

III MONITORING OF THE PROCESS OF ADOPTION OF NEW LAWS

In the period covered by this Report, the Parliament of the Republic of Serbia did not discuss any laws of particular relevance for the media sector. However, issues related to future media regulations were discussed on a series of round tables organized by OSCE in cooperation with the Ministry of Culture of the Republic of Serbia and the European Union Delegation in Serbia, with the support of the British Embassy in Belgrade. The aim of the round tables was to encourage discussion about the recently published Media Study, which would serve as a starting point for drafting the Media Strategy of the Republic of Serbia. At the round tables held in September the recommendations laid down in the Media Study were presented and explained. Other topics included the Press Council, regulatory bodies and digitalization, state assistance to media, public service broadcasters and commercial broadcasters, as well as print media, with a special emphasis on concentration and transparency of ownership in print media, press freedom in Serbia and systemic measures for helping print media.

The print media industry, represented by the Media Association – the association gathering the largest press publishers in Serbia – decided not to take part in the round tables. The organization justified such decision by claiming that it could not accept the Media Study – which was drafted with the participation of experts engaged by the European Commission – as a starting point for developing the Media Strategy. The Media Association said that the Study was not a serious and fact-based analysis of the current state of affairs in all media or an analysis of the current regulations. Furthermore, the Association claimed that the Study stopped short of providing a proposal for improvements or new concepts. The Media Association condemned the almost complete absence of clear position in the Media Study about the unacceptability of state ownership in the media sphere, the lack of analysis of the situation of the press and publishing industry in Serbia, as well as the completely unfounded proposal to establish a network of regional public service broadcasters. The Media Association also indicated that the Study did not contain a good analysis and proposals for the future organization and activities of regulatory bodies or a forecast of the growth and development of the media sector in the country and a proposal of possible state incentives.

Contrary to the Media Association, the leading journalists' and media associations have decided to take an active part in the series of round tables and voice their objections to the recommendations and the proposals of alternative solutions contained in the Media Study. The Association of Independent Electronic Media (ANEM), the Independent Journalists' Association of Serbia (NUNS), the Journalists' Association of Serbia (UNS), the Independent Journalists' Association of Vojvodina (NDNV) and the Association of Local Independent

Media Local Press announced their set of joint principles even before the start of the first in the series of round tables, insisting on:

- Transparency of media ownership, which will be open to public scrutiny
- Prevention of excessive media concentration
- Complete withdrawal of the state from ownership of media
- Equal treatment of all media on the market

The recommendations from the Media Study concerning the creation of regional public service broadcasting entities have been particularly harshly criticized. Although we have mentioned that in our previous reports, we hereby remind that the Media Study recommends the setting up of a new model of regional broadcasting in Serbia, which would be based on regional public service broadcasters. The authors of the Study have proposed that 10-15 regions be defined by the Ministry of Culture, with a 17-21- member Program Council established in each region. Under the proposal, these Program Councils will elect the Managing Boards of the new regional public service broadcasters. The Managing Boards will have 7-9 members that would elect their executive directors, as well as the editors-in-chief of regional public service broadcasters on a public competition. These directors and editors would enjoy all editorial and financial powers and responsibilities. Each regional public service broadcaster would be established as an independent legal entity, which would take over the equipment and personnel of regional and local broadcasters currently owned by the municipalities. The recommendation is that private radio and TV stations should also be offered to assign their equipment and staff to the regional public service broadcaster or carry on broadcasting until their license expires. Regional public service broadcasters would be funded from subscription, through the existing RTS subscription fee and they would not have their independent frequency. They would instead broadcast on RTS frequencies in periods that would be determined through collective bargaining mechanisms of the network of regional public service broadcasters on one side and the RTS on the other. These recommendations were partly supported only by the Kragujevac Initiative, a group of regional publicly owned broadcasters opposing privatization. However, these stations too insisted on keeping an independent frequency and 24/7 broadcasting, instead of, or in addition to, broadcasting in the scope of national windows on RTS frequencies. The RTS also objected, pointing first to the unacceptably low subscription fee collection rate and the hence impossibility to ensure stable funding of the existing public broadcaster's institutions, let alone to allot part of the subscription for funding an additional 10-15 regional public service broadcasters. RTS also objected to the proposed opening of regional windows on their frequencies, claiming that such regional broadcasters will not be capable to provide quality programming viewers expect from the RTS. On the other hand, four associations - ANEM,

