

III MONITORING OF THE PROCESS OF ADOPTION OF NEW LEGISLATION

In November, the Parliament of the Republic of Serbia did not adopt any laws of particular relevance for the media sector. However, Law on Classified Data and the Law on Amendments to the Law on Free Access to Information are in procedure.

1. The Law on Classified Data

An article was removed from the draft Law on Classified Data, which would prevent the Commissioner for Information and Ombudsman to access certain information. On November 10, 2009, the daily Blic reported that the OSCE had furnished a list of objections to the Government of Serbia and the Justice Ministry. According to Blic, OSCE complained that the said Law had defined the notion of secret too broadly and that it was necessary to boost control mechanisms and protect whistleblowers.

2. The Law on Amendments to the Law on Free Access to Information

At the session held on November 17, 2009, the Culture and Information Committee did not accept the Ombudsman's modification to the amendments to the Law on Free Access to Information, providing for the protection of persons blowing the whistle on abuse and corruption. At the same time, the Committee accepted an amendment of MPs that also pertained to whistleblower protection. However, in a column written for the daily Danas, the Commissioner for Information of Public Importance and Personal Data Protection Rodoljub Sabic described this amendment as superfluous and "cosmetic". The amendment namely stipulates that the employee in a government authority, who enables access to particular information of public importance, to which the access may not be restricted pursuant to articles 9 and 14 to the Law, as well as to information, to which the access was already enabled by the said authority, may not be held accountable or suffer any consequences. In the Commissioner's opinion, this is tantamount to protecting persons who have enabled the public to freely access information, which is already provided for by the law. The Commissioner stressed that protection only made sense where the public had been provided information which might be restricted, because only then, it seemed legitimate – for formal reasons at least - to hold a civil servant accountable for breaching his obligations. One could even interpret the above so as to conclude that the said amendment is actually narrowing the protection of whistleblowers. The amendment namely requires an additional condition to be met, namely that the information in question points to the existence of corruption,

overstepping authority, unreasonable expenditure of public funds or to an unlawful act or action by the government authority, while in all other cases protection is not provided at all.