

## I FREEDOM OF EXPRESSION

In the period covered by this Monitoring Report, there were several cases pointing to possible violations of freedom of expression.

### 1. Threats and pressures

1.1. After posting a blog on the Internet portal WEB 016 referring to a video clip of a crazed driving spree of an unknown BMW driver, the journalist of Radio Leskovac Dragan Marinkovic has been receiving death threats. On the said clip, the driver of the BMW is recklessly driving through the central city streets, scaring pedestrians, even thundering by near the Police Administration building in Leskovac. The driver's antics were recorded on camera and the clip was posted months ago on YouTube. Marinkovic wrote about them on his blog, requesting publicly from the police to establish the identity of the driver and owner of the vehicle and asking whether such behavior would be punished. In one of the comments to his blog, Marinkovic was told that "on the next video clip his body will be in the trunk of the car". Just two days later, on July 16, 2010, it was announced that the police had filed criminal charges with the Court of General Jurisdiction in Leskovac against Aleksandar M. (born in 1987) from Leskovac, for threatening public safety.

Pursuant to the Criminal Code, the criminal offence of endangering safety by making threats against one's life or body shall be subject to a prison sentence ranging from one to three years. The amendments to the Code from 2009 have introduced a qualified form of the said offence, where the safety of a person performing jobs of public importance in the area of information is threatened in relation to the performance of the said jobs. In such a qualified case, the Code provides for a prison sentence ranging from one to eight years. So far, these provisions have been implemented so as to treat mainly journalists of traditional media as "persons performing jobs of public importance in the area of information". In this particular case, Dragan Marinkovic is a journalist working for a traditional media outlet – Radio Leskovac – but it may be soundly argued that the threats made against him were not related to his job of journalist of Radio Leskovac, but to the fact that he is the author of a blog on the WEB 016 portal (<http://web016.webs.com/>). According to the Law on Public Information, blogs are public information outlets, namely public media, since they represent places where ideas, information and opinions, intended for public distribution to an undetermined number of users, are published by the means of words, pictures or sound. In that sense, the job of the author of the blog, which is a public media within the meaning of the Law on Public

Information, should be considered a job of public importance in the area of information. Consequently, threats against the security of the blogger made in relation to the information he/she has posted on his blog, may be subject to Article 138, paragraph 3 of the Penal Code, as qualified endangering of security and hence to a more stringent prison sentence. It remains to be seen if this will be the position of the competent prosecutor and/or the court; the Leskovac police has initiated the proceedings by filing criminal charges with the Court of General Jurisdiction in that city.

1.2. The police have filed misdemeanor charges against the Deputy President of the Municipality of Coka Ziva Pavlov (43) from Sanad, for disrupting public order and inflicting minor bodily injuries to writer and journalist Djuro Stanojevic (42) from Coka, by punching him in the head and kicking him between the legs. The incident took place in center town on July 5, 2010 around noon, when, after an argument over the texts on Stanojevic's blog, Pavlov assaulted the blogger. Two weeks later, under pressure from journalists' associations and the public, the municipal committee of the Democratic Party in Coka, of which Pavlov is a member, announced that the latter had, with his actions, stained the reputation of the Democratic Party and that he would consequently be barred from performing any public or party functions in Coka. Ziva Pavlov resigned to all his public and party positions. Apart from being the Deputy President of the Municipality of Coka, Pavlov was also the President of the Executive Committee of the Municipal Board of the Democratic Party. He stated that his conflict with Stanojevic would have its epilogue in court, since the police had filed misdemeanor charges, but also because that he had filed a private lawsuit against Stanojevic with the Court of General Jurisdiction in Kikinda for having allegedly degraded and smeared him on the said blog.

