



### REPORT ON ANEM ROUND TABLE III

#### **“Legal Monitoring of Serbian Media scene”**

The third thematic ANEM round table titled “Legal Monitoring of Serbian media scene”, was held on September 9, 2010 in Media Center Belgrade. The reason for this public event was the presentation of the printed edition of the third ANEM Publication identically named, as well as the results of the legal monitoring of the media scene in Serbia in 2010, which ANEM is implementing in cooperation with the legal team from the law office “Zivkovic & Samardzic”.

The event was attended by numerous representatives of ministries and relevant state bodies (Ministry of Telecommunications and Information Society, Ministry of Culture, Ministry of Trade and Services, Ministry of Science and Technological Development, Ministry of Human and Minority Rights, Ministry of Public Administration and Local Self-Government, Ombudsman, the Intellectual Property Office, the Commissioner for Information of Public Importance and the Protection of Personal Data, the Parliament’s Culture and Information Committee, representatives of regulatory bodies (RATEL, RBA), media associations (ANEM, IJAS/NUNS, Local Press), news agencies (Beta, FoNet), NGOs (Belgrade Centre for Human Rights, Civic Initiatives), the academic community, RTS, international organizations and donor community (IREX, OSCE, Norwegian People’s Aid-SEE, Civil Rights Defenders, the Delegation of the European Union in Serbia, Council of Europe Office in Belgrade) and other interested parties.

The round table consisted of two parts. In the first segment, the authors of articles in the Publication presented their expert texts, while a discussion about the current situation in the media sector was opened in the second part of the round table.

The presentation of ANEM Monitoring Publication began with the exposition of **Phd Jovanka Matic**, research associate at the Institute of Social Sciences in Belgrade and author of the article “To whom is a public service broadcaster responsible”. She expressed the necessity of finding models for a new way of functioning of the public service broadcasters and establishing mechanisms for independent and critical supervision of these institutions. In this regard, she stressed the following important questions: who controlled the public service broadcasters, to whom they were responsible for their achievements and failures, and how that responsibility was presented. Dr Matic pointed out that an effective system of control over public service broadcasting (PSB) as well as the responsibilities of broadcasters with the status of PSB institutions, had not been established, neither in normative, nor in practical sense. As she had stated, the first part of the problem lied in inadequate formulation of legal obligations of public service broadcasters failing to allow the possibility to measure their functioning, while the second part of the problem related to lack of appropriate practical control over the functioning of the public service broadcasters. The Broadcasting Law does not define in a measurable way the obligations of two broadcasters with the role of public service broadcasting in Serbia, RTS and RTV, to serve all segments of society without discrimination, except three of them: it stipulates quotas for broadcasting programs in Serbian language and programs from individual productions, which also apply to commercial broadcasters, as well as quotas for independent production, as the sole exclusive obligation of the public service broadcasters. As for the second problem relating to the supervision of the public service broadcasters, Dr Matic said that in Serbia, no one was dealing with the evaluation of the work of public service broadcasters. The RBA, which is legally obliged, has done the evaluation of RTS as a public service broadcaster only three times, however, only one of these reports are made available to the public. The first report (produced in 2008, and whose (just) parts have become known to public after the speech given by a deputy in the Serbian Parliament) dealt with the analysis of the RTS program offer. The

conclusion was that RTS has not fulfilled its duties in any segment. The second report, from March 2009, mentioned in the daily Kurir, concluded that the RTS had made significant progress; however, since the report is not publicly available, it is not known what exactly this progress refers to. The third report was published on the website of the RBA and refers to the first quarter of this year. It concludes that this media outlet meets all its monitored requirements and obligations. According to Dr Matic, this report refers only to those requirements that are very easy to meet, such as quotas for broadcasting program in Serbian language, but it cannot be concluded how the public service broadcaster meets the public interest and stand out against commercial media with the diversity of its content offer or its proportion of specialized programs.

Dr Matic said that apart from the way the public service broadcaster (RTS) was meeting the program requirements, its functioning was even less known to the public in terms of the way of making program and business decisions, the income structure from subscription and advertising, annual accounts and financial statements. Mechanisms of involving the civil society in the development of institutions of PBS and supervision of their work are almost non-existent, as well as research and insights into the needs and desires of the audience which a public service intended to. Finally, unlike some other countries, there was no competition for the award of the status of public service broadcaster in Serbia; the holders of this role have rather been identified by the law. Dr Matic concluded her presentation by stressing the need to find answers to these questions through the work on the Media Strategy.

