



## **ROUND TABLE - Presentation of the Sixth ANEM Monitoring Publication**

On July 6, 2012, in Belgrade, ANEM organized the round table to present the printed edition of ANEM Sixth Publication "Legal Monitoring of the media scene in Serbia". Besides the authors of the Publication's texts, the round table was attended by representatives of state bodies (Ministry of Culture, Media and Information Society – sector for the media and sector for electronic communications; Ministry for Human and Minority Rights; Ombudsman; Commissioner for Information of Public Importance and Personal Data Protection; Intellectual Property Office), regulatory bodies (RBA, RATEL, Press Council), media associations (ANEM, NUNS, UNS), NGOs (BIRN, Helsinki Committee for Human Rights), media (Beta, FoNet, RTS, Prva TV, Radio S, Radio Beograd, Politika, Infobiro, Svet plus), international organizations, embassies and donor community (Foundation for an Open Society, IREX, Embassy of the Netherlands, EU Delegation to Serbia).

### **PRESENTATION OF THE MONITORING PUBLICATION**

**Slobodan Kremenjak, attorney at law**, author of the text "Media coverage of elections," talked about the role of the media in the electoral process and conditions under which the Serbian media fulfilled this role during the recently completed elections. What was particularly evident in the recent elections, in his view, are different pressures on the work of media that started even before the announcement of elections. Seriousness of this problem is proved by the fact that even the delegation of the Parliamentary Assembly of the Council of Europe, which visited Belgrade during their preparations for monitoring the elections, had to urge political parties to restrain from attempting to influence editorial policy and also to express its concern about the economic and political pressures on some journalists. In addition, discrimination of local journalists and editors by local authorities was particularly evident, which also influenced freedom of expression and media freedom. The work of electronic media was further hampered by the unclear RBA's General Binding Instruction, for which the RBA ultimately had to pass a binding clarification, as well as the absence of control over the electoral process as a whole, although this task was assigned to the Supervisory Board of the Assembly. Due to the latter, in the electoral process, only broadcasters, especially TV stations, were under actual surveillance and not the participants. The lack of general supervision of the electoral process was unfavorable for the media especially in the context of conducting political counter-campaigns. However, what has made the whole thing more complicated in Serbia is the fact that politicians, and others alike, believe that elections are won or lost in the media – television predominantly, which is why television was under a particular pressure. The lesson to be learned from previous elections is the necessity of providing general supervision of the electoral process for all future elections, which should contribute to creating of more favorable conditions for the media in this process.

By presenting her text, **Kruna Savovic, attorney at law**, author of “The first nine months of the Media Strategy”, presented the extent to which the Media Strategy had been implemented so far; which pre-draft media laws were created and how; what solutions of the Media Strategy should have been implemented during this period and whether it was done. She emphasized, however, that any deadline set in the Action Plan had not been broken yet. She pointed out as interesting that the Draft Law on Public Services, regulating the establishment of regional public services, had already been prepared, although it was one of the Strategy’s solutions that had been agreed on in the debate between the Government and the media sector, and whose drafting had not included the participation of representatives of media associations, nor had they had an opportunity to see the text of the draft since it was not available to the public. In addition, nothing was done concerning the issue of the control of state aid that the state-owned media were still receiving without any control. Furthermore, one of the important recommendations of the European Commission, concerning the guarantees of the independence of regulatory bodies in the broadcasting sector, was infringed by the passing of the Law on Cinematography, which could significantly affect their independence and whose certain provisions were not aligned either with the Strategy, or with the Constitution and broadcasting and electronic communications laws. Due to that, ANEM has initiated the procedure for assessing the constitutionality of this law. At the end of her presentation, she concluded that, in this moment, the Strategy remained only dead letter on paper.

