry because Boban Stojanovic (the President of the Queeria Center) called him a fool recently. He then attacked me,” Azdejkovic told the daily “Alo!”. During the debate, Palma mentioned the verdict against him for severe discrimination against LGBT persons. “Alo!” claims that Markovic said that only a bribed judge could have convicted him and that the verdict would be revoked on the Appellate Court. The editor and presenter of the “Magazin In” Sanja Marinkovic ultimately cancelled the appearance of Azdejkovic in the show.

The cancellation of Azdejkovic’s participation in the show was debated by certain media, with the predominant point of contention being whether there was a physical conflict between Markovic and Azdejkovic or not. Meanwhile, “Pink” accused Azdejkovic of wanting to take the opportunity of participating in the talk show for promoting the LGBT population. Pink also said that it was a case where LGBT organizations “abused other people by falsely pointing to non-existing problems”. Markovic said that homosexuals were known “for striving to be in the limelight at any cost and since their private lives are uninteresting, they must constantly invent they are under attack in order to appear in the media”. However, there was no analysis of that incident’s consequences, both from the aspect of the ban on hate speech, provided for by the Public Information Law and from that of general programming standards, under the Broadcasting Law. In the above described case, it is pertinent to ask if it was wise by the editors to invite to a talk show about diversity in Serbia a man who was only a week ago convicted for discrimination against LGBT people. To make matters worse, after a row between the guests, the editors cancelled the appearance of the representative of the discriminated group and not that of the person convicted of discrimination. Reducing the whole issue solely to whether the incident involved physical contact or not, implies that homosexuals should not be beaten up, but it is perfectly acceptable to insult them, as well as that they are welcome on television only if they are on good terms with heterosexual guests in the same show. Furthermore, removing Azdejkovic from the show could be seen as the reflection of the overall situation in the Serbian media, which are forced to get on the right side of politicians to the extent of allowing them to even pick the guests in television shows.

2. Law on Ethnic Minorities' National Councils

2.1. The National Council of Hungarians (NSM) has adopted a media strategy which should, according to NSM, improve the quality and professionalism of media in the Hungarian language in Vojvodina by the year 2016, "Dnevnik" reported. The Strategy was voted for by 21 members of the Council, while five were against it, with one abstaining. The majority of NSM members belong to the Association of Vojvodina Hungarians (SVM), while the "opposition" are the representatives of other Vojvodina Hungarians political parties and the Democratic Party. The daily "Magyar Szó" in Hungarian language reported that the NSM Information Advisor Erzsébet Zita Simon had said that the Strategy was not and could not be the final document in view of the constantly changing general environment. NSM member Laszlo Rac Szabo said that freedom of media ought to be restored and since the NSM operated as a political organization, the media belonging to it were not free. Janos Hazy, also a NSM member, criticized the Strategy for not detailing the way in which the set goals would be achieved – for instance, how the necessary financial resources would be ensured for the round-the-clock radio and television program. The President of the Hungarian Hope Movement Laszlo Balint voiced dissatisfaction over what he called "the current balance of power on the Vojvodina Hungarians' political scene 'being cemented'" by the implementation of the strategic determinant that Hungarian political parties in Vojvodina should be represented in the media proportionately to their "strength and activities". NSM members from the ranks of the NGO "Humentis", close to the Democratic Party, criticized the content of the Media Strategy saying that it was, on one hand, utopian and on the other, that it gave primacy to media founded or co-founded by high officials of the SVM and/or NSM, at the expense of commercial media. According to Attila Czengeri, the goal of the NSM is to set up a centralized media network that may be politically controlled.

