



LEGAL MONITORING OF THE SERBIAN MEDIA SCENE

Report for September 2015



SERBIAN MEDIA SCENE IN SEPTEMBER 2015

The police are yet to identify the attackers on Ivan Ninic, journalist and activists that was beaten up last August by two unknown persons. Meanwhile, in an authored text published in the portal *Vojvodina danas* in the Hungarian language, the former Mayor of Kanjiza Laszlo Bala, revealed the personal information and address of Natalija Jakovljevic, the President of the Center for Civic Values from Subotica, in reaction to the claims of that Center that the municipal authorities of that town were being racist towards migrants. The Independent Association of Journalists of Vojvodina accused Bala to be inciting the lynching of Natalija Jakovljevic.

The attack on Ivan Ninic and threats against the security of journalist Natalija Jakovljevic *per se* are indicators of the unfavorable environment for journalist activity in Serbia. Ninic told the media that he knew who was behind the attack – a state official whose business dealings he has been investigating the last three years. If that allegation is true, it would confirm that the state has fell short in fulfilling its obligation to protect journalists and create a safe environment for developing freedom of expression. Meanwhile, the nervous reaction of the municipal official in Kanjiza and the ill-judged releasing of the journalist's personal information shows the immaturity of our society and the extent to which the political elites in Serbia, including former and current public officials, are having a problem to sustain criticism and having even the minimum level of tolerance for different opinions, the absence of which would mean that the public debate on issues of public interest is impossible. Instead of responding to criticism in an argued and civilized manner, officials tend to resort to attacks *ad hominem* and publicly releasing private information about their critics. Such a practice does not contribute to debating matters of public interest. On the contrary, it incites extremist attacks on those voicing different opinions. Unfortunately, various "enemy" lists with personal and private information have become a common occurrence.

While trying to prevent by force the refugees from entering Hungary in mid-September, the Hungarian police attacked the RTS television crew that was reporting from the scene. Cameraman Vladan Hadzi Mijailovic, Sound Engineer Miroslav Djurasinovic and Reporter Jovana Djurovic were injured in the incident. A Polish journalist was also targeted, as well as a Swedish photographer. This has merely confirmed that the problems affecting freedom of expression were not limited merely to Serbia – their reach far extends the borders of our region. In the part

of the Report about legal proceedings, we analyze the judgment rendered by the Administrative Court upon the complaint of the journalist of the daily "Danas" Bojan Cvejic. The Court ordered the Government of the Republic of Serbia to furnish the journalist the requested information about the number of approvals of new jobs in the public sector issued despite the ban on new employment. Cvejic requested this information twice – in October 2014 and February 2015, invoking the Law on Free Access to Information of Public Interest. The Government ignored his requests in both instances and Cvejic took them to the Constitutional Court. As we point out, public authorities often seek ways to avoid their obligations to furnish information under the Law on Free Access to Information of Public Interest. The unwillingness of the authorities to make their work and the results thereof accessible to the public merely reinforces the doubt that the purpose of their "wall of silence" is to conceal their illicit or irresponsible behavior. A particular concern in this case is the fact that the body that failed to respond positively to the request of the journalist for access to information is in fact the Government of the Republic of Serbia. Under the Law on Free Access to Information of Public Interest, the Government must not only respect specific rules concerning transparency, it is also obligated to provide assistance to the Commissioner for Free Access to Information of Public Interest, if the latter is unable to enforce his decisions in a different way. It is reasonable to ask how the Government will help the Commissioner enforce the decisions he has passed under the Law on Free Access to Information of Public Interest if that same Government routinely fails to fulfill its obligations under that Law.

In the part of the Report about the monitoring of the implementation of existing regulations, we deal with the implementation of the provisions of the Law on Public Information and the Media concerning project co-financing, especially in view of the fact that 60% of municipalities and towns didn't call open competitions for project co-financing of media under the new rules. We also analyze potential new sanctions against the responsible officials in these municipalities and towns. Namely, on a conference held in mid-September, organized by the Standing Conference of Towns and Municipalities and the OSCE Mission to Serbia, in cooperation with the EU Delegation, the Ministry of Culture and Media, the Open Society Fund and the Independent Association of Journalists of Serbia, Vesna Jokanovic from the Ministry of Culture and Media said that there exists a sanction against local authorities that fail to call an open competition, since "there is a possibility" for the Ministry of Finance, at the proposal of the Ministry of Culture and Media, to suspend money transfers to such local government. In our opinion, the said sanction concerns non-compliance with the rules prescribed by the provisions of Article 27h of the Law on the Budget System; it is not a sanction for non-compliance with the Law on Public Information and Media. The grounds for the accountability of local authorities should be established by the Law on Public Information and Media itself, rather than by creative interpretation of the rules from laws governing local self-government and the budget system.

Analyzing the implementation of the Law on Public Information and Media, we also write about the version of the web portal "Autonomija" in the Hungarian language, which was launched in September by the Independent Association of Journalists of Vojvodina, aiming to contribute to the "pluralism of opinions within the Hungarian community and the reduction of political influence on Hungarian-language media". We remind that, in relation to the media in minority languages, the influence of the ethnic minorities' national councils is insisted upon, as well as in the case of regional media, where the main thesis is that the realization of the public interest in the domain of public media must have an institutional form of local or regional public service broadcasters. Since the national councils *de facto* consist of representatives of minority parties, the Law on Public Information and Media prescribes certain safeguards aimed to avert undue political influence on minority media. However, only the practical implementation of that Law will show if these safeguards have fulfilled their purpose. One of the key issues is the financing of minority media. If these media, established by the national councils, are not financed by resources intended for the co-financing of projects – since they are financed from public revenues anyway – indirectly through the national councils, it opens up the space for financing other minority media from co-financing funds, which could lead the "pluralization" of information sources and the de-monopolization of public media in minority languages. This can only be good news, since nobody, including national councils, should enjoy the exclusive right to information in minority languages.

