

B. SERBIAN MEDIA SCENE IN MAY 2014

I FREEDOM OF EXPRESSION

In the period covered by this Report – May 2014 – there were several cases pointing to possible violations of freedom of expression.

1. Threats and pressures

1.1. Unknown attackers have broken the windshield on the car of Dragana Zecevic, the correspondent of "Vecernje Novosti" from Kosovo and Metohija, which was parked in front of her family house in Kursumlija. The incident has been reported to the police, which has carried out an on-site inquest and is currently looking for the perpetrators. While Zecevic was reluctant to point any fingers, she said the attack is a warning and called on the police to elucidate the matter as soon as possible.

The journalists in Kursumlija reporting for Belgrade-based media have often been targeted by threats and verbal attacks in the past. In the past few years, many of them have had their cars vandalized, without anyone ever being held to account. Such incidents may objectively intimidate them and obstruct their work and are as such in direct contravention to the Law on Public Information, which says that it is prohibited to put any kind of physical or other pressure on public media and their staff, which influence might obstruct their work.

1.2. Journalist Srdjan Skoro has been removed from the position of news editor of the daily "Vecernje Novosti", twelve days after he had criticized, in the morning news of the national television (RTS), the appointment of certain ministers. In relation to Skoro's claims on RTS, the ruling Serbian Progressive Party (SNS) issued a press release the same day, saying that the public service broadcaster serves as an "outlet for the vilification of Aleksandar Vucic". Skoro claims that, after his appearance on RTS, he received a call from the Director and Editor-in-Chief of "Novosti" Ratko Dmitrovic. According to Skoro, Dmitrovic told him he had received several telephone calls in relation to Skoro's interview on RTS and asked him what exactly had happened. Skoro also says Dmitrovic told him that "Novosti" are not an opposition newspaper and that he must watch what he says. The journalist was subsequently handed over a decision

about his reassignment to a different workplace, with no accompanying explanation. Dmitrovic has said that he dismissed Skoro because he was dissatisfied with his work and that the dismissal and reassignment had nothing to do with the criticism uttered against the Prime Minister and several ministers on RTS. The Prime Minister Aleksandar Vucic, on the other hand, called the press release issued by his political party after Skoro's interview "ridiculous", saying he supports critical thinking.

Pursuant to the provisions of the Law on Public Information, public information in Serbia shall be free and in the interest of the public. Article 31 of that Law says that a journalist may not be laid off, have his salary reduced or his position in his media outlet worsened, due to a personal opinion expressed outside of his public media outlet, in the form of a personal view. Article 2 of the Law on Public Information stipulates that it is prohibited to directly or indirectly restrict freedom of public information, especially by misusing authority or rights, or in any other way that may restrict the free flow of ideas, information or opinions. Particularly significant in the case of Srdjan Skoro is the fact that the state, while not being the majority owner of Novosti, practically runs that media company. Namely, the majority owner, businessman Milan Beko, has already admitted to control more than 62% of the shares of Novosti through his various affiliates. After that admission, the Securities Commission restricted Beko's voting rights related to his shares. Consequently, Beko possesses only 25% of the voting rights, the threshold after which he was required to issue a binding offer for the takeover of the remaining shares (which he didn't do). Hence, the state, which directly owns 29,5% of the shares and indirectly even more (since the state pension fund owns more than 7% of the shares of Novosti), ended up being able to control the media outlets published by Novosti, among which the most prominent is the daily "Vecernje Novosti".

1.3. Part of the employees of Radio Subotica, including the editor-in-chief, have accused the Acting Director of that media Ljubisa Stepanovic, of mobbing and threatening the journalists. In a press released they claimed Stefanovic constantly interferes with the work of the Serbian language department, humiliating the journalists, summoning them for "interrogations", threatening them with layoffs, telling them what they should and should not put on the air, which has led to an atmosphere that almost culminated with a brawl between the Director and certain journalists. The employees claim that the Acting Editor-in-Chief of that radio station Ljiljana Elek complained several times about Stepanovic's behaviour to the Mayor of Subotica Jene Magaj and member of the City Council in charge of public information Oto Bush, but was told that Stepanovic had been appointed as part of a political coalition arrangement. Stepanovic was appointed Acting Director on February 20, with the backing of the Socialist Party of Serbia. The press release denouncing Stepanovic was signed by seven of the twelve journalists of the

Serbian language department of Radio Subotica, as well as some from the Hungarian and Croatian language departments. The Hungarian language department distanced itself from the allegations.

Under the Law on Mobbing, all kinds of harassment at work and in relation to work are prohibited. Harassment is defined as any form of repeated active or passive behaviour towards and employee or a group of employees, with the goal of or tantamount to violating their dignity, reputation, personal or professional integrity, health, position of the employee or such behaviour that causes fear or creates a hostile, humiliating or degrading environment, deteriorates working conditions or isolates the employee, causing him to resign from his job or terminate his employment contract or other arrangement. Notwithstanding whether there was or was not mobbing in the above described case, the trend of worsening treatment of journalists by their employers is ubiquitous. Particularly worrying is the absence of systemic mechanisms to protect journalists from pressure coming from the owners - the local government in the case of Radio Subotica, since the latter is a non-privatized local media. In spite of publicly supporting the withdrawal of the state from media ownership, the state keeps using the latter for satisfying the appetite of the members of various coalitions at various levels of government. Political appointments to positions in public media financed from the budget, which media are supposed to act in the interest of the citizens, transforms these media into marketing departments of the ruling political oligarchy. It comes as no surprise the latter is often achieved by pressure and mobbing.