After this presentation, **PhD Ana Martinoli**, assistant at the Belgrade University's Faculty of Dramatic Arts and producer of the B92 Radio, spoke about her text "Challenges of new technologies and future of the radio". She stressed the need to transform traditional radio in line with trends that the use of new technologies and the formation of a new generation of listeners had entailed. On this occasion, she pointed to the findings of several studies that were conducted in relation to this topic in the Western European countries, noting also the results of local researches, which showed that our audience, regardless of varying degree of accepting modern technologies, did not differ in their needs and habits from the Western public. The conclusion, derived from those surveys, is that the radio stations that want the leadership position in the market could not limit themselves only to the distribution and promotion of their content over traditional linear channels, as they do not offer the audience's desired experience. She pointed out the advantages of interlinking traditional radio with new technologies, because of the possibility of active engagement of audience in the production of the program, as well as the attractiveness of the new generation of listeners to the advertisers, which should be an important broadcasters' motive for their positioning on the market. Therefore, she recommended to radio stations in Serbia not to perceive new technologies, especially Internet, as a threat and as something that would draw away listeners from the stations' programs, but as a means to attract new audience.

After the presentation of Ana Martinoli, **attorney at law Slobodan Kremenjak** from the law office "Zivkovic & Samardzic" addressed the attendees. As the author of articles in the Publication, he elaborated on two treated topics: "Attacks on journalists and self-censorship" and "Prevent misuse of the Media Development Strategy". For the first topic, he drew attention to the fact that due to self-censorship, the potentially problematic contents moved away from traditional media, which were under more alert attention of the public, to private blogs and other alternative media platforms. However, two cases attacks took place recently, on journalists from traditional media, because of the contents published on their private blogs, which indicates that the pressure on journalists is growing even when the content is published on the new platforms. Another problem related to self-censorship concerns the uncertainty of journalists and editors when interpreting the meaning of certain legal provisions relating to publication of content in the media. Insufficient precision of legal provisions, which leaves the possibility of different interpretations also by the authorities, is an additional reason of evident self-censorship in the media.

Regarding the Media Strategy, Kremenjak stated what he believed was the root of the problem of the current media situation. It is primarily the fact that, from the period 2002-03, when the set of legal regulations based on consistent principles existed, there has been a series of regulatory

changes that have jeopardized the development of media sector in Serbia. He stressed the importance, while respecting different opinions and with the greatest possible measure of public consensus, to take offered opportunity to formulate new strategy for the media sector in Serbia, which would determine the direction of future development and provide a framework for the necessary changes.

## **DISCUSSION**

The presentation of the Publication was followed by the discussion on the current situation in the media sector, based on the results of hitherto conducted monitoring in 2010, which were presented by the head of the monitoring team, attorney at law Slobodan Kremenjak. Changes to the regulatory framework, implementation of existed laws and digitalization were discussed most. The representatives of the competent authorities and regulatory bodies have actively participated in the debate, providing relevant information on their activities related to these important media issues. During the discussion, the following was said:

### **Access to Information of Public Importance:**

**Nevena Ruzic, Chief of Cabinet, Commissioner for information of public importance:** Changes to the Law on Free Access to Information of Public Importance, adopted by the Parliament in May this year, are related to the new Commissioner's authority to impose mandate penalty in the amount of between 20.000 and 200.000 RSD to public authorities, if certain authority does not comply with the Commissioner's decision, i.e. it does not provide access to required information. This should contribute to better exercising of the right to free access to information of public importance, which will be of great importance to the work of media, too. The current activities of the Commissioner related to the Law's implementation are preparation of the Guidebook on the Law on Free Access to Information of Public Importance with a lot of examples of courts' and Commissioner's practice as well as the preparation of new instruction for preparing and issuing the Information Booklet on activities, intended to public authorities.

**Slobodan Kremenjak, Attorney at law:** Neither the public nor the candidates have had the opportunity to see the decision and its state of reasons on the appointment of the RTS director.

**Goran Karadzic, Deputy President of the Republic Broadcasting Agency (RBA) Council:** Decision on the appointment of the RTS director has been submitted to RBA. Moreover, at the RBA's request, the work plan of appointed candidate Mr. Tijanac that he proposed to the Managing Board for the four-year mandate period is expected to be submitted to RBA during next week.

### **Media Study:**

**Slobodan Kremenjak:** On the one hand, Media Study recommends the regulatory bodies' personnel strengthening, and on the other hand, reduction of their responsibilities, as for example, pre-specified number of licenses to be issued or withdrawal of their jurisdiction to decide on broadcasters' coverage zones. This presents a step back for what the media sector has fought for with a great difficulty in the last 10 years – to have its own independent regulatory body with extensive jurisdiction and to reduce the state's influence on the media sector.

**Goran Karadzic, RBA:** The regions cannot be formed according to wishes, since their forming is determined technically and they must be in accordance with the international coordination of frequency plans. What could be possibly discussed is merging of particular regions so that all of them could be equally economically strong. RBA is not concerned about reduction of jurisdiction, since it considers that most important is that job is well done, regardless who performs it.

## **Digitalization:**

**Goran Karadzic, RBA:** In the process of transition to digital broadcasting, problems could be caused by the lack of capacities for it. Besides, the problem of the extension of local TV stations coverage zones after the digitalization, which could have the same coverage as some regional TV stations, consequently causes the problem to determine the amount of fees. What is important for RBA is that none of TV stations that currently have the broadcasting license lose it due to the process of digitalization. Ministry of Telecommunications gives assurance that within two multiplexes envisaged for the beginning of the process of digital transition, all present legal broadcasters will be situated and ensured.

