

## I FREEDOM OF EXPRESSION

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

### 1. *Threats and pressures*

1.1. At the press conference held on March 8, the Vice-President of the Socialist Party of Serbia (SPS) and the President of the Provincial Committee of the SPS for Vojvodina Dusan Bajatovic said that the SPS was requesting the change of editorial policy in Radio-Television Vojvodina (RTV), saying it was biased in favor of the Democratic Party (DS). If not, Bajatovic warned, his political party would demand the dismissal of all the managing people in the station. He added that the SPS had requested a list of the 20 highest salaries in RTV. Bajatovic also said, "I have heard that the salaries of some RTV managers exceed my own, which is, you will admit it, very difficult to achieve". The Director of the RTV News Program Igor Bozic told the daily "Blic": "Bajatovic has not put forward a single piece of evidence to back up his claim that RTV is biased towards a particular political party. Analyses have shown our program to be well balanced, as confirmed by the RBA analysis after the elections". The journalists' associations NUNS and NDNV have condemned Bajatovic's statement. They said, "Bajatovic has thereby joined the campaign that is being waged about the Vojvodina public service broadcaster, which started with stories in ultranationalist media, controlled/edited by Bajatovic's (former?) political allies and war propagandists from the notorious 90s".

In our previous report, we have written about a series of texts published in the weekly "Pecat", whose editor-in-chief is the former RTS Director and former high SPS official, Milorad Vucelic. Vucelic's texts contained vitriolic verbal attacks on the managers and journalists of RTV. NUNS and NDNV also said that the attacks against RTV had "occurred at the moment when that station's ratings and public standing were finally on the rise after 20 years of financial and professional decline". The press releases of the two associations went on saying that RTV had been operating for the last 14 years as the foster child of the state, in rented and unsuitable premises, with unstable revenue making its proper functioning impossible. The Broadcasting Law insists on the obligation to ensure that the programs of PSBs, and especially news programs, be protected from any interference of the government, political organizations or business power players. On one hand, PSBs are obligated, when producing and airing news program, to adhere to the principles of unbiased and objective reporting in dealing with various political interests and entities, to promote freedom and pluralism of public opinion, as well as to prevent any form of racial, religious, ethnic, or other animosity or hatred, or intolerance towards

different sexual orientation. On the other hand, however, the Broadcasting Law has created a complex mechanism of electing the managing structure and editors of RTV, precisely in order to protect the PSB from political interference, as well as to ensure that its program is unbiased and committed to the public interest and not to that of the political elites. Hence, in Serbian PSBs, including RTV, the managing board consists of journalists, as well as well-established experts for the media, management, law and finances and other renowned figures. The managing board is appointed by an independent regulatory body. With a two-third majority, the managing board appoints and dismisses the general manager, after an open competition. It also appoints and dismisses the directors of the radio and television and the programming editors-in-chief. The extent to which RTV has managed to achieve unbiased reporting and commitment to the interest of the public is evidenced by the regulators' reports, such as, for example, the Report on the Oversight of the Operations of the Broadcasters During the Election Campaign for last year's presidential, parliamentary, provincial and local elections. According to these reports, the RTV program was pretty much balanced, even more balanced than the program of the national public service broadcaster RTS, even in the period when the DS was in power both in Vojvodina and at the national level. It is therefore unclear what the foundations for the allegations of SPS and its vice-president Bajatovic are supposed to be. In that sense, it is impossible not to view Bajatovic's statement as an attempt to influence the editorial policy of RTV as anything else but as a pressure (forbidden under the Law on Public Information) on a media and its staff and influence that may obstruct their work.

