

# **IS THERE JUSTICE FOR FREEDOM OF EXPRESSION?**

**THIRD REPORT ON THE PROTECTION  
OF FREEDOM OF EXPRESSION IN THE  
JUDICIAL SYSTEM OF SERBIA**

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**Analysis of court proceedings ending in a final ruling in prosecuting criminal offences of endangerment of safety of media workers**

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# Introduction

This analysis is a result of the Slavko Ćuruvija Foundation idea to ensure constant monitoring of judicial authorities' proceedings in the cases of crime offences against persons carrying out tasks of public importance. This is a third analysis in a row on the status of freedom of expression before the court. The constant monitoring is necessary so as to establish trends and consider policies that would result in decreasing the impunity of crimes against journalists. Therefore, the purpose of monitoring the court practice is to establish trends in protecting journalists in the judicial system by making an impact on public policies, hence the procedural action of competent authorities in this area and ensure their improvement.

The first report on monitoring of the court practice **Protection of Freedom of Speech in the Judicial System of Serbia** covered the period from 2017 until 2020. This report's methodology is complementary with the first report and covers the subsequent period – from 2021 until the second half of 2023, with minor deviations in specific parts of the analysis, and in accordance with particular methodology for analysis of civil and criminal courts practice.

As for the civil law, the cases from so-called media disputes have been analysed. These cases concern the established significant and minor violations of the Serbian Journalists' Code of Ethics. Due to an enormous number of cases, this analysis only covers the media outlets that had at least 5 cases against them in the reporting period, for the decisions adopted in the first and second-instance proceedings. Based on these criteria, this analysis includes "Alo", "Blic", "Danas", "Informer", "Kurir", "Nova", "Srpski telegraf" and recognises some of the crucial problems in the judicial authorities procedural actions in these cases. Moreover, the first-instance proceedings are still unduly lengthy, so the issue of efficiency and effectiveness of protecting the parties in the proceedings is being raised. The courts rarely order publishing of the entire judgment, and the average amount of the compensation for non-pecuniary damage indicates that it fails to meet the effect of satisfaction for the plaintiff, but that is also does not have deterrent effect on the defendant. The latter is reflected in the fact that there are many lawsuits for non-pecuniary damages against same media outlets and their journalists that obviously fail to meet any of the measures for improvement in respecting the law and the Code. Unfortunately, not much has been done in implementation of the given recommendations since the last report was published, so some of them are repeated in this report.

This year's report indicates two trends in particular – first is the rise in number of strategic lawsuits against public participation (SLAPP lawsuits), which is highlighted by

the reports of both media and international organisations. Due to this, the basic characteristics of these cases are presented in the report, along with the overview of key initiatives of the Council of Europe and European Union aimed at addressing the global rise in the number of the SLAPP lawsuits within the system. Having regard to the fact that in time of crises the freedom of expression is first under the attack, the report includes the cases of prosecution of journalists due to them speaking out in the rallies following tragic events in May 2023.

# **THE PROTECTION OF FREEDOM OF EXPRESSION UNDER CIVIL LAW**

## **Civil courts practice in media disputes**

### **Introduction**

This year's report analysis concerns the period marked by practice that had made significant impact on the status of freedom of expression. Therefore, the media heavily violating the Journalist's Code in their published articles, in fact participate in the pressure on media and independent journalists. The journalists, in particular at the local level, continue to be exposed to the problem that facts relevant for the public are being hidden from them. In most of the cases, the journalists are forced to complain to the Commissioner for Information of Public Importance and Personal Data Protection (Commissioner) due to withholding of information. The state failed to act under the recommendations from various European reports related to the freedom of speech, media independence, and transparency of institutions work. The reporting striving for sensationalism is still on the rise, with false information, negative campaigning and disrespect of the rights of the citizens about whom the media report. Any media outlet reporting critically will be categorised as "tycoon media", "foreign mercenaries" and "enemies of the nation and Serbia". The number of lawsuits against the media brought up by government representatives is increasing, and more often individuals go through continuing media attacks that violate their rights. The court decisions still cannot influence change in the functioning of the specific media outlets that fail to respect court decisions, which in consequence leads to the impossibility of actual protection of rights of plaintiffs and condemnation of the violation of the freedom of speech.

### **Subject of the analysis and methodological approach**

A part of the report refers to the civil courts practice in media disputes, for the period of 1 January 2022 until the second half of 2023. In such so-called media disputes, charges were pressed against the media outlets for which it was established

to have made major or minor violations of the Serbian Journalists' Code of Ethics. Total number of media outlets and considered cases is thus significantly higher compared to the analysis published in 2022. More proceedings were initiated before the Higher Court in Belgrade that is the only court of jurisdiction for the entire territory of Serbia to decide on the media claims for non-pecuniary damage under the Law on Public Information and Media<sup>1</sup> (LPIM). It has been established that in the period concerned, 743 lawsuits were filed and recorded in the P3 register,<sup>2</sup> 564 first-instance decisions were adopted, and 416 judgments became final.<sup>3</sup> In the same period, under the appeals to the decisions from the P3 register, 524 cases were established in the Court of Appeal, however, the court does not possess the data on how many of the mentioned cases were established under the appeals to judgments, and how many under the appeals to decisions.<sup>4</sup> The Supreme Court delivered a notification that in the period concerned, they have received 40 cases of revision, and 13 were resolved.<sup>5</sup>

The unique analysis was carried out for each media outlet and all data were mentioned in reference to different plaintiffs and defendants so as to establish if the court applied the norms equally to different parties. The analysis has been done from obtained judgments, information from courts' websites, database on the status of the case (Libra) and data delivered by the competent courts.

The data were determined with regard to the duration of the proceedings in all three possible trial instances, the respect of deadlines, amount of compensation of damages, use of international instruments and standards mentioned in the decisions of the international courts. The analysis included the same plaintiff's cases against the same media outlets repeating the violations against the plaintiff in the period concerned, the nature of decisions, if the freedom of speech has been ensured or this right has been abused with the violation of the right of the individual, and how in such situation the court is ensuring the protection of rights.

The basic source of substantive law in the analysis was the LPIM regulating the content of freedom of public information, information on the matters of public interest, protection of media pluralism and ban on monopoly in this area, as well as public availability of information about the media, for the purpose of enabling citizens to form their own opinions.<sup>6</sup> The law prescribes that the elected, appointed, i.e., assigned holder of public and political office shall be obliged to be subjected to the expression

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<sup>1</sup> *Official Gazette of RS*, No. 83/14, 58/15, 12/16 – authentic interpretation

<sup>2</sup> P3 register refers to the civil law cases in media law

<sup>3</sup> Higher Court in Belgrade letter Su.II-17a No.209/23 of 14 September 2023

<sup>4</sup> The Court of Appeal in Belgrade letter Su. II 17a 41/23 of 14 September 2023

<sup>5</sup> The Supreme Court letter Su.II 17A 28/23 of 14 June 2023

<sup>6</sup> *LPIM, Articles 5-7*



of critical opinions that pertain to the results of their performance, i.e., the policy they implement, and in relation to performing their function, regardless of whether they feel personally affected by the expression of these opinions.<sup>7</sup> The obligation of journalistic due diligence is defined.<sup>8</sup> The obligation of publishing basic information about the media outlet has been established,<sup>9</sup> and the journalists' rights have been regulated.<sup>10</sup> Special rights and obligations pertaining to public information have been regulated<sup>11</sup> referring to the presumption of innocence, publishing information in connection with criminal proceedings, prohibition of hate speech, exemption from responsibility, protection of minors and prohibition of the public display of pornography. The law contains provisions on publishing of personal data.<sup>12</sup> It has been determined who are the holders of public and political office in Article 8 hereof.

The law prescribes that if a publisher was not included in the claim, the final ruling must be delivered to them as well.<sup>13</sup> The law provides for the actions of the plaintiffs in the event of the change of editor-in-chief – if the editor-in-chief is changed after filing a claim and the plaintiff does not modify the claim before the conclusion of the main hearing, the claim is dismissed. Unlike other civil proceedings, the parties consent is not required for the modification of claim. If the modification was made after adoption of the judgment, the liabilities are transferred to the new editor-in-chief, except for the compensation of damages.<sup>14</sup>

The law provides that a person may request from the court to hand down an interim order prohibiting the editor-in-chief from republishing the same information or record, if the right and interest of this person would be violated by such publication, for no longer than the final ending of the proceedings. The plaintiff must prove the probability that there is a specific danger that the information will be published again and that it would violate his/her right or interest. The motion to obtain an interim order must be decided within 48 hours, and the objection to the decision on interim order may be made within the same deadline.<sup>15</sup>

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<sup>7</sup> *Ibid*, Article 8

<sup>8</sup> *Ibid*, Article 9

<sup>9</sup> *Ibid*, Chapter V

<sup>10</sup> *Ibid*, Articles 49-55

<sup>11</sup> *Ibid*, Chapter XI

<sup>12</sup> *Ibid*, Chapter XII

<sup>13</sup> Article 127 of LPIM

<sup>14</sup> Article 128 of LPIM

<sup>15</sup> Article 104 of LPIM

## **The media outlets considered in the analysis**

The report only includes the media outlets that had minimum five (5) cases against them in the period concerned. The analysis includes the following media outlets: "Kurir" (25 cases), "Srpski telegraf" (33 cases), "Nova" (9 cases), "Informer" (36 cases), "Alo" (14 cases), "Blic" (16 cases), "Danas" (5 cases), only for the proceedings with the decisions adopted in the first and second-instance. In total, 139 cases and 278 judgments were analysed.

Compared to the sample covered by the previous analysis, "Nin", "Cins", "Krik", "Politika", and "Birn" have not been included, because they failed to meet the condition of minimum 5 cases against them suitable for the analysis (there should be 5 final judgments in the period concerned). The data on the cases were obtained from the Higher Court and the Court of Appeal,<sup>16</sup> both from Belgrade. The Court of Appeal has notified us that still only the first defendant is being recorded in the electronic records, so if anyone of the mandatory co-litigants had the capacity of "other defendants", the case could not be found under their name. This means that the database is in fact not really available except to those who are the parties in the proceedings.

## **Duration of the proceedings**

The LPIM regulates the special procedural rules, which prescribe who can be the plaintiff and who must be the defendant to participate in the proceedings.<sup>17</sup> The law prescribes the responsibility of a journalist, editor and publisher.<sup>18</sup> The urgency of procedure is provided for as the general principle of the proceedings,<sup>19</sup> embedded in all legal deadlines. In this type of the civil proceedings, there is no preparatory hearing.<sup>20</sup> In all civil proceedings, other than the claim for publication of the reply, the defendant is obliged to respond to the claim within eight days from the day of delivery of claim. The deadline for holding the first hearing within the main hearing is 15 days from the day of receipt of the respond to the claim, and eight days under the claim for publication of the reply with the shorter deadline for the restitution of the former status. The judgment is delivered within three days from the day of its adoption.<sup>21</sup> An appeal may be lodged within

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<sup>16</sup> The Court of Appeal in Belgrade letter Su II 17a 41/23 of 31 May 2023 and SU117a 42/23 of 2 June 2023 and

<sup>17</sup> Article 102 and 103 of LPIM

<sup>18</sup> Article 113 and 114 of LPIM

<sup>19</sup> Article 122 of LPIM

<sup>20</sup> Article 121 of LPIM

<sup>21</sup> Article 124 of LPIM

eight days of the day of reception of the judgment, and deadline for response to the appeal is three days of the day of the delivery of the appeal.<sup>22</sup>

To what extent the legislator insists on urgency is visible from the fact that if deadlines are exceeded, the president of the court shall reassign the case without delay to another panel of judges, and the actions undertaken need not to be repeated.<sup>23</sup> As for the media disputes, the Civil Procedure Law is applied as the general law when the LPIM as the special law has no otherwise established procedural solutions.

Based on the analysed cases, it can be concluded that the court in some cases continues to tolerate procedural lack of discipline. The court’s conduct would not be different irrelevant of the plaintiffs’ occupations or names of sued media outlets. The average time for producing the first-instance judgment is somewhat longer than one month, and the average duration of the second-instance proceedings in about 3.5 months. The data indicate, that compared to previous periods of review, the deadlines are better observed, but still not the in the scope of the legally prescribed deadlines. The longest proceeding took in total 7 years. In the period concerned, there were no **journalists’ claims** against Srpski telegraf, Blic, Informer, Danas and Nova.

This is the overview of analysed cases, classified by the type/capacity of the plaintiff, number of scheduled hearings, duration of first-instance and second-instance proceedings, and time it took to produce the first-instance judgment, in reference to each sued media outlet.

**Lawsuits against responsible persons in the media outlet “Kurir”**

Plaintiff	Number of hearings	Duration of the first-instance proceedings	Duration of the second-instance proceeding	Time to produce the first-instance written judgment
*	15	4 yrs. 10 mths	2 mths	2 mths
*	7	4 yrs.	1.5 mths	1 mth
Prison warden	3	1 yrs. 6 mths	3 mths	1.5 mths
Politician	6	1 yrs. 6 mths	3 mths	2 mths
*	6	3 yrs. 3 mths	1.5 mths	1 mth
Reality show star	2	1 year	1 year	1 mth
Actor	8	4 yrs	8 mths.	1 mth
Police officer	8	4 yrs	4 mths.	1 mth
Offender	5	2 yrs. 4 mths.	1 mth	1 mth
*	7	2 yrs. 6 mths.	5 mths.	20 days

<sup>22</sup> Article 125 of LPIM

<sup>23</sup> Article 129 of LPIM

Journalist	6	1 yr 10 mths.	5 mths.	1 mth
Journalist	4	1 yr 8 mths.	3 mths.	1 mth
*	5	2 yrs.	2 mths.	22 dana
Activist	5	2 yrs. 1 mth	2 mths.	1 mth
Politician	4	2 yrs. 6 mths.	2 mths.	1.5 mths.
Suspect	8	4 yrs.	9 mths.	1 mth
Show business person	7	3 yrs. 6 mths.	2.5 mths.	2 mths.
*	1	4 mths.	1.5 mths.	1 mth
Director	19	7 yrs.	6 mths.	2 mths.
Politician	6	2 yrs.	2 mths.	1 mth
Journalist	2	1 yr 2 mths.	2.5 mths.	2 mths.
University professor	5	2 yrs.	7.5 mths.	3.5 mths.
Politician	3	2 yrs.	9 mths.	20 days
Female influencer	3	1 yr 6 mths.	4.5 mths.	1 mth
Politician	2	1 yr	8 mths.	3.5 mths.
Politician	4	1 yr 7 mths.	4 mths.	2 mths.
Politician	1	5.5 mths.	2 mths.	1 mth
Politician	2	11 mth	3 mths.	1 mth
Politician	3	1 yr 2 mths.	2 mths.	1 mth
Close to politician	3	1 yr 3 mths.	3 mths.	1 mth
Journalist	2	8 mths.	2 mths.	10 mths.

“\*” Person unknown to a wider public

**Conclusion:** In total, the analysis was carried out for 31 cases in first-instance and appeal proceedings against the defendant “Kurir”. The claims for non-pecuniary damage for the violation of rights were filed by 9 politicians and 4 journalists. In the course of the first-instance proceedings, in total 165 hearing were scheduled, on average 5.3 per the case. The longest first-instance proceedings in the case under the claim of the director took 7 years and it was finalised after 19 scheduled hearings. The shortest duration of the first-instance proceedings was 4 months, with the shortest period of 1.5 months for the second-instance proceedings, and the case was concluded with final judgment within 5.5 months, in total. The plaintiff was a person unknown to the wider public. On average, the first-instance proceedings would end in 1 year and 8 months, and the second-instance in 3.2 months, while the longest took 1 year. The producing of the first-instance judgment on average took one month. The analysis shows that there is no significant deviation in observance of deadlines when plaintiffs are journalists or politicians. It is evident that the identity of the plaintiff has no decisive

effect on the functioning of the courts. The legal deadlines have still not been met, but it could be said that on average they have improved.

### **Lawsuits against responsible persons in the media outlet "Srpski telegraf"**

Plaintiff	Number of hearings	Duration of the first-instance proceedings	Duration of the second-instance proceeding	Time to produce the first-instance written judgment
Investor	8	2 yrs. 3 mths.	2 mths.	1 mth
Show business person	7	2 yrs. 6 mths.	2 mths.	1 mth
Sportsperson	2	1 yr	2 mths.	2 mths.
*	5	2 yrs.	7 mths.	1.5 mths.
*	11	4 yrs. 6 mths.	5 mths.	1 mth
Businessman wife	13	3 yrs. 10 mths.	4 mths.	2 mths.
Politician	5	1 yr 8 mths.	2 mths.	1 mth
Deputy prosecutor	5	1 yr 3 mths.	3 mths.	1.5 mths.
Politician	3	1 yr 1 mth	6 mths.	1 mth
Deputy prosecutor	4	1 yr 5 mths.	2 mths.	20 days
Show business person	5	2 yrs. 3 mths.	8 mths.	27 days
Politician	9	2 yrs.	3.5 mths.	1 mth
Investor	5	2 yrs.	6 mths.	1 mth
Reality show star	9	3 yrs. 6 mths.	3 mths.	20 days
Show business person	9	3 yrs.	2 mths.	2 mths.
Building maintenance manager	3	1 yr	5 mths.	1 mth
Whistle-blower	3	1 yr 4 mths.	3.5 mths.	1 mth
Investor	5	2 yrs.	7 mths.	1 mth
Protester	6	1 yr 9 mths.	6 mths.	12 days
Businessman	2	1 yr	3 mths.	15 days
Police officer	6	3 yrs.	4 mths.	1 mth
Investor	6	2 yrs. 6 mths.	4 mths.	1 mth
Businessman	1	4 mths.	4 mths.	1 mth
Show business person	9	3 yrs.	9 mths.	2 mths.
Activist	1	5 mths.	3 mths.	3 mths.
Actor	6	3 yrs. 2 mths.	4 mths.	1 mth

Show business person	5	3 yrs. 3 mths.	10 mths.	1 mth
Politician	4	2 yrs. 6 mths.	2 mths.	1 mth
Politician	4	1 yr 6 mths.	6 mths.	29 days
Investor	8	2 yrs. 9 mths.	6 mths.	1 mth
Association	12	6 yrs. 2 mths.	2 mths.	2 mths.
*	9	3 yrs.	3 mths.	2 mths.
Minister	3	1 yr	1.5 mths.	2 mths.

“\*” Person unknown to a wider public

**Conclusion:** The analysis has been carried out for 32 cases with final judgment, in total 64 first-instance and second-instance decisions in the cases against “Srpski telegraf”. It is interesting that in the period concerned, there was no single lawsuit by a journalist, and 5 cases under the lawsuits of politicians were considered. In the first-instance proceedings, the most significant number of the hearings was scheduled – 23, and in the case with 12 scheduled hearings, the proceedings took the longest, 6 years and 2 months. On average, the court would schedule 7 hearings per a case and the proceedings would end in 2.2 years. The shortest proceedings took 4 months. The average time for producing first-instance judgment is 1 month, and the shortest was 12 days. The second-instance proceedings on average took 4.3 months, the shortest was 1.5 months, and the longest 10 months. The conclusion cannot be drawn that plaintiffs’ occupation and their recognisability had any influence on the duration of the proceedings that is still unsatisfactory in this type of disputes.

### **Lawsuits against responsible persons in the media outlet “Nova”**

Plaintiff	Number of hearings	Duration of the first-instance proceedings	Duration of the second-instance proceeding	Time to produce the first-instance written judgment
Nurse	2	1yr	2 mths.	1 mth
Convicted person	3	1 yr	4 mths.	2 mths.
Suspect	3	1 yr 5 mths.	2 mths.	1 mth
Starlet	3	1 yr	2 mths.	1 mth
Investor	7	2 yrs. 9 mths.	3 mths.	1 mth
Deputy prosecutor	5	2 yrs. 3 mths.	2 mths.	1 mth
Minister	5	1 yr 3 mths.	2.5 mths.	1 mth
City official	2	1 yr	6 mths.	1 mth

“\*” Person unknown to a wider public

**Conclusion:** The analysis was conducted for 9 cases and 18 judgments in the cases against responsible persons in the media outlet “Nova”. It is important that fewer lawsuits were filed against this media outlet, which indicates that it violates the rights of citizens to a smaller extent and uses freedom of speech more properly. On average, 3.3 hearings were scheduled in the first instance proceedings. In the case under the investor’s lawsuit, which lasted the longest – 2 years and 9 months, the most significant number hearings was scheduled – 7. The duration of the first-instance proceedings is on average 1 year and 6 months, and 3.5 months for the second-instance. The first-instance judgments were produced in one month, and only one was produced in 2 months. For this group of cases, the duration of proceedings took less time, however, considering the analysed number of cases, it cannot be concluded whether the identity of the parties in the proceedings had any influence. The cases duration took more due to the plaintiffs and witnesses conduct in the proceedings. It is obvious that the protection of rights before the court is more efficient in relation to the media outlet that more rarely violates the rights.

**Lawsuits against responsible persons in the media outlet “Informer”**

Plaintiff	Number of hearings	Duration of the first-instance proceedings	Duration of the second-instance proceeding	Time to produce the first-instance written judgment
Activist	9	3 yrs. 7 mths.	6 mths.	1 mth
*	5	2 yrs. 6 mths.	3 mths.	1 mth 20 days
Politician	11	5 yrs. 5 mths.	2 mths.	1 mth
Father and minor children	7	1 yr 5 mths.	11 mth	1 mth 13 days
Politician	10	5 yrs. 2 mths.	6 mths.	Same day
Priest	5	2 yrs.	3 mths.	1 mth
Politician	4	9 mths.	1.5 mths.	1 mth
*	7	2 yrs. 8 mths.	2 mths.	1 mth
Workers council representative	7	1 yr 10 mths.	5 mths.	20 days
Mother of reality show star	2	1 yr 2 mths.	2 mths.	20 days
Politician	5	1 yr 8 mths.	4 mths.	24 days
Scientist	2	1 yr 4 mths.	2 mths. 9 days	1 mth
Politician	5	4 yrs.	1 yr	2 mths.
Stylist	4	1 yr 9 mths.	3 mths.	1 mth
Politician	11	3 yrs. 5 mths.	3.5 mths.	2 mths.
*	2	7.5 mths.	1.5 mths.	15 days

Politician	3	1 yr 1 mth	3 mths.	1 mth
*	4	1 yr 4 mths.	3.5 mths.	2 mths.
Politician	6	4 yrs. 2 mths.	2 mths.	15 days
Legal person	4	8 mths.	15 days	14 days
Activist	1	1.5 mths.	2 mths.	1 mth
*	7	3 yrs.	2 mths.	1 mth
Legal person	4	9 mths.	3 mths.	1 mth
*	14	4 yrs.	9 mths.	1 mth
Politician	4	1 yr 9 mths.	3 mths.	1 mth
Businessman	8	3 yrs. 3 mths.	3 mths.	1 mth
Politician	5	2 yrs. 9 mths.	7.5 mths.	2 mths.
Bank director	6	2 yrs. 6 mths.	5 mths.	2 mths.
Legal person	1	2 mths.	1.5 mths.	7 days
Building maintenance manager	4	1 yr 6 mths.	2 mths.	11 days
Suspect	9	5 yrs. 1 mth	1.5 mths.	10 days
Politician	5	2 yrs. 1 mth	1.5 mths.	1 mth
Politician	2	7.5 mths.	1.5 mths.	15 days
Politician	3	1 yr 2 mths.	2 mths.	25 days
Court expert	7	9 mths.	1.5 mths.	1 mth

“\*” Person unknown to a wider public

**Conclusion:** The analysis was conducted on 36 cases with final ruling, i.e. 72 judgments. Among the plaintiffs, there was not a single journalist, and the court ruled under the claims of 13 politicians. In the first-instance proceedings, on average 5.4 hearings were scheduled, 14 the most. The most hearings in specific cases were postponed due to the failure to serve the editor-in-chief. The editors-in-chief were more frequently interviewed, because the author of the article that was the cause of dispute was not named. On average, the first-instance proceedings took 2 years and 1 month, the longest was for 5 years and 5 months, and the shortest 1.5 months. Average duration of the second-instance proceedings was 3.5 months. The longest took 1 year, the shortest 15 days. The average time for producing the first-instance judgment was somewhat shorter than a month. The shortest time it took to produce judgment was when the judgment was produced the same day it was ruled in one of the cases. The trial in that case took 5 years and 2 months with 12 hearings scheduled during that time, on average twice a year, with the second-instance proceedings of 2 months. Irrelevant of the speed of producing the judgment, the proceedings failed to meet the reasonable time criteria.