1.4. Nenad Tomic, journalist and editor of the online news portal Ruma, is one of the persons against whom criminal charges were brought for causing panic. On Friday, May 16, Tomic released a text entitled "Dam on Borkovac Breached", saying that "according to off-the-record information, the dam on the Borkovac Lake has been breached but it isn't anything serious." The controversial text also said that Ruma would be left without water by 3 PM, but that the director of the public water management company couldn't be reached for comment. The text went on saying that the President of the Municipality of Ruma Dragan Panic had said that the situation on the dam was under control and that there was no reason for panic. Criminal charges were brought against Nenad Tomic over that text and he was interviewed by the police. He has said that the authorities in Ruma used the emergency as an excuse to apprehend him for allegedly spreading panic and misinformation online. Tomic stressed that he had tried to check the accuracy of the information, but that the president of the municipality Panic was unavailable for comment as usual. Only five minutes after the text about the breach of the dam was published online, Tomic says, Panic rebutted the claim on his official website and filed criminal charges against the author. According to Tomic, the real reason for the criminal charges and the

interview by the police was his previous comments about Aleksandar Martinovic, the President of the Council of the Municipality of Ruma.

The journalist Nenad Tomic is not the only one that was apprehended by the police for allegedly causing panic during the floods that hit Serbia. Other cases are analysed in the part of this Report about the monitoring of the work of the state authorities, more precisely the work of the Prosecutor's Office for Cyber Crime. What makes Tomic's case specific is the fact that he is the only editor of a media outlet to which it has happened. Causing panic and unrest is indeed a criminal offense provided for by the Criminal Code (defined as causing panic or seriously undermining the public order or obstructing the enforcement of the decisions passed by state authorities or organizations discharging public authority, by communicating or spreading false news or claims). A qualified form of that criminal offense exists where the false news or claims are communicated or disseminated through public media or similar means or at a public gathering. The key questions in the context of Tomic's case are the following: how the Prosecutor will prove the existence of premeditation (if it comes to a trial at all), namely the awareness of the defendants that what they have communicated or disseminated was a lie, namely if panic had existed at all or could have been created in the concrete case, as well as the relationship between the responsibility for communicating or disseminating false information or the claims and rights of the editor and journalist to be mistaken. Namely, the journalist and the editor are not entitled to depart from the standard of due journalist care. More specifically, in every case, before publishing/releasing information containing data about a certain event, phenomenon or person, they must verify its origin, accuracy and completeness with the attention appropriate in the given context. In the concrete case, if the local authorities and public agencies did not do their job and weren't available to the media and editors for checking the origin, accuracy and completeness of the information in question, the question is what degree of due journalist care would the court consider appropriate in the given circumstances.

2. Legal proceedings

2.1. Three persons - a municipal official from Becej, his wife and brother in law, have sued the founder of the MojBecej.rs website, the Becej Youth Association (BYA), claiming non-financial damages for anguish suffered due to information released on the said website. They claim 1.200,000 dinars in damages. Namely, the website of the BYA reported that criminal charges for embezzlement had been filed against the former director of the public company "Vodokanal" Slobodan Mitrovic. Mitrovic requested from the BYA to publish a response on the website (which they did), in which response he rebutted claims about this responsibility and pointed his

finger to other persons. Tamara Ivanisevic, mentioned in Mitrovic's rebuttal, also requested her response to be published (and it was). Finally, Mitrovic again requested his second rebuttal to be published, this time a response to Tamara Ivanisevic's claims from her own response (and his second rebuttal was published). The essence of all the responses published was the denial of their own responsibility and pointing to that of others. The war of responses between Mitrovic and Ivanisevic was, in turn, responded to by the municipal official, his wife and brother in law. In the concrete case, the reason was Mitrovic's response, but Mitrovic himself wasn't sued - only the founder of the website had legal charges brought against him.

The key assumption here is that the response, namely the rebuttal, contained inaccurate information, which the journalists and the editor failed to double check with due care appropriate to the circumstances. It goes without saying that the journalist and the editor are required to double check the origin, accuracy and completeness of information about a specific event, phenomenon or person, prior to releasing it. Furthermore, according to the Law, the person, whose rights and interests might be harmed by such information (in this case the former Director of the public company "Vodokanal" Slobodan Mitrovic), was entitled to demand from the responsible editor to publish a response free of charge, in which response that person would have claimed that the information in question was inaccurate, incomplete or wrongly conveyed. What may be questionable in this case is the balance between the duty to double check information to be published and the obligation to publish a rebuttal. Namely, the responsible editor is not required to publish a response, if due to the content thereof its publication may result in civil liability towards third parties. In practice, editors are often unwilling to weigh if the content of the response might or might not lead to such an outcome. At the same time, the failure to publish a response is very likely to cause civil liability towards the person whose response is not published. Even worse, no clear criteria have been established in the case law of Serbian courts (although the Law on Public Information has been in force for more than a decade) based on which media editors could decide which degree of civil liability towards third parties in each concrete case suffices to justify a decision not to publish a rebuttal. The trial against the BYA should be watched closely for any response the court could provide as to the disputed issues related to the grounds for refusing to publish a rebuttal.