

A conceptual image featuring a green cactus with yellow spines positioned atop a black microphone. A red rectangular sign is attached to the microphone's handle, displaying the text 'PROTECTION OF FREEDOM OF SPEECH IN THE JUDICIAL SYSTEM OF SERBIA' in white, bold, sans-serif font. The sign is oriented vertically, with the text appearing on both the front and side faces. The background is a solid, light beige color.

**PROTECTION OF
FREEDOM OF SPEECH
IN THE JUDICIAL
SYSTEM OF SERBIA**



Kingdom of the Netherlands



PROTECTION OF FREEDOM OF SPEECH IN THE JUDICIAL SYSTEM OF SERBIA

FONDACIJA
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Criminal legal protection of journalists and media workers:

Krivičnopravna zaštita novinara i medijskih radnika: Competences of public prosecutor's offices in the system for criminal legal protection of journalists - Nataša Jovanović

Judicial proceedings for the protection of journalists - Kruna Savović

Freedom of expression during the state of emergency and the Covid 19 pandemic - Nataša Jovanović

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Belgrade, February 2021.



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INTRODUCTION

For years now, freedom of expression in Serbia has been on the decline according to all relevant international indicators and reports. In 2020, Serbia's steep decline in the ranking of Reporters Without Borders continued: from the 59th position occupied in 2016, it fell to the 93rd place in 2020, out of 180 in total. The explanatory note points out that Serbia "has become a country where it is often dangerous to be a journalist." The Freedom House's 2020 "Countries in Transition" report places Serbia among "hybrid regimes" for the first time - largely due to restrictions on media freedoms.

In its report for 2020, the European Commission states that "cases of threats, intimidation and violence against journalists are still a source of serious concern." "Hate speech and discriminatory terminology are often used and tolerated in the media and are rarely tackled by regulatory authorities or prosecutors," the report added. The EC notes that in 2020 there was no progress in the area of freedom of expression and independence of the judiciary.

This analysis aims to determine the factual situation when it comes to the protection of media freedoms and media professionals in the judicial system of Serbia, based on an in-depth analysis of judicial proceedings conducted in both civil law cases under the Law on Public Information and Media, and in the field of criminal legal protection of journalists in the cases of threats, intimidation and physical attacks. The judgments of the European Court of Human Rights concerning freedom of expression have been specially discussed, given that they represent standards and a source of law in the domestic legal system.

This initial analysis looked at criminal cases concluded by final and binding judgments in the period 2017-2020, as well as civil proceedings concluded by final and binding rulings (2017-2019) against five media outlets, which the Press Council marked as the ones that most frequently violate the Serbian Journalists' Code of Ethics. In the subsequent reports, the scope of observation will be extended to also include media outlets that adhere to the Code, as well as the aspects of criminal legal protection that were identified as problematic in this analysis.

The trial for the murder of the journalist and owner of the newspaper *Dnevni telegraf* and newsmagazine *Evropljanin*, Slavko Ćuruvija, although the only one being conducted for the murder of a journalist, was not included in this analysis. This proceeding, which has been ongoing since 2014, will be the subject of a separate analysis once it has been concluded by a final and binding judgment. We believe that any other course of action by the Slavko Ćuruvija Foundation would constitute a conflict of interest.

With the exception of high-profile cases, personal names have been omitted from this analysis, in order to protect the privacy of the parties to the

proceedings. All terms used in this publication in the grammatical masculine gender imply both the natural masculine and feminine gender of the persons they refer to.

At the end of the chapters on civil and criminal proceedings, recommendations for the improvement of the judicial protection of freedom of expression were made, which have arisen from the analysis of specific judicial proceedings. With the conclusions and recommendations presented in this analysis, we would like to open a discussion on possible directions for more efficient and effective protection of freedom of expression before the courts in Serbia, as a precondition for a free and pluralistic debate in society devoid of fear and pressure.

ABBREVIATIONS

APPO	▶	Appellate Public Prosecutor's Office
ECHR	▶	European Convention on Human Rights
ECtHR	▶	European Court of Human Rights
CC	▶	Criminal Code of the Republic of Serbia
ICCPR	▶	International Covenant on Civil and Political Rights
Mol	▶	Ministry of the Interior
NUNS (Ser.)	▶	Independent Association of Journalists of Serbia
BPPO	▶	Basic Public Prosecutor's Office
PD	▶	Police Directorate
RPPO	▶	Republic Public Prosecutor's Office
SWG	▶	Standing Working Group on the Safety of Journalists
UNS (Ser.)	▶	Journalist Association of Serbia
HPPO	▶	Higher Public Prosecutor's Office
SCC	▶	Supreme Court of Cassation
CPC	▶	Criminal Procedure Code
LPIM	▶	Law on Public Information and Media
LCT	▶	Law on Contracts and Torts
LCP	▶	Law on Civil Procedure

CIVIL PROCEEDINGS





Scope of the Analysis and the Methodological Approach

For the purposes of the present report, 305 cases were analyzed in the first and second instance civil proceedings, in the period 2017-2019, regardless of whether these cases have been concluded or are still ongoing. In the observed civil proceedings, the plaintiffs are journalists, government officials, public and political figures, persons who are not known to the general public, but are known in the places where they live as local officials, or due to the profession they perform or as persons designated as perpetrators of criminal offenses. The defendants in all cases were editors-in-chief, journalists, publishers and media outlets.

We examined the entire course of the proceedings and how the trials were managed. We investigated whether there were intimidation attempts or smear campaigns related to the conduct of proceedings against media outlets and journalists. We monitored the amounts of damages requested in the lawsuits, the amounts of awarded damages, differences in the amounts of awarded damages and possible reasons for the existence of such differences. We also conducted the study in order to determine whether there is non-harmonized case law and different treatment depending on the personality of the plaintiff and the defendant. We monitored and analyzed strategically important cases.

The information used in the analysis was obtained from the annual reports on the work of the courts and the reports obtained based on requests for access to information of public importance.

In 2020, due to the epidemic of the Covid-19 infection, it was difficult to follow trials in the courtroom. During the state of emergency, from 15 March to 6 May, only extremely urgent trials were held, which could not be postponed. After the state of emergency was lifted, the number of infected people went up again, so the trials were held in strict adherence to the epidemiological measures, which made it impossible to have public trials.



Jurisdiction of the Court

The number of cases in which violations of the right to a fair trial have been established, both before the Constitutional Court of Serbia and before the European Court of Human Rights, has increased notably in the segment related to non-harmonized case law. Given the number of cases in which violations of the right caused by the non-harmonization of case law have been established before national

courts, it could be said that in recent years it has been right behind the number of cases in which violations of the right to a trial within a reasonable time have been established. The failure to observe the reasonable time requirement remains the biggest problem of courts in Serbia. As the need for harmonized case law and immediate action is very important in media disputes, the lawmaker tried to solve these problems by concentrating the jurisdiction over these cases in a single court in Serbia.

The Law on the Organization of Courts¹ (Article 23, paragraph 1, item 2) and the Law on Seats and Territories of Courts² (Article 24, paragraph 2) stipulate that only the Higher Court in Belgrade has jurisdiction to decide in the first instance on the prohibition of distribution of the press and dissemination of information through the media, to adjudicate in disputes over publishing information and a response to information in respect of the ban on hate speech, protection of the right to privacy, i.e., the right to personal record, failure to publish information and compensation for damage related to the publication of information, for the territory of the Republic of Serbia. It follows from the above legal provisions that the Belgrade Court of Appeals has the exclusive subject matter and territorial jurisdiction as an appellate court in this subject matter. In such a manner, at least through legal provisions, the delivery of better training and continued professional advancement of judges who try these cases have been facilitated, which should contribute to more efficient adjudication and harmonized case law.

By analyzing the work of the Higher Court in Belgrade and the report obtained based on the request for free access to information³ we have determined that in 2017, a total of 636 new cases were received, registered in the P3 register, opened in relation to the so-called media disputes. They were tried by 14 judges. In 2018, 626 cases were received, also tried by 14 judges. In 2019, 572 new cases were entered into the P3 register, tried by 12 judges. In 2020, new judges were elected, so a total of 26 judges heard civil cases.

Under the LPIM, judges do not need a special license to adjudicate in media disputes, but the acquisition of specific knowledge in the field of media law is definitely necessary in order to protect the right to freedom of speech and provide conditions for citizens to form their opinions on phenomena, events and people. On the other hand, judges have to sanction non-compliance with the presumption of innocence in order to protect human dignity. Adequate judicial protection also protects the independence, reputation and impartiality of the court.

¹ RS Official Gazette, no. 16/2008;104/2009; 101/2009, 31/2011; 78/2011; 101/2011; 101/2013

² RS Official Gazette, no. 101/2013

³ Report of the Higher Court in Belgrade Su.II-17a no. 89/20 dated 30 June 2020

Judges have to recognize and prohibit hate speech, protect minors, the dignity of the victim of violence, the honor, reputation or reverence of persons portrayed in a false light. It is necessary to determine when a journalist violates the right to privacy or personal record through the media, however while taking account of the exercise of the right to freedom of public information. All these rights can and must be protected in media disputes.

All judges who try media disputes also try all other civil cases. No special department has been set up, and no specialized panels have been formed in the second instance proceedings. Trials in the media subject matter would be more efficient if specialized judges adjudicated this subject matter, both in the first instance and in the appellate proceedings. We can hear the remarks and suggestions to reassign the jurisdiction over this type of disputes to all or to a larger number of higher courts in Serbia increasingly often.

Specific Procedural Rules of the LPIM

The Law defines who can be a plaintiff (who has the capacity to sue) and who must be sued (who has the capacity to be sued) in order to participate in the proceedings.⁴ The liability of journalists, editors and publishers is regulated⁵. Immediate action is stipulated as a general principle of the proceedings⁶, which is incorporated into all statutory time limits. No preliminary hearing is scheduled in this type of litigation.⁷ In all lawsuits, except for those initiated by the complaint for publishing a response, the defendant is under an obligation to submit a response to the complaint within eight days from the date of service of the complaint. The time limit for holding the first hearing is 15 days from the date of receipt of the response to the complaint, and eight days in proceedings initiated by the complaint for publishing a response, where a shortened time limit for return to status quo ante is also provided for. The judgement is to be served within three days from the date when it was passed⁸. An appeal may be lodged within eight days from the date of receipt of the judgment, and a response to the appeal within three days from the date of service of the appeal.⁹

Revision is allowed against the second instance decision if the claim has been rejected, within 15 days from the date of service of the second instance decision. The exception refers to the proceedings for publishing a response when revision is not allowed. In lawsuits for damages,

4 Article 102 and 103 of the LPIM

5 Article 113 and 114 of the LPIM

6 Article 122 of the LPIM

7 Article 121 of the LPIM.

8 Article 124 of the LPIM

9 Article 125 of the LPIM

both the plaintiff and the defendant may file a request for revision.¹⁰

The LPIM has set forth that a final and binding judgment must be sent to the publisher if he/she is not covered by the complaint¹¹. The Law also provides for the plaintiff's actions in the event of a change of editor-in-chief. If his/her change occurred after the filing of the complaint, and the plaintiff does not modify the complaint before the conclusion of the main hearing, the complaint will be dismissed. Unlike other lawsuits, the consent of the parties is not required for the modification of the complaint. If the change occurred after the judgment, the obligation is transferred to the new editor, except for damages.¹² The extent to which the legislator insists on immediate action is also demonstrated by the fact that if the time limits are exceeded, the president will immediately reassign the case to another panel, and the actions already undertaken do not have to be repeated.¹³

Unfortunately, given the workload of all judges of the Higher Court in Belgrade, this provision is very rarely applied. The president of that court could use it in order to ensure better protection of the rights of the parties to the proceedings, if the reasons laid down by the LPIM exist, and a judge's performance in terms of handling the cases deviates to a considerable extent from the average for other judges.

One would expect the prescribed immediate action and shortened time limits to also result in the use of e-mails. Electronic communication between the parties, their attorneys and the court is still not utilized to the necessary extent, despite the fact that it is provided for by the general procedure of the LCP, which applies whenever the provisions of the LPIM do not regulate otherwise.¹⁴

The Law stipulates that a person may request the court to pronounce an interim measure prohibiting the editor-in-chief from republishing the same information or record, if the publication would violate the right or interest of this person, but not longer than until the conclusion of the proceedings by final and binding decision. The plaintiff must make it probable that there is a specific danger that the information will be republished and that such republishing would violate his/her right or interest. The relevant motion must be decided upon within 48 hours, and an objection against the decision can be lodged within the same time limit¹⁵.

This legal arrangement is rarely proposed, although in recent years lawsuits by the same persons against the same media outlets, jour-

¹⁰ Article 126 of the LPIM

¹¹ Article 127 of the LPIM

¹² Article 128 of the LPIM

¹³ Article 129 of the LPIM

¹⁴ Article 131 of the LPIM

¹⁵ Article 104 of the LPIM

nalists and editors for the same or very similar information that was found to be false have been increasingly frequent. In the case where the court decided on such a measure, within the statutory time limit, an editor-in-chief of a media outlet wrote in his column “that following his logic, he can only conclude that it was millions that made the Higher Court in Belgrade prohibit *Informer* from writing about Djilas!? The judgement, the interim measure of the kind that does not exist in the practice of the civilized world, can only be explained by cash ... Whoever doubts, whoever thinks I am exaggerating, should just try and explain to themselves how a three-judge panel of the Higher Court could reverse the decision of the first instance judge within 24 hours from the complaint and ban the highest-circulation newspapers in the country from writing about the self-proclaimed leader of the opposition?! ... Even in the times of the worst communist dictatorship in Serbia, no court ever dictated to any media outlet by virtue of its judgement what it may or may not do....”¹⁶ On 17 July 2020, the same editor-in-chief published the names of the sitting judicial panel on his Twitter account, noting that “these are the dishonest judges who work pursuant to a political order and abuse their office.” It can be said that such activities of the editor-in-chief of the media outlet are obviously aimed at intimidating the judicial panel and sending a message to other judges not to use available legal options to protect persons whose rights have been violated.



General Rules of the Law on Civil Procedure (LCP)

In lawsuits in which the provisions of the LPIM as a separate law are applicable, it is envisaged that the rules of the LCP will apply unless otherwise provided for by this separate law. Thus, the provisions of the LCP concerning territorial jurisdiction will apply because there is exclusive jurisdiction of the Higher Court in Belgrade,¹⁷ the provisions governing exclusion and recusal,¹⁸ with a special power of the president of the court to change the panel due to the exceeding of the time limits set out in the LPIM. If the judge has not concluded the trial by a single hearing, he/she will set the time frame for the trial at the first main hearing, taking into account the concentration of evidence.¹⁹ Provisions will also apply which govern the public nature and management of the proceedings, the provisions on judgment, appeal, revision, which are not regulated by the LPIM.

¹⁶ https://informer.rs/vesti/kolumne/535253/dosta_zlocina, published on 19 July 2020

¹⁷ Articles 19 and 20 of the LCP

¹⁸ Articles 65-73 of the LCP

¹⁹ Article 308, paragraph 1 of the LCP

Trial Efficiency

Duration of the Proceedings

The duration of the proceedings was analyzed for each year in which the case analysis was carried out. For the successful monitoring of the identified data, it is necessary to bear in mind that these are urgent proceedings, in which preliminary hearings are not held. The first hearing is scheduled within 15 days from the date of submitting a response to a complaint, which must be filed within eight days from the filing date of the complaint. The judgment must be delivered, and consequently prepared in writing, within three days. The time limit for filing an appeal is eight days, and for responding to an appeal three days.

2017

Lawsuits against responsible persons in the media "Kurir"						
Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Show business	1	/	5 mth	5 mth	2 mth	7 mth
Journalist	5	7	3 mth	3 yr.	2 yr. 6 mth	5 yr. 6 mth
Politician	5	2	4 mth	2 yr. 7 mth	4 mth	2 yr. 11 mth
*	3	2	2 mth	1 yr.	1 yr.	2 yr.
Politician	5	1	3 mth	1 yr. 6 mth	3 mth	1 yr. 9 mth
Politician	3	1	2 mth	9 mth	10 mth	1 yr. 7 mth
Model	4	/	4 mth	1 yr. 4 mth	2 mth	1 yr. 6 mth
Journalist	5	/	4 mth	1 yr. 9 mth	3 mth	2 yr.
Advisor	4	1	2 mth	11 mth	6 mth	1 yr. 4 mth
*	5	1	4 mth	2 yr.	1 mth	2 yr. 1 mth
*	1	/	3 mth	3 mth	4 mth	7 mth
*	5	/	5 mth	2 yr. 3 mth	7 mth	2 yr. 10 mth

Lawsuits against responsible persons in the media “Kurir”

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
*	2	/	3 mth	7 mth	4 yr.	4 yr.7 mth
Journalist	5	/	4 mth	1 yr. 6 mth	6 mth	2 yr.
Politician	3	1	4 mth	1 yr. 6 mth	2 mth	1 yr. 8 mth
Police Officer	1	/	4 mth	4 mth	2 mth	6 mth
*	4	/	3 mth	1 yr.	3 mth	1 yr. 3 mth
Police Officer	5	1	4 mth	2 yr. 5 mth	1 mth	2 yr. 6 mth
Director	6	/	3 mth	1 yr.	3 mth	1 yr. 3 mth
Journalist	2	/	1 mth	3 mth	1 yr.	1 yr. 3 mth
Journalist	3	4	3 mth	1 yr. 8 mth	6 mth	2 yr. 2 mth
*	3	1	4 mth	1 yr. 3 mth	5 mth	1 yr. 8 mth
*	4	3	3 mth	1 yr. 8 mth	8 mth	2 yr. 4 mth
Officer	7	4	4 mth	3 yr. 8 mth	4 mth	4 yr.
*	4	6	3 mth	3 yr.	10 mth	3 yr. 10 mth
*	2	/	6 mth	1 yr.	2 mth	1 yr. 2 mth
Journalist	4	6	3 mth	3 yr.	3 mth	3 yr. 3 mth
Entrepreneur	5	2	4 mth	2 yr. 3 mth	11 mth	3 yr. 1 mth

(*) - Plaintiffs are persons unknown to the public

We analyzed 28 cases in which different plaintiffs sued *Kurir* and others in 2017. We were looking at the number of hearings that were held, hearings that were not held, and the duration of the proceedings. In terms of individual cases, a maximum of seven hearings were held and a minimum of one. The highest number of hearings that were not held was seven in one of the cases, and there were also those cases in which there were no hearings that were not held. Hearings were scheduled in an average interval of 2.6 months (the longest interval was six months, and the shortest one month, in a case in which the plaintiff was a journalist). The first instance proceedings lasted on average one year and five months (the longest first instance proceeding lasted three years and eight months, and the shortest three months,

based on the complaint filed by a journalist). The average length of the second instance proceedings was seven months (the longest lasted four years, and the shortest one month). The average length of the entire proceeding was two years and two months.

In this group of cases, journalists were plaintiffs in six cases. Based on their complaints, the court scheduled hearings in intervals of about three months on average, which is slightly longer than the average. In the first instance, the proceedings lasted on average a year and four months, which is a bit shorter than the average. The second instance proceedings lasted on average 9.5 months, and the entire proceedings lasted two years and eight months, six months longer than the average. However, the deviations from the average were relatively small, so it cannot be concluded that journalists, compared to other plaintiffs, faced unwarranted longer proceedings, which would undermine their right to a trial within a reasonable time.

Lawsuits against responsible persons in the media „Informer”						
Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
*	3	4	4 mth	2 yr. 5 mth	2 mth	2 yr. 7 mth
*	6	2	4 mth	3 yr.	3 mth	3 yr. 3 mth
Director	3	5	3 mth	2 yr. 6 mth	3 yr.	5 yr. 5 mth
*	5	1	3 mth	1 yr. 9 mth	5 mth	2 yr. 2 mth
Politician	1	/	1 mth	1 mth	2 mth	3 mth
*	4	/	4 mth	1 yr. 3 mth	3 mth	1 yr. 6 mth
Director	4	8	4 mth	4 yr.	5 mth	4 yr. 5 mth
Journalist	2	1	3 mth	1 yr. 5 mth	2 mth	1 yr. 5 mth
*	5	/	3 mth	1 yr. 6 mth	3 mth	1 yr. 8 mth
*	3	3	2 mth	1 yr.	6 mth	1 yr. 6 mth
*	3	2	4 mth	1 yr. 8 mth	5 mth	2 yr. 1 mth
*	5	/	4 mth	1 yr. 8 mth	5 mth	2 yr. 2 mth
Journalist	1	1	2 mth	5 mth	7 mth	1 yr.

Lawsuits against responsible persons in the media „Informer”

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Journalist	5	1	3 mth	2 yr.	1 mth	2 yr. 1 mth
Journalist	2	/	5 mth	10 mth	1 yr. 8 mth	2 yr. 6 mth
Painter	1	/	5 mth	5 mth	5 mth	10 mth
*	6	4	4 mth	3 yr. 4 mth	1 mth	3 yr. 5 mth

(*) - Plaintiffs are persons unknown to the public

We analyzed 17 cases against this media outlet in 2017. The highest number of hearings after which the first instance decision in the proceedings was issued was six, while the lowest number was one hearing. The highest number of hearings that were not held in one case was eight, and there were also cases in which there were no hearings that were not held. The court scheduled hearings in an average interval of three months (with five months being the longest interval and one month the shortest). The first instance proceeding was completed in one year and nine months on average (the longest lasted four years, and the shortest one month). The second instance proceeding lasted 6.5 months on average (the longest lasted three years and the shortest one month). The average length of the entire proceeding was two years and three months.

Journalists were plaintiffs in four cases. In these cases, trials were scheduled in an average interval of three months. The first instance proceeding lasted on average one year and five months, the second instance proceeding 7.5 months, and the proceeding as a whole lasted one year and nine months. Slight differences can be identified in favor of lawsuits involving journalists compared to the general average for the duration of this type of litigation.

Lawsuits against responsible persons in the media „Blic”

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
*	3	4	3 mth	2 yr. 2 mth	8 mth	2 yr. 10 mth
*	1	/	2 mth	2 mth	10 mth	1 yr.
*	1	/	2 mth	4 mth	2 mth	6 mth
*	4	1	4 mth	2 yr.	5 mth	2 yr. 5 mth

Lawsuits against responsible persons in the media „Blic“

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Director	4	2	5 mth	2 yr. 6 mth	6 mth	3 yr.
Member of a criminal group	3	5	4 mth	2 yr. 10 mth	2 mth	3 yr.
Sport club supporter	4	6	4 mth	2 yr. 10 mth	3 mth	3 yr. 1 mth
Entrepreneur	3	4	2 mth	1 yr. 3 mth	20 days	1 yr. 4 mth
Director	3	/	4 mth	1 yr. 2 mth	2 mth	1 yr. 4 mth
Police Officer	7	3	4 mth	3 yr.	1 yr. 3 mth	4 yr. 3 mth
*	3	1	3 mth	1 yr.	6 mth	1 yr. 6 mth
Director	4	/	4 mth	1 yr. 3 mth	3 mth	1 yr. 6 mth
*	3	/	4 mth	1 yr. 2 mth	8 mth	1 yr. 10 mth
Police Officer	2	/	6 mth	1 yr.	3 mth	1 yr. 3 mth
Police Officer	3	6	4 mth	3 yr.	2 mth	3 yr. 2 mth
Director	3	/	4 mth	1 yr. 2 mth	5 mth	1 yr. 7 mth
*	7	12	3 mth	4 yr. 8 mth	4 mth	5 yr.
Bishop	5	9	3 mth	4 yr. 1 mth	10 mth	4 yr. 11 mth
*	7	/	3 mth	2 yr.	2 mth	2 yr. 2 mth
*	4	5	4 mth	2 yr. 7 mth	6 mth	3 yr. 1 mth
*	6	/	3 mth	1 yr. 7 mth	5 mth	2 yr.
Director	4	6	3 mth	2 yr. 11 mth	8 mth	3 yr. 7 mth
Politician	3	2	3 mth	1 yr. 5 mth	8 mth	2 yr. 1 mth
Minister	4	/	5 mth	1 yr. 7 mth	2 mth	1 yr. 9 mth
*	1	/	2 mth	2 mth	2 mth	4 mth
Police Officer	6	/	3 mth	1 yr. 9 mth	1 mth	1 yr. 10 mth

Lawsuits against responsible persons in the media „Blic“

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Deputy Public Prosecutor	5	7	2 mth	2 yr. 2 mth	3 mth	2 yr. 5 mth
Doctor	3	5	4 mth	2 yr. 8 mth	2 mth	2 yr. 10 mth
Director	4	4	4 mth	3 yr.	2 mth	3 yr. 2 mth
Director	2	/	4 mth	8 mth	1 mth	9 mth
Bishop	6	8	2 mth	3 yr. 4 mth	7 mth	3 yr. 11 mth
Sportsman	4	2	3 mth	1 yr. 11 mth	5 mth	2 yr. 4 mth
Officer	8	4	6 mth	4 yr. 7 mth	1 mth	4 yr. 9 mth

(*) - Plaintiffs are persons unknown to the public

We analyzed 33 cases in which *Blic* and others were sued in 2017. The highest number of hearings held in a case was eight, and the lowest number was one. The highest number of hearings that were not held in one case was seven, and there were proceedings in which there were no hearings that were not held. Hearings were scheduled in an average interval of four months. First instance proceedings lasted on average one year and five months (the longest one lasted three years and six months, and the shortest three months). The average length of the second instance proceedings was four months (the longest lasted one year and five months, and the shortest two months). The average duration of the proceedings as a whole was one year and 10 months. In cases where lawsuits lasted significantly longer, a higher number of hearings that were not held can also be identified, which is one of the important factors for the length of the trial.

In 2017, there were no journalists who sued this media outlet.

Lawsuits against responsible persons in the media „Alo“

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
*	5	4	3 mth	1 yr. 6 mth	9 mth	2 yr. 2 mth
Advisor	5	2	2 mth	1 yr. 6 mth	9 mth	2 yr. 2 mth

Lawsuits against responsible persons in the media „Alo“

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Minister	5	2	4 mth	2 yr. 2 mth	2 mth	2 yr. 4 mth
Producer	3	1	4 mth	1 yr. 3 mth	2 mth	1 yr. 5 mth
Director	5	/	2 mth	1 yr.	4 mth	1 yr. 4 mth
*	2	/	4 mth	8 mth	3 mth	11 mth
*	4	/	4 mth	1 yr. 4 mth	3 mth	1 yr. 7 mth
Doctor	4	6	3 mth	2 yr. 10 mth	3 mth	3 yr. 1 mth
*	4	1	6 mth	1 yr. 6 mth	3 mth	1 yr. 9 mth
*	2	3	2 mth	1 yr.	3 mth	1 yr. 3 mth
*	4	1	3 mth	1 yr. 9 mth	4 mth	2 yr. 1 mth
Singer	3	7	3 mth	2 yr. 11 mth	3 mth	3 yr. 2 mth
*	3	/	4 mth	1 yr.	3 mth	1 yr. 3 mth
Director	6	5	4 mth	3 yr. 6 mth	3 mth	3 yr. 9 mth
*	1	/	4 mth	4 mth	7 mth	11 mth
Profesor	5	1	18 days	4 mth	4 mth	8 mth
*	3	1	4 mth	1 yr. 4 mth	2 mth	1 yr. 6 mth
*	1	/	18 mth	1 yr. 6 mth	4 mth	1 yr. 10 mth
*	3	/	3 mth	10 mth	2 mth	1 yr.
Singer	3	/	1 mth	3 mth	1 yr. 5 mth	1 yr. 8 mth
Singer	3	1	5 mth	1 yr. 8 mth	2 mth	1 yr. 10 mth
*	4	2	4 mth	1 yr. 4 mth	1 yr.	2 yr. 4 mth
Director	4	/	5 mth	1 yr. 10 mth	2 mth	2 yr.

