



LEGAL MONITORING OF THE SERBIAN MEDIA SCENE

Report for December 2015



SERBIAN MEDIA SCENE IN DECEMBER 2015

December was marked by the scandalous statement made by the Defense Minister Bratislav Gasic, who told a crouching female reporter “I love these journalists who kneel so easily” and with the ensuing developments. Serbian PM Aleksandar Vucic reacted by saying that the Defense Minister would be sacked over the sexist comment – which is important, because it marks the beginning of a new climate in Serbia where sexist and discriminatory remarks are the cause of (at least) political accountability. The bad news is that Gasic was ultimately not dismissed.

What also wasn't good is that we have seen the inappropriate “secondary victimization” of the reporter that Gasic insulted. In a statement issued by the local committee of the SNS in Krusevac, she was accused of “being instrumentalized to provoke the Minister for a fee”. She was also exposed to a barrage of insults, harassment and threats on the social networks. While SNS has distanced themselves from the statement of their Krusevac committee, it became clear after Gasic's remarks that Serbia lacks the mechanisms of protection against the secondary victimization on social networks, which results in an increased sense of insecurity of journalists.

This case has laid bare a total absence of empathy and solidarity across the Serbian society. B92's legal team pressed criminal charges against the people responsible for the insults and harassment against the reporter on social networks. If the Prosecutor decided to initiate the proper proceedings, it would be the first case of “cyber harassment” of journalists to be prosecuted before a Serbian court of Law. That could, in turn, create, without lengthy and painstaking legal amendments, a mechanism for the protection of not only journalists, but also of everybody else exposed to secondary victimization on social networks.

Also in December, the Anti-Corruption Council issued a Report on the potential influence of public institutions on the media by the means of payment for advertising and marketing services. This is the third report of the same body related to the media sector. The previous ones were issued in September 2011 and February 2015. The Report relies on information collected by the Council from 124 state authorities, organizations, funds, public enterprises, companies with a majority share of the state, as well as from local government bodies. This information concerned marketing and advertising services, PR services, promotional and media campaign related services, making and administration of websites, sponsorships, donorships and business and technical cooperation with media, which services were contracted and performed between

2011 and 2014. An analysis of the records submitted has shown that 60,9 million euros were paid for the aforementioned services in the reporting period. If the sample were to be extended to the entire territory of Serbia, it is the Council's estimate that the actual cost is up to 800 million euros. Bearing in mind that the entire advertising market in the reporting period didn't exceed 160 million euros annually, one may infer that the public sector is the biggest media financier in Serbia and that the media providers rely for the most part on the public sector, as the most dominant player on the advertising market and media scene in Serbia as a whole.

In our Report we stress that the ban on direct budget financing of the media, mandatory privatization and project co-financing was supposed to enable public funds to finance content of public interest that are not necessarily commercial, instead of buying political influence in the sole interest of ruling oligarchies. The Report of the Anti-Corruption Council showed that the problem of buying influence on the public opinion with public resources for private interests to be a problem, which far direct budget financing of the media, as well as that improper influence is exerted in many other, creative ways. The recommendations of the Anti-Corruption Council insist on the creation of a legislative framework that would establish clear criteria for assessing the legitimacy and significance of public sector advertising, prohibit public enterprises from entering into sponsorship agreements and donating public money. The Council also proposed amendments to the legal framework that would exclude intermediary agencies from transactions related to the advertising of public agencies. We want to remind that, in our reports, we have often pointed to the need to regulate public sector advertising, both in the interest of transparent and responsible public expenditures, and for the purpose of non-discriminatory treatment of the media as conveyors of advertising messages.

In the context of the Belgrade bid, where 23 million of a total of 45 million dinars were awarded to RTV Studio B, we also analyzed project co-financing. In that concrete case, the projects were assessed by a commission that didn't include representatives of major journalist and media associations, although the latter had duly sent their proposals for members. To make matters worse, one of the members of the commission was a journalist of the "lucky winner" – Studio B! The decision to award the funds was only formally explained and didn't elaborate on the reasons as to why certain projects were chosen. All of that is in direct contravention of the provisions of the Law on Public Information and Media. The amount of the funds that were allocated raises suspicions that the competition has been actually called only to award the money to the new owners of Studio B. Similar suspicions arose in relation to funds earmarked in Krusevac and Kragujevac. Namely, RTV Krusevac was sold for the amount of 14.000 euros to Radojica Milosavljevic and the same station, after it was privatized and with the new owner, received 2.100.000 dinars on the bid (slightly more than 17.000 euros). Of a total of seven projects on the Krusevac competition, four received funds, while TV Krusevac on its own received more money

than all the other participants combined. In Kragujevac, the competition was first called, then cancelled, only for RTV Kragujevac (that was also privatized and sold to Radojica Milosavljevic) to received 30 million dinars of subsidies, which is, again, in direct contravention of the Law on Public Information and Media.

In this Report we deal with the issue how to preserve project co-financing and at the same time prevent such intolerable practices. The solution could be to introduce penalties for the non-compliance by public authorities and especially non-compliance in relation to earmarking funds for project co-financing in the budget and calling public competitions. Furthermore, greater transparency should be enabled – from calling a public bid to passing a decisions – and especially introduce the obligation to release the minutes of expert commissions, in order to inform the public about the manner in which the latter have “measured” the public interest that was realized in concrete projects. Finally, the adequate evaluation of projects should be facilitated by standardizing public co-financing by having unified and more accurately formulated evaluation rules.

