

## I FREEDOM OF EXPRESSION

Freedom of media and the right to freedom of expression through the right to public information are primarily regulated by Law on public information. This Law guarantees freedom of expression, and prohibits its limitations, and any influence and pressures exerted on media. In the period observed, various violations of freedom of expression were noted; the characteristic ones are presented here. A few threats to media and journalists were observed; however, the first half of the month was marked by the unprecedented campaign the *Kurir* daily led against the media outlet *B92*.

### 1. Threats and pressures

**1.1. Belgrade, 1 July 2009** – The *Kurir* daily accused *RTV B92* that they were preparing an ordered TV program, which should serve as a media introduction to the arrest of the founder of the *Kurir*, Radisav-Raja Rodic. According to the *Kurir*, the program was based on “trumped-up charges and cases launched against the *Kurir* and Mr. Rodic by Mladjan Dinkic, Minister for economy and regional development”, while *B92* was to prepare and broadcast the program to repay the Minister for the soft loan granted. The *Kurir* also accused Dinkic that he was supplying *B92* with copies of documents the tax officers had taken from *Kurir*, commenting that, as Tax administration had not found anything illegal in those documents, they were now used by *B92* for the purpose of instigating media lynch.

**1.2. Belgrade, 2 July 2009** – The *Kurir* daily accused *RTV B92* that they were covering a loss in business operations, amounting to about 8.5 million EUR, incurred over the period of the previous four years, using millions paid to them in the previous period by state companies, local tycoons and foreign donors. The *Kurir* accused the Deputy Prime minister, Mr Mladjan Dinkic, President of the Managing board of the Fund for development of Serbia for according preferential treatment to *B92*, granting this media organization a 42 million dinar loan.

**1.3. Novi Sad, 3 July 2009**– Nenad Canak, LSV Leader and MP, announced pressing charges against the media reporting on his child custody lawsuit against his former wife. Media reported that Canak used his political influence against employees of Centre for social welfare – members of his political party, in order to be granted custody over the child before the proceedings were completed, due

to the alleged diminished capabilities of the child's mother resulting from pregnancy.

**1.4. Beograd, 3 July 2009** – The *Kurir* daily accused *TV B92* for creating a TV package on the ownership structure and companies related to *Kurir* and Radisav Rodic based on a private document a copy of which was taken without any court order or approval from the *Kurir* head office by Branislav Vukovic, tax officer, on performing inspection. According to the *Kurir*, *B92* was doing this to repay Mladjan Dinkic, Deputy Prime minister, for the service done to them by letting the building of the National Bank of Serbia on conditions more favorable than the market ones.

**1.5. Belgrade, 4 July 2009** – Quoting an anonymous source, the *Kurir* daily accused the Ministry of economy and Deputy Prime minister, Mladjan Dinkic, of paying a monthly amount of 183,000 EUR to *TV B92*.

**1.6. Belgrade, 6 July 2009** – The *Kurir* daily published that “the owners of *RTV B92* are trying to sell the majority of shares of this media organization in a panic”. According to an anonymous source, the buyer was not found among “the top authorities”, “due to the great losses of *RTV B92*”.

**1.7. Belgrade, 7 July 2009** – The *Kurir* daily published that the majority share package of *B92* had been in the ownership of a company of the American financial tycoon George Soros for the previous six years, so that *B92* was in violation of Law on broadcasting, according to which foreign natural and legal entities could not participate in capital of a broadcaster with more than 49% shares.

**1.8. Belgrade, 9 July 2009** – The *Kurir* daily published that “Slobodan Vucicevic, American citizen, tycoon and former taxi driver” allegedly evaded the payment of tax on capital profit achieved by increasing the value of the capital of *B92* after his company had participated in the additional capitalization of this media organization in 2006. The *Kurir* also wrote that the documents gained were passed to the tax authorities.

**1.9. Belgrade, 13 July 2009** – The *Glas Javnosti* published that the tax police kept harassing the head offices of the *Kurir*, *Glas javnosti*, as well as companies connected to these media outlets. Contrary to regulations, they demanded passing of the documents relating to business operations in 1990, which, according to Radisav Rodic, founder of the *Kurir* and *Glas javnosti*, had been

taken by State security, Tax administration and Belgrade Commercial court officers before the democratic changes in 2000.

**1.10. Belgrade, 15 July 2009** – The rightist citizen association „Naši“ from Arandjelovac displayed in several towns of Serbia posters featuring pictures of „the most hated“ persons in Serbia due to their alleged „Serbophobia“, as well as the logo of *TV B92* under which there was the inscription „the most hated in Serbia, without any precedent“. Marko Karadzic, State Secretary to Ministry for human and minority rights, assessed this as a manner of creating „to be shot“ lists and said that the authors of these posters will be held responsible before law for threatening safety of numerous individuals.

**1.11. Belgrade, 19 July 2009** – The *Kurir* daily published that Marija Nenic, author of "Patrol" show broadcasted on *TV B92*, allegedly had her house constructed without a construction permit and on land belonging to someone else. The *Kurir* also places the journalist in connection with the disappearance of Milorad Dimic, the real land owner, which occurred „under dubious circumstances“. *B92* lodged a protest because of the failure to publish the reply of Marija Nenic in the *Kurir*, and pointed to the fact that the text on the alleged construction of the house without a permit was only published to reveal the home address and data on the family members of the journalist whose program deals with current criminal affairs, which presented a serious threat to their safety.

