

Protection of  
**PRIVACY**  
and presumption of  
**INNOCENCE**  
in the media

**PROTECTION OF PRIVACY AND  
PRESUMPTION OF INNOCENCE IN  
THE MEDIA**

# PROTECTION OF PRIVACY AND PRESUMPTION OF INNOCENCE IN THE MEDIA

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All terms used in the text in the male gender refer to the persons of both sexes.

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## Foreword

Freedom of the media and the level of observation of human rights in the media represent the topics of numerous reports of relevant international organizations and independent state authorities. The European Commission, the Ombudsman and the Commissioner for Information of Public Importance and Personal Data Protection frequently point to the violations of the right to privacy and presumption of innocence in media reporting, as well as to the issue of information leakage to the media. Media reports on criminal offenses involve complex legal and ethical issues that need to be balanced in order to protect fundamental human rights, observe the legal and ethical obligations of the media and ensure that citizens, as end users, exercise their right to truthful, timely and unbiased information. In view of a series of problems experienced by the media in Serbia today (non-transparent ownership structure and privatization of the media, political pressure and influence on the media, inadequate protection of journalists' labor rights, etc.), the capacity and readiness of the media to realize the said balance still remains an issue.

In that context, two issues may be singled out. The first refers to media action. Without denying that the independence of the media and freedom of expression represent the necessary prerequisites of a democratic and open society, it is important to distinguish between what interests the public and what is in the public interest. Media reports that violate the right to privacy and the presumption of innocence can sometimes really be interesting to the readers, but it is important to bear in mind the fact that they have a detrimental effect on the realization and protection of the public interest in the media, which is based on the truthful, unbiased, timely and complete provision of information to citizens.

The second issue refers to the action of state authorities. The amount of media violation of citizens' rights may reduce if public institutions define the rights of cooperation with the media and rules for publishing information about their work. In addition to this, measures of protection against unauthorized use of citizens' personal data need to be developed, including measures aimed at preventing information leakage to the media.

In view of the described issues, the civil society organization *Partners for Democratic Change Serbia (Partners Serbia)* in May 2015 started to work on the project entitled *Privacy Protection and Presumption of Innocence in the Media*, with the support of the *Open Society Foundation Serbia (FODS)*.

Within the project, *Partners Serbia* monitored printed, electronic and online media

with the aim of studying the observation of the two rights in media reports. An analysis was also made of the activities undertaken by the Ministry of Internal Affairs and public prosecutors' offices with the aim of improving the level of personal data protection in these institutions, and especially preventing information abuse and disclosure to the media.

Upon obtaining the preliminary results of both components of the project, consultative meetings were held with representatives and editors of the media whose work was analyzed, representatives of local media and correspondents of national media and news agencies, representatives of the Regulatory Authority of Electronic Media, Commissioner for Information of Public Importance and Personal Data Protection, Ombudsman, Press Council and associations of citizens and journalists, while a separate meeting was held with representatives of the State Prosecutorial Council. The aim of these meetings was to present the preliminary results of the research to the stakeholders, to collect additional information and comments and to discuss the best ways for improving the protection of privacy and presumption of innocence in the media. The final version of the report on the situation in this area, which is presented in continuation, was made on the basis of positions of the participants in the consultative meetings.

*Partners Serbia* would like to thank the colleagues and associates who participated in the realization of this project and the consultation process that led to the results presented in this publication.

First of all, we would like to thank Jelena Kleut, PhD, the main researcher and author of the methodology and final media monitoring report, as well as to the colleagues who participated in the realization of the research: Dragan Đorđević, coordinator of the *Network of the Committees for Human Rights in Serbia (CHRIS)* and member of the Complaints Commission of the Press Council, as well as Ana Toskić, Sanja Evtimov, Sofia Kovačević and Uroš Mišljenović of Partners Serbia. Our gratitude for cooperation also goes to the *Ebart Media Archives*, which selected press and television reports, as well as to employees at the Office of the Commissioner for Information of Public Importance and Personal Data Protection, who presented to the research team the material and information on the Commissioner's activities in the areas relevant for the research. We also owe gratitude to public prosecutors' offices and the Ministry of Internal Affairs, which responded to the requests for access to information of public importance, as well as to all participants in the consultative meetings, without whose cooperation we would not be able to present a relevant overview of issues and challenges in the protection of the right to privacy and presumption of innocence in the media.

