



LEGAL MONITORING OF SERBIAN MEDIA SCENE

Report for September 2011



TABLE OF CONTENTS:

I	FREEDOM OF EXPRESSION.....	3
II	MONITORING OF THE IMPLEMENTATION OF EXISTING LAWS	8
III	MONITORING OF THE PROCESS OF ADOPTION OF NEW LAWS....	11
IV	MONITORING OF THE ACTIVITIES OF REGULATORY BODIES, STATE AUTHORITIES AND COLLECTIVE ORGANIZATIONS FOR THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS	12
	REGULATORY BODIES	12
	STATE AUTHORITIES	14
V	THE DIGITALIZATION PROCESS	17
VI	THE PRIVATIZATION PROCESS	17
VII	CONCLUSION.....	19

I FREEDOM OF EXPRESSION

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

1. Threats and pressures

1.1. Prior to the Assembly of the Football Club Vojvodina on September 1 in Novi Sad, the club's President Ratko Butorovic threatened Miroslav Gajinov, the Editor-in-Chief of the website "Napred Vosa", saying that he will "smack him in the face". According to the press releases of the Journalists' Association of Serbia (UNS) and the Sport Journalists' Association of Serbia (USNS) respectively, Butorovic continued to insult Gajinov during the session the latter was reporting from as a journalist. USNS's statement also said that Butorovic had threatened Gajinov twice before because he was unhappy with the comments of Gajinov's website users. He also prohibited Gajinov from attending the match Vojvodina played in Novi Sad against Novi Pazar and hence the journalist was unable to report about it. In September, after these press releases, Gajinov was again expelled from Vojvodina's stadium, after he was told that he didn't have the proper press card issued by the club, although other reporters were allowed to watch the match holding only the USNS' press card, the same Gajinov had. After talking to the person that escorted him from the stadium, Gajinov learned he was banned from the game as a common supporter also, with an ordinary ticket. On a press conference, FK Vojvodina's officials explained the incident by invoking the text published on Gajinov's website, which allegedly claimed that one of the stands on the stadium was unsafe for the supporters of the guest team. FC Vojvodina said Gajinov had compromised the safety on the stadium with such texts. Gajinov denied that such a text existed at all on his website.

Gajinov was not the only sports reporter that was threatened in September. According to the daily Danas, the Vice-President of the Novi Pazar football club Tarik Imamovic threatened the correspondent of Sportski Zurnal Esad Kucevic he would have his life and had forbidden him from reporting from matches of the said club. Imamovic was reportedly unhappy with Kucevic's texts about the situation in FC Novi Pazar.

According to the provisions of the Public Information Law we have quoted here multiple times, public information shall be free and no one shall directly or indirectly restrict it 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. Physical threats and threats to one's life, like in the case of Esad Kucevic and actions that injure human dignity.

may represent and do represent elements of a number of criminal offences under the Criminal Code. Journalists' associations have protested in both cases by issuing press releases. The media have failed, however, to report the complete absence of any kind of reaction by the authorities in Novi Pazar and in Novi Sad. Furthermore, what is specific in Gajinov's case is that, according to the information available to the authors of this Report, there is pressure to make his status as a journalist conditional on the formal registration of his web portal with the Business Registers Agency. Moreover, sports facilities, including the stadium where FC Vojvodina plays its matches, are public infrastructure within the meaning of Article 17 of the Anti-Discrimination Law and hence the prohibition to Miroslav Gajinov to access such a facility and attend a football match, even as a common supporter with the proper ticket, amounts not only to a violation of freedom of expression, but also represents a clear case of discrimination publishable under anti-discrimination regulations.

1.2. The Chief Mufti of the Islamic Community in Serbia Muamer Zukorlic has announced he would press charges against all the media in Serbia that have published the press release of the organization "Otpor Sandzaka" (*Resistance of Sandzak*), which accused Zukorlic of absolutism, crackdowns on those who think differently, manipulation and abuse of faith and hate speech. Zukorlic believes that "Otpor Sandzaka" as an organization does not exist and that it is a clear case of a personal attack against him by the government and particularly the Minister of Labor and Social Policy Rasim Ljajic. In the press release of the Mechat of the Islamic Community said that Mufti Zukorlic will claim the "highest possible damages" and prove before a court of law what he said to be the unscrupulous misuse of public information means.

