



LEGAL MONITORING OF SERBIAN MEDIA SCENE

Report for September 2009



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I FREEDOM OF EXPRESSION

In the period covered by this monitoring report, several cases have been recorded indicating potential violations of freedom of expression.

1. Threats and pressures

1.1 The Journalists' Association of Serbia (UNS) stated on September 10th, 2009 that the management of the public company Radio Stara Pazova had passed a decision obliging the editors and journalists of the station to monthly secure advertisements worth of 50,000 dinars (for editors) and 20,000 dinars (for journalists). This "merger" of marketing and journalist duties "represents a direct threat to objective informing", the UNS statement said.

It should be pointed out that, in accordance with the Article 31 of the Law on Public Information, a journalist may not be fired, have his/her salary reduced or position within the media outlet worsened for, among other things, refusing to carry out instructions that would represent a violation of legal and ethical rules of the journalist profession.

In accordance with the Article 2, paragraph 3 of the Serbian Journalists' Code, economic and political interests of the publisher must not affect editorial policy in any way that would result in inaccurate, biased, incomplete and untimely informing of the public; at the same time, in accordance with Article 7, paragraph 3 of the Journalistic Code of the Independent Journalists' Association of Serbia (NUNS), journalists are not allowed to participate in any kind of advertising of any institution, goods or services, with the exception of strictly humanitarian events.

Forcing journalists to provide advertisements instead of doing their job, i.e. to inform the public on matters of public interest, undoubtedly compromises their independence.

1.2 Members of the *Media Association* have ceased, as of September 15th, to deliver their publications to the distributor *Futura plus* due to the distributor's massive outstanding debt to them, which has threatened their business. *The Media Association* has called upon the Government to regulate the market and the readers to buy the press from other vendors. *Futura Plus* said the latter was in fact a call to a boycott and an attempt to suppress the sole national distributor that is able to provide quality service both to publishers and citizens countrywide. The Ministry of Culture condemned the behavior of *Futura Plus* as unprofessional and called on other distributors on the press market to supply the citizens with press until the problems between the publishers and *Futura plus* have been resolved, in order to protect the right to freedom of expression and information.

Veselin Simonovic, the Chairman of the Managing Board of the Media Association, replied that the decision not to supply *Futura Plus* with the newspapers by the members of that Association "was not a boycott, but a business decision to stop supplying goods to those who are not paying", and that the Media Association was forced to make such a decision to alleviate the damage.

While not contesting the economic reasoning behind the decision not to supply newspapers to an insolvent distributor, it cannot be denied that the initial declarations made by the Media Association contained an appeal to customers to buy press (broadly speaking and not limited to publications of the members of the Media Association) in other places. This might be interpreted as unfair competition within the meaning of Article 23, paragraph 1, point 5 of the Law on Trade, or as advertising with a call to a boycott, which is prohibited by Article 34 of the Law on Advertising.

1.3 The manner in which the tax police operated while seizing the business records from companies related to Radisav Rodic, among them the publishers of the daily newspapers *Kurir* and *Glas javnosti*, as well as weeklies *Grom* and *Stil*, drew considerable attention in the period that this report covered. The Tax Administration said that an inspection of the business operations of the company "ABC Produkt" Ltd., whose director is Radisav Rodic, had established that there was reasonable suspicion that Mr. Rodic, as the responsible person, had perpetrated tax evasion in the amount of 203.3 million dinars. The Tax Police entered on September 8 the premises of the above mentioned newspapers in the building at 8 Vljakoviceva Street in Belgrade. In a statement to the media, Rodic said he was in a hospital abroad for a routine medical examination and that the present situation represented "a crackdown on the media owned by him with the aim to further deteriorate his health condition". The *Kurir* daily said the Tax Police inspectors had sealed their offices, including the room with the server and the network equipment.

The owners and editors of *Kurir* have said they wanted to cooperate with the tax inspectors but insisted that the inventory of the sealed documentation be performed before the inspectors removed it from the building. *Kurir* had also claimed that its journalists and editors were prevented by the police from leaving the building for most of the afternoon on the 16th of September, while those who were outside could not return to work. Employees claimed that the police were on every floor of the building, that they were constantly entering and leaving the newsroom disturbing the journalists in their work. *Kurir's* management said that the further publication of that newspaper – including the daily *Glas javnosti* and weeklies *Grom* and *Stil* - had been seriously endangered. They also said that at one moment, up to thirty special police forces personnel in full riot gear had been dispatched in front of the newsroom.

The District Attorney's Office in Belgrade announced on the 25th of September that it had filed with the District Court a request for another investigation against the founder of *Glas javnosti* and *Kurir*, Radisav Rodic, and two unnamed persons on the suspicion that they had misused their official positions by "receiving a loan in the amount of 22 million dinars, after having submitted false documentation to Komercijalna Banka which has been damaged because the loan has never been repaid". The management of *Kurir* denied these allegations, claiming that in this case Rodic's company had been selling a building in 105 Visnjiceva Street in Belgrade, and that it ultimately remained without both the building and the purchase price and that the buyer, who was supposed to pay for the building with a loan obtained from Komercijalna Banka, failed to pay Rodic's company or to repay the loan to the bank.