(*) - Plaintiffs are persons unknown to the public

We analyzed 23 cases in which the defendant was A/o and others in 2017. A maximum of six hearings and a minimum of one hearing were held in individual cases. The highest number of hearings that were not held in a case was seven, and there were proceedings in which there were no hearings that were not held. The hearings were scheduled in an average interval of four months (the longest interval was 18 months, the shortest 18 days). The average length of the first instance proceedings was one year and five months (the longest proceeding lasted three years and six months, and the shortest three months). The second instance proceedings lasted on average four months (the longest took a year and five months, and the shortest two months). The average length of the entire proceeding was one year and 10 months.

In 2017, there were no journalists who sued this media outlet.

2018

Lawsuits against responsible persons in the media „Kurir“						
Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Director	3	/	6 mth	1 yr. 6 mth	4 mth	1 yr. 10 mth
*	2	/	3 mth	7 mth	6 mth	1 yr. 1 mth
Journalist	3	/	6 mth	1 yr. 6 mth	3 mth	1 yr. 9 mth
Director	2	/	8 mth	1 yr. 4 mth	2 mth	1 yr. 6 mth
Businessman	5	2	3 mth	2 yr. 4 mth	2 mth	2 yr. 6 mth
*	1	/	3 mth	3 mth	4 mth	7 mth
Businessman	3	/	3 mth	1 yr. 4 mth	9 mth	2 yr. 1 mth
*	2	/	7 mth	1 yr. 3 mth	1 yr.	2 yr. 3 mth
Former Politician	4	4	4 mth	3 yr. 4 mth	1 mth	3 yr. 5 mth
Football player	4	2	5 mth	1 yr. 9 mth	2 mth	1 yr. 11 mth
Businessman	4	/	4 mth	1 yr. 4 mth	6 mth	1 yr. 10 mth
Businessman	4	2	5 mth	2 yr. 3 mth	1 yr.	3 yr. 3 mth

Lawsuits against responsible persons in the media „Kurir“

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
*	4	1	3 mth	1 yr. 2 mth	3 mth	1 yr. 5 mth
Attorney	6	3	4 mth	3 yr. 2 mth	6 mth	3 yr. 8 mth
Director	1	1	1 mth	3 mth	2 mth	5 mth
*	1	/	1 mth	5 mth	3 mth	8 mth
*	2	/	6 mth	1 yr.	3 mth	1 yr. 3 mth
Attorney	1	/	1 mth	1 mth	6 mth	7 mth
*	3	/	8 mth	2 yr.	8 mth	2 yr. 8 mth
Journalist	5	3	2 mth	1 yr. 6 mth	7 mth	2 yr. 1 mth
*	1	/	1 mth	2 mth	1 yr.	1 yr. 2 mth
Journalist	1	/	1 mth	1 mth	6 mth	7 mth
Chief of the Police	4	/	3 mth	1 yr.	9 mth	1 yr. 9 mth
*	3	/	6 mth	1 yr. 8 mth	7 mth	2 yr. 3 mth
Actress	4	1	4 mth	1 yr. 8 mth	10 mth	2 yr. 6 mth
State Secretary	4	1	2 mth	9 mth	2 mth	11 mth
Businessman	1	1	6 mth	1 yr. 1 mth	5 mth	1 yr. 6 mth
*	3	/	4 mth	1 yr. 1 mth	4 mth	1 yr. 5 mth
Businessman	5	/	3 mth	1 yr. 6 mth	9 mth	2 yr. 3 mth
*	6	3	6 mth	4 yr.	5 mth	4 yr. 5 mth

(*) - Plaintiffs are persons unknown to the public

We analyzed 30 cases in which *Kurir* and others were sued in 2018. In individual cases, before the issuance of the first instance decision, a maximum of seven hearings were held, and a minimum of one. The highest number of hearings that were not held was four, and there were proceedings in which there were no hearings that were not held.

On average, hearings were scheduled in intervals of four months. The average duration of the first instance proceedings was one year and three months (the longest lasted four years, and the shortest one month). The average duration of the second instance proceedings was six months (the longest was one year, the shortest one month). The entire proceeding lasted on average one year and nine months.

In three cases, the plaintiffs were journalists. In their cases, the court scheduled trials in an average interval of three months, slightly below the overall average in this group. The first instance proceedings lasted on average one year and three months, and the second instance proceedings five months. The entire proceeding lasted on average one year and eight months. The length of proceedings in cases in which journalists were plaintiffs barely differs from the overall average.

Lawsuits against responsible persons in the media „Informer”						
Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
*	3	3	4 mth	2 yr. 4 mth	2 mth	2 yr. 6 mth
Director	4	7	4 mth	4 yr.	6 mth	4 yr. 6 mth
Politician	7	11	3 mth	4 yr.	6 mth	4 yr. 6 mth
Journalist	3	/	3 mth	9 mth	4 mth	1 yr. 1 mth
*	4	5	3 mth	2 yr. 5 mth	7 mth	3 yr.
Journalist	6	3	4 mth	3 yr.	3 mth	3 yr. 3 mth
Politician	3	1	2 mth	10 mth	1 yr. 10 mth	2 yr. 8 mth
Journalist	3	1	3 mth	11 mth	3 mth	1 yr. 2 mth
Politician	5	/	6 mth	2 yr. 5 mth	3 mth	2 yr. 8 mth
*	5	1	4 mth	1 yr. 7 mth	1 yr. 2 mth	2 yr. 9 mth
Activist	4	1	2 mth	9 mth	6 mth	1 yr. 3 mth
Model	3	1	3 mth	1 yr. 3 mth	5 mth	1 yr. 8 mth
*	4	2	6 mth	3 yr.	1 yr. 2 mth	4 yr. 2 mth
*	5	2	7 mth	2 yr. 5 mth	8 mth	3 yr. 1 mth

Lawsuits against responsible persons in the media „Informer”

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
*	4	/	4 mth	1yr.3 mth	5 mth	1 yr. 8 mth
Journalist	6	/	4 mth	2 yr.	8 mth	2 yr. 8 mth
Politician	3	1	4 mth	1yr. 4 mth	8 mth	2 yr.
Activist	1	/	4 mth	4 mth	2 mth	6 mth
Politician	1	1	6 mth	1yr.1 mth	5 mth	1yr. 6 mth
Painter	3	2	3 mth	1yr. 4 mth	3 mth	1yr. 4 mth

(*) - Plaintiffs are persons unknown to the public

We analyzed 27 cases of different plaintiffs against the defendant *Informer* in 2018. In certain cases, before the end of the first instance proceeding, a maximum of seven hearings were held, and a minimum of one. There was a maximum of seven hearings held in individual cases and the minimum was one. The highest number of hearings that were not held was 11 and the lowest one. The average duration of the first instance proceedings was one year and four months, and of the second instance proceedings five months. The average length of the entire proceeding was one year and nine months.

Four journalists filed a complaint against this media outlet. The court scheduled hearings in their cases in an average interval of 3.5 months. The first instance proceedings lasted on average one year and one month, and the second instance proceedings 4.5 months. The entire proceeding lasted on average a year and 10 months. The length of the proceedings in which journalists were plaintiffs differs negligibly from the average length of proceedings pursuant to the complaints of all other plaintiffs.

Lawsuits against the media „Medijska mreža” and others

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
*	4	/	2 mth	8 mth	8 mth	1yr. 4 mth
Singer	5	2	2 mth	1yr.2 mth	4 mth	1yr. 6 mth

Lawsuits against in the media „Medijska mreža” and others

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Businessman	4	1	3 mth	1yr. 6 mth	3 mth	1yr. 9 mth
Former Minister	2	/	6 mth	1yr.	3 mth	1yr. 3 mth
Singer	3	1	4 mth	1yr. 7 mth	4 mth	1yr. 11 mth
*	3	/	4 mth	1yr.	6 mth	1yr. 6 mth
*	3	1	5 mth	1yr. 8 mth	1yr.	2yr. 8 mth

(*) - Plaintiffs are persons unknown to the public

We analyzed seven cases in which *Medijska mreža* and others were sued in 2018. Before the passing of the judgement in a case, a maximum of five hearings were held and a minimum of two. The highest number of hearings that were not held was two, and there were cases in which there were no hearings that were not held. Hearings were scheduled by the court in an average interval of 3.7 months (the longest was a year and eight months, the shortest eight months). The first instance proceedings lasted on average one year and three months, and the second instance proceedings on average 5.5 months. The average duration of the entire proceeding is one year and eight months.

In 2018, journalists did not file complaints against these defendants.

Lawsuits against responsible persons in the media „Blic”

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Politician	4	/	3 mth	1yr.	8 mth	1yr. 8 mth
Entrepreneur	2	/	2 mth	4 mth	7 mth	11 mth
*	1	1	1 mth	3 mth	6 mth	9 mth
*	4	8	3 mth	3 yr.	3 mth	3 yr. 3 mth
Minister	7	4	4 mth	3 yr. 4 mth	2 mth	3 yr. 6 mth
Police Officer	5	2	5 mth	3 yr.	6 mth	3 yr. 6 mth

Lawsuits against responsible persons in the media „Blic“

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
*	1	/	7 mth	7 mth	2 mth	9 mth
Doctor	3	3	6 mth	3 yr.	2 mth	3 yr. 2 mth
*	3	/	10 mth	2 yr. 6 mth	4 mth	2 yr. 10 mth
*	2	1	5 mth	1 yr. 4 mth	7 mth	1 yr. 11 mth
*	4	2	6 mth	2 yr. 5 mth	4 mth	2 yr. 9 mth
Director	1	/	6 mth	6 mth	3 mth	9 mth
Director	6	/	3 mth	2 yr. 8 mth	4 mth	3 yr.
Businessman	5	3	2 mth	1 yr. 8 mth	10 mth	2 yr. 6 mth
Politician	3	3	6 mth	2 yr. 10 mth	4 mth	3 yr. 2 mth
TV Presenter	3	1	5 mth	2 yr. 7 mth	1 yr.	3 yr. 7 mth
National Bank representative	6	5	3 mth	3 yr.	3 mth	3 yr. 2 mth
Police Officer	3	/	2 mth	6 mth	3 mth	9 mth
Businessman	4	4	4 mth	2 yr. 9 mth	2 mth	2 yr. 11 mth
Politician	5	1	3 mth	1 yr. 7 mth	1 yr. 1 mth	1 yr. 4 mth
Politician	7	3	4 mth	3 yr. 8 mth	4 mth	4 yr.
*	7	4	2 mth	1 yr. 7 mth	2 mth	1 yr. 9 mth
Police Officer	5	3	1 mth	8 mth	1 mth	9 mth
*	3	2	4 mth	1 yr. 10 mth	2 mth	3 yr.
Politician	3	3	5 mth	2 yr. 7 mth	1 mth	2 yr. 8 mth
Attorney	3	6	1 mth	1 yr. 1 mth	10 mth	1 yr. 11 mth
*	4	6	15 days	5 mth	4 mth	9 mth

(*) - Plaintiffs are persons unknown to the public

In lawsuits against the media outlet *Blic* and others we analyzed 27 cases in 2018. Before the passing of the first instance judgement, a maximum of eight hearings were held and a minimum of one. The highest number of hearings that were not held was eight, and there were cases in which there were no hearings that were not held. Hearings were scheduled by the court in an average interval of 3.9 months (the longest was 10 months, and the shortest 15 days). The first instance proceedings lasted on average one year and 10 months (the longest lasted three years and eight months, and the shortest three months). The second instance proceedings lasted on average four months (the longest was one year and one month, and the shortest one month). The average length of the entire proceeding is two years and four months.

In 2018, there were no complaints from journalists against this media outlet.

Lawsuits against responsible persons in the media „Alo“						
Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Politician	8	/	1 mth	6 mth	6 mth	1 yr.
*	6	2	4 mth	3 yr.	6 mth	3 yr. 6 mth
*	3	2	5 mth	3 yr.	1 mth	3 yr. 1 mth
Politician	2	/	6 mth	1 yr.	6 mth	1 yr. 6 mth
*	5	5	3 mth	3 yr. 5 mth	4 mth	3 yr. 9 mth
Show business	3	/	4 mth	1 yr. 1 mth	5 mth	1 yr. 6 mth
*	1	/	6 mth	6 mth	1 mth	7 mth
Trade Union representative	2	/	2 mth	2 mth	11 mth	1 yr. 1 mth
Businessman	4	2	1 mth	6 mth	2 mth	8 mth
Model	4	/	4 mth	1 yr. 6 mth	2 mth	1 yr. 8 mth
Politician	3	/	5 mth	1 yr. 5 mth	8 mth	2 yr. 1 mth
Politician	5	1	2 mth	1 yr. 4 mth	4 mth	1 yr. 8 mth

(*) - Plaintiffs are persons unknown to the public

We analyzed 12 cases against the media outlet *A/o* in 2018. In indi-

vidual cases, a maximum of eight hearings were held, and a minimum of one. The highest number of hearings that were not held was five, and there were proceedings in which there were no hearings that were not held. On average, hearings were scheduled by the court in intervals of 3.5 months (the longest was six months, the shortest one month). The first instance proceedings lasted on average one year and five months (the longest lasted three years and six months, and the shortest two months month). The average length of the second instance proceedings was 4.7 months (the longest was 11 months, and the shortest one month). The entire proceeding lasted on average 10 months.

During 2018, there were no complaints filed by journalists against this media outlet.

2019

Lawsuits against responsible persons in the media „Blic”						
Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Bishop	7	5	6 mth	6 yr.	7 mth	6 yr. 7 mth
Public servant	3	3	3 mth	1 yr. 9 mth	4 mth	2 yr. 1 mth
*	4	1	5 mth	2 yr.	3 yr. 5 mth	5 yr. 5 mth
*	4	2	4 mth	2 yr. 11 mth	5mth	3 yr. 4 mth
Doctor	3	1	5 mth	1 yr. 8 mth	3 mth	1 yr. 11 mth
*	4	2	6 mth	3 yr.	9 mth	3 yr. 9 mth
Politician	1	/	1 mth	1 mth	8 mth	9 mth
*	4	1	4 mth	1 yr. 8 mth	2 mth	1 yr. 10 mth
Police Officer	3	1	6 mth	2 yr.	4 mth	2 yr. 4 mth
Entrepreneur	2	/	7 mth	1 yr. 3 mth	5 mth	1 yr. 8 mth
*	6	7	1 mth	1 yr. 6 mth	6 mth	2 yr.
Politician	3	/	3 mth	9 mth	4 mth	1 yr. 1 mth

Lawsuits against responsible persons in the media „Blic“

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Show business	3	1	2 mth	10 mth	7 mth	1 yr. 5 mth
*	3	7	7 mth	4 yr. 1 mth	6 mth	4 yr. 7 mth
*	2	1	2 mth	8 mth	5 mth	1 yr. 1 mth
*	2	/	6 mth	1 yr.	1 yr. 4 mth	2 yr. 4 mth
Entrepreneur	5	5	4 mth	3 yr. 8 mth	2 mth	3 yr. 10 mth
*	1	/	2 mth	2 mth	7 mth	9 mth
Politician	3	2	5 mth	2 yr. 4 mth	4 mth	2 yr. 8 mth
*	5	/	4 mth	1 yr. 8 mth	4 mth	2 yr.
Singer	4	2	1 mth	6 mth	8 mth	1 yr. 2 mth
Entrepreneur	3	1	4 mth	1 yr. 5 mth	2 mth	1 yr. 7 mth
Attorney	4	1	4 mth	2 yr.	6 mth	2 yr. 6 mth
*	3	/	4 mth	1 yr.	10 mth	1 yr. 10 mth
Director	6	7	4 mth	3 yr. 9 mth	8 mth	4 yr. 5 mth
Politician	2	1	2 mth	7 mth	6 mth	1 yr. 1 mth
Police Officer	4	/	5 mth	1 yr. 9 mth	1m	1 yr. 10 mth
Journalist	4	/	5 mth	1 yr. 10 mth	1 yr. 6 mth	3 yr. 4 mth
*	1	/	11 mth	11 mth	1 mth	1 yr.

(*) - Plaintiffs are persons unknown to the public

In lawsuits against the media outlet *Blic* and others, we analyzed 29 cases in 2019. In individual cases, a maximum of seven hearings were held, and a minimum of one. The highest number of hearings that were not held was seven, and there were proceedings in which there were no hearings that were not held. On average, hearings were scheduled by the court in intervals of four months (the longest was 11 months, the

shortest one month). The first instance proceedings lasted on average one year and 10 months (the longest lasted six years, and the shortest one month). The average length of the second instance proceedings was seven months (the longest was three years and five months, and the shortest one month). The entire proceeding lasted on average two years and five months.

The plaintiff was a journalist in one case. Trials in this case were scheduled in an average interval of one month. The first instance proceeding lasted a year and 10 months, and the second instance proceeding a year and six months. The entire proceeding lasted three years and four months.

Lawsuits against responsible persons in the media „Kurir”						
Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Entrepreneur	1	/	6 mth	6 mth	6 mth	1 yr.
*	1	/	1 mth	1 mth	10 mth	11 mth
*	3	/	4 mth	1 yr. 2 mth	1 yr. 4 mth	2 yr. 6 mth
*	4	/	3 mth	1 yr. 2 mth	4 mth	1 yr. 6 mth
Director	4	/	5 mth	1 yr. 9 mth	1 yr. 1 mth	2 yr. 10 mth
*	3	2	3 mth	1 yr. 3 mth	1 yr. 8 mth	2 yr. 11 mth
Doctor	1	/	3 mth	3 mth	5 mth	8 mth
Entrepreneur	4	11	4 mth	2 yr. 2 mth	8 mth	2 yr. 10 mth
*	5	1	6 mth	3 yr.	8 mth	3 yr. 8 mth
Politician	3	/	5 mth	1 yr. 5 mth	4 mth	1 yr. 9 mth
*	5	2	3 mth	2 yr.	3 mth	2 yr. 3 mth
*	1	1	1 mth	3 mth	9 mth	1 yr.
*	4	2	4 mth	2 yr.	5 mth	2 yr. 5 mth
Show business	2	6	4 mth	2 yr. 8 mth	4 mth	3 yr.
*	1	1	8 mth	1 yr. 4 mth	7 mth	1 yr. 11 mth

Lawsuits against responsible persons in the media „Kurir“

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
*	3	2	3 mth	1yr. 5 mth	3 mth	1 yr. 8 mth
Officer	3	/	7 mth	1yr. 9 mth	3 mth	2 yr.
*	3	/	8 mth	2 yr. 2 mth	1 yr.	3 yr. 2 mth
Doctor	5	/	4 mth	2 yr. 2 mth	3 mth	2 yr. 5 mth
Journalist	2	/	4 mth	8 mth	5 mth	1 yr. 1 mth
Journalist	2	/	2 mth	4 mth	4 mth	8 mth
Journalist	2	/	6 mth	1 yr.	7 mth	1 yr. 7 mth
Show business	4	2	6 mth	3 yr. 2 mth	1 yr.	4 yr. 2 mth
Show business	4	1	5 mth	2 yr. 2 mth	8 mth	2 yr. 10 mth
Politician	3	7	5 mth	4 yr. 3 mth	7 mth	4 yr. 10 mth
*	5	4	7 mth	5 yr. 4 mth	5 mth	5 yr. 9 mth
*	5	2	4 mth	2 yr. 8 mth	3 mth	2 yr. 11 mth
Politician	4	/	5 mth	1 yr. 8 mth	2 mth	1 yr. 10 mth
Politician	3	/	5 mth	1 yr. 4 mth	3 mth	1 yr. 7 mth
*	4	/	6 mth	2 yr.	3 mth	2 yr. 3 mth
*	5	/	4 mth	1 yr. 10 mth	7 mth	2 yr. 5 mth
*	3	3	4 mth	2 yr.	3 mth	2 yr. 3 mth
*	3	1	7 mth	2 yr. 5 mth	2 mth	2 yr. 7 mth
Show business	8	4	3 mth	3 yr. 6 mth	7 mth	4 yr. 1 mth
Doctor	5	/	2 mth	10 mth	6 mth	1 yr. 4 mth
*	5	4	4 mth	3 yr.	2 mth	3 yr. 2 mth

(*) - Plaintiffs are persons unknown to the public

In lawsuits against the media outlet *Kurir* and others we analyzed 36 cases in 2019. In individual cases, a maximum of eight hearings were held, and a minimum of one. The highest number of hearings that were not held was 11, and there were proceedings in which there were no hearings that were not held. On average, hearings were scheduled by the court in intervals of 4.5 months (the longest was eight months, the shortest one month). The first instance proceedings lasted on average one year and eight months (the longest lasted five years and four months, and the shortest one month). The average length of the second instance proceedings was six months (the longest was one year and eight months, and the shortest two months). The entire proceeding lasted on average two years and five months.

Journalists were plaintiffs in three cases. In these cases, the court scheduled hearings in an average interval of four months. The average length of the first instance proceeding was eight months, which is by a year shorter than the overall average. The second instance proceedings lasted on average five months, which is very close to the overall average. The entire trial lasted in these cases one year and one month on average, which is half of the overall average.

Lawsuits against responsible persons in the media „Informer”						
Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Attorney	2	/	7 mth	1yr.2mth	3 mth	1 yr. 5 mth
Entrepreneur	4	4	3 mth	2yr.2mth	3 mth	2 yr. 5 mth
Politician	4	/	3 mth	1yr.	9 mth	1 yr. 9 mth
Journalist	1	/	9 mth	9 mth	5 mth	1 yr. 2 mth
Politician	5	10	6 mth	4yr.10mth	5 mth	5 yr. 3 mth
Journalist	5	1	3 mth	1yr.8mth	1 yr.	2 yr. 8 mth
Police Officer	1	/	5 mth	5 mth	1 yr.	1 yr. 5 mth
Activist	5	/	4 mth	1yr.8mth	3 mth	1 yr. 11 mth
Politician	4	1	4 mth	1yr.8mth	3 yr.	4 yr. 8 mth
Entrepreneur	1	/	5 mth	5 mth	5 mth	10 mth
*	2	1	3 mth	10 mth	5 mth	1 yr. 3 mth

Lawsuits against responsible persons in the media „Informer”

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Politician	1	1	1 mth	3 mth	3 mth	6 mth
Director	2	/	7 mth	1 yr. 3 mth	3 mth	1 yr. 6 mth
*	4	/	4 mth	1 yr. 7 mth	9 mth	2 yr. 4 mth
Politician	4	/	3 mth	2 yr. 3 mth	1 mth	2 yr. 4 mth
Politician	3	/	3 mth	1 yr. 2 mth	5 mth	1 yr. 7 mth
Politician	3	/	3 mth	9 mth	?	?
Politician	3	2	2 mth	1 yr.	4 mth	1 yr. 4 mth
Politician	3	1	5 mth	2 yr. 3 mth	3 mth	2 yr. 6 mth
Entrepreneur	4	/	8 mth	2 yr. 8 mth	2 mth	2 yr. 10 mth

(*) - Plaintiffs are persons unknown to the public

In lawsuits against the *Informer* media outlet, we analyzed 20 cases in 2019. In individual cases, a maximum of five hearings were held, and a minimum of one. The highest number of hearings that were not held was 10, and there were proceedings in which there were no hearings that were not held. On average, hearings were scheduled by the court in intervals of 4.5 months (the longest was nine months, the shortest one month). The first instance proceedings lasted on average one year and six months (the longest lasted four years and 10 months, and the shortest three months). The average length of the second instance proceedings was seven months (the longest was three years, and the shortest one month). The entire proceeding lasted on average two years and one month.

Journalists were plaintiffs in two cases. The court scheduled hearings in an average interval of six months. The first instance trial lasted on average one year and two months. The second instance trial lasted on average eight months. The average length of the entire proceeding is two years. The length of proceedings in which plaintiffs were journalists barely differs from the overall average.

Lawsuits against the media „Medijska mreža” and others

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Show business	2	/	3 mth	6 mth	4 mth	10 mth
Actor	1	2	6 mth	1 yr. 8 mth	2 mth	1 yr. 10 mth
Politician	5	/	4 mth	2 yr.	6 mth	2 yr. 6 mth
Entrepreneur	3	2	4 mth	1 yr. 8 mth	8 mth	2 yr. 4 mth
Show business	4	1	6 mth	2 yr. 7 mth	2 mth	2 yr. 9 mth
Director	3	1	4 mth	1 yr. 6 mth	3 mth	1 yr. 9 mth
*	3	3	3 mth	2 yr. 2 mth	7 mth	2 yr. 9 mth
Politician	3	/	3 mth	9 mth	3 mth	1 yr.

(*) - Plaintiffs are persons unknown to the public

In lawsuits against *Medijska mreža* and others, we analyzed eight cases in 2019. In individual cases, a maximum of five hearings were held, and a minimum of one. The highest number of hearings that were not held was three, and there were proceedings in which there were no hearings that were not held. On average, hearings were scheduled in intervals of 5.5 months (the longest was six months, the shortest three months). The first instance proceedings lasted on average one year and seven months (the longest lasted three years and six months, and the shortest two months month). The average length of the second instance proceedings was six months (the longest was eight months, and the shortest two months). The entire proceeding lasted on average two years.

During 2019, there were no complaints filed by journalists against this media outlet.

Lawsuits against responsible persons in the media „Alo”

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Politician	6	/	3 mth	2 yr. 6 mth	1 yr. 7 mth	4 yr. 1 mth
Entrepreneur	4	/	4 mth	1 yr. 3 mth	8 mth	1 yr. 11 mth

Lawsuits against responsible persons in the media „Alo“

Plaintiff	No. of held hearings	No. of not held hearings	Average scheduling time of hearings	Duration of the first instance trial	Duration of the second instance trial	Total duration of the proceeding
Politician	6	/	8 mth	4 yr.	6 mth	4 yr. 6 mth
*	3	1	4 mth	1 yr. 5 mth	4 mth	1 yr. 9 mth
*	2	/	1 mth	3 mth	5 mth	8 mth
*	4	/	1 mth	6 mth	8 mth	1 yr. 2 mth
Police Officer	4	/	3 mth	1 yr.	3 mth	1 yr. 3 mth

(*) - Plaintiffs are persons unknown to the public

In lawsuits against the media outlet Alo, we analyzed seven cases in 2019. In individual cases, a maximum of six hearings were held, and a minimum of two. The highest number of hearings that were not held was one, or there was none. On average, hearings were scheduled in intervals of three months (the longest was one year, the shortest eight months). The first instance proceedings lasted on average one year and seven months (the longest lasted four years, and the shortest three months). The average length of the second instance proceedings was 7.5 months (the longest was one year and seven months, and the shortest three months). The entire proceeding lasted on average two years and two months.

During 2019, there were no complaints filed by journalists against this media outlet.

Conclusion:

The Higher Court in Belgrade has been designated to be the only court in Serbia trying media disputes. However, the establishment of a special court department in which specialized judges would try only this type of cases never took place. This would improve both the efficiency and the quality of work by the judges. Unfortunately, there was no reaction from the High Judicial Council and the Ministry of Justice, which have not highlighted the fact that, due to the extension of jurisdiction and the increase in the number of cases, it is necessary to increase the number of judges and employees of support services (typists and administrative officers) in the Higher Court, for the purpose of proper application of law. Without these measures, it will be difficult to meet the statutory time limits, or to protect the rights of participants in media cases.

No unevenness was identified in the court's observance of the time limits with respect to different categories of plaintiffs and defendants. In a smaller number of cases, it can be noticed that judges still schedule a preliminary hearing. It was observed that attorneys of the Kurir media outlet often cancelled the power of attorney during the procedure, and then re-entered the litigation. Such repetitive behavior indicates possible abuses in terms of unnecessary postponements of hearings. Regarding actions by plaintiffs, in certain cases it has been noticed, with respect to the non-attendance of hearings, most often for the purpose of hearing the parties, that politicians fail to appear at hearings the most, with the justification that they were prevented for reasons related to the duties of their office. Judges show a high degree of tolerance for the non-appearance of duly summoned plaintiffs.

A large number of trials that have not been held leads to an unreasonable time for the duration of the proceedings and the impression that it is that the proceedings are managed by the parties and not by the court. In by far the largest number of cases, the proceedings last more than a year, thus contributing to the loss of the effect of protecting the rights of the plaintiff or the defendant.