National Councils, under the Law on Ethnic Minorities' National Councils, are representative bodies established for the purpose of realization of ethnic minorities' rights to self-government in culture, education, information and official use of language and alphabet. The councils represent ethnic minorities in the areas of culture, education, information in the minority language and official use of the language and alphabet, participate in decision-making or decide about issues from the aforementioned areas and establish institutions, companies and other organizations to operate in these areas. The Law expressly provides that national councils shall adopt a strategy of the development of information in the minority language, in accordance with the Strategy of the Republic of Serbia. The Hungarian's National Council (NSM) has lately stirred controversy with certain decisions that were branded as "unacceptable" obstruction of

media freedom. Namely, at the proposal of the managing board, the NSM dismissed the Editor-in-Chief of “Magyar Szó” Csaba Pressburger last July, in spite of the opposition of the majority of journalists of that newspaper. Pressburger was reprimanded for insufficiently covering the activities of the Speaker of the Vojvodina Parliament and member of the SVM Szandor Egeresi, as well as for the fact that “Magyar Szó” journalists had failed several times to show up at press conferences organized by the SVM – a political party that also has the majority in the NSM. Another media official was sacked as early as in September: Rudolf Mihok, the Director of the regional TV station in Hungarian language Pannon RTV from Subotica, co-founded by the NSM. The Vice-President of the NSM said on that occasion that one of the reasons for Mihok’s dismissal was the interruption of the live transmission of the Hungarian national holiday dedicated to the founder of the Hungarian state and first Hungarian King Istvan. The adoption of the controversial text of the Vojvodina Hungarians’ Media Strategy, in the backdrop of dismissals in the media, whose founding rights were taken over by the NSM, have confirmed how problematic certain concepts are from the Law on Ethnic Minorities’ National Councils. It was once again proven that the said Law had opened the door for manipulation with the competences entrusted to national minority councils – as the representative bodies of minorities, the members of which are chosen on elections – by having the councils work in the interest not of the ethnic community as a whole, but that of political parties that have the majority in the national council itself.

III MONITORING OF THE PROCESS OF ADOPTION OF NEW LAWS

In the period covered by this Report, the Serbian Parliament did not adopt any media specific regulations. The Draft Law on Amendments to the Law on Copyright and Related Rights has been in procedure since August. These Amendments also aim to harmonize the said Law with international treaties and EU and WTO regulations. What could be relevant for the media is the streamlining of the provision concerning the suspension of exclusive copyright and right to remuneration in cases of informing the public about current events through the media. According to the current provision, when informing the public through the press, radio and television about current affairs, it is allowed, without the author’s permission and without having to pay an author’s fee, to copy a work and communicate such work in any form, only to the extent corresponding to the purpose and the manner of informing about the current event in question. The Draft Law on Amendments to the Law on Copyright and Related Rights expressly

stipulates that this form of suspension of exclusive copyright and right to remuneration applies not only to press, radio and television, but also to other media, such as online media. The Draft Law also provides that it is possible, without the author's permission and without having to pay an author's fee, to use short excerpts or recaps from newspaper articles and similar articles, political, religious and other speeches delivered in state authorities, religious institutions or on the occasion of state or religious holidays, as well as daily information and news that have the nature of a press report.

IV MONITORING OF THE ACTIVITIES OF REGULATORY BODIES, STATE AUTHORITIES AND COLLECTIVE ORGANIZATIONS FOR THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS

REGULATORY BODIES

1. REPUBLIC BROADCASTING AGENCY (RBA)

1.1. On November 21, 2011, the Republic Broadcasting Agency issued, in the daily newspaper "Borba", a public call for tenders for the making of a software for overseeing the compliance of the programs of radio and television broadcasters with the Law in the course of the electoral campaign, as well as for the monitoring of the representation of political parties in the broadcasters' programs outside of the electoral campaign. The requirements for submitting a tender are tenderers registered for software manufacturing and possessing the ISO 9001 certificate. The tender dossier that will be the basis for producing the software is yet to be released and the RBA will present it to the interested parties only after they submit the application.

In accordance with the provisions of the Broadcasting Law, the RBA is authorized to oversee the work of broadcasters. It may perform monitoring on its own or by hiring third parties. The call for tenders for monitoring software is showing the RBA's intention to boost the capacities for independent monitoring, particularly in relation to political propaganda during the pre-electoral campaign and reporting related to the elections. We remind that ensuring equal representation without discrimination to registered political parties, coalitions and candidates during the pre-electoral campaign is one of the basic programming standards provided for by the Broadcasting

Law. Furthermore, under the Broadcasting Law, natural and legal persons are entitled to submit to the RBA complaints related to broadcasters' programs, if they believe that such programs are offending or threatening their personal or general interest. Practice has shown that the majority of complaints are submitted during the electoral campaign, when the participants in the electoral process complain, rightfully or not, against unequal treatment by certain media. The purchase of the proper software could facilitate the RBA's job to deal with a large number of complaints that may be expected after the call for elections, scheduled for next year.

