



LEGAL MONITORING OF THE SERBIAN MEDIA SCENE

Report for October 2014





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SUMMARY AND CONCLUSION OF THE ANEM LEGAL MONITORING REPORT No. 57

-SERBIAN MEDIA SCENE IN OCTOBER 2014-

Controversies about the increasingly narrow space for public debate on issues of public interest in the Serbian media in October culminated with mutual accusations of the parliamentary majority and the opposition for the failed attempt to hold a session of the parliamentary Culture and Information Committee on the topic of media freedoms. However, everything was also placed in a specific context in the annual progress report of the European Commission about Serbia. The report, which was branded balanced, at least relative to its assessment of the media situation, has commended the unquestionable accomplishments, such as, for example, the fact that the adoption of the Law on Public Information and Media, the Law on Electronic Media and the Law on Public Service Broadcasters in August this year, has “significantly improved the legal framework of the media sphere” and aligned even better the Serbian legislation with the EU legal framework. The progress in the investigations in the cases of slain journalists (especially in that of Slavko Curuvija, but also Milan Pantic) was praised too. Access to information of public importance was assessed to be “functional”. On the other hand, the objections in the report concerned the problems all of us in Serbia are aware of and that we have been trying to resolve for years, with irregular success.

The first objection concerned the lack of transparency in financing “chosen” media, both state-owned and private, through direct budget subsidies and contracts with public companies and government authorities. The new Law on Public Information and Media has unquestionably made a serious step forward in dealing with this problem, both through mandatory privatization and by regulating the system of project-based financing. While there is obviously room for doing even more in this area, it remains to be seen how these concepts will be implemented in practice. That is precisely why in the part of this Report concerning the monitoring of the adoption of new laws we mention the drafting of the new Advertising Law as an ideal opportunity to put order in state advertising, in terms of the advertising of public and other companies predominately owned by the state, with the aim of avoiding having advertising space purchased in such a way to give the edge to media close to the government. This was, after all, also a request from the opinion about the media and freedom of expression in Serbia from February 20, produced by European expert Katryn Nyman-Metcalf. In her words, Serbia needs to prescribe clear instructions and procedures for purchasing advertising space and time for broadcasting by the state, in order to “prevent the use of these mechanisms for non-transparent media financing and discrimination among media outlets”. In our report we added that there is no better opportunity and a better time to do it than now and during the current work on the draft of the new Advertising Law.

Furthermore, the EC’s Report concluded that the ownership structure of the media remained opaque. While this too is obvious, it is also true that the new Law on Public Information and Media has

attempted to solve that problem prescribing new rules on the Media Register. It remains to be seen if that will be enough, but the problem has at least not been swept under the rug and efforts have clearly been made to overcome it.

Thirdly, EC's report stated it was necessary to secure the independence and transparency of the activities of the Regulatory Body for Electronic Media. Here too it could be said that the European Commission is knocking on an open door, since the new Law on Electronic Media insists precisely on the transparency of the Regulatory Body and the ways to boost its independence.

The fourth conclusion is that Serbia must, through technical preparations and a public communication campaign, ensure the implementation of the digital switchover within the set deadlines. While in this Monitoring Report we said that the failure to properly inform the broadcasters about the costs and obligations they will be exposed to in the digital switchover process was a dramatic warning that the entire process is disastrously conducted, undoubtedly some progress is still being achieved.

Finally, the EC stressed the concern about the worsened conditions for the full realization of freedom of expression in Serbia, as well as about the growing trend of self-censorship. In the combination with undue influence on editorial policy and a series of assaults against websites, self-censorship is undermining media freedom and the development of professional and investigative journalism. In that respect, the report says that Serbia is expected at least to make an effort to identify and prosecute the perpetrators of the violations of freedom of expression online. Our impression is that such actions would not be sufficient for removing the said concerns. The report also concludes that violence and threats against journalists (including physical attacks at the local level) remain a cause for concern.

This edition of our Report again deals with unwarranted influence on editorial policy. We mention the puzzling denial of the accreditation for reporting from the military parade to Miroljub Mijuskovic, the acting Editor-in-Chief of "Dnevnik". Such a decision was explained by a "negative security assessment", as well as by the thin line between what to a politician may constitute private communication or contact with a journalist and what to a journalist may be undue influence on how he/she structures or conducts his/her talk show. All in all, it is obvious that this part of the latest EC Report has been almost completely copied and pasted from earlier reports, which confirms that we have not done enough to improve the situation, since we are repeating the same mistakes. "Improving the situation" or, rather, improving the perception of the current state of affairs, is obviously the more difficult, long-term task than, for example, harmonizing the legislation with EU regulations. However, the fact that this task is more difficult is not an excuse for not trying to do more.

Finally, the EC Report highlights the media campaigns based on anonymous leaks, releasing detailed information about ongoing criminal investigations, announcing arrests and quoting investigation

documents, with the effect of weakening the confidence of the citizens in the judiciary, violating the law on personal data protection and undermining the presumption of innocence. In that segment too, the objections of the EC are unquestionable. We are mentioning in this report one case where the presumption of innocence was breached, pointing to the paradoxical fact that the new Law on Public Information and Media has failed to provide for the misdemeanor accountability of the publisher of the media for such violations, reserving it only for the responsible editor. This has created the situation where the publisher, as the party profiting from the violation of the presumption of somebody's innocence and ultimately the violation of human dignity, gets away with it. One may rightfully ask whether that was a mere omission or whether human dignity, as well as the independence, reputation and impartiality of the judiciary, have completely lost their value in the Serbian society and are, as such, not protected anymore.

There are, however, positive examples and we have highlighted them in our report. They concern the already mentioned transparency in the activities of the Regulatory Body for Electronic Media. We have analyzed two cases where the Regulatory Body, even before the expiration of the deadlines for passing the relevant bylaws and in view of the significance of clear regulations for the functioning of the media, has issued press releases clarifying the way in which certain provisions of the Law on Electronic Media will be implemented until the said bylaws are enacted. The first case concerns the interpretative press release about the implementation of certain provisions of the Law on Electronic Media governing audio-visual commercial communication. The second pertains to a press release about a specific international standard the Regulator will adhere to when controlling the sound volume leveling of all programming content, which is provided as an obligation in the Law on Electronic Media, especially in airing commercial communications.

In one of the previous monitoring reports, we stressed that the solutions for overcoming the evident problems in the Serbian media landscape should be sought in regulation mechanisms. An excuse that the competences and capacity for regulation to respond to such challenges are not developed enough is certainly valid. However, examples such as the ones we have pointed to show that, at least in the Regulatory Body for Electronic Communications, the level of competences and capacities is definitely higher than it is often casually assumed.

The full ANEM Legal Monitoring Report No. 57 for October 2014 in Serbian is available on the ANEM website [here](#).