The Length of Drafting the First Instance Judgment

2017

DEFENDANT	NUMBER OF CASSES	WITHIN 15 DAYS	15-30 DAYS	1-3 MONTHS	MORE THAN 3 MONTHS
Kurir and others	28	5	10	13	/
Informer and others	17	3	7	7	/
Blic and others	29	6	10	12	1
Alo and others	23	7	5	9	2

2018

DEFENDANT	NUMBER OF CASSES	WITHIN 15 DAYS	15-30 DAYS	1-3 MONTHS	MORE THAN 3 MONTHS
Kurir and others	30	7	15	7	1
Informer and others	20	4	10	4	2
Medijska mreža and others	6	/	4	1	1
Custom group and others	2	1	/	1	/
Blic and others	28	7	12	7	2
Alo and others	11	3	7	1	/

2019

DEFENDANT	NUMBER OF CASSES	WITHIN 15 DAYS	15-30 DAYS	1-3 MONTHS	MORE THAN 3 MONTHS
Kurir and others	37	7	12	11	7
Informer and others	19	2	13	4	/
Medijska mreža and others	8	2	5	/	1
Blic and others	29	6	13	8	2
Alo and others	7	3	2	1	1

The statutory time limit for drafting and delivering the first instance decision is three days²⁰. The data shows that the law is not complied with in this segment.

It was found that in 2017, out of 97 analyzed cases, 21 judgments (20.4%) were delivered within 15 days, 32 judgments (31%) within 15 to 30 days, and 41 judgments in a period ranging from one to three months (39.7%), while the period for delivery of three judgments was longer than three months (2.9%).

²⁰ Article 124 of the LPIM

In 2018, out of 97 analyzed judgments, 22 judgments (21.3%) were delivered within 15 days, and 48 judgments (46.6%) in the period between 15 and 30 days. In the period between one and three months, 21 judgments were delivered (20.4%), while the delivery of six judgments (5.8%) took more than three months.

In 2019, out of 100 analyzed cases, 20 judgments (20%) were delivered within 15 days, 45 judgments (45%) within a period ranging from 15 to 30 days, 24 judgments (24%) between one and three months, while it took over three months to deliver 11 judgments (11%).

Conclusion:

The court administration needs to perform an analysis and identify the reasons for the inappropriate duration of the drafting of judgments compared to the statutory time limit. It can be assumed that the capacity of courts is not sufficient to meet the time limits set by the law and that it is necessary to increase the number of trial judges or amend the law to extend the time limit for drafting a judgment until its delivery. The number of court decisions drafted within the period of one to three months is a real obstacle to the efficient and effective protection of rights in this type of litigation.

Appeals and Decisions on Appeals

2017

Defendant	NUMBER OF CASES	APPELLANT	FIRST INSTANCE VERDICT	SECOND INSTANCE VERDICT
Kurir and others	28	A - 3 A and B - 12 B - 13	Acc - / PAcc - 25 R - 3	Reversed - 7 Confirmed - 18 Quashed - 3
Informer and others	17	A - 4 A and B - 6 B - 7	Acc - / PAcc - 14 R - 3	Reversed - 4 Confirmed - 13 Quashed - /
Blic and others	29	A - 16 A and B - 4 B - 9	Acc - / PAcc - 18 R - 11	Reversed - 6 Confirmed - 22 Quashed - 1
Alo and others	23	A - 6 A and B - 8 B - 9	Acc - / PAcc - 16 R - 7	Reversed - 9 Confirmed - 13 Quashed - 1

(A) - Plaintiff
 (B) - Defendant
 (Acc) - The claim accepted
 (PAcc) - The claim partially accepted
 (R) - The claim rejected

2018

Defendant	NUMBER OF CASES	APPELLANT	FIRST INSTANCE VERDICT	SECOND INSTANCE VERDICT
Kurir and others	30	A - 8 A and B - 6 B - 16	Acc - 1 PAcc - 23 R - 6	Reversed - 7 Confirmed - 20 Quashed - 3
Informer and others	20	A - 3 A and B - 7 B - 10	Acc - 1 PAcc - 16 R - 3	Reversed - 7 Confirmed - 11 Quashed - 2
Medijska mreža and others	6	A - 3 A and B - 1 B - 2	Acc - / PAcc - 4 R - 2	Reversed - 1 Confirmed - 5 Quashed - /
Custom group and others	2	A - 1 A and B - 1 B - /	Acc - / PAcc - 1 R - 1	Reversed - 1 Confirmed - 1 Quashed - /
Blic and others	28	A - 8 A and B - 8 B - 12	Acc - 2 PAcc - 19 R - 7	Reversed - 15 Confirmed - 13 Quashed - /
Alo and others	11	A - 1 A and B - 2 B - 8	Acc - / PAcc - 10 R - 1	Reversed - 5 Confirmed - 6 Quashed - /

(A) - Plaintiff
(B) - Defendant
(Acc) - The claim accepted
(PAcc) - The claim partially accepted
(R) - The claim rejected

2019

Defendant	NUMBER OF CASES	APPELLANT	FIRST INSTANCE VERDICT	SECOND INSTANCE VERDICT
Kurir and others	37	A - 3 A and B - 12 B - 13	Acc - / PAcc - 29 R - 8	Reversed - 23 Confirmed - 11 Quashed - 3
Informer and others	19	A - 4 A and B - 6 B - 7	Acc - / PAcc - 15 R - 1	Reversed - 11 Confirmed - 8 Quashed - /
Medijska mreža and others	8	A - 2 A and B - 2 B - 4	Acc - / PAcc - 6 R - 2	Reversed - 3 Confirmed - 5 Quashed - /
Blic and others	29	A - 8 A and B - 9 B - 12	Acc - 1 PAcc - 19 R - 9	Reversed - 10 Confirmed - 19 Quashed - /
Alo and others	7	A - 2 A and B - 3 B - 2	Acc - / PAcc - 5 R - 2	Reversed - 1 Confirmed - 5 Quashed - 1

(A) - Plaintiff
(B) - Defendant
(Acc) - The claim accepted
(PAcc) - The claim partially accepted
(R) - The claim rejected

Conclusion:

Based on the analyzed cases, it can be observed that in all three years, more appeals were filed by the defendant media outlets than by the plaintiffs. If we look at the data on the amounts of awarded damages and the data on the plaintiff's side (whether the plaintiff is a public figure, a person unknown to the general public or a journalist), we cannot see that the defendants lodge appeals against excessive claims for damages which were granted, or in relation to the activity of the plaintiff. Rather, it could be concluded that an appeal is often filed against decisions even when there is an evident violation of the journalistic due diligence obligation. The reason for this could be related to the stalling of the payment of the awarded compensation for damage and costs of the proceedings, with a minimum probability of the appellants' success in the second instance proceedings.

Out of the analyzed 294 cases, the claims were fully granted in four cases only, in 224 cases the claims were partially granted, while in 66 cases claims were rejected in full. Based on the appeals, the second instance court reversed the decisions of the first instance courts in 110 cases, upheld 170 and quashed 14 judgements.

The analysis of the reversed decisions shows that, where the awarded compensation in the first instance was higher or lower than the usual maximum or minimum amount, the intervention of the second instance court resulted in the harmonization of case law. It can be concluded that the quality of the work of the court is good, considering the percentage of 4.76% of quashed judgements. It is interesting to note that appeals were filed against a large number of first instance decisions. A lower number of appeals were filed by plaintiffs, although a larger number of their claims were only partially granted.

Given the specific cases and how the rights of certain plaintiffs are sometimes violated, it would be appropriate to consider increasing the amount of damages awarded in certain situations.

The Position of the Parties to the Proceedings

By analyzing the course of proceedings and court decisions that were taken, we can conclude that in civil proceedings conducted before the court there is no difference in the conduct of the proceedings in the cases where journalists were plaintiffs.

Lawsuits by government officials, which have become more frequent this year due to the coverage of the protests, have put pressure on the work of journalists and constitute an act of intimidation of the media, according to media associations and journalists.²¹ It is obvious that increasing pressure is put on journalists during their work, which is often not possible to protect before the courts. The excessive length of proceedings in civil cases causes that, even when there is judicial protection, it is no longer effective. The annual report of the European Commission for 2020 assessed that in the area of the rule of law, fight against organized crime and corruption, political criteria and freedom of speech and freedom of the media, there is no progress, i.e., there has been regression.²²

The position of the court is specific in media cases. Although not a party to the proceedings, the court is a mandatory actor who must have an independent position in relation to the parties and needs to be accorded a status that must not be unjustifiably undermined. Media and editors who continuously violate the Journalists' Code of Ethics in case of they are not satisfied with a specific court decision in the proceedings increasingly abuse their status and react inappropriately in public. Thus, the director of RTV Vranje said in a public appearance on 15 October 2020, regarding a specific court decision, that "judges are biased, they selectively apply laws on the orders of foreign media, they adjudicate by using double standards, they render shameful judgements legalizing hate speech, they are "slimy characters" who do not protect decent citizens".²³ Insulting and disparaging judges undermines their independence and autonomy, which guarantee to citizens the right to a fair trial. The professional association of judges called on the High Judicial Council to react to this.

In order to ensure the protection of freedom of expression, it is certainly very important that, besides the courts, the Regulatory Authority for Electronic Media (REM), journalists' associations and all relevant ministries react.

²¹ The newspaper *Danas*, print edition, 20 August 2020, section Society

²² The newspaper *Politika*, print edition, 06 October 2020.

²³ Statement by the Judges' Association of Serbia, available at website www.sudije.rs

Amount of Compensation for Damage

2017

Plaintiff	Defendant Kurir and others		Appeal procedure		
	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Singer	1,000,000	50,000	/	+	/
Journalist	500,000	150,000	/	/	+
Politician	300,000	100,000	Rejected	/	/
*	3,000,000	180,000	Rejected	/	/
*	400,000	Rejected	/	+	/
Politician	500,000	100,000	/	+	/
Politician	400,000	180,000	/	+	/
Model	300,000	50,000	/	+	/
Journalist	900,000	80,000	/	+	/
Journalist	732,000	200,000	100,000	/	/
*	200,000	45,000	Rejected	/	/
*	1,500,000	80,000	/	+	/
*	1,000,000	30,000	100,000	/	/
Journalist	500,000	120,000	/	+	/
Politician	490,000	80,000	/	+	/
Police Officer	500,000	50,000	100,000	/	/
*	250,000	250,000	/	+	/
Police Officer	2,000,000	200,000	/	+	/
Director	1,150,000	150,000	/	+	/
Journalist	1,200,000	200,000	/	+	/
Politician	1,000,000	200,000	/	+	/
*	1,090,000	150,000	100,000	/	/
*	400,000	100,000	/	/	+
Officer	1,000,000	80,000	/	+	/
*	300,000	Rejected	/	+	/

Defendant Kurir and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Journalist	1,000,000	300,000	100,000	/	/
*	800,000	Rejected	/	+	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *Kurir* and others, in the 27 observed cases in 2017, in 11 cases the amount of the claim was 1,000,000 dinars and more. Five claims were rejected. The highest awarded compensation was 250,000 dinars, and the lowest was 50,000 dinars. On average, damages in the amount of 97,000 dinars were awarded.

The complaints were filed by six journalists and they were awarded damages averaging 100,000 dinars. It can be noted that journalists had the same protection as persons of other professions, with the court assessing the circumstances of each specific case and awarding compensation in an amount higher than the average.

Defendant Informer and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
*	5,000,000	Rejected	/	+	/
*	300,000	50,000	/	+	/
Director	2,000,000	Rejected	/	+	/
*	600,000	40,000	/	+	/
Politician	500,000	200,000	Rejected	/	/
*	400,000	80,000	/	+	/
Director	500,000	100,000	/	+	/
Journalist	1,000,000	40,000	Rejected	/	/
*	1,258,700	100,000	/	+	/
*	600,000	300,000	200,000	/	/
*	500,000	Rejected	/	+	/
*	400,000	50,000	/	+	/
Journalist	100,000	100,000	/	+	/
Journalist	500,000	250,000	100,000	/	/
Journalist	500,000	100,000	/	+	/
Painter	500,000	90,000	/	+	/
*	150,000	Rejected	/	+	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *Informer*, in the 17 observed cases in 2017, in four lawsuits the claims were on the order of 1,000,000 and more dinars. Five claims were rejected. The highest awarded amount was 200,000 dinars, and the lowest was 40,000 dinars. On average, 59,000 dinars was awarded in damages.

The complaints were filed by four journalists, one claim was rejected, and the others were awarded an average of 75,000 dinars. The damages awarded to journalists were, on average, slightly higher than those awarded to persons of other occupations.

Plaintiff	Defendant Blic and others		Appeal procedure		
	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
*	1,000,000	Rejected	/	+	/
*	300,000	80,000	/	+	/
*	900,000	120,000	/	+	/
*	500,000	Rejected	/	+	/
Director	300,000	Rejected	/	+	/
*	300,000	Rejected	/	+	/
Sport club supporter	1,000,000	Rejected	/	+	/
Entrepreneur	500,000	100,000	/	+	/
Director	500,000	100,000	50,000	/	/
Police Officer	452,000	Rejected	/	+	/
*	200,000	Rejected	/	+	/
Director	200,000	50,000	/	+	/
*	600,000	90,000	/	+	/
Police Officer	990,000	70,000	/	+	/
Police Officer	500,000	Rejected	/	+	/
Director	400,000	50,000	/	+	/
*	3,000,000	Rejected	/	/	+
Bishop	3,000,000	270,000	/	+	/
*	300,000	30,000	120,000	/	/
*	600,000	300,000	185,000	/	/
*	27,900	Rejected	/	+	/
Director	350,000	100,000	/	+	/
Politician	500,000	80,000	Rejected	/	/
Minister	450,000	100,000	60,000	/	/

Defendant Blic and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
*	1,200,000	150,000	/	+	/
Police Officer	300,000	Rejected	/	+	/
Deputy Public Prosecutor	500,000	Rejected	/	+	/
Doctor	4,000,000	Rejected	/	+	/
Director	800,000	100,000	130,000	/	/
Director	3,000,000	300,000	200,000	/	/
Bishop	4,000,000	60,000	/	+	/
Sportsman	800,000	50,000	80,000	/	/
Oficer	3,000,000	300,000	200,000	/	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *Blic*, in the 33 observed cases in 2017, 10 plaintiffs set the amount of the claim at 1,000,000 and more dinars. The claim was rejected in 14 cases. The highest awarded compensation was 270,000 dinars, and the lowest was 50,000 dinars. The average awarded compensation was 63,000 dinars.

Defendant Alo and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
*	500,000	100,000	/	+	/
Advisor	2,256,000	Rejected	/	/	+
Minister	27,900,000	150,000	/	+	/
Producer	500,000	Rejected	/	+	/
Director	300,000	100,000	50,000	/	/
*	100,000	50,000	/	+	/
*	600,000	300,000	160,000	/	/
Doctor	350,000	Rejected	/	+	/
*	300,000	Rejected	/	+	/
*	1,000,000	Rejected	/	+	/
*	1,872,280	360,000	/	+	/
Singer	450,000	80,000	/	+	/
*	800,000	50,000	/	+	/
Director	600,000	300,000	/	+	/

Defendant Alo and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
*	1,000,000	250,000	/	+	/
Professor	400,000	Rejected	/	+	/
*	100,000	80,000	/	+	/
*	400,000	Rejected	120,000	/	/
Singer	600,000	200,000	/	+	/
Singer	250,000	50,000	Rejected	/	/
*	450,000	120,000	100,000	/	/
Director	500,000	200,000	50,000	/	/
*	490,000	Rejected	/	+	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *A/o* and others, in the 23 observed cases in 2017, in five cases the amount of the claim was set at 1,000,000 and more dinars, and the highest amount of damages, in that year, 27,900,000 dinars, was requested from this media outlet. The complaint was filed by the Minister, and the damages in the amount of 150,000 dinars were awarded by an enforceable judgement. Eight claims were rejected. The highest awarded damages amounted to 360,000 dinars, while the lowest were 50,000 dinars. The average amount of damages awarded was 82,000 dinars.

2018

Defendant Kurir and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Director	500,000	50,000	/	+	/
*	300,000	50,000	/	+	/
Journalist	500,000	100,000	/	+	/
Director	500,000	100,000	/	/	+
Businessman	1,000,000	150,000	/	/	+
*	300,000	Rejected	/	+	/
Businessman	1,000,000	50,000	/	+	/
*	500,000	100,000	50,000	/	/
Former politician	499,000	79,000	/	+	/

Plaintiff	Defendant Kurir and others		Appeal procedure		
	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Fudball Player	300,000	30,000	/	+	/
Entrepreneur	12,300,000	Rejected	/	/	+
Businessman	1,250,000	Rejected	/	+	/
*	720,000	360,000	180,000	/	/
Attorney	500,000	200,000	150,000	/	/
Director	150,000	80,000	/	+	/
*	500,000	100,000	/	+	/
*	200,000	50,000	/	+	/
Attorney	150,000	150,000	/	+	/
*	500,000	50,000	/	+	/
Journalist	500,000	100,000	/	+	/
*	500,000	Rejected	/	+	/
Journalist	360,000	100,000	/	+	/
Chief of the Police	300,000	100,000	/	+	/
*	500,000	Rejected	/	+	/
Actress	990,000	530,000	250,000	/	/
State Secretary	1,000,000	300,000	/	+	/
Businessman	993,500	200,000	100,000	/	/
*	100,000	60,000	/	+	/
*	700,000	50,000	/	+	/
*	500,000	Rejected	/	+	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *Kurir*, in the 30 observed cases in 2018, the claims set in five cases were higher than 1,000,000 dinars. A total of four claims were rejected. The highest awarded amount of compensation for damage was 300,000 dinars, and the lowest was 30,000 dinars.

Of the 30 plaintiffs, three were journalists who were awarded an average of 100,000 dinars in damages. The average damages awarded in all analyzed cases were 83,600 dinars, which is a lower average than the damages awarded to journalists.

Defendant Informer and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
*	200,000	50,000	/	/	+
Director	500,000	50,000	80,000	/	/
Police Officer	600,000	100,000	/	+	/
Journalist	100,000	Rejected	/	/	+
*	300,000	50,000	/	+	/
Journalist	200,000	Rejected	/	+	/
Minister	100,000	100,000	/	+	/
Journalist	300,000	50,000	Rejected	/	/
Singer	2,000,000	120,000	/	+	/
*	440,000	100,000	/	+	/
Activist	150,000	Rejected	/	+	/
Model	300,000	70,000	/	+	/
*	400,000	140,000	200,000	/	/
*	200,000	25,000	75,000	/	/
*	700,000	70,000	/	+	/
Journalist	700,000	300,000	/	+	/
Politician	700,000	170,000	/	+	/
Activist	200,000	100,000	/	+	/
Police Officer	300,000	80,000	/	+	/
Painter	400,000	260,000	290,000	/	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *Informer*, in the observed 20 cases during 2018, only one plaintiff demanded compensation of 2,000,000 dinars. Other claims were lower than 1,000,000 dinars. Six claims were rejected. The lowest awarded amount was 50,000 dinars, and the highest was 300,000 dinars. The average awarded compensation for damage was 106,000 dinars.

Journalists filed four complaints. In three cases, the claim was rejected, while one was successful in the dispute and was awarded compensation for damage amounting to 75,000 dinars.

Defendant Medijska mreža and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Artist	700,000	100,000	/	+	/
Singer	700,000	Rejected	/	+	/
Businessman	600,000	30,000	45,000	/	/
Minister	999,000	Rejected	/	+	/
*	600,000	300,000	/	+	/
*	2,000,000	Rejected	/	+	/
Singer	700,000	100,000	/	+	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *Medijska mreža* and others, in the observed seven cases in 2018, in one lawsuit, the amount of damages higher than 1,000,000 dinars was claimed. Three claims were rejected. The highest awarded amount was 300,000 dinars, and the lowest 45,000 dinars. The average amount of damages awarded was 78,000 dinars.

Defendant Blic and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Politician	150,000	100,000	/	+	/
Entrepreneur	12,100,000	Rejected	100,000	/	/
*	600,000	Rejected	/	+	/
*	1,500,000	200,000	100,000	/	/
Minister	600,000	100,000	/	+	/
Police Officer	300,000	Rejected	100,000	/	/
*	300,000	100,000	/	+	/
Doctor	500,000	Rejected	/	+	/
*	300,000	60,000	/	+	/
*	700,000	30,000	80,000	/	/
Politician	300,000	300,000	120,000	/	/
*	300,000	100,000	/	+	/
Director	600,000	100,000	50,000	/	/
Director	500,000	Rejected	/	+	/
Entrepreneur	400,000	80,000	/	+	/
Politician	600,000	60,000	/	+	/
TV presenter	250,000	Rejected	/	+	/

Defendant Blic and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
National Bank representative	1,000,000	100,000	/	+	/
Police Officer	990,000	150,000	/	+	/
Entrepreneur	2,000,000	100,000	/	+	/
Politician	1,350,000	200,000	100,000	/	/
Politician	740,000	80,000	120,000	/	/
*	300,000	80,000	/	+	/
Police Officer	300,000	Rejected	80,000	/	/
*	3,500,000	80,000	/	+	/
Professor	300,000	80,000	/	+	/
Attorney	500,000	120,000	60,000	/	/
*	250,000	250,000	80,000	/	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *Blic* and others, in the 28 observed cases in 2018, in six cases, the plaintiffs claimed damages amounting to 1,000,000 and more dinars. A total of four claims were rejected. The lowest amount of awarded damages was 60,000 dinars, and the highest was 150,000 dinars. The average awarded damages were 78,000 dinars.

Defendant Alo and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Politician	490,000	100,000	50,000	/	/
*	2,256,000	100,000	80,000	/	/
*	250,000	100,000	/	+	/
Politician	300,000	60,000	/	+	/
*	600,000	100,000	/	+	/
Show business	400,000	200,000	100,000	/	/
*	600,000	60,000	/	+	/
Trade union representative	300,000	200,000	120,000	/	/
Businessman	2,000,000	Rejected	100,000	/	/
Businessman	12,300,000	50,000	100,000	/	/
Model	300,000	80,000	/	+	/

Defendant A/o and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Politician	300,000	80,000	/	+	/
Politician	100,000	60,000	/	+	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet A/o and others, in the 13 observed cases in 2018, there were no rejected claims. Three plaintiffs claimed damages amounting to 1,000,000 and more dinars. The lowest awarded damages were 60,000 dinars, and the highest 120,000 dinars. The average awarded damages for all 13 plaintiffs amounted to 84,000 dinars.

2019

Defendant Kurir and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Entrepreneur	400,000	Rejected	100,000	/	/
*	200,000	50,000	/	+	/
*	500,000	100,000	Rejected	/	/
*	500,000	60,000	Rejected	/	/
Director	500,000	100,000	/	+	/
*	455,000	150,000	100,000	/	/
Doctor	700,000	Rejected	/	+	/
Entrepreneur	1,500,000	250,000	100,000	/	/
*	1,080,000	250,000	150,000	/	/
Politician	280,000	40,000	80,000	/	/
*	500,000	70,000	/	+	/
*	500,000	Rejected	50,000	/	/
*	12,000,000	500,000	150,000	/	/
Show business	650,000	80,000	50,000	/	/
*	400,000	100,000	/	+	/
*	300,000	100,000	Rejected	/	/
Officer	500,000	400,000	150,000	/	/
*	500,000	50,000	/	+	/
Doctor	700,000	100,000	/	+	/

Defendant Kurir and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Journalist	900,000	200,000	100,000	/	/
Journalist	1,000,000	Rejected	80,000	/	/
Show business	1,000,000	250,000	130,000	/	/
Show business	490,000	250,000	50,000	/	/
Politician	1,000,000	50,000	/	/	+
*	1,700,000	400,000	/	+	/
*	1,000,000	50,000	/	/	+
Politician	300,000	140,000	50,000	/	+
Politician	700,000	500,000	300,000	/	/
*	400,000	Rejected	/	+	/
*	500,000	80,000	/	/	+
*	300,000	100,000	/	+	/
*	1,500,000	Rejected	/	+	/
Show business	1,000,000	Rejected	/	+	/
Doctor	700,000	140,000	/	+	/
*	150,000	120,000	70,000	/	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *Kurir* and others, in the 34 observed cases in 2019, 10 plaintiffs claimed damages amounting to 1,000,000 and more dinars. Seven claims were rejected. The highest awarded damages were 400,000 dinars, and the lowest 50,000 dinars. The average awarded damages were 91,000 dinars.

The complaints were filed by two journalists and they were awarded damages of up to 90,000 dinars, which is a slight difference compared to the overall average.

Defendant Informer and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Attorney	2,970,000	120,000	80,000	/	/
Entrepreneur	12,300,000	300,000	150,000	/	/
Politician	500,000	100,000	/	+	/
Journalist	1,000,000	60,000	80,000	/	/
Politician	2,000,000	60,000	Rejected	/	/

Plaintiff	Defendant Informer and others		Appeal procedure		
	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Journalist	500,000	80,000	/	+	/
Police Officer	1,000,000	Rejected	50,000	/	/
Entrepreneur	1,500,000	250,000	100,000	/	/
Activist	110,000	100,000	50,000	/	/
Politician	2,000,000	1,000,000	350,000	/	/
Entrepreneur	12,000,000	300,000	200,000	/	/
*	500,000	100,000	/	+	/
Politician	450,000	100,000	/	+	/
Director	450,000	150,000	/	+	/
*	1,000,000	50,000	/	+	/
Politician	200,000	80,000	/	+	/
Politician	300,000	100,000	/	+	/
Politician	600,000	300,000	50,000	/	/
Politician	100,000	80,000	/	+	/
Entrepreneur	12,300,000	100,000	/	+	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *Informer* and others, in the 20 observed cases in 2019, 10 plaintiffs claimed the compensation for damage in the amount of 1,000,000 and more dinars. One claim was rejected. The highest awarded compensation was 350,000 dinars, and the lowest 50,000 dinars. The average awarded compensation was 102,000 dinars.

The two plaintiffs were journalists and the average amount of their compensation was 70,000 dinars, which is less than the overall average in that year.

No unevenness in awarding damages can be identified on the part of the court with respect to different categories of plaintiffs simply because of their profession or the fact who the defendant was.

Thus, for example, a final (final and binding) judgement was subsequently obtained from the court, in which the plaintiff is a journalist, the president of one of the largest journalists associations in Serbia. A lawsuit was filed against the editor-in-chief and publisher of *Informer*, in which the claim was partially granted in the amount of 50,000 dinars, and rejected in the amount of 250,000 dinars. The sued editor is required to publish the operative part of the final and binding judgement, without any comment in the printed and electronic edition of the media.

The lawsuit began on 18 February 2016. The first first-instance decision partially granted the claim for the payment of compensation of 35,000 dinars and the obligation to publish the operative part of the judgement that was passed on 21 February 2018, two years into the proceedings. It was quashed in its entirety, and a new first instance judgement was passed a year and a half later. The proceedings lasted three and a half years in total. It was established in the proceedings that the open letter of the defendant editor-in-chief published in the media contained false information, which violated the honor and reputation of the plaintiff. It is also said that the plaintiff has the status of a public figure and that pursuant to Resolution 1165 (1988) on the right to privacy, he must demonstrate a greater degree of tolerance regarding the information published in the media, but the media outlet cannot be relieved of responsibility if the information is inaccurate and incomplete. The Court finds that it was “prohibited information which, given its content and meaning, has the potential to cause material or non-pecuniary damage to the person whom it concerns”. The court has further said that this is false information, that the defendant did not publish the plaintiff’s response to the information, and that the plaintiff is entitled to the compensation, the amount of which is to be determined at discretion. It is noted that a total of four hearings were held, while one hearing was not held due to the reasons on the part of the plaintiff. The second instance court upheld the judgement in terms of damages, and reversed and rejected the request to publish the operative part of the judgement because the sued editor was not the editor-in-chief, so for this part of the claim he did not have the capacity to be sued.

The court provided protection to the journalist, invoking not only national sources of law, but also international recommendations. However, the question is whether the protection provided is effective, given the length of the proceedings.