**Milena Jovic, Advisor in the Ministry of Telecommunications and Information Society:** Ministry is actively working on the implementation of the scheduled tasks in the preparation process for digitalization. The Draft Rulebook for transition from analog to digital broadcasting and access to the multiplex has been completed and the public debate on it will be initiated soon. The completion of the project for the digital signal coverage of Serbia, carried out by the School of Electrical Engineering, is expected until the end of the week. The work on media plan for the promotion of the digitalization process is also in progress as well as new internet site for informing the public about the process. The funds for the procurement of broadcast technical equipment as well as for support to the Ministry and the public company „Broadcasting Equipment and Communications“ for implementation of the process of transition to digital broadcasting is provided by the EU Pre-accession Fund. The documentation for the tender for procurement of equipment to be issued by the EU Delegation to Serbia has been prepared.

**Svetlana Djukic, representative of the EU Delegation to Serbia:** The tender for the equipment procurement will be issued on September 10 and will be opened for two months; in case the tender succeeds, after signing the contract, the equipment will be arriving during the following 12 months.

**Aleksandra Stefanovic, PR of Republic Agency for Electronic Communications (RATEL):** The project for signal distribution is in the final phase. Delay in appointment of the director of the public company „Broadcasting Equipment and Communications“ caused a number of formal problems related to the project implementation and now, due to enabling these formal conditions, the project is expected to be finalized.

## **Solution to the broadcasting „piracy“ problem and implementation of the Law on Electronic Communications:**

**Aleksandra Stefanovic, RATEL:** The recently adopted Law on Electronic Communications enabled conditions for more effective fight to solve this problem. The Ministry of Telecommunications has got the inspection jurisdiction with far greater power than those which the RATEL's controllers had had, and it included, among the rest, seizing equipment from illegal broadcasters.

**Goran Karadzic, RBA:** These inspectors are still not on duty, but work on enabling needed conditions for the execution of the Ministry's new responsibility is in progress; it is expected that inspectors will start their job from January next year.

## **Implementation of the Law on Copyright and Related Rights:**

**Vladimir Maric, Assistant Director for copyright and related rights and international cooperation, Intellectual Property Office:** The essence of the new Law on Copyright and Related Rights is the new way of establishing the tariffs of collective organizations. Unlike the previous law's solutions, according to which the organizations determined their tariffs on their own, negotiations on the tariffs are now envisaged and in case the agreement between the collective organizations and users, i.e. broadcasters, is not reached,

the Commission for Copyright and Related Laws shall act upon it. The Office has submitted the proposal for appointment of the Commission's members to the Government timely, but its decision is still expected.

**Slobodan Kremenjak:** The negotiations between broadcasters and collective organizations were unsuccessful, because the organizations expected from broadcasters to adopt, through a mutual agreement, the fees higher than they used to be at the time when the organizations had determined them on their own. The four months have passed since the negotiations' completion and the Commission has not been established yet. Due to that, broadcasters suffer damage, because they pay fees in accordance with the old tariffs.

### **Drafting the new Law on Advertising:**

**Vera Despotovic, Advisor in the Ministry of Trade and Services:** The process of drafting the new Law on Advertising is currently in progress and the Draft is expected to be publicly available soon. The information heard during this round table are helpful for defining new law framework, especially in the domain of regulating the use of personal goods of public figures in the field of advertising.

### **Implementation of the Broadcasting Law:**

**Goran Karadzic, RBA:** The procedure for filling the vacancy in the RBA Council is in progress. The nomination of two candidates has been submitted to the Culture and Information Committee of the Parliament of Serbia by the authorized proposer, the Conference of Universities, and will be decided upon in the autumn session of the Assembly.

**Dragomir Petkovic, Secretary of the Culture and Information Committee of the Parliament of Serbia:** The list of proposer, Conference of Universities, containing the names of two candidates for the member of RBA Council has been received by the Committee. The procedure for electing three members of RBA Council nominated by the Committee will be initiated soon, as the mandates of three present members expires in February 2011. Therefore, at its first session, the Committee will start the procedure for nominating six candidates and three of them will be elected by the Assembly.

**Rade Veljanovski, Professor at the Belgrade Faculty of Political Sciences:** The procedure for electing the RBA Council's members is not sufficiently transparent and the public should be familiar with the criteria for nominating candidates as independent individuals and experts in the field of broadcasting. The authority of the Culture and Information Committee to elect the third of the Council's members should be annulled, because it opens the possibility of the state's impact on this independent regulatory body.

*This round table that dealt with the most important issues for the situation of the media sector in Serbia, has shown that the media scene has been facing the same problems for a long time but also that there have been some positive developments. It is indisputable that media sector needs important changes and that a great chance for achieving these changes has been offered with starting of the process of adopting of the Media Strategy. Public meetings like this one, attended by all interested parties for the media reforms, significantly contribute to reaching the consensus on direction of changes in the media sector.*