### **Lawsuits against responsible persons in the media outlet "Alo"**

Plaintiff	Number of hearings	Duration of the first-instance proceedings	Duration of the second-instance proceeding	Time to produce the first-instance written judgment
Politician	2	2 yrs. 2 mths.	9 mths.	1 mth
Politician	7	3 yrs. 10 mths.	2.5 mths.	1 mth
Politician	3	2 yrs. 4 mths.	4.5 mths.	25 days
Politician	3	1 yr 4 mths.	1 mth 10 days	1 mth
Judge	2	10.5 mths.	2 mths. 20 days	13 days
Politician	2	10 mths.	5 mths.	1 mth
Politician	4	1 yr 9 mths.	2 mths. 10 days	1 mth
Journalist	2	1 yr	1.5 mths.	17 days
Politician	3	1 yr 1 mth	3 mths.	26 days
Politician	5	1 yr 8 mths.	1.5 mths.	1 mth
Actor	3	1 yr 3 mths.	2 mths.	1 mth
Show business person	7	3 yrs.	5.5 mths.	2 mths.
*	3	1 yr 8 mths.	2 mths.	1 mth

“\*” Person unknown to a wider public

**Conclusion:** Out of in total 44 cases with final ruling against the media outlet “Alo et al.”, 14 were analysed, i.e. in total 28 first-instance and second-instance judgments. The longest first-instance proceedings took 3 years and 10 months, the shortest 10 months, and on average, it took 1 year and 8 months. The number of hearings scheduled on average was 3.5, the most 8, and the least 2. The second-instance proceedings on average took more than 3 months, the longest 9 months, and the shortest 1.5 months. Producing first-instance judgment on average took less than one month. The plaintiff was a journalist in one case. In the proceedings for his case, the deadlines were somewhat shorter than the average, but did not deviate significantly.

### **Lawsuits against responsible persons in the media outlet "Blic"**

Plaintiff	Number of hearings	Duration of the first-instance proceedings	Duration of the second-instance proceeding	Time to produce the first-instance written judgment
Politician	2	1 yr	4 mths.	1 mth
Politician	5	2 yrs. 2 mths.	1 yr	2 mths.
Politician	5	2 yrs. 2 mths.	11 mth	1 mth
Politician	2	1 yr	6 mths.	22 days
Politician	7	2 yrs.	1.5 mths.	1.5 mths.

Politician	7	2 yrs. 7 mths.	3 mths.	1 mth
Politician	5	1 yr 3 mths.	2 mths.	1 mth
Politician	2	1 yr	6 mths.	1 mth
Politician	4	1 yr 3 mths.	4.5 mths.	1.5 mths.
Politician	6	2 yrs. 4 mths.	3 mths.	1 mth
Politician	5	1 yr 5 mths.	1 yr	2 mths.
Politician	5	2 yrs.	4 mths.	1 mth
Show business person	8	4 yrs. 1 mth	2.5 mths.	1 mth
Show business person	1	3.5 mths.	3 mths.	22 days
Doctor	2	1 yr	4 mths.	1 mth
Waiter	3	1.5 yrs.	3 mths.	24 days

**Conclusion:** Out of in total 33 cases against the media outlet “Blic et al.” that were reviewed, 16 were analysed. There was not a single lawsuit filed by a journalist, and 12 cases under the lawsuits of politicians were considered. On average, 4.3 hearings were scheduled per a case in the first-instance proceedings, 1 at least, and the most of 8 hearings in the case that had the longest proceedings, 4 years and 1 month. The shortest proceedings took 3.5 months, and on average, the first-instance proceedings took 2 years and 1 month. The average duration of the second-instance proceedings is 4.4. months, the longest took 1 year, and the shortest 1.5 months. The average duration of producing first-instance judgment was about 1 month, the longest 2 months, the shortest 22 days. Only one case of the plaintiff from the show business stood out for its duration. There is no particular difference in court’s functioning depending on the identity of the parties, it’s only that some judges were more efficient.

**Lawsuits against responsible persons in the media outlet “Danas”**

Plaintiff	Number of hearings	Duration of the first-instance proceedings	Duration of the second-instance proceeding	Time to produce the first-instance written judgment
Politician	2	9 mths.	5 mths.	1 mth
PE Director	2	2.5 mths.	3.5 mths.	2 mths.
Actor	2	10.5 mths.	2 mths.	15 days
Businessman	5	2 yrs. 7 mths.	4.5 mths.	1 mth
Director	3	1 yr	3 mths.	1.5 mths.

**Conclusion:** There were only 5 cases in the reviewed period for this party. This indicates the small percentage of articles to be the subject of lawsuits for violation of

rights by the plaintiffs. None of the plaintiffs was a journalist, only 1 was politician. The duration of the proceedings did not vary significantly from other analysed cases.

### **Amount of compensation of damages**

Out of 139 analysed cases, the court ruled finally adopting the claims in full only three times, twice under the claims of politicians and once under the lawsuit of an actor for the non-pecuniary damage due to violation of honour and reputation. In the first-instance, the court dismissed the claim in 22 cases, and after the appeal with 4 judgments being reversed, it finally dismissed as much as 18 claims for non-pecuniary damages. It is obvious that the media violated the rights of citizens for the most of the disputed media coverage. The smaller part of claims for compensation of damages was usually adopted, while the bigger amount of claims was rejected.

The largest amount of claim was set to RSD 20,000,000, but the amount of RSD 200,000 was adopted. The average awarded compensation amounted to RSD 66,826. This type of court practice does not secure the appropriate amount of compensation of damages to the plaintiffs and it definitely does not contribute to changing of the manner of media reporting that mostly violate the citizens' rights. The practice among courts has been harmonised, but it would have to be changed in order to fulfil the purpose it should serve.

In the following pages, there is an overview of cases classified by the amount of the compensation of damages, in relation to each sued media outlet from the analysed sample.

Defendant Kurir et al.			Appeal proceedings			
Plaintiff	Claim (RSD)	Ruled	Reversed	Upheld	Quashed	Publishing judgment
Professor	450,000	150,000	/	/	+	Introduction and summary judgment
Journalist	200,000	80,000	/	+	/	/
Politician	300,000	70,000	/	+	/	/
Woman influencer	1,000,000	dismissed	/	/	+	/
Politician	400,000	70,000	/	+	/	/
Politician	400,000	30,000	/	+	/	/
Politician	400,000	80,000	/	+	/	/
Politician	800,000	70,000	/	+	/	Introduction and summary judgment
Politician	400,000	80,000	/	/	+	/

*	300,000	80,000	/	/	+	Introduction and summary judgment
Journalist	200,000	100,000	/	+	/	/
Politician	600,000	280,000	/	+	/	Introduction and summary judgment
Director	500,000	70,000	/	+	/	/
*	150,000	100,000	/	+	/	/
Show business person	500,000	100,000	/	+	/	/
*	100,000	70,000	40,000	/	/	/
Activist	300,000	70,000	/	+	/	/
*	180,000	50,000	/	+	/	Introduction and summary judgment
Journalist	400,000	100,000	/	/	+	/
*	600,000	dismissed	/	/	+	/
Convict	700,000	80,000	100,000	/	/	/
Actor	700,000	120,000	/	/	+	/
Police officer	1,000,000	dismissed	/	/	+	/
Reality show star	150,000	80,000	/	+	/	Introduction and summary judgment
*	500,000	250,000	/	+	/	/
Prison warden	500,000	dismissed	70,000	/	/	/
*	500,000	50,000	/	+	/	/

“\*” Person unknown to a wider public

**Conclusion:** The analysis was conducted on 28 cases with defendant Kurir et al., i.e. 56 first-instance and second-instance court decisions. The claims referred to the violation of one or two rights of the plaintiffs. The highest value of the claims, each RSD 1,000,000, was requested by a police officer and a woman influencer, and both were rejected under first-instance judgments, which were quashed under the appeals of plaintiffs. The smallest amount of claim was RSD 150,000. None of the plaintiffs’ claims was adopted in full, but on average amounted to RSD 458,200. On average, the amount of compensation of damages that was finally ruled is RSD 99,640. The claim for compensation of damages is always rejected for the most of its amount up to the awarded damages. Eight judgments have been quashed, i.e. 28.6%. All 6 claims for publishing judgment were partially adopted, so after the judgment would become final, the defendant was obliged to publish the introduction and summary judgment in the first subsequent issue. Three judgments were

reversed – two of them as regards the amount of compensation of damages and one as regards the legal grounds and the amount.

Defendant Srpski Telegraf et al.			Appeal proceedings			Publishing judgment
Plaintiff	Claim (RSD)	Ruled	Reversed	Upheld	Quashed	
Investor	500,000	120,000	80,000	/	/	/
Media celebrity	180,000	40,000	/	+	/	/
Sportsman	400,000	100,000	/	+	/	/
*	400,000	80,000	/	+	/	/
*	250,000	120,000	/	+	/	Introduction and summary judgment
Politician	200,000	70,000	/	+	/	Introduction and summary judgment
Plaintiff	120,000	60,000	/	+	/	Introduction and summary judgment
Politician	1,200,000	50,000	/	+	/	Introduction and summary judgment
Plaintiff	170,000	50,000	/	+	/	/
Show business person	280,000	80,000	/	+	/	/
Politician	300,000	100,000	/	+	/	/
Investor	460,000	40,000	/	+	/	/
Reality show star	300,000	100,000	/	+	/	/
Show business person	450,000	200,000	/	+	/	/
Building maintenance manager	150,000	50,000	/	/	+	Introduction and summary judgment
Whistle-blower	150,000	50,000	/	+	/	/
Investor	300,000	150,000	/	+	/	/
Protestant	180,000	50,000	/	+	/	/
Businessman	1,400,000	80,000	/	+	/	/
Police officer	400,000	80,000	/	+	/	/
Investor	500,000	100,000	/	+	/	Introduction and summary judgment
Businessman	12,000,000	100,000	/	+	/	/

Show business person	450,000	180,000	/	+	/	/
Activist	250,000	50,000	/	+	/	Introduction and summary judgment
Actor	250,000	200,000	/	+	/	Introduction and summary judgment
Show business person	450,000	150,000	50,000	/	/	/
Politician	1,000,000	100,000	/	+	/	Introduction and summary judgment
Politician	300,000	dismissed	/	+	/	Introduction and summary judgment
Investor	500,000	50,000	/	+	/	/
Legal person	1,000,000	80,000	/	+	/	/
*	800,000	200,000	/	+	/	/
Minister	200,000	100,000	/	+	/	Introduction and summary judgment

“\*” Person unknown to a wider public

**Conclusion:** The analysis was carried in 32 finally ruled cases, i.e. 64 first-instance and second-instance judgments against the defendant “Srpski telegraf et al.” The amounts of claim ranged from RSD 120,000 to 12,000,000. On average, the amount of claim was RSD 762,189. The ruled compensation was on average RSD 93,120, ranging from RSD 40,000 to 200,000. Only one claim was dismissed in full, while the others were partially founded. This indicates that the awarded compensation is a smaller per cent of the claim, on average only 12% in the majority of the cases. One judgement was quashed, while for 5 judgments, the claim was partially adopted obliging the defendant to publish the introduction and summary of the judgement, indicating that the defendants had, by the manner of their writing in the articles, which were the cause of initiating the proceedings, violated the freedom of expression, by violating some of the plaintiffs’ rights.

Defendant Nova et al.			Appeal proceedings			Publishing judgment
Plaintiff	Claim (RSD)	Ruled	Reversed	Upheld	Quashed	
*	150,000	dismissed	/	+	/	/
Convicted person	400,000	90,000	/	+	/	/
Suspect	180,000	80,000	/	+	/	/
Starlet	500,000	30,000	/	+	/	/
Investor	500,000	80,000	50,000	/	/	/
Prosecutor	350,000	200,000	/	+	/	/

Minister	400,000	100,000	/	+	/	Introduction and summary judgment
City official	300,000	80,000	/	/	+	Introduction and summary judgment
Businessman	50,000	dismissed	/	+	/	/

“\*” Person unknown to a wider public

**Conclusion:** All 9 final cases were analysed, 18 first-instance and second-instance judgments. The highest amount of the claim was set to RSD 500,000, and the smallest was RSD 50,000, on average the awarded amount was RSD 65,550. Two claims were fully rejected, and the average awarded amount was RSD 70,000. One decision was quashed under the appeals and smaller amount of compensation was ruled in one of them. The claims were partially adopted twice, with the obligation to only publish introduction and summary judgment.

Defendant Informer et al.			Appeal proceedings			
Plaintiff	Claim (RSD)	Ruled	Reversed	Upheld	Plaintiff	Publishing judgment
Activist	100,000	50,000	/	+	/	Introduction and summary judgment
*	1,000,000	dismissed	/	+	/	Introduction and summary judgment
Politician	100,000	100,000	/	+	/	Introduction and summary judgment
*	300,000	50,000	/	+	/	Introduction and summary judgment
Politician	400,000	210,000	/	+	/	Introduction and summary judgment
Priest	700,000	200,000	/	+	/	/
*	500,000	60,000	120,000	/	/	/
Politician	1,161,480	200,000	100,000	/	/	Introduction and summary judgment
Court expert	356,000	dismissed	/	+	/	/
*	200,000	100,000	/	+	/	/
Council president	500,000	130,000	/	+	/	/
*	150,000	70,000	/	+	/	/
Politician	1,000,000	120,000	/	+	/	Introduction and summary judgment
Politician	300,000	75,000	/	+	/	dismissed

Politician	300,000	80,000	/	+	/	Introduction and summary judgment
Stylist	500,000	50,000	/	+	/	/
Politician	500,000	300,000	/	+	/	judgment
*	100,000	dismissed	/	/	+	/
Politician	300,000	80,000	/	+	/	Introduction and summary judgment
Politician	300,000	120,000	/	/	+	/
Legal person	200,000	Published reply	/	+	/	/
*	700,000	700,000	/	+	/	Introduction and summary judgment
Activist	150,000	50,000	/	+	/	Introduction and summary judgment
Suspect	250,000	100,000	/	+	/	/
Legal person	250,000	Published reply	/	+	/	/
*	700,000	70,000	/	+	/	Introduction and summary judgment
Politician	300,000	100,000	50,000	/	/	Introduction and summary judgment
Businessman	12,000,000	100,000	/	+	/	/
Director	300,000	100,000	/	/	+	/
*	Court penalties	Adopted	/	/	+	/
Suspect	760,000	150,000	/	+	/	/
Politician	200,000	90,000	/	+	/	Introduction and summary judgment
Building maintenance manager	150,000	70,000	/	+	/	/
Politician	250,000	100,000	/	+	/	Introduction and summary judgment
Politician	300,000	80,000	/	+	/	Introduction and summary judgment
Scientist	300,000	120,000	/	+	/	Introduction and summary judgment
Politician	1,000,000	120,000	/	+	/	Introduction and summary judgment

“\*” Person unknown to a wider public



**Conclusion:** The analysis was carried out for all 36 finally ruled cases, for 36 first-instance and second-instance judgments. In the period concerned, there was no case with the journalist as a plaintiff. There were 13 plaintiff politicians, i.e. 36.1%. Their claims were founded and partially adopted as regards the amount. This indicates that the defendants violated specific rights of the plaintiffs in their articles, which are unrelated to their work performance, and it was not possible to use the standard that they should have been more tolerant. The highest amount of claim was RSD 12,000,000, the smallest RSD 100,000, and the average amount of claim was RSD 109,540. The highest awarded damages were RSD 700,000, demanded in that amount by a person unknown to a wider public. The smallest amount ruled was RSD 50,000. Average ruled amount was RSD 109,025. One judgment was reversed and the ruled amount of RSD 100,000 was reduced to RSD 50,000. Three judgments were quashed, with 2 partially adopted and one had its claim dismissed. In 18 judgments, the defendant was obliged to publish introduction and summary judgement, and in one, he was obliged to publish the entire text of the judgment. Against one defendant, 2 lawsuits were filed demanding that the defendant was obliged to publish the plaintiff's reply, and if they fail to do that, they shall undertake to pay the requested amounts. Both judgments were quashed and out of 36 in total, 4 judgments were quashed. For this media outlet, in relation to the filed claims, it could be also concluded that the defendants have significantly violated some of the plaintiffs' rights and abused the right of the freedom of speech.

Defendant Alo et al.			Appeal proceedings			
Plaintiff	Claim (RSD)	Ruled	Reversed	Upheld	Quashed	Publishing judgment
Professor	300,000	80,000	/	+	/	Introduction and summary judgment
Politician	300,000	50,000	/	+	/	Introduction and summary judgment
Politician	1,000,000	100,000	/	+	/	Introduction and summary judgment
Politician	300,000	50,000	/	+	/	Introduction and summary judgment
Judge	250,000	250,000	/	+	/	/
Politician	50,000	dismissed	/	+	/	/
Politician	300,000	50,000	/	+	/	/
Journalist	200,000	100,000	/	/	+	/
Politician	300,000	100,000	/	+	/	Introduction and summary judgment
Politician	500,000	150,000	/	+	/	Introduction and summary judgment

Actor	50,000	50,000	/	+	/	Introduction and summary judgment
Show business person	450,000	70,000	/	+	/	/
*	500,000	150,000	/	+	/	/
*	400,000	dismissed	/	/	+	/

“\*” Person unknown to a wider public

**Conclusion:** Out of in total 88 reviewed judgments for 44 cases, the analysis was carried out for 14 first-instance and second-instance, in total 28 decisions. The smallest claim requested was RSD 50,000, the highest RSD 1,000,000. The plaintiffs have on average requested RSD 350,000. The highest ruled compensation for the plaintiff who was a judge was RSD 250,000, which was the amount of his claim. The smallest amount ruled was RSD 50,000, which was the amount of one claim. Two claims were dismissed, and on average, the ruled compensation was RSD 85,700. None of the judgments was reversed, two were quashed – and in one of them, the journalist plaintiff demanded compensation of RSD 200,000, and the claim was adopted for RSD 100,000, while 12 judgments were upheld. For 7 decisions the claim was partially adopted (as many as it has been), and it was ordered to publish introduction and summary judgment, but not the reasoning of the judgment.

Defendant Blic et al.			Appeal proceedings			
Plaintiff	Claim(RSD)	Ruled	Reversed	Upheld	Quashed	Publishing judgment
Politician	30,000	30,000	/	+	/	Introduction and summary judgment
Politician	270,000	dismissed	/	/	+	/
Politician	170,000	dismissed	/	+	/	/
Politician	170,000	dismissed	30,000	/	/	Judgment
Politician	170,000	dismissed	/	/	+	/
Politician	170,000	30,000	/	+	/	Introduction and summary judgment
Politician	170,000	dismissed	/	+	/	/
Politician	170,000	dismissed	60,000	/	/	Introduction and summary judgment
Politician	170,000	dismissed	30,000	/	/	Introduction and summary judgment
Politician	170,000	dismissed	/	/	+	/
Politician	400,000	60,000	/	+	/	Introduction and summary judgment
Politician	400,000	60,000	/	/	+	/

Show business person	450,000	dismissed	/	+	/	/
Show business person	70,000	40,000	/	+	/	/
Doctor	20,000,000	150,000	200 000	/	/	/
Waiter	250,000	dismissed	/	+	/	/

**Conclusion:** In the period concerned, out of 33 reviewed cases, 16 were analysed. The average amount of compensation of only RSD 23,125 has to be considered in the context of 9 cases that should get special attention due to the same plaintiff, a politician, as there was a criminal proceedings against him that raised high interest of the public. The media, among other the sued outlet, were monitoring and reporting on the trial, informing the public on the facts related to reasons for instigating criminal proceedings. Each trial would attract many people, who in one part supported the defendant, and in one part stood with the injured parties. The same journalist wrote articles published on the portal and in Blic printed edition. The plaintiff filed several lawsuits against the journalist, editor-in-chief and publisher due to the manner of reporting requesting the compensation for non-pecuniary damages because of the mental anguish suffered for violation of honour and reputation and violation of personality rights (presumption of innocence). He requested that the defendants should jointly and severally undertake to pay the amount of RSD 170,000 with interest, while the defendant editor-in-chief should be obliged to pay himself the publication of the judgment in its integral form. Under the filed lawsuits, the court had only once in the first-instance proceedings partially adopted the claim for violation of honour and reputation, obliging the defendants to pay compensation of damages in the amount of RSD 30,000, and that the defendant must publish the introduction and summary judgement. The remaining of the claim was dismissed. The second-instance court upheld the first-instance judgment, rejecting appeals filed by the plaintiff and the defendant, establishing that the law was appropriately applied on the established factual basis.<sup>24</sup> Deciding on other claims, the first-instance court dismissed them all with similar explanations, that articles contain information of public interest, with truthfully reported statements, and that a journalist had a right to their own value judgment. It is also said that the plaintiff's right to protection of personal dignity does not outweigh the need to protect rights of defendants to freedom of expression; therefore, in specific situations the plaintiff's right does not require protection.<sup>25</sup>

<sup>24</sup> Higher Court in Belgrade judgment P3 No.433/19 of 9 Feb 2022. Court of Appeal in Belgrade judgment Gž3 215/22 of 8 July 2022.

<sup>25</sup> Higher Court in Belgrade P3 447/19 of 9 Dec 2021; P3334/21 of 17 May 2022; P3 511/19 of 6 Dec 2022; P3 446 of 5 May 2022; P3 251/21 of 18 May,2022; P3 436/20 of 17 March 2022; P3 435/20 of 13 October 2022; P3 460/19 of 9 Dec 2021;

The Court of Appeal, as the court of appeal, quashed one judgment in its decision because of wrongly and incompletely established factual basis under the claim for violation of honour and reputation and violation of presumption of innocence. The other judgment said that in the repeated proceedings the court would ascertain if the journalist acted with due diligence, which was a reason for not accepting the conclusions of the lower-instance court. In another two judgments, the reasons were fundamental defects in proceedings relevant for the adoption of proper and lawful decision.<sup>26</sup> The same court rejected plaintiff's appeals and upheld two judgments rejecting the plaintiff's claim, establishing that the court determined everything properly and applied the law.<sup>27</sup> Finally, the court of appeal reversed 3 judgments dismissing first-instance judgments and partially adopted the claim for violation of honour and reputation and obliged the defendants to pay compensation of damages in the amount of RSD 30,000 and in one decision for violation of presumption of innocence RSD 30,000, and for the remaining part rejected the appeals and upheld the first-instance judgments.

Different decisions could have been avoided if, when there had been a justified interest of the public to have information on the course of trial, the second-instance court had opened the hearings, removed shortcomings, harmonised practice and adopted final decisions. Otherwise, both citizens and parties in the proceedings lose their trust in court and judges in the proceedings against media and journalists.

Defendant Danas at al.			Appeal proceedings			Publishing judgment
Plaintiff	Claim (RSD)	Ruled	Reversed	Upheld	Quashed	
Politician	400.000	100.000	dismissed	/	/	/
PE Director	500.000	80.000	/	+	/	Introduction and summary judgment
Actor	150.000	50.000	/	+	/	Introduction and summary judgment
Businessman	200.000	50.000	/	/	+	Introduction and summary judgment
Film director	500.000	dismissed	/	/	+	/

**Conclusion:** All cases were analysed, as there were only 5 in total. The average amount of claim was RSD 350,000, partially adopted amount was RSD 56,000, and one was rejected in full. Two judgments were quashed in full, and among them, the only one with the rejected claim. In all three decisions, that included a request in the claim

<sup>26</sup> Court of Appeal in Belgrade Gž3 115/22; Gž3 103/23 of 22 March 2023; Gž3 310/22 of 13 October 2022; Gž3 142/22 of 19 May 2022.

<sup>27</sup> Court of Appeal in Belgrade Gž3119/22 of 26 October 2022; Gž3 341/22 of 22 September 2022.

to publish the judgment, the plaintiff was obliged to publish only the introduction and summary judgment.

### **Appeals and decisions on appeals**

Out of 139, the defendants filed the most of the appeals. Out of 29 judgments, "Kurir" lodged 24 appeals, 17 judgments were upheld. Out of 33 judgments, defendant "Srpski telegraf" appealed to 32, the plaintiffs lodged only 6 appeals, 27 judgments were upheld (70.8%). Out of 9 judgments, "Nova" appealed to 8, and 8 were upheld (88.8%). Out of 36 judgments, "Informer" appealed to 30, with 25 upheld (69.4%). Against the defendant "Alo", 14 judgments were upheld, and defendant lodged 12 appeals, and 12 judgments were upheld (85.7%). With only 16 judgments for "Blic" as defendant, the media outlet lodged 6 appeals, fewer than plaintiffs who lodged 14 appeals, which in percentage means that the plaintiff appealed to 87.5%, and defendant to 37.5% decisions. Out of 5 judgments with "Danas" as defendant, 3 appeals were lodged by plaintiffs, and 4 by defendants.