Finally, on the 27th of September, *Kurir* and *Glas javnosti* reported that Tax Administration representatives, accompanied by several dozen police officers, had taken away the business documentation from the building in 8 Vlakoviceva Street, and that in the afternoon all tax inspectors and officials from the Ministry of the Interior left the premises. The management and the editorial team of *Kurir* stated that among the records that had been carried out were indispensable documents necessary for daily operations of the company and handling of legal proceedings that were underway.

The Law on Public Information stipulates that no one may directly or indirectly limit the freedom of public information and particularly not by misusing state powers or the law. The Law on Public Information also prohibits any kind of pressure upon public media outlets and their staff or exerting influence that may interfere with their activities. The above case was undoubtedly one of restricting freedom of public information in the form of a blockade of the building that is home to several newspapers, restriction of the movement of journalists, the entry of police officers into newsrooms and the like. In accordance with domestic regulations, as well as the ratified international treaties, the freedom of public information and freedom of expression may in some cases be restricted. In the case of *Kurir*, there seems to be a legitimate reason for such a restriction, since the actions of the Tax Administration and the police were aimed at gathering evidence about alleged criminal offences, namely tax evasion and misuse of official authority. What is, however, questionable, is whether the said restriction was proportional and whether the actions could have been carried out in a way that would have disturbed to a lesser extent the daily activities of the above mentioned newspapers.

The authors of this report do not possess sufficient information to make a definitive judgment, but there are indisputably clear indications that the restrictions in this particular case were excessive.

1.4 *Radio Sto Plus* from Novi Pazar, whose founder is the "Beta Press" Ltd. agency from Belgrade, announced on September 17th it had filed criminal charges against unknown persons that have inflicted serious damage to the regional radio station's transmitter on the Golija mountain. Consequently, the program of *Radio Sto Plus* is now available only to the listeners in Novi Pazar. The experts that examined the broken transmitter said that the damage had been caused deliberately. The editor of the station, Ishak Slezovic, said it was the second breakdown of the same transmitter in the past three months. The breakdown from last July was not reported to the police because the management of the station believed it was a short circuit. Earlier interruptions of the transmissions from Golija had been caused by physical tearing of the cables on the antenna pole. Two years ago, a Molotov cocktail was thrown at the second transmitter of the radio – covering the area of Novi Pazar – but failed to cause serious damage on the broadcasting equipment.

Unauthorized prevention or obstruction of radio or television broadcasting is a criminal offense under the Serbian Criminal Code. Unfortunately, in earlier cases of obstruction of broadcasting, most of which were caused by a physical damage to transmitters or cables for the delivery of signal to the transmitter, the police have not been able to find the perpetrators. In one of the cases known to the authors of this Monitoring Report, in late 2006 the Municipal Court in Nova Varos pronounced guilty a person that had wrecked the antenna and cut off the cables on the transmitter of a national television station and convicted him to three months in prison or one-year suspended jail sentence. The court also ordered the seizure of "a pair of pliers with a yellow plastic sheath 160 mm long" that were used for cutting. The District Court in Uzice upheld this verdict in late March 2007.

2. Court proceedings

2.1 The daily newspaper *Press* published on the 11th of September the part of the verdict of the District Court in Belgrade that was upheld by the Supreme Court of Serbia. The verdict represented the outcome of the lawsuit against *the Press* by Jelena Jovanovic and Mihajlo Lajf Jovanovic, the spouse and juvenile son of the president of the Liberal Democratic Party (LDP) Cedomir Jovanovic, for violation of their right to privacy. The lawsuit was related to *Press'* publication of photographs of Jovanovic's family house, which had shown the wife and the son of the LDP leader. The photograph was published by *Press* within a series of articles questioning the revenue which enabled Jovanovic to enjoy life in such a house.

Deciding upon the appeal of *Press*, the Supreme Court revoked the verdict of the District Court in the part endorsing the claim of Jelena Jovanovic and upheld the same verdict in the part endorsing the claim of the juvenile, Mihajlo Lajf Jovanovic, and sentenced the editor of *Press*, Dragan Vucicevic, to pay damages for violation of the right to privacy to the juvenile son of the LDP leader in the amount of 150,000 dinars.

According to Article 9 of the Law on Public Information, the rights of holders of political functions to protection of privacy are limited if the information is relevant for the public, in view of the fact that such persons are exercising a public function, proportionately to the reasonable interest of the public in each specific case.

2.2 The Supreme Court of Serbia has passed a sentence in the case of Aleksandar Tijanic against the Committee of Lawyers for Human Rights YUCOM, which has caused considerable controversy. Back in 2005, YUCOM published a book "The Case of Civil Servant Aleksandar Tijanic" which mainly included quotes by Tijanic, the director of the Serbian National Television (RTS), published in the media in the period between 1976 and 2004. After the publication of the book, the RTS director filed six different charges against YUCOM, namely its president Biljana Kovacevic Vuco. In one of these proceedings for breach of copyrights – in which Tijanic claimed 8.5 million dinars of damages – the District Court in Belgrade rejected his claim in April 2006, explaining that the disputed book was not a collection of his complete texts and that it was merely using quotes as an illustration.

Upon Tijanic's appeal, the Supreme Court of Serbia passed a verdict altering the sentence of the District Court in Belgrade and partially approving the plaintiff's claim for damages up to the amount of 200,000 dinars and prohibiting YUCOM from making further use of the plaintiff's copyrights and publishing new copies of the book "The Case of Civil Servant Aleksandar Tijanic". YUCOM was also ordered to publish, at its own expense, the decision of the court in the daily "Politika".

