



# **LEGAL MONITORING OF THE SERBIAN MEDIA SCENE**

Report for June 2014





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*The contents of this Report are the sole responsibility of the authors and do not necessarily reflect the views of the Civil Rights Defenders.*



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**SUMMARY AND CONCLUSION**  
**OF THE ANEM LEGAL MONITORING REPORT No. 53**  
**-SERBIAN MEDIA SCENE IN JUNE 2014-**

Freedom of expression in Serbia encountered serious challenges in June 2014. From the shutting down of web portals in hacking attacks and physical assaults on journalists, to discrimination and restricting access to specific media and journalists to public sessions of local government bodies or even to local government buildings and prevention of dissemination of newspapers and summoning journalists for interrogations in the police. We will summarize the most notable cases below.

The most flagrant case was the hacking of the “Pescanik” website. What makes it specific is that the web portal was shut down almost immediately after having released a text of a group of authors claiming the doctoral dissertation of the Minister of Internal Affairs Nebojsa Stefanovic (obtained at the Megatrend University in June 2013) has actually been plagiarized. The initial analysis has shown the hacking attack originated from the Megatrend University server, but that was later disproved. We hereby stress that the High-Tech Crime Department of the Serbian interior ministry reacted swiftly and contacted the journalists and the administrators of the website. Only two days later, more information was released about the attack and the course of the investigation by the Serbian Prime Minister Aleksandar Vucic and later by the Director of the Police Milorad Veljovic, which has demonstrated the commitment of the government to dispel all doubts about it being behind or supporting the hacking of media websites. Unfortunately, not much has been established about the actual attackers, save for the fact that the attack was a so-called WordPress Pingback attack, which was determined to have originated from 533 servers from dozens of countries worldwide against a website in Germany where “Pescanik’s” presentation was hosted. The police said that the investigation would be continued, but it is obvious there were shortcomings either in the technical equipment of the police or in the mechanisms of international police cooperation, which resulted in the perpetrators of the attack remaining at large. On the other hand, even if the attackers are caught, they would be prosecuted solely for a crime against computer data security and not for criminal offences against human rights and freedoms (prevention of dissemination of press items and broadcasting of television programme), while the fact that a media website had been targeted could be considered an aggravating circumstance (there would not be any concurrence of criminal offences).

Unfortunately, physical attacks against journalists keep happening. Hence, sports journalist Dejan Andjus was attacked in the night between June 3 and June 4, in front of the building of “Kopernikus” Television, allegedly by Nebojsa Covic, former Deputy Prime Minister and former

Mayor of Belgrade, currently the President of the Crvena Zvezda basketball club. The attack happened after Andjus had left the television building after the end of the program during which he had mentioned Covic and his son, basketball player Filip Covic. The media reported that the filtered recording of the CCTV cameras that were seized by the police, have shown a person resembling Covic punching the journalist several times. Nebojsa Covic confirmed he went in front of the “Kopernikus” premises in order to ask Andjus why he was “spreading lies”, while denying he punched the journalist first. The police reacted swiftly – criminal charges were quickly filed against Covic, though the actual offence he is charged with has not been specified. This is not the first case in Serbia where a former minister is charged of a physical attack against a reporter. We expect, however, that Dejan Andjus will have a quicker and easier path to justice than his fellow journalists in past cases.

Court verdicts in June 2014 were not any more encouraging. The Higher Court in Belgrade ordered the editor, journalist and publisher of “Svedok” magazine to pay damages to Mica Jovanovic, rector of the Megatrend University, for tarnished reputation and honour, caused by the text analysing Jovanovic’s official biography and mocking certain dubious international acknowledgments and obscure honorary titles he has obtained. The Court disregarded the fact that Jovanovic, as a public figure, had to show a higher degree of tolerance of criticism, as well as the fact that it turned out that Jovanovic’s biography indeed includes even more dubious details than those reported by “Svedok”. The “Pescanik” website released a text by a group of scholars claiming that Jovanovic had never actually earned a PhD from the London School of Economics and Political Science, all of which may be read in his official biography. Jovanovic resigned in earnest, after the allegations were confirmed to be true. The magazine “Svedok” announced they would be lodging an appeal against the verdict. In the second case, the Basic Court in Nis acquitted the former Director of the Municipal Heating Plant in Nis Milutin Ilic, his associate Dobrivoje Stanimirovic and body guard Mija Jankovic, from the allegations that they had threatened journalist and editor of “Juzne Vesti” Predrag Blagojevic, undermining his personal security. Blagojevic had published a series of texts about politically backed appointments in the heating plant in Nis, after which he allegedly received from Ilic, Stanimirovic and Jankovic text messages saying that “for such reports in America one would be dead by morning” and that “he shouldn’t mess with these things” and that he was “playing with fire”. However, the court found that such statements could not be considered a threat because they did not imply any specific evil. The manner in which the threats against Predrag Blagojevic were interpreted is indicative of the treatment of similar cases before courts of law, where the journalists are exposed to threats and attacks. Unfortunately, the decisions by which courts fail to view a threat as a threat, because it is not precise enough, are increasingly common in the Serbian judiciary and that is not good news.