We hope that the report you are reading will represent a useful basis for further analysis, both of the situation in the media and of the achievement of the rule of law principle in Serbia, and that it will also serve as an impetus for further work aimed at protecting human rights in general in our society.

*Partners for Democratic Change Serbia*



# 1. Observation of the Right to Privacy and Presumption of Innocence in the Media – Monitoring of Media Reports

## 1.1. Legal Framework

The presumption of innocence, or the right of a person to be considered innocent for a criminal offense until his guilt is decided upon by a final court decision, represents an element of legal certainty and is guaranteed under the Constitution of the Republic of Serbia (Article 34. paragraph 3) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 6. paragraph 2).

The right to privacy, however, is not explicitly recognized in the Constitution of the Republic of Serbia. Nevertheless, several articles of the Constitution guarantee rights that stem from the right to privacy, such as the right to the inviolability of a person's home (Article 40. of the Constitution), right to the secrecy of letters and other means of communication (Article 41. of the Constitution) and personal data protection (Article 42. of the Constitution). According to the Venice Commission, although these articles cover different aspects of the right to privacy, there is no explicit and general guarantee of the observation of the private and family life, as guaranteed in Article 8. of the European Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>1</sup>

The most relevant provision of the Constitution of the Republic of Serbia (RS) for an analysis of the observation of the right to privacy is Article 42, which regulates personal data protection. This article stipulates that collecting, keeping, processing and using of personal data shall be regulated by law. Paragraph 2. of this Article says that the use of personal data for any the purpose other than the one for which they were collected shall be prohibited and punishable in accordance with the law, unless this is necessary to conduct criminal proceedings or protect safety of the Republic of Serbia, in a manner stipulated by the law. However, in order to understand properly the complexity of proceedings regulating media violations of the right to privacy, the above mentioned Article 42. of the RS Constitution must be analyzed against the backdrop of the existing set of rights guaranteed by the Constitution, including the freedom of thought and expression, freedom of the media and the right to be informed. Namely, Article 46. of the RS Constitution guarantees the freedom of thought and expression as well as the freedom to seek, receive and impart information and ideas through speech, writing, art or in some other manner. Article 50. of the RS Constitution guarantees the freedom of the media. This article states that censorship

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1 European Commission for Democracy Through Law (Venice Commission) Opinion No. 405/2006 on the Constitution of Serbia. Available at: [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2007\)004-srb](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2007)004-srb)

shall not be applied in Serbia and that the competent court may prevent the dissemination of information through means of public informing only when this is necessary in a democratic society to prevent inciting to violent overthrow of the system established by the Constitution or to prevent violation of the territorial integrity of the Republic of Serbia, to prevent war advocacy or instigation to direct violence, or to prevent advocacy of racial, inter-ethnic or religious hatred, enticing discrimination, hostility or violence. Finally, Article 51. of the RS Constitution guarantees the right to be informed and says that everyone shall have the right to be informed accurately, fully and timely about issues of public importance and that the media shall have the obligation to respect this right.

The analysis of Article 42. of the RS Constitution against the backdrop of the already mentioned set of rules that encompasses the freedom of thought and expression, freedom of the media and the right to be informed, illustrates the complexity of the issue of privacy protection in the media. Namely, a person's right to privacy and the presumption of innocence are protected under the Constitution, while the media are free and not subject to censorship. This could de facto lead to a situation in which the protection of the above mentioned individual rights would result in the violation of the media rights guaranteed by the Constitution. Also, preventing the media to engage in their principal activity in order to protect the right to privacy and presumption of innocence may result in the denial of the freedom of thought and expression, as well as the violation of citizens' right to be informed and to receive information. However, individual rights, such as the right to privacy, protection of the presumption of innocence and the right to be informed, on the one hand, and freedom of the media, on the other, do not always have to be opposed. One of the ways to avoid a potential conflict between these rights is referred to in Article 46, paragraph 2. of the RS Constitution, which envisions the possibility of limiting the freedom of expression by law if this is necessary for the purpose of protecting the rights and good reputation of others ...<sup>2</sup>