Although the entire case is legally extremely interesting, the explanation of the Supreme Court's verdict is to a certain extent problematic. First, the Supreme Court invokes the provisions of Article 17, paragraph 1, point 2 of the Law on Copyright and Related Rights, which concern public communication; however, the quotes from declarations and articles of Aleksandar Tijanic, to the best knowledge of the authors of this Report, have not been publicly communicated, but merely recorded and reproduced in the form of a book. Furthermore, the Supreme Court invokes the provision of Article 16 of the Law on Copyright and Related Rights, which stipulates that the author has the exclusive right to publish its work and to determine the manner in which it will be published. In terms of the Law on

Copyright and Related Rights, publishing means the first communication of the work to the public by the author, or the person authorized by the author, in any manner whatsoever and anywhere in the world. In this particular case, excerpts from the articles of Aleksandar Tijanic and his quotes have already been published i.e. communicated to the public by the author and hence his right could not have been violated. A particularly interesting detail is the fact that, at least according to his statements made in public, Aleksandar Tijanic denies being the author of about 40% of the quotes attributed to him in the book. It is unclear whether the court has examined such claims at all during the proceedings. In view of the above, the Supreme Court's verdict and its explanation represent a precedent that may negatively affect the freedom of expression.

II MONITORING OF THE IMPLEMENTATION OF EXISTING LAWS

1. The Law on Public Information

The implementation of the Law on Public Information has been elaborated on in the section on the freedom of expression. Here we shall point out only the first case in which resorting to new procedures has been announced, i.e. measures stipulated in the recently adopted Amendments to the Law on Public Information.

Zora Dobricanin Nikodinovic, the attorney of Milan Radonjic, the former head of the Belgrade State Security Center, has announced intention to press charges against the daily *Blic*, in accordance with the recently adopted Amendments to the Law on Public Information, over the publishing by the said daily of the statement by SPO leader Vuk Draskovic, who said that there were proofs against Radonjic and Stevan Basta in relation to the assassination of Slavko Curuvija. The attorney of Milan Radonjic claims that *Blic* and Vuk Draskovic have violated the presumption of innocence to which her client is entitled.

The recently adopted Amendments to the Law on Public Information stipulate that a violation of the presumption of innocence is a commercial offense subject to a fine ranging from 25% to 100% of the sum amount of the total sales of copies of the public media, delivered to the distributors on the day the information was published, and of the amount of the sales of advertising space in the same issue. The Law also stipulates that, where the offense has been committed for the first time, the court will pass a suspended sentence and order that the sentence be publicly published.

2. Law on Free Access to Information of Public Importance

The Journalists' Association of Serbia (UNS) received in mid-September, 21 months after a petition filed pursuant to the Law on Free Access to Information of Public Importance, the

confirmation that the Cacak police did not possess an official record of the incident where Vladimir Ilic, the correspondent of "Vecernje Novosti" from Cacak, molested the sheep of Velimir Ilic, the leader of Nova Srbija and the former Minister in the Serbian Government. Vladimir Ilic was assaulted on October 4, 2007 by the security personnel of Velimir Ilic while reporting on the construction of the former Minister's clinic in the village of Kaculice. The leader of Nova Srbija said at the time that his security "did not attack a journalist, but a person that was caught with his pants down among sheep, of which the police made an official record". Velimir Ilic also said that the police had established that his sheep and goats were molested on the property of his neighbor and that one of the persons who had molested the animals resembled the Novosti reporter.

It was established later that it was only the keeper of Ilic's property, Dragan P., – suspected of having attacked the reporter – who has mentioned the molesting of sheep in his statement given to police after the incident. Dragan P. said that the then minister Ilic asked him to attend to his property and that the person he had found in the property (the reporter Ilic) seemed to him to be "a tramp and drug addict" who had previously molested sheep! The police in Cacak ignored several requests by UNS and the commissioner for Information of Public Importance to submit a document mentioned by Velimir Ilic; therefore the ombudsman, Sasa Jankovic, initiated proceedings for checking the legality of the activities of the Police Administration in Cacak.

In accordance with the provisions of the Law on Free Access to Information of Public Importance, the Police Administration in Cacak was required, immediately and no later than 15 days after receiving the request, to inform the applicant about whether it possessed the requested information and to deliver the applicant the document containing the requested information, i.e. to issue or send the applicant a copy of that document.

In this case, by failing to proceed by the request submitted in accordance with the Law on Free Access to Information of Public Importance, the Police Administration in Cacak has, on one hand, made it more difficult to Vecernje Novosti's correspondent from Cacak, Vladimir Ilic, to defend himself from libel and, on the other hand, it has prevented that it be established that the attack of Velimir Ilic's security on Vladimir Ilic represented a clear attempt to stifle the freedom of expression.

3. Personal Data Protection Law

The commissioner for Information of Public Importance and Personal Data Protection, Rodoljub Sabic, has submitted to the Government of the Republic of Serbia the Draft National Strategy for Implementation of Personal Data Protection. This document has been drafted in cooperation with EU Commission experts. It was the subject of a professional debate at the international regional summit held in mid-May in Belgrade. Following the

debate, it was a subject of consultations with domestic experts, as well as to a three-month public discussion. After the analysis proposals, the final version was formulated and delivered to the Serbian government on September 11th.