In the part of the Report dealing with monitoring of the implementation of the Law on Electronic Media, we have analyzed the enforcement of those provisions concerning the protection of minors and the protection of human rights in these programs, in relation to the measures pronounced (again) by the Regulatory body for Electronic Media against national stations Happy TV (warning) and TV Pink (caution) over reality programs and the violation of these provisions. In our opinion, apart from the issuance of these measures, which haven't shown any effect until now, the Regulator may, through mechanisms of recommendations or instructions, influence the time when these programs could be aired. Furthermore, through the policy of fees for the provision of media services, which should be determined under the Law based on "regulation costs", the Regulator may also influence media service providers to make these programs as civil and decent as possible, if they cannot take them off the air in the first place.

We also deal with the Law on Copyright and Related Rights, in the context of the amendments thereto that have been announced and especially starting from what the Editor of the "Mondo" web portal Predrag Vujic called a poor "copy-paste journalism practice" and conveying other people's texts without consent and without citing the original source. This problem started to spread on the media scene from the moment online versions of newspapers and news portals became popular.

Relative to the implementation of the Advertising Law, we point to the practice of advertising food and drinking water in ads ascribing medical properties to these foodstuffs. We analyzed the same Law in the segment of the Report about the monitoring of the process of adoption of new laws. We pointed out that, despite announcements that the new Advertising Law will deal with the domain of advertising more seriously than media laws, the draft version of that Law, which has been tabled for public debate, is not a cause for too much optimism. There are namely three areas that the Draft Law completely neglects. First, it's the regulation of cases where the state appears as the advertiser, for which cases procedures should be prescribed based on transparency, objectivity and non-discrimination. The second case is regulating advertising campaigns taking place in the context of various CSR actions. Finally, the Draft Law stops short of regulating the content of advertising messages in cases where the state is the advertiser, as well as the content of CSR campaigns, namely the content of any advertisement that's not advertising a commercial activity.

In the part of the Report concerning the monitoring of the work of state authorities, we analyze the warning of the Commissioner for Information of Public Interest and Personal Data Protection about the problem of *leaking of information from investigations* and the abuse of such data by the media. The same problem is mentioned in EU progress reports for Serbia. Leaked information from investigations is used for political smear campaign through "politically friendly" media, which has led to a massive privacy threat. The same information that the media may not obtain because they are "confidential" or because their disclosure would undermine the investigation or the proceedings are fed to selected journalists and media when the government needs such information to politically or privately discredit someone.

Regarding privatization, we have noticed that in the month of September eight contracts were signed in deals where media were sold to new owners. In the same period, five public auctions were unsuccessful due to the absence of bidders, while another eight public calls for bids were launched, in the cases of some media outlets for the second time. We also analyze the case of RTV Vranje. The free distribution of shares to employees has stirred controversy, since instead of getting 100% of the shares; the employees got only 33%, while the rest was transferred to the Shareholders' Fund. A public debate between the Ministry of Culture and Media and the Privatization Agency ensued. The fact is, however, that the Law on Public Information doesn't regulate the procedure of distribution of free shares in much detail. The Government decree regulating more closely the free assignment of capital has allowed the application of the Law on Privatization and concepts that do not correspond to what the Ministry of Culture and Media and until recently the Privatization Agency, had announced: that one of the specific features of the Law on Public Information and Media, in relation to the Law on Privatization, is the free transfer of all shares of non-privatized media to the employees thereof. If it turns out that the initial

promise to the employees, enshrined in the Law on Public Information and Media, that if their media outlet is not privatized, they will become the owners thereof, was untrue and that the employees will only become minority shareholders, this will seriously undermine the credibility of both the Ministry of Culture and Media and the Law on Public Information and Media. It would also constitute the first serious setback of the media reforms in Serbia.

In the last few years, the media reforms in Serbia survived with the conviction that, despite the state of affairs in the sector being the same as before or even worse, the Government of Serbia and the line ministry were committed to see through the painful but necessary reforms, in order for the overall situation to move forward. However, journalists are still being beaten up, like in the case of Ivan Ninic, while the attackers are not held to account. Calls for lynching of individuals who have publicly spoken about matters of general interest can still be heard. Information from investigations is still leaking to “government friendly media”, only to be manipulated and used to destroy people’s lives and careers in carefully orchestrated smear campaigns. Hope in a better future was kept alive by certain changes the current government initiated (contrary to previous ones), which were pointing to systemic changes – slow but irreversible. Such confidence is very difficult to build, but easy to undermine. If the media reforms in Serbia are again stalled or if they fail, failed promises, like with the case of RTV Vranje, could easily be recognized as points of no return where confidence was lost for good and the reforms stalled.

The full ANEM Legal Monitoring Report No. 64, for September 2015, is available in Serbian on the ANEM website [here](#).

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Association of Independent Electronic Media (ANEM) is a non-governmental and non-profit media association, founded in 1993 and registered in 1997, active in the development and improvement of the freedom of opinion and expression, and of freedom, professionalism and independence of the media in accordance with the highest internationally recognized norms, principles and standards. ANEM is the largest association of electronic media in Serbia gathering more than 100 radio and TV stations across the country, and online media. ANEM’s activities contribute to the improvement of the media regulatory framework and the establishment of favorable media environment in the interest of the media sector, as well as to better position, conditions, and the quality of work of its members and other media. ANEM is nowadays recognized by the media sector and responsible institutions as an unavoidable stakeholder in the development of media policy and legislation. It is recognizable in Serbia and abroad by its active advocacy for media reforms, protection and promotion of the freedom of expression and freedom of the