

I FREEDOM OF EXPRESSION

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

1. *Threats and pressures*

1.1. The investigation about the planting of the explosive device in the backyard of the family home of TV B92 reporter Tanja Jankovic, in Vranje on October 30, shall be conducted by the Criminal Police Administration of the Serbian Internal Affairs Ministry (MUP) and not by the police in Vranje, "Kurir" reported. The daily also wrote that Jankovic's family was placed under round the clock police protection, while the police was checking whether the bomb was related in any way to an incident that took place a month ago. On that occasion, on a wedding party in the hotel "Przar", a group of people, including Police Inspector from Vranje Nenad Jovanovic, beat up Tanja's father, sister and brother in law. Kurir also cited the report by the Legality Control Sector of the Serbian MUP, which says that the Head of the Vranje Police Sladjan Velinovic tried to cover up the attack on Tanja Jankovic's family. TV B92 released exclusive footage from the CC TV cameras in the aforementioned hotel, where Police Inspector Nenad Jovanovic may be seen taking part in a brawl in which Jankovic's relatives were beaten up. The attorney of the Jankovic family Zora Dobricanin made a public call for the truth to be established. She told TV B92 "there is irrefutable evidence, the footage of the brawl, where it may clearly be seen who is kicking and beating up whom... I think action must be taken". Dobricanin says, "Tanja Jankovic was threatened due to her investigative reporting and critical approach to various topics in society". "Let the perpetrators of this incident be brought to justice and be made an example of", the attorney said. "Kurir" however wrote that the police in Vranje had filed criminal charges against Tanja Jankovic's sister Bojana, reportedly for insulting one of the attackers while her family was being beaten up. The police interpreted the foul language as a threat. Bojana Jankovic told "Kurir" she had previously received a phone call by a person from the Government telling her to "calm her sister down and tell her to stop making waves" or else the police would file charges against her.

We have written about this case in our earlier reports. The family of TV B92 reporter Tanja Jankovic was attacked on September 23, at the wedding of her relative in the hotel Przar in Vranje. Her father suffered a double fracture to his jaw and his nose was broken; her sister's nose cracked and she was urgently taken to surgery; her sister's fiancé suffered a sternum contusion, while Tanja Jankovic herself endured "only" bruises. She said that Police Inspector

from Vranje Nenad Jovanovic also took part in the attack, which was, in her words, retaliation for the campaign she had been waging on social networks and blogs, reacting to the disastrous security situation in the town. In that campaign, the reporter publicly called out the officials for failing to prosecute crimes for years, such as the burning of the mayor's car last year and the arson attack in early July, which saw the Vranje Theater burned to the ground. Instead of having the perpetrators called to account, another incident ensued. After Jankovic posted on her Facebook profile that she got hold of the CC TV footage of the attack on her family in front of the hotel and after she posted photographs of documents pointing to a possible cover-up, aimed at concealing the responsibility of certain police officials for the injuries suffered by her father, sister and sister's fiancée, an explosive device was found in the backyard of her family home in Vranje on October 30. Under the Public Information Law, it is prohibited to put any kind of physical or other pressure on the public media and the staff thereof, or exert influence to obstruct their work. This pertains both to physical attacks on the members of journalists' families and the placing of explosive devices in their homes and telephone threats to make them stop investigating a case, or else their next of kin will be taken to court or harassed in some other way. In Serbia, the many unsolved attacks on journalists have resulted in self-censorship. Furthermore, such events have created an environment of impunity, which encourages would-be attackers. This is precisely what has happened in Tanja Jankovic's case. In spite of multiple witnesses and CC TV footage, nobody was held to account for the beating up of her family on September 23 and an explosive device was planted on October 30. The details of the investigation remain undisclosed and now officials from the Government have joined local police officials in the cover-up. Whatever the truth may be about the attacks on Tanja Jankovic, the unwillingness of the authorities, to supply the public with full information about this case, has already resulted in physical harm and anguish suffered by the reporter's family, as well as in a general atmosphere of fear fueling self-censorship in the media.

2. Legal proceedings

2.1. The Basic Court in Loznica reached a first-instance verdict, ordering former police officer Ljubinko Todorovic from Grncara to pay 700 thousand dinars of non-pecuniary damages to "Novosti" correspondent Vladimir Mitric (200 thousand for the physical pain endured, 150 thousand for the fear he suffered and 350 thousand for violation of his honor and reputation). Todorovic was previously convicted to one year in prison for having attacked Mitric on September 12, 2005 at his doorstep with a hard object, inflicting him several injuries. The chamber of the Judge Andrej Mirkovski said in the sentence that, according to expert findings, Mitric had been in a particular psychological situation since the incident, after having been

placed under 24/7 police protection, due to which he became unstable and unable to perform his journalistic work.