Building on Savovic’s presentation, **Sasa Mirkovic, ANEM President**, added that the private news agencies – Beta and FoNet – had jointly addressed the Anti-Monopoly Commission, requiring concrete explanation regarding the allocation of state aid and subsidies to Tanjug as a state agency. The Commission will certainly face a dilemma and it must take its position toward something that was done by the Government and that is directly in contradiction to the Media Strategy. He stressed that it was apparent that, during negotiations on forming new government, there were no speculations on who might be future minister of culture, nor it was mentioned that the field of media would be under competency of this ministry. He expressed concerns that, as a result of bargaining between the parties, this ministry could be adjoined to another ministry, where the media would be pushed even more to the regression, together with the implementation of the Strategy.

**Prof. Rade Veljanovski, PhD, Faculty of Political Sciences in Belgrade, author of the text** “Pre-draft Law on Electronic Media – improving regulation and practice” presented the content of the Pre-draft. He also elaborated on when and how the working groups for its development were established; how, instead of amending the Broadcasting Law, a new law was developed – the Law on Electronic Media; the harmonization of this law with the European regulatory framework – the Audio-Visual Directive before all, but also with domestic legislation, namely the Law on Electronic Communications and the Media Strategy, as well as the requirements of modern era. He explained which solutions were changed, improved and added, in comparison to the Broadcasting Law; new definitions of terms in the Pre-draft; a new way of appointment of members of the regulatory agency’s Council; solutions regarding the republic public service broadcasters as to achieve their independence; a different method of electing the Board of Public Service Broadcaster; the

media services registry; the provisions on illegal media concentration, as well as privatization of the media, where a new deadline of 24 months for its completion was set.

**Jovanka Matic, PhD, research associate at the Institute of Social Sciences in Belgrade**, presented main conclusions of her text "Post-communist media reforms from a bird's eye view". She said that Serbia was following the path of media reforms of other post-communist societies, but general impression was that the situation was rather disappointing (pluralistic media systems in all these societies; market is a major force shaping the media system; regulation is separated from executive power; laws precisely regulating rights and obligations are introduced; however, on the other hand, instead of state monopolies, we have local tycoons, foreign corporations, still strong influence of political factors on the selection of members of councils of regulatory bodies and managing boards of public services, general commercialization and tabloidization of the media, disappearance of high-quality press and media, small scale and low impact of investigative journalism). In her text, she presented three key factors that define the direction of the media system reform – political influence, economic influence and influence of the civil sector. The political influence is the crucial factor hindering the process of democratization of media, which is the common experience for all post-communist countries. The government sees the society as an subject to direct its influence to, while the media are perceived as the most important and most suitable means for realizing its impact on the subject. On the other hand, the key factor that may influence positive changes of the media system is the civil society. It shares a genuine interest in democratization of the media sector and accomplishment of crucial role of media in creating democratic culture. Only the continuous pressure of the civil sector in terms of formulating and creating of new legislation and control of implementation of laws may lead to some concrete progress. Exactly such situation, in the moment when the new government is being formed, represents a good opportunity for the civil sector, and media community before all, to present their demands for the desirable changes in the media sector to the government, concluded Matic.

## **DISCUSSION**

After the presentation of the Publication, the participants discussed the topics covered in the texts, as well as other important issues of the media sector, starting from the results of ANEM legal monitoring of the media scene in the first six months of 2012.

**Milos Stojkovic, advisor in the electronic communications sector of the Ministry of Culture, Media and Information Society**, who participated, in a certain way, in the formulation of the Pre-Draft Law on Electronic Communications, followed up on the presentation of Prof. Veljanovski, adding that the Pre-Draft had introduced a new system of license issuing, as a reform of the current system. The Pre-Draft foresees that the public competition shall be called only for terrestrial digital terrestrial broadcasting, keeping in mind that this is still the dominant platform for providing media services, whereas the licensing system based on request would be used for other platforms. He believes that it is important to strictly separate the operators, used for providing media services, from media service providers, who are issued the license for program content and should take care of

the program quality and content and who could choose a platform through which they would offer their content to users. He stressed that it was very important that this law entered the procedure as soon as possible, since the AVMS Directive itself had undergone some changes. In light of all this, the new government would face a new alignment with European regulatory framework, Stojkovic concluded.