1.2. The RBA has posted on its website the letter addressed to the Government as a response to the report of the Anti-Corruption Council about pressures and control of the media in Serbia. The RBA believes that the report contains an array of untruths and insinuations against the RBA and the Council. The RBA's press release also contained detailed responses to the allegations concerning political influences on the work of the RBA Council, the non-transparent ownership structure of media, concentration of media ownership and protection of children and minors. The RBA emphasized that not a single decision it delivered, approving the change of ownership structure of any media, has been ever challenged in court, which confirms, the RBA claims, that these decisions were just. Concerning the protection of children and minors, the RBA invoked its General Binding Instructions on the Conduct of Broadcasters – the Broadcasters' Code of Conduct from 2007, part of which concerned the protection of children and youth, as well as two binding instructions from 2011 – the binding instructions on the conduct of broadcasters related to the broadcasting of reality shows and the binding instructions on the conduct of broadcasters related to programming content that may harm the physical, mental and moral development of juvenile persons. The letter refers to three occasions when TV Pink and TV Happy were warned for having broadcast content that could harm the physical, mental and moral development of children and youth, namely to TV Studio B for having, in two separate cases, made juvenile persons recognizable in the scope of information that could have violated that juvenile person's right or interest.

One of the key objections that could be heard after Anti-Corruption Council's report was released was that it was practically pushed under the rug and ignored by most media, instead of triggering a public debate. Some have used this fact as an additional argument that was supposed to confirm the veracity of the report, namely that those who control the media are so powerful that they were able to render completely invisible the report of an important government body. The letter to the Serbian Government containing the RBA's response to the report was also more or less neglected by the media, but the fact that the RBA posted it on its

website is good news, since it will ultimately allow the professional circles to ponder the arguments and information released by the Anti-Corruption Council and the RBA Council and to make their own conclusions. Some kind of a debate has started – maybe not to the extent expected after the release of the Anti-Corruption Council Report – and that is good news. The other good news is that, although the RBA Council rejected the claims from the report, it concluded its letter to the Government by saying that it would review those claims and take the necessary measures if irregularities were uncovered.

2. REPUBLIC ELECTRONIC COMMUNICATIONS AGENCY (RATEL)

2.1. On November 8, 2011, the Radio Television of Serbia (RTS) and the Republic Electronic Communications Agency (RATEL) proposed to the Government to adopt a conclusion that would write-off the debt of RTS caused by non-payment for the use of radio frequencies. The media and journalists' associations have requested from the Serbian Government to reject that proposal. The joint press release of ANEM, UNS, NUNS, NDNV and Local Press said that the Public Service Broadcasting is already relieved from paying the fee charged to commercial radio and television stations for broadcasting rights. Hence, the press release said, relieving the RTS from paying the fee for radio frequency usage would represent additional discrimination of commercial broadcasters and further undermine competition on the media market. Media and journalists' associations claim that writing-off the debt would violate the commitments from the recently adopted Media Strategy to encourage the development of the media market and create non-discriminatory conditions for healthy competition in the media industry, as well as to regulate the financing of public service broadcasting in keeping with the regulations about state aid control. By the time this Report was finalized, there were no reports as to whether the Government had made any decision about RTS' and RATEL's proposal.

2.2. The public consultations about the Draft Plan on the Amendments to the Plan on allocation of frequencies/sites for terrestrial analog FM and TV broadcasting stations for the territory of Serbia ended on November 11. These amendments concern analog radio frequencies and, most importantly, they supplement the Allocation Plan with a new Annex 4. That Annex provides for the first concrete frequencies/sites for digital television broadcasting. More specifically, these are frequencies for 13 transmitters and two repeater stations in Belgrade, which are to start trial broadcasting of the digital TV signal. These transmitter sites are Avala, Crveni Cot, Krusevac-Goc, Loznica-Gucevo, Nis-Gorica, Novi Pazar-Sutenovacko Brdo, Ovcар,

Priboj-Bic, Raska-Gradac, Subotica-Crveno Selo, Uzice-Zabucje, Valjevo-Pecina and Vrsac-Vrsacki breg. The sites of the repeater stations in Belgrade are Kosutnjak and Stojcino Brdo.