Ways for resolving possible conflicts between the right to privacy and freedom of expression may be illustrated by examples from the abundant case law of the European Court of Human Rights, and they are based on the implementation of Articles 8. and 10. of the European Convention for the Protection of Human Rights and Fundamental Freedoms. <sup>3</sup>

2 Article 46, paragraph 2. of the RS Constitution: Freedom of expression may be restricted by the law if necessary to protect 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

3 Article 8. of the ECHR regulates the right to the observation of private and family life and reads as follows: 1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the

In its case law, the Court tried to develop criteria for striking a balance between the right to the observation of private life and freedom of expression. Thus, in the *Von Hannover vs. Germany case (No.3) (8772/10, 19. 9. 2013.)*<sup>4</sup> the ECHR specifies the criteria for striking a balance between the two rights, relying on the indicators provided in judgments in the following cases: *Von Hannover vs. Germany (No. 2) (40660/08 and 60614/08, 07. 02. 2012.)* and *Axel Springer AG vs. Germany (39954/08, 07. 02. 2012.)*. The criteria are the following: whether the published information contributes to a debate in the general interest; how well is the relevant person known to the public; what was the previous behavior of the relevant person; what are the contents, format and consequences of the publication of the article; what are the circumstances in which photographs were made.

On the other hand, in the *Mosley vs. United Kingdom case (48009/08, 10. 05. 2011)*, the court reviewed the possibility of imposing a legal obligation on the media to pre-notify a person that they were going to report on him/her. The court concluded that pre-notification by the media might have an adverse effect on the freedom of expression, because nobody knew what this notification might look like in practice, and especially because fines or other sanctions in case of absence of pre-notification might be observed as a type of censorship.

In these cases, the European Court of Human Rights also noted that states had a wide freedom of assessment in striking a balance between the right to privacy and freedom of expression. Thus, the relevant states were granted the discretion to decide, in accordance with the current overall situation in the society, whether the right to privacy and freedom were violated in the relevant case.

In order to ensure comprehensive understanding of the complex relationship between the right to privacy and presumption of innocence, on the one hand, and

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*exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. Article 10. of the ECHR refers to the freedom of expression and reads as follows: 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

4 Available at: <https://www.coe.int/t/dghl/standardsetting/dataprotection/Judgments/Judgment%20von%20Hannover%20no.%203%20%20v%20Germany%20National%20courts%20respected%20private%20life%20of%20Caroline%20von%20Hannov.pdf>

freedom of the press and freedom of expression, on the other, it is also important to point to the concept of public interest in the media, regulated through the adoption of the Law on Public Information and the Media in 2014.<sup>5</sup> As a public interest in the field of public informing, this law recognizes, inter alia, truthful, unbiased, timely and complete informing of all citizens of the Republic of Serbia (Article 15. paragraph 1.). In that context, it is necessary to distinguish between “what interests the public” from “what is in the public interest.” Media reports that violate the right to privacy and presumption of innocence can sometimes be really interesting to readers, but it is important to bear in mind the fact that they have a detrimental effect on the realization and protection of the public interest in the media.

Article 73. of the Law on Public Information and the Media very precisely defines the obligation of the media to protect the presumption of innocence, and says that, “with a view to protecting human dignity and independence, reputation and impartiality of the court or other competent authority, the media may not qualify anyone as the perpetrator of a punishable offence or proclaim a person guilty of or responsible for an offence prior to a final ruling passed by a court.” Furthermore, Article 74. clearly defines the conditions for the publication of information relating to criminal proceedings, saying that “the information from ongoing criminal procedure may be published only if presented on the main hearing or if received or may have been obtained from the public authority on the basis of the law governing the access to the information of public importance.” Finally, Articles 79-81. guarantee the protection from the publication of information from one’s private life, while Article 82. lists conditions under which such information can *exceptionally* be published without a person’s approval, which happens when, in the relevant case, the interest of the public to learn about the information overweighs the interest for preventing the publication.