The Report also deals with the election of candidates for members of the Council of the Regulatory Body of Electronic Media (RBEM), in the context of the proposal by SNS MP Dusica Stojkovic made to the Culture and Media Committee, to table to Parliament a request for authentic interpretation of Article 11 of the Law on Electronic Media governing the procedure for the election of authorized members. Under the proposed authentic interpretation of that article of the Law, the organizations that belonging to a group of organizations that together constitute a single authorized proposer would be forced, barring an agreement to set forth the final proposal for two candidates for membership in the Council, to vote for one single candidate. Such an interpretation is problematic for several reasons. First, the above concept doesn't arise from the text of the Law. Each specific organization is entitled to propose two candidates and it's unclear why, if they are allowed to have two candidates, they should vote for a single one if they fail to reach an agreement as specified above. It seems that these organizations should have the freedom to choose the manner in which they will determine a proposal for the two candidates, instead of having such a way imposed upon them.

In the Part of the Report concerning the monitoring of the process of adoption of new laws we have analyzed the Amendments to the Law on Public Service Broadcasters and the Law on the Temporary Regulation of the Collection of the Fee for the Public Service Broadcaster. Under the said Amendments to the Law on Public Service Broadcasters, the latter will continue to be partially funded from the budget in 2016, namely for the performance of their core activity. Under the Law on the Temporary Regulation of the Collection of the Fee for the Public Service

Broadcaster, the fee will be paid through electricity operators. In addition to regulating the collection of the fee, the Law, in Article 9, specifies the amount thereof, setting it at 150 dinars. Several matters remained unclear after such an extension of budget financing of the core activity of the Public Service Broadcaster. First, it's not clear how the provisions of the Law on Public Service Broadcasters, which formerly enabled the budget financing of special public interest-related goals, as well as how these amendments would affect the methodology of tracking the revenues and expenditures of PSBs. Second, what is purpose of the system of financing established by the Law on Public Service Broadcasters, if key parts thereof may be altered year-on-year, while extending, at the same time, the model of budget financing, which was scrapped, formally at least. Budget financing simply does not encourage financial discipline of PSBs and also facilitates undue pressure on editorial independence. Furthermore, the proposed concepts might cause practical problems and set PSBs further apart from a sustainable financing model.

In this Report we also deal with the audit performed by the Ombudsman in the Communal Police of the City of Belgrade, as well as with the one conducted by the Commissioner of Information of Public Interest and Personal Data Protection in the "Laza Lazarevic" Psychiatric Hospital, in relation to the unauthorized disclosure of data from that clinic on the air, on Pink Television.

In the part of the Report dedicated to the digitalization process, we have analyzed the decision of RBEM to discontinue the broadcasting of the Vojvodina PSB from the Avala allotment. In the part about privatization, we deal with the "elimination" of the Tanjug Public Company, as well as the fact that, almost two months after the expiration of the statutory term and the decision of the Government, Tanjug continues to operate unhindered, without any reaction whatsoever from state authorities.

In conclusion, at the very end of 2015, we have to point out to the following. The societal position and reputation enjoyed by media professional, and especially journalists, is so undermined that it fails to command the solidarity of part of the society, even in cases where these professionals and jouranalists are clearly exposed to threats, attacks or insults, while being further victimized on the social networks, where they are accused of being themselves to blame for the attacks, which they have supposedly stage-managed for money, provoked and the like. Such victimization after an attack or insult must be called what it actually is – a lynching attempt and harassment. Mechanisms must be put in place in order to protect the journalists from such practices. In the absence of such mechanisms, attacks on journalists and insults against them will remain unreported and merely a "grey number" hidden from the public, since the victims will be too afraid from renewed reprisal attempts at their security, including and especially on social networks. Nothing meaningful will probably change after the after the attack against

Zlatija Labovic either. Not only if the Prime Minister's promise that the Defense Minister will be sacked or if the persons responsible for the continued harassment to which the female journalist was exposed to in the days after Minister Gasic himself admitted his sexist comment was inexcusable, are not brought to justice. In the contrary case, journalists will continue to be insulted, humiliated and attacked, but there will be less of them who will be prepared to report it. The second conclusion that seems evident after the month of December is that the implementation of the project co-financing has been compromised to such an extent that it is necessary to urgently amend the regulations governing it. That should be done first by impose sanctions for non-compliance of public authorities, particularly in relation to their obligations to earmark budget funds for project co-financing and calling public bids. Furthermore, it is necessary to do more in order to make these procedures genuinely transparent and bind all levels of government co-financing media project to release the minutes of expert commissions (in addition to publishing the results of bids and decisions on the allocated funds). Finally, evaluation rules should be standardized and consistently adhered to. Unfortunately, we will be happy with the implementation of co-financing only when, for the first time, the decision is made to repay the allocated fund into the budget because they have been awarded inadequately or improperly spent. Until that happens, doubts will persists that project financing is merely a dead letter, while nothing actually changed in practice, meaning that the public interest isn't any better protected than in the old times of direct budget financing.

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Association of Independent Electronic Media (ANEM) is a non-governmental and non-profit media association, founded in 1993 and registered in 1997, active in the development and improvement of the freedom of opinion and expression, and of freedom, professionalism and independence of the media in accordance with the highest internationally recognized norms, principles and standards. ANEM is the largest association of electronic media in Serbia gathering more than 100 radio and TV stations across the country, and online media. ANEM's activities contribute to the improvement of the media regulatory framework and the establishment of favorable media environment in the interest of the media sector, as well as to better position, conditions, and the quality of work of its members and other media. ANEM is nowadays recognized by the media sector and responsible institutions as an unavoidable stakeholder in the development of media policy and legislation. It is recognizable in Serbia and abroad by its active advocacy for media reforms, protection and promotion of the freedom of expression and freedom of the media, while ANEM's membership is recognizable by its dedication to the highest professional standards and professional ethics.