The Republic Broadcasting Agency (RBA) Council called in June an open competition for the issuance of radio broadcasting licenses for a number of local and regional areas, which competition will probably be the last according to the provisions of the Broadcasting Law, since a new set of media laws will soon be adopted. In the past years we have written several times about the problematic Article 49 of the Broadcasting Law, which provided for the obligation to call an open competition wherever a vacant frequency emerges. The RBA acted in such a way also in the case of a vacant national frequency, although at that moment they were necessary for the digital switchover. The competition has failed twice.

The Serbian Parliament passed in June the Law on the Amendments to the Law on Electronic Communications, which was, inter alia, conformed to the decision of the Constitutional Court Iuz 1245/2010, by providing the same degree of protection both for the content of communication and the so-called withheld data (data about communication that are not content). These amendments are also important for the protection of the citizens' right to privacy and confidentiality of journalist sources. Among other things, the amendments encompassed the institute of must carry obligation, detailing the conditions under which such obligation may be imposed – only in the situation where programs help realizing specific public interest objectives, in accordance with media laws. It remains to be seen if these provisions will help the RBA to assess if a programme must be broadcasted and if they will result in fewer decisions about the obligation to broadcast. It is evident that these amendments will somewhat restrict the RBA, namely that it will be compelled to determine the obligation to broadcast more carefully, preferably as an exception, in accordance with European standards.

The Council of the RBA adopted the amendments to the Broadcasters Code of Conduct, namely in the part concerning the imparting of information about crime and the course of criminal proceedings, as well as on dealing with religion and religious programs. This is the first amendment to the Code since 2007 and it pertains to parts thereof criticized vehemently by ANEM since its adoption, which were also subject to a constitutionality assessment procedure initiated by the Belgrade Centre for Human Rights back in 2008. Therefore, the amendments represent a step in the right direction, though some of the new solutions could have definitely been much better. In that regard, the new solutions sanctioning the violation of the presumption of innocence even when the media truthfully convey state authorities' reports are particularly problematic and contrary to the practice of the European Court of Human Rights in applying Article 10 of the Convention on the Protection of Human Rights and Fundamental Freedoms.

The RBA has released compliance reports for commercial broadcasters and PSBs and, for the first time, a report on gender equality and gender stereotypes on the RTS program, as well as the

report on the availability of programmes to disabled persons, how often they are present on television and manner in which they are depicted. Compliance reports for commercial broadcasters and PSBs have shown the same shortcomings as in previous years, primarily in terms of a lack of qualitative analysis of programming content. Programming diversity has continued to diminish, while the broadcasters (including PSBs) keep making the same mistakes in terms of not complying with the same obligations for years. The report about the availability of programmes to disabled persons also contains a qualitative and quantitative analysis, whereas certain judgments were too harsh, particularly in relation to the need for introducing certain new services that are not possible until the switchover is complete. The gender equality report is also new compared to last year, but its practical implications remain unclear.

The Press Council ruled about two complaints lodged by the President Tomislav Nikolic against the daily newspapers “Blic” and “Alo”. Although the Council found in both cases that the Journalists’ Codex had not been violated, these decisions are nonetheless of great significance since by addressing the self-regulatory body, the President turned the attention of the public to it and indirectly pointed to an alternative to court proceedings against the media.

Amendments to the Law on Electronic Communications also dealt with amendments to the digital switchover provisions, expressly foreseeing state assistance in purchasing devices for receiving digital TV signal. Unfortunately, the amendments disregarded the issue of personal data protection. Bearing in mind that in the implementation of the scheme, the competent ministry will have to process the personal data of the recipients of such assistance and since under the Law on Personal Data Protection, the grounds for using personal data is either the consent of the users or legal authority, by omitting to determine such grounds, the Ministry condemned itself to dependence from the consent of potential beneficiaries of the assistance. Since these potential beneficiaries are often elderly persons, helpless and without social contacts, it is easy to imagine a situation where those most in need of help never get to learn that such help is actually available.

In the period covered by this Report there was no visible progress in the process of adoption of media laws. According to the most optimistic media reports, the laws should be adopted by the end of July or early August.

The adoption of new media laws in Serbia is the precondition of the reforms in this sector. The new laws on their own, however, will not stop physical assaults against journalists or the hacking of media websites. What Serbia needs at this moment is increasing the confidence in institutions, be them regulatory, self-regulatory or independent – all institutions. However, this

process is difficult. The confidence in institutions is much more easily lost than built. The efforts of dozens of local self-governments to make information about their work available to the public, under equal conditions for all journalists and all the media, will have been overshadowed by a single case of discrimination. The laws provide a framework, but the proper enforcement of the laws depends on the institutions. Building the capacity of institutions to properly enforce the laws, boosting the control mechanisms and, finally, personal examples, such as, for example, the President addressing the Press Council for protection from something he considered to have been a violation of Journalists' Codex, remain the Serbian path towards building its institutional framework. The institutional framework is equally important, if not more, for media freedoms, than the legal framework.

*The full ANEM Legal Monitoring Report No. 53 for June 2014 in Serbian is available on the ANEM website [here](#).*