The protection of the right to privacy and presumption of innocence in the media is also regulated by a by-law – Rules on the Protection of Human Rights in the Provision of Media Services,<sup>6</sup> adopted on the basis of the Law on Electronic Media.<sup>7</sup> Article 9. of the Rules says that the media are required to publish information on tragic events without sensationalism, observing the privacy and dignity of victims, their family and close persons, as well as that they must not inappropriately speculate on the cause, course and consequences of the tragic event, number of casualties, their identities and health condition after the event. As for the publication of personal data without citizens’ agreement, the Rules state that the provider of media services may not say that the information is already known to the public because it has been pub-

5 Official Gazette of the RS, No. 83/2014 and 58/2015.

6 Official Gazette of the RS, No. 55/15, Art. 29.

7 Official Gazette of the RS, No. 83/2014

lished by other media or has become public in any other way (Article 29, paragraph 6.). The Rules also specify the right to the presumption of innocence, and Article 33. says that it applies on misdemeanors and economic offenses.

Finally, the Code of Ethics of Serbian Journalists, as the ethical standards for the professional behavior of journalists, envisions the duty of journalists to respect the presumption of innocence, i.e. not to declare anybody guilty until the publication of the judgment (Chapter IV, Article 3.). The Code also envisions the obligation to respect the privacy of persons (Chapter VII, Articles 1-4.). In order to ensure a clearer presentation of the parts of the Code that are relevant for this research, the relevant guidelines from the Code have been singled out and divided into four groups.

a) Reporting on the identity of a victim or alleged perpetrator<sup>8</sup> and data from his/her private life

- When reporting on accidents and crimes, publishing the names and photographs of victims and perpetrators that clearly identify them is not permitted.
- The publication of any data that might indirectly reveal the identity of either the victim or the perpetrator before its official disclosure by an official authority is also prohibited.
- When reporting on events involving personal grief and shock, journalists are required to formulate their questions in such a way as to maintain the spirit of compassion and discretion.
- Photographers and cameramen are required to treat the victims of accidents and crimes with care and compassion while taking their photographs or recording them.

b) Reporting on the identity of a minor

- Journalists are required to ensure that children are not put into danger or risk as a result of the publication of their names, photographs or recordings featuring themselves, houses and communities in which they live or an area that can be recognized.
- Journalists may not abuse the goodwill or ignorance of the representatives

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<sup>8</sup> Comment of the editor: Here, one should point to the lack of harmonization of the terminology - namely, the substantive and procedural criminal laws use the term „učinilac“ [perpetrator] of a crime, while the term „počinilac“ [perpetrator], used by the Code of Ethics of Serbian Journalists, is considered to be colloquial in lawyers' circles. Elsewhere in the text, wherever there is a reference to the Code of Ethics of Serbian Journalists, the term „počinilac“ will be used, with the note that amendments to the Code should be considered, harmonized with the relevant legal framework.

of state and public institutions working on the protection of children. Information received from physicians, social workers, kindergarten teachers, etc., which directly or indirectly point to the identity of a minor, must not be published.

c) Reporting on the private lives of public figures – politicians or public officials

- Public figures are aware in advance that their right to privacy is somewhat limited, but this does not automatically mean that the media may violate it without any reason or explanation. Data from the private lives of public figures are published only if it is in the public interest, or if they have a direct impact on a number of people, if they are in contradiction with the spirit of the function which that person performs, or ideas that the person publicly advocates.

d) Reporting on the alleged responsibility of a suspect/accused/defendant charged with a criminal offense

- Journalists are required to observe the presumption of innocence and must not declare anybody guilty until the publication of the judgment.
- If they are reporting about a criminal offense, journalists must exert caution while interviewing possible witnesses and prevent the disclosure of the identity of the victim, or the identity and the right to the presumption of innocence of the suspect.

## 1.2. Methods for Analyzing Media Reporting

In order to determine the frequency of publication of texts which, according to the existing regulatory and self-regulatory documents, violate citizens' right to the presumption of innocence and their right to privacy, Partners Serbia monitored media reporting in the period between May 25, and August 31, 2015. The monitoring also included other issues that can contribute to a better understanding of media practice from the aspect of these two rights: whether there are differences among different types of media (press, radio, television, internet), whether there are differences among different editorial policies (tabloids and other media), whose rights are being violated (children, adults, „ordinary citizens,” public figures), etc.