The text of the Draft Strategy is available only in Serbian, at the commissioner's internet presentation here:

<http://www.poverenik.org.rs/images/stories/dokumentacija-nova/podzakonski-akti/predlogstrategijelat.doc>

4. The Law on National Minorities' National Councils

As early as in the first days after the adoption of the Law on National Minorities' National Councils, after having realized that the Law was not harmonized with the laws in the area of public information, the Minister of Human and Minorities' Rights, Svetozar Ciplic, said that certain laws would have to be amended in order for national minorities to be able to establish their own media outlets. "The media laws do not allow national councils to establish their own media outlets, since these laws have been adopted before the Constitution", Ciplic said, adding that they would accordingly have to be changed and harmonized with the Serbian Constitution. Namely, the Law on National Minorities' National Councils, adopted by the Parliament on the 31st of August, stipulates that national councils may establish media outlets. It also specifies that the Republic, autonomous provinces or local self-governments, as founders of public media outlets that are entirely or predominantly disseminating information in minority languages, may, in agreement with the national council, entirely or partially transfer the founding rights to such media onto the national council.

We are assuming that Minister Ciplic, when talking about the necessity to harmonize the media regulations with the Constitution, had in mind its Article 50, paragraph 1, which states that everyone is free, in a manner allowed by law, to establish without any kind of approval their own newspapers and other public information outlets. The word "everyone" within the meaning of Article 50, paragraph 1 of the Constitution, does not include the national councils of national minorities, since the provision regulates human rights, i.e. the rights of every man, physical person and individual, and consequently, the rights of each member of any national minority. This constitutionally recognized right was not actually violated by the provisions of the media laws considered by Ciplic, but rather by the Amendments to the Public Information Law adopted on the same day when the Law on National Minorities' National Councils was passed. These Amendments, amongst other things and in violation of the Constitution, has deprived physical persons (whether they are members of the majority nation or national minorities) of the right to establish media outlets. According to the Amendments to the Public Information Law, this right is vested only with legal persons.

III MONITORING OF THE PROCESS OF ADOPTION OF NEW LEGISLATION

The Parliament of the Republic of Serbia did not hold any sessions in September. Here we will point out only the Law on Amendments to the Criminal Code, which was adopted on August 31st, but came into effect on September 11th, 2009.

1. The Law on Amendments to the Criminal Code

The Law on Amendments to the Criminal Code has increased fines for around one third of criminal offenses provided for by the Criminal Code. In this way, the legislative authorities actually pressure the courts to make their penal policy stricter, which was recently judged to be unacceptably lenient. What is particularly important for the media is that, on one hand, media professions or, as stipulated by the Law – "professions of importance for public information" – are considered to be activities of public importance. Certain criminal offenses committed against persons in professions of public importance are more severely sanctioned. For example, a murder of a journalist is considered a first-degree murder, while serious bodily injury inflicted to a journalist is treated like the most serious form of this offense (it was equalized with serious bodily harm inflicted to a juvenile person or pregnant woman). The situation is similar with endangering the personal security or threats, which are currently offenses prosecuted ex-officio even if aimed at one journalist. According to the previous Code, this was the case only when the threat in question threatened the security of a larger number of persons.

On the other hand, there are several new criminal offenses that may primarily pertain to reporting on court proceedings, i.e. offenses that restrict to a certain extent the freedom of expression when reporting from court proceedings. The Law considers making statements to the media, while a particular court case is underway and pending a final judgment, as "unlawful public commenting" allegedly aimed at breaching the presumption of innocence or the independence of the court. The penalties for this criminal offense include a jail sentence of up to six months or a fine.

Since the European Convention for Protection of Human Rights and Fundamental Freedoms considers the protection of the reputation and rights of others, as well as the maintaining of the authority and impartiality of the judiciary, as legitimate grounds for restricting freedom of expression, the said restrictions are not controversial. However, they impose the need for education of journalists about the permitted modes for reporting of court proceedings.

IV MONITORING OF ACTIVITIES OF REGULATORY BODIES, STATE AUTHORITIES AND COLLECTIVE ORGANIZATIONS FOR PROTECTION OF COPYRIGHT AND RELATED RIGHTS

REGULATORY BODIES

1. REPUBLIC BROADCASTING AGENCY (RBA)

a) The Republic Broadcasting Agency (RBA) published on its website a statement on September 29, 2009 regarding the decision of the mayor of Belgrade to declare September 30th a day of mourning for the tragic death of Frenchman Brice Taton. The said statement sent to all national broadcasters and broadcasters in the area of the City of Belgrade laid down the program-related obligations of the broadcasters on the day of mourning.

The notice contained instructions that were all in accordance with the provisions of Article 6, paragraph 1 of the Law on Observing the Day of Mourning on the Territory of the Republic of Serbia (Official Gazette of the Republic of Serbia no. 101/2005), which defines the obligations of broadcasters in such cases: they are required to broadcast the decision declaring the day of mourning, as well as the program of the ceremony; to inform the public about commemorations organized by the competent authorities on the day of mourning; to adapt their program schedule by airing instead of regular programs – particularly entertainment content – those suited for the day of mourning, without popular or folk music. Due to irregular practice of broadcasters with respect to their program schedules in cases of major accidents or other tragic events, the RBA has sought, with this notice, to influence the broadcasters' behavior in such situations, reminding them of their obligations.

b) According to a report in the daily "*Danas*" published on September 28, 2009, the radio station of the Serbian Orthodox Church in Subotica, *Radio Slavoslavlje*, officially started broadcasting its program in this city. "*Danas*" highlighted the interesting fact, that the said station had obtained its broadcasting license in a time-sharing arrangement with *Radio Marija* of the Catholic Church in the same city, which has been airing its program for the last 26 years as part of a global network. The licenses for both broadcasters (of specialized program) were issued in 2008 and are valid until 2016, and were obtained for broadcasting in the local area.