When considering claims, one should have in mind that out of 139 claims by the plaintiffs, only 3 were adopted in full, 22 were dismissed, and the majority, 57 of the claims were partially adopted. This type of statistics indicates that relatively small number of plaintiffs appealed when their claim was been partially adopted. In total, 20 judgments were reversed, and in the majority, the amount of compensation was reduced. In cases against all analysed media, the average amount of awarded compensation of damages was RSD 66,826 din.

In 2 cases, the first-instance decision was reversed, the claim was rejected in the part referring to the publication of the entire judgment, and it was partially adopted with obligation to only publish the introduction and summary judgment. Only for one case, it was finally ruled to publish the entire judgment. It could be concluded that either the courts adopt such decisions to protect the defendants from high costs of printing often-long judgments, or the judges do not want and do not consider necessary to allow the wider public to learn about the reasons for adopting a judgment. This is not always necessary, but it would be beneficial often. Plaintiff's satisfaction lies in the fact that citizens would learn about the media abuse of the freedom of speech in violating their rights by imparting false data, violating honour and reputation and privacy in the specific article. This type of satisfaction is missing when only introduction and summary judgment are published after a longer period, as in fact it cannot be concluded from those parts of the judgment what was the nature of published information. This type of court practice results in extension of proposed and adopted summary judgments that contain larger or smaller parts of articles that violated some rights of the plaintiffs, in order to prevent the deficiency of the decision of publishing only the partial judgment.

## **Application of international instruments, ECHR judgments and Journalists' Code of Ethics before the court in the period concerned**

Out of 278 analysed judgments, the courts referred primarily to international instruments, the judgments of the European Court of Human Rights. In two judgments, the court referred to provisions of the Journalist's Code of Ethics. The Higher Court and Court of Appeal in Belgrade referred to Article 10 of the European Convention of Human Rights in 72 judgments, and the Court of Appeal quoted provisions of International Covenant on Human Rights in three judgments. In 17 judgments, the court referred to the specific case law of the European Court of Human Rights, mentioning specific cases. Decisions of the international courts continue to be cited and used for the cases that attract higher interest of the public. Highly famous cases from previous years are the most cited.<sup>28</sup> This fact indicates the need for the continuing professional improvement of judges working on this matter and them getting familiar with the latest case law of the European Court of Human Rights.

### **Extraordinary Legal Remedies**

The revision shall be allowed against second instance ruling if a claim is rejected and within 15 days of the day of delivery of second instance ruling. The only exception is the procedure for publishing of the reply, when the revision is not allowed. In proceedings initiated by a claim for compensatory damages, both a plaintiff and a defendant may file revision.<sup>29</sup>

In the period concerned, the Supreme Court of Cassation, now the Supreme Court, decided on 13 revision requests. In 11 cases, revision was rejected as inadmissible, out of it 2 revisions were rejected as inadmissible because ruling on the plaintiffs' revision as exceptionally admissible revision was not accepted. The court rejected two revisions as unfounded in full, accepting the argumentation of the lower-instance courts. It could be noted that even the highest-instance court did not pay particular attention necessary for resolving these disputes, which are qualified as urgent under the LPIM.

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<sup>28</sup> More information about the cited judgments of the European Court could be found in the Second Regular Report on the Protection of Freedom of Expression in the Judicial System of Serbia "Freedom of Expression Before the Court", published on website <https://www.slavkocuruvijafondacija.rs>

<sup>29</sup> Article 126 of LPIM

## **The analysis of protection of rights in cases of one plaintiff's multiple lawsuits against same defendants**

It became common that some media outlets base their work on ruining or improving some persons' ratings. The authors, i.e. journalists of such articles, fail to observe the Journalists' Code of Ethics and the LPIM or maintain professional conduct. They publish false and unverified information violating the personal dignity, honour, reputation, privacy and presumption of innocence. Potentially the most classical example of such media conduct is visible from the articles about politician Dragan Djilas. The analysis was carried out for 32 first-instance and second-instance proceedings.

In all claims, the plaintiff was requesting to have it established that the defendant media outlets violated his dignity, honour and reputation by publishing specific articles and sharing false information in the public. Therefore, the defendants were demanded to publish the judgment so the public would learn that the published information was false. In some of the claims, other rights' violations were also mentioned.

In 7 claims against "Informer et al.", in two first-instance judgments the court rejected the claim in full. The requested compensation of damages amounted to RSD 300,000. Under the appeals of the plaintiff, the judgments were quashed and returned for repeated proceedings.<sup>30</sup> In the upheld judgment, with the amount of claim RSD 1,000,000, the violation of honour and reputation were established, the right of authenticity in the articles published on 30 June and 1 July 2020, and the defendant was obliged to pay the compensation of RSD 120,000 for both established violations and publish the introduction and summary judgment. The article headline of 30 June 2020 was that "Djilas crew wishes for Vučić to die of coronavirus", mentioning that, "he was connected with persons wishing, inviting and planning the death of Aleksandar Vučić".<sup>31</sup> The claim was adopted in full with the upheld judgment for its grounds and the amount of RSD 400,000, however, only to publish the introduction and summary judgment.<sup>32</sup> Under the defendants' appeal, the first-instance judgment was reversed, determining that by publishing forbidden information, the defendant violated the plaintiff's personal dignity – honour and reputation, and they were obliged to pay compensation of damages in the amount of RSD 200,000 and publish entire judgment.

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<sup>30</sup> Higher Court in Belgrade judgment P3 30/21 of 7 Oct 2021 and Court of Appeal in Belgrade Gž3 28/22 of 3 Feb 2022. and Higher Court in Belgrade judgment P3 537/18 of 25 January 2022 and Court of Appeal in Belgrade Gž3 130/22 of 11 May 2022

<sup>31</sup> Higher Court in Belgrade judgment P3 210/22 of 1 Feb 2022 and Court of Appeal in Belgrade Gž3 155/22 of 13 July 2022

<sup>32</sup> Higher Court in Belgrade judgment P3 263/22 of 30 November 2022

The claim was rejected for the amount of RSD 100,000, and the amount of ruled compensation of damages was RSD 100,000. The defendant was obliged to publish only the introduction and summary judgment (the claim was rejected up to the requested amount of RSD 1,161,480.00). The article headline was "Attack on media, Boško and Djilas threaten to kill journalists."<sup>33</sup> The first-instance decision established that by false statement the defendant violated the plaintiff's dignity, so his claim was partially adopted, and the defendant was obliged to pay compensation of damages in the amount of RSD 80,000 and publish introduction and summary judgment. The claim was rejected in the amount of RSD 220,000, including the rejection of publishing the entire judgment. Under the defendants' appeal, this decision was reversed as regards the adopted part of the amount of compensation that was awarded. The article headline "Tycoon completely lost his mind, denigrating entire population for politics".<sup>34</sup> The claim establishing that the defendants violated personal dignity, honour, reputation and presumption of innocence of the plaintiff was adopted in the first-instance judgment, while the claim for compensation of damages was partially adopted in the amount of RSD 100,000, and the defendants were obliged to publish the introduction and summary judgment. The claim requesting higher amount up to RSD 1,000,000 and publication of entire judgment was rejected. The defendants have in fact published that "the plaintiff, while he was in power, set up a job to his companies in the value of EUR 619,688,269."<sup>35</sup>

The plaintiff, D. Djilas, in the proceedings against "Kurir et al.", had his claim partially adopted in four finally ruled proceedings. It was established that the defendants had violated his personal dignity – honour and reputation by publishing false information. In the upheld judgment, in which it was determined that his privacy was violated, he was awarded compensation of damages on both grounds in the amount of RSD 50,000 each, i.e. total of RSD 100,000.<sup>36</sup> In the upheld judgment, the defendants had been obliged to pay damages of RSD 70,000 for the violation of the same right and publish the introduction and summary judgement. The article said "Loss and damage! Citizens waited for 10 years for the Fifth Park because of Djilas! City paying damages of EUR 3.5 million."<sup>37</sup> As regards the amount of claim, the judgment was reversed, and the defendants were obliged, under the same grounds, to pay to the

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<sup>33</sup> Higher Court in Belgrade judgment P3 25/20 of 24 November 2021 and Court of Appeal in Belgrade Gž3 67/22 of 10 March 2022

<sup>34</sup> Higher Court in Belgrade judgment P3 539/21 of 4 November 2022

<sup>35</sup> Higher Court in Belgrade judgment P3 15/20 of 18 June 2020

<sup>36</sup> Higher Court in Belgrade judgment P3 27/20 of 14 December 2021 and Court of Appeal in Belgrade Gž3 169/22 of 15 May 2022

<sup>37</sup> Higher Court in Belgrade judgment P3 263/22 of 30 November 2022 and Court of Appeal in Belgrade Gž3 48/23 of 23 February 20223



plaintiff the amount of RSD 50,000 and publish the introduction and summary judgment.<sup>38</sup> The first-instance judgment under which the claim was adopted on the same grounds, obliging the defendants to pay compensation of damages in the amount of RSD 80,000 and publish introduction and summary judgment, was quashed and the case was returned for repeated proceedings since it remained unclear what were the grounds for the court to award the unique compensation for two separate types of damage.<sup>39</sup>

The court decided similarly under 3 lawsuits against "Alo et al." and 2 claims against "Srpski telegraf et al". In the final rulings, the grounds for claim were established in relation to the defendants who were obliged to publish the introduction and summary judgment, awarding in all judgments the compensation of damages in the amount of RSD 100,000.

Since publishing false information violates dignity, honour and reputation, quite often privacy and presumption of innocence of the same plaintiff each day, it remains to be seen if the principles of equality (proportionality) between the assessed total damage and amount of its compensation have been fulfilled. Whether such amount of compensation for non-pecuniary damage in fact meets its aim if someone's personal rights are being continually and repeatedly violated and plaintiff is suffering due to false information published about them.

Taking into consideration the fact that publishing of the judgment serves as the form of satisfaction to the injured plaintiff due to false information reported in the public, it is questionable if that is a true satisfaction because often, several years after the article was published, only introduction and summary judgment would be ordered to be published, so the public might not even recognise whom was the article about and what was the specific article. The determined obligation of the defendant loses its purpose completely. It is obvious that it is necessary for the court to re-examine its practice as regards the amount of compensation and the manner of publishing judgment. It is also questionable whether such judgments are effective when the same media outlet continues to publish false information against the same plaintiff and whether the violated rights of the plaintiff can be protected.

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<sup>38</sup> Higher Court in Belgrade judgment P3 31/22 of 1 December 2023 and Court of Appeal in Belgrade Gž3 99/23 of 21 April 20223

<sup>39</sup> Higher Court in Belgrade judgment P3 396/20 of 27 January 2022 and Court of Appeal in Belgrade Gž3 159/22 of 10 May 2022

## **General conclusions**

In the analysed period and for the analysed sample of the cases, one can draw some conclusions as regards the civil courts procedural actions in the media disputes. Therefore, in these types of disputes, the preparatory hearings without examination of evidence are still being scheduled and it has been observed that procedural lack of discipline among the parties is being enabled. On average, the first-instance proceedings are still unduly lengthy, and this length reduces efficiency and effectiveness of the parties' protection in the proceedings. On the other hand, the number of unduly lengthy cases in the second-instance proceedings is smaller, with some developments as regards the time necessary to produce the first-instance judgment. The courts continue to maintain records by registering only the name of the first defendant, although in these cases there are always three defendants. In that sense, the examination of the cases is made more difficult, including obtaining data from the courts needed for the purpose of detailed analysis of case law.

The large number of lawsuits for compensation of damages against the same media continues, as well as many founded claims with partially adopted amount of compensation. Having that in mind, it is obvious that such media will not take any measures to improve their journalists' observance of the law and the Code.

On the basis of the analysed sample, the question of purpose of the pronounced measures could be raised. Therefore, out of 54 claims for publishing judgment, the court adopted such claims only twice, and 52 times, it had partially adopted a claim and ordered the publication of only introduction and summary judgment. Such court decisions make pointless the measures provided for under the law as the special form of plaintiffs' satisfaction.

The amount of compensation for non-pecuniary damage has neither the desired effect of satisfaction for plaintiffs nor deterrent effect for the defendant. Namely, for all of the analysed cases, on average, the amount of awarded compensation is RSD 66,826, which is quite often inadequate satisfaction for suffered mental anguish and does not stand for the prevention reducing violation of rights. Only 3 founded claims were adopted in full, and the partially adopted claim is always smaller than the amount of the rejecting part of the judgment.

## **Recommendations**

The results of this analysis show that recommendations given for previous analysis can be repeated completely, with some supplements. The proposed measures would greatly improve the protection of citizens, journalists and media:

- Form a special department in the Higher Court in Belgrade with specialised judges, who will rule with licence. Regulate this under the LPIM. Under the same principle, form specialised panels in the second-instance courts that will ensure better quality of citizens' rights protection and efficiency of proceedings in this type of civil proceedings. This is important for the harmonised approach in rulings, in particular for SLAPPs, as judging from the experience of other states it will happen more frequently.
- Carry out continuing training for participants in media disputes through competent institutions for judges, journalists and lawyers.
- Organise continuing cooperation and regular meetings between journalists and responsible persons in courts for liaising with the media (PR).
- Ensure necessary number of judges and employees in the related services for the purpose of ensuring respect of the prescribed legal deadlines.
- Ensure implementation of the legal provisions regulating the use of electronic mail, which will contribute to ensuring the respect of prescribed deadlines in the media cases.
- The amount of compensation of damages must depend on the frequency and repetition of the violation of rights of the same defendants under the lawsuits of the same plaintiff. This criterion should be inserted in the law (LPIM) to combat the intimidation campaigns, personal discrediting and hate speech. Thus, the possibility of SLAPP lawsuits abuse will be reduced.
- The amount of compensation of damages must depend on each specific factual basis to meet its purpose.
- Use legal powers of the court representatives to change the judge who disrespects deadlines.
- Amend Article 104 of the LPIM so the provision regulating the possibility of adoption of interim order could be applied *ex officio* in the cases of obvious repetition of the violation of rights among the same parties (repeated proceedings).
- Stop avoiding adoption of the claim for publishing the entire judgment, in particular relating to the media that frequently violate the law.
- Ensure media independence, the law should regulate that the media continually violating journalistic due diligence and the Journalists' Code of Ethics could not be allowed to get budget funds for co-funding projects.
- Ensure initiation of administrative dispute against the decision on allocation of budget funds for project financing of the media, and that dispute must

end within the deadline ensuring the effectiveness of legal remedy, which is not the case now.

- Introduce a ban for the publisher to compete for the same project with each of its media outlets (prevent monopolistic status of the publisher).
- Prohibit distribution of traditional media without imprint, provide sanctions for the distributor who fails to respect the ban. Always designate who is the author of article.

# SLAPP lawsuits – Strategic lawsuits against public participation

## Introduction

Since the previous, second regular report on the protection of the freedom of expression in the judicial system of Serbia “Freedom of Expression before the Court”,<sup>1</sup> when strategic lawsuits against public participation (SLAPP) were just recognised as threat to freedom of expression in our region, up to now, there is but a few people unaware of this concept. It is a paradox, that almost two years after we are not even close to creating the final definition that would help define the meaning of this concept.

To recall, in the previous reports, we have explained that these lawsuits arise from the defendant’s speaking out as regards matters of public interest. The claims are legally unfounded, obviously without any grounds, or even contain elements indicating the abuse of rights or of process laws, so the court proceedings are used for other purposes, and not for genuinely asserting, vindicating or exercising a right.<sup>2</sup> It is important to emphasise that the concept of SLAPP lawsuits does not refer only to civil proceedings of violation of honour and reputation, i.e. lawsuits in media disputes, but also to initiation of the criminal or misdemeanour proceedings, in particular in the countries without decriminalised defamation, followed by proceedings for protection of personal data, proceedings for protection of intellectual property rights, and even commercial disputes. Therefore, it is difficult to define this concept due to the circumstances that this concept may include the entire series of different legal actions. However, some characteristics may be useful for acknowledging this concept.

First of all, SLAPPs are commonly used by influential and/or rich individuals, groups, corporations or even state authorities against those who express criticism or

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<sup>1</sup> Freedom of Expression before the Court – Second regular report on the status of the freedom of expression in the judicial system of Serbia, Slavko Ćuruvija Foundation and Centre for Judicial Research, 2022, 37-43.

<sup>2</sup> Ravo L., Borg-Barthet, J., Kramer, X., “Protecting Public Watchdogs Across the EU: A Proposal for an EU Anti-SLAPP Law”, *Liberties*, 2020, 30, [https://www.ecpmf.eu/wp-content/uploads-/2020/11/anti-SLAPP-model-directive-paper\\_final.pdf](https://www.ecpmf.eu/wp-content/uploads-/2020/11/anti-SLAPP-model-directive-paper_final.pdf) (accessed on 22 September 2023)

impart messages that plaintiffs find uncomfortable, but which are relevant for matters of public interest. The defendants are usually journalists, media companies, human rights activists, scientists, civil society organisations, but those could be ordinary citizens as well. Certainly, when assessing if it was a SLAPP lawsuit, particular attention should be paid to imbalance of power (primarily financial) between the plaintiffs and the defendant.

The main aim of the plaintiffs using SLAPP is not to have their claim adopted, i.e. to protect their right that was the reason for instigating the proceedings, but to restrict, silence and prevent any criticism directed against them, to intimidate the defendant, but also everyone else who could publicly speak against them, which results in censorship and self-censorship. The chilling effect is a particular characteristic of SLAPP, as, apart from the effect on the plaintiff and everyone else who will be silenced because they want to avoid the defendant's fate, which leads to practical restriction of media freedom, freedom of expression, right to receiving and sharing information, as well as public participation in public affairs and matters of public interest, making an impact to the right to a fair trial.<sup>3</sup>

Taking into consideration the purpose of SLAPP, one can expect that the legal grounds of the claim will be imprecise or formulated in a contradictory manner, based on false and/or unfounded allegations, in other words, the claim would often be manifestly unfounded.

In this connection, the amount of the claim is often disproportionately high, because, once against, the plaintiff's intention is not to realise the compensation for pecuniary or non-pecuniary damages (if any). The goal is to deliberately increase the costs of court proceedings, which are directly related to the amount of claim, which further impact the amount of court fees and other costs that parties in the proceedings have to pay, during the proceedings, meaning, before it becomes obvious which party has won in the proceedings, meaning who will eventually pay the costs. In other words, the plaintiff strives to financially exhaust the defendant, who is often less financially supported than the plaintiff (in particular, considering the media and journalists in poorly developed countries, such as Serbia), so the sued media could potentially go bankrupt and be shut down before the court proceedings would be finalised, so the plaintiffs will achieve their goal, irrelevant if they lose the proceedings they initiated.

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<sup>3</sup> Bayer, J., Bárd, P., Vosyliute, L. & Luk, N. C., *Strategic Lawsuits Against Public Participation (SLAPP) in the European Union - A comparative study*, EU-CITIZEN: Academic Network on European Citizenship Rights, 2021, 19. See also Zdravković A. M., "SLAPP lawsuits – abuse of right to judicial protection for the purpose of restricting freedom of expression", *Strani pravni život*, 1/2022, 79.

Furthermore, this goal could be realised by filing multiple lawsuits against the defendant by the same plaintiff (or parties related to them) in a relatively short time.

As for the disputes that include a foreign component, SLAPPs are characterised by deliberate selection of courts of jurisdiction in the states where the chance of success in the dispute is the highest (forum shopping), in the countries which do not have anti-SLAPP legislation, so the plaintiff will not be punished for using this instrument.

Obviously, not all described characteristics should be present in each specific case, so some specific SLAPP might not meet all of them. These are only singled out as particular characteristics that were typical and frequent in former practice. It is interesting to recall that the organisation Index of Censorship made a questionnaire, now available on their website in English, French, German, Spanish and Polish, free of charge, and serves to help recognise if the filed lawsuit is in fact SLAPP. The questions in the questionnaires are based on this organisation's research on the most frequent manifestations of the SLAPPs, therefore, if the respondent's answers are to a great extent matching the symptoms of SLAPP, the results will show. Thus, anyone suspecting to be a target of SLAPP has this possibility at their disposal, however, it is important to know that the questionnaire is entirely anonymous and that the data on IP address are not stored.<sup>4</sup>

It could be useful to mention here and draw attention to the assistance that the European Centre for Press and Media Freedom – ECPMF provides to anyone affected by SLAPPs, primarily in the form of financial assistance and donations to cover costs of trial and representation, and journalists from our country can apply for it.<sup>5</sup>

## **SLAPP lawsuits in the Republic of Serbia**

The Republic of Serbia has not taken any formal steps so far in countering SLAPP lawsuits, nor in any way whatsoever expressed its intent to do so. It also did not make any statements of this concept, despite the fact that the European Commission had identified SLAPPs in Serbia.<sup>6</sup> Moreover, in the previous report on the freedom of

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<sup>4</sup> The questionnaire is available at the following link <https://www.indexoncensorship.org/am-i-facing-a-slapps-lawsuit/> (Accessed on 22 September 2023)

<sup>5</sup> More detailed information are available on their website, through this link <https://www.ecpmf.eu> (accessed on 22 September 2023)

<sup>6</sup> European Commission, *Commission Staff Working Document – Serbia 2022 Report*, Brussels, 12 October 2022, SWD(2022) 338 final, 42, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Serbia%20Report%202022.pdf> (8 October 2023)

expression before the court, it has been pointed out clearly that we might be having a paradigmatic case of SLAPP before the Higher Court in Belgrade.<sup>7</sup>

To make a short recap, it has been established that the company “Millennium Team doo”, engaged in some of the biggest construction projects in Serbia, had sued several daily newspapers, portals, local media and cable televisions that reported from the press conference of the opposition politicians held in February 2021 in Vranjska Banja and Leskovac, when those politicians expressed their doubts on how this company was doing business and its potential corruptive and illegal conduct.<sup>8</sup> Specifically, it was established that from March until May 2021, this company had filed in total 34 lawsuits to the Higher Court in Belgrade, out of which the media outlets were defendants in 27 lawsuits, while in other lawsuits the defendant were politicians who spoke during the event concerned. Hereby, we recall that these are lawsuits filed before the Higher Court in Belgrade, in media disputes, so there is no information if the company had filed lawsuits for compensation of damages that were not classified as media disputes or if they had used other legal remedies against same defendants. Additionally, as the defendant media mentioned, the amount of claims were unusually high, i.e. deviating from the usual amounts in these types of proceedings, ranging from RSD 11,740,770 (EUR 100,000 in RSD counter value) up to RSD 23,481,541 (EUR 200,000 in RSD counter value).<sup>9</sup> Therefore, by application of the SLAPP characteristics described above, one can conclude that these proceedings obviously include some elements of SLAPP, because:

- Same plaintiff files great number of lawsuits against the same type of defendants (media),
- Lawsuits are filed in connection to same or similar factual basis (event),
- It concerns the event that is a matter of public interest (because the public has the justified interest to be informed on the potential irregularities of such great company business activities that is also relevant for the wider community),
- Claims are set disproportionately high and deviate from the harmonised case law in these disputes.<sup>10</sup>

At the time of writing previous report, about two years ago, out of in total 34 cases, one decision on rejection of the claim was adopted, 1 decision on the

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<sup>7</sup> Freedom of Expression before the Court – Second Regular Report on the protection of the Freedom of Expression in the judicial system of Serbia, 42.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*



termination of the proceedings, 1 decision on finalisation of the proceedings,<sup>11</sup> while 4 cases were concluded on merits with a judgment, with only one final judgment in the end.<sup>12</sup> The fact that it had been several civil proceedings between the same persons is corroborated by the fact that in as many as 6 cases the decision was made on merging the proceedings for the purpose of joint hearings.<sup>13</sup>

The judgment became final in the case in which the defendants were the Centre for Democracy and Development of the South of Serbia, as the founder of the media JUGpress and the editor-in-chief Ljiljana Stojanović for “violating the business reputation of the plaintiff by publishing unauthorised information in the article “Jeremić: Top of the Government also taking over Vranjska Banja through Millennium Team” of 6 February 2021”.<sup>14</sup> It was demanded to establish the violation of rights, compensation of pecuniary damage due to publication of the false information violating the reputation of the plaintiff, removing the disputed article and prohibiting repeated publication of specific information.<sup>15</sup> After a year and a half of the duration of the proceedings, three hearings held and one hearing not being held, the claim was rejected in full as unfounded.<sup>16</sup> The plaintiff in the proceedings claimed that publishing information concerned was not allowed, because it caused him significant pecuniary damage and violated his right to business reputation.<sup>17</sup> He had also claimed that his business partners demanded him to explain the published information, and that his business relationship with banks was at risk, as they demanded additional explanation for issuing bank guarantees, and that the value of the registered trademark “Millennium Team” is continually dropping.<sup>18</sup> The plaintiff mentioned that the published information were not fact-checked and that authors did not provide him with a possibility to give his side of the story.<sup>19</sup> Based on all the circumstances, the plaintiff had set up the amount of the claim of as much as EUR 100,000 in RSD counter value, but reduced it later to EUR 100 “due to additional campaign that was restarted

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<sup>11</sup> This is probably the case of dismissal, but that is not visible in the portal *The course of the basic and higher courts cases* <https://tpson.portal.sud.rs/tposvs/>.