Plaintiff	Defendant Medijska mreža and others		Appeal procedure		
	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Show business	700,000	100,000	/	+	/
Actor	1,000,000	Rejected	/	+	/
Politician	2,000,000	100,000	80,000	/	/
Entrepreneur	12,000,000	100,000	/	+	/
Show business	3,000,000	Rejected	/	+	/
Director	300,000	50,000	/	+	/

Defendant Medijska mreža and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
*	500,000	Rejected	/	+	/
Politician	200,000	180,000	150,000	/	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *Medijska mreža* and others, in eight observed cases in 2019, in four plaintiffs claimed compensation of 1,000,000 and several million dinars. Three claims were rejected. The highest awarded compensation was 150,000 dinars, and the lowest 50,000 dinars. The average amount of the awarded compensation was 60,000 dinars.

Defendant Blic and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Bishop	3,000,000	Rejected	/	+	/
*	400,000	Rejected	/	+	/
*	1,300,000	200,000	60,000	/	/
*	400,000	Rejected	/	+	/
Doctor	720,000	420,000	/	+	/
*	993,500	173,000	150,000	/	/
Politician	1,200,000	300,000	240,000	/	/
*	300,000	20,000	Rejected	/	/
Police Officer	150,000	100,000	/	+	/
Entrepreneur	1,000,000	100,000	/	+	/
*	800,000	Rejected	80,000	/	/
Police Officer	600,000	100,000	/	+	/
Show business	600,000	160,000	80,000	/	/
*	650,000	80,000	/	+	/
*	3,000,000	80,000	50,000	/	/
Attorney	250,000	Rejected	/	+	/
Entrepreneur	7,000,000	150,000	/	+	/
*	400,000	75,000	/	+	/
Politician	300,000	Rejected	/	+	/
*	250,000	250,000	100,000	/	/
Singer	300,000	Rejected	/	+	/

Defendant Blic and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Entrepreneur	12,200,000	150,000	/	+	/
Attorney	250,000	70,000	100,000	/	/
*	500,000	Rejected	50,000	/	/
Director	250,000	Rejected	/	+	/
Politician	10,000,000	150,000	/	+	/
Police Officer	500,000	260,000	/	+	/
Journalist	600,000	300,000	/	+	/
*	600,000	100,000	/	+	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *Blic* and others, in the 29 observed cases in 2019, eight plaintiffs set the amount of damages at 1,000,000 and more dinars. Eight claims were rejected.

The highest awarded damages amounted to 420,000 dinars, and the lowest 50,000 dinars. The average amount of awarded damages was 100,000 dinars.

One journalist filed a complaint and was awarded compensation amounting to 30,000 dinars, which is lower than the overall average.

Defendant Alo and others			Appeal procedure		
Plaintiff	Claim (RSD)	Awarded damages	Reversed	Confirmed	Quashed
Politician	9,400,000	150,000	/	+	/
Entrepreneur	500,000	50,000	Rejected	/	/
Politician	300,000	Rejected	30,000	/	/
*	400,000	160,000	/	+	/
*	500,000	Rejected	/	/	+
*	720,000	280,000	/	+	/
Police Officer	450,000	20,000	/	+	/

(*) - Plaintiffs are persons unknown to the public

Against the defendant media outlet *Alo* and others, in the observed seven cases in 2019, one plaintiff filed a lawsuit in which the claim was higher than 1,000,000 dinars. Two plaintiffs' claims were rejected. The highest awarded amount of damages was 280,000 dinars, and the lowest was 20,000 dinars. The average amount of compensation was 91,000 dinars.



Conclusions of the analysis into the amount of damages for the period 2017-2019:

Out of 97 analyzed cases in 2017, in 32 the claims were rejected. In 2018, out of 97 cases, the claims were rejected in 17, while in 2019, out of 100 analyzed cases, the claims were rejected in 19 cases. The court found that the journalist and the editor-in-chief sued did not violate personal dignity, private life or the presumption of innocence, and that there was a public interest in the flow of information through the media. In those cases, it was also ruled that there was no violation of the journalistic due diligence obligation or hate speech.

In 2017, the highest awarded damages amounted to 360,000 dinars, and the lowest to 40,000 dinars. The average damages paid out in that year amounted to 75,000 dinars. In 2018, the highest amount of awarded damages was 300,000 dinars, and the lowest 30,000 dinars. In that year, the average damages awarded amounted to 85,000 dinars.

In 2019, the highest amount of awarded damages was 420,000 dinars, and the lowest 44,000 dinars. The average amount of awarded damages was 88,000 dinars.

The average amount of awarded damages for the observed three years was growing by about 10,000 a year, but we cannot talk about an increase that is significant enough to call into question the functioning of the media.

The case law is quite harmonized in terms of the decisions made, and the previously frequently made allegation by certain media outlet that due to the draconianly high damages, which they are under an obligation to pay, their survival is called into question cannot be accepted. Rather, the question could be asked whether the amounts of damages determined are adequate in all cases and whether the amounts constituted fair monetary compensation and the level that is adequate in terms of the provision of Article 200 of the Law on Contracts and Torts. Also, whether they are commensurate with the significance of the damaged good and the purpose which that compensation serves, i.e., whether the satisfaction is just.

We should not lose sight of the fact that this is not a penalty for the defendant, but rather monetary compensation for the non-pecuniary damage caused by violation of reputation, honor, dignity or personal rights, which arises from the unlawful actions of a journalist and an editor-in-chief. Due to the particular circumstances of a case, plaintiffs who are not known to the public often receive higher compensation than well-known personalities from the media, business, politics, sci-

ence, but they are still not higher than the average from the case law.

It has been noticed that the majority of plaintiffs in this type of proceedings are represented by lawyers who are familiar with the case law. The question arises as to the setting of the amount of the claim, which is sometimes 10 times higher than the average, especially in cases that are not specific. This is especially true when the same public figure, on several occasions in 2018 and 2019, always sets the amount of the claim at more than 12 million dinars, and the compensation awarded by final and binding judgments amounted to 100,000 in four cases and to 150,000 dinars in one case.

Out of the analyzed 294 cases, in 66 the plaintiffs filed a complaint in which the amount of the claim was 1,000,000 dinars or more. The highest claim amounting to 27,000,000 dinars was set in 2017 by one minister. By a final decision, he was awarded compensation in the amount of 150,000 dinars. The costs of the proceedings go up in such situations. The initially high claim gives the impression that such a high compensation can be expected to be awarded, although it has never been awarded in our case law, not even in the amount of one million dinars.

In the observed period, a total of 22 journalists filed lawsuits against journalists and media outlets. In four cases, their claims were rejected. The awarded amounts of damages did not deviate from the average for the minimum and the maximum. It has been noticed that no lawsuit of journalists was filed against the media outlet Alo and others and only one was filed against the media outlet Blic and others. Against the media outlet Kurir and others the lawsuit was filed by 17 journalists, and in each of them it was found that their rights were violated, and that they are entitled to damages.

The results of the performed analysis indicate that in some media outlets, informing the public is carried out without complying with the journalistic due diligence obligation. Compensation is often awarded for using the image of a wrong person to illustrate a text related to events that damage the plaintiff's reputation (involvement in drug trafficking, physical assaults, and the like). The image of a person is obtained from the Facebook account of a wrong person. The consequences are sometimes such that the dignity of the injured person is violated. The ethics of the journalistic profession is becoming increasingly questionable, and the question is increasingly frequent whether the largely harmonized case law and the amount of damages awarded give any satisfaction. Journalists are appearing as plaintiffs in an increasing number of cases, alleging that the awarded damages are unacceptably low, humiliating. Obviously, it is time for a serious analysis of whether the court, by awarding damages in the amount which can-

not constitute satisfaction, secures its purpose or enables and contributes to the increasingly unprofessional work of journalists, including ignoring and persecuting journalists who do not accept this method of work.

The costs of the proceedings should also be mentioned here. Having in mind the amount of the claims, most often aligned with the existing case law, and involving much larger amounts than the practice of our courts in a smaller number of cases, the amount of costs itself cannot be assessed as dramatically high. The amounts of the court fees are prescribed by law, and they will ultimately be borne by the party that failed in the lawsuit. They will pay the costs of the proceedings in proportion to the success in the case. Having all that in mind, the plaintiffs who set their claim in a completely unrealistic amount, regardless of the fact that they succeeded in the litigation with a small portion of the claimed amount, will bear a higher burden of costs. Defendants who contributed to the stalling of the proceedings will bear the costs incurred due to the hearings that were not held. It must also be concluded that this type of litigation is completely in the disposition of the parties, and that it cannot be concluded that the courts in any way undermined the rights of the parties by their decisions on costs.



Application of international instruments, ECtHR judgments and the Journalists' Code of Ethics of before the court in the observed period

Among more than 500 judgements that were examined, 296 first instance and second instance judgements passed in the period from 2017 to 2019 were analyzed.

For 2017, from among 101 examined decisions, the court invoked in the passed judgements the provisions of international instruments in 22 judgments. In six judgments, the court invoked the provisions of the Serbian Journalists' Code of Ethics.

In 2018, in 97 analyzed first and second instance decisions, the courts applied the ECHR in 22 judgments, while in four judgments they also invoked the provisions of the International Covenant on Civil and Political Rights. In that year, the court only invoked the provisions of the Serbian Journalists' Code of Ethics in one judgement.

In 2019, out of 98 analyzed decisions, the court applied the provisions of the ECHR in 24 judgments, while in eight judgments the court also relied on the Code.

In several judgments, the court relied on standards referred to in judgments of the European Court of Human Rights (ECtHR). The most commonly used quotations were from the decisions in *Handyside v. the United Kingdom*, Application No. 5493/72 of 7 December 1976 paragraph 49); *Nilsen and Johnsen v. Norway*, Application no. 23118/93 of 25 November 1999 (paragraph 43); *Lingens v. Austria*, Application no. 9815/82 of 8 July 1986 (paragraph 46); *Dalban v. Romania*, application no. 28114/95 of 26 September 1999 (paragraph 50); *Van Oosterwijck v. Belgium* of 1979.

When the content of certain provisions of the Convention and applicable standards is fully implemented in national law, the application of the ECHR leads to the conclusion that the reliance is of a purely formalistic nature. On the other hand, reliance on the standards and ECtHR judgments setting them is definitely a better method to ensure the protection of rights in certain situations.

It is necessary to carry on continuous training of judges, as well as to inform journalists and lawyers about the case law of the ECtHR and how it should be used before the court.

Extraordinary legal remedies

The LPIM, as a separate law from the LCP, regulates differently the issue of admissibility of revision as an extraordinary legal remedy, time limits for the submission of revision and the types of dispute in which revision cannot be filed.²⁴

Authorized persons filed 19 revisions against the final court decision in the second instance in media disputes in 2017, in 2018 there were 18 cases opened upon revision, while in 2019 this was done in 15 cases.²⁵

Certain decisions of the Supreme Court of Cassation (SCC) were analyzed, as they are of great importance due to the jurisdiction of the highest-instance court in relation to the harmonization of the case law. The judgments set out legal positions on key legal issues.

The judgment of the Supreme Court of Cassation reversed the second instance decision, which partially granted the plaintiff's claim, in that the first instance decision rejecting the plaintiff's claim for damages was upheld, related to the allegation that the defendant violated the plaintiff's honor and reputation by publishing the text. The defendant relayed the information published in a magazine on his internet portal. The paragraph referring to the plaintiff was marked with quotation marks and it was indicated that it had been taken over. Precisely for

²⁴ Article 126 of the LPIM

²⁵ Report of the Supreme Court of Cassation II Su 17 83/20 of 15 September 2020

these reasons, the SCC found that the defendant was not responsible for the damage caused.²⁶

In another judgment, the SCC reversed the second instance judgment rejecting the claim and partially granted it with respect to compensation of non-pecuniary damage caused by violation of reputation and honor. It has found that the impugned judgment erred in the application of substantive law. Referring to Article 10 of the ECHR and the numerous ECtHR decisions concerning the application of the said article, that “journalists must systematically and formally distance themselves from other people’s allegations that could insult or provoke others or hurt their reputation, as the role of the press is to provide truthful information about current events, opinions and ideas. If media outlets in whichever manner join someone else’s allegation by accepting it as their own, it will be considered that the allegation was published as their own.” The Court finds that the authentic transmission of unacceptable information does not in itself justify its publication.²⁷ Different conclusions in similar situations do not provide good protection be it for plaintiffs, media outlets or journalists.

In its judgments, the court consistently provides protection to journalists in situations where there is a justified interest to inform the general public, and where the journalist acts with due care, while abiding by the rules of the profession. Thus, the court says “that the presumption of innocence of the plaintiffs is not violated where they have not been designated as perpetrators of a punishable act; instead, a true statement has made that they disposed of an apartment which is a legacy and hence its disposal is prohibited... This was provision of information about a legitimate topic”.²⁸ In the judgement passed on a professors’ lawsuit for violation of reputation and honor, the SCC denied the plaintiffs’ request for revision, invoking the ECHR and citing a number of ECtHR judgments concerning the issue of freedom of expression. The court has concluded that “the plaintiffs worked in a public institution, a school, which is financed from the state budget and whose core activity is education and upbringing of young people.” The journalist dealt with the question of how the plaintiffs could have influenced the educational process. The aim of the writing was to draw the attention of the general public to an issue of public importance ... so imposing an obligation to pay damages”²⁹ would constitute a restriction on freedom of expression necessary in a democratic society.

Deciding on the request for revision by a politician, an adviser to the President, the SCC has concluded that “in the case in hand, there

²⁶ SCC Judgement Rev.2163/2017 of 24 January 2018

²⁷ SCC Judgement Rev.4510/2018 of 18 September 2019

²⁸ SCC Judgement Rev. 2347/2017 of 06 June 2017

²⁹ SCC Judgement Rev. 466/2017 of 21 September 2017

was a conflict between the right to freedom of expression, i.e., freedom of the media, on the one hand, and the right to protection of reputation and honor through the compensation for non-pecuniary damage, on the other.” Having in mind that the plaintiff is a public figure, he must have a higher threshold of tolerance for media attention, especially when the published information refers to his work as an advisor to the president ..., rather than to his private life“. The Court has further concluded that the balance between the right to freedom of expression, i.e., freedom of the media and the right to protection of reputation and honor, is assessed on a case-by-case basis while providing relevant reasons.³⁰

In the judgement passed on the lawsuit of a well-known showbiz personality, the SCC held that the plaintiff, as a well-known public figure, present in the media in sections concerning private life, must be more tolerant of newspaper texts than an anonymous person. And the facts that were presented were not incorrect.³¹ The SCC has concluded that even when a newspaper editor sues another editor, journalist and publisher, claiming that an article was published in which facts were presented that violated his honor and reputation, the court concludes that the presented facts are not suitable for that, and that there is a justified interest of the public to be informed about the presented facts, so that in such a situation the requirements for compensation are not met.³²

Similarly, in the case where a journalist checked before publishing the information containing data on a certain event, phenomenon or person its origin, truthfulness and completeness with due care in the given circumstances, and in his writing makes a value judgment formed on the basis of truthful statements, there is no violation of the right to honor and reputation, which makes the claim unfounded.³³

In the judgement, the SCC also ruled on the issue of the defendant's standing, for whom the plaintiff failed to prove that the online edition belonged to a certain person. She wrongly indicated the print media outlet and its online edition in which the disputed text was published, so the lawsuit was duly rejected.³⁴

The first instance decision put the editor-in-chief under an obligation to publish the plaintiff's answer. The second instance court reversed the decision and rejected this request of the plaintiff. Deciding on the plaintiff's request for revision, the SCC concluded that the allegations in the answer did not represent a statement of facts, but the

³⁰ SCC Judgement Rev 2128/2016 of 09 September 2017

³¹ SCC Judgement Rev 1596/2017 of 02 November 2017

³² SCC Judgement Rev 2428/2017 of 06 June 2018

³³ SCC Judgement Rev 1380/2016 of 19 October 2017

³⁴ SCC Judgement Rev 2425/2017 of 24 May 2018

plaintiff's opinion, i.e., his conclusion on the editor-in-chief's actions in the specific case and did not refer to the disputed information to which the plaintiff wanted to respond. Therefore, the revision of the second instance decision was rejected.³⁵

During a break in a recording session, the famous showbiz personality was photographed by a photographer, and then the journalist published a photo of her phone as an illustration of the text about what she was doing during the recording session break. One of the three published photos shows a list of calls on the plaintiff's phone with the name and surname of the person she called. Neither the photographer nor the journalist asked for consent to publish the photo of the phone. The first instance court granted the claim for compensation of non-pecuniary damage due to the violation of the right to privacy. Deciding on the defendants' appeal, the court reversed the judgement and rejected the claim. It found that the plaintiff had not proved the existence of the damage because she had not suffered mental anguish of such intensity. Deciding on the plaintiff's request for revision, the court invoked the ECtHR judgment, which defines privacy, i.e., private life, stating that it is the right of individual to live as they want protected from the public. The SCC finds that there has been invasion of privacy, which leads to a violation of the rights of the individual, and thus to the right to non-pecuniary damage.³⁶

The SCC has also taken a stand on the responsibility with respect to the truthfulness of the published information, when the plaintiff has not proven during the proceedings that the information is such that it can be a basis for awarding compensation for non-pecuniary damage. The court has concluded: "Whether the truthfulness of the information has been checked with sufficient care is analyzed in the context of reasonable measures and means available to the journalist." The duty of verification does not mean that publication is only allowed if the journalist has gained full certainty regarding the truthfulness; hence, journalists are not required to establish the truthfulness of facts as in court proceedings (congruence with reality and elimination of any reasonable doubt), and for freedom of expression and publication of factual statements it is not necessary to have evidence of their absolute truth, but it is enough to freely express and publish the information after it has been previously verified in an appropriate manner."³⁷

It can be observed that the SCC protects the right to freedom of speech, as well as that it protects the right to privacy through its decisions. In addition to the ECHR, it occasionally uses in its decisions the case law of the ECtHR which has established standards in relation

³⁵ SCC Judgement Rev 2679/2018 of 16 May 2018

³⁶ SCC Judgement Rev 1903/2016 of 01 March 2017

³⁷ SCC Judgement Rev 837/2019 of 04 April 2019.

to Article 10 of the ECHR. It must be concluded that the SCC as often as not issues decisions on reversals which harmonize and align case law where law has not been properly applied to the established facts in the case. There is no time limit for the duration of the proceedings before the SCC, be it a special or general proceeding. The proceedings are relatively short and the length of the proceedings is determined mainly by the personal efficiency of the judge and their individually set time limits.

Recommendations

The results of the analysis reveal that certain measures could greatly improve the protection of citizens, journalists and the media:

Keep the jurisdiction over media disputes in a single court in Serbia, but set up a special department in which specialized judges will adjudicate, who have obtained a license, which needs to be regulated by the LPIM. According to the same principle, it is necessary to set up specialized panels in the second instance court. This will ensure both better quality of the protection of citizens' rights and efficiency in handling this type of litigation.

Provide ongoing training on media lawsuits for judges, attorneys and journalists through relevant institutions.

Provide the required number of judges and employees in the supporting court services, in order to ensure compliance with statutory time limits.

Ensure the implementation of legal provisions governing the use of e-mails, which will ensure compliance with the prescribed time limits in media cases.

The amount of awarded damages must also depend on the frequency and recurrence of violations of the rights of the same defendants by the same plaintiff. This criterion should be enshrined in law to combat campaigns of intimidation, personal discrediting, and hate speech.

The practices for establishing violations of rights should be aligned, and the amount of damages must be in sync with each specific factual basis in order to fulfill its purpose.

In order to ensure the independence of the media, the law needs to regulate that media outlets which persistently violate journalistic due diligence and the journalists' code of ethics cannot be given access to budget allocations for the co-financing of projects.

Amend Article 104 of the LPIM so that the provision governing the possibility of pronouncing an interim measure can be applied ex officio in cases involving evident recurrence of a violation of rights between the same parties (repetitive proceedings).

CRIMINAL LEGAL PROTECTION OF JOURNALISTS AND MEDIA WORKERS



The methodology for conducting an analysis in the field of criminal legal protection of journalists and media professionals in Serbia comprised the collection, processing and analysis of data on cases before the Serbian judicial bodies (prosecutor's offices and courts) for criminal offenses committed against journalists in the period from 1 January 2017 to end-December 2020.

For the purpose of determining how the safety of journalists is protected before the judicial bodies, the research initially focused on collecting data on the number and type of reported cases of attacks and threats against journalists (records of media associations, the police and public prosecutor's offices), the number and type of cases investigated, and the number and type of cases that have been concluded before the competent courts by virtue of final and binding judgments. We were particularly interested in the speed (efficiency) and outcomes of court proceedings (penal policy) for criminal offenses committed against journalists and media workers.

The Criminal Code of the Republic of Serbia³⁸ provides for occupations of public importance which are understood to refer to professions or duties that carry a higher risk to the safety of the person performing them and include, *inter alia*, occupations of importance to public information.³⁹

To persons performing an occupation of public importance in the field of information special protection is provided in relation to the tasks they perform for three criminal offenses laid down by the Criminal Code (aggravated murder,⁴⁰ serious bodily harm⁴¹ and endangerment of safety⁴²). Still, there is a general consensus among the professional public that other criminal offenses are also relevant to the protection of journalists in the context of increased security risks that journalists face in practice in relation to the job they perform. However, in these cases, the fact that someone performs work of public importance in the field of information has not been taken into account for a more serious qualification of a criminal offense, and journalists enjoy the same legal protection as all other citizens who do not perform jobs of public importance.

A broad list of criminal offenses was initially selected for monitoring, which were identified based on currently available data, analyses⁴³ and research⁴⁴, as well as data from the Standing Working Group on

³⁸ Criminal Code of the Republic of Serbia, RS Official Gazette, nos. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019

³⁹ Criminal Code of the Republic of Serbia, Meaning of Terms for the Purposes of this Code, Article 112, paragraph 32

⁴⁰ Criminal Code of the Republic of Serbia, Aggravated Murder, Article 114, paragraph 1, item 8

⁴¹ Criminal Code of the Republic of Serbia, Serious Bodily Harm, Article 121, paragraph 6

⁴² Criminal Code of the Republic of Serbia, Endangerment of Safety, Article 138, paragraph 3

⁴³ Criminal offenses identified in the SWG analysis, available at: Critical Points in the System of Safety of Journalists, Slavko Ćuruvija Foundation, <https://www.slavkocuruvijafondacija.rs/wp-content/uploads/2014/01/SCF-Kriticne-tacke-u-sistemu-zastite-novinara.pdf>

⁴⁴ Criminal offenses identified in: Analysis of the Effectiveness of Criminal Legal Protection of Journalists in Serbia, Organization for Security and Cooperation in Europe, Mission to Serbia, Online Media Association, Belgrade, April 2018, pp. 27 and 28.

the Safety of Journalists (SWG), established in late 2016 pursuant to the Agreement on Cooperation and Measures to Increase the Safety of Journalists, whose members are representatives of the Ministry of the Interior (MoI), the Republic Public Prosecutor's Office (RPPO) and relevant journalists associations.

The methodology included monitoring the following criminal offenses in the Serbian judicial system, where they were committed against journalists:

- Article 121, paragraph 6 – Serious Bodily Harm where the offense has been committed against a person performing an occupation of public importance in connection with the tasks they perform;
- Article 138, paragraph – Endangerment of Safety where the offense has been committed against a person performing an occupation of importance to public information in connection with the tasks they perform;
- Article 138a of the CC – Stalking;
- Article 142 of the CC – Violation of Privacy of Letter and other Mail;
- Article 143 of the CC – Unauthorized Wiretapping and Recording;
- Article 144 of the CC – Unauthorized Photographing;
- Article 145 of the CC – Unauthorized Publication and Presentation of another's Texts, Portraits and Recordings;
- Article 146 of the CC – Unauthorized Collection of Personal Data;
- Article 148 of the CC – Violation of Freedom of Speech and Public Appearance;
- Article 149 of the CC – Prevention of Printing and Distribution of Printed Material and Broadcasting;
- Article 204 – Aggravated/Compound Larceny;
- Article 278 – Causing of General Danger;
- Article 299 of the CC – Computer Sabotage;
- Article 302 – Unauthorized Access to Computer, Computer Network or Electronic Data Processing;
- Article 303 – Preventing or Restricting Access to Public Computer Network;
- Article 344 – Violent Behavior;
- Article 344a – Violent Behavior during Sports Event or Public Gathering;
- Article 387 – Racial and Other Discrimination;

Problems were identified at the very beginning of the research, related to out-of-date records on criminal offenses committed against journalists and the lack of uniform databases facilitating the establishment of facts regarding the number of reported attacks, initiated investigations and court proceedings.

The Agreement on Cooperation and Measures to Increase the Safety of Journalists provides for the establishment of a cooperation mechanism, meaning that the signatories will designate contact points for cases involving criminal offenses to which journalists may be exposed, and that the parties to the Agreement will keep records on criminal offenses committed against journalists and periodically compare the data in their possession. The Rules of Operation of the Standing Working Group on the Safety of Journalists provide for the keeping of records on criminal offenses, misdemeanors and events that have led or can lead to endangering the safety of journalists.⁴⁵

In order to determine how many cases reported to the police has resulted in an investigation, and subsequently a court proceeding (for a misdemeanor or a criminal offense), all regional police directorates (RPDs) in Serbia where contact points were designated were asked to provide data on the total number of reports to the police for acts committed against journalists, as well as data on the outcome of the filed reports.⁴⁶ The initial assumption was that a number of reported cases in which there were elements of misdemeanors received an epilogue in a misdemeanor court, however, we failed to establish how many reported cases have been prosecuted in misdemeanor proceedings, or not prosecuted at all, given that the requested data was not received from the regional police directorates.

An identical answer was sent by all regional police directorates in Serbia – *that the Ministry of the Interior does not have a document containing the requested information, and that the provision of the requested information or statistical data would imply the preparation of a new document or a statistical report, which a public authority is not under an obligation to do under the Law on Free Access to Information of Public Importance.*

Complaints about the identical answers of all regional police directorates in Serbia were filed with the Commissioner for Information of Public Importance, and these procedures are still ongoing. The complaints were filed based on fact that the police keep records containing the requested data, as prescribed by the Law on Record-keeping and Data Processing in Internal Affairs⁴⁷. Furthermore, the Action Plan of

⁴⁵ Article 19 of the Rules of Operation of the Standing Working Group on the Safety of Journalists

⁴⁶ Law on Free Access to Information of Public Importance, RS Official Gazette, no. 120/2004, 54/2007, 104/2009 and 36/2010

⁴⁷ Law on Record-keeping and Data Processing in Internal Affairs, RS Official Gazette, no. 24/2018

the Standing Working Group on the Safety of Journalists sets forth that the MoI is to maintain a single Criminal Register for all criminal offenses prosecuted ex officio and an Auxiliary Register for offenses prosecuted on private criminal charges. According to the Action Plan, it should be possible to obtain data on criminal offenses committed against journalists from these two registers at any given point in time. Under the Action Plan, media associations should express their opinions on whether there is a need for the MoI to keep separate records and whether the manner in which the records are currently kept is satisfactory.

The Republic Public Prosecutor's Office has been keeping separate records at appellate, higher and basic public prosecutor's offices on criminal offenses against journalists since early 2016, pursuant to the RPPO Instruction, which provides for the keeping of separate records and for immediate action,⁴⁸ as well as pursuant to the Cooperation Agreement concluded a year later. Representatives of the Republic Public Prosecutor's Office regularly inform the members of the Standing Working Group (by means of the periodic bulletin/newsletter) about the progress in cases and actions of public prosecutor's offices with regard to criminal offenses committed against journalists in connection with the performance of tasks in the field of public information. The records cover the period since 2016, and the newsletters are updated quarterly. The periodic bulletin was the baseline document for the analysis and collection of data on cases involving criminal offenses committed against journalists. According to the RPPO newsletter with data up until 15 December 2020, the number of active cases for the period covered by the analysis was 99.

