

VI THE PRIVATIZATION PROCESS

November has seen activities that seem totally in contradiction to the proclaimed policy of withdrawal of the state from media ownership at the national, regional and local level. In Leskovac, for example, the local government attempted to establish a new municipal TV station (the sixth overall in that town), which would constitute part of the public company Radio Leskovac. If they succeed in their aim, it will result in an unclear legal situation, which is, among other things, the consequence of disharmony between media laws (but also the Law on Public Companies) and the laws regulating the functioning of local self-governments (we have elaborated on that issue in the part of this Report concerning the decision of the Constitutional Court pertaining to the Law on the Protection of Rights and Freedoms of Ethnic Minorities). Namely, according to the Law on Public Companies from 2012, public information is not foreseen as a field where new public companies may be established. The case of Leskovac should now provide the answer to the question if the existing public companies, such as Radio Leskovac, may establish, before ownership transformation is completed, new media within their current setup (which is actually tantamount to privatization). Common sense says it should not be allowed, but in Serbia, common sense is not the chief criterion for establishing new media. Had it been otherwise, we would not have today an oversaturated media market. In legal terms, it seems that the situation may be described as follows: under Article 1 of the Law on Public Companies, a public company is a company performing an activity of general interest, established by the Republic of Serbia, autonomous province or unit of local self-government. Article 2 of the same Law does not stipulate public information to be an activity of general interest. Meanwhile, Article 14, paragraph 2 of the Law on Public Information says that the state and the territorial autonomy, as well as the institution, company or other legal person predominantly owned by the state or fully/partially financed from public sources (with the exception of PSB institutions), may not establish media, neither directly nor indirectly, unless provided for otherwise by a separate laws governing the field of broadcasting. Article 96, Paragraph 6 of the Broadcasting Law stipulates that radio and/or TV station established by local councils shall have the status of public companies, if public funds have the majority stake in their total capital. This provision, however, made sense only while public information was considered as an activity of general interest, which is not the case anymore after the adoption of the Amendments to the Law on Public Companies. Finally, a new television station would not be allowed to broadcast without a license and according to the provisions of the applicable Broadcasting Law, a public company may not hold a broadcasting license (except for public companies that were already broadcasting back at the start of the implementation of the Broadcasting Law). In view of the above, it seems that, particularly after the adoption of the new Law on Public Companies in 2012, the Leskovac experiment with the intended launch of a new municipal television station should not be allowed to happen, since it has no basis the Law.