<sup>12</sup> Data collected via portal *The course of the basic and higher courts cases*, available on link <https://tpson.portal.sud.rs/tposvs/> (Accessed on 24 September 2023)

<sup>13</sup> *Ibid.*

<sup>14</sup> Final judgment of the Higher Court in Belgrade 18P3 141/21 of 7 November 2022.

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.* During the proceedings, the plaintiff characterised himself as “one of 100 biggest tax payers in the Republic of Serbia”, therefore emphasising the imbalance of power between the parties, considering that the defendant is an NGO, *Ibid.*

against them as if they wanted to silence the media and exhaust them financially, which is manipulation"!<sup>20</sup> It seems important to mention here again that disproportionately high amount of the claim is not a necessary precondition of the SLAPP lawsuit, though it happens often, so the subsequent reduction of unusually high amount of the claim does not turn a potential SLAPP into a legitimate lawsuit.<sup>21</sup> The defendants stressed that the author of the article had been credibly reporting on the event, as the media are obliged to inform the citizens on the current developments in their environment, and that it was not possible to fact-check the reliability of the information covered from the press conference.<sup>22</sup>

After examining the evidence, the court established that the statements and the words of the political party officials from the press conference were conveyed completely reliably in the article, the subject of the claim, which was clearly indicated both in the article and in the headline, that nowhere in the article nor in the headline it was mentioned those were statements of fact, therefore in applying the test of proportionality, on the one hand, having the publication of information likely to violate business reputation, and on the other hand, having the general interest and importance of public debate on the topic of public importance, the court concluded that the latter outweighed, and that there had been no violation of the rights.<sup>23</sup> Additionally, the court took into consideration that the defendant was "a local media outlet, intended to the local readership", with a "small number of visitors".<sup>24</sup> The court probably considered these circumstances regarding the number of the readers who would learn about that information, and consequently the potential impact on the plaintiff's reputation, but the short formulation cannot help conclude if the court's decision would be different if it had been a more influential media with greater audience.

Unfortunately, in the reasoning of the judgment, the concept of the SLAPP lawsuits is not even once mentioned. That makes this pioneering judgment no different from the others, adopted under the legitimate claims, as its reasoning did not bring anything extraordinary. It is clear that there had been no other option for resolving this dispute, because the existing legislative framework does not recognise the SLAPP lawsuits and does not authorise the court to decide differently on them, yet, an opportunity could have been seized to at least refer to the defendants' statements, and

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<sup>20</sup> *Ibid.*

<sup>21</sup> In particular if there are no other lawsuits between the same parties, based on the same or similar factual basis.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

members of the civil sector statements made in public, to describe this specific case as the example of this phenomenon. It is interesting to mention the fact that in the case concerned the evidence was examined to determine whether what the politicians said about the plaintiff at the press conference “had factual basis, so that statements reported represent the opinion and attitude of the persons, whose statements were conveyed, about the plaintiff’s business activity”.<sup>25</sup> In other words, it is unclear if “the information about an occurrence, an event or a person” from Article 9 para. 1 of the Law on Public Information and Media, in this specific case, refers to the information that this company was snatching Vranjska Banja, or it was that the politicians mentioned the information about this company snatching Vranjska Banja, because the subject of evidentiary action in these two cases would be different, and the parties to be sued, i.e. the defendants should have been different. Therefore, it remained unclear if in the future when the journalists would be covering press conferences or in other manner would conveyed someone’s words, would they first have to check if the content of those had factual basis, and then decide to publish that information or not, in the short time frame, while the news is still hot. The importance of such clarification for the purpose of general legal certainty and predictability is obvious, and it should be in particular emphasised in the sensitive context of the SLAPP era in which we currently find ourselves, as journalists and everyone else working on matters of public interest have to pay particular attention because even strict observance of the laws and ethical rules does not provide a guarantee anymore and protection from entering court dispute.

Finally, taking into consideration that the number of lawsuits in Serbia, which the media and reports of media organisations argue to represent SLAPP lawsuits, is constantly growing, it is obvious that at some moment the state will have to come to grips with this issue. The lawsuits against Network for Investigation of Crime and Corruption – KRIK are indicative, in particular, the first-instance judgment adopted against this media outlet, because they had violated honour and reputation of the plaintiff by publicity sharing the opinion that the claim from the other media dispute in which the plaintiff sued them was a SLAPP lawsuit.<sup>26</sup> Moreover, Belgrade mayor filed several lawsuits against the Balkan Investigative Research Network – BIRN, demanding compensation of damages in the total amount of RSD 12 million, which the defendant

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<sup>25</sup> *Ibid.*

<sup>26</sup> Radivojević J., “JAS: KRIK sentenced for writing about matters of public interest”, *KRIK*, 22 May 2023, <https://www.krik.rs/uns-krik-osudjen-zbog-pisanja-o-pitanjima-od-javnog-interesa/> (Accessed on 24 September 2023); Pavlović B., “Journalists association of Poland: Judgment against KRIK in contravention to freedom of expression”, *KRIK*, <https://www.krik.rs/udruzenje-novinara-iz-poljske-presuda-protiv-krik-a-u-suprotnosti-je-sa-slobodom-izrazavanja/> (Accessed on 24 September 2023)

characterised as SLAPP.<sup>27</sup> Without examining whether those are SLAPP lawsuits or not, which is not possible until the final definition of this concept is adopted, this type of practice is inadmissible. The standards referring to this concept are being developed at the European level, which will be discussed in the following pages.

As emphasised in the previous report, it would be desirable to keep up the step with the changes expected at the European level in the context of developing anti-SLAPP legislation.<sup>28</sup> It will soon become an international commitment of our country, irrelevant whether it stemmed from the framework of the Council of Europe and the European Convention on Human Rights, as we are already a member and a party, or from the European Union, as we are aspiring to become a member. Therefore, it is obvious that we will have to come up with the appropriate national normative framework as a response to the SLAPPs occurrence, but some comparative solutions might be useful on that path. Therefore, in next pages we will present current developments and proposed legislative anti-SLAPP mechanisms that could serve as an inspiration, baseline or examples of good practice to develop our national legislative framework.

## **Countering SLAPPs at the European level**

### **Council of Europe**

One of the initiatives to regulate SLAPPs came from Council of Europe in 2018, followed by the comment of the Human Rights Commissioner in 2020, when she invited both state, but also non-government actors to start tackling this issue.<sup>29</sup>

Platform to promote the protection of journalism and safety of journalists was established under the auspices of the Council of Europe, and on several occasions it recorded the cases of abuse of the court proceedings for the purpose of harassment

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<sup>27</sup> "Aleksandar Šapić filed two lawsuits against BIRN, demanding RSD 12 million", *BIRN Serbia*, 29 March 2023, <https://birn.rs/sapic-tuzio-birn/> (Accessed on 8 October 2023)

<sup>28</sup> *Freedom of Expression before the Court – Second Regular Report on the protection of the Freedom of Expression in the judicial system of Serbia*, 43.

<sup>29</sup> Committee of Ministers (Council of Europe), Recommendation CM/Rec(2018)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries, 2018, para. 1.3.4, available at <https://rm.coe.int/0900001680790e14> (Accessed on 19 September 2023); Commissioner for Human Rights (Council of Europe), "Time to take action against SLAPPs", Strasbourg, 2020, available at <https://www.coe.int/en/web/commissioner/-/time-to-take-action-against-slapps> (Accessed on 19 September 2023)

and influence on journalists, as from their reports, it is obvious that since 2020 the trend of SLAPPs is rapidly growing, not only in the number of lawsuits, but spreading in territory, as each year more member states are seized.<sup>30</sup>

The Committee of Ministers of the Council of Europe prepared a Draft Recommendation for countering the use of SLAPPs, conducting public consultation in the period from June to August 2023.<sup>31</sup> Although this Recommendation is not legally binding document, it should provide guidelines for procedures and regulation of this concept. The Draft Recommendation precisely said that its aim is to protect public participation against SLAPPs and prevent their further use in member states.<sup>32</sup> It is highly important that this recommendation will connect countering the use of SLAPPs with the commitment of the member states under European Convention for the Protection of Human Rights.<sup>33</sup>

Draft Recommendation defines SLAPPs as legal actions that are initiated or pursued as a means of harassing or intimidating the defendant, with the aim of preventing, hindering or punishing "public participation".<sup>34</sup> SLAPPs should be understood broadly, as they do not concern only civil lawsuits, but all other acts initiating the proceedings against a person who publicly speaks about matters of "public interest".<sup>35</sup>

Although it has been mentioned that SLAPPs could take various forms, it is difficult to identify them without a comprehensive, widely accepted definition that still does not exist, the Draft lists some characteristics of this concept, which could be used as certain indicators for recognising SLAPPs.<sup>36</sup> Certainly, the more indicators are present in a specific case – the likelihood of this concept is higher.<sup>37</sup> The following indicators are listed:

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<sup>30</sup> Platform to promote the protection of journalism and safety of journalists, <https://fom.coe.int/en/accueil> (Accessed on 19 September 2023), the latest report is available on the following link <https://rm.coe.int/platform-protection-of-journalists-annual-report-2022/1680a64fe1> (Accessed on 19 September 2023)

<sup>31</sup> Council of Europe, *Draft Recommendation CM/Rec(20XX)XX of the Committee of Ministers to member states on countering the use of SLAPPs*, MSI-SLP(2022)07, <https://rm.coe.int/msi-slp-revised-draft-recommendation-on-slapps/1680abaf88> (Accessed on 22 September 2023)

<sup>32</sup> *Ibid.*, 4.

<sup>33</sup> *Ibid.*, 1.

<sup>34</sup> *Ibid.*, 4.

<sup>35</sup> *Ibid.*, 4.

<sup>36</sup> *Ibid.*, 6.

<sup>37</sup> *Ibid.*

- 1) The plaintiff tries to exploit an imbalance of power between them and defendant, i.e. their financial advantage or political or societal influence, all in the aim of putting pressure on the defendant;
- 2) The plaintiff's arguments put forward are partially or fully unfounded;
- 3) The amount of the claim is disproportionately high;
- 4) The plaintiff abuses remedies at their disposal, which is visible from delaying the proceedings, electing a forum more favourable for them, pursuing appeals with little or no prospect of success, and causing disproportionate and unnecessary costs;
- 5) The proceedings are accompanied by attacks in public, aimed to discredit or intimidate actors carrying out tasks included in "public participation" or aimed at diverting attention from the problem and issue of "public interest";
- 6) The plaintiff or their representatives engage in legal intimidation, harassment or threats, or there is proof they have done that in the history;
- 7) The plaintiff or their associated parties engage in multiple proceedings on the basis of the same set of facts or in relation to similar matters, which is a part of the coordinated attack (within the same state or several states).<sup>38</sup>

The "public participation" has been defined as the "everyone's democratic right to participate in public debate and public affairs, online and offline, and without fear or discrimination, which includes the right to express opinions and ideas that run counter to or are critical of those defended by the official authorities or by a significant part of public opinion, or which offend, shock or disturb the State or any sector of the population, as clarified by the ECtHR.<sup>39</sup> This right in particular encompassed for example, journalists and other media actors, civil society organisations, whistle-blowers, scientists, legal professionals, bloggers and influencers.<sup>40</sup> Public participation also refers to the right to freedom of assembly and association and the right to vote and stand in election.<sup>41</sup> It can include a wide variety of activities such as advocacy, journalism, investigating and reporting violations of the law or ethical norms, writing to government officials, circulating petitions, engaging in peaceful protests or strikes, speaking out against misuse or abuse of power, human rights abuses, corruption, fraud

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<sup>38</sup> *Ibid.*

<sup>39</sup> This is a reference to the famous court standard from the Court judgment in the case *Handyside v. the United Kingdom*, application No. 5493/72, judgment of 7 December 1975, para. 49.

<sup>40</sup> *Ibid.*, 4.

<sup>41</sup> *Ibid.*, 5.

or indeed commenting on any matter of public interest.<sup>42</sup> This term also covers actions of preparing, supporting or assisting “public participation.”<sup>43</sup>

The Draft Recommendation defines “public interest” to refer to all matters which affect the public and in which the public may legitimately take an interest, especially those matters concerning important social issues or affecting the well-being of individuals or the life of the community, and examples of such topics in particular concern politics, current affairs, human rights, justice, social welfare, education, health matters, religion, culture, history, climate and environmental issues, however not individuals’ strictly private relationships or family affairs.<sup>44</sup>

The Draft Recommendation clearly indicates that SLAPP does not refer only to civil lawsuits, as it is possible to trigger misdemeanours or criminal charges, depending on the specific legal system, including the abuse of other remedies, such as order for interim measures or even threats that some of the mentioned actions will be undertaken to intimidate the victim.<sup>45</sup>

It also mentions the possibility that same defendant is subjected to multiple lawsuits as a part of the coordinated attack, so in that situation, it is expected from the state to take appropriate and effective measures to eliminate or at least reduce the impact of such actions.<sup>46</sup>

Additionally, Draft Recommendation says that member states should amend their national legislation and ensure for the court, on their own initiative and *ex officio*, to dismiss a claim as a SLAPP early in the proceedings. In connection to that, it is necessary to enable parties in the early stage to present as much as precise evidence to persuade the court that it had been an abusive claim, i.e. the unfounded claim representing the abuse of rights. Specifically, it should be prescribed that if the defendant demands rejection of a claim at early stage and manages to prove it was the case of “public participation” as regards matters of “public interest”, and that when some SLAPP indicators are present, the burden of proof is transferred to the plaintiff to prove otherwise, i.e. to prove that their claim is legitimate with potential of likely success at trial.<sup>47</sup> After filing application for early dismissal, particular attention should be paid if the plaintiff demands revision of a judgment, prescribing that early dismissal of a claim does not prevent the defendant argumentation that it was a SLAPP, including the

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<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid*, 7.

<sup>47</sup> *Ibid*, 9.

application for compensation for pecuniary and non-pecuniary damage on those grounds.<sup>48</sup>

Member states are expected to ensure that the courts have the power to require the plaintiff to provide security for costs, if they considers such security appropriate in view of the presence of SLAPP indicators.<sup>49</sup> The courts must have power to award the actual legal costs spent to defendants, in case of SLAPPs, but must be also warned that in all proceedings of this kind it should be in particularly taken into consideration to keep the costs to a minimum, to facilitate the defendant's position.<sup>50</sup>

It is required to put in place a system of effective and proportionate penalties that would have deterrent effect, which could be imposed by the courts irrelevant of the compensation of damages.<sup>51</sup> Special penalties should be imposed to those who are recurrently filing SLAPPs.<sup>52</sup>

It is recommended to collect and publish data concerning SLAPP plaintiffs, i.e. cases, as well as the establishment of appropriate register of cases, which would be available to everyone, offline and free of charge.<sup>53</sup> Finally, member states are expected to organise a comprehensive system of support, which is specifically suited to defendants' needs, primarily legal support (pertaining to persons providing free legal aid, who should be trained about procedures in such cases); financial support, that must be in particular available to the defendants who are unable to work or practise their profession during the proceedings; psychological support, which includes financial funds to secure appropriate therapy; and then, the practical support, in particular where defendants' physical safety is threatened, they should have access to hotlines, organised evacuation to a safe place or police protection.<sup>54</sup>

## **European Union**

The activities countering SLAPP phenomenon continued at the level of the European Union as well. After numerous initiatives by not only international and national journalists' associations and human rights protection groups, but also individuals, both politicians and regular citizens, in April 2022, the European

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<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*, 10.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*, 11.

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*, 11-12.



Commission published the Proposal of the Directive pertaining to strategic litigations against journalists and human rights defenders.<sup>55</sup>

The Proposal of the Directive defines public participation, with broad definition that includes “any statement or activity expressed or carried out in”:

- 1) the exercise of the right to freedom of expression and information, such as the creation, exhibition, advertisement or other promotion of journalistic, political, scientific, academic, artistic, commentary or satirical communications, publications or works, and preparatory, supporting or assisting action directly linked thereto;
- 2) the exercise of the right to freedom of association and peaceful assembly, such as the organisation of or participation to lobbying activities, demonstrations and protests or activities resulting from the exercise of the right to good administration and the right to an effective remedy, such as the filing of complaints, petitions or administrative and judicial claims and participation in public hearings, as well as preparatory, supporting or assisting action directly linked thereto.”<sup>56</sup>

It is highly important that the Proposal of the Directive contains the definition of “matters of public interest”, also quite extensively defined, including “any matter which affects the public to such an extent that the public may legitimately take an interest in it, in areas such as, for example, public health, safety, the environment, climate, or enjoyment of fundamental rights.”<sup>57</sup>

Additionally, it regulates the concept of “abusive court proceedings against public participation”, as the proceedings brought in relation to “public participation”, initiated under fully or partially unfounded claim, with the main purpose to prevent, restrict or

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<sup>55</sup> European Parliament, *Initiative Against Abusive Litigation Targeting Journalists and Rights Defenders*, 2023, 1, available at <https://www.europarl.europa.eu/legislative-train/carriage/initiative-against-abusive-litigation-targeting-journalists-and-rights-defenders/report?sid=7201> (Accessed on 19 September 2023). It should be mentioned that the Proposal for the Directive was not accepted without objections from the public, primarily in the context of its scope, so the European Federation of Journalists named it “watered-down version” of the initial idea on protection of journalists and right to information in the EU, also see <https://europeanjournalists.org/blog/2023/06/09/eu-council-adopts-watered-down-position-on-anti-slapp-directive/> (Accessed on 19 September 2023).

<sup>56</sup> European Commission, *Proposal for a Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”)*, {SWD(2022) 117 final}, COM(2022) April 2022, Article 3.

<sup>57</sup> *Ibid.*

penalize “public participation”.<sup>58</sup> The indicators of the abusive element might be disproportionate, excessive or unreasonable nature of the claim, the existence of multiple proceedings in relation to similar or same subject matter of the dispute, including intimidation, harassment or threats on the part of the plaintiff or their associated parties, as well as interfering with the proceedings in the form of delaying, causing disproportionate costs or forum shopping.<sup>59</sup>

The Proposal of the Directive requires the states to adopt appropriate normative solutions so the courts would allow non-governmental organisations to participate in the “proceedings against public participation”, as a support to the defendant or as *amicus curiae*, for the purpose of providing necessary information.<sup>60</sup>

This act provides for the obligation of the state to empower courts “in proceedings against public participation” to dismiss a claim, in full or in part, during the previous examination of the claim, that is manifestly unfounded.<sup>61</sup> It is mentioned that it is necessary to establish time limits for “filing an application for early dismissal”, that must be reasonable and may not render the use of such remedy difficult.<sup>62</sup> It has proposed to prescribe, “filing an application for early dismissal” to be decided in an accelerated procedure.<sup>63</sup> It is highly significant that the Proposal of the Directive provides that in filing an application for early dismissal, the burden of proof lies on the plaintiff to prove that the claim is not manifestly unfounded.<sup>64</sup> It is also necessary to ensure the appeal against the decision adopting or dismissing “an application for early dismissal.”<sup>65</sup>

Finally, it prescribes that the court can order a plaintiff to bear the costs of the proceedings, including the full costs of legal representation incurred by the defendant, unless such costs are excessive.<sup>66</sup> The defendant, i.e. anyone who has suffered harm as a result of such proceedings is able to claim compensation of damages and has to be

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<sup>58</sup> *Ibid.*

<sup>59</sup> European Commission, Article 3.

<sup>60</sup> *Ibid.*, Article 7.

<sup>61</sup> *Ibid.*, Article 9. It is interesting that the Proposal of the Directive was more often criticised because early dismissal of the claim was restricted to manifestly unfounded claims. See, for example, <https://www.liberties.eu/en/stories/slapp-trilogue/44857> (Accessed on 21 September 2023). However, it remains unclear what would be the alternative to such formulation, since this concerns the introduction of highly sensitive legal concept, which will not be implemented easily for sure.

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.*, Article 11.

<sup>64</sup> *Ibid.*, Article 12.

<sup>65</sup> *Ibid.*, Article 13.

<sup>66</sup> *Ibid.*, Article 14.

enabled to exercise such right.<sup>67</sup> Member states should provide that courts have the possibility to impose effective, proportionate and dissuasive penalties on the party who are proved to have brought “abusive court proceedings against public participation”.<sup>68</sup>

After public consultation on the Proposal of the Directive, held in December 2022, in June 2023 the Council of the European Union agreed on it, proposing some amendments.<sup>69</sup> The month after, Proposal of the Directive was discussed by the European Parliament at the plenary session.<sup>70</sup> Parliament adopted amendments to the proposed directive, returning it to the relevant committees for further inter-institutional negotiations.<sup>71</sup> Those amendments, among other, provide precise definition of the “public participation” as “any statement or activity by a natural or legal person expressed or carried out in the exercise of the right to freedom of expression and information, academic freedom, or freedom of assembly and association on a matter of public interest.”<sup>72</sup>

The definition of “matters of public interest” is also formulated as “those that affect the public in areas such as fundamental rights, including gender equality, media freedom and consumer and labour rights, as well as public health, safety, the environment or climate; allegations of corruption, fraud, embezzlement, money laundering, extortion, coercion, sexual harassment and gender-based violence, or other forms of intimidation, or any other criminal or administrative offence, including environmental crime; activities aimed to protect the values enshrined in Article 2 of the Treaty of European Union (human dignity, freedom, democracy, equality, the rule of law and respect for human rights and rights of minorities), the principle of non-interference in democratic processes, and finally, to provide or facilitate public access to information with a view to fighting disinformation; academic, scientific, research and artistic activities.”<sup>73</sup>

The amendments require that member states should ensure that natural or legal persons engaging in “public participation” should have access to support measures, including information, advice, legal aid and legal counselling, financial and psychological assistance.<sup>74</sup>

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<sup>67</sup> *Ibid*, Article 15.

<sup>68</sup> *Ibid*, Article 16.

<sup>69</sup> *Ibid*.

<sup>70</sup> *Ibid*, 2.

<sup>71</sup> *Ibid*.

<sup>72</sup> *Ibid*.

<sup>73</sup> *Ibid*.

<sup>74</sup> *Ibid*.

Additionally, it has been proposed that the court should have the power, in the cases when it considers it necessary, to require the plaintiff to provide security for costs of the proceedings, including the full costs of legal representation incurred by the defendant and damages.<sup>75</sup>

The member states are required to make a recommendation to include the topic of SLAPPs in legal training, to cooperate between themselves in combating SLAPP, to establish a single register of court rulings on disputes initiated through SLAPPs, which would be publicly available and then included into an EU-wide register run by the Commission.<sup>76</sup>

The amendments require to form special national networks of specialised lawyers, legal practitioners and psychologists, whom the targets of SLAPPs can contact, and through these networks they can receive guidance and easy access to information on protection mechanisms and legal aid, financial and psychological support.<sup>77</sup>

Although the Proposal of the Directive is a highly significant legal act representing the foundation for further development of legal solutions that could be an adequate response to the challenges imposed by SLAPPs, the Proposal was met with criticism, not unfounded. The biggest deficiency of the Proposal probably refers to the scope of the directive, i.e. the fact that it will be only applied to civil proceedings with foreign element, so many SLAPP cases will not be regulated under those provisions.<sup>78</sup> Such restrictive formulation of the directive can indicate the lack of political will to protect freedom of expression, however, it should be recalled that its final provisions would be a compromise between not only different European institutions, but also member states and non-government actors. It is unquestionable that the text of the directive must find balance between the right of access to court that belongs to everyone, therefore protecting their right that they believe was violated before the court and the right of freedom of expression and media freedom. Anyway, it is obvious that it is necessary to start regulating SLAPPs, so the provisions of the directive, though restrictive, will be a good starting point to further develop and improve this, as through application and practice it will be crystallised. Finally, probably for this reason, the Proposal of the Directive prescribes that member states, within 5 years from the date of its application, will provide the Commission with all relevant information on its implementation and its impact on occurrence of SLAPPs, and the Commission will

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<sup>75</sup> Ibid.

<sup>76</sup> Ibid, 2-3.

<sup>77</sup> Ibid, 2. For other amendments made through mentioned amendments, please refer to *Ibid*, 2.

