

B. SERBIAN MEDIA SCENE IN MAY 2014

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 elaborated on in the segment about freedom of information.

2. Broadcasting Law

In late May, the RBA Council held a session to review a petition related to the participation of the convicted criminal Kristijan Golubovic in the programs of almost all national commercial broadcasters. Specifically, Golubovic was featured in the shows "Ami Dži šou" and "Teška reč" on TV Pink, "Bulevar" on TV B92, "Eksploziv" on TV Prva, and "Goli život" aired on TV Hepi. The Council Found that nothing in these shows has violated the Law and the Broadcasters' Code of Conduct (BCC), stressing it has made its decision also factoring in the provisions of the Constitution concerning freedom of expression, the Law on the Ratification of the European Convention on the Protection of Human Rights and Fundamental Freedoms and the Law on Accountability for Human Rights Violations, as well as the provisions of the AVMS Directive (prescribing that the regulator may not diverge from the principle of free flow of information and ideas and independence of broadcasting organizations, which constitutes the very foundation of their broadcasting policy.

Invoking documents concerning the protection of the right to freedom of expression, as the base for the decisions of the RBA, is something to be commended. Any restriction of the right to freedom of expression, under the Constitution, must be prescribed by the Law and must be necessary for the protection of a legitimate interest, such as the rights and reputations of others, preserving the authority and impartiality of a court of law, protection of public health, morality of a democratic society and national security of the Republic of Serbia (Article 46, paragraph 2). In this concrete case, the legitimate interest for restricting freedom of expression could be the protection of minors from content that may harm their intellectual, physical and moral development. By adopting the said decision, the Council took the position that the mere

presence of persons convicted of multiple criminal offenses in the shows of electronic media need not automatically mean promoting crime and violating provisions of the Law or the BCC concerning threats to the moral development of minors. The Council said that the matter of re-socialization of persons convicted of criminal offenses was one of particular social interest and that comparative practice shows such cases to be examined in the media, albeit in a carefully chosen context, in compliance with all professional standards and avoiding any promotion of crime (which is clearly labeled as a phenomenon lethal for society and the individual). In these terms, the RBA Council warned that the media editors failed to present this topic in the appropriate context and that the sole motive for inviting Golubovic to their show was raising the ratings and making profit. The RBA Council requested from the broadcasters to carefully choose who they will invite to their shows and to base these decisions only on the guests' competence with the goal of avoiding having people from show business or the criminal underground shaping public opinion with their views on serious social topics. The good news is that the decision of the RBA has confirmed that the Agency may pronounce measures against broadcasters only if there are legal grounds for it, while the presence of persons convicted of felonies isn't automatically a violation of the Law, namely that the context in which that person is presented matters the most. It remained questionable, however, if the context, in which Kristijan Golubovic was presented in at least some of the shows he participated in, could have harmed the intellectual, physical and moral development of minors. It seems that there could have existed a more nuanced and balanced approach, relative to various contexts of the appearance of Golubovic on different TV stations.