We remind that Mufti Muamer Zukorlic has pressed charges against the daily "Blic" for a Photoshop published in June 2010, depicting him in the clothes of an Orthodox priest. Zukorlic claimed 100 million euros of damages, which he described as a "symbolic compensation" considering the vital and symbolic value of his stained reputation, pride and dignity for all Muslims. The proceedings are still underway. Zukorlic's threats that he will claim the "highest possible compensation for damages" are most definitively conducive to increased self-censorship and amount to a restriction of freedom of public information by misuses of right. It is also incontestable that Muamer Zukorlic, as a public figure, is required to demonstrate a higher degree of tolerance for criticism by the media, even in the aforementioned case, when media are conveying the press release of a until then completely unknown and anonymous organization.

1.3. TV Tutin's reporter Mersid Agovic and cameraman Tufik Sadovic were attacked while they were on an assignment, the Editor-in-Chief of the said station Amir Numanovic said on

September 27. Agovic and Sadovic were attacked while they were shooting the works on the Cultural Centre building in the center of Tutin, in the immediate vicinity of the police station. The attackers first insulted and then attacked the reporter and cameraman from a local café. Agovic suffered minor injuries and serious consequences were avoided owing to the citizens and a policeman who happened to be on the spot. Journalists' associations condemned the attack, pointing to the fact that, after the incident, the police had taken the reporter and the cameraman in for questioning first, while the attackers were left to sit peacefully in the café, until they simply left the site of the incident. They were apprehended only later that afternoon.

The Public Information Law says 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. Unfortunately, in earlier cases similar to the incident in Tutin, even where the attackers had been taken to court for violent behavior, the penalties were symbolic, below the legal maximum and hence were not a deterrent for the perpetrators. We remind that violent behavior is defined by the Penal Code as threatening the peace of the citizens or major disruptions of public order by serious insults, harassment, violence, provoking a brawl or ruthless behavior. Violent behavior committed in a group of people or involving a minor bodily injury shall be subject to a prison sentence ranging from six months to five years.

2. Legal proceedings

2.1. On September 20, a hearing commenced before the Appellate Court in Belgrade in relation to the appeal against the first-instance verdict sentencing Ljubinko Todorovic, the former policeman from Belgrade, to six months in prison for inflicting severe bodily harm to Vladimir Mitric, the correspondent of the daily "Novosti" from Loznica. Mitric was attacked while he was entering the apartment building he was living in. In this incident six years ago, on September 12, 2005, Mitric suffered a broken left arm and twenty contusions on the head and body. The previous first-instance verdict was revoked for procedural reasons and the case was returned for retrial. The verdict delivered in the retrial was appealed against by both the defendant and the Public Prosecutor.

For the last six years, since he was attacked, Vladimir Mitric has been living and working under 24/7 police surveillance. Furthermore, although he was attacked in almost identical circumstances to those in the case of the slain journalist Milan Pantic, the correspondent of Novosti from Jagodina, the attacker is accused of inflicting severe bodily harm and not for attempted murder. The penalty for the latter criminal offense could range between five and

fifteen years, while for inflicting severe bodily harm it ranges from six months and six years. In cases of attacks against journalists, Serbian courts typically opt for penalties on the limit of the legally prescribed minimum or even below. Accordingly, both in the first trial and retrial, Ljubinko Todorovic was sentenced to the minimum prison term under the Law. In addition, the persons that have ordered the attack against Mitric are yet to be identified.

2.2. Criminal charges were filed against journalist Maja Uzelac for inciting to violence on the Twitter social network. The journalist wrote on Twitter that “people who run Apartman (a Belgrade night club) ought to be beaten up, long and hard”. Special Prosecutor for High-Tech Crime Branko Stamenkovic explained that the plaintiffs have pressed criminal charges against Maja Uzelac for the commission of the criminal offense of threatening their security and that, on the basis of these charges, the Special Prosecutor’s Office for High-Tech Crime has filed a request for collection of the necessary information. “In the scope of that process, Maja Uzelac was interviewed”, Stamenkovic said. Uzelac confirmed she was interviewed in the police station. However, she denied that interview had anything to do with hate crime against the gay population. “I am not accused of hate crime against the gay population and this whole case has nothing to do with it. The club I mentioned on my Twitter profile is incidentally a place where gay people meet”.

