

ON THE OCCASSION OF THE WORLD PRESS FREEDOM DAY

Podgorica, 2 May 2012.

Various political bodies of the European Union, Council of Europe, as well as the European Court of Human Rights have repeatedly stressed that free and professional media that truthfully report are essential in the struggle for democratization and the rule of law. The obligation of each European country is to ensure freedom of speech about issues of public importance while respecting the guarantees of truthful reporting and necessary level of honour protection.

In this context, we emphasize several issues currently important for the freedom of the media in Montenegro.

1. Government, state prosecutors and police have not yet provided an environment in which journalists can safely perform their profession.

The government showed no willingness to develop a comprehensive report showing status of investigations of murder of Daily *Dan* editor Duško Jovanović, attacks on journalists Mladen Stojović and Tufik Softić, attack on writer Jevrem Brković and murder of his companion Srđan Vojičić, burning of Daily *Vijesti* vehicles, and death threats against researcher of human rights violations Aleksandar Zeković.¹

Recently obtained information from the state prosecution, requested by HRA, showed that there has been no progress in the above-mentioned investigations.²

The state prosecution revoltingly ignored the disturbing findings of weekly *Monitor* journalist Petar Komnenić, about wiretapping of the Podgorica Superior Court judges and disappearance of the file from that court. For the same article, despite the European standards, journalist Petar Komnenić was convicted in the first instance for slandering the court president. The fine was replaced with prison sentence whose execution has been expected. Unlike Komnenić's case and other cases, in which the state prosecution "archived" apparent criminal responsibility of civil servants, in the case of assault of Mayor of Podgorica on journalists, who recorded his violation of traffic regulations, the

¹ Letter to the Prime Minister Igor Lukšić, from November 2011: <http://www.hracion.org/?p=1426>.

² More details are available at: <http://www.hracion.org/?p=1940>.

State Prosecutor demonstrated commitment to thoroughly and painstakingly investigate and establish the guilt of a journalist Mihailo Jovović, editor of Daily *Vijesti*.³

For the recent attack on Daily *Vijesti* journalist Olivera Lakić the direct perpetrator has been suspected but there is still no information about the motives of the attack and who ordered it.

The media distinguished by the Government criticism and investigative journalism, Daily *Vijesti* and Weekly *Monitor*, are publicly labelled as a "media mafia" although there is no information that these media or their founders have been convicted for any offense. These accusations come from a state-owned media and the ruling Democratic Party of Socialists. This tendency reinforces the concern that the investigative journalism of these media will not receive the necessary protection in future either.

2. The government did not show either understanding for the proposal to prescribe new criminal offenses for enhanced protection of journalists *Preventing Journalists from Performing Their Professional Duties* and *Assaulting a Journalist Performing His/ Her Professional Duties* based on the existing criminal acts that protect officials in the performance of official duties. We reiterate that the need for an increased legal protection of journalists was indicated by journalists themselves (according to CEDEM's research 89.8% out of 147 questioned persons).

3. In the period following decriminalization of defamation in June 2011, there has been no increase in the number of civil cases for violation of honour and reputation, and unlike the previous period, the respect of international standards of the courts in these cases has been noted.

4. Although generally plaintiffs seek symbolic compensation and insist only on verifying the accuracy of information, some high plaintiff's compensation demands have been noted as well. We emphasize the obligation of courts to take into account during decision making on compensation claims that the amount of awarded compensation is proportionate to committed breach, as well as that it does not lead to the excessive financial depletion of media.

5. In order to monitor objectively the number of lawsuits for protection of honour and reputation, and practice of the courts in these lawsuits, the Supreme Court should ensure development of special statistical reports, which would include a number of such lawsuits against the media and other persons, the amount of claimed compensation, type of judgments, and the amount of compensation awarded.

³ More details are available at HRA Report on Attack on Journalists in Montenegro:
http://www.hrraction.org/wp-content/uploads/Napadi_na_novinare_23112011.pdf

6. Publishing of offensive value judgments and hate messages inappropriate for public speech, unrecorded before in Montenegro, has been noted in the past period. At the forefront of these activities is Daily *Pobjeda*, still mostly owned by the state.⁴ We remind that media freedom is subject to restrictions for protection of honour and reputation. According to the European Court of Human Rights, everyone, including writers and other creators who exercise freedom of expression, have duties and responsibilities, and their expression can be limited if it includes excessive offensive terms that are not necessary for expressing a negative opinion (e.g., see *Tammer v. Estonia*). The obligation to respect human dignity is part of the Code of Journalists of Montenegro as well, and Principles on program and professional standards of public broadcasting services Television of Montenegro and Radio of Montenegro forbid broadcasting of programs that include and promote messages of hate, and, in general, the use of vulgar expressions.⁵

7. Disturbing fact that the journalistic self-regulatory body has not been functioning for the last two years has contributed to this phenomenon. The attitude of the Prime Minister who refused, in the above-mentioned context, to make influence on the editorial policy of the state media *Pobjeda*, although he represents its founders and bears, as a founder of any other media, responsibility for published content, supports the opinion that the Government is using the last state owned media to deal with its political opponents.

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⁴ To review the published terminology see the first quarterly report for 2012 of the Youth Initiative for Human Rights: www.yihr.me

⁵ http://www.rtcg.me/images/biblioteka/dokumentacija/principi_i_standardi_rtcg.pdf