Unlike civil cases related to the media, which are separately recorded in court registers under the designation P3, and therefore can be easily identified, criminal cases for criminal offenses against journalists do not have special designations, and it is not possible to distinguish them from other criminal proceedings before domestic courts. Therefore, the number and data on criminal proceedings concerning journalists cannot be requested directly from the courts pursuant to requests for free access to information of public importance, nor can they be looked up on the Serbian Judicial Portal.

Therefore, the Appellate Public Prosecutor's Offices were asked to provide information about progress in cases involving criminal offenses prosecuted by basic and higher public prosecutor's offices, which were committed against journalists since the beginning of 2017, given the appellate public prosecutor's offices' competence to oversee and direct basic and higher public prosecutor's offices in their territory, as

⁴⁸ Instruction of the Republic Public Prosecutor A. No. 802/15 of 22 December 2015

well as that persons who are “contact points” for the safety of journalists on the basis of the Cooperation Agreement have been designated at the appellate prosecutor’s offices. Only the Appellate Public Prosecutor’s Office in Niš fully responded to the request for access to information of public importance according to the questions asked, and only in this instance it was possible to identify court cases related to journalists as injured parties. Other prosecutor’s offices sent the records they keep, but on the basis of the submitted material, it was not possible to identify the court cases concluded by final and binding decisions. According to the data obtained in this manner, the number of cases before the public prosecutor’s offices for the monitoring period was significantly lower compared to the periodic bulletin of the Republic Public Prosecutor’s Office.

By comparing the data obtained from the RPPO with the data and databases of journalists associations and the Serbia’s Justice Portal, as well as in direct contact with journalists as injured parties and their lawyers, the research team identified 20 court cases in which journalists were the injured parties for the period from 2017 to end-October 2020, on the basis of which the relevant documentation for the analysis of the efficiency of the criminal legal protection of journalists was obtained from the competent courts: indictments, court decisions, appeals filed during the proceedings and extraordinary legal remedies.

Competences of public prosecutor’s offices in the system for criminal legal protection of journalists

The public prosecutor primarily performs the function of criminal prosecution for criminal offenses prosecuted *ex officio* by law. Under the Constitution of the Republic of Serbia⁴⁹ and the Law on Public Prosecution⁵⁰, the public prosecutor’s office is an autonomous state body that prosecutes perpetrators of criminal and other punishable offenses and takes measures to protect constitutionality and legality. The Public Prosecutor’s Office performs its function pursuant to the Constitution, the law, ratified international agreements and regulations enacted on the basis of laws.⁵¹

Similarly, in accordance with the provisions of the Law on Public Prosecution, a public prosecutor and a deputy public prosecutor may not be called to account for an opinion expressed in the performance

⁴⁹ Constitution of the Republic of Serbia, RS Official Gazette, no. 98/2006

⁵⁰ Law on Public Prosecution, RS Official Gazette, nos. 116/2008, 104/2009, 101/2010, 78/2011 – different law, 101/2011, 38/2012 – CC decision, 121/2012, 101/2013, 111/2014 – CC decision, 117/2014, 106/2015 and 63/2016 – CC decision

⁵¹ Article 156 of the RS Constitution and Article 2 of the Law on Public Prosecution

of the prosecutorial office, except in the case of the commission of a criminal offense by a public prosecutor or deputy public prosecutor.

For criminal offenses prosecuted *ex officio*, the public prosecutor is responsible for: 1) managing pre-investigation proceedings; 2) making a decision not to undertake or to defer criminal prosecution; 3) conducting an investigation; 4) concluding plea agreements and agreements on testifying; 5) bringing indictments and representing prosecution before the competent court; 6) dropping the charges; 7) lodging appeals against court decisions which are not final and binding and filing extraordinary legal remedies against final and binding court decisions; 8) undertaking other actions where specified by the code.⁵²

The organization of public prosecution rests on four principles. On the principle of monocratic organization or the principle of monopoly (the public prosecutor's office is represented by one person - the public prosecutor who is responsible for the work of the public prosecutor's office);⁵³ on the principle of *hierarchical relationship* established between prosecutor's offices of different levels (the hierarchical relationship is reflected primarily in the fact that a senior public prosecutor can issue mandatory instructions to a subordinated public prosecutor);⁵⁴ on the principle of *devolution*⁵⁵ (when a senior public prosecutor takes over the performance of an action for which a subordinated public prosecutor is otherwise competent); and on the principle of *substitution*⁵⁶, (when a senior public prosecutor authorizes a subordinated public prosecutor to perform certain actions for which another subordinated public prosecutor is otherwise responsible).⁵⁷

Under the Law on Organization and Competences of Government Authorities in Fight against High-Tech Crime⁵⁸ within the Higher Public Prosecutor's Office in Belgrade, a special department for combating cybercrime was established, i.e., a special prosecutor's office that prosecutes cases throughout the territory of Serbia.

High-tech crime is understood to mean the commission of criminal offenses in which computers, computer systems, computer networks, computer data, as well as their products in material or electronic form feature as instrumentalities.⁵⁹ Since attacks against journalists nowadays take place mainly on the Internet by using computers and social media, the Special Prosecutor's Office is particularly important in the context of the protection of journalists in the criminal justice system.

⁵² Criminal Procedure Code, RS Official Gazette, nos. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014 and 35/2019, Rights and Duties of a Public Prosecutor, Article 43

⁵³ Article 12 of the Law on Public Prosecution

⁵⁴ Articles 16 and 18 of the Law on Public Prosecution

⁵⁵ Article 19 of the Law on Public Prosecution

⁵⁶ Article 20 of the Law on Public Prosecution

⁵⁷ Criminal Procedural Law, general part, Milan Škulić, Službeni glasnik, 2006, Belgrade, p. 111

⁵⁸ Law on Organization and Competences of Government Authorities in Fight against High-Tech Crime, RS Official Gazette, nos. 61/2005 and 104/2009

⁵⁹ Article 2 of the Law on Organisation and Competences of Government Authorities in Fight against High-Tech Crime

Considering the defined responsibilities in prosecuting perpetrators of criminal offenses, as well as the institute of prosecutorial investigation⁶⁰, introduced with a view to speeding up the process of prosecuting perpetrators of criminal offenses, public prosecutors have a key role to play in the system of criminal legal protection of journalists.

Public prosecutor's offices have the exclusive authority to dismiss a criminal complaint where they have assessed that the reported act is not a criminal offense or where there are no grounds for suspicion that a criminal offense has been committed which is prosecuted *ex officio*.⁶¹

The only legal mechanism available to the injured party for reviewing such a decision of the prosecutor's office is an objection which is submitted to the immediately superior prosecutor's office. No appeal or objection is allowed against the decision of the immediately superior prosecutor's office on the injured party's objection⁶², in which manner the decision of the prosecutor's office to dismiss the criminal complaint becomes final, and the injured party is left without any legal remedy if they consider that their safety is endangered or that their other rights have been violated.

Such legal arrangement confers great powers on the public prosecutor's office, but does not provide for any measures or responsibility for wrong assessments in the cases involving endangering the safety of journalists.



Actions of public prosecutor's offices in connection with reported criminal offenses committed against journalists

The RPPO's periodic bulletin (newsletter) was the baseline document for the analysis of the prosecutors' actions in cases involving criminal offenses committed against journalists. The newsletter contains a brief overview and general data on the number of opened and resolved cases according to the type of final decision that was made. In addition to a brief overview for each year from 2016 to 2020, the bulletin also contains a list of active cases with information on the journalist who was an injured party, the initial qualification of the criminal offense, the competent prosecutor's office, steps that were taken and the current status of the case, i.e., whether the proceedings are pending before the competent prosecutor's office or the court. In addition, the RPPO prepares and presents to SWG members an annual statistical overview of cases.

⁶⁰ The institute of prosecutor-led investigations was introduced into the legal system of the Republic of Serbia by amendments to the Criminal Procedure Code in September 2011, and its implementation started in October 2013.

⁶¹ Article 284 of the CPC

⁶² Article 51 of the CPC

According to the Periodic Bulletin with data until 15 December 2020, in the observed period, a total of 204 criminal cases were formed in the prosecutor's offices in which journalists were injured parties in connection with the work they perform in the field of public information. Out of this number, the prosecutor's office registered 105 cases in which a final decision was made (51.47%) and 99 still active cases in which no first instance or final decision was made by the competent prosecutor's office or court (48.53%).

Year	Formed cases	Active cases	Finally resolved cases
2017	38	12	26
2018	57	21	36
2019	60	34	26
2020 (by December 15)	49	32	17
TOTAL	204	99	105
Total %	100%	48,53%	51,47%

Since 2017, there has been an increase in the number of cases opened in prosecutor's offices in connection with criminal offenses committed against journalists, with the exception of 2020.

It should be mentioned here that the RPPPO only registers those cases in its databases which have been reported to the prosecutor's office, as well as that it does not act based on the information from the media, although acting on the basis of knowledge about a case falls within the competence of the public prosecutor's office. This has particularly significant consequences in cases where there are grounds to suspect that members of the police or other public authorities actually are potential perpetrators of criminal offenses against journalists, given that journalists are required to report the case precisely to those who are potentially responsible for him.

On the other hand, there is a big difference in cases of attacks recorded by journalists associations in their database, as well as cases opened within public prosecutors' offices. The reason for that is, first of all, that not every attack or pressure on journalists includes an element of a criminal offense, as well as that journalists report attacks to the associations, rather than to institutions.

In the NUNS database⁶³ a total of 481 different attacks on journalists were recorded over the same period. The NUNS database contains the number of reported cases disaggregated by age and type of

⁶³ From 2017 to end-2020

attack (physical assaults, attacks against property, threats to property, pressure and verbal threats). In the annual *Chronicle of Attacks on Journalists*, which exist for the period from 2014 to 2018, a part of the recorded cases has been covered at a more detailed level.⁶⁴

Attacks on journalists recorded in the NUNS database:

Year	Number of attacks	Physical assaults	Attacks against property	Threats to property	Pressure	Verbal threats
2017	92	6	2	0	62	22
2018	102	7	0	0	72	23
2019	119	11	1	0	80	27
2020	168	27	10	1	83	47
Total	481	51	13	1	297	119

Another source of information about the number of attacks on journalists is the Regional Platform for Advocating Media Freedom and Journalists' Safety⁶⁵ – a network of journalists associations and media trade unions from the Western Balkans, established in January 2016.

The categories of attacks on journalists, as well as the number of recorded cases for Serbia, on the Regional Platform are different compared to other databases on attacks against journalists. The platform classifies attacks on journalists as: threats against the lives and limbs of journalists; other threats to journalists; actual attacks on journalists; killings of journalists; threats against media outlets and organizations and attacks on media outlets and organizations. In the monitoring period, 198 cases of attacks on journalists in Serbia were recorded in the database of the Regional Platform.⁶⁶

Year	Threats against the lives and limbs of journalists	Other threats to journalists	Actual attacks on journalists	Killings of journalists	Threats against media outlets and organizations	Attacks on media outlets and organizations	Total
2017	16	7	9	0	0	0	32
2018	8	13	7	0	2	0	30
2019	23	13	12	0	3	16	67
2020	19	18	30	0	3	2	69
Total	66	51	58	0	8	18	201

⁶⁴ Available at <http://nuns.rs/about-nuns/publications/reports.html>

⁶⁵ Regional Platform for advocating media freedom and journalists' safety, available at SafeJournalists.net

⁶⁶ From 2017 to end-2020

Given the different categories of attacks on journalists on which records are kept, the available databases of journalists associations are not mutually comparable. Although these databases were not the subject of the analysis, they give the possibility to search data by year, form of violence against journalists and the outcome of the proceedings, and the search yielded data on a number court cases that were not registered by prosecutor's offices, which served to supplement the documentation and analysis of court-resolved cases.

Given the incomparability of records, the periodic bulletin prepared by the representatives of the Republic Public Prosecutor's Office for the purposes of informing the Standing Working Group on the Safety of Journalists remains the most relevant and the most comprehensive source of information on criminal legal protection of journalists. However, although the records of the prosecutor's office are the most comprehensive, the analysis found that it still has certain shortcomings, and thus there is room for improvement in order to gain a more complete picture of steps undertaken by the institutions in cases of endangering the safety of journalists in connection with the right to freedom of expression in Serbia.

The structure of criminal offenses committed against journalists

Based on the analysis of active cases handled in prosecutor's offices for the period 2017 to 2020, it has been determined that in the observed period there were no recorded cases related to the protection of safety of journalists for the following criminal offenses defined as the subject matter of the analysis: violation of privacy of letter and other mail; unauthorized wiretapping and recording; unauthorized photographing; unauthorized publication and presentation of another's texts, portraits and recordings; unauthorized collection of personal data; violation of freedom of speech and public appearance; prevention of printing and distribution of printed material and broadcasting⁶⁷; preventing or restricting access to public computer network⁶⁸; aggravated murder.⁶⁹

The largest number of active cases (75.8%) has been qualified for the criminal offense of endangerment of safety, namely for the qualified form of the criminal offense (Article 138 of the CC, para. 3). The qualified form refers to endangerment of safety of a person performing occupations of importance to public information.

⁶⁷ Articles 142–149 of the CC

⁶⁸ Article 303 of the CC

⁶⁹ Article 114 of the CC, paragraph 1, item 8 when the offense is committed against a person who performs duty in public interest related to discharge of his/her duty.

The remaining 24.2% of active cases refer to: violent behavior (Article 344 of the CC) – five cases in total; violent behavior during sports event or public gathering (Article 344a of the CC) and serious bodily harm (Article 121 of the CC) – two cases for each offense; and one case for each of the following criminal offenses: ill-treatment and torture (Article 137 of the CC); racial and other discrimination (Article 387 of the CC); instigating national, racial and religious hatred and intolerance (Article 317 of the CC); causing of general danger (Article 278 of the CC); computer sabotage (Article 299 of the CC); unauthorized access to computer, computer network or electronic data processing (Article 302 of the CC); aggravated/compound larceny (Article 204 of the CC) and fraud (Article 208 of the CC). In addition to the above, the records of active cases include four cases of threats or threats via social media and e-mails, as well as three cases of inflicting injuries and attacks during demonstrations, which have not been qualified.

The structure of criminal offenses according to the periodic bulletin of the RPPO for informing the Standing Working Group on the Safety of Journalists until 15 December 2020:

Article of the Code	Criminal offense	2017	2018	2019	2020	TOTAL
138, para. 3	Endangerment of Safety of a person performing an occupation of importance to public information	8	17	31	1	57
138	Endangerment of Safety	0	0	0	18	18
344	Violent Behavior	1	0	1	3	5
344a	Violent Behavior during Sports Event or Public Gathering	0	1	1	0	2
317	Instigating National, Racial and Religious Hatred and Intolerance	0	0	0	1	1
387	Racial and Other Discrimination	0	0	1	0	1
121	Serious Bodily Harm	1	1	0	0	2
278	Causing of General Danger	0	1	0	0	1
302	Unauthorized Access to Computer, Computer Network or Electronic Data Processing	0	1	0	0	1
204	Aggravated/Compound Larceny	1	0	0	0	1
208	Fraud	1	0	0	0	1
299	Computer Sabotage	0	0	0	1	1

Article of the Code	Criminal offense	2017	2018	2019	2020	TOTAL
137	Ill-treatment and Torture	0	0	0	1	1
unqualified	Threats	0	0	0	4	4
unqualified	Infliction of injuries and attacks during the protests	0	0	0	3	3
TOTAL		12	21	34	32	99

From the records of the prosecutor’s office on active cases, it can be observed that cases that occurred before the establishment of the Standing Working Group on the Safety of Journalists, i.e., before 2016 have not been recorded. The prosecutor’s office, for example, does not register an active case of aggravated murder⁷⁰ of Slavko Ćuruvija, which happened in 1999, for which the first instance judgement was handed down in April 2019, while in September 2020, in the appellate proceedings, the Court of Appeals quashed the first instance judgement and referred the case for a retrial. The single register of cases of criminal offenses committed against journalists should cover all active cases, regardless of when they occurred, if an investigation is ongoing or a proceeding is pending before a competent court.

Moreover, the public prosecutor’s offices do include in their records cases in which journalists are suspected or accused of committing a criminal offense related to the performance of occupations of importance to public information, and they certainly exist. As institutional pressures constitute a form of undermining the right to freedom of expression, the records of the prosecutor’s office on active cases should also be complemented with cases in which journalists are suspected of criminal offenses related to the performance of occupations of importance to public information, in order to obtain as complete a picture as possible of all potential attacks and pressures on journalists.

Prosecutor’s offices prosecuting cases involving criminal offenses committed against journalists

According to the records of active cases of public prosecutor’s offices for criminal offenses in which persons performing tasks of public importance in the field of information are injured parties, the largest number of active cases is prosecuted by the Special Prosecutor’s Of-

⁷⁰ Article 114, para.1, item 8 of the CC

office for High-Tech Crime (59 cases or 59.6%). Apart from the Special Prosecutor's Office, the largest number of active cases are prosecuted by three basic public prosecutor's offices in Belgrade (a total of 16 cases or 16.2%), of which the most by the First Basic Public Prosecutor's Office - 12 cases, of which four cases have been opened in connection with endangering the safety of journalists and media workers during the protests in Belgrade in early July 2020, staged over the announced introduction of restrictive measures by the Serbian Government related to the coronavirus pandemic.

Three active cases are pending before each of the following prosecutor's offices: the Higher Public Prosecutor's Office (HPPO) in Belgrade, the Basic Public Prosecutor's Office (BPPO) in Novi Sad and the Basic Public Prosecutor's Office in Vranje (of which two cases are pending before a separate department in Bujanovac). Two cases are pending before each of the following prosecutors' offices: the Novi Sad HPPO, the Niš BPPO and the Novi Pazar BPPO, while there is one case pending before each of the remaining nine public prosecutor's offices in Serbia.

Competent prosecutor's office	2017	2018	2019	2020	Total
Special Prosecutor's Office for High-Tech Crime	8	16	22	13	59
The First BPPO Belgrade	3	1	1	7	12
The Second BPPO Belgrade	0	2	1	0	3
The Third BPPO Belgrade	0	0	1	0	1
HPPO Belgrade	1	1	1	0	3
HPPO Novi Sad	0	0	1	1	2
HPPO Sremska Mitrovica	0	0	0	1	1
BPPO Novi Sad	0	0	0	3	3
BPPO Zaječar	0	0	1	0	1
BPPO Vranje	0	0	1	2	3
BPPO Niš	0	0	1	1	2
BPPO Subotica	0	0	1	0	1
BPPO Aleksinac	0	0	1	0	1
BPPO Obrenovac	0	0	1	0	1
BPPO Loznica	0	1	0	0	1
BPPO Novi Pazar	0	0	1	1	2

Competent prosecutor's office	2017	2018	2019	2020	Total
BPPO Prijepolje	0	0	0	1	1
BPPO Kikinda	0	0	0	1	1
BPPO Kruševac	0	0	0	1	1
Total	12	21	34	32	99

The number of ongoing proceedings before the Special Prosecutor's Office, given its competences, indicates the manner of commission or the means used to commit the offense. It is clear that the Internet and social media have become a virtual arena where the largest number of cases of endangering the safety of journalists take place. This prosecutor's office has the biggest caseload when it comes to criminal offenses committed against journalists. On the other hand, most of the cases of this prosecutor's office have been concluded by final and binding court decisions.

Considering that the Special Prosecutor's Office for High-Tech Crime has jurisdiction throughout the territory of Serbia, as well as that it has jurisdiction to deal not only with endangering the safety of journalists but also with all other acts that can be considered cyber-crime, the question of priority in prosecution is raised, as well as of the capacity of this prosecutor's office to pay due attention to the protection of freedom of expression and safety of journalists.

Perpetrators of criminal offenses against journalists

From the point of view of protecting the safety of journalists, it is important not only to find and prosecute the actual perpetrators, but also everyone else in the chain of committing the criminal offense. Numerous recommendations of international organizations refer precisely to finding and prosecuting everyone in the chain of attacks on journalists, from actual perpetrators, to instigators, to aiders, to organizers and masterminds behind them.

In several active cases, there are serious suspicions that the order for the commission of a criminal offense was given by the highest government structures, be it the authorities at the national level (as in the case of Slavko Ćuruvija's murder, for example) or at the local level (as in the case of setting fire to the house of journalist Milan Jovanović, the injured party).

The prosecutor's office records do not contain data on perpetrators of criminal offenses against journalists (although under the RPPO

Instruction on Immediate Action of 2015, separate records of prosecutor's offices should also contain this data),⁷¹ so it is not possible to analyze the actions undertaken in relation to this aspect of criminal offenses against journalists, except in the part relating to known and unknown perpetrators.

By analyzing specific cases from the periodic bulletin regarding the progress in cases and actions of public prosecutor's offices in connection with criminal offenses committed against journalists, out of 99 active cases pending before prosecutor's offices, based on case identification in the registers of prosecutor's offices,⁷² in at least 49 cases, cases are recorded in the register for unknown perpetrators of criminal offenses (KTN register).⁷³ This means that the perpetrators in almost half of the active cases (49.5%) have not yet been identified. In 2017, except for one active case pending before the court, all others (11 in total) were registered as KTN cases, in 2018 there were 16 such cases (out of 21), in 2019 there were 15 (out of 34 active cases), and in 2020 in seven of the 32 active cases it is not known who the perpetrator of the criminal offense is.

Finally, when analyzing the actions of the prosecutor's offices, the question is also raised of the political will to prosecute perpetrators of criminal offenses against journalists: while in some cases of endangering the safety of journalists no progress has been made for years (because their perpetrators are unknown or due to the lack of other evidence), there are cases in which perpetrators are quickly found and efficiently prosecuted if the representatives of the state and members of the ruling party are injured parties on the same grounds.⁷⁴

Journalists, editorial boards and journalists associations as injured parties

There are no definitions of a journalist or professional journalist in the applicable regulations of the Republic of Serbia (with the exception of the Criminal Code which provides for three criminal offenses related to performing activities of public importance in the field of information), and in practice there is a dilemma as to who has the right to legal protection as a journalist or who has the right to protection of

⁷¹ Instruction of the Republic Public Prosecutor A. No. 802/15 of 22 December 2015. In late December 2020, the RPPO issued a new General Mandatory Instruction on Increasing the Safety of Journalists, which specifies deadlines, provides for novelties and immediate action in dealing with cases of endangering the safety of journalists, as well as disciplinary liability for prosecutors who do not adhere to the Instruction.

⁷² Rules on Administration in Public Prosecutor's Offices, RS Official Gazette, nos. 110/2009, 87/2010, 5/2012, 54/2017, 14/2018 and 57/2019

⁷³ Article 136 of the Rules on Administration in Public Prosecutor's Offices, types of registers

⁷⁴ <https://nova.rs/vesti/politika/pritvorena-zbog-tvita-o-vucicu-lezala-na-podu-i-trpela-glad/and> <https://nova.rs/vesti/hronika/tuzilastvo-trazi-11-meseci-zatvora-zbog-pretnji-vucicu/>

<https://nova.rs/vesti/hronika/hapsili-ga-i-pretresli-pred-decom-zbog-statusa-na-fejsbuku/>
<https://nova.rs/vesti/hronika/uhapsen-osumnjiceni-zbog-pretnji-vladimiru-ukanovicu/>

journalistic sources. This kind of dilemma, however, should not exist, given that the numerous recommendations and standards of international organizations of which Serbia is a member (UN, CoE, OSCE) or to whose membership aspires (EU), emphasize that protection should be enjoyed by all those who perform public information work in the general interest. While representatives of domestic institutions believe that it is important to define “who is considered a journalist” for adequate qualification of a criminal offense, the recommendations of the international community are that the right to protection should pertain to a broader circle of persons than just journalists in the traditional sense.

The issue of defining journalists first emerged in relation to the protection of journalistic sources, and according to the recommendations made in international documents, protection should be enjoyed equally by both whistleblowers and journalistic sources. The most dramatic example in that sense in Serbia is the case of whistleblower Aleksandar Obradović from Valjevo, who blew the whistle on corruption in the arms manufacturer in that city (the “Krušik” scandal). Obradović was arrested at his workplace on suspicion of committing the criminal offense of disclosing a business secret.⁷⁵ For more than a year, the competent institutions could not determine whether he was a whistleblower that should enjoy the protection of the system under the Law on the Protection of Whistleblowers⁷⁶, which is a disincentive to any future potential whistleblower.

According to the data from the RPPO Periodic Bulletin, 99 active cases in the prosecutor’s office refer to journalists from 53 editorial boards, while in seven cases editorial boards are not known. The largest number of active cases (as well as of those that are recorded as finally resolved) is related to journalists and editorial boards of which the view prevails among the general public that they are critical of the governing structure, as well as to those who are engaged in investigative journalism. However, journalists or media outlets considered by the general public to be close to the authorities have not been spared either.

Records of active cases of prosecutor’s offices involving editorial boards and journalists as injured parties from 2017 to 15 December 2020.

⁷⁵ Article 240 of the CC

⁷⁶ Law on the Protection of Whistleblowers, RS Official Gazette, no. 128/2014

Editorial boards	Total	2020	2019	2018	2017
Active cases	99	32	34	21	12
Electronic media					
N1	6	2	3		1
TV Prva	5		1	3	1
Studio B	2		1	1	
RTS	1	1			
Radio O21	1	1			
Radio DIR	1	1			
TV Šabac	1		1		
TV Nova S	2	1	1		
RTV Vojvodina	2	1	1		
RTV Pink	2			1	1
Adria News	1			1	
TV B-92	1			1	
Print media					
Vreme	1	1			
NIN	1	1			
Blic	1	1			
Optimist	1	1			
Informer	1				1
Srpski telegraf	3		2	1	
Kurir	2		2		
Večernje novosti	2		2		
Bazar	1		1		
Alo dnevne novine	1		1		
Tabloid	1		1		
Subotičke novine, Slobodna Subotica	1		1		
Politika	1				1
Online portals					
Insajder	1	1			
BIRN	2		2		

Editorial boards	Total	2020	2019	2018	2017
Active cases	99	32	34	21	12
Online portals					
KRIK	2		1		1
Voice	1		1		
Istinomer					
CINS	3	1		2	
Cenzolovka	1				1
Direktno.rs	1	1			
Telegraf.rs	1			1	
Portal Bujanovačke	1	1			
Fonline (portal na albanskom)	1	1			
PP medija (Priboj)	1	1			
Južne vesti	1	1			
In media, Brus	1	1			
Snews, Sandžak	1	1			
Glas Zaječara	1		1		
Aleksinac.net	1		1		
Infocentrala (Jagodina)	2		1	1	
Lozničke novosti	1			1	
Magločistač (Subotica)	1				1
Žig info (Grocka)	2			2	
Autonomija.info	3	1			2
PesterPress.com	1		1		
News agencies					
Beta	5	1		4	
Anadolija	1				1
Associations of journalists and media					
NDNV - Independent Journalists' Association of Vojvodina	12	3	7	1	1
UNS	1	1			
NUNS	1			1	
Nepoznato	7	6	1		

When it comes to electronic media, 25 reported criminal offenses are related to 12 editorial boards and 31 different journalists and media workers. The largest number of cases was recorded against journalists of N1 Television, where continuity in the attacks can be noticed, as well as in the case of TV "Prva", while noting that none of the journalists/presenters who were the injured parties no longer works for that television.

When it comes to the print media, 13 editorial boards and 19 journalists are represented, who were injured parties in a total of 17 criminal offenses. Almost half of the reported offenses in this category refers to journalists of daily newspapers who often violate the Serbian Journalists' Code of Ethics⁷⁷, while noting that criminal offenses against them are generally not repeated, i.e., injured parties are different people.

When it comes to portals (a total of 30 criminal offenses against 32 journalists as injured parties from 23 media outlets), journalists of local portals are injured parties in most of the cases (14 media outlets and 19 journalists), as well as of independent media outlets engaged in investigative journalism and with a critical attitude towards irregularities in the system (seven media outlets and 11 journalists). Most of the persons against whom criminal offenses are repeated are in this category.

In the remaining 27 cases of reported criminal offenses, 24 representatives of local and foreign news agencies, as well as members of journalists associations, were the injured parties, while in seven cases editorial boards were unknown. In this category, the largest number of filed criminal reports is for criminal offenses against members of the Independent Journalists' Association of Vojvodina (a total of 12 reports).