<sup>78</sup> IFEX, "EU Council adopts watered-down position on anti-SLAPP directive", 2023, <https://ifex.org/eu-council-adopts-watered-down-position-on-anti-slapp-directive/> (Accessed on 21 September 2023)

further inform the European Parliament and the Council, while the report shall be accompanied by potential proposals to amend this Directive.<sup>79</sup> This may help generate adequate legal mechanisms against such pathological legal concept in the following period.

## **CASE Coalition**

The Coalition Against SLAPPs in Europe – CASE as a coalition currently involves 113 non-government organisations from 27 different countries, united to provide resistance to the SLAPP phenomenon and protect rights of those who are endangered, raise the public awareness on this issue and advocate for undertaking appropriate measures and reforms, necessary to combat SLAPP.<sup>80</sup> The coalition is very active through different initiatives, making proposals to amend Draft Recommendation on SLAPP by the Committee of Ministers of Council of Europe,<sup>81</sup> and initiating and supporting working groups that would work on amendments and adjustment of normative national framework. The official webpage of this coalition includes the section “The Gallery of Shame”, which states that “it’s easy to insulate yourself from shame if you have the money, and it’s easy to disguise a SLAPP as a genuine lawsuit if you have a team of fancy lawyers”, so “it is time to expose the aggressive bully tactics and show the faces of some of the worst legal bullies in Europe”.<sup>82</sup> This list includes the names of famous people for whom it was argued to have used SLAPPs, among them Serbian businessman Stanko Subotić,<sup>83</sup> Croatian judge Zvonko Vrban, several Russian oligarchs, different companies, even the state of the Kingdom of Morocco.<sup>84</sup> The Coalition collects and publishes data on legal aid services in various countries, which are specialised for media disputes, in particular SLAPPs, which could be useful to almost

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<sup>79</sup> European Commission, Article 20.

<sup>80</sup> <https://www.the-case.eu/about/> (Accessed on 22 September 2023)

<sup>81</sup> <https://www.the-case.eu/latest/coes-draft-recommendations-a-comprehensive-text-that-could-expand-protections-against-slapps/> (Accessed on 22.9.2023)

<sup>82</sup> <https://www.the-case.eu/gallery-of-shame/> (Accessed on 22 September 2023)

<sup>83</sup> In January 2021, in Geneva, two years after the publication of the article that was the subject of dispute, he filed a lawsuit against the international group of the investigative journalists – the Organized Crime and Corruption Reporting Project – OCCRP, with KRIK as their member. The lawsuit was directed also against Drew Sullivan and Dragana Pećo, KRIK journalist, so the amount of claim was set to CHF 155,000. Stanko Subotić had used the SLAPP lawsuit before, as mentioned, in the United Kingdom, against Ratko Knežević, which was rejected in 2013 and qualified as abuse of court proceedings, <https://www.the-case.eu/gallery-of-shame/> (Accessed on 22 September 2023). Also see “Subotić filed lawsuit against KRIK’s journalist and OCCRP in Switzerland”, *Cenzolovka*, 2021, <https://www.cenzolovka.rs/pritisci-i-napadi/subotic-tuzio-novinarku-krik-a-i-occrp-u-svajcarskoj/> (Accessed on 22 September 2023)

<sup>84</sup> Ibid.

everyone carrying out activities that fall under the scope of “public participation”.<sup>85</sup> Finally, one can find on their website the questionnaire that can be used to report a SLAPP.<sup>86</sup> In any case, it very encouraging that such coalition was established, and the support it provides can be important for the persons at risk in our country too, and it should be used.

## **Recommendations**

- 1) Establish national working group that will analyse current normative proposals at international, but primarily European level, and make proposals of amendments to the national legislation to have the appropriate response to the SLAPPs.
- 2) Set up specialised departments in the first-instance and second-instance courts that will rule in media disputes, whilst preserving the current exclusive jurisdiction of the Higher Court in Belgrade, thus facilitating the specialisation of the judges assigned to cases as well as the identification and control of SLAPP proceedings.
- 3) In cooperation with the organisation Index of Censorship, ensure the translation of the existing SLAPPs questionnaire into Serbian, or create a new one under the same model.
- 4) Encourage the use of that questionnaire also by judges as an auxiliary means of assessment if the specific case concerns SLAPP.
- 5) Ensure specialised trainings on SLAPPs for judges, public prosecutors, lawyers and journalists through competent institutions and /or in cooperation with civil society.

## **Restriction of freedom of expression**

Even though it is guaranteed by the Constitution of the Republic of Serbia, freedom of expression is still not absolute and is subject to certain limitations. It may be restricted by law if necessary to protect the rights and reputation of others, to uphold the authority and objectivity of the court and to protect public health, morals of a democratic society and national security of the Republic of Serbia.<sup>87</sup>

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<sup>85</sup> <https://www.the-case.eu/get-help/> (Accessed on 22 September 2023)

<sup>86</sup> <https://docs.google.com/forms/d/e/1FAIpQLSfAHCLT8F7FnhJ2H8ATEp3kSLzrnXDvQFYHmw-ctKQeKlyrSIQ/viewform> (Accessed on 22 September 2023)

<sup>87</sup> Constitution of the Republic of Serbia, “Official Gazette of the RS”, No. 98/2006 and 115/2021, Article 46, Freedom of expression

The tragic events in the elementary school “Vladislav Ribnikar” on 3 May 2023, caused mass demonstrations named “Serbia against Violence”, during which events took place that were the basis for apprehending and ordering detention, and ultimately the conviction of two media workers. In both cases, it was about freedom of expression and both media workers were apprehended on suspicion of having committed the criminal offence of sedition from Article 309 of the Criminal Code of Serbia.

Journalist and writer Boško Savković was ordered detention for up to 30 days because, in addition to the banner, he also carried a hanging doll representing the President of Serbia, Aleksandar Vučić, at the protests. Having spent some time in detention, the suspect concluded a plea agreement at the Higher Public Prosecutor’s Office in Belgrade and was sentenced to a six-month suspended sentence, with a two-year probationary period. In an open letter to the media after his release, the convicted person pointed to several subjective and objective factors due to which he “agreed to sign an agreement with the prosecutor’s office in exchange for a 6-month suspended sentence, with the recognition of the offences he was charged with in principle.”<sup>88</sup>

Regarding his case, civil society organizations in Serbia assessed “that organised intimidation of citizens and gross violation of freedom of expression by the highest state authorities is once again being carried out in Serbia.”<sup>89</sup>

Milovan Brkić, editor-in-chief of the Tabloid, was also detained for the same criminal offence - sedition. As a participant in the demonstration, he stated in a statement to the media, among other things: “...There is no way out for us. It seems that youngsters will have to decide the fate of Serbia with rifles. What must happen will happen. Protest march is pointless, we need to enter towards the Parliament to catch the idiot and tear off his head, f.k your mother Angelina, we’ve had enough of you.” The MoI detained the suspect immediately after the statement, on 8 May 2023.<sup>90</sup> The motion to indict was filed at the beginning of June 2023, and already on 11 July 2023, by the judgment of the Higher Court in Belgrade, he was sentenced to a prison sentence of 1 year and 2 months and his detention was extended until he was sent to prison.<sup>91</sup> In September 2023, the Court of Appeal replaced the detention with a prohibition of leaving the premises with electronic surveillance, and a ban on using the phone and the Internet and hosting other people.<sup>92</sup> At the beginning of October 2023,

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<sup>88</sup> <https://www.cenzolovka.rs/pritisci-i-napadi/na-slobodi-sam-daleko-korisniji-svojoj-porodici-i-svima-nama-otvoreno-pismo-boska-savkovic-koji-je-osudjen-zbog-vuciceve-lutke/>

<sup>89</sup> <https://www.cenzolovka.rs/pritisci-i-napadi/nvo-hapsenje-boska-savkovic-nedopustivo-ogranicenje-prava-na-slobodu-izrazavanja-i-zastrasivanje-gradjana/>

<sup>90</sup> <https://nova.rs/vesti/hronika/uhapsen-urednik-tabloida-milovan-brkic/>

<sup>91</sup> Sentence of the Higher Court in Belgrade, K 276/23 of 11 July 2023

<sup>92</sup> Decision of the Court of Appeal in Belgrade, No. Kž1 983/23, of 13 September 2023

the judgment declaring him guilty is still not final, and the prohibition of leaving the premises is still in effect.

Unlike Savković, who under the pressure of detention, “in principle” confessed to the criminal offence by admitting that he was carrying a doll, Brkić did not confess to the criminal offence he was charged with and is still suffering the consequences. What is indicative is that both cases were resolved by the swift action of the competent authorities. The judicial authorities have shown here that they can act effectively, this time at the expense of freedom of speech.

The practice established in this way causes serious concern and calls into question the practice of freedom of expression and freedom of assembly. While the second case opens up the possibility to review court decisions before international courts, in the first case, with the concluded plea agreement, the judicial practice has been established that could have adverse effects on freedom of expression in the future. The consequence is certainly the intimidation of media workers, but also of all other citizens who peacefully exercise their right to freedom of assembly. By demonstrating protection against sedition, the system clearly and effectively showed who must not be publicly criticised.



# Court practice in the protection of journalists under criminal law

## Methodology

The methodology for the analysis of the protection of journalists and media actors under criminal law in Serbia involved the collection, processing and analysis of data and documentation in cases in the Serbian judiciary (prosecutors' offices and courts) for criminal offences committed against journalists for the period from 1 January 2021 until 30 June 2023.

The basis for collecting information is the official record of the Supreme Public Prosecutor's Office (SPPO) of reported criminal offences committed against journalists (**bulletin**), which the SPPO has been keeping since 2016 based on the *Agreement on cooperation and measures to increase the safety of journalists*. Based on the Agreement, a Standing working group for the safety of journalists (SWG) was established, which meets regularly quarterly (4 times a year) and is composed of representatives of the Ministry of Interior (**Mol**), the Supreme Public Prosecutor's Office (**SPPO**) and relevant journalist and media associations: Independent Journalists' Association of Serbia (**IJAS**), Independent Journalists' Association of Vojvodina (**IJAV**), Journalists' Association of Serbia (**JAS**), Association of Independent Electronic Media (**ANEM**), Association of Online Media (**AOM**) and Association of Media (**AM**).

The research began by searching the prosecutor's office bulletins in order to identify cases that ended with court decisions in the period from January 2021 to the end of June 2023, as well as prosecutor's office cases that ended with the deferral of criminal prosecution (opportunity), since this way of ending the proceedings implies certain obligations for perpetrators of criminal offences. This included all cases that were established in this period, but also cases from the records for events that occurred since 2017, but were ruled finally in the monitoring period.

By searching the bulletin, a total of 45 cases were identified in which a first-instance or final court decision was made and eight cases that were resolved in this period by the decision of the prosecutor's office to dismiss the criminal complaint due to the fulfilment of

the obligations prescribed by Article 283 of the Criminal Procedure Code<sup>1</sup> (deferring criminal prosecution i.e., opportunity).

The documentation was collected based on requests for access to information of public importance that were sent to the addresses of 29 courts and prosecutor's offices in Serbia. The judicial authorities mainly responded within the legal deadline and sent anonymous documentation. Only Basic Public Prosecutor's Office Prijepolje did not respond to the request, so one judgment was obtained directly from the injured party – a journalist. On the other hand, BPPO Pančevo instructed us to send the request to the Basic Court in Pančevo, because BPPO is not competent to provide access to documents of another authority. The largest number of cases was received from the Higher Court in Belgrade, which also handles the largest number of proceedings for endangerment the safety of journalists and which delivers extensive documentation on time, in accordance with the law.

We measured the efficiency of court practice in proceedings before judicial authorities for the protection of freedom of expression by the speed of investigation of reported criminal offences and the efficiency of court proceedings, as well as by the penal policy towards perpetrators of criminal offences. Therefore, we analysed the cases that were finally resolved by court judgments in the mentioned period – final court decisions made in this period, as well as cases resolved by the decision of the prosecutor's office – by dismissing the criminal complaint after the application of the deferral of criminal prosecution, which imposes certain obligations on the perpetrator of the criminal offence, and so it contains elements of punishment.

Through the selection and systematization of the collected documentation, 34 final court judgments were identified, which were used for analysis to determine trends in relation to the efficiency of judicial authorities and the penal policy towards the perpetrators of criminal offences committed against journalists.

When it comes to the principle of opportunity, a total of eight cases resolved in the monitoring period were identified, mostly for offences that occurred in the previous period. Seven documents were collected, while one prosecutor's office refused to provide the document because the perpetrator was a minor, so seven cases were used for analysis.

Several important cases of attacks on journalists and media workers, given their seriousness, complexity and duration before the courts of Serbia, have been presented through case studies, although they have not been finally resolved and are still in court proceedings.

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<sup>1</sup> Criminal Procedure Code of the Republic of Serbia, "Official Gazette of the RS", No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – Decision of the CC 62/2021 – Decision of the CC

Also, the analysis pointed out the cases of threats to freedom of expression in connection with the freedom of assembly that were found in the court practice of Serbia in the last period, after the tragic events in the elementary school “Vladislav Ribnikar” on 3 May 2023 and the citizens’ demonstrations that followed.

The methodology also included internet search of data, judicial databases, records of journalist associations and media articles on cases of threatening the safety of journalists and media workers, as well as attending the trials themselves.

## **Public prosecutors’ offices procedural actions**

### **Records**

The fight against impunity for crimes against journalists begins with the effective investigation of criminal offences reported to the competent authorities. The actions of the prosecutor’s office in the investigation of these cases are crucial for the efficiency of the entire proceedings.

At the end of December 2020, the cooperation within the Standing working group for the safety of journalists led to the adoption of the “General Mandatory Instruction” in order to achieve legality, effectiveness and uniformity in the actions of public prosecutor’s offices in cases of criminal offences that endanger the safety of journalists and media workers.<sup>2</sup> The mandatory instruction significantly improved the records of the prosecutor’s office. Data from the records of the prosecutor’s offices were exchanged and discussed at regular (quarterly) or extraordinary meetings of the SWG. The bulletin is regularly delivered to SWG members, now on a monthly basis, which enables better recording and monitoring of cases. From October 2022, SWG members representing journalist and media associations have been receiving a bulletin in an integral form, as an excel table in which cases of criminal offences committed to the detriment of journalists, as well as the actions of competent prosecutors’ offices and the outcomes of proceedings are recorded. In addition, the prosecutor’s office maintains and delivers to the associations statistics related to the records it maintains.

The records of prosecutor’s offices and journalist and media associations on cases of attacks and endangerment of safety of journalists continue to differ. According to the records of the prosecutor’s office, in the period from January 2021 to the end of June 2023, a total of 212 cases of reported criminal offences committed against persons performing work of public importance in the field of information were recorded.

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<sup>2</sup> Republic of Serbia, Republic Public Prosecutor’s Office, O No. 10/20 of 24.12.2020, available at [http://www.rjt.gov.rs/assets/Obavezno\\_uputstvo - O 6p.10-20.pdf](http://www.rjt.gov.rs/assets/Obavezno_uputstvo_-_O_6p.10-20.pdf)

While the database of JAS is not available, the database of IJAS regarding the attack on journalists<sup>3</sup> records almost twice as many cases for the same period – 415 cases.

**Data from the database of attacks on journalists of the Independent Journalists’ Association of Serbia (IJAS):**

Year	Total	Assault	Attack on property	Threat to property	Pressure	Verbal threat
2021	156	6	3	2	101	44
2022	137	9	4	6	83	35
2023 (until 30 June)	122	6	0	0	85	31
	415	21	7	8	269	110

As in the previous period, IJAS also records forms of attacks on journalists that cannot be considered criminal offences according to the currently applicable Criminal Code<sup>4</sup> (for example, threat to property<sup>5</sup> and pressure), so in this database there are significantly more recorded cases than in the prosecutor’s records. The number of cases in the category of “pressure” actually speaks of a large number of cases that are in the grey zone of impunity, and the question of legal regulation and sanctioning of behaviour that can have a deterrent effect on freedom of expression remains open. When the figure corresponding to the number of the cases of pressure is subtracted from the total number of cases, the number of cases in the IJAS database is actually lower compared to the cases recorded in the prosecutor’s records.

**Outcomes of the proceedings according to the records of the Supreme Public Prosecutor’s Office**

In the period from January 2021 to the end of June 2023, 212 cases of criminal offences committed against persons performing work of public importance in the field of information were established in all prosecutor’s offices in Serbia. In the same period, 97 cases were resolved (45.7%), while 115 cases (54.3%) were active.

<sup>3</sup> <http://www.bazenuns.rs/srpski/napadi-na-novinare>

<sup>4</sup> Criminal Code of the RS, “Official Gazette of the RS”, No. 85/2005, 88/2005 - correction, 107/2005 - correction, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019

<sup>5</sup> Criminal offence of endangerment of safety (Article 138 of the CC) refers exclusively to threats of attack against the life or body of the person in question, but not to threats to attack property

should be noted here that although we are talking about resolved cases, in the records of the prosecutor’s office, those cases which have been resolved by a first-instance court decision, i.e., which are not final, are also considered as resolved cases, so they could be considered active cases.

**Cases established in the period 2021 – 30 June 2023:**

Year	Established	Resolved	Active
2021	87	48	39
2022	83	38	45
2023 (until June 30)	42	11	31
Total	212	97	115
%	100%	45.75%	54.25%

It could be concluded that these statistics are quite similar compared to the previous period concerned, 2017-2020, when 204 established cases were registered, of which 105 were resolved (51.5%) and 99 were active (48.5%).

When looking only at the last two and a half years compared to the previous period of four years, there was an increase in reported cases, a slightly higher share of active cases, and a smaller share of resolved cases.

The largest number of cases in the period concerned was still resolved by the decision of the prosecutor’s office (over 73%), while 26.8% of cases were resolved by court judgment, which includes both convictions and acquittals.

Year	Total resolved	Convictions	Acquittals	Decision of prosecutor’s office	Decision of prosecutor’s office – Opportunity
2021	48	12	2	33	1
2022	38	6	2	30	0
2023 until June 30	11	4	0	7	0
Total	97	22	4	70	1
%	100%	22.7%	4.1%	72.2%	1%

When these data are compared with the previous monitoring period, now a slightly higher number of judgments have been adopted compared to the earlier period, when in four years there were 20% of cases resolved by judgments (convictions and acquittals) and a slightly lower number of cases resolved by decisions of prosecutors’ offices. Previously, there were about 76% of such cases, including the

principle of opportunity, while in this period about 73% of cases were resolved in this way.

A more complete image of trends is obtained when looking at the longer period of keeping records of prosecutors' offices and monitoring the course of cases since 2017. The general trends when looking at the bulletin as a whole are somewhat different. This is because in the last three years, a large number of court and prosecutor's office decisions have been made that refer to cases from earlier years and are recorded as finally resolved for those earlier years.

When looking at the period from 2017 to June 2023, a constant trend of growth in the number of cases resolved by court decision (26%) and decrease in the number of cases resolved by the decision of the prosecutor's office 71.15% (including opportunity) is observed.

Year	Conviction	Acquittal	Decision of prosecutor's office	Opportunity	Resolved in a different way
2017	3	1	19	3	2
2018	6	1	27	3	2
2019	18	3	25	4	0
2020	6	2	24	4	3
2021	12	2	33	1	0
2022	6	2	30	0	0
2023	4	0	7	0	0
Total	55	11	165	15	7
%	21.74	4.35	65.22	5.93	2.76

The biggest increase in judgments was recorded for 2019 – as many as 12 more cases more this year than in the previous period. This tells us that court proceedings take several years to reach a final decision in a substantial number of cases. However, the number of convictions for the offences from 2023 (4 convictions), on the other hand, shows that cases can be solved effectively.

**Cases resolved by the decision of the prosecutor's office - dismissal of the criminal complaint due to the fulfilment of the imposed obligation (opportunity)**

Despite the recorded increase in the number of cases that were resolved by convictions, the largest number of cases are still resolved by the prosecutor's decision – by dismissing the criminal complaint or by a formal note that there is no place to

initiate criminal proceedings. A number of these cases still have elements of punishing the perpetrators of criminal offences, so we can talk about preventive action in cases of attacks on journalists.

The application of the institution of deferral of criminal prosecution (opportunity) is made possible by the Criminal Procedure Code for criminal offences for which a fine or a term of imprisonment of up to five years is prescribed, if the suspect accepts one or more obligations imposed on him by order of the public prosecutor.<sup>6</sup> After the perpetrator fulfils the obligation, the criminal complaint against him is dismissed. Although he has the right to be informed about the dismissal of the criminal complaint in these cases, the injured party does not have the right to raise an objection.

We believe that the imposed obligation has elements of sanctioning, and that it can have a preventive effect on the perpetrator not to repeat the act. However, prosecutors' offices do not use this institution too often.

In the period from 2021 to the end of June 2023, a total of eight cases ended with the dismissal of criminal complaint due to the fulfilment of the obligation imposed by the public prosecutor's order to defer criminal prosecution. In one case, the perpetrator was a minor, for which the prosecutor's office documentation was not obtained, since minors enjoy special protection.<sup>7</sup>

In the remaining seven cases, only one case was established in January 2021 (for an event that occurred in December 2020), while the other six cases were established in earlier years – four cases are from 2020 and two from 2019. The largest number of these cases were concluded before the Special Prosecutor's Office for High Tech Crime (HTC) (6).

Apart from the fact that the institution of deferred prosecution (assuming that the legal requirements are met) is not often used in these cases, the question of its effectiveness is raised. Considering the average amount of the monetary obligation, the deterrent effect from further committing criminal offences is also questionable. For the case that was established in January 2021, the criminal complaint was dismissed in December 2022, after the perpetrator paid the amount of RSD 50,000 for charity. From committing a criminal offence to the dismissal of the criminal complaint, almost two years have passed.

The fastest solved case was concluded within four months of the public prosecutor's order to defer criminal prosecution. However, in the same case, 11 months

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<sup>6</sup> Criminal Procedure Code, Article 283

<sup>7</sup> Law on Juvenile Crime Offenders and Criminal Protection of Juveniles, "Official Gazette of the RS", No. 85/2005

passed from the recorded offence to the prosecutor's order on deferral. Certain cases were resolved in this way even after two years from the committed offence.

The imposed obligations are in all cases monetary and range from RSD 30,000 to 60,000, i.e. RSD 47,000 on average and are mostly paid to the account of the Government of the RS intended for payments as regards opportunity and for charity.

The deadline for fulfilling the obligation also varies from case to case, ranging from 10 days to 10 months, although this data are not available in all decisions on dismissal of criminal complaints. We would like to remind that according to the law, the deadline for fulfilling the obligation cannot be longer than one year. However, in one case, it was recorded that the deadline for fulfilling the obligation was 10 days, and that the proof of the fulfilled obligation was submitted to the prosecutor's office almost two years after the order, after which the criminal complaint was dismissed.

**Cases resolved by opportunity:**

	Competent prosecutor's office	Criminal offence	Period from event or criminal complaint to dismissal	Imposed obligation	Deadline for fulfilling the obligation
1.	HTC	Endangerment of safety of person who performs work of public importance, Article 138 (3) of CC	14/12/2020 - event (case established in January 2021); 6/12/2022 – criminal complaint dismissed  <b>2 years from the event to dismissal</b>	50,000 RSD for charity	10 months
2.	HTC	Endangerment of safety of person who performs work of public importance, Article 138 (3) of CC	26/10/2020 – criminal complaint filed; 22/07/2021 – criminal complaint dismissed  <b>9 months from the event to dismissal</b>	60,000 RSD to the account of the Government of the RS intended for payments as regards opportunity	It was not indicated in the decision on dismissal of the criminal complaint
3.	HTC	Endangerment of safety, Article 138 of CC	Event from 2020 (it is not known when the offence was committed), 29/01/2021 – order of HTC on deferral of prosecution 24/08/2021 – criminal complaint dismissed <b>7 months from the order of HTC</b>	30,000 RSD	6 months



4.	HTC	Endangerment of safety of person who performs work of public importance, Article 138 (3) of CC	4/10/2019 – criminal complaint 26/01/2021 – order on deferral of prosecution 21/12/2022 – provided proof of payment (almost 2 years from the order); 9/01/2023 – criminal complaint dismissed <b>2 years from the order</b>	30,000 RSD in favour of the RS Government	10 days from the receipt of the order
5.	HTC	Endangerment of safety against person who performs work of public importance, Article 138 (3) of CC	3/10/2019 – criminal complaint filed 20/02/2020 – order on deferral 21/06/2021- criminal complaint dismissed <b>20 months from the criminal complaint</b>	50,000 RSD in charity	It was not indicated in the decision on dismissal of the criminal complaint
6.	VTK	Endangerment of safety against person who performs work of public importance, Article 138 (3) of CC	2/12/2020 - event 11/11/2021 – order of HTC on deferral of prosecution 9/3/2022 – criminal complaint dismissed <b>15 months from the event</b>	60,000 RSD to the account of the Government of the RS intended for payments as regards opportunity	It was not indicated in the decision on dismissal of the criminal complaint
7.	Basic Prosecutor's Office (BPO) Novi Sad	Violent behaviour, Article 344 of CC	8/7/2020 – event; 25/03/2021 – order on deferral of prosecution 20/05/2021 – criminal complaint dismissed <b>10 months from the event</b>	50,000 RSD to the account of the Government of the RS intended for payments as regards opportunity	5 months

### **Active (unresolved) cases**

When it comes to active cases, there are 115 of them in the period concerned or 54.25% of the total number of cases, slightly more compared to the earlier finding for the four observed years when there were 99 (or 48.5%).