STATE AUTHORITIES

3. THE MINISTRY OF CULTURE, MEDIA AND INFORMATION SOCIETY

On November 1, 2011, the Ministry of Culture, Media and Information Society called five open competitions for the co-financing of projects from the area of public information. These competitions concern:

- The co-financing of projects/programs in the area of information on the native language of ethnic Serbs living in countries of the region, namely in Hungary, Croatia, Romania, Macedonia, Albania, Montenegro, Bosnia-Herzegovina and Slovenia;
- The co-financing of programming content of public media intended for informing persons with disabilities;
- The co-financing of the production of programming content of broadcast public media in Kosovo and Metohija, relevant for the public interest;
- The co-financing of the production and/or distribution of the programming content of public media in the Republic of Serbia, relevant for the public interest;
- The co-financing of the production and/or distribution of the programming content of public media in the Republic of Serbia on the languages of ethnic minorities.

The applications shall be accepted for the co-financing of no more than up to 80% of the value of the project, while the maximum amount per project shall be 1.000.000,00 dinars, except for the co-financing of programming content of public media intended for informing persons with disabilities, where the maximum amount per project will be 600.000,00. The maximum amount per project for the co-financing of the production of programming content of broadcast public media in Kosovo and Metohija, relevant for the public interest, shall be 800.000,00 dinars. There will also be a special restriction for applicants that have already received funds from the republic, provincial or local budget for some other purpose, in the same calendar year. Such applicants may apply for the co-financing up to 40% of the value of the project.

The general criteria for evaluating the projects shall be identical for all open competitions. They concern the relevance of the project for the realization of the right to public information, contribution to the diversity of media content and pluralism of ideas and values, valid argumentation of the project, adequate specification of the budget, consolidated and explained from the standpoint of planned project activities, as well as sustainability of the project. Special conditions are adapted to the concrete open competitions. The total amount of funds the Ministry has allocated for each competition or for all competitions in total has not been disclosed. We remind that in the previous two years, a total of 81.5 and 96 million dinars were allocated, respectively. The composition of the commission that will assess the applications is also unknown. The call was opened until December 1.

4. STATE AID CONTROL COMMISSION

In the period covered by this Report, the State Aid Control Commission (SACC) posted on its website the Commission's Decision allowing state aid allocated on the basis of an open competition for encouraging the production of television content from the field of culture and information in the Serbian language and languages of ethnic minorities in the Autonomous Province of Vojvodina. In the concrete case, regarding the aid in the total amount of seven million dinars, the Commission found that all the conditions were met as provided by the Decree on the Rules for the Allocation of State Aid in the Area of Culture. What is especially important, however, is the fact that the Commission initiated the procedure and passed the decision in the procedure of subsequent control. Under the Law on State Aid Control, subsequent control is the one initiated by the Commission on the basis of its own information or information obtained from other sources, where there is reasonable doubt that in a particular case state aid was allocated/is being used/was used contrary to legal provisions. In the subsequent control procedure, the Commission may, under certain conditions, order the grantor of state aid to immediately suspend further allocation of the non-consumed amount of state aid, namely to take measures for the allocated amount of state aid to be repaid, along with the default interest prescribed by the Law. The Law on State Aid Control stipulates that the request for initiating subsequent control may be filed to the Commission by any person having a legal interest for that. The fact that subsequent control procedures are not only provided for by law, but enforced in practice by the Commission, have been recognized by media and journalists' associations and organizations as a mechanism for ensuring the implementation of the Media Strategy in the parts concerning financial aid of the state to media and state aid control, in order to avoid state

aid to be misused for undermining competition on the media market and trading in financial support from the state for furthering the political interests of the current government.