According to Article 48 of the Broadcasting Law, if the conditions from the Radio Frequencies Allotment Plan are met, no more than three broadcasters may be permitted to use the same radio frequency in the same target zone, on the basis of a prior positive opinion of RATEL. In order to obtain the license, the broadcasters must submit a contract laying

down the broadcasting time slots for each of them and each broadcaster shall be issued a separate license containing a separate reference to the joint use of the radio frequency, the broadcasters using it and the conditions for joint use.

The best known case of an approved joint use of frequency is the time-sharing of national broadcasters "HAPPY TV" (broadcaster of specialized program) and "TV Kosava" (broadcaster of complete program).

2. REPUBLIC AGENCY FOR TELECOMMUNICATIONS (RATEL)

a) On September 4, 2009, the Management Board of RATEL passed in its session, eight decisions prohibiting, the operations of radio stations, namely the unauthorized use of a radio frequency by station owners for the lack of proper licenses for such stations, without delay and for an undetermined time. The following stations are affected: Radio Kondor, Bosnjace; Timocki radio Grljan, Grljan; Radio Sistem Plus, Veternik; Radio Sistem, Veternik; TV TNT, Bela Crkva; Radio Doina, Brza Palanka; TV Jesenjin, Novi Sad; TV Jefimija, Krusevac. The decisions are final and subject only to administrative proceedings before the competent court within 30 days from the day of decisions.

It is interesting to point out that the above list includes two television stations whose broadcasting licenses were revoked by the RBA Council prior to their expiry over unpaid broadcasting fees, unless the fees were paid within a specified period. These stations were TV Jesenjin from Novi Sad (the regional license expires on 01.06.2009) and TV Jefimija from Krusevac (the local license expires on 01.04.2009).

b) On September 22, 2009, the Management Board of RATEL passed in its session, several decisions on extending the time for beginning of operation of the following radio stations: Radio Novi Becej, Novi Becej; Radio station Softic, Tutin; Information Center Kosjeric, Kosjeric; Radio Gogy OD, Gornji Milanovac; JP Vrbas, Vrbas.

According to Article 71, paragraph 1 of the Telecommunications Law, a radio station must start operating no later than one year after the date of obtaining the license, unless provided for otherwise by a separate law. Paragraph 2 of that article also stipulates that a radio station may begin operation after a technical inspection by the Agency. Paragraph 4 of the same article stipulates that the user of a radio station that for objective reasons is not capable of putting the radio station into operation in the time period referred to in paragraph 1 of that article, may submit a written request, no later than 15 days before the expiry of the time for beginning of operation of the radio station, for an extension of this period, explaining the reasons for the delay. The Agency shall review the reasons for the extension of this time period and pass a decision on the submitted request prior to the expiry of the deadline for the

beginning of the operation of the radio station, pursuant to Article 71, paragraph 5 of the Law.

STATE AUTHORITIES

3. THE NATIONAL PARLIAMENT OF SERBIA

There were no sessions of the Parliament in the period observed.

a) On September 28, 2009 – the International Right to Know Day, established in 2002 – representatives of five state authorities were awarded for the contributions to the promotion of the right to free access to information of public importance. Among them was the Parliament of the Republic of Serbia. The recipients of the awards were selected by jury which consisted of representatives of the Independent Association of Journalists of Serbia, the Leskovac People's Parliament, the Open Society Foundation, Citizens' Association 'Sretenje' from Pozega and 'Transparency Serbia'. The awards were presented by the Commissioner for information of public importance, Rodoljub Sabic.

The Parliament was awarded this significant recognition in the category of the highest state authorities for its contribution to promotion of the right to free access to information of public importance, as well as for the transparency of its activities. The explanation of the award, posted on the Parliament's website, said that the jury had recognized the Parliament of the Republic of Serbia as a state authority that can serve as a positive example to others in its respect for the right to free access to information and the principle of transparency in its work.

b) The fifteenth session of the Culture and Information Committee of the Parliament was held on September 4, 2009. Interviews were held with the candidates that the domestic non-governmental organizations and citizens' associations – predominantly engaged in the protection of the freedom of speech, protection of the rights of ethnic minorities and protection of children rights – proposed for membership in the RBA Council. A representative of the Committee said that, in the procedure for the election of the RBA Council member from the ranks of domestic NGOs and citizens' associations, pursuant to Article 23, paragraph 2, point 5 of the Broadcasting Law, no agreement had been reached on the joint list with two candidates in the additional time period specified by the law. She reminded that the Amendments to the Broadcasting Law adopted last July stipulated that, if the authorized proposers cannot agree on the proposal in the prescribed period, the competent committee of the Parliament, on the basis of proposals submitted, would propose a list with the names of two candidates for the election of one member of the RBA Council.

