

I FREEDOM OF EXPRESSION

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

1. *Threats and pressures*

1.1 In a text published on January 11, the journalists and editors of the daily “Politika” denounced the threats made against their correspondent from Nis Tomislav Todorovic. Todorovic, who also writes for “Sportski zurnal”, sports daily newspaper also issued by “Politika”, received several threats back in mid December last year. The case was reported to the police and a suspect was identified – allegedly an official of the “Radnicki” football club from Nis. Journalists’ associations have requested from the Nis public prosecutor to prosecute that person immediately. The spokesperson of the Serbian Public Prosecutor’s Office Tomo Zoric confirmed that the public prosecutor in Nis had filed a motion for investigative measures over the suspicion that a criminal offense of threats against security had been committed. The Journalists’ Association of Nis issued a press release calling for the “Radnicki” football club to make a statement regarding the case.

Tomislav Todorovic is yet another sports reporter being exposed to pressures and threats over his work. This is an evidence of undermined freedom of expression in Serbia and of a unstable situation in Serbian sports in general. According to the applicable Public Information Law, public information shall be free and in the interest of the public. Furthermore, it is forbidden to directly or indirectly restrict freedom of public information in any manner conducive to restricting the free flow of ideas, information or opinion or to put physical or other type of pressure on public media and the staff thereof so as to obstruct their work. Under the Penal Code, the aforementioned threats, over which the prosecutor has filed a motion for investigative measures, are defined as a threat to life or body of a person or that person’s next of kin, endangering his/her security. This Law is subject to up to three years in prison or up to five years, if the threats have been made against several persons or if they have led to “citizens’ anxiety or other severe consequences”. If the security of a journalist – or, as defined by the law, a “person occupying jobs of public interest in the field of information” – has been threatened in relation to the job he/she is performing, the penalty ranges from one to eight years in prison. In practice, however, the offenders are often sentenced to penalties at or below the minimum

prescribed by law. Journalists' and media association have repeatedly stressed that such lenient penal policy has encouraged people to even publicly threaten journalists, without fear of legal retribution. On the other hand, the good news is that prosecutors rarely give up prosecuting the perpetrators in such cases, which may provide an opportunity to courts to reconsider their penal policy. In the previous period, there were several cases where second instance court have reversed the decisions of lower courts sentencing perpetrators to penalties at or below the minimum prescribed by law. Late last year, for example, the Appellate Court in Belgrade increased the prison terms against Milos Mladenovic and Danilo Zuza by 7 months each, sentencing them to one year in jail for the attack against the columnist of the weekly "Vreme" Teofil Pancic. Almost at the same time, the said court doubled the penalty in a similar case – the attack and severe bodily harm inflicted to Vladimir Mitric, the correspondent of "Vecernje Novosti" from Loznica. If or when a trial in the case of the threats made against Tomislav Todorovic is initiated, it will be interesting to see to what extent the recent decisions of the Appellate Court have influenced the lower courts.

1.2. On February 22, the crew of TV Studio B, of the reporter and two cameramen, was attacked in downtown Belgrade. The attacker was apprehended and put in police custody for violent behavior. The television crew was shooting a simple story about the public transportation in Belgrade. Without any reason, the attacker insulted them from a nearby terrace and started threatening them, yelling "you will not escape alive". He ultimately went out on the street and punched the assistant cameraman in the face and kicked him in the stomach. The police promptly came and arrested him. According to media reports, the attacker told the police he was provoked by the fLaw that "the crew was shooting commercials while the people in Serbia barely make ends meet". The First Basic Public Prosecutor's Office in Belgrade requested from the court to initiate an investigation and have the attacker, Dejan Zitic, placed in custody. The spokesperson of the Serbian Public Prosecutor's Office Tomo Zoric said that criminal charges were filed against Zitic for committing a joinder of criminal offenses – threats against security and violent behavior.

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is subject to between one and eight years in prison when committed against journalist while on their job, in the above case the prosecutor also asked for an investigation of the crime of violent behavior. According to the Penal Code, violent behavior involves serious disruption of public order and the peace of the citizens, by gross insults or harassment, violence, inciting fights or rude and ruthless behavior. Qualified forms of violent behavior, involving minor bodily harm or severe humiliation of citizens, shall be subject to between six months and five years in prison. In the above case, the prosecutor said it would request maximum prison terms as provided for by the law.

2. Legal proceedings

2.1 In early January, the hearing in the case of the journalist of the former TV “Apolo” (today “Novosadska televizija”) Vladimir Jesic against the leader of the Nova Srbija political party Velimir Ilic, was held before the Higher Court in Novi Sad. The case concerns the incident that took place back in 2003, while Jesic was interviewing Ilic. According to media reports from that time, Jesic had said that, while the interview was being shot, Ilic had kicked him in the knee, swearing and insulting him, after which the shoot was interrupted. “When I asked him about the tobacco flawory in Cacak and how it was built, asking him if he was related to Strahinja Ilic (allegedly his cousin) who is rumored to be connected with the whole case, Ilic reLowed angrily, stood up from his chair and kicked me in my right knee. He continued threatening me and swearing. Of course, everything was recorded on camera”, Jesic said. Ilic, however, said he had never kicked Jesic, claiming he had merely kicked the folder, which the reporter was reading his questions from, angry over the mentioning of the members of his immediate family. Back then, Ilic claimed he was the victim of a setup devised by Vladimir Popovic Beba, the then head of the government’s Information Office. Ilic said Popovic wanted to tarnish his reputation on the eve of the presidential elections, when Ilic was supposed to run for office. He claims that Jesic made a pause in the shoot, requesting that a table standing between the two of them be removed, after which the shoot continued and the reporter started touching him between the legs with his own leg. Ilic claimed he then jumped from his chair and kicked Jesic’s folder and not his knee. The leader of Nova Srbija requested that two security guards that were assigned to him during the interview be questioned, who, as he claims, were present in the room where the interview was shot. The court went on questioning cameraman Slavisa Malic, who said that Ilic’s female assistant was present behind the stage the whole time of the interview. That associate, Malic recounts, was giving signs to Ilic by making grimaces and faces and ultimately interrupted the shoot by shouting and gesticulating with her hands. “Ilic then stood up and I clearly saw and heard how he kicked Vladimir in the knee. Ilic then walked over to our second cameraman and told him to give him the recorded