The share of cases in active cases in which the perpetrator has not been identified is about 20% of all active cases for the period concerned. However, when looking at the entire period of prosecutor's office record keeping, it is clear that the percentage of unknown

perpetrators is decreasing year by year. During the initial years of keeping prosecutor's office records, almost all unresolved cases were registered in the records of unknown perpetrators, while by the end of June 2023, only one perpetrator had not been identified.

**Active cases by age and share of unknown perpetrators:**

Year	Active/unresolved cases	Unidentified perpetrator	% of unidentified perpetrators in active cases
2016	17	16	94%
2017	10	10	100%
2018	18	16	89%
2019	13	10	77%
2020	21	9	43%
2021	39	15	38%
2022	45	7	15%
2023	31	1	3%
<b>Total</b>	<b>194</b>	<b>84</b>	<b>43.3%</b>

Although there is little or no chance that the cases from earlier years that were recorded in the records of unknown perpetrators will be solved, it is evident that the speed of action imposed by the General Mandatory Instruction of the Supreme Prosecutor's Office leads to a reduction in the number of undetected perpetrators.

Cases from earlier years in which the perpetrator was not discovered are subject to statute of limitations, in which case the investigation or proceedings for these criminal offences will be suspended.<sup>8</sup> We would like to remind that the statute of limitations for criminal prosecution occurs when the deadline from the commission of a criminal offence, prescribed by law, has expired, and which depends on the duration of the imposed penalty for individual criminal offences. When it comes to the most prevalent criminal offence committed against journalists and media workers – endangerment of safety from Article 138, paragraph 3, for which a prison sentence of 6 months to 5 years is prescribed, the statute of limitations could occur within five years.<sup>9</sup>

In most cases, the perpetrators of criminal offences against journalists remain unknown, since the criminal offence was committed online, under pseudonyms or fake

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<sup>8</sup> Criminal Procedure Code, Articles 308, 338 and 422

<sup>9</sup> Criminal Code, Article 103, paragraph 1, point 4 – Unless otherwise stipulated by this Code, criminal prosecution may not be instituted after elapse of 4) five years from the time of committing a criminal offence punishable by law to imprisonment of more than three years.

profiles and through social networks and servers registered abroad. The identification of these perpetrators requires cooperation at the international level submitted in the form of letters rogatory, which is a procedure that can last several months and even years. However, the non-solving of cases and the non-punishment of perpetrators who committed criminal offences in real life (e.g., grave bodily harm) and are still in the records of unknown perpetrators are much more worrying.

We would like to remind that the limitations shall be suspended by each procedural action undertaken to uncover the perpetrator of the offence or to uncover and prosecute the perpetrator for the commission of the offence.<sup>10</sup> However, since limitations on criminal prosecution shall come into effect in any case after expiry of double the time period required by law for limitations of criminal prosecution,<sup>11</sup> a part of the cases from earlier years (2016/17) could be suspended in the next two years due to statute of limitations. This would unfortunately include these cases in the statistics of finally resolved cases.

### **Structure of criminal offences**

The analysis for the previous period from 2017 to 2020 indicates a very clear image that the largest number of cases relate to threats addressed to journalists, i.e., to the criminal offence of endangerment of safety (Article 138 of the CC).

A new analysis confirms this data. As many as 144 or about 68% of the reported criminal offences are qualified as endangerment of safety from Article 138 of the CC, i.e., it is a threat to attack the life or body of a journalist or a person close to him or her. This number is certainly increased when cases are added that are not qualified in the records, but are described descriptively as threats or endangerment of safety.

In addition to endangerment of safety, in the period concerned, the most common criminal offence is stalking from Article 138a of the CC – in 10 cases. In the earlier period, it was noticed that this offence has certain gender characteristics in the sense that it is committed more against women. This time, it was concluded that in six cases the person being stalked was female, and in four cases male (for three journalists as injured parties).

In addition to these criminal offences, violent behaviour appears in the records of the prosecutor's office in six cases, while other criminal offences appear once each (violent behaviour during sports event, threat by dangerous implement in brawl or

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<sup>10</sup> Criminal Code, Article 104 (3)

<sup>11</sup> Criminal Code, Article 104 (6)

quarrel, ill-treatment and torture, insult, prevention of printing and distribution of printed material and broadcasting, etc.).<sup>12</sup>

In addition, in 45 cases, the qualification of the offence was given descriptively, most often as endangering safety or threats, but also as: harassment, tracking movement, written threats, verbal threats, threats over the phone, verbal attacks and threats, threats via social networks, the suspect chasing the victim while threatening, damage to vehicles, assault on journalist by a police officer, interference during filming, incident at protests, etc.

The structure of criminal offences according to the records of prosecutor's offices for the period 2021–June 2023:

Criminal offence	Article of CC	2021	2022	2023	TOTAL
Endangerment of safety	138	19	34	23	76
Endangerment of safety against person who performs work of public importance	138 (3)	43	20	5	68
Stalking	138a	9	1	0 <sup>13</sup>	10
Violent behaviour	344	3	2	1	6
Violent behaviour during sports event	344a	1	0	0	1
Threat by dangerous implement in brawl or quarrel	124	1	0	0	1
Insult <sup>14</sup>	170	0	1	0	1
Prevention of printing and distribution of printed material and broadcasting <sup>15</sup>	149	0	1 <sup>16</sup>	0	1
Ill-treatment and torture	137	0	0	1	1
Illegal production, possession, carrying and circulation of weapons and explosives	348	1	0	0	1

<sup>12</sup> In four cases, stalking, prevention of printing and distribution of printed material, grave bodily harm and causing general danger appear alongside other criminal offences and are not included in the statistics.

<sup>13</sup> In one case, stalking appears alongside the criminal offence of endangerment of safety from Article 138

<sup>14</sup> Criminal offence of Insult from Article 170 of the CC is instigated by private action

<sup>15</sup> Criminal offence of printing and distribution of printed material and broadcasting from Article 149 of the CC is instigated by private action

<sup>16</sup> Criminal offence from Article 149 CC was recorded in another case together with the criminal offence of endangerment of safety from Article 138, paragraph 3

Causing of general danger	278	0 <sup>17</sup>			0
Grave bodily harm	121	0	0	0 <sup>18</sup>	0
Unknown	-	1	-	-	1
Descriptive	-	9	24	12	45
TOTAL	-	87	83	42	212

### **Competent public prosecutor's offices**

As in the previous period, the largest number of cases take place before the Special Prosecutor's Office for High Tech Crime (HTC) of the Higher Public Prosecutor's Office in Belgrade. Out of 212 established cases, HTC acts in 109 (51.4%), which again shows that criminal offences are most often committed online. In the previous period, the share of cases of the Special Prosecutor's Office for HTC was slightly higher (59.6%), so there is a slight downward trend of the cases under the jurisdiction of the HTC, i.e., criminal offences committed online in relation to the total number of cases established.

On the other hand, there is a growing trend of cases before other public prosecutors' offices (for criminal offences that were not committed online), which can lead to the conclusion that threats to journalists and media workers are gradually being transferred from the online sphere to reality.

While in the earlier period, about 16.2% of cases were recorded that were under the jurisdiction of the three basic public prosecutor's offices in Belgrade, now 43 cases take place before the First Basic Public Prosecutor's Office in Belgrade, while nine cases take place before the II BPPO and nine before III BPPO in Belgrade, which is a total of 61 cases, or about 28.8% of cases.

Remaining cases (about 18.9%) take place before other basic public prosecutor's offices, mostly in Niš and Vranje (six cases each); in Zaječar and Leskovac (four cases each) and Novi Sad and Loznica (three cases each).

Competent public prosecutor's office	2021	2022	2023	Total
HTC	50	40	19	109
I BPPO	15	19	9	43

<sup>17</sup> Criminal offence of causing of general danger from Article 278 of the CC is recorded together with the criminal offence from Article 348 of the CC - Illegal production, possession, carrying and circulation of weapons and explosives

<sup>18</sup> In one case, grave bodily harm was recorded along with the criminal offence of endangerment of safety from Article 138

II BPPO	4	2	3	9
III BPPO	2	3	4	9
HPPO in Belgrade	0	2	0	2
BPPO Niš	1	4	1	6
BPPO Vranje	1	4	1	6
BPPO Leskovac	0	1	3	4
BPPO Zaječar	1	3	0	4
BPPO Novi Sad	1	2	0	3
BPPO Loznica	2	1	0	3
BPPO Šabac	2	0	0	2
BPPO Požarevac	2	0	0	2
BPPO Pančevo	0	0	1	1
BPPO Vladičin Han	0	1	0	1
BPPO Kragujevac	0	0	1	1
BPPO Smederevo	0	1	0	1
BPPO Mionica	1	0	0	1
BPPO Valjevo	1	0	0	1
BPPO Zrenjanin	1	0	0	1
BPPO Kraljevo	1	0	0	1
BPPO Čačak	1	0	0	1
BPPO Kragujevac	1	0	0	1
Total	87	83	42	212

## **Conclusion**

The more and more complete records of the Supreme Public Prosecutor's Office and the provision of access to the records on a monthly basis by journalist and media associations, as well as members of the Standing working group for the safety of journalists, have enabled better monitoring of cases of criminal offences committed against journalists and monitoring of trends in the resolution of cases.

As in the previous period, the largest number of reported criminal offences refers to endangerment of safety of persons performing work of public importance in the field of information (Article 138, paragraph 3 of the CC), i.e., threats to attack the life and body of a journalist or a person close to him or her. Also, as in the previous period, the largest number of cases are reported to the Special Prosecutor's Office for High Tech Crime of the Higher Public Prosecutor's Office in Belgrade, which means that the largest number of threats are still carried out online.

However, what is new is that, compared to the previous period, there is a slight trend of a decrease in criminal offences under the jurisdiction of the HTC in relation to the total number of cases established, while on the other hand, there is a trend of growth in cases before other public prosecutor's offices (for crimes that have not been committed online). This leads to the conclusion that threats to journalists and media workers are gradually approaching real life from the virtual. In order to confirm these worrisome trends with certainty, it is necessary to continuously monitor the course of cases before the competent prosecutor's offices.

When it comes to the outcomes of reported cases, there is also certain shift. The share of cases resolved by court decision (judgment) is gradually increasing, while the share of cases resolved by prosecutor's office decision (dismissal of criminal charges) is decreasing. The number of cases finally resolved by judgment is significantly higher than in the previous monitoring period. However, the largest number of these cases occurred in earlier years, which indicates an extensive duration of court proceedings. On the other hand, it has been shown that even cases resolved by dismissing criminal complaints due to deferral of criminal prosecution and fulfilment of obligations imposed by the order of the prosecutor's office can last for many years, so one cannot speak of their efficiency.

When it comes to active, i.e., unresolved cases, the number of undetected perpetrators in the total number of cases is still high. However, there is a drastic decrease in the number of undetected perpetrators from year to year. The largest number of unresolved cases that entered into the records of unknown perpetrators are from earlier years (2016–2018), while only one such case was recorded for the year 2023 until the end of June. There is no doubt that the General Mandatory Instruction of the Supreme Public Prosecutor's Office, which was adopted in December 2020 and prescribes the urgency of the proceedings, has produced certain results. A certain obstacle to faster detection of the perpetrators is the lengthy procedures for letters rogatory when it comes to international legal assistance.

# **Analysis of court proceedings ending in a final ruling in prosecuting criminal offences of endangerment of safety of media workers**

## **Overview of analysed cases**

In this part of the report, 34 proceedings ended in a final ruling for endangering the safety of media workers are analysed. Proceedings were conducted for the following criminal offences: light bodily injury (Article 122 of the CC), ill-treatment and torture (137 of the CC), endangerment of safety (Article 138 of the CC), stalking (138a of the CC), causing of general danger (Article 278 of the CC), violent behaviour (Article 344 of the CC) and violent behaviour during sports event or public gathering (Article 344 of the CC). The largest number of proceedings was initiated for the commitment of the criminal offence of endangerment of safety.

Criminal offence	Number of proceedings
Endangerment of safety	25
Violent behaviour	3
Stalking	2
Light bodily injury	1
Ill-treatment and torture	1
Causing of general danger	1
Violent behaviour during sports event or public gathering	1

While the largest number of proceedings referred to in the report published by the Judicial Research Centre (CEPRIS) and the Slavko Ćuruvija Foundation (SCF) in 2021<sup>1</sup> was resolved by plea agreements, the largest number of proceedings ending in a final ruling to which this report refers ended with conviction. Out of a total of 34 cases, there were 15 with such an outcome. When it comes to acquittals, in the sample considered in the report from 2021, such judgments accounted for 10% of the total number of judgments, while that percentage in this year's report is 18%.

### **The manner of ending the court proceedings**

### **Number of proceedings**

<sup>1</sup> Vida Petrović Škero, Relja Radović, Nataša Jovanović, Kruna Savović, researchers: Ana Zdravković and Nataša Stojadinović, *Protection of Freedom of Speech in the Judicial System of Serbia*, Slavko Ćuruvija Foundation, Belgrade, 2021



Conviction	15
Plea agreement <sup>2</sup>	11
Acquittal	6
Decision imposing a security measure of psychiatric treatment and confinement in an institution	1
The decision imposing the security measure of compulsory psychiatric treatment at liberty	1

As was the case in the period analysed in the previous report, the safety of media workers was most often threatened online. Three times more threats were made directly than indirectly, via text message or phone call. Proceedings conducted due to verbal threats directly said in the majority of cases resulted in acquittals.

### Criminal offence: Endangerment of safety

Total: 25

How criminal offence was committed	Number of cases	The outcome of proceedings
Threats online	13	seven judgments accepting the plea agreement six convictions
Direct verbal threats	9	five acquittals three judgments accepting the plea agreement one conviction
Threats sent in the form of phone calls and text messages	3	two convictions one judgment accepting the plea agreement

While in the sample from the previous report for the criminal offence of violent behaviour, an equal number of acquittals and convictions were made (one conviction and one acquittal), all court proceedings representing the sample of this year's report ended with convictions.

### Criminal offence: Violent behaviour

Total: 3

How criminal offence was committed	Number of cases	How the proceedings ended
Causing material damage and making threats	1	one conviction (three persons convicted)
Causing material damage	1	one conviction
Assault	1	one conviction

<sup>2</sup> The judgment by which the court accepts the plea agreement is a conviction, however, for the sake of conspicuousness, the plea agreement will be considered separately from the conviction.

When it comes to the criminal offence of stalking, the perpetrators of the criminal offence were ordered to undergo mandatory psychiatric treatment, both at liberty and in an appropriate institution. This data deviates from the one recorded in the previous report, where plea agreement was concluded for the same criminal offence in one case, while in the other, mandatory psychiatric treatment was determined.

Criminal offence: Stalking Total: 2		
How criminal offence was committed	Number of cases	How the proceedings ended
Through means of communication	1	one decision imposing a security measure for psychiatric treatment and confinement in an institution
Directly, indirectly (through a third party) and through means of communication	1	one decision imposing a security measure for mandatory psychiatric treatment and confinement in an institution

Due to the criminal offence of light bodily injury, when three persons participated, one criminal proceedings was conducted. In the report published in 2021, not a single case of the criminal offence of light bodily injury was recorded (Article 122 (2) in connection with CC). Light bodily injury was inflicted on the journalist, but it was done during the commission of the criminal offence of violent behaviour.<sup>3</sup>

Criminal offence: Light bodily injury Total: 1		
How criminal offence was committed	Number of cases	How the proceedings ended
Causing injury with a metal rod	1	conviction (three persons were convicted, two for inflicting light bodily harm, one for abduction)

In the court proceedings conducted for the other listed criminal offences, acquittals were mostly delivered because it was not proven that the perpetrator had committed the criminal offence charged against them. In the case of court proceedings conducted for the criminal offence of ill-treatment and torture, the acquittal was ruled because the court did not trust the victim,<sup>4</sup> finding that he bullied the defendant, that he answered her provocatively, that he went out in front of her holding the camera he used to record her and that he threw ironic insults at her. In the report published in 2021, not a single case of the criminal offence of ill-treatment and torture was recorded.

<sup>3</sup> A prison sentence of 6 months was imposed for that criminal offence

<sup>4</sup> It concerns a tabloid photographer.

**Criminal offence: Ill-treatment and torture****Total: 1**

How criminal offence was committed	Number of cases	How the proceedings ended
Direct physical and verbal contact	1	acquittal

While in the last report there were two cases of committing the criminal offence of causing of general danger, one of which ended with plea agreement, and the other with the decision imposing a security measure of mandatory psychiatric treatment and confinement in a psychiatric institution, this year's report notes one case that ended with a conviction.

**Criminal offence: Causing of general danger****Total: 1**

How criminal offence was committed	Number of cases	How the proceedings ended
Setting the car on fire	1	conviction (two persons were convicted, one person was convicted of direct commission of the criminal offence, while the other was convicted of assisting in the commission of the criminal offence)

Unlike this year's report, in the last report there was not a single case of committing the criminal offence of violent behaviour during sports event or public gathering.

**Criminal offence: Violent behaviour during sports event or public gathering****Total: 1**

How criminal offence was committed	Number of cases	How the proceedings ended
Assault on two female journalists	1	conviction

**Criminal sanctions and duration of court proceedings**

In the analysed cases, the most suspended convictions were imposed, a total of 18. In the largest number of cases, a sentence of one year was imposed, with a probationary period of three years. Prison sentence was pronounced against 13 persons (in 8 court proceedings, in which several persons were prosecuted).

In the period concerned, a total of 16 persons were deprived of their liberty. Deprivation of liberty means arrest, retaining, prohibition of leaving premises, detention and stay in an institution, which, in accordance with the Criminal Procedure Code, counts as detention.<sup>5</sup> The longest duration of detention was 236 days. It was

<sup>5</sup> Article 2 paragraph 1 point 23 of the CPC

imposed to the perpetrator of the criminal offence qualified as violent behaviour, a prolific offender who, after the end of the proceedings, was sentenced to a prison sentence of one year and two months.

Suspended conviction Total number of court proceedings: 18		
Prison sentence (months)	Probation period (months)	Number of cases
12	36	8
6	24	2
6	12	2
10	36	1
4	12	1
5	12	1
6	36	1
8	36	1
8	24	1

Compared to the previous report, a significant increase in the number of prison sentences can be observed. The longest prison sentence was imposed for 18 months and applied to two persons.

Prison sentence Total number of court proceedings 8, 13 persons convicted		
Prison sentence (months)	Place where the convicted person serves his sentence	Number of convicted persons
18	Prison	2
14	Prison	2
8	Prison	2
16	Prison	1
12	Prison	1
6	Prison	1
12	the premises where the convicted person lives, with electronic surveillance	1
10	the premises where the convicted person lives, with electronic surveillance	1
6	the premises where the convicted person lives, without electronic surveillance	1

4	the premises where the convicted person lives, without electronic surveillance	1
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### Treatment and confinement in an institution and treatment at liberty

Duration	Place where treatment will take place	Number of cases
security measure of mandatory psychiatric treatment and confinement in a health institution as long as the need for treatment lasts	In an institution	1
security measure of mandatory psychiatric treatment that lasts as long as the need for treatment lasts, but not longer than three years	At liberty	1

## **Criminal sanctions and duration of court proceedings**

From the moment when the case that is the subject of this analysis was received to the court until the final court decision was made (plea agreements due to their nature are not included in this segment of statistics) an average of one year, four months and 20 days passed. One year, 11 months and 7 days passed from the commission of the offence to a final court decision. In eleven cases, in addition to the punishment, a security measure (one or more) was imposed. The duration of the proceedings that ended with the conclusion of the plea agreement (the period includes the time from the committing of the offence to adoption and publication of the first-instance judgment) amounted to an average of one year and two days. About 6 months and 14 days passed from the commission of the offence until the moment of receiving the case in court.

## **Analysis of proceedings ended in a final ruling in relation to their outcome**

### **Convictions**

**Total: 15**

Criminal offence	Imposed criminal sanctions
Violent behaviour (Article 344 para. 2 in relation to para. 1) After the "Holy Kosovo and Metohija" protest march, the convicted person approached the victim, pulled a hood over his head and punched him twice in the right temple.	suspended conviction – imprisonment for 8 months, probationary period of three years

### Duration of the proceedings

from the receipt of the case to the court until the first-instance decision: one month and five days

from the first-instance decision to final ending of the proceedings: the judgment became final on the same day it was passed and made public, since the parties waived their right to appeal

from the commission of the offence to the final court decision: two months and 25 days

### Criminal offence

Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)

Through the Twitter social network, the convicted person sent the following threats to the injured party from his user account: "Hey whore from the whorehouse of [the name of the person is listed], do you want to be impaled not on a dick but on a stake, unloiled and rough, and then impaled like that you can be flayed with a rusty scalpel, salted and burned, and all this to be broadcast on all televisions and reports from the same centre of the city, believe me, unfucked whore who wants a dick, that instead of an apple, I will put a huge black vibrator in your mouth, and when I finish carving and salting I will burn you with a torch everywhere I carved you and salted you, and then I will take you impaled like that and with an artificial cock in your mouth as a delicacy to some wolf den to become a dessert for wild beasts and predators and I will do all this with loud music and songs (singer's name is given) and sarcastic and sadistic laughter, and so on, one of you every day until I finish catabasis and you yellow bastards from the whorehouse of the asshole [name of person is given] from N1, come now you whore and bitch insatiable and unfucked, read this in the news, did I fuck you all in your mouth and fuck you with everything from pampers diapers to black plastic trash bags, come on whore, read this now, come on, cunt from N1 whorehouse" and "So you can see that I don't belong to the SNS, come on and write something stupid".

### Imposed criminal sanctions

prison sentence of one year (it was determined that the convicted person will serve his sentence in the premises where he lives with electronic surveillance, with the condition that the court will order him to serve the remainder of his prison sentence in a correctional institution if for a period longer than six hours or twice for a duration of up to six hours voluntarily leaves the premises in which he lives)

security measure – prohibition on approaching and communicating with the injured party (the convicted person is prohibited from approaching the place of residence of the injured party at a distance of less than 200 meters, as well as further communication with her for a period of one year from the finality of the judgement)

security measure – confiscation of the mobile phone and the corresponding SIM card

Note: The convicted person spent one month and 18 days in detention.