The media have reported that Uzelac’s contentious Twitter post pertained to the controversy about the performance of Croatian journalist, TV host and musician Ida Prester in Belgrade’s night club Apartment; Prester claimed she was not entirely paid for it. We mention this case not so much due to the fact that Maja Uzelac is a journalist, since nothing seems to indicate she was using Twitter for that purpose, but rather in the scope of a wider debate waged in Serbia about responsibility for content posted on social networks on the Internet. We don’t want to go deeper analyzing if there was a genuine serious threat in the aforementioned case or not and if the safety of the owner or that of members of the night club’s management was compromised, but it is indicative that Maja Uzelac was summoned for an interview with the police five months after her message was posted on Twitter. In that entire period, the threat wasn’t repeated or acted upon, which means that it perhaps wasn’t so serious in the first place. If one would assume the threat was serious, the fact that the police and the prosecutor reacted with a five-month delay, is most definitely a concern. In the last few years in Serbia, there are several final convicting verdicts providing for prison sentences for threats against people’s security made over social networks on the Internet, the most famous of which are those against B92’s reporter Brankica Stankovic for her investigative program Insider about the leaders of extremist football fan groups and far right organizations. It seems, however, that the judiciary has fallen short in its attempts to curb hate speech, another increasing Internet phenomenon. In one of our previous reports we have written about the verdict against media delivered on hate speech charges, involving reader comments on an Internet

edition of a daily newspaper, which were inciting discrimination. The newspaper in question was fined. The authors of statements inciting discrimination, hate or violence typically remain anonymous and unpunished.

2.3. The Higher Court in Belgrade fined in the first instance the B92 station half a million dinars in damages for a girl from the vicinity of Pancevo, for damaged honor and reputation, in relation to the teasers for the investigative program “Reakcija”, which said she was involved in prostitution and human trafficking. As a teaser, TV B92 aired a shot of a reporter, the author of the said program, Radoslavka Despotovic, searching for advertisements on the Internet. An advertisement for escort girls, which could have been seen on the screen, contained a photograph of the plaintiff. The plaintiff claimed she had never given such advertisement or taken a photograph for it and the Court did not take into consideration the fact that the controversial advertisement had been posted on a universally accessible advertising website in a period of an entire year and that it was seen by thousands of visitors before and after the aforementioned teaser was aired on B92. As soon it was warned of possibility that the photograph equipping the online advertisement had been misused, B92 changed the teaser for the show, but the Court still found that the station had, by airing the contested teaser, failed to proceed with due journalist care. B92 has lodged an appeal with the Appellate Court in Belgrade.

The verdict against B92 raises a whole array of questions that will remain open at least until the decision to be reached by the Appellate Court. First, the court of first instance found that, by airing the controversial teaser, B92 failed to act with due care. However, the court itself failed to define the actions that would fulfill the standard of “due attention” in the concrete case. Namely, under the Public Information Law, the special consent of the photographed person is not required for releasing on television the photographs that such person has intended for public use. Should the Appellate Court uphold the first-instance verdict, it would mean that journalists must not be guided by the assumption that the photographs accompanying the advertisements and commercials are intended for the public. They would rather have to check, in each particular case, if the advertiser was authorized to use the photograph or not. If we know that, in Serbian towns nowadays, it is virtually impossible to shot any outdoor shot without the camera catching a billboard or a poster with someone’s face, such an interpretation becomes quite problematic. Furthermore, the Advertising Law excludes the objective responsibility of the media when they release a commercial contained a photograph of a person without the consent of the person on the photograph. Namely, the media that release such photograph shall be held accountable if the photograph in question was not properly declared by the producer, namely if the producer was not aware, and should have been reasonably aware, that the release of the photograph could harm someone. If the first-instance verdict against B92 is confirmed, it would mean that a media that has aired,

just for illustration purposes, already published commercial on other media, is required to exert a higher degree of caution than the media that has previously released the said commercial as a conveyor of the advertising message and got money for that.

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 braodcaster, 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.

III MONITORING OF THE PROCESS OF ADOPTION OF NEW LAWS

In the period covered by this Report, the Parliament of the Republic of Serbia didn't adopt any specific regulations pertaining to the media. Nonetheless, it has adopted the new Civil Procedure Law and the Criminal Procedure Code, which will start to be enforced in 2012 and 2013, respectively. These laws will be the grounds for the legal proceedings concerning the protection of the right to freedom of expression. The Law on the Amendments to the Law on Copyright and Related Rights, which also has implications for the media sector, is still pending for the adoption.

