

## II MONITORING OF THE IMPLEMENTATION OF EXISTING REGULATIONS

### 1. Law on Public Information

1.1. The implementation of the Law on Public Information was elaborated on in the section on freedom of expression.

### 2. Broadcasting Law

2.1. At a session held on August 9, the RBA Council decided not to allocate the broadcasting license with national coverage in the K5 network, the one in which TV Avala used to broadcast before its license was revoked. In late August, the RBA Council's decision was delivered to the candidates – TV Nova and Kopernikus TV.

The decision was made by secret vote. Four members of the Council did not vote for any of the applicants, two members voted for TV Nova.rs, while three voted for TV Kopernikus Svet plus 3. However, none of the candidates received the necessary majority of votes and hence the formal conditions prescribed by the Broadcasting Law for passing the decision were not met. Under Article 32 of the Law, the Council shall pass a decision by the majority of votes of the attending members, unless the Law itself or the Statute provide for otherwise in the given context. Under Article 20 of the Statute of the RBA ("Official Gazette of the Republic of Serbia" no. 102/2005), the Council shall decide on the allocation of radio and TV broadcasting licenses in an open competition procedure, by a qualified majority of five votes. Regarding the further procedure, Article 54 of the Law stipulates that the applicant that is dissatisfied with the Council's decision shall be entitled to submit a complaint to the Council within 15 days and the Council shall decide about it within 30 days of the submission of the complaint. The ensuing decision is final and an administrative dispute may not be lodged against it. In relation to the above-mentioned regulations, it is evident that, since neither TV Nova, nor Kopernikus TV, received five votes each out of the nine members of the Council, the legal conditions for the allocation of the national frequency were not fulfilled. By the end of August, the negative decision of the Council was submitted to the applicants and the final decision about their potential complaints was pending. It remains unclear, however, whether the RBA will, in case it rejects the complaints, continue to insist on its own interpretation of Article 49, paragraph 2 of the Broadcasting Law and call a new open competition, or the Ministry of Foreign and Internal Trade and Telecommunications will

change the Radio Frequencies Allocation Plan, so as to reassign the frequencies in the K5 network (formerly allocated to the now defunct TV Avala) for the purpose of expanding the initial digital broadcasting network, which will (as it is believed) enable simulcast (simultaneous analog and digital broadcasting) for what is believed to be more than 50% of the households in Serbia, thus making the digital switchover smoother and quicker.

2.2. At the same session of the RBA on August 9, the decisions passed on the allocation of regional and local coverage licenses were to some extent “obscured” by the decision on the non-allocation of the national coverage license. Namely, the regional television broadcasting licenses were issued to TV Jedinstvo (for the region it covers – the towns/municipalities of Novi Pazar, Tutin and Sjenica), TV Kanal 3 (for the area of Belgrade) and TV Telemark (for the region covering the towns/municipalities of Kraljevo, Cacak, Pozega, Gornji Milanovac, Arilje, Sevojno, Ivanjica and Kosjeric). For the region including the towns/municipalities of Knjazevac and Zajecar, the radio broadcasting license was issued to Radio M55 from Knjazevac. Local radio and television broadcasting licenses were allocated to 11 broadcasters (8 for TV and 3 for radio).

Among the local TV stations that have obtained a local license is TV Trstenik, the founder of which is the Public Company Radio-Television Trstenik from Trstenik, one of the non-privatized media funded from the local government budget. The decision by the RBA to issue a license to such a broadcaster is highly problematic, since the withdrawal of the state from media ownership is a goal of the public media policy in Serbia, as defined by the Media Strategy, among other documents. Furthermore, bearing in mind the concepts contained in the latest version of the Draft Law on Public Information and Media, a pertinent question to ask is what will happen with the licenses of TV Trstenik and similar stations, if they remain non-privatized by the end of 2014? According to the Draft Law, all publicly owned broadcasters must be privatized, or they will cease to exist (they will be deleted from the public media register). At the same time, Article 61 of the Broadcasting Law that is currently in force, providing for the reasons for the cessation/revoking of the license from a broadcaster prior to its term, stops short of regulating the cessation of the existence of the legal person that owns the broadcaster. However, it would be legally unsustainable for the license to continue to exist, in the situation where its holder has ceased to exist. In any case, this could be yet another reason that should motivate the legislators to speed up the procedure for the adoption of the complete set of new media laws.