The term “media monitoring” refers to the analysis of the media content, and, rather than necessarily aspiring to test theoretical assumptions or to develop theories, its objective is to study the ways in which media act towards topical issues in the society. Media develop their practice in a constant dialogue among a multitude of stakehold-

ers – citizens, media owners, journalists, legislators, public figures and others, and media monitoring is frequently used by the first group, citizens, to test and explain in an argued way their opinions about the work of the media and to encourage a public debate on topics of public concern. In addition to this, regulatory bodies, legal subjects and media themselves frequently engage in media monitoring. Although it has no theoretical aspirations, media monitoring is widely accepted because it offers a research-based, systematic insight into the characteristics of media products<sup>9</sup>.

The method applied during the monitoring was a quantitative and qualitative media content analysis. Created in mid-20th century<sup>10</sup>, the content analysis method is applied with a view to observing, describing and expressing in quantitative terms the manifest characteristics of a message<sup>11</sup>. Unlike some other approaches that observe the contents (meanings) of communicated messages as subjective and/or social constructs, the content analysis lays a stress on the manifest characteristics of messages, which are more stable and less prone to inter-subjective variations. This is why reliability (stability, repeatability, accurateness) and validity<sup>12</sup> are important in the content analysis. In order to fulfill these requirements, a relatively common research procedure is applied in the content analysis. It makes it possible to “translate” the characteristics of messages into general categories as accurately as possible, as well as to ensure that a larger number of people who participate in this „translation“ process understand contents and categories in the same way.

The research procedure in the media content analysis most frequently encompasses the following: 1) formulation of research questions (or hypothesis), 2) theoretical conceptualization and operationalization of concepts in the code sheet which makes it possible to transform the characteristics of a text into general categories, 3) establishment of criteria for the selection of media content (analysis unit), 4) coding and 5) analysis of results<sup>13</sup>. Before all the material is collected, it is extremely important to test the selection criteria and the code sheet and its categories on a smaller sample. Also, trainings are organized for persons who code media texts and checks are made of whether they code messages in the same way (coder reliability).

In addition to the qualitative and quantitative media content analysis, two case studies were made. Case studies make it possible to view individual phenomena from a different perspective, which is why they ensure wider and deeper data than the

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9 Matic, 2007: 13.

10 Berelson, 1952.

11 Weber, 1990; Neuendorf, 2002.

12 Krippendorff, 1980: 130–154.

13 Neuendorf, 2002: 50–51.

content analysis. The research team believed that such an approach was justified in two cases and that a separate analysis would ensure better understanding of the media practice. The first such case refers to media reports on the health condition of actor Dragan Nikolić. For the purpose of analyzing media reports thereon, the time span of the sample was increased and the search included even the portals that did not make up part of the content analysis sample. The other case study deals with the alterations made in online media reports and is based on the material collected throughout the research period. Because of these specific features, the case studies are presented in separate chapters.

### 1.2.1. Sample and Sampling

For the purpose of monitoring the media treatment of the presumption of innocence and privacy, a systematic random sample, relatively representative for the Serbian media scene, was created<sup>14</sup>. The sample contains texts from six dailies that are sold throughout the country. They consist of two newspapers that belong to the category of quality press (*Politika* and *Danas*), two newspapers that belong to the category of tabloids (*Kurir* and *Informer*) and two newspapers that have the characteristics of semi-tabloids (*Blic* and *Večernje Novosti*). The research also included news programs of five television stations: two public broadcasting companies (*RTV* and *RTS*), two private broadcasters with national frequencies (*TV B92* and *TV Pink*), and one local television (*TV Studio B*), whose ownership structure changed from state-owned to private during the sampling period. Three online media, *Mondo*, *Telegraf* and *Južne Vesti*, were selected because of their popularity and because of their different editorial policies.