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. The Serbian Progressive Party (SNS) requested the Republic Broadcasting Agency (RBA) the suspension of member of the RBA Council Gordana Susa for allegedly making improper comments about that political party. In a TV show on September 12, Susa belittled and smeared the SNS and according to a press release issued by that political party, this has brought into question the credibility of all members of the Council. The press release went on saying the SNS was ready to initiate the dismissal of all members of the Council.

The Broadcasting Law stipulates that it is prohibited to influence in any manner whatsoever the work of the Council and that the member thereof shall ignore all instructions related to their work but the decisions of the competent court passed in scope of the judicial control of the Council's work. The Law also says that a member of the Council may be dismissed only for reasons and in proceedings provided for by the Broadcasting Law. The Law expressly stipulates that the reason for dismissal of a member of the Council may not be a political or other conviction of a Council member. We hereby remind that the SNS has already voiced its discontent with members of independent regulatory bodies or managers of the public service broadcaster. The SNS leader Tomislav Nikolic, in an interview published in the daily Press on July 24, announced that, if his party came to power after the next parliamentary elections, he would sack "that same evening" Aleksandar Tijanic, the General Manager of RTS. The statements and press releases issued lately by that political party seem to point to a worrying misunderstanding of independent regulation of radio and television in Serbia, as well as of the independence of the institutions of the public broadcasting service. SNS' stance shows that they aspire to take up positions both in the independent regulatory body and in the leading positions in RTS.

2. REPUBLIC ELECTRONIC COMMUNICATIONS AGENCY (RATEL)

2.1. On September 14, the Chairman of RATEL Managing Board, Professor Jovan Radunovic, PhD and the Director of RATEL, Milan Jankovic, PhD, presented before the Traffic and Communications Committee of the Parliament, the report about the work of

RATEL for the year 2010. The members of the Committee reviewed the Annual Report and laid down the Proposal of Conclusions they subsequently sent to Parliament for review and approval. By the time this Report was closed, the Parliament failed to approve the proposed Conclusion. The report says that in the course of last year RATEL passed 151 decisions prohibiting the activities of radio stations using frequencies without authorization; 76 misdemeanor proceedings were initiated and 98 conclusions were passed on allowing a forcible enforcement of decisions.

We have detailed the problems faced by RATEL in relation to radio piracy and unauthorized use of frequencies in the part of this Report concerning the implementation of the Broadcasting Law and the Law on Electronic Communications. The latter provides that RATEL's managing board shall submit to the Parliament an annual report about the work of the Agency, which report shall contain information about the situation on the electronic communications market in Serbia, about the accomplishment of the goals and tasks set out in the annual plan of the Agency and particularly about the degree of implementation of the electronic communications development strategy, the financial plan, financial reports and auditing reports, as well as other information relevant for the enforcement of the Law on Electronic Communications. The annual plan for the previous financial year shall be submitted no later than by the end of the last quarter of the current year. In addition to submitting the reports to the Parliament, the Agency shall post them on its webpage. These reports, dated July 24, have indeed been posted on the Agency's website. Among other things, the report shows that RATEL had a surplus of almost a billion and 250 million dinars in 2010. However, one is unable to see in the report information about the situation on the electronic communications market in Serbia for the year 2010. The report namely refers to the previously released data for 2009, while merely mentioning, in relation to 2010, that the analysis has started. Although it is the first annual report submitted under the Law on Electronic Communications from 2010 and RATEL perhaps needs more time in order to fulfill the requirements of a relatively new Law, one must observe that the report has nonetheless failed to meet the expectations.

3. PRESS COUNCIL

The Press Council's Complaints Commission – the first independent auto-regulatory body for print media in Serbia – started receiving complaints on September 15. We remind that the Press Council, as an independent auto-regulatory body consisting of publishers, newspaper owners and professional journalists, was founded back in 2009, in order to monitor compliance with the Journalist Code of Serbia in print media and decide about the complaints of persons and institutions related to the content of print media. The Council is