She also pointed to the provision according to which the Committee may, before deciding upon the election of the Council members, organize a public discussion with all proposed candidates in order to assess their capabilities for performing the tasks from Agency's scope of work. The members of the Committee were then introduced to the following candidates: Velimir Milosevic (the Scout Association of Serbia and EKOPOLIS, Nis), Miljenko Dereta (Civic Initiatives), Dr. Rajko Djuric (Roma Holocaust Foundation "Remembrance, Reconciliation, Future", Belgrade), Boza Prelevic (Fund for Political Excellence, with another two organizations, Belgrade), Goran Pekovic (International Propagandists' Association) and Milovan Vitezovic (Belgrade Culture and Education Association).

By the time this report was being finalized, September 30, the website of the Parliament did not contain the information whether the Culture and Information Committee had passed the decision on which of the two candidates of the NGO sector – out of a total of six – it would propose to the Parliament for membership in the RBA Council. The first session of the second regular sitting of the Parliament in 2009 is scheduled for October 6, 2009.

4. THE GOVERNMENT OF THE REPUBLIC OF SERBIA

On its 139th session held on September 3, 2009, the Government of the Republic of Serbia adopted the Draft Law on Copyright and Related Rights, which was forwarded to the Parliament on September 21, 2009 and was on the list of laws in procedure, by the time this report was being concluded.

In accordance with Article 140 of the Rules of Procedure of the Parliament (consolidated text, Official Gazette of the Republic of Serbia 14/09), the Draft Law, prepared in accordance with these Rules, may be included in the agenda of the Parliament session in no less than 15 days and no more than 60 days from the submission of such Draft.

In exceptional cases, the 60-day period may be exceeded, but not by more than 30 days, and the speaker of the Parliament shall inform the members of Parliament about the reasons for missing the deadline.

The periods referred to in paragraph 1 of this Article shall be suspended while the Parliament is not in regular sitting.

5. THE MINISTRY OF CULTURE

a) On September 7, 2009, the Ministry of Culture website posted an announcement from the Ministry informing all interested parties that the results of the Competition for the Co-Financing of Projects/Programs from the Area of Public Information, due to large turnout

and more than 300 projects that have been applied, would be announced on September 20 instead of September 7, as it was originally determined by the competition.

Click [here](#) for the entire announcement (available only in Serbian)

The Ministry of Culture called on July 30, 2009, a Competition for the Co-Financing of Projects/Program from the Area of Public Information, pursuant to Article 21 of the Law on Ministries and the Conclusion of the Government of Serbia dated June 25th, 2009, on assistance to media outlets in the time of crisis. The competition was open until August 21, 2009, and its results were supposed to be announced by September 7, 2009, on the website of the Ministry of Culture. The total amount of 80 million dinars is designated for co-financing of production of print and electronic media content. Eligible for participation were the founders of public media outlets and legal persons registered for production of television and radio program, provided they apply with one project whose realization will be carried out through the media. The amount of 60 million dinars was provided by the Government, and an additional 20 million came from the Ministry of Culture's budget. The maximum amount per project was two million dinars, whereas media outlets had to participate with 20% of that amount using their own funds. The funds must be utilized by the end of March 2010.

b) On September 21, 2009, the results of the Competition for the Co-Financing of Projects/Programs from the Area of Public Information were announced. The Minister of culture, Nebojsa Bradic, and his assistant for information, Natasa Lesendric-Vuckovic, held a press conference announcing the results of the competition. According to their statement, of 355 applications that have been submitted applying for 600 million dinars (72 print media applied, as well as 96 radio stations, 27 web portals, 73 television stations and 87 television productions), 125 projects have been approved worth almost 80 million dinars. Assistant minister, Natasa Lesendric-Vuckovic, indicated that the Ministry would, for 16 projects in the area of print media, earmark 9,8 million dinars; for 46 radio stations' projects the amount is 21.5 million; and for 13 web portal projects the amount is 11.2 million dinars. 6.5 million dinars will be allocated to 7 projects from the area of television production, while 43 projects of TV stations will receive 31 million. The approved projects mostly relate to news program (45%), education (28%), religious content (14%), children programs (9%) and cultural content (3%). According to the representatives of the Ministry of Culture, the Ministry will soon start implementing the decisions from the Competition.

The allocation of funds in accordance with competition results has marked the completion of one of the Government's urgent measures to assist media in the crisis. Certain media outlets have criticized the decision on allocation of funds, claiming that they were given to the "obedient media" and that media outlets whose projects were approved include a lot of state media and some that are not known to the general public as serious media enterprises.



[The list of media that have been granted the funds at the Competition for the co-financing of projects/programs in the area of public information](#)



[Results of the Competition for the co-financing of projects/programs in the area of public information](#)

* available only in Serbian

c) The website of the Ministry of Culture published on September 14, 2009 a statement in which "the Ministry strongly condemns the behavior of the distributor *Futura Plus* which, due to its massive debt to the largest Serbian publishers, caused them to decide to withdraw all its editions from Futura's sales network". The Ministry also said that, due to this problem, "a large part of these publishers' circulation will not be available to readers, which is directly threatening the citizens' right to information". At the same time, the Ministry called all the distributors on the press market to make arrangements and allocate their circulation so as to enable citizens to easily buy newspapers, until the problem between the publishers and *Futura plus* was resolved. The Ministry finally said it would do its best to help solve the problem between the members of the *Media Association* and the distributor *Futura Plus*.