1.2. On March 23, the journalist of the website "Pistaljka" Ivan Ninic was questioned in the premises of the Criminal Police Administration of the Ministry of Internal Affairs, under the subpoena of the First Basic Prosecutor's Office in Belgrade. Ninic was questioned in relation to the criminal charges pressed after the release of an article on the aforementioned website, claiming that the company Yunycom d.o.o. had signed a contract on a donation with the Blood Transfusion Institute of Serbia before landing the deal on procuring the tests for blood-transmitted diseases. The article in question said that, after two failed tenders dismissed by the Republic Commission for the Protection of Legality in Public Procurement Procedures, the Blood Transfusion Institute of Serbia had allocated to the company Yunycom d.o.o., in a direct negotiation procedure, the procurement of 120.000 ELISA tests for blood-transmitted diseases, the total value of which was 21.6 million dinars. Less than two months before that, the Manager of Yunycom d.o.o., Dr. Slobodan Krivokapic and the Director of the Institute, Dr. Snezana Srzentic, signed a donation contract, under which Yunycom had donated to the Institute an appliance for the analysis of ELISA tests worth 30.326 Euros. The Director of the Institute, Dr. Snezana Jovanovic Srzentic, filed criminal charges for abuse of office against unknown persons employed in the Institute. In her words, the abuse was contained in the fact that Ninic obtained the copy of the contract (that was released by "Pistaljka") without authorization. She claims that

“Pistoljka” posted the contract and the text before the Institute had officially responded to the journalist’s request for a copy of the contract, namely before he confirmed having received the contract on the post office’s return receipt. The Deputy Prosecutor of the First Basic Prosecutor’s Office requested the police to determine how Ninic had obtained the controversial contract, from whom and under which circumstances. According to “Pistoljka”, Ninic confirmed on the hearing that he was in the possession of the contract before receiving it officially from the Blood Transfusion Institute. However, he refused to disclose to the police the source of the information based on which he had written the text, saying that he had received it anonymously and that “Pistoljka” decided to release the text and the contract along with the previously received answers from the Blood Transfusion Institute. “Pistoljka” branded the charges as an attempt of intimidation of the journalist and the employees in the Blood Transfusion Institute.

Under the Law on Public Information, the public media shall publish and release ideas, information and opinions about phenomena, events and persons of relevant interest for the public, regardless of the manner of receiving the information. The Law goes on stipulating that journalists shall not be obligated to disclose information related to the source of the information, unless it concerns a criminal offense, or perpetrator of a criminal offense, subject to at least five years in prison. In the above-described case, the criminal offense of abuse of office, which the Director of the Institute said was committed by employee/employees in her institute, is subject to between six months and five years in prison. In any case, such criminal charges, including the decision of the First Basic Prosecutor’s Office to proceed in accordance with the criminal charges and question the journalist about the source of his information, may undoubtedly result in intimidation of the journalist, as well as employees that might blow the whistle on corruption in their respective institutions. We remind that, under the Law on Public Information, it is forbidden to directly or indirectly restrict freedom of public information in any way suitable for restricting the free flow of ideas, information and opinions, including by abusing government powers or law.

1.3. On March 24, two masked assailants threw two hand grenades on the home of the owner of the “Comtrade” Company and the portal Telegraf.rs Veselin Jevrosimovic. One bomb was thrown to the balcony of the bedroom where Jevrosimovic’s daughter was sleeping at the time. Jevrosimovic’s spouse was also in the house. Fortunately, nobody was injured. The attackers were caught on the security cameras of the house, but it was nonetheless impossible to identify them. The police conducted an on-scene investigation and apprehended several individuals for questioning. By the time this Report was concluded, nobody was officially suspected of the attack. Jevrosimovic himself said that he or the “Comtrade” Company were not in any debt. He said the probable cause of the attack was the online portal he owned and branded it as an attack

on the media. The incident was swiftly condemned by the journalists' associations, which requested that it be determined if it was related to the reporting of the portal owned by Jevrosimovic.

The fact is that we have often written in these reports about bomb attacks on the homes of journalists, editors and media owners. The most drastic case was the bomb that was planted on the window of the apartment of the weekly "Vreme" journalist Dejan Anastasijevic in April 2007. The perpetrators have never been discovered. Although Veselin Jevrosimovic is predominantly perceived in the public as an executive and owner of "Comtrade" and not as a publisher, it would definitively be significant for the freedom of expression in Serbia to get to the bottom of this case and establish if the attack is really related to the writing of Jevrosimovic's online portal.