Press	Television	Online media
Politika	Serbian Radio and Television (RTS)	Mondo
Danas	Vojvodina Radio and Television (RTV)	Telegraf
Kurir	TV Studio B	Južne Vesti
Blic	TV Pink 1	
Informer	TV B92	
Večernje novosti		

**Table 1.** Media whose texts were used as the sample

The systematic character of the sample is reflected in the following: one day in each

<sup>14</sup> The term “relatively representative” is used because, for practical reasons, the research did not include radio programs.



week between June and August 2015 was selected cyclically. The first randomly selected day was Monday, May 25, 2015, followed by Tuesday, June 2, Wednesday, June 10, and so on, until August 30, 2015. Since, unlike electronic media, the press publishes reports one day after the event, the texts from *Danas*, *Politika*, *Kurir*, *Informer*, *Blic* and *Večernje novosti* were collected one day after those from the other media. Unlike a randomly selected two-week sample, for example, this sample prevented a situation in which media would report on an individual event several days in a row and thus distort the main results on the frequency of violations of the right to privacy and right to the presumption of innocence.

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
May 25	June 2	June 10	June 18	June 26	July 4	July 12
	July 14	July 22	July 30	August 7	August 15	
August 17						August 30, September 1

**Table 2.** Distribution of days during the sampling period

The observed sections of the press and online media on the relevant dates were: *Internal Affairs*, *Social Affairs*, *Crime*, *Latest News*, *Local/Regional and Economy*<sup>15</sup>. Items belonging to the following sections: *World (Foreign Policy)*, *Sports*, *Culture and Entertainment* were not included in the analysis, because the research laid the stress on the rights of Serbian citizens, as well as on „hard” news of public concern (rather than those that attract the interest of the public). Also, the analysis did not include comments, columns and letters to the editor, because the main intention of the research was to examine the established practice of journalists in the production of news. The sample television content was collected from prime-time news programs: *Dnevnik 2 (RTS)*, *Vojvođanski Dnevnik (RTV)*, *Vesti u 20 (B92)*, *Nacionalni Dnevnik (TV Pink)*, *Vesti u 7 (Studio B)*.

The sampling took place in two steps. In the first, the specialized Ebart Media Archives agency selected texts using previously specified keywords. The research team made the list of keywords on the basis of previous findings on the media treatment of privacy and presumption of innocence. These were: murder, suicide, deadly traffic accident, traffic accident, assault, theft, embezzlement, proceedings, trial, smuggling, minor, health condition, treatment, surgery and address. These and some discard-

15 Certain media have given other names to these sections, but this does not change the thematic framework and the usual principle of division into sections.

ed keywords (e.g. child, children), were tested before the sampling by conducting a search of the online media editions and determining their discrimination potential for the needs of the research.

The second step of sampling was very sensitive, because the researchers had to decide whether there was a basis for claiming that the right to privacy or the right to the presumption of innocence had been violated in the texts collected on the basis of keywords. As regards privacy, the main criteria for including the texts were the following questions:

- Did media publish personal data that could be omitted without bringing into question the public interest to be informed?
- Was the victim identified (made recognizable) by his/her name and family name or photograph?
- Was a minor identified (made recognizable) by his/her name and family name or photograph?

The first question brings together the key provisions of the domestic legislation (Law on Public Information and Media), media by-laws (Rules on the Protection of Human Rights in the Provision of Media Services) and self-regulation documents (Code of Ethics of Serbian Journalists). The other two criteria were developed on the basis of the previously observed media practice to identify victims (of traffic accidents, violence, etc.), despite the fact that the publication of their names and family names violated their right to privacy. However, as it has been said in the overview of regulations, the right to privacy is not absolute. Where public figures, especially public officials, are concerned, or where data of special importance for the public are concerned, the freedom to be informed is wider than the right to privacy in a democratic society. The research team particularly had this in mind during the selection of texts to be analyzed, but some issues still remained open.