material, after which he grabbed me by the arm, also requesting the tape. Vladimir gave him some other blank tape to calm him down”, Malic said. One month later, in early February, another hearing was held, on which occasion Ilic and his attorney failed to show up, allegedly “due to the snow”. Nonetheless, another witness was interviewed – a member of the TV crew Goran Trajkovski. He echoed what his colleague Malic said, claiming that the interview was proceeding normally until Jestic asked Ilic if he was related to Strahinja Ilic. “At that very moment, the woman that was standing behind the stage, probably someone from Ilic’s political party, demanded that the shoot be interrupted. Velimir Ilic started shouting and insulting Jestic and ultimately kicked him in the knee. Then he continued shouting and swearing, while trying to take the tape out of the camera.” Trajkovski also said Ilic had swung with his leg so hard it looked like he was going to hit Jestic in the face. After hitting him in the knee, Ilic’s leg ended up at the level of Jestic’s head, hitting the folder he was holding in his hand. The court scheduled the next hearing, when a neuropsychiatrist will be heard in the status of a court expert. Vladimir Jestic claims that the whole case is a proof of the existence of double standards for politicians and ordinary citizens in Serbia. He reminded that the man who had attacked Velimir Ilic on the street in downtown Belgrade had been promptly arrested and sentenced to two years in prison. In contrast, Jestic has been waiting for justice to be done for almost nine years.

What makes the whole case particularly interesting is the fLaw that the defendant, accused of physically attacking a journalist, is an Lawive politician, who after the incident ended up becoming a minister in the Government and a member of the Parliament. Jestic is suing him for damages. Criminal proceedings against Ilic were never conducted, because he invoked his parliamentary immunity and the Parliament voted against stripping him from immunity. The second interesting circumstance the media have reported about during the trial, which is yet to be elucidated, is the fLaw that the court has already passed a verdict in Jestic’s favor and that Ilic’s appeal against that verdict has been approved, although it was filed three years late. From a legal standpoint, this was possible only if the initial verdict against Ilic hadn’t been furnished to the defendant for three years, since the deadlines for lodging an appeal start from the moment when the sentence is furnished to the defendant and not from the moment when the court passes the verdict. However, the fLaw that the decision of the court was not furnished to Ilic for three years is impossible to comprehend, since he was everything but inaccessible in view of the positions he was occupying at that time and being a person that was constantly in the public spotlight. If these circumstances are not clarified and if the persons responsible for not furnishing the verdict of the court to Ilic – if this is really the case – are not taken into account (the other possibility is that Ilic received the sentence and that the evidence of that were not preserved or were destroyed), the whole case will point to the stark reality of politicians in Serbia being shielded from justice in cases of attacks against journalists.

2.2. On February 2, the Appellate Court in Belgrade announced to have reversed the sentence against Milan Savatovic and Stefan Milicevic, found guilty in the first instance of being part of a group that had attacked B92 cameraman Bosko Brankovic. The court approved the appeal of the First Primary Prosecutor's Office and sentenced Savatovic to one year and Milicevic to six months in prison. The court of first instance sentenced Savatovic to 10 months of house arrest and Milicevic to six months in jail (suspended to three years). Savatovic was established to have kicked Brankovic's camera and his left shoulder, while Milicevic and Nikola Lazic (Lazic's four month-jail term – three years suspended – was confirmed), were found to have been part of the group that continued to stamp on and kick Brankovic after he fell. Brankovic was attacked and severely injured on July 24, 2008, while he was reporting from the protests against the arrest of Radovan Karadzic. He suffered a broken knee.

The offense which Brankovic's attackers were sentenced for is defined in the Penal Code as participation in a group of persons that has killed or severely injured someone. The penalty provided for by the Code for merely being part of such group is between three months and five years in prison, while the group leader shall be sentenced to between one and eight years. According to the findings of the Appellate Court in Belgrade, the court of first instance gave too much weight to extenuating circumstances, while at the same time properly considering the seriousness of the committed criminal Law and the degree of guilt of the defendants as the perpetrators, the level of threat and the injuries of the plaintiff, namely the motives of the Law and brutality and ruthlessness displayed by the group that attacked Bosko Brankovic for no reason whatsoever, inflicting him severe injuries. This decision of the Appellate Court represents, in our opinion, the continuation of a trend observed as of late last year – similar to that in the aforementioned cases against Milos Mladenovic and Danilo Zuza, the attackers on "Vreme" columnist Teofil Pancic and Ljubinko Todorovic, the attacker on Vladimir Mitric, "Novosti" correspondent from Loznica. Interestingly enough, however, the new sentence against Savatovic, if the court considered him to be the ringleader of the group that had attacked Bosko Brankovic, is at the minimum prescribed by law, which is evidence of a lenient penalty policy, although some might think it has undergone a serious change. Just like in the case against Velimir Ilic for attacking Vladimir Jesic, the attack on Bosko Brankovic was recorded on camera and shown in all media. Savatic's brutal kicking of Brankovic was broadly condemned by the public. One may reasonably ask how would the attackers fare in court had it not been for the cameras that recorded it all and had it not been for the public outcry.