**1.12. Novi Sad, 22 July 2009** – Three trade union activists from “Dnevnik holding”, Nikola Bogicevic, Zoran Krstic and Caba Turza, were taken into custody and held in remand for more than four hours by the Novi Sad law enforcement. The arrest of the trade union activists disrupted the protest of employees of “Dnevnik holding” who were on strike due to outstanding salaries and the ambiguous status of the company the privatization of which was stopped three years ago. One of the activists said that the police would press misdemeanor charges against them for traffic obstruction and criminal charges for obstructing an official in performing his duties. “Dnevnik holding” is a state company the related companies of which publish a large number of specialized magazines. “Dnevnik holding” is a minority owner of „Dnevnik Vojvodina Press“, company which published the Novi Sad „Dnevnik“ daily, the majority owner of which is German WAZ company.

The Constitution of the Republic of Serbia ("The Official Gazette of RS", No. 98/2006) guarantees the freedom of thought and expression, as well as the freedom of requesting, receiving and distributing information and ideas in speech, writing, picture or any other manner. Furthermore, the Constitution establishes that the freedom of expression may be limited by law, provided this is necessary for the purpose of protection of rights and reputation of others, preservation of authority and impartiality of courts and protection of public health, ethics of the democratic society and national security of the Republic of Serbia. Law on public information ("Official Gazette of RS", No. 43/2003, 61/2005) stipulates that no one shall, not even in an indirect way, limit the freedom of public information, in any manner suitable for restricting free flow of ideas, information and opinions. The Law especially stipulates that no one shall exert any physical or other pressure on a public media outlet and its employees, as well as influence aimed at obstructing their work.

The Law also stipulates that the exponents of state and political functions shall have limited rights to protection of privacy, in case a person performing certain function is connected to some information vital for public. In the beginning of the month, the media reported on a case in which Nenad Canak, the leader of one of the parties within the coalition in power and MP announced pressing charges against media in order to prevent publishing the texts treating the issue of his using his political influence against the politically active personnel of the Centre for social welfare in relation to his child custody lawsuit against his ex wife (see: 1.3.)

The period observed was especially marked with continuation of the campaign against B92, primarily by the *Kurir* and *Glas javnosti* dailies. In its new program, B92 broadcasted that a large number of companies connected to the founder of the *Kurir*, Radisav - Raja Rodic, had been blocked for a period longer than one year, which is why the persons who were passed valid court decisions for compensation of damage against *Kurir* may not collect their dues. B92 indicated that it was unclear how it was possible for a newspaper insolvent for such a long time to be still published and paying for paper, printing services, journalists, and associates, as well as where the money resulting from selling the papers and advertising inventory ended up. This was followed by an avalanche of sometimes contradictory texts against B92, published primarily in the *Kurir*. The *Kurir* wrote that B92 was in serious debts, that the owners were trying to sell the company, but to no avail; that B92 broadcasted packages ordered by Deputy Prime minister Mladjan Dinkic; that, when ordering media campaigns, B92 was favored by state companies; that it leased business premises at a price lower than the market price;

and that it was in violation of the Broadcasting Act due to its majority foreign ownership. It is worthwhile mentioning that the published data on the ownership structure were incorrect, i.e. that persons who did not participate in the ownership over B92, in any manner, were stated as owners (e.g. George Soros) (see: 1.1, 1.2, 1.4, 1.5, 1.7)

Starting with these general attacks against B92, the *Kurir* also initiated personal attacks against individual shareholders and journalists. Thus, Slobodan Vucicevic, whose company NCA Media owns shares of B92, was accused of tax evasion in terms of his participation in ownership over B92. The *Kurir* also published a text on Marija Nenić, the author of the program "Patrol", a specific „black chronicle”, that she was having her house constructed without any construction permit whatsoever and on the land belonging to a man who had disappeared „under un-clarified circumstances”. The text not only revealed the home address of this journalist, but also the fact that she lives there with her child, which was of no consequence for the text itself (see: 1.8. and 1.11.)

In the current Broadcasters’ Code of conduct, the Republic Broadcasting Agency (RBA) prescribed that lengthy or repeated media campaigns without relevant new data which would justify prolonged or repeated reporting shall be prohibited for broadcasting companies and that this could serve as a base for pronouncing different measures, among which revocation of the broadcasting license. Print media in Serbia, however, do not have an appropriate self-regulatory body which would react in such cases.

## **2. Court proceedings**

**2.1. Požarevac, 3 July 2009** - Dragan Sormaz, Republic MP from DSS, paid the amount of 420,000 dinars to the widow of the late journalist Mile Veljkovic, as compensation for non-material damage and costs of court proceedings, upon the ruling of the District Court in Pozarevac. The late Veljkovic died in July last year in a car accident. In the disputable text published in „Smederevska sedmica“ weekly in 2003, Sormaz accused the journalist of making up that he had been slapped and removed from the local DSS session, where from he wanted to report.

