



LEGAL MONITORING OF THE SERBIAN MEDIA SCENE

Report for November 2014





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SUMMARY AND CONCLUSION OF THE ANEM LEGAL MONITORING REPORT No. 58

-SERBIAN MEDIA SCENE IN NOVEMBER 2014-

The month of November for the Serbian media scene was primarily marked by the first bylaws passed based in accordance with the authority prescribed by the new Law on Public Information and Media, as well as by the first regulatory measure of caution pronounced on the basis of the new Law on Electronic Media.

The Ministry of Culture and Information adopted the rulebooks on the co-financing of projects for the realization of public interest in the area of public information, on the documentation to be submitted in the process of registering the media in the Media Register, as well as about the keeping of the records and the entry in the records of international media representatives and representative offices of international media. The Bylaw on the Co-Financing of Projects has practically completed the regulation framework related to project-based financing and responded to the question as to how the realization of public interest in the area of public information will be funded. What the Bylaw fell short of responding to is the question of the amount that will be allocated for that purpose. Nonetheless, to expect such a response from the Bylaw was unrealistic, since the initiative of journalists' associations to designate a minimum of funds in local budgets for public information was not accepted, primarily because it had no basis in the Law on Local Self-Government. However, the need for a minimum statutory guarantee is increasingly obvious, since the practice where local governments could, without any control whatsoever, reallocate for other purposes the funds initially earmarked for the media, may once again lead to the continued practice of opaque and unlawful funding of "politically suitable" media. A bit unexpectedly, the biggest controversy was created by the Rulebook on keeping of the records and the entry in the records of international media representatives and representative offices of international media. It seems, however, that the controversy is rather the result of a lack of comprehension of the Rulebook than of a genuine intent of the government to use the obligation of keeping records of foreign correspondents (introduced to facilitate their position and not to make it more complicated) in such a way so as to discriminate the latter. It seems that the only serious objection to any of these three rulebooks is the one concerning the Rulebook about the documentation to be submitted in the procedure of registering a media outlet in the Register, which could create confusion as to who bears the responsibility of application and furnishing proof of the funds possessed by the media outlet allocated by and obtained from public authorities. Namely, although under the Law on Public Information and Media, Article 39, paragraphs 3-4, the application for registration shall be submitted by the public authority, whereas the required information is to be furnished to the Register no later than within 15 days from the adoption of the decision, by reading the Rulebook one might draw a different conclusion. Though we expect this to be resolved to the benefit of the media, we will say that (with the aforementioned exception) the Ministry of Culture and Information has done a good job with the first three rulebooks passed on the basis of the competences contained in the new Law on Public Information and Media. At that, the most important thing is that there has been no delay

relative to the deadlines prescribed by the Law. That sent a message to other bodies that have obligations in the implementation of new media laws that they too will have to adhere to their respective deadlines.

The Regulatory Body for Electronic Media has pronounced its first caution under the new Law on Electronic Media. The measure was pronounced against Pink Television, concerning the protection of minors in programming content, namely the protection of personal identity in a reality show dealing with establishing the paternity of underage children. The Regulatory Body for Electronic Media has taken the position that the consent of the parents in itself is not always a sufficient reason to disclose the identity of minors on the air. What is even more interesting is that by pronouncing a warning, the Regulatory Body has demonstrated that, at least in cases related to the protection of minors, it intends on being rigorous, which means that we are practically on the verge of an even stricter measure – a temporary ban on broadcasting programming content. The latter is a new measure prescribed for the first time by the Law on Electronic Media and it will definitely be interesting to see not only its effectiveness, but also the reactions of the courts to it (both constitutional and administrative) if a broadcaster decides (if such a measure is introduced against it) to have it submitted to judicial control.

An additional reason for concern over the security of journalists, especially those engaged in investigative reporting, has been caused by the new procedure introduced by the Business Registers Agency of Serbia (APR), which has started keeping records of those that have accessed the documents archive, with details as to who has reviewed the documents of which company. Keeping such records enables interested parties to learn about the interests of journalists, among others who have consulted the archive, thereby putting psychological pressure on them. To make things worse, these records quickly leaked information about which journalists have examined the documentation of the “Asomakum” company, set up with the falsified ID card of Andrej Vucic, the brother of the Serbian Prime Minister Aleksandar Vucic, which information ended up within less than 24 hours in the possession of pro-government daily newspaper “Informer”. The Commissioner for Information of Public Importance and Personal Data Protection, Rodoljub Sabic, announced on that occasion that a supervision procedure will be launched in the Business Registers Agency in relation to compliance with the Law on Personal Data Protection. Sabic added that he will demand an explanation from APR as to the legal grounds, rationale and purpose of such information processing. In his words, even notwithstanding the risk faced by investigative journalists due to such manner of processing data about persons accessing the APR archive, there are other problems too pointing to the potential unlawfulness of such data processing. In our analysis we point to the fact that, under the Law on the Registration Procedure in the Business Register Agency, one of the main principles of the registration procedure is that of openness and accessibility to the public, according to which registered data and documents shall be public and accessible to everyone through the webpage of the APR and by direct access to the register, unless openness or public access is limited or excluded by Law. Hence, if registered data and documents based on which a company has been registered are open to the public

