

II MONITORING OF THE IMPLEMENTATION OF EXISTING REGULATIONS

1. *Public Information Law*

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

2. *Broadcasting Law*

2.1. The Republic Broadcasting Agency (RBA) has passed General Binding Instruction (GBI) to broadcasters in order to enable unhindered provision of information to hearing-impaired viewers during the election campaign in 2012. The GBI was published in the Official Gazette of the Republic of Serbia no. 31/2012 on April 12, 2012. It requires from broadcasters in Serbia and Vojvodina, as well as broadcasters of local or regional communities or the civil sector airing election program, to make such program (except from the content of electoral advertising messages) accessible to hearing-impaired viewers by using subtitles or signs. As for commercial broadcasters, the GBI prescribes that those broadcasters airing program on the entire territory of Serbia should make it accessible to hearing-impaired viewers by using subtitles or signs, again with the exception of electoral advertising and paid time slots. However, if such broadcasters do not possess the necessary financial or technical means, they shall be required to make at least one news program (that covers the election campaign entirely or partly) per day accessible to the aforementioned viewers, again, by using subtitles or signs.

The RBA is competent for passing general binding instructions in order to regulate more closely certain matters concerning the content of TV and radio program irrespective of the broadcasters' existing practice. General binding instructions may concern a particular matter related to content, several generic issues, but they may also pertain to all matters related to content (Broadcasters' Code of Conduct). Article 78, point 2 of the Broadcasting Law stipulates that public broadcasting services institutions shall – for the purpose of fulfilling the public interest in the field of the public broadcasting service, as provided for by Law – produce, among other things, programs intended for all segments of society, without discrimination, particularly taking into account societal groups such as children and youth, minorities and ethnic communities, people with disabilities, socially and health-wise vulnerable persons, mute and deaf persons (with the obligation to simultaneously display a written description of the audio segment of the action and the dialogue) and others. Pursuant to Article 96, paragraph 9 of the

Broadcasting Law, broadcasters of local and regional communities must adhere to the provisions of that Law concerning special obligations of the public broadcasting service when producing and airing program, until they enjoy the status of public company. Civil sector broadcasters, in keeping with Article 95, paragraph 6 of the Broadcasting Law, shall also be subject to the provisions of the Law concerning the public broadcasting service regarding special programming obligations. The obligation imposed to national commercial broadcasters arises from the general programming standards laid down by Article 68 of the Broadcasting Law, which, among other things, contain the obligation of all broadcasters to ensure free, complete and timely information of citizens, which includes hearing-impaired persons. This GBI represents a significant step forward in the protection of the right to freedom of expression of hearing-impaired persons, since this rights involves the right to receive information. It seems, however, that it is not good to have and *ad hoc* and selective approach to these issues and deal only with information concerning the electoral campaign. Making television programs accessible to hearing-impaired persons should be dealt with at broader level (especially in the context of the coming digitalization) and not only in the context of a single event such as the elections.

3. Personal Data Protection Law

In early April, the Commissioner for Information of Public Importance and Personal Data Protection Rodoljub Sabic warned the Ministry of Internal Affairs of the Republic of Serbia (MUP) that the public releasing, without legal authorization or consent, of photographs and video footage of arrested persons, or of textual messages establishing the identity of such persons, amounted to unlawful processing of personal data. Sabic said in a press release that the MUP was posting on its webpage video footage of arrests recorded by ministry officials, accompanied by texts revealing the identity of such persons. The press release also said the same officials were posting these photographs and footage on Youtube and on the MUP's profile on Facebook, making them accessible to the general public, under various search criteria. The Commissioner said such processing of personal data was disallowed, "not only because a lack of legal grounds, but also due to the fact that the amount and type of personal data that is processed is obviously disproportionate with the purpose of the data processing itself". He stressed that "the justified need to inform the public about anti-crime activities and to promote some of these activities may be entirely satisfied by posting footage of arrested persons without making them recognizable and by publishing their initials, without any other type of personal data".

The Commissioner's address to the MUP, as well as his press release, are important for the media, especially in the context of the many legal cases pending over MUP's release of the aforementioned footage and photographs in the media, with the media being the defendants, accused of conveying such information of the MUP. Namely, in spite of the express provision of the Public Information Law in Article 82 that a journalist, responsible editor and legal person (founder of the public media) shall not be liable for damages if they have faithfully conveyed information from a public document, in practice, the aforementioned persons and media were often indicted for publishing police press releases. In the opinion of the courts, by doing so, these media violated the privacy of the persons concerned, as well as the presumption of innocence. The courts often required the media to double check the claims of the police, as well as to harm the privacy of persons, whose privacy had already been harmed by the police. In that sense, pointing to deficiencies in the work of the police is good for the media, because the police is indeed to blame for the original omission and not the media, as conveyors of information representing information of public interest.