

## II MONITORING OF THE IMPLEMENTATION OF EXISTING LAWS

### 1. Law on Public Information

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

1.2 OSCE Media Freedom Representative Dona Mijatovic said on April 5<sup>th</sup> in an interview for the Beta news agency that the situation in the media in the last couple of years had worsened. In her words, cases of stifling free expression in the form of assaults on journalists in the entire region, as well as self-censorship, are on the rise. “The role that the media should have in every society is becoming less and less respected; the fact is ignored that conducting a public office entails responsibility towards the citizens and enabling the media to have free access in order to report about the work of public officials”, said Mijatovic. She particularly warned of self-censorship as a form of threatening media freedoms, in which the journalists themselves played a major role.

Many other cases corroborate the opinion of the OSCE Media Freedom Representative Dunja Mijatovic, painting a bleak picture of the situation in Serbia, in addition to the herein described case of threats against Brankica Stankovic and the angry reactions of the public to the inappropriate response of the state to such threats. A case in point is the case of Novosti reporter from Loznica Vladimir Mitric. Mitric was attacked on September 12, 2005, sustaining a broken left hand and twenty-some concussions and bruises on his head and body. The police arrested their former colleague Lj. T, who was, at that time, already suspended from the service. However, the persons who ordered the attack were never identified. The Municipal Court in Loznica sentenced Lj. T. to six months in prison. The District Court of second instance in Sabac revoked the verdict for procedural reasons and ordered a retrial. A new pause ensued, due to the reform of the judiciary and the retrial before the Court of General Jurisdiction in Loznica began on April 13 this year, almost five years after the assault took place. Due to repeated threats, Mitric has been under police protection for more than three years. Such cases undeniably result in self-censorship in the media.

1.3. On April 9, 2010, the Association of Jewish Municipalities of Serbia called upon the media to refrain in their reporting from communicating anti-Semitic views, the Beta news agency has reported. In a press release issued concerning the contradictory reactions to the

story aired on March 31 on RTS about the trial of Peter Egner in connection to his participation in the execution of 17.000 civilians in World War Two – which ended with the reporter’s words “The Jews had to put money in the equation” – the Association voiced hope that such gaffes would not happen again. It also thanked State Secretary in the Ministry of Human and Minority Rights Marko Karadzic, who was the only official who reacted to this, as the press release called it, unacceptable view. The Editor-in-Chief of the RTS News program Nenad Lj. Stefanovic rejected the accusations made by Karadzic that the RTS was responsible for hate speech and discrimination of the Jews.

Under the Law on Public Information it is prohibited to publish ideas, information and views inciting discrimination, hate or violence against persons or groups of persons because of their race, religion or ethnic background. In the concrete case, the feature aired on RTS contained inappropriate suggestions about prejudices against the Jewish community. Although the Association of Jewish Municipalities of Serbia didn’t announce it would press charges, but merely called upon the media to refrain from publishing anti-Semitic views, in the case of the RTS report there is definitely grounds for legal action both against the author of the information and the responsible editor, requesting a ban on rebroadcasting the controversial report and the publishing of the verdict at the expense of the defendants.

## **2. Broadcasting Law**

2.1 The Cacak Television refused to air for seven days and free of charge a press release of the local health center about the medical checkups for children that are to enroll elementary school in September. The station aired the information about the dates of the said checkups in their central news program “Gaskin”, but insisted on making further broadcasts under commercial conditions, in the form of paid advertisements. The health center refused to pay for the advertisement, claiming it was information of public interest.

According to Article 68 of the Broadcasting Law, the broadcasters’ general obligation is to communicate urgent information concerning threats to life, health, security or property. The health center’s press release about the time schedule of the medical checkups for soon-to-be first graders can hardly be considered as urgent information concerning threats to life, health, security or property. The health center’s insistence on airing the information free of charge several times per day for seven days, as well as the threat to complain to the Broadcasting Agency if the request is not fulfilled, may be interpreted as an attempt to restrict freedom of expression, particularly since TV Cacak communicated the information in question in its central news program.

### **3. Law on Free Access to Information of Public Importance**

3.1 In late April 2010, the Ministry of Public Administration and Local Self-Government filed more than one hundred misdemeanor charges after having established that 140 public authorities were not consistently adhering to the provisions of the Law on Free Access to Information. A press release issued by that Ministry said that, after inspections had been carried out in more than 200 public authorities, misdemeanor charges were filed against 41 mayors and municipality presidents, 92 directors of social affairs centers and seven officials of republic bodies. As it was explained in the press release, the Commissioner for Information of Public Importance and Personal Data Protection informed the Ministry in late February about the authorities that have failed to draft and publish an information booklet and submit a report about the implementation of the said Law. The Commissioner for Information of Public Importance Rodoljub Sabic said that the establishment of an organized and accountable government required for elected and paid civil servants occupying public positions to lead by example. "If they fail to do that, they should be held to account", Sabic explained, adding that there hadn't been such a case for years and that the number of persons that had infringed on the law and were prosecuted for it was symbolic.

Regarding the above mentioned misdemeanor charges, the authors of this report may only agree with the following words of the Commissioner for Information of Public Importance Rodoljub Sabic: "A successful transition process and the establishment of an organized and accountable government requires for elected and paid civil servants occupying public positions to lead by example in fulfilling their legal obligations. If they fail to do that, they should be held to account".

### **4. Law on Local Self-Government**

4.1 After two failed competitions, the Local Council of Cacak has called a third public call for bids for live coverage of the sessions of the local parliament. The fact that only three stations in the city are eligible for taking part in the competition is considered discriminatory by the Director of Radio Ozon Stojan Markovic, whose station is among the said three. "The competition was obviously called in order to award the right to broadcast the sessions to TV Cacak, for which they will be paid 350.000 dinars per day by the City Council", Markovic said, warning he would not participate because he refused to give legitimacy to such competition. He also stressed that the conditions of the competition did not list the criteria against which a TV or radio station would be assessed in terms of the level of technical capacity for live coverage. Who will be making that judgment is also unknown.

The Law on Local Self-Government stipulates that the municipalities and cities are competent for public information of local interest and for ensuring the conditions for public information in the Serbian language and languages of national minorities used on the territory of the respective municipality. In that sense, the calling of competitions for the submission of bids for live coverage of local council sessions falls within the competence of local self-governments. In practice, however, the mechanisms that would ensure that the provision of funds for public information activities is transparent and non-discriminatory so as to avoid illicit state aid that would threaten competition on the market are unclear. In such cases, local self-governments may, at their own discretion, opt for calling a public competition or chose a public procurement procedure. In certain cases, they may decide to make direct arrangements with a particular station or newspaper. The authors of this report believe that it is necessary to regulate in a unified manner, at the national level, the provision of funds helping the media to meet the conditions for providing information of local interest, in accordance with the Law on Local Self-Government and with the principles of transparency, non-discrimination and protection of competition.