### Duration of the proceedings

from the first-instance judgment to the final ending of the proceedings: 8 days

from the commission of the offence to the final court decision: three months and 30 days

### Criminal offence

Violent behaviour (Article 344 para. 1 of the CC) in co-perpetration

### Imposed criminal sanctions

prison sentence of 8 months each for two convicted persons (the person who sprayed the premises with

<p>With their insolent and reckless behaviour, three persons seriously disturbed public order and peace in the premises of the cafe that operates as part of the OK radio media company. One person sprayed the entire inventory of the cafe with white paint, the second person, who entered after the first person had left the premises, brought in a mobile phone, through the speakerphone of which a third person spoke to the injured party: "Listen to what (the name of a convicted person is given) is saying, this is the answer to your lawsuit, this is just the beginning, the cafe will never work, this is the answer for the lawsuit and for Belgrade." Recognizing the convicted man's voice, the victim called another victim on the phone to inform her about the unpleasant event. It is emphasised that the second victim received disturbing and threatening messages from the convicted person for a long period of time.</p>	<p>paint and the person who brought in the mobile phone)          prison sentence of fourteen months for one convicted person (the person who uttered the threatening messages)          Note: The person who sprayed the object with paint and the person who brought the mobile phone into it spent three months and 27 days in detention. The person who uttered the threats 7 months and 7 days.</p>
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#### Duration of the proceedings

from the receipt of the case to the court until the first-instance decision: three months and 10 days

from the first-instance decision to the final ending of the proceedings: three months and 13 days

from the commission of the offence to the final court decision: 7 months and 23 days

Criminal offence	Imposed criminal sanctions
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>The commission of the offence lasted for nine days. The convicted person first called the injured party, and then sent him several text messages with threatening content. Not even after the injured party told him: "I immediately withdrew the news because I think that at least that part is not correct. I will also publish a denial. That's what I can do. And everything beyond that is pure threat and counterproductive pressure", the convicted person did not stop making threats. Some of the messages that the victim received were: "What pressure? I'm just warning you, that I'm going to prison for what I'm about to do to you [...]", "Don't let me come for you today", "But calculate what's more important to you, your life or money to destroy me. If you don't publish the real truth [...] I'm going to prison for what I'm gonna do to you, I swear. I found out where you live and I'm letting you know that if you don't deny your lie, you'll end up like..."; "I'll kill you in one of these days before I blink an eye. Well, your</p>	<p>Suspended conviction – imprisonment of one year, probationary period of three years          Security measure – prohibition of communication with the injured party for a period of three years</p>

son also deals in drugs, and your daughter is engaged in prostitution, and I don't inform the media and the public about it", "Here I am, if you kill me first, I will impale you on the restored beautiful square of the Republic, death to the yellow bastards", "I will impale you on the square of the Republic", etc.	
<b>Duration of the proceedings</b>	
from the receipt of the case to the court until the first-instance decision: 10 months and 7 days from the first-instance decision to the final ending of the proceedings: 7 months and one day from the commission of the offence to the final court decision: one year, 6 months and 25 days	

<b>Criminal offence</b>	<b>Imposed criminal sanctions</b>
Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)	suspended conviction – imprisonment for 6 months, probation period of two years Note: The convicted person spent one month and nine days in detention.
<b>Duration of the proceedings</b>	
from the first-instance decision to the final ending of the proceedings: three months and six days	

<b>Criminal offence</b>	<b>Imposed criminal sanctions</b>
Light bodily harm in co-perpetration (Article 122 para. 2 in relation to para. 1 of the CC) Two convicted persons inflicted light bodily harm on the victim. The criminal offence was committed in co-perpetration of a third convicted person. The convicts together, by agreement, approached the injured party, whose movements they followed for some time. One of the convicts sprayed the victim with pepper spray in the face, and the other hit him three times with a metal rod in the area of the left forearm, which the victim raised to protect himself from the attack. For the attack on the victim, the person convicted of co-perpetration promised a monetary compensation of 1,000 EUR.	prison sentence for a duration of 10 months (convicted person serves his sentence in the premises where he lives, with electronic surveillance) prison sentence for a duration of one year and two months prison sentence for a duration of one year and four months Note: The person who sprayed the journalist with pepper spray spent 28 days in detention. The person who beat him with a metal rod spent two months and 11 days in detention. The person who incited the assault for 7 months and 22 days.
<b>Duration of the proceedings</b>	
from the receipt of the case to the court until the first-instance decision: 6 months and 24 days from the first-instance decision to the final ending of the proceedings: 5 months and 10 days from the commission of the offence to the final court decision: 13 months and 2 days	

<b>Criminal offence</b>	<b>Imposed criminal sanctions</b>
Violent behaviour (Article 344 para. 1 of the CC) The convicted person disturbed public order and peace with his insolent and reckless behaviour by	Suspended conviction – imprisonment for four months, probationary period of one year



approaching the front door of the RTV Vojvodina building during a protest of a group of citizens, kicking it with his right foot and breaking the glass on it.	
<b>Duration of the proceedings</b>	
from the receipt of the case to the court until the first-instance decision: one month and 14 days from the first-instance decision to the final ending of the proceedings: the judgment became final on the same day it was passed and publicly announced, since the parties waived their right to appeal from the commission of the offence to the final court decision: one year, 9 months and 10 days	

<b>Criminal offence</b>	<b>Imposed criminal sanctions</b>
<p>Two criminal offences of Endangerment of safety (Article 138 para. 1 of the CC)</p> <p>On the webpage of the daily newspaper Informer, in the comment on the text "THE SICK PERSON WOULD SEND THE SERBIAN PEOPLE TO CONCENTRATION CAMPS!" [the name of the journalist who was an injured party is given] completely went crazy, HE WOULD USE NAZI METHODS because the Serbs love Putin and Russia!", above which was a photo of the injured person, the convicted person left a threatening message from his FB user account: "I WILL FIRST BEFORE I FUCK YOU TO FUCK YOUR DAUGHTER, THEN YOUR MOM, THEN YOUR BROTHER...AND THEN BURY ALL OF YOU ALIVE THREE METERS UNDER THE GROUND YOU USTASHA BASTARD".</p> <p>The second offence was aimed at a politician.</p>	<p>suspended conviction – imprisonment for 6 months, probationary period of three years</p> <p>security measure – confiscation of the mobile phone and the corresponding SIM card</p> <p>Note: The convicted person spent 20 days in detention.</p>

<b>Duration of the proceedings</b>	
from the first-instance decision to the final ending of the proceedings: four months and 28 days from the commission of the offence to the final court decision: two years, three months and five days	

<b>Criminal offence</b>	<b>Imposed criminal sanctions</b>
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>From his user profile on the Facebook social network, through the Messenger application, the convicted person sent the female victim a sticker with a coffin on it. The victim received the threatening message because of reporting in the television show that is broadcast on the television where she works. After that message, she received another message, by the same person, from his user profile on the Instagram social network: "Whore, I'll find you, and I'm gonna" (after which he posted an emoticon coffin.</p>	<p>suspended conviction – imprisonment of one-year, probationary period of three years</p> <p>security measure – confiscation of the mobile phone and the corresponding SIM card</p>

### Duration of the proceedings

from the commission of the offence to the final court decision: two years, 6 months and 17 days (finality of judgment came into force on the same day the judgment was passed, since the parties waived their right to appeal)

### Criminal offence

Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)  
The convicted person sent a threatening message to the victim from his user account on the social network Instagram: "Open all four eyes, you'll need them, and I have nothing more to say to you", and: "Look in the darkness, when we meet after half an hour we will tell you why".

### Imposed criminal sanctions

prison sentence in the duration of six months  
security measure – confiscation of laptop  
Note: The convicted person was detained for two days, while he spent five months and 22 days under house arrest.

### Duration of the proceedings

from the offence to the first-instance decision: one year, five months and 13 days

### Criminal offence

Two criminal offences of endangerment of safety (Article 138 para. 1)  
The convicted person published a post on his FB profile:  
"And you even mixed some things up, possibly because you thought I was going to break your legs and my pop is going to give you tongue lashing, so you attributed what I did to my father", "That's why, you little moustache man, apart from the mandatory apology I demand so that we don't meet in unpleasant situations in the city, I demand that you announce in the bag of shit from your column that you are sorry and that you, I know it is a lot but without that there is no story, you are an ordinary envious condom", "if you do not publish this in your article, then we will find the options to regain our honour, it's a small town, so when we meet, we'll make an agreement, and we have to do it quickly, because soon you'll be without a job, which keeps you in a half-full state that you're happy with."  
He committed the second offence by posting on his FB account posts in which he directly addressed the other injured party: "if you dare you weakening and a layman to enter the ring with heavyweights type Mile Tayson Highlights on YT to see how it ends, bye legend and see you around", "that's why we can talk only if I slap you or hit you on the forehead with a dick, now it's easy for you, no one is allowed to touch you, so

### Imposed criminal sanctions

suspended conviction – imprisonment for 8 months, probation period of two years

that another woman doesn't make another protest against the bloody shirts". On his FB profile, the convicted person also published a photo of him showing the middle finger, along with the message "see you soon friends". In the presence of certain persons, he stated that he was not sure what ... [the victim] looked like, but if he was sure what he looked like, he would have beaten him up on the street, i.e., slapped him.

**Duration of the proceedings**

from the receipt of the case to the court until the first-instance decision: one year, 10 months and 16 days  
 from the first-instance decision to the final ending of the proceedings: one month and 25 days  
 from the commission of the offence to the final court decision: two years, 6 months and 21 days

**Criminal offence**

Causing of general danger in co-perpetration (Article 278 para. 1 of the CC)  
 The committing of the criminal offence is reflected in the fact that the convicted person came to the parking lot of the building where the injured party lives, approached the car owned by the injured party, broke the window of the vehicle, opened the bottle containing gasoline, poured the gasoline over the driver's seat, after that, threw the bottle with the cap into the vehicle, and then he also threw a lighted match into the vehicle. After that, the vehicle exploded and the fire spread to the entire surface of the vehicle. The convicted person caused damage to the victim in the amount of 150,000 RSD, and there was a real danger that the resulting fire would spread to the surrounding residential buildings and vehicles. The convicted person left the scene after his offence. Matches, as well as information about the location of the vehicle, were provided by another convicted person.  
 The second perpetrator was convicted of aiding the commission of a criminal offence. Aiding was carried out in such a way that the convicted person gave instructions to the person who committed the crime and made available the means for the commission of the criminal offence

**Imposed criminal sanctions**

Prison sentence for a period of one year and 6 months, and a fine of 50,000 RSD for one convicted person  
 Prison sentence for a year and 6 months for the second convicted person  
 Note: A person convicted of setting a car on fire spent 21 days in detention. A person sentenced for aiding the commission of a criminal offence was sentenced for one month and 27 days.

**Duration of the proceedings**

from the receipt of the case to the court until the first-instance decision: one year, 4 months and 2 days  
 from the first-instance decision to the final ending of the proceedings: one year, 8 months and 24 days  
 from the commission of the offence to the final court decision: three years, two months and 8 days

Criminal offence	Imposed criminal sanctions
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>The convicted person made threatening phone calls to the victim. The threats followed after the victim published a text about the case that took place in the elementary school in the place where the victim lives. The female student sent a photo of inappropriate content to one of the students who attends the same school, which he then distributed to his peers. When reporting on that event, the injured party did not reveal the identity of the persons involved. The convicted person introduced herself to the injured party as the girl's mother and sent her a series of threats:</p> <p>"I will kill you, I will kill your child, I will wait for him in front of the kindergarten, you can expect me at any time, I know who you are and where you live". In addition to calls, she also sent several text messages to the victim, insisting that the victim answer her phone because she will not stop calling until she answers. In the messages, she also stated that the victim in the text made everything up and that she must deny what was written.</p>	<p>suspended conviction – imprisonment for 6 months, probation period of two years</p> <p>security measure – prohibition on approaching and communicating with the injured party for a period of one year (the convicted person is prohibited from approaching the injured party at a distance of less than 50 m, from accessing premises around her place of residence or place of work, from further disturbing her and communicating with her; the imposed measure can be cancelled even before the end of the period for which it was set if the reasons for which it was set cease to exist)</p> <p>Note: The convicted person was sentenced to detention for two days, as well as house arrest for one month and 7 days.</p>
<b>Duration of the proceedings</b>	
<p>from the receipt of the case to the court until the first-instance decision: one year, 7 months and 21 days</p> <p>from the first-instance decision to the final ending of the proceedings: five months and 27 days</p> <p>from the commission of the offence to the final court decision: two years, 11 months and 6 days</p>	

Criminal offence	Imposed criminal sanctions
<p>Criminal offence of violent behaviour during sports event or public gathering (Article 344 a) para. 1)</p> <p>The convicted person assaulted two female journalists during a public meeting. He approached them and addressed one of them with the words: "I'm fucking your mom", after which he punched her in the right side of the face, causing her light bodily harm. A security guard brought the journalist into the media building where she is employed, and the convicted person rushed towards another female journalist, intending to kick her. He was stopped by a security guard by knocking him to the ground. After standing up, the convicted person approached the journalist from behind and punched her in the back of the head, causing her</p>	<p>suspended conviction – imprisonment for one year, probation period of four years</p> <p>Note: The convicted person spent 27 days in detention.</p>

light bodily harm. After the intervention of an officer of the Department for public order and peace of the police department for the city of Belgrade, he was arrested.	
<b>Duration of the proceedings</b>	
from the receipt of the case to the court until the first-instance decision: three years, eight months and three days	
from the first-instance decision to the final ending of the proceedings: three months and 14 days	
from the commission of the offence to the final court decision: four years and 14 days	

<b>Criminal offence</b>	<b>Imposed criminal sanctions</b>
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>The convicted person approached the journalist and cameraman while they were reporting live from the protest on the plateau in front of the National Assembly. The convicted person shouted at them, forced them to move, to stop recording, threatened them with conclusive actions, approached them, jerked his head forward, swung his right hand towards them and knocked the microphone out of the journalist's hand with his left hand.</p>	<p>suspended conviction – imprisonment for ten months, probation period of three years</p>
<b>Duration of the proceedings</b>	
from the receipt of the case to the court until the first-instance decision: 11 months and 11 days	
from the first-instance decision to the final ending of the proceedings: 9 months and 12 days	
from the commission of the offence to the final court decision: two years, 8 months and 10 days	

### **Judgments accepting plea agreements**

**Total: 11**

<b>Criminal offence</b>	<b>Imposed criminal sanctions</b>
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>Convicted and injured party attended the trial in the Palace of Justice. The convicted person approached the injured party, threatening him: "What are you doing here, you cunt?" After the injured party asked him if he was addressing to him, the third person answered in the affirmative, and the convicted person, turning to the injured party, said: "Yes, yes, to you!".</p>	<p>prison sentence for a duration of 6 months (it was determined that the convicted person will serve his sentence in the premises where he lives, without electronic surveillance, with the proviso that, if he leaves the premises once for a duration of more than six hours or twice for a duration of up to six hours on his own will, the court will order that he shall serve the rest of his prison sentence in the correctional institution)</p> <p>security measure – prohibition of approaching and communicating with the injured party (the convicted person is prohibited from approaching the injured party at a distance of less than 50 meters, as well as further harassment and communication with the</p>

	injured party, for a period of one year from the finality of the judgment; the time spent serving the sentence is not included in the duration of this measure
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**Period from committing a criminal offence to the final court decision**

three months and five days

Criminal offence	Imposed criminal sanctions
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>While the injured party was interviewing a certain person, the convicted person approached him, threatening: "Listen, I'll teach you a lesson about that, just to tell you, I didn't threaten you, you're at the rock bottom, there's nothing to talk about, don't annoy me, I'll shoot you in the head ". After the injured party admonished him, the convicted person said: "Go fuck yourself".</p>	<p>suspended conviction – imprisonment for five months, probationary period of one year</p> <p>security measure – prohibition of approaching and communicating with the injured party (the convicted person is prohibited from approaching and communicating with the injured party at a distance of less than 200m, as well as accessing premises around the injured party's place of residence and work; the convicted person is prohibited from communicating and harassing the injured party by phone and in writing , for a period of three years counting from the date of finality of the judgment, the imposed measure can be revoked even before the expiration of the time for which it was set if the reasons for which it was set cease to exist</p>

Period from committing a criminal offence to the final court decision

**two years, 10 months and 13 days**

Criminal offence	Imposed criminal sanctions
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>Through the Facebook social network, the convicted sent a threat to the injured party: "How are you, are you sleeping, believe me that in the morning you will have a deadline of 20 minutes to deny everything, to erase everything, you poor thing. See you in the morning. Me or you, I know a lot about you, so it might as well be announced in the morning already, and you know, see you, sleep well."</p>	<p>suspended conviction – imprisonment for one year, probationary period of three years</p>

**Period from committing a criminal offence to the final court decision**

6 months and 13 days

Criminal offence	Imposed criminal sanctions
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>Under the news headline "A security guard of a company in Niš warned and shot at a group of</p>	<p>suspended conviction – imprisonment for one year, probationary period of three years</p>

young men and wounded one”, the convicted person wrote: “Why don’t you write that they are migrants, who were warned several times before the shooting?” It’s all clear who finances you, I just sincerely hope that tomorrow they will gangbang your underage children when they come back from school, so I can see what you will write then. I most sincerely wish the entire newsroom of Južne vesti a savage rape of their children by migrants until they die. Let me see what text you will publish then,” and “Terrorist bastards, all of them should be killed as well as you who support them! All of you should be hanged with a public broadcast online”.

**Period from committing a criminal offence to the final court decision**

three months and 20 days

**Criminal offence**

Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)  
 Under the episode “Ill-famed duo in action” (*Dripački tandem u akciji*) of the series “The Good, the Bad and the Ugly” (*Dobar, loš zao*), the convicted person wrote to the victim authors: “This country is crying out for a Barren Island, send people like this to a barren island for re-education, if that doesn’t work then a bullet in the forehead”.

**Imposed criminal sanctions**

suspended conviction – imprisonment for one year, probationary period of three years  
 security measure – confiscation of the mobile phone and the corresponding SIM card  
 Note: The convicted person was detained for one day.

**Period from committing a criminal offence to the final court decision**

7 months and 28 days

**Criminal offence**

Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)  
 Under their post, and through the Twitter social network, a threat was sent to the editors of the KRIK portal: “I will fuck your lying mother, I’m going to set you all on fire and kill you.”

**Imposed criminal sanctions**

suspended conviction – imprisonment for one year, probationary period of three years

**Period from committing a criminal offence to the final court decision**

10 months and 14 days

**Criminal offence**

Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)  
 The convict, who found the phone number on the Instagram social network, on a screenshot

**Imposed criminal sanctions**

prison sentence for a duration of four months (the sentence is carried out in the premises where the convicted person lives, without electronic surveillance,

published by a third party, sent the victim an SMS message: "I'm going to kick you as soon as you step out of the street, you journalist bitch."	with a ban on leaving the premises, except in cases provided for by law) security measure – confiscation of the mobile phone and the corresponding SIM card
<b>Period from committing a criminal offence to the final court decision</b>	
three months and 11 days	

<b>Criminal offence</b>	<b>Imposed criminal sanctions</b>
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>While the two injured parties were interviewing a citizen on the occasion of the Labour Day celebration, the convicted person approached them at a distance of less than 5 meters, shouting: "Fuck you journalists, fuck you RTS and [name of person]". Then he took out a bottle of beer from the bag and started waving it in the direction of the victims, threatening them: "Do you want me to smash your heads with the bottle and beat you up, come here, what are you laughing at?". After that, he headed towards the injured cameraman, saying: "Fuck you thieves, stinkers, what the fuck is this".</p>	<p>suspended conviction – imprisonment for one year, probationary period of three years</p> <p>Note: The convicted person was detained for one day.</p>
<b>Period from committing a criminal offence to the final court decision</b> <sup>6</sup>	

<b>Criminal offence</b>	<b>Imposed criminal sanctions</b>
<p>Endangerment of safety (Article 138 para. 1 of the CC)</p> <p>Through the Instagram social network, the convicted person sent a threat to the victim, writing it under a photo of her and her two minor sons. The threat read: "I will fuck them both hard".</p>	<p>suspended conviction – imprisonment for 6 months, probation for one year</p>
<b>Period from committing a criminal offence to the final court decision</b>	
one year, 7 months and 30 days	

<b>Criminal offence</b>	<b>Imposed criminal sanctions</b>
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>The convicted person sent an electronic message to the web news desk with threatening content: "You are corrupt persons and domestic traitors, you should be publicly hanged on Terazije and wiped out so that there will be peace in Serbia.</p>	<p>suspended conviction – imprisonment for 6 months, probation for one year</p>

<sup>6</sup> For a specific case, it is not possible to present the given data because the presented data were not properly recorded in the documentation that was submitted to the authors of the analysis.



N1 is a television that propagates violence and calls for the murder and rape of someone's daughters, is it what television should be like, you gang of scumbags?"	
<b>Period from committing a criminal offence to the final court decision</b>	
two years, 6 months and 10 days	

Criminal offence	Imposed criminal sanctions
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>Through the WhatsApp application, the convicted person sent several threatening and insulting messages to the injured party: "this is the last warning to you, you scum and whore, you won't host any more shows from tomorrow you'll out, you'll suck dicks from your ass to your mouth, we'll punish you, you're very quiet, you whore, they say from the police that your reports are ripped off and thrown away, you're whining again hahaha, let's play the tango of death just like before, my tigers are waiting for you [...] now we'll wean you off the microphone and you'll change it to a dick for the rest of your life, you'll suck dicks in public for the rest of your life, there's no more television for you, you sick person, what are you pretending to be important, the whole scene is laughing at you, hahaha, seriousness at the level of an animator for monkeys on television, just to show off, aren't you ashamed, we will destroy you as a matter of principle because we are trouble [...] the next match, a slogan dedicated to you will be exhibited, the entire stands will chant for you, call me you whore, I'm watching you, you called my friend a fool, now a man is calling me screaming with laughter, what are you doing behind the screens, oh now 1 on 1, you don't know who you've stepped on, you'd better buy a ticket from Serbia, but in one direction, we'll eat grain at your funeral you little peasant girl... she'll be put out like a cigar, trampled on,... she never get fucked, no one will fuck her that's why there are gravediggers (<i>grobari – organised supporters of the sports team Partizan</i>), we'll fuck you for as long as you are alive, you'll give birth to a little bastard like you, you're next".</p>	<p>prison sentence for a duration of 6 months (it was determined that the convicted person will serve his sentence in the premises where he lives, without electronic surveillance, with the proviso that, if he leaves the premises once for a duration of more than six hours or twice for a duration of up to six hours on his own will, the court will order that he serves the rest of his prison sentence in the correctional institution)</p> <p>security measure – prohibition on approaching and communicating with the injured party (the convicted person is prohibited from approaching and communicating with the injured party at a distance of less than 100 meters, for a period of one year from the finality of the judgment, with the proviso that the time spent serving the sentence is not included in the duration of the said measure)</p>

<b>Period from committing a criminal offence to the final court decision</b>	
one month and three days	

## Acquittals

**Total: 6**

The offence the acquitted person is charged with	Reasons for which the court passed an acquittal
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>While journalist who was an injured party was hosting a show talked about the reported person's criminal past and convictions, he sent threats to her: "If I intend to rape you, I will do it, if I have freedom, if there is no cameraman to stop me," and "If I come to kill you, I will kill you, if there is no one to stop me."</p>	<p>During the proceedings, the court established that the disputed words, in the given context, but also out of the context, do not show the intention of the reported person to endanger the injured party in any way.</p>
<b>Period from committing a criminal offence to the final court decision</b>	
<p>from the receipt of the case to the court until the first-instance decision: four months and 21 days                      from the first-instance decision to the final ending of the proceedings: 3 months and 6 days                      from the commission of the offence to the final court decision: 9 months and 21 days</p>	
The offence the acquitted person is charged with	Reasons for which the court passed an acquittal
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>According to the charging document, the reported person approached the victim and asked if it was she. After the victim gave an affirmative answer, the reported person said: "I don't know you, but you know me", adding: "If you mention me one more time, I will kill you!"</p>	<p>Although the first-instance decision imposed a suspended conviction on the reported person (prison sentence for 6 months, probation period of one year), the second-instance decision acquitted the reported person. The second-instance court took the view that it was not a threat that could be considered as the threat endangering the safety of the injured party, since what has been said to the injured party has been communicated to her and that the reported person left after what was said, and the injured party entered the building in front of which the incident took place, and that the realization of threats is conditioned by the previous behaviour of the injured party.</p>
<b>Period from committing a criminal offence to the final court decision</b>	
<p>from the receipt of the case to the court until the first-instance decision: three months and one day                      from the first-instance decision to the final ending of the proceedings: five months and 22 days                      from the commission of the offence to the final court decision: one year, 3 months and 1 day</p>	
The offence the acquitted person is charged with	Reasons for which the court passed an acquittal
<p>Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)</p> <p>According to what is stated in the charging document, while the injured party was waiting to join in live in order to report on the election events, the reported person's wife and her sister approached him and started a discussion related to</p>	<p>The court ruled an acquittal, stating: "According to the court's assessment, in this particular case, an essential element of the criminal offence of endangerment of safety was not realised, bearing in mind that there was no individualization of the passive subject, where as a consequence of the criminal offence, the endangerment of safety arises</p>

the reasons why the journalist who was an injured party did not publish the messages that the reported person's wife had sent to him while he was in prison. After the journalist replied that he did not think he should have published them, the reported person came and threatened the journalist with the words that the journalist who was an injured party will "remember" him, and then withdrew.

precisely from the sense of insecurity of the passive subject, i.e., where the passive subject must take the threat seriously. For the offence to exist, it is necessary that the perpetrator endangers the safety of a person by threatening to attack the life or body of that person or a person close to him or her, from which it follows that it is necessary to create a feeling of stronger uneasiness or fear in a certain person, by making the injured person feel threatened, i.e. that the expressed threat must be serious in the sense that it would have to cause a stronger feeling of fear, i.e. a feeling of greater personal insecurity, which was absent in this particular case."