Due to his texts about corruption in Western Serbia and Republika Srpska, the journalist Vladimir Mitric was attacked back on September 12, 2005 in downtown Loznica, at the entrance of his apartment building about 10 p.m. and struck from the back with a wooden object similar to a baseball bat. His left arm was broken and he suffered other severe injuries. Mitric has been under round the clock police protection ever since. The Appellate Court in Belgrade sentenced former police officer Ljubinko Todorovic late last year to one year in prison for the attack. Under the just-adopted Amnesty Law, his sentence was reduced by a quarter and he was released in early December. On the other hand, the judiciary has never tried to establish who ordered the attack. Mitric has again been targeted and the latest attack reportedly happened in September, with the circumstances pointing to a serious omission by the police officers guarding Mitric: not only were they absent at the moment of the attack, but one of the officers practically disclosed Mitric's whereabouts, thus enabling the attack. The amount of non-pecuniary damages Mitric was awarded in the first-instance verdict is interesting, since it may be compared to the amounts the prosecution sometimes claims from the media when they release inaccurate, incomplete or other information, the publishing of which is prohibited under the Law. Article 200 of the Law on Contracts and Torts stipulates that the Court may, in the proper circumstances, award, independently from pecuniary damages, if any, reasonable financial damages for physical pain, anguish due to diminished life activities, disfiguration, violations of honor, reputation, freedom of personal rights, death of next of kin, as well as for fear. When ruling on such a claim and the amount of the damages, the Court must take into consideration the injured value and the purpose of the damages, and to make sure such damages are not conducive to anything naturally and socially unacceptable. Mitric's case and the damages awarded to him are not dramatically different from the fees awarded in the same circumstances to persons that the media have injured, sometimes unwittingly and without ill faith. However, the courts in Serbia are often unwilling to treat journalists' mistakes (which in some cases may not objectively be avoided, even if the journalists adhere to the rules of their profession) equally as an attack with a wooden bat.

2.2. In the scope of an operation of the Organized Crime Department and the Organized Crime Prosecutor's Office, 18 people were arrested in late November, under the suspicion they had defrauded more than 163 thousand viewers in fake TV and radio quizzes out of the amount of about 32 million Euros in the last nine months. The prosecutors and the police believe that the masterminds of the scheme are Rade Jovic, the owner and director of the "Fonlider" company,

his deputy Radivoje Pusonja, as well as Dusan Moraca, the director of the television stations "Duga sat" and "Astro", the daily "Blic" reported. The group is believed to have organized the fake quizzes and prize games in the last three years. The police have said that the scheme also involved the employees in the aforementioned stations, as well as those of RTV "Sunce", "Narodni radio" and "Radio centar". How did the hoax work? The listeners and the viewers were switched on the air in TV and radio shows via telephone calls or text messages. The prices of the calls and messages far exceeded the usual tariffs. In the quizzes, they would ask easy questions, while the employees would make fake calls impersonating viewers/listeners giving the wrong answers. At times, they would call from the studio itself. In the meantime, viewers/listeners were placed on hold, being charge for each minute started. In other cases, they would do the same, while having viewers/listeners send text messages at prices of up to 500 dinars. There was no actual prize and hence the participants could have never won it. "Blic" reports that the police and the prosecutor recorded radio and television shows in order to uncover the hoax. In raids at 32 different locations, they confiscated valuable computer equipment; bank accounts of some of the arrested persons, totaling 370 thousand Euros, were blocked; several passenger cars were seized. All suspects were placed under 48-hour police custody and interrogated in the Prosecutor's Office. According to "Blic", "Radio centar", one of the stations taking part in the quiz hoax, is owned by an official of the Democratic Party of Serbia (DSS). One of the co-owners, Dragan Tomic, is the Vice-President of the DSS Main Board in Belgrade and the former Director of the Kolubara coal basin and is currently on trial for embezzlement in that state company. The employees of TV "Soko" in Sokobanja, one of the stations involved in the hoax, say that the quizzes were aired in time slots paid by a company from Belgrade, but the arrangement was cancelled as soon as doubts appeared that games were fake.

Since some of the stations mentioned in media reports on the fake TV and radio quizzes and games of chance have regularly appeared in the RATEL's lists of pirate broadcasters in the last few months, we may at least begin to comprehend why it is so difficult to eliminate radio piracy in Serbia. It is astounding that a group has been able, in a period of only 9 months, to swindle 32 million Euros out of a single operation. Of the said amount, they managed to collect half from telecom operators, while the rest was retained by the latter in the form of service fees. If we compare these 16 million Euros, as the profit of only one group in only 9 months, to the income of all media in Serbia (print and electronic media) from advertising, which are estimated to 172 million for the entire year 2012, it becomes obvious that radio piracy is not merely an issue of human rights or freedom of expression, but also a field organized crime makes enormous profits from. Under the Broadcasters' Code of Conduct (BCC) adopted by the RBA back in 2007, in the case of talk shows featuring real-time participation of the viewers/listeners by telephone, the

broadcasters must clearly indicate the price of the call/message and the overall actual cost. Furthermore, under RATEL's Rulebook regulating the obligations of operators providing added-value services, quizzes or similar games promising prizes that are never awarded or that are won by persons connected by the quiz provider shall be considered an abuse of value-added services. RATEL's Rulebook even stipulates that such abuse comprises quizzes and similar games, where telephone calls are charged per second, while the communication with the automated machine, speaker, TV or radio anchor, is never established, with the caller being told to wait to be put on air in a program that is not actually happening. The precision with which this Rulebook defines illicit practices, by describing in detail the scams that have happened, are evidence that both the RBA and RATEL exactly knew what was going on for years.

Another issue is, however, if the agencies could have prevented such frauds on their own, namely, whether the police and the prosecutor could have been involved earlier. The trials that will ensue will probably reveal more details about that.