V THE DIGITALIZATION PROCESS

Irini Reljin, the Assistant Minister of Culture, Media and Information Society in charge of telecommunications, told the daily “Politika” that the switching off of the analog signal and the switchover to digital TV broadcasting, scheduled for April 4 next year, would be postponed, whereas the preparations for digitalization would continue. Reljin said that the reasons for postponement were the elections, as well as major international sports competitions planned for next year – the European Football Championship and the Olympic Games. “We cannot start switching off the analog signal before it’s all over,” she said. “A partial switchover of the digital TV will start in 2012, by zones, on certain parts of the territory where a test network of 15 low-power transmitters will be set up. Our country opted for such an approach because it is impossible, with so many TV stations and saturation of the frequency spectrum, to simultaneously broadcast analog and digital signal, as it was done in some countries,” the Assistant Minister said. “Politika” also reported that the entire digitalization process would cost about 75 million euros. The bulk of that sum will be spent for setting up the digital network, while less money is needed for receivers in the households that will receive their program via terrestrial antennas. Under the agreement of the International Union for Telecommunications, which Serbia has signed, the last deadline for the digital switchover is June 17, 2015. The Draft Amendments to the Strategy for the Digital Switchover in Serbia are being finalized, providing for the switchover to take place in stages, as well as for test broadcasting of the digital signal, the daily “Danas” reported. “The equipment for that job has arrived, in the scope of the IPA program and we are currently in the process of reconstructing the poles, namely the transmitter sites, which haven’t been refurbished for decades,” the State Secretary for the Digital Agenda in the Ministry of Culture, Media and Information Society Jasna Matic told “Danas”. In her words, the works are currently underway on 25 sites simultaneously, of which 15 sites have been designated for the Test Network. The works should be finished in the course of the winter. Matic added that the Test Network would cover between 40% and 50% of the viewers in Serbia, who would be able to get the test digital signal.

The current Strategy for the Digital Switchover has set the deadline for the complete switchover to digital terrestrial broadcasting of television program in the Republic of Serbia for April 4.

2012. In our previous monitoring reports, we have pointed to serious delays in the implementation of the action plan accompanying the Digitalization Strategy, which have inevitably led to the postponement of digitalization. The fact is that digitalization, as a complex and demanding task, had also been postponed in much wealthier and technically more advanced countries than Serbia. Actually, extremely rare are countries where this process was finished in the originally set time limits. In view of the above, the problem is not the postponement itself, but the fact that it was announced only recently, although those who manage this process must have been aware of this reality for quite some time. At the same time, the circumstances, particularly those pertaining to the occupation of the spectrum, have dramatically changed since the time when the current Strategy was adopted. Many stations have, in the meantime, for various reasons, lost their broadcasting licenses, opening up room for both the switchover in stages – instead of a one-day switchover throughout Serbia – and for a more serious simulcast (simultaneous analog and digital broadcasting), which will enable the system to be thoroughly tested before the final switchover. This was, to a certain extent, foreseen as a possibility by the current Strategy, which says that a reduced occupation of the spectrum, prior to the date of the complete analog switchoff, could enable the conditions for the introduction of the simulcast for national broadcasters on the entire territory of Serbia. The latter just happened. What is now extremely important is to consistently adhere to the adjusted deadlines provided for by the amended Strategy. It is also important to responsibly plan the digitalization costs, which will logically not be possible to finance entirely from the pre-accession funds of the EU, meaning that realistic and feasible mechanisms for covering these costs ought to be planned.

VI THE PRIVATIZATION PROCESS

At the presentation of the programming, structural and economic trend of the media in Serbia for the period July-November 2011, the Professor of the Belgrade Faculty of Political Sciences Miroljub Radojkovic said that an omission in the Strategy lied in the fact that it predicted that the media that would remain unprivatized would include ethnic minorities' media and regional public service broadcasters. "The fear that handing the media over to ethnic minorities' national councils will mean that such media will be controlled by the political parties controlling the councils, is justified. The other major omission of the Strategy is the concept of establishing regional public service broadcasters in six cities, which will lead to a major political and electoral wheeling and dealing as to where these broadcasters will be based", Radojkovic said.