1.4. On March 26, the daily "Danas" published a text titled "The Imams' Rebel against Mufti Zukorlic", authored by Sladjana Novosel. The text claimed that a group of imams stood up openly against the Mufti Zukorlic, unhappy with the way he led the Islamic community in Serbia. The press service of the Mesihat of the Islamic Community in Serbia, led by Mufti Zukorlic, promptly issued a press release sent to "Danas". As the newspaper reported, the press release contained a series of insulting and personal qualifications against the author of the text and brutal threats that might have threatened her security. "Danas" said the Police Administration in Novi Sad, as well as NUNS and UNS, international journalists' associations and the OSCE Mission to Serbia had been informed. The journalists' associations slammed the actions of the Mesihat, saying that it was not the first time that it reacted "in a manner improper for public communication, with insults and personal disqualifications" to the reporting of Sladjana Novosel from Novi Pazar. They also said that the Mesihat was putting pressure on not only Novosel, but also other journalists reporting from Novi Pazar and that it was not contributing to the civil and religious tolerance it verbally cherished, threatening the freedom of public expression instead.

The Law on Public Information expressly stipulates that public information shall be free and in the interest of the public, not to be subject to censorship, as well as 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. Particularly, no one is allowed to put physical or other type of pressure on public media and the staff thereof to obstruct their work. Pressure is particularly dangerous when coming from religious communities, which should be an important segment of interethnic and interreligious tolerance in society. The information about the relations between the imams and the Mufti of the Islamic Community in Serbia without a doubt constitutes information about events and persons the public is entitled to know about.

Therefore, it is necessary in such cases to protect the right to freely publish ideas, information and opinions about matters of public interest.

1.5. The Director of the Novi Pazar-based TV Jedinstvo Serif Marukic said in an interview for RTS that a group of armed persons had entered the premises of that station on March 26 after 6 p.m. Marukic said that the group was led by Mirsad Fijuljanin, who introduced himself as the new director; he also said that he had the case reported to the police. The station did not air the news and the employees were sent home. The Spokesperson of the Police Administration in Novi Pazar Bedrija Cekovic confirmed they had received the notification about the incident, but when the patrol visited the premises, the police established that public order had not been violated. The security guards in the station did not allow the crew of RTS to film the premises. The online portal "Sandzak pres", close to the Islamic Community in Serbia, reported that the aforementioned Fijuljanin had been appointed Director of TV Jedinstvo and that he took over the office in the afternoon hours. "Sandzak pres" explained the dismissal of Serif Marukic by the fact that the employees "had not received their salaries for months" and that he had "caused the station to lose frequency because of his irresponsible behavior".

TV Jedinstvo is the oldest television station in Novi Pazar. The Shareholders Society for Graphic Services Jedinstvo, within which the station used to operate, went bankrupt over debts incurred by other parts of that company. Nevertheless, the TV station continued to function through a different company, although the license was still registered with Jedinstvo a.d. However, since under the Broadcasting Law the broadcasting license may not be assigned, leased or transferred/disposed with in any other way, the RBA revoked the license of TV Jedinstvo in 2012, citing the bankruptcy of the mother company as the reason. TV Jedinstvo continued to broadcast without a license and the Director was sacked, according to media reports, after a political distancing between the Mufti of the Islamic Community in Serbia Muamer Zukorlic and Emir Elfic, the President of the Bosniak Democratic Union. The mere change of Director, justified or not, shows that the media remain extremely dependent of wider developments on the social and political stage. The incident in TV Jedinstvo in Novi Pazar is an evidence of fundamental shortcomings of the legal framework for the functioning of media in Serbia. First, the legal framework is utterly inflexible and incapable of dealing with situations happening in reality, such as the one where the company Jedinstvo a.d. went bankrupt, while the television continued to operate in the scope thereof, finding a way to continue to broadcast. Moreover, the legal framework does not contain instruments to ensure the transparency of media ownership, not even to the extent that would make it possible to know who is authorized to appoint and dismiss the managing structures in the media. The legal framework does not even contain provisions that would guarantee certain rights of journalists relative to the owners of media. Finally, the

mere fact that TV Jedinstvo formally lost its license last year and that it has continued to broadcast to this day confirms that the regulator does not have mechanisms to ensure that its decisions are complied with.

## **2. Legal proceedings**

2.1. The Appellate Court in Belgrade revoked the first-instance verdict of the Higher Court in Belgrade, acting upon the charges pressed by Nikola Sandulovic, against the publisher of the daily "Danas", the Editor-in-Chief of "Danas" Zoran Panovic and journalist Ivana Pejic. Sandulovic is the former head of security of the slain Serbian PM Zoran Djindjic. The now revoked verdict of the Higher Court had partly approved Sandulovic's claim and committed the publisher, editor and journalist of "Danas", to pay 100.000 RSD of damages, as well as an additional 77.100 RSD of legal costs. The decision on revoking the verdict was furnished to the Higher Court on March 4.