For example, reports on tragedies represent a routine for journalists and mostly include reports on victims. The Code of Ethics of Serbian Journalists stresses that media should observe the privacy of victims of accidents and crimes (especially children), even when official authorities disclose their identities. Following the instructions from the Code, the research team included in the sample all texts in which the identity of the victim had been disclosed, regardless of whether the victim had already been written about. Texts involving victims whose identities were of interest to the public, who are already well known and whose identity is part of public debates (e.g., Zoran Đinđić or the Bitiqi brothers are a part of a wider public discussion) were exempted from this rule. Nevertheless, in accordance with the guidelines from the Code of Ethics of Serbian Journalists, texts in which deceased public figures were

subsequently linked to a crime or to discriminating information were included in the sample. At the same time, in view of the special protection of the rights of the child in all domestic regulations, all cases in which the identities of minors had been disclosed were included in the analysis. The analysis also included texts which contained both the initials of the child and the full names and family names of his parents, which indirectly revealed the identity of the child.

As for the presumption of innocence, the main criterion for the inclusion of a text was the following question:

- Was somebody declared the perpetrator of a criminal offense, or guilty of or responsible for its commission before a final decision of the court?

Although the presumption of innocence leaves less room for interpretation than privacy, certain dilemmas appeared here, too. The first referred to the vocabulary. The research team did not assume the position that journalists should fully master the legal terminology, but linguistic formulations with multiple meanings made it unclear whether the presumption of innocence had been violated. In those cases, the text was observed in its entirety and if the journalist protected the presumption of innocence in the remainder of the text, it was not included in the analysis.

Certain texts contained the initials of the alleged perpetrators. Although, in principle, the presumption of innocence was violated even in this case, these texts were not included in the analysis. However, if the address, name of the school, workplace or some other information pointing to the identity of the person described as the perpetrator had been placed next to the initials, the text was included in the analysis.

A separate group of texts was made up of those in which media made conclusions about crimes on the basis of their own investigations and/or on the basis of information obtained from their sources. This is frequently the case with public officials and public institutions or with mutual accusations of political party members. Despite the existence of reasons for reviewing the level of media protection of the presumption of innocence, these texts were not included in the analysis. Judgments of the European Court of Human Rights show that the freedom of information, particularly the freedom to receive information, in a democratic society represents an important factor in the interpretation of similar cases<sup>16</sup> and that, although they have the obligation of truthfulness of reporting and due diligence, journalists must also have the opportunity to review the actions of public figures.

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16 Voorhoof et al. and McGonagle, 2015.

In view of the demonstrated complexity of issues in connection with the media treatment of the presumption of innocence and privacy, texts were included in the sample, i.e. analysis, only when all members of the four-member research team agreed thereon. In this way, a high level of reliability was achieved in the selection of texts. A list of all analyzed texts is provided in the Appendix.

### 1.2.2. Code Sheet as the Instrument of Analysis

The sample media contents were observed as semantically coherent units of analysis<sup>17</sup>. In the printed and online media, the message is structurally limited by the commonly used visual tools (headline, subhead, explicit or implicit frameworks) and it contains thematically connected elements, such as fact boxes, photographs or charts. Messages in television news are also structurally defined by the commonly used audio and visual tools (announcement, sign-off, cuts, etc.). All analyzed stories are marked by a code made up of the name of the relevant medium, date of publication and ordinal number of the sampled story, which serves as reference later in the text (e.g.: *Blic*, May 25, the second text from the issue has the following code: Bl\_2506\_2).

The instrument of analysis was the code sheet. The code sheet categories were developed in accordance with the goals of the research and previous knowledge on the media treatment of privacy and presumption of innocence. Just because previous research showed that, by violating the presumption of innocence, media frequently violated the privacy of the alleged perpetrator and victims, a single code sheet was established for both research topics. It was tested on two occasions, first on a random sample of stories from the available online archives of informative media, and then also on all texts that were taken as a sample on the first day (May 25, 2015). A one-day training for coders was organized for the purpose of achieving the greatest possible degree of reliability of coding. For the same reason, each selected and analyzed text was processed by two coders.

The code sheet included 22 categories that might be divided into several groups. The first refers to the formal characteristics of the message (the date and the medium in which the message was published). The next group consists of issues in connection with the prominence of the text within the entire content (newspaper editions or television news), specified as the appearance on the cover page or in the headline, and as the size (length) of the text or TV report. As a result of specific characteristics of online media (alterations of the cover page with the passage of time), the prominence of a text was analyzed only in the context of its size. In view of the importance of headlines in the perception and interpretation of content, we observed whether the

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17 Van Dijk, 1988.

presumption of innocence and the right to privacy had been violated in the headline block. The categories of authorship and location were introduced as secondary categories for the additional interpretation of findings. As regards the identification of authorship, it was important to determine whether a text belonged to the medium itself or if it had been taken over (from a news agency or other media), as well as whether the author was identified and how.