Eight journalists reported at least two criminal offenses committed against them, and against only one journalist, a member of the Independent Journalists' Association of Vojvodina (NDNV), eight active cases were registered. This is an indication of systemic attacks against them, which should be taken into account when assessing risks to their safety.

Journalists from local communities are especially under threat, of which the national level is not sufficiently aware, except for the most dramatic cases, such as the case of setting on fire the house of local journalist Milan Jovanović. However, even in these cases, all the pressures used to exhaust local journalists and editorial boards remain insufficiently visible to the general public. In addition to the fact that the injured parties (the journalist and his wife) are experiencing secondary victimization in the court proceedings, after initiating criminal proceedings for the causing of general danger, one of the defendants, former President of the Municipality of Grocka Dragoljub Simonović, initiated 16 court proceedings against the local editorial board for

⁷⁷ <https://savetzastampu.rs/monitoring/>

which the journalist who is an injured party writes (*Žig info*). The editor of that portal had himself been a victim of the criminal offense of serious bodily harm a month before the journalist's house was set on fire, but the criminal complaint against the suspect for this criminal offense were dismissed. The case was entered into the records of unknown perpetrators pending the identification and conduct of further evidentiary actions.

If the violation of the right to freedom of expression was understood in the broadest context, the data and records should include, in accordance with international documents, cases concerning whistleblowers in accordance with the Law on the Protection of Whistleblowers, whether whistleblowers and journalistic sources appear as injured parties or as perpetrators of criminal offenses in relation to activities of importance to public information.

Outcome of the proceedings according to the prosecutorial records

After a general overview of the cases recorded by the prosecutor's office as finalized, it can be said that, from the standpoint of the prosecutor's office, the success has been mixed. Slightly more than half of the cases in the observed period (51.47%) are registered as finally resolved. However, the largest number of cases were not resolved by virtue of a court decision, but rather by virtue of a prosecutor's decision, be it by dismissing a criminal report, drafting an official memorandum on the absence of grounds to initiate criminal proceedings or the application of the institute of deferred criminal prosecution. **Over 76% of the finally resolved cases in the mentioned period were resolved by virtue of a decision by the prosecutor's office.**

The number (and the share) of cases resolved before the prosecutor's offices certainly goes up after adding to it final and binding judgments based on plea agreements concluded between the prosecutor's office and the defendant and accepted by the court by virtue of a judgement. There were nine such judgements during the monitoring period, which we were able to review, **accounting for about 43% of cases concluded in courts.**

Based on the most recent RPPO Periodic Bulletin, containing data until 15 December 2020, prosecutor's offices have recorded 21 cases resolved in courts⁷⁸ (18 convictions and three acquittals), which include convictions based on plea agreements. Thus, 20% of all finally resolved

⁷⁸ The most recent newsletter of the prosecutor's office dated 31 December 2020 contains data until 15 December 2020 and reports about 21 cases concluded before the courts by final and binding decisions. The subject of the analysis of the court cases concluded by final and binding decisions were 20 court judgments obtained by the research team until the end of October 2020, while the judgments rendered after October will be analyzed during the next stage of the project implementation.

cases involving criminal offenses committed against journalists were concluded in court proceedings (with 17% of convictions and 3% of acquittals), which together account for about **10% of the total number of cases, i.e., one in ten reported cases is concluded by a court decision.**

A number of cases (3.8%) were resolved in a different manner - by courts dismissing the charging document of the prosecutor's office (e.g. due to the perpetrator's mental illness) or by transferring criminal prosecution to the competent authorities of another state within the procedure for mutual legal assistance in criminal matters.

Finally resolved cases until 15 December 2020 according to the RPPO periodic bulletin:

Year	Finally resolved cases	Convictions	Acquittals	Application of the institute of deferred criminal prosecution	Prosecutor's decision ⁷⁹	Resolved in a different manner
2017	26	2	1	3	18	2 ⁸⁰
2018	36	5	1	3	25 ⁸¹	2 ⁸²
2019	26	8	1	1	16	0
2020	17	3	0	0	14	0
TOTAL	105	18	3	7	73	4
Total %	100%	17,14%	2,86%	6,67%	69,52%	3,81%

Out of 99 active cases at the Prosecutor's offices, in 8 cases (8%) proceedings are ongoing before the court (one case in each of the following years: 2017, 2018 and 2020, and five cases in 2019).

The above data clearly indicate that, in the largest number of cases, reports of attacks on journalists end up with the dismissal of criminal complaint by the prosecutor (about 70% of all reports).

If a journalist files a criminal complaint with the prosecutor's office due to the existence of grounds for suspicion that a criminal offense was committed against him/her, for which prosecution is undertaken *ex officio*, and the prosecutor's office considers that it is not such an act, it will dismiss such criminal complaint. The only legal mechanism available to the injured party to have such a decision of the prosecutor reviewed is an objection which is submitted to the immediately supe-

⁷⁹ Dismissing a criminal report, drafting an official note on the absence of grounds to initiate criminal proceedings.

⁸⁰ In one case court dismissed the indictment of the prosecutor's office due to the perpetrator's mental illness and in another case criminal prosecution have been transferred to the competent authorities of another state within the procedure for mutual legal assistance in criminal matters.

⁸¹ In one case criminal charges were dismissed, but a request to initiate misdemeanor proceedings was filed.

⁸² In both cases, the court rejected the prosecution's indictment.

rior prosecutor's office. However, the existing system of organization and the hierarchical control mechanism do not guarantee the objectivity of prosecutors in deciding on an objection against a decision of a subordinated public prosecutor dismissing a criminal complaint. In most cases, the superior public prosecutor's offices confirm the decisions of the first instance prosecutor's offices on the dismissal of criminal reports.

One of the examples of the dismissal of a criminal report is related to the editor and journalist of the local portal *Indija kafe* who alleged that she was stalked for several months by a member of the local motorcycle club, who is, by the way, a frequent guest at celebrations of the municipal authorities according to media reports.

By virtue of the decision of the Basic Public Prosecutor's Office the criminal report against the suspect was dismissed because there were no grounds for suspicion that a criminal offense of endangering safety was committed: "... there is no evidence that in the concrete case the suspect threatened the injured party to attack her life or limb."

The injured party filed an objection with the Higher Public Prosecutor's Office, claiming that the qualification of the offense was wrong from the beginning, that the prosecutor's office was not bound by the criminal report and that it was its obligation to determine whether there were elements of another criminal offense which is prosecuted *ex officio*. In the specific case, the prosecutor's office adhered solely to the qualification from the criminal report (endangerment of safety), while the objection indicated that it was a criminal offense of stalking. However, the Higher Public Prosecutor's Office rejected the journalist's objection as ill-founded and determined "that the Basic Public Prosecutor's Office fully and properly established the facts".

This decision of the prosecutor's office, although grounded in law (because, for example, not all the essential characteristics of the criminal offense of endangering safety have been met) raises the question of the official duty of the prosecutor's office in each case, especially considering the observed automatism in dismissing criminal reports based on previous decisions and statements of reasons of higher prosecutor's offices, as well as on the basis of previously rendered court decisions. Automatized handling improves the performance of the prosecutor's office in terms of the number of resolved cases, but raises the question of the effects of the criminal legal protection of journalists in each case, which certainly contributes to the rising distrust of journalists in reporting and the efficiency of institutions of the system in prosecuting attacks on journalists.

In order to ensure the efficient protection of the safety of journal-

ists and media workers, it is of the utmost importance that the prosecutor's office act delicately both in deciding whether or not to prosecute, and in the decision-making phase.

One in a series of cases in which the prosecutor's office failed to show vigilance is the proceeding conducted in connection with the comments sent to the journalists of the internet portal *Južne vesti*.

In the second half of December 2017, on the official Facebook page of the *Južne vesti* portal, below the text that was shared on that social media platform, one of the visitors left the following comment:

„JUŽNE VESTI is anti-Serb, mercenary pro-fascist and Bulgarian. THEY KEEP RUNNING SERBIA DOWN AND THE MORE THEY INSULT THE GOVERNMENT, THE MORE MONEY THEY GET FROM THE WEST AND FROM SOROS, ... BE CAREFUL WHEN YOU CROSS THE STREET ha ha ha, (maybe you can't distinguish between traffic-light colors) tras, tras, boom boom, tras ...”

The police were immediately informed about the above comment. In this particular case, the reaction of the body in charge was efficient - criminal charges against the person who sent the message were filed a day after the contentious comment was published. Although these are persons performing occupations of importance to public information (the editorial board of the *Južne vesti* portal), the reported person was charged with committing the criminal offense of endangerment of safety under Article 138 para. 1 of the CC (rather than para. 3). According to the statements in the criminal report, the criminal offense was committed against the then editor-in-chief of the *Južne vesti* portal. In order to verify the statements in the criminal report, the person who had sent the contentious messages was questioned. During the questioning, that person did not contest the allegation that he was the author of the message. However, he pointed out that his intention had been to express his view, and not to threaten anyone. The user of the account from which the contentious messages were sent, said that he did not know the injured party, and that he had never heard of him before the filing of the criminal report. He explained that the message was not sent to the injured party, or to any member of the editorial board of *Južne vesti*. Finally, the reported person expressed regret about everything that had happened and invoked the condition of his health rendering him incapable of endangering anyone.

A year after the criminal report was filed, the Basic Public Prosecutor's Office dismissed the report. The reason for the dismissal of the criminal report was the absence of the suspicion that the re-

ported person had committed the criminal offense he was charged with. It was also said that the mentioned person did not commit any other criminal offense for which prosecution is undertaken ex officio. The reasoning of the decision says:

The criminal offense of endangerment of safety under Article 138 para. 1 of the CC is committed by a person who has endangered the safety of a person by threatening to attack his/her life or limb or that of a person close to him. The threat has to be specific, serious, qualified, has to be related to the deprivation of life or to violation of corporal integrity and has to be individualized.

Bearing in mind that the comment left by the suspect below the text: "Budget of the City of Niš", on the official profile page of Južne vesti, on the social media channel Facebook was not specifically addressed to the editor-in-chief of Južne vesti, nor did it contain any indication of a specific person, nor was it addressed to a journalist, editor or any other specific person, that the words: "BE CAREFUL WHEN YOU CROSS THE STREET ha ha ha, (maybe you can't distinguish between traffic-light colors) tras, tras, boom boom, tras ..." do not contain a specific and qualified threat made at an individually specified person, and that the suspect himself stated that he had left the comment in order to express his view, and not to threaten anyone, I consider that there is no evidence of grounds for suspicion that the suspect has committed the criminal offense of endangerment of safety under Article 138 para. 1 of the CC or any other criminal offense which is prosecuted ex officio, so the decision has been made as presented in the operative part of the decision.

Within the statutory time limit, the injured party, the then editor-in-chief of the *Južne vesti* portal, filed an objection with the immediately superior public prosecutor's office. The objection pointed out that the prosecutor's office that handled the case erroneously and incompletely established the facts (according to the injured party's view, the threat which was made was serious, qualified and addressed to a specifically designated person, i.e., a larger number of persons). It was also pointed out that the prosecutor's office assessed the threat at issue exclusively from the point of view of the intent of the person against whom the report was filed and his inability to carry out that threat. It also pointed out that the prosecutor's office was under an obligation to hear the injured party in order to determine whether the disputed comment caused him a feeling of fear or a feeling of personal threat. The paragraph that the threat was directed at the editor-in-chief of the portal was specifically explained, since he represents that

media outlet by virtue of his function, but also at all the journalists who work at the editorial board. This is evidenced by the fact that the threat was made in the plural, on the official page of the Facebook group of the *Južne vesti* portal. Having that in mind - the fact that the plural was used in the message - the public prosecutor's office that handled the case, according to the statements in the objection, was under an obligation to examine whether the reported person had committed the most serious form of the criminal offense of endangerment of safety.

In deciding on the lodged objection, the immediately superior public prosecutor's office took the decision to reject the injured party's objection as ill-founded. That decision, among other things, states the following:

Having in mind the content of the written comment, it is hereby determined that it does not reflect a direct, specific, serious, qualified threat made against life or limb, or a threat that is objectively capable of instilling a feeling of fear or insecurity in the person being threatened, all the more so because the comment of the reported person does not refer to an individually specified person, considering that it was formulated in an abstract manner, without specifying to which person the statements in the disputed comment refer, and it follows from the suspect's defense that he does not know the Južne vesti editor-in-chief, that he had not wanted to make any threats against him personally, or any of the employees at the editorial board of Južne vesti, indicating that he was a disabled person, with health problems and that he was not objectively capable of injuring anyone and that, in this connection, the allegations made in the objection to the effect that the office handling the case, the public prosecutor's office in Nis, was supposed to hear the editor-in-chief, i.e., another person employed at the mentioned editorial board, in the capacity of the injured party, are ill-founded. Therefore, it is beyond dispute that for the existence of the criminal offense of endangerment of safety, it is necessary for the injured party to objectively understand the actions taken by the perpetrator as a threat to attack life or limb, but as in this case there was no individualization of the passive subject, the statements in the objection are consequently ill-founded.

Based on all the established facts, it can be concluded that the comment by the reported person on the official profile page of Južne vesti does not constitute a threat to the life or physical integrity of the injured party in his capacity as editor-in-chief of Južne vesti or any other employee. In this case, it was not established that the reported person intended to carry out threats and instill fear

and insecurity in an individually specified person in any way; hence, there are no characteristics in the reported actions of the criminal offense of endangerment of safety or any other criminal offense from the group of criminal offenses against rights and freedoms of man and the citizen which are prosecuted ex officio. In this regard, the controversial comment posted below the post entitled "The Budget of the City of Niš" on the official profile page of Južne vesti expresses a critical view of the reported, which due to the nature of their work the media as the means of mass communication often face, and therefore the mentioned comment cannot be considered to be a serious threat aimed at depriving of life or violating the integrity of one or more persons.

At this point, it is important to point out once again that the domestic legislation does not prescribe a legal remedy against the decision of the second instance prosecutor's office. In this regard, it is necessary to recall that there were cases in which the injured parties tried to turn to the Constitutional Court to protect their rights, however, such an attempt was unsuccessful. The Constitutional Court dismissed the constitutional complaint filed by the journalists as inadmissible, with the explanation that the *decision on the dismissal of a criminal report cannot violate or deny the rights and freedoms guaranteed by the Constitution*.⁸³

It is important to point to several problematic aspects in the actions of public prosecutor's offices. First of all, in the case in hand - and pursuant to the provisions of the Law on Organization and Competences of Government Authorities in Fight against High-Tech Crime - the Higher Public Prosecutor's Office in Belgrade, i.e., the Special Prosecutor's Office for High-Tech Crime,⁸⁴ and not the Basic Public Prosecutor's Office in Niš, which decided on the criminal report.

Then, regarding the position of the second instance prosecutor's office that in the specific case there was no *individualization of the passive subject*, it should be pointed out that a completely different conclusion is drawn from the current case law of the Supreme Court of Cassation. In accordance with this case law, the fact that the contentious comment was posted on the official Facebook page of the portal (in this case it is the portal *Južne vesti*) indicates that the contentious comment was meant for all employees of that portal, including the editor-in-chief. In a 2011 judgement, the Supreme Court of Cassation in Belgrade stated the following:

Namely, based on the description of facts of the criminal of-

⁸³ Case Ilir Gaši and others v. Dragan J Vučićević, etc.

⁸⁴ Article 3 of the Law on Organization and Competences of Government Authorities in Fight against High-Tech Crime

fense, the defendant sent a threat, the meaning of which was deprivation of life or at least bodily injury of the participants in the event concerned, as one of the members of the group advocating violence on the social network service website against a group of individuals belonging to or joining the gay population at a public gathering, and the threat was made via an electronic medium intended for the general public, i.e., which is available to every individual, in which manner a broad circle of people can find out about the threat, including the mentioned persons at whom the threat is directed, who intend to be participants in the said event scheduled for a particular day and in a particular place; hence, this threat, given the above circumstances in which it was made and could be spread out, can objectively create a feeling of anxiety, insecurity and fear for personal safety among members of that group of people who are indicated in the indictment as passive subjects and possible injured parties, in the manner that sufficiently identifies them as members of the target group against whom the threat is directed.

It is a different issue, though, whether the incriminated threat by the defendant really caused such a consequence among persons who would be participants in the event in question and whether all those persons can be identified in the case in hand, because it is a matter of proving during the criminal proceedings that the stated decisive facts exist and, in that connection, that the criminal offense which the defendant is charged exists or does not exist, and not the question of whether the characteristics of that offense exist in the facts and circumstances set forth in the description of facts in the indictment.⁸⁵

It is necessary to draw particular attention to the reasoning of the prosecutor's office in the case of *Južne vesti*, i.e., to the message which such reasoning - especially in the part "the controversial comment [...] expresses a critical view of the reported, which due to the nature of their work the media as the means of mass communication often face, and therefore the mentioned comment cannot be considered to be a serious threat aimed at depriving of life or violating the integrity of one or more persons"- disseminates with regard to future cases.

Bearing in mind all the above, it should be pointed out that it is important for the competent prosecutor's offices to carefully consider every threat and every report of a journalist *ex officio*, taking into account all the circumstances of a specific case in hand, rather than to

⁸⁵ Judgement of the Supreme Court of Cassation, Kzz 59/11 dated 31 August 2011

be guided by preconceived conclusions and prejudice court decisions.

When it comes to applying the institute of deferred criminal prosecution, the identified problems refer to the great latitude of the prosecutor in the application of this institute, as well as to the lack of judicial review in the case of deferred criminal prosecution⁸⁶. It should also be noted that, after fulfilling the obligation imposed by applying this institute, the criminal report against the perpetrator/suspect is rejected, which increases the number of cases resolved by dismissal of the criminal report.

Conclusions

Most of the reported offenses against journalists ends before the prosecutor's office, namely by dismissals of the criminal reports. Only one in ten reported cases is concluded with a final and binding court decision. Regarding dismissal of criminal charges, cases were identified in which it seems that the prosecutor's office did not consider the specific characteristics of these cases carefully enough: from determining the jurisdiction to prosecute, to the (wrong) qualification of the offense, to the statements included in the reasonings of prosecutor's decisions. The automatized actions of a prosecutor's office, which presupposes a court decision, effectively reduce the protection of injured journalists.

Significant differences that exist in the records on criminal offenses against journalists kept by the Appellate Public Prosecutor's Offices on the one hand, and the RPPO for the need of periodic bulletin of the Standing Working Group on the Safety of Journalists, on the other hand, prevent a precise assessment of the facts on the number of reported attacks, launched investigations and initiated court proceedings. Although the issue of records is not the most important one in the system of criminal legal protection of journalists in Serbia, adequate, systematic, complete and synchronized record keeping is the first necessary step in registering the number of attacks on journalists and assessing the efficiency of the protection system. Precise records are also a condition for identifying space for improvement and creation of public policies in this area (laws and bylaws, strategies, specific protection measures), which would lead to more efficient protection of journalists and media workers in Serbia.

At the same time, the obtained data indicate that the MoI does not keep separate records on reports of attacks on journalists, as well as that it does not share the data it has on the basis of the registers and the records it keeps. Such records would clearly show how many

⁸⁶ Critical Points in the System of Safety of Journalists, Slavko Ćuruvija Foundation, pp. 26-27.

cases were reported to the police and how they were handled based on examples of specific cases, i.e., whether they would be treated as misdemeanors or as criminal offenses.

Judicial proceedings for the protection of journalists

The subject of this part of the analysis includes 20 court proceedings concluded by final and binding decisions, conducted with the aim of protecting the safety of journalists and media workers in the period from 2017 to the end of October 2020. The baseline for identifying court cases was the RPPO Periodic Report for the members of the Standing Working Group on the Safety of Journalists available during the process of collecting documentation, in which 19 cases were recorded⁸⁷, as well as the list of court-resolved cases sent by the Republic Public Prosecutor's Office at the request of the research team. A careful analysis of the second mentioned document revealed that the two cases have not yet been concluded by final and binding decision, as well as that one of the mentioned cases was not conducted in order to protect the safety of journalists and media workers. Having in mind the fact that the analysis of court proceedings refers to criminal proceedings that have been concluded by final and binding judgements - the two mentioned cases were not taken into further consideration. Also, the research team concluded that the list (by mistake) includes a case that does not relate to the protection of the safety of journalists or media workers, so it was not the subject of this analysis. At the same time, in the databases of journalists associations, cases were identified which the prosecutor's office did not include into its list, i.e. did not record them.

After cross-referencing all data available until the end of October 2020, a total of 20 identified court proceedings concluded by final and binding judgements, in which journalists were the injured parties, were taken as the subject of this analysis. Those 20 proceedings concerned five different criminal offenses:

1. endangerment of safety
2. causing of general danger
3. stalking
4. violent behavior
5. instigating national, racial and religious hatred and intolerance.

A total of 13 proceedings were conducted for the criminal offense

⁸⁷ The last newsletter of the prosecutor's office dated 31 December 2020 contains data until 15 December 2020 and reports about 21 cases concluded before the courts by final and binding decisions. The subject of the analysis of the court cases concluded by final and binding decisions were 20 court judgments obtained by the research team until the end of October 2020, while the judgments rendered after October will be analyzed during the next stage of the project implementation.

of endangerment of safety, two proceedings for each of the following criminal offenses: causing of general danger, stalking and violent behavior, while one proceeding was conducted in relation to the commission of the criminal offense of inciting national, racial and religious hatred and intolerance.

Proceedings conducted for the criminal offense of endangerment of safety⁸⁸

With regard to the criminal offense of endangerment of safety, it is important to mention a few elements that are crucial for that criminal offense. By prescribing the given criminal offense, the lawmaker aimed at providing criminal legal protection of citizens' personal security. Citizens' personal security is perceived as a subjective feeling of security. The actual action of committing that criminal offense consists of the use of threat that the life and limb of a particular person or a person close to him/her will be attacked, thus endangering the safety of that person. The consequence of the act is manifested in a feeling of insecurity, regardless of whether security was objectively endangered. This implies that if the person at whom the threats were directed does not take those threats seriously, the said criminal offense will not exist. Also, it is important to note that the criminal offense in question can be committed only if there is intent aimed at undermining someone's safety.

A more serious form of the criminal offense of endangerment of safety exists in cases where one of the three qualifying circumstances has been fulfilled: that the offense was directed against several persons (at least two), that it has caused citizens' distress or other severe consequences. The criminal offense is committed against several persons when the security of a number of persons has been undermined by a *single action*. If it involves *several different actions* related to a number of persons, then it is a concurrence of criminal offenses.⁸⁹

When it comes to the second qualifying circumstance - the disturbance of citizens - it is a feeling that occurs in other people because the action performed towards the person at whom it is directed could endanger their safety as well.

⁸⁸ Article 138 of the Criminal Code (RS Official Gazette, nos. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019)

(1) Whoever endangers the safety of another by a threat of attack against the life or limb of such person or a person close to him, shall be punished with a fine or imprisonment up to one year.

(2) Whoever commits the offence specified in paragraph 1 of this Article against several persons or if the offence causes anxiety of citizens or other serious consequences, shall be punished with imprisonment of three months to three years.

(3) Whoever commits the offence specified in paragraph 1 of this Article against the Republic President, a Member of Parliament, the Prime Minister, Government members, a Constitutional Court Judge, a Judge, a Public Prosecutor and a Deputy Public Prosecutor, a lawyer, a police officer or a person performing an occupation of importance to public information, shall be punished with imprisonment of six months to five years.

⁸⁹ Commentary of the Criminal Code, second revised and updated edition, Prof. Dr. Zoran Stojanović, Službeni glasnik, 2007, Belgrade

The third and most serious form of this criminal offense exists if the endangerment of safety is committed against the President of the Republic, an MP, the Prime Minister, members of the Government, a judge of the Constitutional Court, a judge, a public prosecutor and a deputy public prosecutor, an attorney at law, a police officer and *a person performing an occupation of public importance in the field of information, in relation to the tasks he/she performs* (Article 138, paragraph 3).

Considering that the criminal offense of endangerment of safety has the most serious form if it was committed, among other persons, against a person performing an occupation of public importance in the field of information, it is surprising that in one of the analyzed cases, although it was the editor-in-chief of a television station (as noted in the judgement accepting the plea agreement) - the defendant was convicted of committing the criminal offense of endangerment of safety under paragraph 1 (the basic, that is, the lightest form), instead of paragraph 3 (the most serious form).

Out of a total of thirteen cases conducted in relation to the criminal offense of endangerment of safety - according to the indictment of the competent prosecutor's office, in six cases the criminal offense was directed against one person, in three against several persons, while in four cases the criminal offense of endangerment of safety (according to the statements in the indictment) was committed in concurrence with that or another criminal offense. As for the termination of court proceedings, in seven proceedings the court accepted the plea agreement,⁹⁰ in two, after the end of the main hearing, it handed down convictions,⁹¹ in one case the indictment was dismissed, in one case it was rejected, in one case a security measure of compulsory psychiatric treatment at liberty was imposed and in one case an acquittal was rendered.⁹²

Given the fact that seven out of thirteen proceedings were concluded by plea agreements, it can be said that these cases were concluded efficiently. In the case which was concluded the fastest, three days elapsed from the point at which the act was committed, i.e., the beginning of its commission, until the court judgement was rendered. In the case which was concluded the slowest, one year, seven months and four days have elapsed.

⁹⁰ The judgement by which the court accepts a plea agreement is a conviction, but it will be presented separately, as a specific form of a conviction, for the purposes associated with the informative quality of this analysis.

⁹¹ In one of these two cases, the second instance court upheld the decision of the first instance court in the proceedings upon the appeal of the public prosecutor's office, while in the second case an appeal was not filed at all.

⁹² The appeal against that judgement was filed by the basic public prosecutor's office, but the second instance court upheld the first instance court's decision.

**Criminal offense: endangerment of safety
Thirteen cases concluded by final and binding judgements**

Manner in which the criminal offense was committed	Number of cases	Conclusion of the proceedings
making threats over the Internet	7	four judgements accepting the plea agreement one conviction one decision imposing a security measure of compulsory psychiatric treatment at liberty one decision rejecting the indictment
verbal threats (made in person or over the phone)	4	one conviction one judgement accepting the plea agreement one decision rejecting the indictment one acquittal
Threats sent in a letter	1	a judgement accepting the plea agreement
Threats sent via SMS	1	a judgement accepting the plea agreement

Proceedings conducted for the criminal offense of causing of general danger⁹³

In two out of 20 cases which this analysis has examined, the indictment charged the defendants with committing the criminal offense of causing of general danger. Both cases are related to Article 278 of the Criminal Code, with the first concerning the basic form of the offense (paragraph 1), while the second concerned the qualified form (paragraph 3), since the act was committed in a place where a large number of people gathered.

The first case was concluded by the acceptance of the plea agreement, within 12 days from the date when the criminal offense was committed. Here, however, it should be noted that this is a confession of one person - an accomplice in the criminal offense. For the same act, the first instance proceeding against four more persons has been ongoing for more than 20 months.

⁹³ Article 278 of the Criminal Code

(1) Whoever by fire, flood, explosive, poison or poisonous gas, radioactive or other ionizing radiation, electric power, engine power or another generally dangerous act or generally dangerous means causes danger to life or limb of people or to property of a larger scale, shall be punished by imprisonment of six months to five years and with a fine.
 (2) The penalty referred to in paragraph 1 of this Article shall also be imposed on an official or responsible person who fails to install prescribed equipment for protection against fire, flood, explosion, poison or poisonous gas, radioactive or other ionizing radiation, electrical power or other harmful substances, or fails to maintain it in proper order, or fails to use the equipment in time of need, or generally fails to observe regulations or technical protection standards and thereby causes danger to life or limb or to property of a larger extent.
 (3) If the place of offences specified in paragraphs 1 and 2 of this Article is where a number of people are gathered, the offender shall be punished by imprisonment of one to eight years and a fine.
 (4) If a criminal offense specified in paragraph 1 of this Article is committed by using a firearm, the offender shall be punished with imprisonment of two to ten years.
 (5) If the offence specified in paragraphs 1, 3 and 4 of this Article is committed by negligence, the offender shall be punished by imprisonment of up to three years.