**Attorney at law Slobodan Kremenjak** added that the Strategy had largely remained a dead letter on paper indeed, however, it certainly could not be said for the field of digitalization, where significant improvements had been made in the last 9 months (amended Digitalization Strategy, as well as the Rulebook on the transition to digital broadcasting, licenses issued, pilot network for testing digital broadcasting launched).

Talking about the digitalization, **Dr Irini Reljin, assistant minister for telecommunications in the Ministry of Culture, Media and Information Society**, said that, despite much being done already, it was still possible that the whole process would collapse if it stopped. She pointed out the problem of financing of the Public Company "Broadcasting Equipment and Communications" (ETV) that was still not receiving money for broadcasting that it had provided in the past year and a half, as well as the possibility that the new Law on Public Services would hinder and discourage further efforts in the implementation of the digitalization process.

Following the presentation of Ms. Reljin, **Slobodan Kremenjak** stressed that the key question here was how to establish a stable system of financing of public service, because it was directly chained to an array of systems that suffered consequences of a domino effect principle. If the public service continues not to pay their debts to ETV, it will not be able to carry out digitalization properly. If the public service continues not to pay debts to collective organizations for copyright and related rights, then this will affect the rates of commercial media, and it will stifle the media. This is particularly worrying in a situation of possible establishment of new six or seven regional public service broadcasters – if it is already hard to finance the existing public services, then the question is how new public services are to be financed at all and what consequences would this domino effect cause.

**ANEM President Sasa Mirkovic** said that there was a particular skepticism toward drafts of the Public Information Law and the Law on Public Services, whose texts remained unavailable to representatives of media organizations, nor had they had a chance to participate in working groups for their development. According to unofficial information, a key role in the working group for drafting the Law on Public Services had the representatives of public services (existing ones and potential future ones), who actually wrote the law for themselves. **Prof. Rade Veljanovski** added that there was a dangerous trend in our legislative initiative: rather than democratizing such initiative by involving interested organizations, there was a trend of developing laws with participation of a smaller number of actors, who had certain interests that were embedded in these laws, and so instead of moving closer, they were moving further away from European regulatory standards.

**Sasa Mirkovic** also elaborated on the major problem of broadcasters caused by unacceptably high Sokoje tariff, which introduced several times higher fees to broadcasters. He said that ANEM was the authorized negotiator in the talks on the tariff for broadcasters with Sokoje and that, during the ongoing negotiations, Sokoje unexpectedly started issuing pro forma invoices with fees up to 6 times higher than before; As a consequence, a large number of media outlets throughout Serbia would face a shutdown.

**Vladimir Maric, Deputy Director of the Intellectual Property Office**, spoke about the problem of increasing tariff of Sokoje and pointed out that the Office would do everything to solve this social problem in line with its competency. In this context, he called ANEM as the representative association of users of copyright works and Sokoje for a meeting dedicated to finding solutions to this issue. He expressed hope that this meeting would be the start of serious negotiations that would take into account financial ability of local broadcasters. In connection to that, he mentioned a paradoxical situation that the RTS had not paid fees to Sokoje since 2006, while media outlets from Blace, Bujanovac etc. that were paying the fees were brought to a position to close their stations because they were unable to pay fees due to the increase of tariff. He stressed that the Office supervised the work of collective organizations, but that it did not have the competence for determining their tariffs. However, when it comes to the existing tariff, although the Government's Commission for Copyright and Related Rights gave a positive opinion on Sokoje tariff, this opinion was not legally binding (under the Article 80 of the Law on State Administration) and anyone who was dissatisfied with the tariff could initiate a litigation.

***The general conclusion of the round table's participants was that it was likely that many of the problems that had been burdening the media sector for long would remain in the future, especially considering that a new government had not been established yet, and that it was still unknown which future ministry would be responsible for the media and what would be the attitude of the new government toward the media sector.***



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