competent for deciding about complaints against daily and weekly newspapers, the circulation of which accounts for 85% of the overall distribution of all the press in Serbia. That includes the dailies such as Alo, Blic, Vecernje Novosti, Dnevnik, Danas, Politika, Press, 24 sata, Sportski zurnal and Sport and weeklies such as Vreme, NiN and many others. The members of the Complaints Commission are the representatives of the Media Association Filip Svarm, Nebojsa Spaic and Aleksandar Djivuljskij, the representative of Lokal pres Stojan Markovic, Tamara Skrozza and Slavisa Lekic from NUNS, Ljiljana Smajlovic and Petar Jeremic from UNS and representatives of the public Zoran Ivosevic, Bozo Prelevic and Miljenko Dereta. It was also announced that the first session of the Complaints Commission of the Press Council was held on September 29 and that it reviewed the complaints that had arrived since the Council officially started receiving them. The Commission reviewed two complaints filed by citizens in relation to the content of daily newspapers, of which one complaint was rejected after the Commission declared itself incompetent to suggest to newspapers not to publish a text they had announced, which was requested in the complaint. In the second case, the Commission decided to wait for the response of the daily the text of which was the subject of the complaint for disclosure of the identity of a domestic violence victim. The newspaper must respond within seven days and the members of the Commission will then rule whether the publication of the contested content represented a breach of the Journalist Code of Conduct.

STATE AUTHORITIES

4. MINISTRY OF CULTURE, MEDIA AND INFORMATION SOCIETY

On September 28, the Government of the Republic of Serbia adopted, on a conference call session, the Strategy for Development of Public Information System in the Republic of Serbia by 2016. This was confirmed by Dragan Milicevic-Milutinovic, Assistant Minister of Culture, Media and Information Society in charge of the media. Milicevic-Milutinovic said that the Government has accepted those recommendations of the European Commission it deemed important to be included in the Strategy. “The recommendations did not concern fundamental concepts; they rather represented some fine tuning. The most important segment of the Strategy is that the state is withdrawing from all media within two years,” Milicevic-Milutinovic told Vecernje Novosti. The EC’s objection concerning the establishment of six regional public service broadcasters was not accepted. The Assistant Minister said that these services would be set up, because the state must not allow the disappearance of media informing the citizens about regional matters.

The adoption of the Media Strategy has put an end to a painstaking process initiated by the requests of media and journalists’ associations after the adoption of the Amendments to the

Public Information Law in the summer of 2009. The associations aren't, however, completely satisfied with the text of the Strategy and the most vocal criticism concerned the part thereof regarding the setting up of regional public service broadcasting. On the eve of the Strategy's adoption, the EC pointed to the segments it believed to be particularly problematic. First, the EC fears that the said public service broadcasting will not be financially sustainable and has said that there were alternative ways to cope with the demand for regional programs of public interest, echoing the stance of journalists' associations. Furthermore, the EC says that state media either be editorially and financially independent or be privatized, pointing out to the need to have a much more detailed explanation as to how this need will be realized than it is the case in the Strategy, including organizational aspects and more precise rules on state aid, in order to exclude unwarranted influence of media content. The EC has also stressed it is necessary to foresee clear rules for state advertising, all the more so since the sources for the funding of media in Serbia are concentrated in the hands of a small number of players. Moreover, competition protection rules ought to be enforced in order to prevent that the said concentration of marketing budgets and the distribution thereof results in abuse of dominant position and influence on the professional and financial integrity of the media. The Commission has highlighted as a special concern the possibility for the media of National Minorities' National Councils to be funded from the budget, in view of the political nature of these councils and potential influence on the editorial policy of the said media. The Commission has also warned that two aspects concerning digitalization haven't even been mentioned. First, who will finance digitalization and second, the state failed to commit that it would implement the digitalization process in consultation with all stakeholders and the public. The text of the Strategy has been published in the Official Gazette of the Republic of Serbia no. 75/2011 from October 7, 2011.

5. THE ANTI-CORRUPTION COUNCIL

In late September, the Anti-Corruption Council presented its report on the pressures on and control over the Serbian media. The Council concluded that the information it had gathered showed Serbian media to be under strong pressure and that they were subject to total control. "Not a single media outlet is providing complete and objective information to the citizens. Under strong political pressure, the media are ignoring events or report about these events selectively and partially," the report says. The document cites three main problems faced by the media in Serbia: lack of transparency with respect to ownership, economic influence of state institutions on the work of media, as well as the issue of RTS, which is serving the interests of political parties and ruling elites, instead of being the citizens (public) service. The said problems have resulted in the media ignoring problems Serbia faces, including corruption. According to the Council's findings, the real owners of 18 out of 30 most important media in Serbia are unknown to the Serbian public, due to the presence of off-