The second case was concluded by the imposition of the security measure of compulsory psychiatric treatment and confinement in a psychiatric institution. The proceeding was completed within one year and two days.

Criminal offense: causing of general danger Two cases concluded by final and binding judgements		
Manner in which the criminal offense was committed	Number of cases	Conclusion of the proceedings
helping the defendant to cause danger to human life and limb by fire	1	a judgement accepting the plea agreement
attacking a larger group of people with a generally dangerous means (tractor)	1	a decision imposing a security measure of compulsory psychiatric treatment and confinement in a medical institution

Proceedings conducted for the criminal offense of stalking⁹⁴

With regard to the criminal offense of stalking, in the observed period, two proceedings were concluded by final and binding decisions. In the first one, the criminal offense was committed against one person and the case was resolved by adopting a security measure of compulsory psychiatric treatment and confinement in a medical institution. In the second case, the criminal offense was committed in concurrence (two criminal offenses of stalking) and the proceeding was concluded with the acceptance of the plea agreement.

Criminal offense: Stalking Two cases concluded by final and binding judgements		
Manner in which the criminal offense was committed	Number of cases	Conclusion of the proceedings
directly, through a third party and via the means of communication	1	a decision imposing a security measure of compulsory psychiatric treatment and confinement in a medical institution
Via the means of communication	1	a judgement accepting the plea agreement

⁹⁴ Article 138a of the Criminal Code
 (1) Whoever over a certain period of time persistently:
 1) Follows another person without permission or takes other actions with the aim of getting physically closer to such person contrary to his/her will;
 2) Contrary to the will of another person attempts to establish contact with him/her directly, through a third person or through means of communication;
 3) Abuses personal data of another person or of a person close to him/her for the purpose of ordering goods or services;
 4) Threatens to assault the life, body or freedom of another person or a person close to him/her;
 5) Takes other similar actions in the manner that can considerably endanger personal life of the person vis-à-vis whom such actions are taken, shall be punished with a fine or imprisonment of up to three years.
 (2) If a danger to life, health or body of the person vis-à-vis whom the act was committed or a person close to him/her has been caused by an act specified in paragraph 1 of this Article, the perpetrator shall be punished with imprisonment of three months to five years.
 (3) If, due to an act specified in paragraph 1 of this Article, death of another person or of a person close to him/her occurred, the perpetrator shall be punished with imprisonment of one to ten years.

Proceedings conducted for the criminal offense violent behavior⁹⁵

Two proceedings conducted for the commission of the criminal offense of violent behavior have been concluded: one with an acquittal and the other with a conviction.

Criminal offense: violent behavior Two cases concluded by final and binding judgements		
Manner in which the criminal offense was committed	Number of cases	Conclusion of the proceedings
gross insult, violence, insolent and reckless behavior, with infliction of light bodily injury	1	a conviction
gross insults and violence, which significantly undermines the tranquility of	1	an acquittal

Proceeding conducted for the criminal offense instigating national, racial and religious hatred and intolerance⁹⁶

It is a proceeding conducted with respect to one person. The proceeding was concluded with a judgement finding the defendant guilty of committing the said criminal offense, given that the defendant admitted to committing the offense he was charged with at the trial.

Criminal offense: instigating national, racial and religious hatred and intolerance One case concluded by a final and binding judgement	
Manner in which the criminal offense was committed	Conclusion of the proceedings
making threats over the Internet	a conviction

⁹⁵ Article 344 of the Criminal Code

(1) Whoever by rude insults or ill-treatment of another, violence committed against another, instigating a brawl or insolent or ruthless behavior considerably undermines the tranquility of citizens or seriously violates public peace and order, shall be punished by imprisonment of up to three years. (2) If the offence specified in paragraph 1 of this Article is committed by a group or if during the commission of the offence a person sustains light bodily injury or if grave humiliation of citizens results, the offender shall be punished by imprisonment of six months to five years.

⁹⁶ Article 317 of the Criminal Code

(1) Whoever instigates or exacerbates national, racial or religious hatred or intolerance among the peoples and ethnic communities living in Serbia, shall be punished by imprisonment of six months to five years. (2) If the offence specified in paragraph 1 of this Article is committed by coercion, ill-treatment, threats to security, exposure to ridicule of national, ethnic or religious symbols, damage to other persons, goods, desecration of monuments, memorials or graves, the offender shall be punished by imprisonment of one to eight years. (3) Whoever commits the offence specified in paragraphs 1 and 2 of this Article by abuse of position or authority, or if these offences result in riots, violence or other grave consequences to the co-existence of peoples, national minorities or ethnic groups living in Serbia, shall be punished for the offence specified in paragraph 1 of this Article by imprisonment of one to eight years, and for the offence specified in paragraph 2 of this Article by imprisonment of two to ten years.



Criminal sanctions (prescribed and imposed) and duration of court proceedings

With a view to presenting the relationship in which there are statutory penalties for the commission of criminal offenses (endangerment of safety, causing of general danger, stalking, violent behavior, instigating national, racial and religious hatred and intolerance) in connection with which criminal proceedings were conducted and the criminal sanctions which have been pronounced in the specific court proceedings,⁹⁷ in the text below, both segments will be explained in more detail. The analysis also includes the duration of individual proceedings, as well as proceedings that were concluded by an acquittal, a decision dismissing or rejecting the indictment.

The penalties laid down by law for these criminal offenses are as follows:

1. For the criminal offense of endangerment of safety:

The lightest form of that criminal offense is punishable by a fine or imprisonment for up to one year (for one who endangers the safety of a person by threatening to attack the life or limb of that person or a person close to him/her); a more serious form is punishable by imprisonment between three months and three years (for someone who commits the said act against several persons or if the act caused disturbance of citizens or other serious consequences); and the most serious form is punishable by imprisonment from six months to five years (for anyone who commits the act against the President of the Republic, an MP, the Prime Minister, members of the Government, a judge of the Constitutional Court, a judge, a public prosecutor and a deputy public prosecutor, an attorney at law, a police officer and **a person performing an occupation of public importance in the field of information in relation to the tasks he/she performs**).

2. For the criminal offense of causing of general danger:

A lighter form of the criminal offense is punishable by imprisonment of six months to five years and a fine (this penalty applies to anyone who, by fire, flood, explosion, poison or poison gas, radioactive or other ionizing radiation, electricity, engine power or any other generally dangerous action or generally dangerous means causes danger to the life or limb of people or to property of a larger scale); while a more serious form is punishable by imprisonment of one to eight years and a fine (this penalty refers to the one who

⁹⁷ The text will include only those forms of criminal offenses in connection with which the cases covered by this analysis were conducted, concluded by final and binding judgements.

committed the criminal offense at the place where a large number of people are gathered).

3. For the criminal offense of stalking:

The lightest form of that criminal offense is punishable by a fine or imprisonment for up to three years (the penalty refers to a person who during a certain period of time persistently and without permission follows another person or takes other actions with the aim of getting physically closer to such a person contrary to his/her will; as well as to a person who contrary to the will of another person attempts to establish contact with him/her directly, through a third person or through means of communication).

4. For the criminal offense of violent behavior:

A lighter form of that criminal offense is punishable by a prison sentence of up to three years (this penalty refers to a person who, by rude insults or ill-treatment of another, violence directed against another, instigating a brawl or insolent or ruthless behavior causes significant distress of citizens or seriously violates public peace and order); while a more serious form of that criminal offense is punishable by a prison sentence of six months to five years (this penalty is imposed if the said offense was committed by a group or if during commission of the offence a person sustains light bodily injury or if grave degradation of citizens results).

5. For the criminal offense of instigating national, racial and religious hatred and intolerance:

A lighter form of that criminal offense is punishable by a prison sentence of six months to five years is prescribed (the penalty refers to the one who instigates or exacerbates national, racial or religious hatred or intolerance among the peoples and ethnic communities living in Serbia); while a more serious form of that criminal offense is punishable by a prison sentence of one to eight years (if the criminal offense was committed by coercion, ill-treatment, compromising security, exposure to derision of national, ethnic or religious symbols, damage to other persons, goods, desecration of monuments, memorials or graves).

The sanctions imposed in the analyzed court proceedings, as well as the specific characteristics related to the commission of a particular criminal offense, are shown in the tables. Due to the protection of personal data, all personal data have been omitted from this analysis, while descriptions of the defendants' conduct and threats have been authentically conveyed from court judgments.

CRIMINAL OFFENSE: ENDANGERMENT OF SAFETY

Judgments accepting a plea agreement

Criminal sanctions imposed	Specific characteristics related to the commission of a criminal offense	Time frame in which the proceedings were concluded
<p>1. <i>Suspended sentence</i>–⁹⁸ a prison sentence of six months imposed (It was determined at the same time that the imposed sentence would not be executed if the convicted person did not commit a new criminal offense within the probation period of two years from the date when the court judgment became final and binding.)</p> <p><i>Security measure of confiscation of objects</i> (a mobile phone and a smart card)⁹⁹</p> <p><i>Security measure involving a restraining order and prohibiting communication with the injured party</i>¹⁰⁰ (The convicted women was prohibited from getting closer to the injured party than two hundred meters, as well as from further harassment and communication with him, in a period of two years from the finality of the judgement.)</p>	<p>Threats sent via SMS.</p> <p>Note: Although the proceedings were conducted for committing the criminal offense of endangering the safety of a person performing occupations of importance to public information (editor-in-chief of a television with a national frequency), the defendant was convicted of committing the criminal offense of endangering safety under paragraph 1 (the lightest form), rather than paragraph 3 (the most serious form).</p> <p>Threats made: „Listen to me (<i>the name of the journalist is then mentioned</i>) you bastard... Do I need to break your arms and legs? Do you need that? You're such a shit cunt. I'm fed up with you, it's my turn now, better look over your shoulder when you go to the morning show and when you come home ... I'm serious! Money, today.", "I'm here in front of your house and I'm waiting for you to go to work, just relax, have a good night's sleep!", "You sleep peacefully, come and take a look out the window and get some sleep until 4, then I'll do your make-up for the morning show (<i>the name of the journalist is mentioned</i>)!", "You'll get a wake-up call every couple of minutes to pee ... still (<i>the name of the journalist is mentioned</i>) you piece-of-shit scammer You'll get your make-up session in front of the house ... you can say on which eye you'd like a darker shade of blue ... so you all do scams together, after all, you piece of shit, both you and (<i>the name of another journalist is mentioned</i>) ... You want Blic to change the text, don't you, and to delete the part where the scams are mentioned, you and (<i>the name of another journalist is mentioned</i>) ... you fag piece of shit", "You're really fucking around, aren't you ??? If anyone punishes you, I will ... I swear to you, every time you go out on the street, look over your shoulder", "At 1 p.m. I'll go to see the inspector and you know what – I keep threatening you until 1 p.m., you bastard, to give you as much evidence as possible ... You'll piss blood, and you'll piss it for two minutes... “</p>	<p>Three days elapsed from the date when the criminal offense began to the date when the judgement was handed down.</p>

⁹⁸ Articles 65 and 66 of the Criminal Code

⁹⁹ Article 87 of the Criminal Code

¹⁰⁰ Article 89a of the Criminal Code

2. *Imprisonment* for a term of eight months (Three individual prison sentences of three months were previously imposed for the following criminal offenses: endangerment of safety under Article 138, paragraph 2 in conjunction with paragraph 1, endangerment of safety under Article 138, paragraph 3 in conjunction with paragraphs 1 and 2 and the criminal offense of endangerment of safety referred to in Article 138 paragraph 2 in conjunction with paragraph 1)

*Security measure of compulsory psychiatric treatment and confinement in a medical institution*¹⁰¹

(It may last longer than the imposed prison sentence. The time spent in the medical institution is included in the duration of the imposed sentence. If the time spent in the medical institution is shorter than the duration of the sentence, the court will, upon the termination of the security measure, order the convicted person to serve the remainder of the sentence or to be released on parole.)

The criminal offense was committed in a state of substantially diminished mental capacity. Threats, in the form of letters, were addressed to a number of subjects (cable television journalists, a politician and members of the political party he leads).

Threats to journalists: „Gentlemen, you live and work in our beautiful Serbia, so we Veterans ask you why you incite destruction and bloodshed. Do you have your families, do you wish them well, you would like to tear everything down and kill our children and grandchildren, and you are not aware, if the destruction starts, your building will be among the first to be blown up, and you may be left without your loved ones. The biter gets bit, he who does it will not do well and that is why we, the veterans, warn you not to play with anyone's destiny because your destiny is in our hands. We did not die in the Battle of Košare, we are ready now to give our lives for the future of our children and grandchildren. You court disaster without thinking about tomorrow because the consequences are dangerous and can be tragic, are you aware of what you are doing for you and your families and why you are denying us the right to a peaceful life. You are all falling over yourselves to spread more and more evil against the lawfully elected government, and the people wanted to vest their trust in them in the elections. You know what becomes of those who are brought up on the street, all the worst, and never a man, and you turned to the street, where you'll find the thing that you want. Warn Djilas that the Veterans will not forgive him and that we'll pay him back in the same coin, because he cannot go around and destroy what we have built and he cannot kill what he did not feed. For such acts, a punishment will follow, from which he will not recover and he'll not have time to spend all the millions he has stolen from us, decent citizens. Tell these gentlemen what's in store for them if they don't hit the BRAKES.”

A month and nineteen days passed from the date when the offense was committed to the date when the judgement was passed.

¹⁰¹ Article 81 of the Criminal Code

3. *Security measure of compulsory psychiatric treatment at liberty*¹⁰²
(It was decided that the measure would be applied at the Mental Health Institute and last as long as there was a need for treatment, but not longer than three years, provided that occasional treatment may not last longer than 15 days in continuity, or longer than two months in total. If the perpetrator fails to undergo treatment at liberty or arbitrarily leaves the treatment without justified reasons, the court will order that the measure be enforced in an appropriate medical institution or another specialized institution, and the time spent in the treatment institution will be included in the prison sentence.)

Security measure prohibiting communication with injured parties
(The duration of the said measure is one year from the legal validity of the court decision.)

Verbal threats were made over the phone, in a state of insanity. They were uttered to the father of the journalist and the president of the journalists association. Those threats applied to both of them.

Threats made: „ Is that (the name of the journalist's father is mentioned) is (*the name of the journalist is mentioned*)? your son“, „(the name of the journalist is mentioned) writes all kinds of things in the newspapers, and it's not possible to put up with it any longer, I will kill you both, it can't go on like this“, „ Is that Srba? “, „ Is that (*the name of the journalist's father is mentioned*)?“ “This is Boban, sorry for the mistake”.

Fifteen days have passed from the date when the criminal offense started to the date when the judgement was rendered.

¹⁰² Article 82 of the Criminal Code, paragraphs 3, 4, 5 and 6 of the Criminal Code

4. *Suspended sentence* - a prison sentence of one year was imposed (It has been decided that the sentence will not be executed if the convicted person does not commit a new criminal offense within three years from the date when the judgement becomes final and binding.)

Security measure of confiscation of objects (a desktop computer).

Measure involving a restraining order and prohibiting communication with the injured party (It was decided to implement the measure for three years from the date when the judgement became final and binding.)

The threats were sent via the Internet, below the text authored by the injured party, who is the editor and journalist of an Internet portal.

Threats made: „(the journalist's phone number is given) the phone number of (the name of the journalist is mentioned), address (the journalist's address is indicated)!!!”, „ this creature writes inciting texts, let's incite his whole family”, „(the phone number is indicated) the phone number belongs to (the name of the journalist is mentioned), address (the journalist's address is indicated), this shit-head is inciting people to war, just look at the comments, Serbs, Muslims and Croats are picking on each other this is ... of a man, set fire to his house”, “We'll kill your children “, as well as “I'll fuck your children and wife, you idiot (the phone number is indicated) the phone number of X, address (the journalist's address is given) “.

Three months and three days passed from the date when the criminal offense was committed to the date when the judgment was rendered.

5. *Suspended sentence* - imprisonment for a term of one year was imposed (It has been decided not to execute the sentence if the convicted person does not commit a new criminal offense within three years from the date when the judgement became final and binding.)

The threats were sent via the internet (social media platform Twitter), in relation to the text authored by the injured party, who is the editor and journalist of an Internet portal.

Threats made: „(the name of the journalist is mentioned), Come here so that I can show to you in person what is immoral when I slap your face five times, you motherfucker, who the fuck you think you are in this country?“ and “Tell him I told him he was a cunt and could suck my dick. And if I ever see him I'll beat the hell out of him. And then he'll think twice before attacking someone in the newspaper without giving that someone a chance to defend himself. Screw your non-existent journalistic ethics”

Two months and thirteen days passed from the date when the criminal offense was committed to the date when the judgement was rendered.

6. *Suspended sentence* - imprisonment for a term of one year was imposed (It is decided that the sentence will not be executed if the convicted person does not commit a new criminal offense within three years from the date when the judgement becomes final and binding.)

Security measure of confiscation of objects (a mobile phone with a SIM card in it)

Threats were sent via the internet (social media platform Twitter). The injured party is a female journalist, author and editor of several investigative television series.

Threats made: „You'd better sit at home tomorrow“, “YOU’D BETTER BE SILENT, WHORE”, “I know you don’t have that many escorts, but the tails are sticking out, because of you, there are people doing time because of you, you’re too puffed up”. After the journalist asked: “Who are you threatening?” the defendant replied: “YOU”.

Three months passed from the date when the criminal offense was committed to the date when the judgement was rendered.

7. *Imprisonment* for a term of one year

(Previously, individual prison sentences were imposed for two criminal offenses of endangerment of safety under Article 138 paragraph 3 in conjunction with paragraphs 2 and 1 of the Criminal Code, lasting six months each, and for the criminal offense of endangerment of safety under Article 138, paragraph 1 of the Criminal Code, imprisonment for a term of four months. It has been ruled that the sentence is to be carried out in that the convicted person will serving it in the premises where he lives, without the use of electronic surveillance. He must not leave those premises, except in cases prescribed by the law governing the execution of criminal sanctions. If the convicted person arbitrarily leaves the premises where he lives once for more than six hours or twice for up to six hours, the court will order that he serve the remainder of the prison sentence in a penitentiary institution.)

Measure involving a restraining order and prohibiting communication with the injured parties

(The convicted person is ordered to stay at a distance of at least one hundred meters away from the injured parties, and prohibited from further harassing the injured parties, i.e., from communicating with them, for a period of two years from the date when the judgment became final and binding.)

Security measure of confiscation of objects (a mobile phone with a SIM card in it and a tablet computer with a SIM card in it.)

Making threats over the Internet (social media platforms: *Twitter* and *Facebook*). Several different criminal offenses were committed against several persons - a journalist, an author and anchorwoman of a television show (the television show was broadcast on a television with a national frequency), as well as against one politician.

Threats made against the journalist: „The first and last name are, you boor (*the name of the journalist was mentioned*) leave Serbia, you fascist dirt or you're gonna vanish into the thin air. (the name of the journalist is mentioned)”.

Threats made against the author and anchorwoman of a television show: „(*the name of the journalist is mentioned*) Soros's spy in Serbia, isn't that a betrayal. The worst trash will be eliminated. “

One year, seven months and four days elapsed from the date the case began to the date the judgement was rendered.

A conviction

Criminal sanctions imposed

1. *Suspended sentence* - imprisonment for a term of eight months was imposed (It was determined at the same time that the imposed sentence would not be executed if the convicted person did not commit a new criminal offense within the probation period of two years from the date when the court judgment became final and binding.)

Specific characteristics related to the commission of a criminal offense

Verbal threats were made in person and directed at two persons - a journalist of the internet portal and a woman who was in her company.

Note: The defendant denied committing the criminal offense, but apologized to the injured parties at the main hearing.

Threats made: „ I'll set both you and the car on fire”

Time frame in which the proceedings were concluded

Five months and fifteen days elapsed from the date when the offense was committed to the date when the first instance judgement was handed down.

Five months and nineteen days have passed from the date when the first instance judgment was rendered to the date when the second instance court upheld the decision of the first instance court (the appeal was lodged by the competent prosecutor's office).

2. *Suspended sentence* - a single prison sentence of eight months was imposed (Previously, separate prison sentences of six months were imposed for the criminal offense of endangerment of safety under Article 138, paragraph 3 in conjunction with paragraph 1 of the Criminal Code, and a prison sentence of four months for the criminal offense of endangerment of safety under Article 138, paragraph 1 of the Criminal Code, the Court ruled at the same time that the imposed single sentence will not be executed if the accused, during the probation period of three years from the date on which the judgement became final and binding, does not commit a new criminal offense.)

Security measure of confiscation of objects (a mobile phone with a subscriber SIM card and the numbers on it, a computer case)

Making threats over the internet (the social media platform *Twitter*) against the author and anchorwoman of a television show, as well as a member of her family (her daughter).

Note: At the main hearing, the defendant confessed to the criminal offense, expressed remorse and apologized to the injured parties.

Threats made: „Don't meddle in matters concerning Bosnia or in Vučić's politics, you have a child, don't you - well, she has a pussy, doesn't she?" "Both of you should be impaled on a stake after sex, so not a word from you anymore, we'll fuck you until you die, both you and your daughter, you stupid bitch, don't you ever mention Vucic and protests again, blocking will not help."

„I know where your daughter will be tomorrow, I know where she will be on Saturday, your story is coming to an end. And as of Monday we will all be happy, when I stab a knife into her stomach, all that youth will scream in tears and pain of your sins."

From the date of the commencement of the offense to the rendering of the judgement two months and two days passed.

A decision imposing a measure of compulsory psychiatric treatment at liberty

Criminal sanctions imposed	Specific characteristics related to the commission of a criminal offense	Time frame in which the proceedings were concluded
<p><i>Security measure of compulsory psychiatric treatment at liberty</i> (It has been ruled that the measure is to be executed in an adequate medical institution. Compulsory psychiatric treatment at liberty will last as long as there is a need for treatment, but not longer than three years.)</p> <p><i>Security measure of confiscation of objects</i> (two laptops with a charger, one hard drive)</p>	<p>Threats in a state of insanity were sent via the internet (the social media platform <i>Twitter</i>) to the author and anchorwoman of a television show.</p> <p>Note: The defendant confessed to the unlawful act, as well as to the statements from the criminal report, expressed remorse and apologized to the injured party.</p> <p>Threats made: „ I'll kill you, you treacherous whore” and “Did I tell you, Chetnik bitch to report me, or I'll cut off that two-faced treacherous pig head of yours?”</p>	<p>Two months and four days passed from the date when the offense was committed to the date when the ruling was issued.</p>

CRIMINAL OFFENSE: CAUSING OF GENERAL DANGER

Judgment accepting a plea agreement

Criminal sanctions imposed	Specific characteristics related to the commission of a criminal offense	Time frame in which the proceedings were concluded
<p>Prison sentence of six months (It has been ruled that the convicted person will serve her sentence in the premises where she lives, with the use of electronic surveillance, and if she leaves the premises where she lives arbitrarily once for more than six hours or twice for up to six hours, the court will order her to serve the remainder of her prison sentence in a penitentiary.)</p> <p>Fine in the amount of 50,000 RSD (The convicted person is required to pay the fine within three months from the date on which the judgement became final and binding. If she fails to do so, the court will replace the fine with imprisonment, by ordering her to spend a day in prison for each started RSD 1,000 of the fine.)</p>	<p>Assisting in the commission of the criminal offense of causing of general danger - setting fire to the house in which the journalist and a member of his family (his wife) were.</p>	<p>Twelve days elapsed from the date on which the offense was committed to the date on which the judgement was rendered.</p>

A decision imposing a measure of compulsory psychiatric treatment and confinement in a medical institution

Criminal sanctions imposed	Specific characteristics related to the commission of a criminal offense	Time frame in which the proceedings were concluded
<i>Security measure of compulsory psychiatric treatment and confinement in a medical institution</i>	Attacking a large group of people which included a crew of a television with a national frequency by a generally dangerous means (tractor), - was performed in a state of insanity. A month and two days passed from the date when the act was committed to the date when the decision was made.	A month and two days passed from the date when the act was committed to the date when the ruling was issued.

CRIMINAL OFFENSE: STALKING

A decision imposing a measure of compulsory psychiatric treatment and confinement in a medical institution

Criminal sanctions imposed	Specific characteristics related to the commission of a criminal offense	Time frame in which the proceedings were concluded
<i>Security measure of compulsory psychiatric treatment and confinement in a medical institution</i> <i>Security measure of confiscation of objects</i> (a laptop computer and a mobile phone)	The offense was committed in a state of insanity. The defendant tried to establish contact with the injured party, a journalist of a cable television, against her will, namely directly, through a third party, by stalking her, taking other actions for the purpose of getting close to her physically and through means of communication.	Four months and fourteen days passed from the date when the offense started to the date when the ruling was issued

Judgment accepting a plea agreement

Criminal sanctions imposed	Specific characteristics related to the commission of a criminal offense	Time frame in which the proceedings were concluded
<i>Suspended sentence - a single sentence of one year</i> (Previously, separate prison sentences of seven months each were imposed for two criminal offenses of stalking. At the same time, the court ruled that the imposed single sentence will not be executed if the convicted person does not commit a new criminal offense within three years from the date when the judgement became final and binding.) <i>Security measure of confiscation of objects</i> (four mobile phones with SIM cards in them and one SD card)	Through the means of communication (the Viber application), the convicted person tried to establish contact with two female journalists of the public service, against their will, for the purpose of physical rapprochement.	Three months and three days passed from the date when the criminal offense started to the date when the judgement was rendered.

CRIMINAL OFFENSE: VIOLENT BEHAVIOUR

A conviction

Criminal sanctions imposed	Specific characteristics related to the commission of a criminal offense	Time frame in which the proceedings were concluded
<i>Imprisonment</i> for six months	<p>The convicted person grossly insulted journalists of a television with a national frequency, behaved arrogantly and insolently towards them (blocked the car of the injured parties with his vehicle), committed violence and inflicted light bodily injuries on one of them.</p> <p>Spoken insults: „What are you doing here, you can't park here” “Fuck your father, mother, you'll remember me, you don't know who you're dealing with, you came from Belgrade to strut around, you have no idea what I did in prison”, “Bastard, I'll fuck your mother, gypsies”. “You'll remember me, there'll be no one to help you”.</p> <p>The manner in which the light bodily injury was inflicted: The defendant punched one of the injured parties several times, namely first with an open, then with a closed fist in the region of the head.</p>	<p>One month and twenty-seven days elapsed from the date when the offense was committed to the date when the first instance judgement was handed down.</p> <p>Three months passed from the date when the first instance judgement was rendered to the date when the second instance judgement was rendered (the appeal was lodged by the defendant).</p> <p>Twelve days elapsed from the date when the defense counsel of the defendant filed a request for the protection of legality (an extraordinary legal remedy) to the date when the second instance court rejected the said request.</p>

CRIMINAL OFFENSE: INSTIGATING NATIONAL, RACIAL AND RELIGIOUS HATRED AND INTOLERANCE

A conviction

Criminal sanctions imposed	Specific characteristics related to the commission of a criminal offense	Time frame in which the proceedings were concluded
<p><i>Suspended sentence</i> - a prison sentence of one year and six months was imposed (It has been ruled that the sentence will not be executed if the convicted person does not commit a new criminal offense in the period of four years from the date when the judgement became final and binding.)</p> <p><i>Security measure of confiscation of objects</i> (three hard disks and a mobile phone with a SIM card in it).</p> <p><i>Security measure involving a restraining order and prohibiting communication with the injured party</i> (The said measure lasts for three years from the date when the judgment became final and binding, with the possibility to revoke it before the expiry of the period for which it was imposed if the reasons for which it was imposed cease to exist.)</p>	<p>Making threats over the internet (the social network service <i>Instagram</i>), they were posted below the photo featuring a family member of the journalist (correspondent) of a cable television.</p> <p>Note: By endangering the safety of the injured party, the defendant provoked national hatred and intolerance among the peoples that live in Serbia.</p> <p>Threats made: „Although I've never hurt a fly in my life, I've never been a person of conflict, I've absolutely and never been punished, never convicted ... and my growing life desire is to kill an Albanian?" I could even tear apart an Albanian child with my teeth, no problem. It's an unbelievable thing. And you contributed to that with your work, thank you for that. So much anger has accumulated in me over the years that it is indescribable in words. Otherwise, I have an amazing ability of self-control, and I never allow hatred to negatively affect any aspect of my life. I hope a new war will break out in Kosovo, but this time Shqiptar terrorists and occupiers will get a chance to feel all the Serbian anger, the desire for justice and freedom."</p>	<p>Five months and six days elapsed from the date when the offense was committed to the date when the judgement was handed down.</p>

PROCEEDINGS CONCLUDED WITH THE RENDERING OF ACQUITTALS AND DECISIONS REJECTING OR DISMISSING THE INDICTMENTS

An acquittal

Specific features related to the offense the defendant is charged with

The indictment charged the defendant with having committed (in direct contact with the injured party) the criminal offense of endangerment of safety under Article 138 paragraph 3 in conjunction with paragraph 1 of the CC.