Nikola Sandulovic sued the publisher, editor and journalist of "Danas" over information contained in the text "In Search of the Attacker's Car" in the online edition of the daily. The topic of the text was the investigation of the case where a bomb was planted under Sandulovic's car, injuring him gravely. The text said that "according to off-the-record information, the motive of the attempt on Sandulovic's life might have been his business dealings, while well-informed sources of "Danas" claim that he was well acquainted with the dealings of the Serbian underground". The text went on saying that Sandulovic also participated in many construction investments in Belgrade. In his lawsuit, Sandulovic said that the author of the text had portrayed him as a person involved in shady dealings, putting a special emphasis on the allegation that the plaintiff was "well acquainted with the dealings of the Serbian underground". According to Sandulovic, the attack against him was described as a showdown between criminals and not as attempted murder of a public figure and one of the close associates of the late PM Zoran Djindjic. The Higher Court in Belgrade found that the defendants had not provided sufficient evidence for the accuracy of the information published in text, as well as for their claim that the controversial information, in the context it was stated, could have stained the plaintiff's honor and reputation. The claim of the defendants that Sandulovic, as the former chief of security of the late PM Zoran Djindjic, must have been familiar, in view of the nature of his former job, with the developments in the Serbian underground, was rejected by the court of first instance as an assumption of the author, which, as such, should have been checked prior to the release of the text, with due care. Revoking the verdict, the Appellate Court said that the Higher Court failed to properly factor in the fact that the central information about the event (explosives planted under Sandulovic's car) was true, while the motive of the incident was described with expressions such as "according to

off-the-record information”, “it is believed that”. At the same time, the author failed to mention that Sandulovic had taken part in illicit dealings, but merely that he had participated in many construction investments in Belgrade. The Appellate Court ordered the trial to be repeated, so as to explain what were, in the concrete case, factual claims and what were the value judgments, as well as which factual claims were untrue and if such untrue claims were suitable for injuring the plaintiff. Furthermore, the Appellate Court said it needed to be determined if the text contained offensive value judgments that were, in view of the topic of the text, intended on offending the plaintiff’s personality. The decision of the Appellate Court has once again confirmed that the Court continues to raise the standard of general protection of freedom of expression in Serbia, consistently insisting that legitimate grounds and conformity to the prescriptions of the Law are not sufficient prerequisites for restricting freedom of expression, namely that each such restriction must be necessary and proportionate in a democratic society.

2.2. The former Editor-in-Chief of the now defunct newspaper “Nacionalni gradjanski list” from Novi Sad Milorad Bojovic received a decision sentencing him to 150 days in prison for the failure to pay a fine in the amount 150 thousand dinars for defamation. The latter is related to the text published in 2011. Bojovic was sued before a court of law by Tatjana Vojtehovski, at the time a presenter at RTV Pink and member of the management of that station, over the text that mentioned her in the context of her relationship with a much younger person. Bojovic told “Dnevnik” it was “ridiculous to sentence people to prison for felonies that did not exist in the Law anymore”. He added that, since the state decided to decriminalize defamation, it should also revoke defamation-related sentences that had not yet been served. Bojovic reminded that the explanation of the sentence said that nobody had the right to morally patronize anyone, not even journalists.

The recent amendments to the Criminal Code have decriminalized defamation. The provisions of the Criminal Code concerning the time validity of criminal legislation say that if the relevant Law is amended after the commission of a criminal offense, the less strict Law for the perpetrator shall apply. Based on that provision, in defamation cases that have not been finalized, the courts have suspended the proceedings, with the explanation that defamation was not provided as a criminal offense under the amended Criminal Code. In Bojovic’s case, the sentence was obviously enacted before the said decriminalization of defamation and now he has to serve as much as 150 days in prison, since he failed to pay the fine. The exact number of similar cases is unknown, but even if Bojovic’s case was the only one, it is obvious that the decriminalization has not taken into account that aspect, which has resulted in the absurd situation where journalists keep going to prison even after defamation has been decriminalized.