What is particularly interesting in this case, apart from the fact that, like in the case of Dragan Marinkovic from Leskovac, threats were made over texts posted on a blog, is that both Marinkovic and Stanojevic are journalists of traditional media in addition to being bloggers. Namely, Stanojevic's blog – Jabberwocky u zemlji čuda (Jabberwocky in Wonderland <http://jabberwocky-reloaded.blogspot.com/>) says that due to pressure and self-censorship, he could not have published his texts in the local newspaper in Kula. Hence this case is yet another proof of the growing self-censorship in the Serbian press, but also of the fact that the new media in Serbia and the accessibility and democratic quality of the Internet are increasingly used as an alternative platform for disseminating information that otherwise could not have reached the wider public through the print media, radio or television. Another cause for concern is the fact that the police have, in relation to the incident in Coka, filed misdemeanor charges for disrupting public order, even though the evidence point to a possible case of violent behavior, which is a criminal offence, prosecuted *ex officio*. Namely,

for the most serious form of disruption of public order, as a misdemeanor, the Law provides for a 30.000 RSD fine or a 60-day prison sentence. In the case of violent behavior, where that criminal offence involves the infliction of a minor bodily injury, the perpetrator may be sentenced to a prison term ranging from six months to five years.

1.3. On July 24, 2010, Teofil Pancic, the columnist of the Vreme weekly, was attacked and beaten with a metal bar, in a public transportation bus in Zemun. He was diagnosed with a skull contusion and injuries to the right arm. The Police have interviewed Pancic about the incident and inspected the scene of the attack by two unknown men, who had followed Pancic for a while before boarding the bus with him at the station on the Branka Radicevica Square in Zemun. As he was boarding a packed bus, the perpetrators attacked him with metal bars, clubbing him on the head and body. They then escaped from the bus, which was still standing at the station. The police press release said that Pancic, who was entering the bus no. 83 at approximately 11 PM, had been attacked by two persons at the bus station in the Glavna Street in Zemun, in front of number 42. "The attackers, who got on the packed bus behind Pancic, started clubbing him in the head and right arm and after 20 seconds exited the bus, which was still standing at the station", the press release added. The two men ultimately ran away along the Glavna Street in the direction of the Madlenijanum Theater. A metal bar was found on the sidewalk of the bus station. The police drove Pancic to the Clinical Centre in Zemun, where he received medical treatment and diagnosed with minor bodily injuries. In a text published in the July 29 edition of Vreme, Pancic explained that, after several minutes of waiting, he had boarded the bus on the Branko Radicevic Square, after having switched several buses on his route from the Belgrade city center. There were several other people at the station and Pancic didn't notice anything unusual. Immediately after boarding the bus, he noticed two hooded young men who hurriedly followed him inside. They started pulling him and beating him on the head with their fists and a metal bar, trying to knock him down on the floor. None of the passengers came to his aid and the attackers ultimately ran out of the bus, which was still standing at the station. After he had exited the bus to go after his attackers, Pancic was approached by the driver, who found the metal bar on the sidewalk, as well as by another young man. All the passengers left the site of the attack and eventually the bus also left, without anyone calling the police, which came only after Pancic himself called them by telephone. The attack against Pancic was vigorously condemned by the President of Serbia Boris Tadic, the Ministry of Culture, the Minister of the Interior Ivica Dacic, as well as by media and journalists' associations.

By the end of the month, the media reported that two dozen young men from Zemun, who had already been known to the police for their violent behavior, were apprehended. These men were brought in for questioning about the identity of Pancic's attackers. On August 3,

the Minister of Interior Ivica Dacic told the Beta news agency that the police had arrested Danilo Zuza (19) and Milos Mladenovic (18) from Belgrade, under the suspicion of having attacked the Vreme weekly columnist Teofil Pancic. Zuza and Mladenovic were detained for 48 hours, after which they were to be questioned by the investigative judge. Dacic said that the identity of the two young men was established by the means of a DNA sample analysis, since traces of the attackers' DNA were found on the metal bar used to beat Pancic. Dacic added that the identity of the perpetrators would otherwise have been difficult to establish, because the CCTV cameras on the surrounding buildings in Zemun, where the incident had happened, caught the attackers from behind only. The media have also reported that the arrested youth are members of an extreme subgroup of the radical right-wing organization Obraz. The only positive aspect of this case is that the police, unlike in the many other unsolved cases of attacks against journalists, managed to identify and apprehend the perpetrators in less than ten days. After the completion of the investigation, Danilo Zuza and Milos Mladenovic could find themselves indicted for a qualified form of violent behavior, which is subject to a prison sentence of between six months and five years.