According to the statements in the indictment, the defendant, being of sound mind, endangered the safety of the person who performs tasks in the field of public information in connection with the tasks he performs by threatening to attack the life and limb of that person. The prosecutor's office that handled the case proposed to the court to impose an adequate criminal sanction on the defendant, with the mandatory imposition of a security measure involving a restraining order and prohibiting communication with the injured party.

Following the evidentiary proceedings, the court acquitted him because, it found that it *was not proven* that the accused had committed the act of which he was accused.¹⁰³

The indictment charged the two accused women with the commission in co-perpetration of the criminal offense of violent behavior under Article 344, paragraph 2 in conjunction with paragraph 1 of the CC (in direct contact with the injured parties).

According to the statements in the indictment, the defendants, in a state of sanity, conscious of their act and of its unlawfulness, desirous of its commission, by grossly insulting and committing violence, more significantly undermined the tranquility of citizens and disturbed public peace and order.

The public prosecutor's office that handled the case proposed to the court to impose on each defendant a prison sentence lasting no less than five months.

Following the evidentiary proceeding, the court rendered an acquittal, due to the fact, as indicated, that it has not been proven that the accused committed the offense with which they were charged.

Time frame in which the proceedings were concluded

One year, five months and four days passed from the date when the offense was committed to the date when the first instance judgement was handed down.

From the date when the competent public prosecutor's office filed the appeal until the date when the second instance court passed the judgement upholding the first instance judgement, three months and eight days passed.

Ten months and eleven days passed from the date when the offense was committed to the date when the first instance judgement was handed down.

Eight months and nine days passed from the date when the competent public prosecutor's office filed the appeal until the date when the second instance court passed the judgement.

¹⁰³ Article 423, paragraph 1, item 2 of the Criminal Procedure Code

Decision dismissing the indictment

Specific features related to the offense the defendant is charged with

The indictment charged the defendant with committing the criminal offense of endangerment of safety under Article 138, paragraph 2 in conjunction with paragraph 1 of the CC.

According to the statements in the indictment, the defendant endangered the safety of a larger number of people (among them being a person who performs an occupation of importance to public information), by threatening to attack the life and limb of the injured parties.

The prosecutor's office that handled the case proposed to the court to sentence the defendant to imprisonment for a period of not less than six months.

The indictment was dismissed, as during the proceedings an expert examination was carried out by a permanent court expert, based on whose findings and opinion it was determined that the defendant (due to the condition of his health) was not able to follow the main hearing, or to understand certain procedural actions and their consequences and cannot independently, or with the assistance of an attorney, represent his rights and interests, i.e., that he is not able to participate in the judicial proceedings.

Time frame in which the proceedings were concluded

One year, eight months and twelve days have passed from the date on which the offense was committed to the date on which the decision was made.

Decision rejecting the indictment

Specific features related to the offense the defendant is charged with

The indictment has charged the defendant with committing the criminal offense (by making comments on the internet portal) of endangerment of safety under Article 138, paragraph 3 in conjunction with paragraph 1 of the CC, against a person performing occupations of importance to public information, and two criminal offenses (via the social channel YouTube) of ruining the reputation for racial, religious, ethnic or other affiliation under Article 174 of the CC, against two persons performing occupations of importance to public information.

The court rejected the indictment as ill-founded. It explained its decision to reject the indictment relating to two criminal offenses of ruining the reputation for racial, religious, ethnic or other affiliation under Article 174 of the CC by saying that there was insufficient evidence for justified suspicion that the defendant had committed the criminal offenses he was charged with. On the other hand, the indictment relating to the criminal offense of endangerment of safety was dismissed by the court, which invoked the fact that the actions taken by the defendant do not include the essential elements of the criminal offense he was charged with.

Note: As the present case is important for this analysis from several aspects, the effects of the court decision in this case (in the part related to the criminal offense of endangerment of safety) will be presented in more detail in the chapter entitled Conclusions.

Time frame in which the proceedings were concluded

One year and fourteen days have passed from the date on which the offense was committed to the date on which the decision was made

Based on a comparison between the legal framework and the imposed sanctions, it can be concluded that the general direction in the analyzed cases was that of imposing milder criminal sanctions. This can be seen, *inter alia*, in the fact that in eight cases suspended sentences were imposed, which are imposed on perpetrators of minor criminal offenses when the warning together with the threatened penalty can be expected to exert such influence on them that they will no longer commit criminal offenses. Likewise, the longest prison sentence that was meted out is a sentence of one year, which the convict is supposed to serve in the premises where he lives, without electronic supervision at that, for three criminal offenses of endangering safety committed in concurrence. From among the analyzed cases, in only one case a prison sentence of six months was imposed, to be served in a penitentiary. In support of the above, it is worth noting that in one appeal filed by a prosecutor's office against the decision on the penalty, it was said that the court attached too much importance to mitigating circumstances, without providing specific reasons why it assessed the facts it had considered as mitigating circumstances.

Conclusion

When it comes to judicial proceedings for the protection of the safety of journalists and media workers, it is important to pay attention to three key segments. First, the reason why resolution of these proceedings has turned out to be efficient; second, to the character of the rationale underlying some of the decisions made; third, to certain tendencies that lead to the conclusion that in domestic case law automatism has been established in making decisions on criminal sanctions, and that the inclination is towards a more lenient penal policy.

By analyzing the course of proceedings that were concluded by final and binding judgments in the observed period, it can be concluded that the efficiency of the proceedings arises from the fact that out of twenty cases, a total of nine were resolved by accepting the plea agreement. Also, three cases were resolved by the defendants admitting the commission of a criminal offense. Examples from practice unequivocally indicate that, if the defendant denies the commission of a criminal offense, the (in)efficiency of the protection of the rights of the injured party is more pronounced.

One of the cases included in this analysis, the proceeding that is directly related to the proceeding conducted for an arson attack on the house of Milan Jovanović, a journalist of the Žig info portal - testifies to that. The person who confessed to taking part in the said event - as an aider to the person who set the house on fire - concluded a plea

agreement. That agreement was accepted by the court. Based on the fact that the criminal offense was committed on 12 December 2018, and that the judgement accepting the plea agreement was handed down and made publicly twelve days later - it can be noted that the case was efficiently resolved. However, as the other persons accused of the criminal offense they were charged with as accomplices - did not confess to that offense (two persons confessed to the criminal offense they were charged with during the investigation, but changed their statement at the trial, while the third person, accused of abetting the said criminal offense, persistently denied committing that offense) - the first instance proceeding is still ongoing. At the time of the drafting of this analysis, a total of eighteen hearings were scheduled in the mentioned proceeding. Out of that number, only eleven hearings were held, while the remaining ones were postponed. In December 2020, it was two years since the house of journalist Milan Jovanović was burned down. Judging by the above, it is clear that we can hardly talk about the efficiency in resolving court proceedings when that resolution does not imply an admission of guilt by the accused.

The reasoning of the ruling rejecting the indictment of the public prosecutor's office that handled the case (involving the criminal offense of endangerment of safety) shows how problematic the arguments underlying final and binding court decisions can be per se, as well as an incentive for further actions of prosecutor's offices. More specifically, on one portal, above and below the photo of a journalist, the following messages were written (termed posts in the judgement): "[...] *There are only two ways to look at fascists, scumbags and traitors: through the sight or through the court. This time we have chosen the second way. Next time ... hm [...] We don't strike when it's dark - To be more precise, we don't need darkness for that;*)"

While the prosecutor's office assessed those words as direct threats endangering the safety of journalists, the court opted for diverting attention from endangering safety to the "dialogue" maintained between the "authors" by the writing of messages, as well as for paying attention, totally without grounds, to emoticons which were at the end of the threatening messages. The court's reasoning was the following:

In the opinion of this court, from the content of the mentioned posts it cannot be concluded that in the specific case there is a serious threat which would involve attacking the life and limb of the injured party, i.e., endangering the safety of the injured party [...] The court finds that these statements do not contain a clear and unequivocal threat that the defendant or any person will attack the life and limb of the injured party, which is an essential element of the criminal offense under Article 138 of the CC, or any specific threat that would have the character

of a serious threat. In the first of these two posts, it is obvious that what is incriminated as a threat (Next time ... hm) is conditional upon some future, as yet non-existent behavior of the injured party, so it cannot be considered a threat in the sense of this criminal offense.

The second post, made an hour and a half later at the same place, apparently builds on another person's comment, in the sense of "we don't need darkness for beatings" and does not contain a clear and explicit statement that is necessary, to the effect that a physical attack is imminent with deprivation of life or bodily injuries, i.e., it is not clear whether it is just a figure of speech, assessed in the context of the previous sentence, while bearing in mind that the posts were created in the course of a dialogue so they are primarily intended for the interlocutor, despite the fact that they are public and available to all interested persons. In addition, the two sentences in the second post are accompanied by a smiley J and a winky ;), the generally accepted benevolent emoticons, which deprives the alleged threats of any serious character and eliminates the existence of a threat as an essential element of this criminal offense.

Relativization of the (threatening) messages is particularly dangerous for at least two reasons. First of all, it makes it significantly more difficult to perform occupations of importance to public information. Then, it is also very dramatic as a "message" to the public prosecutor's office. It has been noticed that the prosecutor's offices, in deciding whether or not to prosecute, are guided by the prejudgment of court decisions. This means that they decide to conduct judicial proceedings only if their assessment is that the court will pronounce a conviction. The public prosecutor's office can (only) infer the decision of the court from the already rendered court decisions made public. Hence, one can assume that for this reason prosecutor's offices have dismissed a large number of criminal reports filed based on the existence of grounds for suspicion that the criminal offense of endangering of safety was committed. The thinking was probably that this suspicion would definitely prove unfounded before the court.

Having in mind the injured party, who in this analysis is a person who performs an occupation of importance to public information, it is important to recall how important it is that criminal charges are not dismissed on the basis of preconceived conclusions. If a prosecutor's office dismisses a criminal report, the immediately superior prosecutor's office will decide on it, based on the objection of the injured party. If that prosecutor's office, which is the case most of the times, upholds the decision of the subordinate prosecutor's office, the injured party is left without an instance where he/she could seek protection of his rights.

Finally, it is very important to also draw attention to the fact that in the analyzed judgements certain tendencies have been identified which point to the conclusion that automatic decision-making on criminal sanctions has been established in domestic case law (as evidenced, among other things, by the number of suspended sentences – in half of which the duration of the imposed prison sentence and of the probation period is identical¹⁰⁴), as well as that there is an inclination in practice towards a more lenient penal policy. For efficient criminal legal protection of media workers, it is necessary to step out of automatism and make decisions on the type and duration of criminal sanctions by taking into account specific features of each case.

RECOMMENDATIONS:

- Court records should be streamlined by introducing a special designation for criminal offenses committed against journalists, which would facilitate user-friendly searches and access to information on judicial proceedings for the protection of journalists.
- When it comes to the records kept by the MoI, the analysis points to a clear need to keep separate records on reports of attacks against journalists and media workers, given that the manner in which the records have been kept so far has not secured access to the requested data. Pursuant to the SWG Action Plan, media associations should also express their views about that.
- Records of prosecutor's offices on cases involving criminal offenses committed against journalists should include all active cases, regardless of when they occurred, if an investigation is ongoing or a proceeding is in progress before a competent court.
- As institutional pressures constitute a form of undermining the right to freedom of expression, the register of active cases of prosecutor's offices should be supplemented with cases in which journalists are suspects and defendants for criminal offenses related to the tasks of importance to public information, in order to obtain a clear picture of all potential attacks and pressures on journalists.
- Pursuant to international instruments, data and records should include cases concerning whistleblowers in accordance with the Law on the Protection of Whistleblowers, regardless of whether whistleblowers and journalistic sources appear as injured parties or as perpetrators of criminal offenses related to activities of importance to public information.

¹⁰⁴ With a prison sentence of one year and a probation period of three years being imposed

- It is necessary for the public authorities in the system for the protection of journalists to revisit the established practices in the handling of cases, as well as to consider in detail the specific circumstances of each individual case, in order to avoid automatism in handling cases - from the qualification of the offense, to the gathering of evidence and establishing all facts relevant to the adoption of proper and lawful decisions, to the statements that will be included in the reasoning of both prosecutorial decisions on dismissals of criminal reports and judicial decisions on the guilt and criminal sanctions.
- It is necessary to carry out a separate and detailed analysis of cases that are closed with dismissals of criminal reports by prosecutor's offices, and to examine the causes and consequences of such actions in order to overcome obstacles in the protection of journalists.
- Open a public discussion on expanding the legal possibilities to review the decision of a public prosecutor's office not to prosecute a case, i.e., to dismiss a criminal complaint concerning offenses prosecuted *ex officio* (in the form of a judicial review), in line with the ECtHR's assessment that the possibility to lodge an appeal with a court of law where the prosecution has decided to discontinue a criminal investigation constitutes an effective remedy.
- Separately analyze and pay special attention to the assessment of security risks in cases where journalists or editorial boards are exposed to perennial, serial or specific attacks or where there is a justified suspicion that representatives of the highest government structures and institutions are involved in criminal offenses.
- Hearings in proceedings conducted to protect journalists should be scheduled as soon as possible, in order to reduce the scope for potential abuse of generally permissible procedural powers.
- Open a discussion about the need to amend the Criminal Code, the Criminal Procedure Code and other relevant laws that would provide additional legal mechanisms for more efficient protection of journalists.¹⁰⁵
- Analyze and pay special attention to security risk assessment in cases where journalists or newsrooms are exposed to long-term, serial or specific attacks or when there is a reasonable

¹⁰⁵ In *STOICA v. ROMANIA*, the ECtHR assessed the possibility of the appeal before the courts in case the prosecutor decides to suspend the investigation as an effective remedy (Application no. 42722/02, paragraphs 105-109)

suspicion that representatives of the highest government structures and institutions are involved in criminal offenses.

- Hearings in proceedings to protect journalists should be scheduled as soon as possible, in order to reduce the scope for possible abuse of otherwise permitted procedural powers.
- Open a discussion on the need to amend the Criminal Code, the Criminal Procedure Code and other relevant laws that would provide additional legal mechanisms for more efficient protection of journalists.

**FREEDOM
OF EXPRESSION
DURING
THE STATE
OF EMERGENCY
AND
THE COVID-19
PANDEMIC**



Freedom of expression is guaranteed by the Constitution of the Republic of Serbia¹⁰⁶ and relevant international instruments.¹⁰⁷ The Constitution guarantees freedom of opinion and expression, as well as the freedom to seek, receive and impart information and ideas through speech, writing, painting or otherwise. However, this right belongs to human rights that may be restricted by law if necessary to protect the rights and reputation of others, to maintain the authority and impartiality of the judiciary and to protect public health, morals, democratic society and national security of the Republic of Serbia.¹⁰⁸

The Constitution stipulates that after the declaration of a state of emergency or war, derogations from guaranteed human and minority rights are allowed only to the extent necessary and that derogation measures cease to be valid upon the termination of a state of emergency or war.¹⁰⁹

Under the Constitution of Serbia, a state of emergency is declared by the National Assembly, during a state of emergency the National Assembly meets without any special call and may not be dissolved, and the Assembly is also the competent institution that prescribes measures resulting in the derogation from human and minority rights guaranteed by the Constitution. Only if the National Assembly is unable to meet, the decision to declare a state of emergency is made jointly by the President of the Republic, the Speaker of the National Assembly and the Prime Minister, on the same terms as the National Assembly.¹¹⁰

By virtue of the decision of the President of the Republic, the Speaker of the National Assembly and the Prime Minister of Serbia, a state of emergency was declared on 15 March 2020¹¹¹, in response to the Covid-19 epidemic. All decisions during the state of emergency, which significantly encroached on and derogated from human and minority rights, were adopted by the Government. The state of emergency was lifted by a decision of the National Assembly,¹¹² which confirmed all the decisions of the Government adopted during the state of emergency at its first session after it was convened.

The decisions of the Government adopted during the state of emergency had implications for freedom of expression, free flow of information, access to information of public importance and media freedoms. In addition to decisions being amended almost on a daily basis, which

¹⁰⁶ Constitution of the Republic of Serbia, RS Official Gazette, no. 98/2006,

¹⁰⁷ Universal Declaration of Human Rights (Article 19); International Covenant on Civil and Political Rights (Article 19), European Convention on Human Rights (Article 10)

¹⁰⁸ Constitution of the Republic of Serbia, Article 46

¹⁰⁹ Constitution of the Republic of Serbia, Article 202

¹¹⁰ Constitution of the Republic of Serbia, Article 200

¹¹¹ Decision on Declaring the State of Emergency, RS Official Gazette, no. 29 of 15 March 2020.

¹¹² The state of emergency was lifted by the Decision of the National Assembly on the Termination of the State of Emergency on 6 May 2020, RS Official Gazette, no. 65 of 6 May 2020.

created confusion and legal uncertainty among all Serbian citizens, several decisions had the most direct impact on restricting freedom of expression and access to information of public importance.

The Order Restricting and Prohibiting Movement of Individuals in the Territory of the Republic of Serbia¹¹³ imposed a ban on movement for all individuals, including media representatives, during the curfew. In the first four days following the entry into force of the Order, the movement of journalists was completely restricted, and thereafter an arrangement was introduced according to which journalists could obtain permits to work (passes/accreditations), which enabled them to perform their work unimpededly during the ban. The biggest problem was faced by freelance journalists who were granted or denied passes without a clearly defined procedure, as well as journalists at the local level, given that the method for issuing accreditations was centralized. In that process, the key role was played by journalists associations, which were taking over accreditations on behalf of their members and delivering them to the specified addresses with the help of delivery services.¹¹⁴

By the Conclusion of the Government on informing the population about the infectious disease¹¹⁵ the flow of information was limited, and the sources of information were centralized, since this conclusion stipulated that the Crisis Response Team, headed by the Prime Minister, was exclusively responsible for sharing information about the Covid-19 infection, including the persons authorized by that Team. The Conclusion provided for the possibility of applying regulations related to liability and legal consequences for the dissemination of misinformation during the state of emergency to all persons who were not authorized to provide information under the Conclusion. The Conclusion provoked significant reactions from the local¹¹⁶ and the international public, so it was repealed soon after its adoption¹¹⁷. Nevertheless, the Conclusion produced fear and self-censorship, especially among the local media. It particularly affected citizens at the local level because they could not receive timely and reliable information from local sources.

The consequence of the Conclusion was the keeping of Ana Lalić in police custody, after the publication of an article revealing the lack of protective equipment against the coronavirus in the Clinical Center of Vojvodina. A criminal complaint was filed against her for the criminal offense of causing panic and disorder under Article 343 of the

¹¹³ RS Official Gazette, nos. 34/2020, 39/2020, 40/2020, 46/2020 and 50/2020

¹¹⁴ Freedom of Expression and Media Pluralism during the State of Emergency, NUNS, available at <http://nuns.rs/about-nuns/publications/reports.html>

¹¹⁵ RS Official Gazette, no. 48/20 of 31 March 2020.

¹¹⁶ <https://www.cenzolovka.rs/drzava-i-mediji/slavko-curuvoja-fondacija-vlada-ne-sme-da-ogranicava-novinarska-is-trazivanja-kao-ni-drustveni-dijalog-o-pandemiji/> <https://www.cenzolovka.rs/drzava-i-mediji/ndnv-zakljucak-vlade-srbije-je-pokusaj-uvodjenja-cenzure-i-orvelovske-fikcije/>

¹¹⁷ <https://www.cenzolovka.rs/drzava-i-mediji/brnabic-vlada-srbije-povlaci-odluku-o-informisanju-na-molbu-predsednika/>

CC, which carries a prison sentence of six months to five years if the offense was committed through the media.¹¹⁸ After a strong reaction from media associations and the international public, the journalist was released, and criminal charges against her were dropped a month later, however, certain consequences of that act remained. Her arrest sent a strong message to all journalists and introduced general uncertainty in the field of public information - what we may or may not publish.¹¹⁹ In addition, Ana Lalić has since been the victim of smear campaigns, verbal abuse and threats (even by high-ranking officials), including a paid advertisement/campaign on various Google services. Due to her endangered safety, the editorial board of the media outlet for which she works has provided her with physical security and a panic button.¹²⁰ Commenting on the case of Ana Lalić's arrest, the Prime Minister claimed that the journalist had been arrested for spreading false news, which was contrary to the RS Constitution that stipulates that everyone is presumed innocent until found guilty by a final and binding court decision. The allegations in the text were subsequently confirmed by a member of the Crisis Response Team, Dr. Predrag Kon. The case is also important from the standpoint of the protection of journalistic sources because the suspect was asked to reveal the identity of her sources. In addition, her phone and laptop were temporarily seized, thus endangering not only the sources with whom she communicated on the topic she was writing about, but also all other sources and contacts.¹²¹

The next measure that contributed to the restriction of freedom of expression was the measure of restricting access of journalists to the Crisis Response Team's daily press conferences on the pandemic, which was in force as of April 10 for ten days, after which it was withdrawn. The Crisis Response Team's press conferences were held without the presence of journalists who were submitting questions electronically in advance, and members of the Crisis Response Team were reading the preprepared answers at conferences.

Pursuant to the RS Government Decree on the Application of Deadlines in Administrative Procedures During the State of Emergency¹²² the time limit for the responses of the public administration bodies ceased to run during the state of emergency, which prevented timely

¹¹⁸ Article 343 of the Criminal Code: (1) Whoever by disclosing or disseminating misinformation or allegations causes panic, or serious disruption of public peace and order or hinders or significantly impedes enforcing of decisions and measures of government authorities or organizations exercising public powers, shall be punished by imprisonment of three months to three years and by a fine.

(2) If the offence referred to in paragraph 1 of this Article has been committed through the media or similar means or at a public gathering, the offender shall be punished by imprisonment of six months to five years.

¹¹⁹ <https://www.cenzolovka.rs/britisci-i-napadi/za-beograd-po-vesti-centralizacija-informisanja-pogubna-po-lokalne-medije-koji-gube-svrhu-postojanja/>

¹²⁰ <https://www.cenzolovka.rs/britisci-i-napadi/ana-lalic-dodeljeni-su-mi-fizicko-obezbedjenje-i-panik-taster-nastavicu-jos-odlucnije-video/>

¹²¹ <https://lupiga.com/intervju/razgovor-s-anom-lalic-kad-su-me-priveli-provalili-su-mi-u-mobitel-ia-otkrili-izvore>

¹²² RS Government Decree on the Application of Deadlines in Administrative Procedures During the State of Emergency, RS Official Gazette, no. 41 of 24 March 2020, 43 of 27 March 2020.

access to information based on the time limits laid down by the Law on Free Access to Information of Public Importance.

Apart from the influence on the freedom of the media, the state of emergency and the measures and decisions of the Government had implications for Serbia's judicial system as well. The work of the judiciary was changed by decrees that are debatable, not only in the formal sense, due to the exclusion of the National Assembly from the process of adopting such decisions, but also substantially, since they restricted the right to a fair trial, which under the Constitution, may not be restricted even during a state of emergency.¹²³

The Decree on Deadlines in Court Proceedings During the State of Emergency¹²⁴ governs the suspension of the running of time limits in all proceedings before courts and prosecutor's offices - in civil, criminal, non-contentious and enforcement proceedings, in administrative disputes, even proceedings before the Constitutional Court. There are numerous controversies in this Decree¹²⁵, and the consequence was the cancellation of almost all previously scheduled trials.

The Decree on the manner of trial participation of the accused in criminal proceedings during the state of emergency¹²⁶ set out that in criminal proceedings before the first instance court, where the president of the panel, i.e., a single judge found that securing the presence of the accused held in detention at the trial would be difficult due to the danger of spreading a contagious disease, he/she may decide to secure the participation of the defendant in the trial by technical means for the transmission of sound and images, technical conditions permitting. Prior to the adoption of that decree, this issue had been regulated by virtue of a letter sent by the Ministry of Justice to the courts in Serbia. After the reaction of the Serbian Bar Association to the effect that the letter of the Ministry could not be a valid basis for the implementation of the proposed measures, as well as that such a measure constituted a gross violation of the right of the accused to a fair trial,¹²⁷ the Government adopted the said Decree with the co-signature of the President of the Republic of Serbia.

The Conclusion of the High Judicial Council stipulated that only trials that may not be delayed would be held during the state of emergency, while all other trials had to be postponed. The Conclusion also specified which trials may not be delayed, and they included, in addition to detention cases, criminal offenses committed during the state

¹²³ For more information see: Judiciary in the State of Emergency, Formal Suspension and Apparent Normalcy, Sofija Mandić in Tužilačka reč no. 35

¹²⁴ RS Official Gazette, no. 38/2020 of 20 March 2020

¹²⁵ For more information see: Court Proceedings during the State of Emergency - Confusion with Deadlines, Slobodan Beljanski, attorney at law and CEPRIIS Vice-President, available at <https://www.otvorenavatpravosudja.rs/teme/ustavno-pravo/sudski-postupak-u-vanrednom-stanju-pometnja-s-rokovima>

¹²⁶ RS Official Gazette, no. 49 of 1 April 2020.

¹²⁷ <https://aks.org.rs/aks/wp-content/uploads/2020/03/saop%C5%A1tenje-povodom-skype-sudjenja.pdf>

of emergency and in connection with the state of emergency, as well as acts prohibiting the distribution of the press and dissemination of information in the media.¹²⁸

It should also be emphasized that during the state of emergency, but also after its lifting, numerous cases of attacks on journalists were recorded. During the state of emergency, NUNS registered a total of 47 cases of incidents against journalists - 32 different forms of pressure and 15 cases of different forms of attacks on journalists: two death threats, two detentions as a form of physical threat to journalists, seven verbal threats, two physical attacks on journalists and two attacks against property.¹²⁹

Regarding the measures to fight the coronavirus, the Serbian government announced in early July the possibility of re-introducing restrictive measures in the form of a lockdown and curfew, which gave rise to violent protests on the streets of Belgrade and several major cities in Serbia from 7 to 9 July. In just a few days of the protest, a large number of journalists were injured, and injuries were inflicted on them by both the protesters and representatives of the Ministry of the Interior.

The Platform for the Protection of Journalism and Safety of Journalists has been informed about individual cases of attacks against journalists during the three-day protests in Belgrade, Novi Sad and Niš.¹³⁰ The Ministry of the Interior has replied to the Council of Europe's alert related to these events, and the reply by the MoI indicates that most of the cases involving attacks against journalists during the protests were still at the investigation stage in the second half of October.¹³¹

¹²⁸ <https://vss.sud.rs/sites/default/files/attachments/%D0%97%D0%B0%D0%BA%D1%99%D1%83%D1%87%D0%B0%D0%BA.pdf>

¹²⁹ Freedom of Expression and Media Pluralism during the State of Emergency, NUNS, available at <http://nuns.rs/about-nuns/publications/reports.html>

¹³⁰ <https://www.coe.int/en/web/media-freedom/serbia>

¹³¹ <https://rm.coe.int/serbia-reply-en-attacks-and-obstruction-of-journalists-covering-belgra/1680a01995>