**2.2. Novi Sad, 10 July 2009** - Milijana Baletic, journalist, was reinstated to her job position in RTV Vojvodina by a court decision. Baletic is remembered as the protagonist of nationally biased journalism on state television during the Milosevic regime. The Independent Association of journalists from Vojvodina

expressed its „astonishment” due to the court decision ruling that Baletic should be reinstated to her job position.

**2.3. Belgrade, 15 July 2009** – „Politika novine i magazini”, publisher of the Politika daily, Milan Misic, the editor-in-chief of the publication, and Rade Stankovic, journalist, were filed a ruling of the District Court in Belgrade to jointly pay the amount of 100,000 dinars to Julijana Nedeljkovic from Mala Ivanca as compensation nor non-material damage with all the accompanying legally accrued interest. The District Court also ruled that the *Politika* publish the ruling, which was done. The Court found that the *Politika* violated honor and reputation of Julijana Nedeljkovic in the text treating the property-related court proceedings she was involved in against her daughter in law, after both her ex husband and her son had passed away.

**2.4. Belgrade, 15 July 2009.** – The First Municipal Court in Belgrade passed a first-instance decision in the case of the lawsuit filed by Mladjan Dinkic, Deputy Prime minister, ruling that the publisher and editor-in-chief of the *Kurir*, Rade Jerinic, pay one million dinars to Dinkic as compensation for non-material damage. The Deputy Prime minister had filed the lawsuit because of the texts published on 15 and 16 October 2008 entitled „The liar is a cheater: Lied again” and „All masks are off”. Rade Jerinic said that the *Kurir* had already lodged a complaint against the decision.

**2.5. Belgrade, 21 July 2009.** – The Supreme Court of Serbia amended the decision of the District Court in Belgrade which made Veran Matic, editor-in-chief of *TV B92*, obliged under material responsibility to publish the reply of Marko Maksimovic, neuropsychiatrist and court expert from Novi Sad, by rejecting Maksimovic’s request as unfounded. The Supreme Court established that Maksimovic’s reply did not meet the conditions for publishing prescribed by Law on public information.

In the period observed, two rulings were found especially interesting. In terms of the first one, according to which the *Politika* was made obliged to publish the ruling of the District court in Belgrade resulting from the lawsuit filed by Julijana Nedeljkovic from Mala Ivanca (see: 2.3), Serbian Law on obligations establishes that in case of violation of rights of an individual, the court may rule that the decision be published, in case this contributes to the purpose achieved by compensation. Law on public information

stipulates that the editor-in-chief of such a media outlet is obliged to publish the ruling pronouncing the obligation to compensate for damage without any comments and without any delay. In practice, rulings are published extremely rarely, and almost never without any comment. In this sense, the example of the *Politika*, which did publish the ruling, may be assessed as positive. It is unclear, however, to which extent mere publishing of the ruling, without any information whatsoever on the essence of the case and the manner in which the media outlet violated the rights of the claimant, may present real satisfaction to the claimant, especially in case several years have passed between the publishing of the disputable text and the court decision.

The second very important ruling is the one passed by the Supreme Court of Serbia amending the earlier ruling of the District Court in Belgrade relating to the lawsuit to publish the reply, conducted between Marko Maksimovic, neuropsychiatrist and court expert from Novi Sad against TV B92, i.e. Veran Matic as the editor-in-chief (see: 2.5.). Namely, three short statements given by Maksimovic were broadcasted in an investigative journalism program entitled "B92 investigates – Property hunters" in September 2007. The program treated the cases in which elderly, frequently senile persons, were deprived of their business capabilities in court proceedings, so that their proxies appointed by court could alienate their property afterwards, leaving them without anything. Makimovic's statements in the program related to cases in which he, in the capacity of a court expert, assessed whether the elderly were capable of taking care of their own interests. After the program had been broadcasted, Maksimovic filed a request to publish a reply. B92 did not publish the reply, assessing that there were legal grounds for not publishing it. During the course of the court proceedings, and contrary to Law on public information, Maksimovic changed the contents of the initial reply the publishing of which he had requested three times. In April 2009, District Court in Belgrade passed the decision ordering the defendant to publish the third version of the reply, amended during the proceedings. B92 appealed against this decision and stated in its appeal that validity of such a decision would lead to utter legal uncertainty. Namely, according to Law on public information, in the proceedings conducted for the purpose of publishing the reply, the discussion only relates to whether there is the obligation on part of the editor-in-chief to publish a concrete reply. If the courts allowed the claimants to remake the contents of their replies after lawsuits for failure to publish the reply had been launched, this would, in practice, lead to situations in which editors-in-chief would lose lawsuits even in case the decision not to publish a reply had been passed in accordance with law. The Supreme Court accepted this argumentation and ruled that

B92 was not obliged to publish Maksimovic's reply, having in mind that the reply did not meet the conditions for publishing according to Law on public information. This ruling contributed to increased legal certainty, as well as the confirmed right of editors-in-chief, that the conditions for publishing a reply shall be assessed in accordance with the valid laws and in relation to the concrete text of the reply received.