The comment on this dispute, in which even the Ministry sided with one of the parties, is available in the Freedom of Expression section, under the point 1.2.

d) The Ministry of Culture called on September 1, 2009 the Competition for the Co-Financing of Projects/Programs of Electronic Media Seated in Kosovo and Metohija. The goals of the competition include: preservation of the Serbian national and cultural identity and language; realization of the citizens' right to public information; development of media pluralism; stimulation of media production in the area of culture, science and education.

Founders of electronic media seated in Kosovo and Metohija, are eligible to participate in the competition, as well as legal persons registered for production of television and radio program seated in Kosovo and Metohija. Proposed projects must be realized through a public media outlet. Each proposer may apply with one project only, if with this project it didn't already participate in the Ministry of Culture's competition. The maximum amount of funds required for the realization of the project is 1,000,000. 00 dinars and the Ministry will be covering up to 80% of the total value of the project. The allocated budget funds must be utilized by the end of March 2010. The budget of the Ministry of Culture for this competition amounts to 8,000,000.00 dinars. The competition was opened on September 1, 2009 and closes on September 25, 2009. The results will be published on the Ministry's website no

later than by October 15, 2009. The final decision on granting the funds will be made by the Ministry, on the basis of the proposal of the Competition Commission.

The Ministry, as the competent body for the area of information, has earmarked in its budget the funds for co-financing of projects in this area. On the basis of Article 21 of the Law on Ministries (Official Gazette of the Republic of Serbia no. 65/08) and the Law on the Budget of the Republic of Serbia for 2009 (Official Gazette of the Republic of Serbia no. 102/08 and 31/09), The Ministry called a competition based on which it would allot these funds, in accordance with competition results.

Competition for the co-financing of projects/programs of broadcast media from Kosovo and Metohija



1. 9. 2009. 25. 9. 2009

* available only in Serbian

e) According to the information of the Monitoring Team, another meeting was held in the observed period on September 29, 2009, between the representatives of the Ministry of Culture and of media associations, on the occasion of establishment of the working group for preparation of the Media Sector Strategy. Among other things, it was requested and agreed at the meeting that members of the working group be appointed by the Government. By the time when this report was concluded, the Government failed to appoint members of this working group.

COLLECTIVE ORGANIZATIONS

6. OFPS, collective organization for the protection of phonogram producers' related rights

- a) A notice was posted on the OFPS website on September 23, 2009 about the signing of bilateral agreements on mutual cooperation with international organizations, namely:
- **On September 23, 2009**, an agreement on mutual cooperation was signed between the collective organization for protection of rights of performers, phonogram producers and videogram producers, Ukrainian Music Alliance from Ukraine, and the OFPS (Serbian phonogram producers' organization).
 - **On September 18, 2009**, an agreement on mutual cooperation was signed between the Dutch collective organization for the protection of rights of performers and phonogram producers, SENA, and the OFPS.

According to Article 171 of the Law on Copyright and Related Rights, organizations for collective exercising of copyright and related rights are required, within five years from having acquired the first permit for performing their activity, to enter into contracts with relevant foreign organizations. By these contracts these organizations ensure collective exercising of copyright and related rights of domestic holders of rights abroad, as well as of foreign holders of these rights in Serbia.

b) The OFPS' Managing Board passed at the session held on September 2, 2009 a decision to amend the tariff of the fees charged by OFPS to the users. This decision was published in the Official Gazette of the Republic of Serbia no. 77/09 dated September 18, 2009 and entered into force a day later. The amendments to the tariff pertain to:

- Institutions of the public service broadcasters – television and radio stations.

According to the amendments, the tariff for *these TV stations*, which was laid down by applying a percentage of the revenue/expenditure, may not be lower than the minimum fee amounting to 0.08 dinars per capita monthly, according to data about the technical zone of coverage. The tariff for *radio stations* may not be lower than the minimum fee amounting to 0.007 dinars per capita monthly, according to data about the technical zone of coverage.

The above decision introduced the mandatory minimum fee for institutions of the public service broadcasters (TV and radio stations), which already exists for commercial broadcasters. The amount of this fee, for above radio stations, is the same amount determined for commercial radio stations. For TV stations, the fee is in the same amount as for the category I of commercial TV broadcasters with a share of music in the program of up to 50%.

However, for those who pay more than the minimum amount, the difference in tariff still remains significant, to the detriment of commercial broadcasters.

- The tariff for cable rebroadcasting was also amended: the monthly fees for rebroadcasting per household were increased, but at the same time the cable broadcasters were offered the possibility (previously non-existent) of a discount if they sign three-year contracts with OFPS (20%, 15% and 10% for the first, second and third year of the contract).

7. SOKOJ, collective organization for protection of musical authors' copyrights

The website of this organization published the news dated September 24, 2009 that the National Seminar on the collective exercising of copyright and related rights was held in Belgrade on September 15-16th, organized by the Intellectual Property Office of the Republic

of Serbia and the World Intellectual Property Organization (WIPO). The participants included SOKOJ director, Aleksandar Kovacevic, who had a presentation on the topic "The Relation between Organizations for the Collective Exercising of Rights and Broadcasting Organizations in Serbia".

No information on the content of the director's presentation was available on either SOKOJ's website or the website of the Intellectual Property Office. According to information available to the Monitoring Team, SOKOJ is yet to hold meetings with representatives of broadcasters about the negotiations on reducing the tariffs and aligning the tariffs for commercial broadcasters and public companies, although such measures have been recommended by the Government in its set of urgent measures to assist media during crisis.