NUNS, NDNV and Local Press, stressed that the establishing of new public service broadcasters was unacceptable, since the existing public service broadcasters were already unsustainable. Furthermore, they said it was unacceptable to finance them from the subscription fee, for the reasons stated above. The said organizations indicated that the model involving the shutting down of commercial broadcasting was unacceptable, since the Constitution guaranteed the rights of commercial stations owners which rights were obtained by investing capital in accordance with the Law. ANEM, NUNS, NDNV and Local Press proposed an alternative set of recommendations for regional and local broadcasting based upon:

- Urgent and time-limited completion of privatization of media that remain in public ownership;
- Addressing the problem of too many electronic media relative to what the market may absorb, measures that will stimulate aggregation and mergers on the media market;
- Addressing the problem of shortage of quality programs for regions and local communities and other programs that are typically associated to public service broadcasters, through a mechanism of the regulatory obligation imposed to commercial broadcasters to produce and air such programs; such obligation would be offset by the guaranteed access to cable systems, lower license fees, use of frequencies, namely access to the multiplex, financial support for quality programs and protection from unfair competition;
- Efficient mechanisms for state aid control, which would prevent the state from undermining competition on the media market.

UNS has not completely ruled out the idea of regional public service broadcasters but it does not necessarily believe that non-privatized municipal stations ought to be the sole holders of this function. Rather it insisted on further consultations with the Ministry of Culture in order to eliminate the danger of possible political control over the regional public service broadcasters.

Four associations, ANEM, NUNS, UNS and NDNV, have also proposed an alternative set of recommendations related to the state co-financing of media, which would be based on project financing through media funds. These funds would finance projects dedicated to the development of programming and other capacities of media, the transformation of business models, education and improvement of professional standards, minority language content and diversity of media content in general. Under the proposal, the media funds would be

financed from part of the resources to be generated from the digital dividend, as well as from the difference between the revenues and expenditures of the regulators and partly from the collected subscriptions and donations. Local Press has taken the position that the state should also consider the state aid to local print media.

Concerning regulatory bodies, all five associations have proposed that the Broadcasting Law be amended so as to boost the regulatory capacity of the said bodies by the means of training, exchange and recruitment of new experts, where appropriate. At the same time, the regulator would be authorized and obliged by the new Law to carry out or commission periodical and continuous analysis of the media market, as well as analysis as to what extent the needs of the public for various programming content are satisfied. The regulator must be authorized and obliged to introduce regulatory measures for raising the level of fulfillment of such needs. All these processes must ensure the widest possible participation of the public. The sector regulator would have to bring about a new Development Strategy applicable to the digital era; such Strategy would involve procedures according to which – based on reviewing the needs of citizens and social groups for media content and a comprehensive market analysis – decisions would be taken on coverage zones and the number and the type of programming for which licenses would be issued. Fees paid to regulators must be determined relative to the level of regulation costs, while the surplus of funds from the collected fee should be channeled into media funds. The associations also pointed to the need – bearing in mind the convergence of networks and services, in a procedure that would involve the proper analysis and consultations with all relevant stakeholders – to address the issue of convergence of the two regulatory bodies. At that, special attention should be paid to the need to boost the independence and regulatory capacity of the regulators, irrespective of the choice we have made as a society to opt for one or two regulators. The latter should not compromise the functional, human and technical capacity of the regulator to carry out duties from its competence in the best interest of both the media sector and the public.

We shall be addressing the recommendations of the media associations concerning digitalization in the part of this Report pertaining to digitalization. You may find in more detail the content of all recommendations of the media associations at

<http://www.anem.org.rs/en/aktivnostiAnema/AktivnostiAnema.html>