In parallel with the opinion of the experts that it is a bad idea to renounce the privatization of a large number of media, the media have continued to report about individual cases where privatization did not bring about the desired outcome. Hence, in early November, it was confirmed that the Privatization Agency had revoked the privatization of the Kragujevac-based weekly Svetlost. The Agency explained that the buyer had failed to pay the fifth instalment of the sales and purchase price. Svetlost was sold in May 2007 for 21 million dinars, which amounted back then to around 260 thousand Euros, to be paid over six years. The annual instalment was 43.500 Euros. Svetlost's account has been blocked for the last 355 days due to a forced collection of claims in the amount of 3.7 million Euros. The actual losses and debts of Svetlost towards the state, creditors and employees shall be established by the temporary representative of state capital, which will, in the next three months, analyse the financial situation in the newspaper and propose either a new privatization or a bankruptcy procedure. Meanwhile, the employees have been demanding, since the beginning of the year, their salaries and benefits for pension and disability insurances. At the same time, they continued working and Svetlost was released each Thursday, as usual. Even more paradoxically, the owners that have resumed with the publication of the newspaper have not omitted the names of the striking employees in the impressum, despite the fact that they had not participated in the production of the newspaper content. The Kragujevac-based Svetlost, one of the oldest weeklies in Serbia, was privatized in 2007 and sold to a consortium led by the local businessman Gvozden Jovanovic. The then journalists have meanwhile left and set up a new weekly – Kragujevacke novine, while the new content team of Svetlost went on strike over unpaid wages and ultimately ceased working early this year.

The local television station TV Valjevo has ceased broadcasting its program in the cable SBB network after it sold most of its equipment in order to pay the salaries of part of the employees, "Privredni pregled" reported, citing sources in the station. TV Valjevo stopped airing its news program on January 20 and its signal became invisible on the cable network even prior to that, due to unpaid lease of the transmitter. TV Valjevo was privatized in February 2010, when it was bought for 147 thousand dinars by Slobodan Pavlovic from Urovac, near Obrenovac. Pavlovic also bought Radio Barajevo on that occasion. The Privatization Agency terminated the sales and purchase agreement with Pavlovic on March 28, due to non-compliance with contractual obligations. A temporary representative of capital was appointed in May. The remaining five employees of TV Valjevo are waiting for the bankruptcy proceedings to start.

Djordjo Bojanic, the representative of public capital in the Information and Advertising Center “Kula”, has been dismissed from that function after the cancelled privatization. The employees in the IPC “Kula”, which includes Radio Kula and the local paper “Kulska komuna”, claim that Bojanic’s dismissal was politically motivated. According to “Dnevnik” from Novi Sad, in the last two years since the privatization of IPC “Kula” was cancelled, the current account thereof was unblocked, the taxes and benefits paid and the salaries paid on time. The newspaper is being released routinely, while the radio station is on the air, as usual. Everything is going on normally, but the state, the trade union says, is unable to find an acceptable privatization model or create an environment for the commercial media to be successful. At the same time, after it cancelled the privatization of IPC “Kula” and returned it under state control, the government continues to remind us why privatization is necessary by engaging into politically motivated dismissals of the media managers.

VII CONCLUSION

The period covered by this Report was, on one hand, marked by the decisions of the Appellate Court in Belgrade, which has obviously taken the position that repeated attacks on journalists have shown that the hitherto penalties against the attackers – typically at the legally prescribed minimum or in some cases below it – have proven to be unable to realize the purpose of punishment. Such punishment will not deter the attackers and make them change their behavior or encourage others to refrain from accepting such behavior. At the same time, lax penalties are not an adequate social condemnation of the evil committed by the perpetrators. If the two decisions of the Appellate Court we have described in this Report are the harbinger of a different policy to be embraced by the Serbian courts in legal proceedings against the attackers of journalists, then the media and journalists can hope for a more energetic prosecution and punishing of the aforementioned attacks. On the other hand, concurrently with the verdicts of the Appellate Court in Belgrade, which are evidence of a growing awareness of the importance of freedom of expression in society – involving freedom of collecting, researching, communication and dissemination of ideas, information and opinions – we are witnessing a growing number of cases where journalists and the media are exposed to pressure due to their adherence to journalist codes of ethics and professional standards. Unfortunately, in an increasing number of cases, journalists and the media are bowing to such pressure. In the wake of the elections in Serbia, which are expected in the spring of next year, such pressures will probably grow. It is

now up to journalists' and media associations and organizations to recognize the pressures and warn the public thereof and finally to support the threatened media and journalists, thus contributing to the protection of freedom of expression and preserving professional standards in Serbia.