shore companies in the ownership structures. Furthermore, the Council has found, almost a quarter of the money on the advertising market comes from state institutions and public companies, which means that the state, by pumping money into the media, influences their reporting and editorial policy in order to promote certain figures and political parties. In the Council's opinion, this has, in turn, led to an absence of analytical and investigative content in the media, which would deal with the activities of state institutions and public companies that are major advertisers. The report also cites other models, apart from advertising, by which the media make profit at the expense of the budget, such as commissioning media for research services, subscription to news agency services or contracts on the services of reporting about the activities of certain state agencies. The report criticizes RTS over opaque contracting procedures and unequal conditions for the same transactions with independent production companies. The Council has also analyzed the work of the RBA and concluded it was under "very strong pressure" and constant influence of political parties.

The Anti-Corruption Council's report has stirred many controversies: the Council's President Verica Barac pointed out that the fact that the report was ignored or received only limited coverage by the majority of media had practically confirmed the veracity of its findings. The report could undoubtedly be the foundation for analyzing the obstacles on the path to media freedom and the creation of a democratic public opinion in Serbia. However, the report is, at the same time, seriously flawed: ignoring the report or conveying only scarce excerpts prevents a public debate to take place both about the good side of this report and about its shortcomings. The good news is that report has pointed out and, in certain parts, documented the mechanisms of pressure against media and that it recognized a series of serious problems. However, it does not indicate the standards that the Council advocates in relation to the transparency of media ownership. Furthermore, the issue of competition protection and maintenance of media pluralism is reduced to the problem of illicit media concentration, absolutely ignoring both restrictive agreements and the abuse of dominant position. Hence, the report recommends that the Competition Protection Commission should oversee instances of media ownership concentration, but fails to recommend sector analysis of the advertising market or media content distribution markets, although such analyses would be more appropriate for the problems identified in the report. Moreover, state financing of media isn't analyzed from the aspect of state aid control regulations. Finally, perhaps the best thing is that the release of the report coincides with the adoption of the Media Strategy. This fact enables us, in view of the problems identified in the report, to both evaluate the solutions proposed by the Strategy and the implementation of these solutions.

V THE DIGITALIZATION PROCESS

On September 27-28, Agency for Electronic Media and the Electronic Communications and Postal Activity Agency of Montenegro organized the first technical meeting and the meeting of the Executive Board of the SEE Digi.TV Project in Budva. The aim of the project, realized under the auspices of the SEE Transnational Cooperation Program 2007 – 2013 and funded with the support of EU structural funds ERDF, IPA and ENPI, is the harmonization of the legal, economic and technical aspect of digitalization, as well as of the framework that ought to ensure quality information for the consumers and the protection of their interests in this process. The project involves Slovenia, Italy, Austria, Hungary, Croatia, Bosnia-Herzegovina, Serbia, Montenegro and Albania. The RBA is involved as Serbia's representative. In the course of the meeting in Budva, the representatives of regulatory bodies and their partnership organizations focused on key project segments, in the scope of which they will analyze the current situation and formulate recommendations for improving the legal, technical and economic framework relevant for a successful TV digitalization process. The topics of the meetings were also concerns and concepts that should enable timely and quality information and the familiarization of viewers and consumers with all the relevant aspects of this process. The participants will prepare, for the next meeting scheduled for November, the first versions of documents that will serve as a basis for further work and organization of professional and public debates both on the national and regional level.

The goal of the project is to establish a platform for the digital switchover in the region and to speed up the transition process and contribute to the development of more efficient technologies; improve the harmonization of the legal and technical framework with that of the EU in order to avoid the fragmentation of the market; develop a regional proposal for the optimum usage of the released spectrum for broadband services; and improve the management of the digital dividend. A major concern is, however, the fact that, as opposed to some other countries in the region, which are represented in the project both by media regulatory bodies and electronic communications regulatory bodies (Croatia, Montenegro) or by a single regulator for both fields (Bosnia-Herzegovina, Italy), Serbia was represented by the RBA only. Logically, this raises the question of competences and capacities relative to the projected goals and in particularly those goals that in Serbia are in the competence of RATEL.