**Period from committing a criminal offence to the final court decision**

from the receipt of the case to the court until the first-instance decision: 9 months and 21 days  
 from the first-instance decision to the final ending of the proceedings: 6 months and 30 days  
 from the commission of the offence to the final court decision: 9 months and 11 days

**The offence the acquitted person is charged with**

Ill-treatment and torture (Article 137 para. 1 of the CC)  
 In the charging document, it is stated that the reported person, after noticing that she was being photographed at the cemetery, first blocked the way with a car, then got out of the vehicle, came to the injured party and started insulting him, spat at him through the window, headed back to the car, and then returned to the victim again, took off a part of his camera and aimed it at him, slapped him and walked away to the car. When she noticed that the victim was still filming her, the reported person approached him again and told him to go outside. When he came out, she grabbed him by the neck, pushed him away and withdrew.

**Reasons for which the court passed an acquittal**

The court found, among other things, that the injured party's physical integrity and human dignity were not violated, and that the defendant's behaviour did not cause him a feeling of fear, despair or inferiority, nor a feeling of humiliation. The court established that the injured party harassed the defendant, that he responded to her provocatively, that he went out in front of her still holding the camera he used to record her and that he spoke ironically at her.  
 The court did not accept the testimony of the injured party that he feared for his safety, that because of that event he terminated the contractual relationship with the media company where he was employed, and that he still feels the consequences of the disputed event.

**Period from committing a criminal offence to the final court decision**

from the receipt of the case to the court until the first-instance decision: one year, five months and 11 days  
 from the first-instance decision to the final ending of the proceedings: 4 months and 18 days  
 from the commission of the offence to the final court decision: three years, 7 months and 10 days

**The offence the acquitted person is charged with**

Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)  
 According to the allegations in the motion to indict, the reported person addressed the injured party several times regarding the editorial policy of the media of which the injured party is the director. In a

**Reasons for which the court passed an acquittal**

The court found that based on the disputed sentence, it cannot be claimed that the reported person threatened the media worker, regardless of the fact that he had a gun with him that was placed on the table. Bearing in mind that during the proceedings it was not proven that the reported

restaurant, sitting at the next table, he said to the injured party: "[Injured person's name is given] did you hear that there are protests in the city". After that, he left the place, and returned after about twenty minutes. He sat down, took out a gun with bullets from his jacket pocket, put it on the table and said: "Let me see if they are going to threaten me now."	person had committed the criminal offence charged against him, the court issued an acquittal.
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**Period from committing a criminal offence to the final court decision**

from the receipt of the case to the court until the first-instance decision: 10 months and 24 days  
 from the first-instance decision to the final ending of the proceedings: 3 months and 8 days  
 from the commission of the offence to the final court decision: one year, 8 months and 12 days

**The offence the acquitted person is charged with**

**Reasons for which the court passed an acquittal**

Endangerment of safety (Article 138 para. 3 in relation to para. 1 of the CC)  
 In the motion to indict, it is stated that the reported person threatened the victim's safety by, while he was reporting in front of the Bosniak National Council building, approaching him and swinging his fist, intending to hit him, saying in a threatening tone: "What are you filming, you want me to punch you and knock out all your teeth".

The court issued an acquittal, finding that the accusation was not proven.

**Period from committing a criminal offence to the final court decision**

from the receipt of the case to the court until the first-instance decision: two years, 11 months and 13 days  
 from the first-instance decision to the final ending of the proceedings: two months and 27 days  
 from the commission of the offence to the final court decision: three years, 11 months and 6 days

**Decisions imposing security measures**

**Unlawful offence**

**Imposed security measures**

The defendant, in a state of mental incompetence, committed the unlawful offence stipulated in the Criminal Code as the criminal offence of stalking (Article 138 a) para. 1 point 2 of the Criminal Code)  
 Over a longer period of time, the defendant, against the will of the injured party, persistently tried to get in touch with her from different locations by calling her to her private and official phone, sending her messages in which he declared his love for her, sending kisses, he insulted her, even joining live in the programme of the media company in which the victim is employed.

security measure – mandatory psychiatric treatment and confinement in a health institution

**Period from committing a criminal offence to the final court decision**

from the receipt of the case to the court until the first-instance decision: 7 months and 1 day  
 from the first-instance decision to the final ending of the proceedings: one month and 6 days  
 from the commission of the offence to the final court decision: two years, one month and 30 days

Unlawful offence	Imposed security measures
<p>The defendant, in a state of mental incompetence, committed the unlawful offence stipulated in the Criminal Code as the criminal offence of stalking (Article 138 a) para. 1 point 2 of the Criminal Code)</p> <p>The perpetrator persistently, against the victim's will, tried to establish contact with her directly, through third parties and through means of communication. He sent her a large number of disturbing messages. He also left a message on the phone number of the media company where the victim is employed, while she was hosting the show. He came to her workplace several times and brought her gifts. On one occasion, he entered the hall of the building and started asking the secretary of the programme about her through the phone in the hall. He also approached her colleague in a nearby restaurant, asking if anybody else of the employees would come. He approached the victim at a concert. He tried to stand next to her until the victim called security. After that event, he continued to send her disturbing messages, come to her workplace and shout.</p>	<p>security measure – mandatory psychiatric treatment at liberty</p>

**Period from committing a criminal offence to the final court decision**

from the receipt of the case to the court until the first-instance decision: 7 months and 18 days  
 from the first-instance decision to the final ending of the proceedings: one month and 6 days  
 from the commission of the offence to the final court decision: one year, six months and 2 days

## **Conclusion**

From everything that has been stated so far, it can be concluded that the largest number of cases (15 in total) ended with a conviction; that the most prevalent criminal offence is endangerment of safety; that the most common recorded form of attack on media workers was carried out online; that the measure of deprivation of liberty (custody/detention) was determined against 16 persons; that the number of prison sentences is increasing (a total of 13 people were sentenced to prison sentence); that the number of inflicted light bodily injuries (through the commission of the criminal

offence of causing light bodily injury or the criminal offence of violent behaviour and violent behaviour at a sports event or public gathering) has increased.

## **Threats, from source to outburst - cases of Jelena Zorić, OK Radio and Milan Jovanović**

### **Message to the journalist**

The report published by the Judicial Research Centre and the Slavko Ćuruvija Foundation in 2022<sup>7</sup> in one of its parts was about the case of Jelena Zorić. Bearing in mind the insights expressed in the **previous report**, in this report, attention will be focused on the judgement in the proceedings that were conducted due to the “messages” that were conveyed to Jelena Zorić by the lawyer Svetislav Bojić, one of Predrag Koluvića’s defence attorneys. The first-instance proceedings was completed on 20 March 2023. It became final six months later, on 18 September 2023.

Whether a “message” addressed to someone at the court’s instance will be considered a threat or not depends on how it is interpreted. Therefore, it seems important to observe the court judgment concerned from the point of view of the interpretation of individual sentences that make up the “message” addressed to the injured party.

The court is of the opinion that none of the sentences addressed to the injured party meet the conditions to be considered a threat in the criminal sense, i.e., to be qualified as a serious threat of an attack on the life and body of the injured party.

The court interprets the words “please be precise and be careful how you report” *objectively* and finds that it is an *appeal* addressed to the injured party to be *precise in her reporting*. When interpreting the part of the message: “I am constantly in contact with the monks from Hilandar who observe everything in connection with this trial, and you know, whoever did wrong to Pedja did not do well (God pays him back)”, the court referred to the provisions of Article 138 of the CC and concluded that it cannot be taken as a threat to the victim, nor a threat to a person close to her, because the threat in the sense of endangering bodily integrity is not *clearly and unequivocally expressed*. Following the same logic, the words: “Hey, you know what almost happened now, they almost let Pedja out of custody, and Pedja greeted you very, very much,” were not

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<sup>7</sup> Nataša Stojadinović, Vida Petrović Škero, Ana Zdravković, Nataša Jovanović and Kruna Savović, *Freedom of Expression, Second Regular Report on the protection of Freedom of Speech in the Judicial System of Serbia*, Slavko Ćuruvija Foundation, Belgrade, 2022.

assessed as a threat to the life or body of the victim or someone close to her. The court considers that it is a matter of *communicating some facts or some information, which may or may not be true*. The part of the “message” in which it is said that Pedja told (him) how the injured party “tears him apart” and “breaks” him with her reporting, but that “Pedja is a very good man and a great believer, that he prays for everyone’s health, and so for her health, the prosecutor Drecun’s and of the person who arrested him, i.e., Milenković” – the court interprets as the *transmission of some knowledge, information, subjectively coloured by the impression of the transmitter of the “message”*. The court pointed out that in order for someone to be the perpetrator of the criminal offence referred to in Article 138 of the Criminal Code, he must be a person who threatens to attack the life or body of the victim, and not a person who conveys threats of another person. In the said case, according to the court’s opinion, it is not a threat.

As mentioned in the previous report, a disciplinary action was filed against the lawyer Svetislav Bojić to the Belgrade Bar Association (AKB). The disciplinary prosecutor took the position that the lawyer Bojić did not violate the Code of Professional Ethics of Lawyers, that the description of the act resembles the criminal offence of threatening, but that it does not represent a threat, as well as that criminal proceedings are ongoing before the Second Basic Court, which is why AKB cannot initiate proceedings for the same offence. On the other hand, according to BIRN, during the sentencing, it was said that what the lawyer said in the conversation with the journalist was not in accordance with the Bar Code, as he grossly violated it, but that the court in the proceedings in question did not deal with.<sup>8</sup>

### **Windows of the radio bricked up**

The case of OK Radio, in which the No Comment cafe operates, whose profits finance the operation of the radio, will be viewed from the point of view of the “development” of threats addressed to the victims – the owner and financial director, as well as those who joined the case as support for the victims.

After a telephone conversation in September 2021 during which, Dejan Nikolić Kantar, who has been convicted multiple times, told the owner of OK Radio that he would brick up the windows because she does not allow him to carry out work on the expansion of the facility (casino) in the immediate vicinity, nor does she want to sell to him the premises of the radio – the threat made came true.<sup>9</sup> Before the radio’s windows were bricked up, Dejan Nikolić Kantar persistently put pressure on the owner of the

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<sup>8</sup> “The (un)seriousness of the lawyer’s threat - the case of journalist Jelena Zorić”, author Andjela Milivojević, the text was published on 26 June 2023 on the IJAS website.

<sup>9</sup> Source: Final judgment of the Basic Court in Vranje of 11 October 2022, No. 166/22

radio, as well as her sister, both directly and indirectly, from different phone numbers. The victim informed the police in Belgrade about the pressures she suffered, and the inspection in charge of construction about the illegal construction, for which a decision was made to be suspended and the facility demolished. Two criminal proceedings were initiated against the legal representative of the investor who carried out the construction, and they are currently ongoing. In one case, a first-instance judgement was issued, which sentenced the legal representative to a suspended prison sentence of one year, with a probationary period of three years, and a fine of RSD 300,000. The Basic Public Prosecutor's Office in Vranje filed an appeal against that judgment.<sup>10</sup>

It is noted that the illegally built facility, although a decision was made to remove it, has still not been demolished. After several public procurements and attempts at direct settlements, not a single company came forward to demolish the illegally built facility.<sup>11</sup> The company that, in the process of public procurement, was chosen for the demolition service of the building, the day before the scheduled demolition, informed the City Administration that it was unable to perform the work.<sup>12</sup>

Cafe No Comment stopped working, and OK Radio started having serious financial problems, which is why a public collection of donations was announced to help the viability of OK radio.<sup>13</sup>

In the second half of April 2022, during the night, three masked hooligans broke most of the windows of the cafe that operates as part of OK Radio. According to media reports, the incident was recorded by security cameras, but the prosecutor's office did not react (it did not prosecute *ex officio*) because it was about material damage of minor value.<sup>14</sup>

At the beginning of June 2022, two people entered the radio cafe. The first person sprayed the inventory with white paint. The second person, who entered the cafe after

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<sup>10</sup> Article „Ništa novo iz Vranja“, (*Nothing new happens in Vranje*) author Veran Matić, published on 6 September 2022 on the website Javniservis.net.

<sup>11</sup> Article „Skoro dve godine od početka gradnje nije srušen nelegalan objekat kockarnice kojim su zazidane kancelarije OK radija“ (*Even though almost two years have passed since the start of construction, the illegal casino building, which was used to wall the offices of OK Radio, has not been demolished*) author Dejana Cvetković, published on 31 August 2023 on the website Cenzolovka.

<sup>12</sup> Article „Firma „Polet“ odbila da ruši nelegalni objekat kraj zgrade OK radija“, (*Company “Polet” refused to demolish an illegal building near the OK Radio building*), author A. Ninčić, published on 29 June 2022 on the website of JAS.

<sup>13</sup> <https://www.donacije.rs/projekat/odbranimok-radio-vranje/>

<sup>14</sup> Statement of the Association of Independent Electronic Media (ANEM) „Hitno zaustaviti napade na OK Radio i imovinu ovog medija“ (*Urgently stop the attacks on OK Radio and the property of this media*) published on 7 June. 2022 on the website Javniservis.net.



the first one had left, brought in a mobile phone through the speakerphone of which the voice of a third person (Dejan Nikolić Kantar) was heard, who spoke to one of the victims, the financial director of the radio, with the words: "Listen to what Dejan is saying, this is the answer to your lawsuit, this is just the beginning, the cafe will never work, this is the answer for the lawsuit and for Belgrade."

Five days after that event, the windows of an OK Radio office were bricked up.

After the aforementioned events, the representatives of the Standing working group for the safety of journalists (SWG) visited Vranje and provided support to the employees of OK Radio.<sup>15</sup> The day after their visit to the radio cafe, Dejan Nikolić Kantar walked in. At that moment, he was serving a prison sentence for the criminal offence of violent behaviour. He served his sentence in the premises where he lives, with permission to leave them daily for a few hours.<sup>16</sup> *Demonstrating force*, as the owner of the radio station experienced his visit, he said that *it would not end there* and "asked" the journalists to leave him alone. After Kantar's visit, the owners of OK Radio and the financial director were assigned police protection.

Criminal proceedings were initiated against three persons due to the destruction of inventory and the threats to the employees of OK Radio. All three persons were convicted of the criminal offence of violent behaviour. Two persons (the person who sprayed the inventory with paint and the person who brought in the mobile phone) were sentenced to 8 months in prison, while Dejan Nikolić Kantar was sentenced to 14 months in prison.<sup>17</sup> Seven months and 23 days passed from the commission of the offence to the adoption of a final court decision.<sup>18</sup>

Even during the proceedings, Dejan Nikolić Kantar did not give up his threats. He said to the two victims: "Those who are afraid should be afraid, you are right to be afraid, because you have reason to be afraid, I will not forgive anyone for this." He addressed these words to them in the courtroom, after the injured parties gave a statement regarding the incident in the cafe, and stated that they were upset and feared for their safety.

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<sup>15</sup> Article „*Stalna radna grupa za bezbednost novinara u Vranju zbog OK radija i razgovora sa novinarima iz lokala*“ (*Standing working group for the safety of journalists in Vranje due to OK Radio and conversations with journalists from the premises*) published on 15 June 2022 on the website Jugpress.

<sup>16</sup> Statement of the Association of Independent Electronic Media (ANEM) „*Zaustaviti i kazniti nasilnike koji žele da unište OK radio*“ (*Stop and punish thugs who want to destroy OK radio*) published on 17 June 2022 on the website Javniservis.net.

<sup>17</sup> Article „*Viši sud u Vranju potvrdio je kaznu od 14 meseci zatvora Dejanu Nikoliću Kantaru*“ (*Higher Court in Vranje confirmed the sentence of 14 months in prison to Dejan Nikolić Kantar*) published on 3 February 2023 on the website Javniservis.net.

<sup>18</sup> The data was determined by reviewing the relevant court documentation.

According to the final judgment of the Basic Court in Vranje, Kantar was convicted for the threats uttered *insolently and arrogantly*. The witnesses in that proceedings, conducted due to threats, were fellow journalists who were monitoring the proceedings as a sign of solidarity. During the trial, Dejan Nikolić Kantar did not appear. Even his defence attorneys were not present at the trial in the first-instance proceedings. By a final court decision, Dejan Nikolić Kantar was sentenced to a prison sentence of one year and six months. Eleven months and 23 days passed from the commission of the offence to the adoption of a final court decision, and a total of 10 months and 18 days passed from the receipt of the case to the final ending of the proceedings.

In connection with the events that followed the case of OK Radio, two stand out in particular. The first refers to the proceedings conducted regarding the threat to the safety of Veran Matić, a member of the Standing working group for the safety of journalists who, together with other members, followed the trial, regularly reported on it and provided collegial support to OK Radio employees.<sup>19</sup> The second one refers to the disappearance of the case from the Higher Court in Vranje.

About ten days after he visited Vranje as a member of the Standing working group for the safety of journalists, the city centre was filled up with his photos next to which was written: "Veran Matić, self-proclaimed building inspector who demolishes in Vranje." He orders politicians, orders inspection services, arrests, organizes the work of prosecutors and judges, puts pressure on the media. Why? All because of the cafe No comment, which is located in a facility stolen from the company ČIK Kumanovo". Four persons were accused of committing the criminal offence of endangerment of safety, who were alleged in the information of the Basic Public Prosecutor's Office in Vranje to have committed the criminal offence in the capacity of aiding and abetting an unknown person. The identity of the unknown person has not been determined until the end of the proceedings. The persons who were charged with the criminal offence of endangerment of safety were finally acquitted on 12 September 2023. The Higher Court in Vranje, without bringing that incident into the context of the events in the case of OK Radio, took the position that the factual description of the accused persons does not show that they sent a serious and concrete threat to Matić that they would attack his life and body, i.e., that they would seriously harm him.

The files of the case in which Dejan Nikolić Kantar was convicted for the threats he sent during the trial to the owner and financial director of OK Radio disappeared from the Higher Court building in Vranje. The news about that event reached the public through a

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<sup>19</sup> Statement „UNS, Koalicija i ANEM: Policija da pronade ko lepi poternice za Veranom Matićem i preti novinarima koji štite OK radio" (JAS, Coalition and ANEM: Police to find who is posting posters for Veran Matić and threatening journalists who protect OK radio) published on 26 June 2022 on the portal *Javniservis.net*

statement issued by the Association of Independent Electronic Media (ANEM) after receiving unofficial information about the disappearance of the case. The ANEM speaking out in public attracted considerable media attention.<sup>20</sup> The case files disappeared after the defence of Dejan Nikolić Kantar appealed against the judgment declaring him guilty, and the case was forwarded to the Higher Court in Vranje for decision.

The case in question in the Basic Court in Vranje was marked as *urgent*, but, paradoxically, in the second-instance proceedings, it was assigned to a judge who was on vacation at the time. There were reasons for the judge's disqualification, since her daughter filed an appeal against the first-instance decision as Nikolić's defence attorney.<sup>21</sup>

The missing file was reconstructed based on the electronic documentation of the Basic Court in Vranje. The Higher Court in Vranje submitted a criminal complaint to the competent prosecutor's office, after which a request was sent to the police to take action in order to discover the identity of the unknown perpetrator of the criminal offences listed in the complaint: obstruction of justice and forging of an official document.<sup>22</sup> The Ministry of Justice initiated the supervision procedure and announced that after the declaration of the president of the court, they will take the necessary measures.<sup>23</sup> Both proceedings are ongoing.

## **Journalist's house burned**

During the night between 11 and 12 December 2018, a person carrying a brick and a Molotov cocktail approached the garage of Žig info portal journalist Milan Jovanović. The person broke the window with a brick and then threw a Molotov cocktail into the garage. The flame engulfed the car that was parked in the garage, and since the garage was connected to the house, the fire started to spread to it as well. At that time, Milan Jovanović and his wife were in the house. His wife was woken up by breakage. Seeing that the house was on fire, she rushed to wake up her husband. Milan Jovanović was already suffocating because of the smoke.

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<sup>20</sup> Statement of ANEM „U Višem sudu u Vranju, nestao predmet Kantar“ (*In the Higher Court in Vranje, the Kantar case disappeared*) published on 21 July 2023 on the portal *Javni servis*.

<sup>21</sup> Statement of ANEM „ANEM traži utvrđivanje odgovornosti zbog nestanka spisa predmeta iz Osnovnog suda u Vranju“, (*ANEM requests the determination of responsibility due to the disappearance of case files from the Basic Court in Vranje*) source: Beta, statement published on 25 July 2023 on the portal *Nova.rs*.

<sup>22</sup> Statement of the Association of Independent Electronic Media regarding the reaction of the Ministry of Justice to the disappearance of the case files of the Basic Court in Vranje published on 25 July 2023 on the website of *OK radio*.

<sup>23</sup> Statement regarding the media reports about the disappearance of the appeal, Ministry of Justice

Milan Jovanović, who has been investigating the problems of abuse of public funds in the Municipality of Grocka (for which he had already received threats) for a couple of years, identified Dragoljub Simonović as the organizer of the committed criminal offence, the then mayor of the municipality, president of the Municipal Board of the Serbian Progressive Party and member of the Main Board of the party.

An information was filed against Dragoljub Simonović and three other persons in mid-March 2010 due to the grounded suspicion that they as accomplices committed the grave offences against general safety.<sup>24</sup> The prosecutor's office requested the following prison sentences: for Simonović, a prison sentence of 8 years, for police officer Vladimir Mihailović, a person accused of having been instigated by Simonović to find a trusted person who would "warn" Jovanović by setting fire to his car, a prison sentence of five years, the same as the sentence requested for Igor Novaković, the person through whom Vladimir Mihailović reached Aleksandar Marinković, who, according to the allegations from the information, threw a Molotov cocktail into the garage of Milan Jovanović, and for whom the prosecutor's office demanded imprisonment for six years.

At the end of February 2021, a first-instance judgment was adopted in which Dragoljub Simonović was found guilty and sentenced to four years and three months in prison. Aleksandar Marinković (a fugitive who is being tried in absentia) was sentenced to the same sentence, while Vladimir Mihailović was sentenced to four years. In the meantime, the proceedings against Igor Novaković have been separated, so the judgment in those proceedings was passed on 24 June 2022, and Novaković was sentenced to four years in prison. The proceedings against Simonović, Mihailović and Marinković lasted one year, 11 months and five days, while the proceedings against Novaković were completed within three years, three months and 6 days. The prosecutor's office and the defence filed appeals against the first-instance judgments. The prosecutor's office asked for harsher sentences, while the defence asked for acquittals.

The Court of Appeal in Belgrade, ruling on the appeals, quashed the first-instance judgment and sent both cases for retrial. During the repeated proceedings, the cases were joined so that all the accused are currently being tried in one proceeding. In the second half of March of the current year, a first-instance judgment was passed, in which the accused were found guilty and sentenced to the following sentences: Dragoljub Simonović to a prison sentence of five years, Vladimir Mihailović to a prison sentence of four years, Igor Novaković to a prison sentence of three and a half years and Aleksandar Marinković to a prison sentence of four and a half years. The prosecutor's office and the defence filed appeals against the first-instance judgment. The repeated

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<sup>24</sup> Article 288 para. 1 in relation to Article 278 para. 1 of the CC

proceedings were completed within one year, two months and 21 days, and the entire proceedings (up to the adoption of the second first-instance decision) was completed in four years and two days.

During the entire proceedings, the hearings were often postponed due to the reasons given by the defence, and they ranged from not appearing at the trial, through requests for self-isolation due to the COVID-19 virus, toothache, and the obligations of the defence attorneys in other criminal proceedings. Also, the defence submitted requests for the exemption of the prosecutor, the judge, even the entire court.

### **Recommendations:**

- 1) Continue with consistent keeping of records of criminal offences committed to the detriment of journalists and media workers, as well as continuous monitoring of cases and improvement of the records system.
- 2) Review reported cases of attacks on journalists that have not been solved with the aim of breaking the statute of limitations on criminal prosecution, whether the cases in question were entered into the records of unknown perpetrators from earlier years, or whether they were unsolved cases that occurred before the establishment of the official records of the Supreme Public Prosecutor's Office (e.g., the case of placing a bomb on the window of journalist Dejan Anastasijević from 2007).
- 3) Encourage journalists to follow the course of cases of attacks on colleagues, media workers by organizing discussions, debates, forums. In this way, keeping the attention of the public alert, create an atmosphere in which the issue of endangering the safety of media workers will not be unknown and hidden.
- 4) Print short and effective instructions intended for journalists, with the aim of presenting to the competent institutions as precisely as possible why they feel threatened, and in order to receive timely protection.
- 5) Encourage the engagement of prosecutors' offices in specific cases through the interest of journalists and media workers in the cases they have reported, for which they do not have enough information about the progress of the investigation.
- 6) Sensitize judges for trials in proceedings in which a media worker appears as an injured party so that they can recognise threats, notice not necessarily obvious connections between events, all with the aim of easier detection and prosecution of the perpetrators. The decisions of such sensitized judges would have a preventive function in addition to the punitive ones.