## **2. Legal proceedings**

2.1. On July 17, 2010, the Danas daily published the statement made by the Director and Editor-in-Chief of the newspaper "Zrenjanin" Dalibor Bubnjevic that the existence of the said regional paper would be threatened if the Appellate Court should uphold the first-instance verdict of the Higher Court in Zrenjanin, thereby sentencing "Zrenjanin" to pay 408.000 RSD of damages over an article about a murder case to the family of the victim. The controversial first-instance verdict of the Higher Court in Zrenjanin, delivered upon the charges pressed against the paper "Zrenjanin", alleging that it published on February 19, 2010 a text containing untruths about the deceased, which caused psychic pain to the members of his family. The Higher Court in Zrenjanin ruled in favor of plaintiffs, explaining that the published information about the deceased and the alleged possible reasons for the murder did not originate from a state authority, namely that they were cited in the text as "unofficial information".

The authors of this report did not have direct access to the files of the case and the sentence of the Higher Court in Zrenjanin. However, if the content of the explanation of the sentence has been authentically conveyed in the media, they hereby wish to point out that no law provides for the official/governmental origin of a piece of information as a condition to publish them, where such information may infringe on someone's right or interest. On the contrary, the Law on Public Information only provides that, prior to publishing information

containing data about an event, occurrence or person, the origin, authenticity and completeness of such information must be thoroughly checked, in accordance with the circumstances. The latter may not be interpreted so as to insist that the said information must originate from state authorities. On the contrary, the Law expressly provides that the public media shall freely publish ideas, information and opinions about occurrences, events and persons that the public has a justified interest to know, regardless of the manner in which the information has been obtained.

2.2. On July 5, 2010, the Appellate Court in Belgrade began to consider the appeal of the First Prosecutor's Office of General Jurisdiction against the rejection of the charges against six Partizan football fans for threatening the security of TVB92 journalist Brankica Stankovic and violent behavior. We hereby remind that on April 22, the First Court of General Jurisdiction rejected the charges and acquitted the hooligans of the charges of threatening the security of Brankica Stankovic during the football match Partizan-Sahtjor on December 16, 2009. Explaining the decision of the Court to reject the charges against six Partizan supporters, Judge Jelena Milinovic, who chaired the Court's Chamber, said that "the prosecutor in the indictment should have described and written the meaning of the words 'you will fare like Curuvija'". In a 25-page explanation, Judge Milinovic also said that "the Public Prosecutor had failed to describe why Stankovic is considered a person performing an occupation of public interest". The Chamber estimated that the slogan "You will fare like Curuvija" shouted against the B92 reporter "is an obvious metaphor that probably means something, but that the meaning of that metaphor is not to be deducted by the Court on the basis of any personal knowledge of the members of the Chamber. The Prosecutor must, according to the explanation, "indicate and explain in the indictment what the said metaphor means". The First Prosecutor's Office of General Jurisdiction requested in its appeal that the main hearing be repeated before a new Chamber, alleging that the facts from the indictment had been established mistakenly, as well as that the decision on rejecting the indictment had been passed without a session of the Chamber being held, which means that the "decision was just announced as it was already adopted earlier". According to the rejected indictment, four supporters were charged of "endangering security" and another two for "violent behavior".

Although it was announced that the Court would rule upon the appeal of the First Court of General Jurisdiction "in the following days", it failed to pass any decision by the end of July. However, on August 4, prior to the completion of the work on this report, it was announced that the Court had revoked the decision rejecting the indictment and returned the case to court for further proceedings.