VI THE PRIVATIZATION PROCESS

The absence of a clear strategy of the state with respect to the privatization of media has shown all its adverse consequences in the case of Radio Sombor. Although the privatization

thereof was revoked more than three years ago, after which the station was placed under the control of the state via a representative appointed by the Privatization Agency after the dismissal of the previous representative, it seems that nobody wants to discharge that function. Viorika Blazin from Zrenjanin, appointed by the Agency to that post, according to the daily Dnevnik, has apparently given up the “mission impossible” to save Radio Sombor. We remind that the station has been receiving, in the course of 2010, financial support both from the local government and the authorities on the level of the province and the republic, through the funding of project concerning information in the language of ethnic minorities. Radio Sombor has now been left without management and facing unfair competition by three pirate radio stations in its coverage zone.

In the case of Novosti, which we have also been covering in our reports, the majority owner Milan Beko is yet to inform the Securities Commission whether he will tender an offer for the purchase of the remaining stock or he will issue an order to sell his share in the said media company. We remind that the Securities Commission passed a decision on June 23, determining that Beko has, through his three affiliated companies registered abroad – Ardos, Trimaks and Karamat – purchased 62.4% of Novosti and that he has failed to fulfill his legal duty to tender an offer for the remaining shares. Beko was ordered to tender an offer within three months for the takeover of the shares from Novosti’s minority shareholders or to sell a 25% stake – this deadline expired in late September. Until the issue of ownership in Novosti is not settled, the managing rights of Ardoks, Trimaks and Karamat are limited, which has created a situation where the majority of the votes in the company’s bodies is held by the state with 29.5% of the shares. The remaining shares are also held by the government pension and disability fund (7.15%) and small shareholders with 0.92%. We remind that, according to past media reports, Milan Beko has purchased Novosti with the funds provided by the Germany-based WAZ-Mediengruppe. The Competition Protection Commission has not, however, issued an authorization to WAZ for the takeover of Novosti and has suspended the decision-making procedure about that concentration pending a decision of the Administrative Court of Serbia in a dispute initiated by WAZ. The said Court announced on September 27 that it had rejected WAZ’s claim and the Competition Protection Commission is now expected to resume the procedure.

Meanwhile, the unprivatized media in Serbia remain exposed to pressure from local political leaders. This is best evidenced by a case in Leskovac, where the journalists of commercial media have stood by their colleagues from the public company Radio Leskovac and jointly left a press conference of the opposition Serbian Radical Party (SRS), in protest against the criticism of the work of local media voiced by SRS councilor Miodrag Jovanovic. The journalist of TV Leskovac Dragan Marinkovic told the daily Blic that he had been receiving,

on daily basis, phone calls and sometimes even threats, from many politicians that were trying to put pressure on the editorial policy of the station.

VII CONCLUSION

In the last two years, in the course of the passing of the Media Strategy and in the past couple of months in particular – when this document practically became a condition for Serbia to obtain EU candidate status – the political will for changes in the Serbian media sector was, as we have reiterated several times in our previous reports, limited only to the adoption of the Strategy. This has led to a situation where the problems in the implementation of already adopted regulations have been completely neglected. After the Media Strategy was finally adopted, a greater emphasis should be put on the daily challenges faced by the media and journalists in Serbia, such as threats and pressures restricting the free flow of ideas, information and opinions, or the practice of courts in trials against the media, which is still not compliant with the case law of the European Court of Human Rights in the enforcement of Article 10 of the European Convention. Furthermore, greater attention should be paid to the intolerably lenient penal policy in cases of threats and physical assaults reporters are exposed to. These are not, unfortunately, the only problems. We remind that the Parliament has already reviewed the Draft Amendments to the Law on Copyright and Related Rights adopted in December 2009. Furthermore, we are yet to see the closure of tariff disputes regarding the tariffs of the fees most importantly for music rights, which are still being paid by the media under a far less affordable concept established by the old law from 2004. And finally, there is the issue of the poor implementation of the Law on Electronic Communications and the fight against radio piracy. The Strategy was indeed of paramount importance for the media sector in Serbia. The good news is that it has finally been adopted and that the media associations have, after a long and painstaking negotiation process with the government, managed to push through at least part of their demands. However, due to the efforts invested in passing the Strategy, all other activities aimed at improving the status of journalists were left on hold. The media associations now should, while insisting on the implementation of the Strategy, focus on the aforementioned issues. In our next report we will delve in more detail into the role of the Strategy itself regarding these efforts, as well as into a general analysis of the particular concepts it contains.