and accessible to everyone, it is logical to ask on which grounds and to what purpose keeping records of the citizens accessing the register is performed.

We note some positive examples: the decision of the High Court in Nis revoking the verdict of the Basic Court in the same city, under which the now former Director of the Municipal Heating Plant Milutin Ilic and his associates Dobrivoje Stanimirovic and Mija Jankovic were acquitted of the charges of having threatened the Editor of "Juzne vesti" Predrag Blagojevic, endangering his security. The High Court said the verdict of the Basic Court was based on "erroneously established and incomplete facts" and that the parts thereof were "unclear". That verdict established that the telephone calls to Blagojevic, who published texts about politically motivated employment in the municipal heating plant, in which the defendants asked him if he would dare publish such texts in the USA and live to wake up the following morning, as well as text messages telling him "he shouldn't mess with such things and play with fire", could not be considered a threat because they did not imply any specific evil. In our Report we have concluded that the decision of the High Court in Nis rescinding the cynical verdict of the Basic Court and ordering a new trial is legally logical and encouraging for media professionals.

There is some good news related to the digitalization process. The Ministry of Trade, Tourism and Telecommunications has intensified the talks with broadcasters, which process included a new meeting with the latter in Nis in mid-November. The media campaign promoting the digital switchover has been intensified too, in accordance with the Government's decree on laying down support measures and detailed conditions related to the criteria for determining disadvantaged consumers when purchasing the equipment for receiving digital television signal. On November 17, a public call was issued to economically disadvantaged groups of consumers to apply for free STBs. The call will remain open until the end of June 2015.

It seems, though, that we were able to draw the most lessons from the session of the Culture and Information Committee of the Serbian Parliament about media freedom, which was finally held on November 6 after three botched attempts. The Committee adopted the conclusions according to which all the competent state authorities are expected to react in keeping with the Law to any attempt of threatening editorial autonomy and media independence and work energetically to shed light on all attacks against editors, journalists and other persons taking part in the collection of information, as well as against the media themselves. The conclusions say that the Committee wanted with its session to encourage all media professionals to contribute with their work to the development of media pluralism, which will contribute to the democratic development of our society. What is key, however, is that the session of the Culture and Information Committee of the Serbian Parliament on the topic of media freedom showed that this topic may not be debated anymore on the level of mutual accusations of the government and the opposition, since media freedom should be in everyone's interest. The case of Vladimir Jesic shows best that neither the current Government of Serbia, nor the past governments are blameless for the situation of media freedoms in the country. Jesic has been waiting for more than

eleven years to collect damages from Velimir Ilic (the current minister without portfolio in charge of emergencies), who kicked him and insulted him in front of the cameras during an interview in 2003. The fact that attacks against journalists, even when they happen in front of the cameras, practically in front of the entire nation, remain unresolved for so long, speaks volumes about the position of journalists in Serbia in the last ten years. After 11 years of waiting for an outcome (during the “realm” of the governments of Zoran Zivkovic, Vojislav Kostunica – twice – Mirko Cvetkovic, Ivica Dacic and Aleksandar Vucic), Jesic had to wait for another three months, which ultimately almost led to the Government being fined for not complying with court orders. The case of Vladimir Jesic reinforces the obvious fact that the protection of journalists from physical threats and attacks they are exposed to remains unsatisfactory, that Serbia still does not meet this criterion of media freedoms, and that successive governments since 2003 have failed to change anything in that respect. This makes the conclusion of the Culture and Information Committee of the Serbian Parliament, calling on all competent government bodies to react, in accordance with the Law, to every attempt of undermining editorial and media independence and to work on shedding light on all attacks against editors, journalists and other persons participating in the collection of information, as well as against the media themselves, equally as topical today as it was five or ten years ago.

The full ANEM Legal Monitoring Report No. 58, for November 2014, is available in Serbian on the ANEM website [here](#).