IMPLEMENTATION OF EMERGENCY GOVERNMENT MEASURES TO ASSIST MEDIA DURING CRISIS

The Government's measures to assist the media during crisis were adopted back on June 25, 2009, as urgent measures, with the Ministry of Culture in charge of their monitoring. However, three months after their adoption, these measures are yet to be realized, with the exception of two measures, namely the reduction of RBA fees and allocation of additional resources for co-financing of projects in the area of information.

In the observed period, only the realization of this second measure was completed. With the adoption of the decision on the allocation of funds for the co-financing of projects in the area of information, which were allocated to 125 projects, almost all of the 80 million dinars of budget funds earmarked for this purpose were allotted. In order for this measure to be fully implemented, these funds need to be genuinely transferred to the applicants whose projects were supported, as the Ministry has announced would happen.

One of the Government's urgent measures – the reduction of RATEL's fees for broadcasters – could have been realized a long time ago, but has not been. Namely, RATEL passed on July 21, 2009 the necessary Decision to implement this measure, but by the time of the conclusion of this report, the Government had not made any decision to approve it.

V THE DIGITALIZATION PROCESS

Although it was announced as early as in August that RTS would broadcast the Brass Festival in Guca in High Definition (HD), the first live transmission in HD occurred only on September 9th, when the RTS aired the football match between the national teams of Serbia and France from its digital multiplex broadcasting from Avala and Fruska Gora.

Nevertheless, the fact remains that such broadcasting by RTS is, at the present time, in absolute contravention of the Broadcasting Law, which stipulates that the RTS will broadcast program on two networks only (the third, experimental digital network is not even mentioned). The broadcasting of the Serbia-France match is also in breach of the Digitalization Strategy adopted by the Government of the Republic of Serbia, since RTS is not broadcasting in the standard that the Government opted for with the Strategy. Such behavior of RTS has brought into question its obligation to provide for the development of advanced technical and technological standards in the production and broadcasting of television program, as well as to prepare and ultimately realize the plans for switching to new digital technologies. It has also created additional confusion with the viewers with respect to the standard of the format for future digital broadcasting.

VI THE PRIVATIZATION PROCESS

The process of privatization of public media outlets in Serbia has remained blocked for more than a year and a half. In the meantime, the state has created new grounds for avoiding privatization, by adopting the new Law on National Councils of National Minorities. According to that Law, media outlets may be established by national councils, while the Republic, the autonomous provinces or units of local self-government, as founders of public media that are entirely or predominantly providing information in the minority languages, instead of privatizing such media outlets, may transfer their ownership of the media to the national council. Additional concern was created when the Minister for human and Minority Rights, Svetozar Ciplic, announced amendments to the media legislation in order to facilitate the exercise of national councils' rights from the Law on National Councils of National Minorities. In other words, it could mean the state's giving up on privatization of the remaining public media outlets.

The contradictory message the government is sending through its highest officials, as well as business conditions that are unequal and discriminating against private media, result in many problems for such media, including the ones that have been privatized before this process was stalled.

In one case, the Municipal Court in Negotin has made an inventory of the property of *Radio Television Krajina* because of a debt to employees amounting to almost one million dinars. *RTV Krajina* was privatized in November 2007. The last time the employees received their salary (for November 2008) was in March 2009. The money from the sales of the inventoried equipment was to be allotted for payment of outstanding salaries for eight employees, who have pressed charges with the court against RTV Krajina. These employees have voiced doubts that the sale of the inventoried equipment would produce enough money for them to

get paid in full and claimed that they had resorted to legal means in order to stop the agony. The Director of RTV Krajina, Dejan Grujic, said that the owners of that station would find a solution to pay the outstanding salaries to their employees and that the inventoried equipment would not be sold.

VII CONCLUSION

The economic collapse of broadcasters continued in the period observed and the authorities continued to send contradictory messages to the media sector. For instance, it remains unclear what is the government's plan regarding the privatization of public media outlets. It is still not clear whether the coming digitalization of broadcasting will be implemented as specified by Government's Strategy, or as RTS is doing it in practice. This is creating a situation in which media companies can't predict even in the short term the conditions for their operations in the country, which is significantly hindering their development plans.

The announced drafting of the Media Strategy, which should contribute to defining the aspired goals and priorities, as well as the principles and values to be protected, remains merely an announcement; therefore one may reasonably doubt the sincerity of the government's intentions to reform the media scene so as to enable its development and further democratization of society.

The amendments to the Criminal Code that came into force on the 11th of September, are a step forward, especially in the part introducing a stricter penal policy for criminal offenses that are occurring almost daily against journalists and the media (e.g. "threats to personal security", which is the term employed by the Code for threats journalists are facing almost on a daily basis). Also commendable is the designation by the Serbian criminal legislation of "professions of importance for public information" as "professions of importance for the public", which are accordingly protected by a stricter penal policy.

On the other hand, the Law on Amendments to the Criminal Code introduces new criminal offenses, namely regulates differently the reporting on current legal proceedings so as to make it potentially more risky for journalists. In the following period it is necessary to organize additional training for journalists reporting about legal proceedings. Through education on how to report from courthouses without breaching the presumption of innocence or the independence of the court, without hindering the proceedings or obstructing the office of the judge or prosecutor, the possibility that the journalist be charged with unlawful "public commenting" on legal proceedings or obstruction of justice should be reduced to the minimum.