The most important part of the code sheet refers to persons whose rights have been violated through the publication of the text. In that respect, we distinguished between public and non-public figures, between those whose privacy had been violated, those whose presumption of innocence had been violated and those whose both rights had been violated. Also, adults were separated from minors.

Citizens' data that had reached the public (name and family name, address, previous offenses, health condition, welfare recipient and other personal data) were also examined. Photographs and their origin. or authorship, were analyzed separately. Since media most frequently rely on official and named, or unofficial and anonymous sources in their reports, categories that determine the types of sources were developed. All sources identified by their names and family names were considered to be official, while unofficial sources were those who had not been identified in this way.

### 1.3. Results of the Media Content Analysis

#### 1.3.1. Violation of the Right to the Presumption of Innocence in the Media

During 14 days, the 14 analyzed media published 83 texts in which the right to the presumption of innocence had been violated. This would mean that each medium published one disputable text once in two days. However, generalization is bad because it conceals the fact that the treatment of the presumption of innocence differs from one medium to another (table 3). Specifically, a group of media did not have a single of violation of this right during those two weeks. These are: *Danas, Južne Vesti, RTS, RTV, Studio B and B92*. Four media frequently published texts in which citizens were described as perpetrators of crimes, although there existed no final judgments. These were mostly semi-tabloids and tabloids, as well as the following online portals: *Blic, Večernje Novosti, Telegraf and Informer*. Also, printed and online media tend to violate the presumption of innocence more than television stations, which does not necessarily mean that TV stations have high professional reporting standards, but can be attributed to the way in which news are treated. Namely, television stations in general have a smaller number of individual news than printed online media, they rely less on agency news, and the advantage is mostly given to reports accompanied

by audio and video content. Even with such reservations concerning the interpretation of data, one should stress as important the finding that the two public broadcasting companies, which are expected to have higher professional standards and non-sensationalist treatment of news, did not broadcast a single report that violated the presumption of innocence.

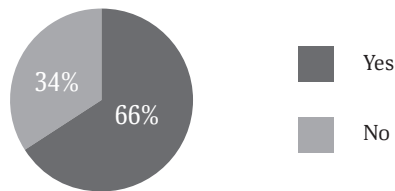
Media name	Total number of texts	Share in the total number of texts
Blic	20	24%
Večernje novosti	18	22%
Telegraf	16	19%
Informer	12	14%
Kurir	7	8%
Mondo	7	8%
Politika	2	2%
TV Pink	1	1%
Danas	0	0%
Južne Vesti	0	0%
Serbian Radio and Television	0	0%
Vojvodina Radio and Television	0	0%
Studio B	0	0%
TV B92	0	0%
Total	83	100%

**Table 3.** Distribution of texts in which the presumption of innocence is violated, according to the media

In view of the importance of the headline block for the interpretation of the story, the finding that the presumption of innocence had been violated in the headline itself in two-thirds of cases represented a cause for concern. Most frequently, these are sensationalist headlines which contain generic descriptions of victims and alleged perpetrators. For example: *Konobaricu ubio sa dva hica u grudi* [Man kills waitress with two shots in chest] (Bl\_1808\_1), *Kraljevo: Starac od 72 ubio 24-godišnju ljubavnicu* [Kraljevo: Elderly, 72-year-old man kills his 24-year-old lover] (M\_1708\_2), *Taksista automobilom „pokosio” komunalca!* [Taxi driver mows down communal policeman with his car!] (M\_3007\_3), *Reanimator krivac za smrt Ivane Božić* [Reanimator guilty

for Ivana Božić's death] (Bl\_3107\_2), *Ubio suprugu čekićem, pa zario sebi nož u vrat* [Man kills his wife with hammer, stabs himself in neck with knife] (VN\_2307\_2), *Maltretirao ju je ceo život, a onda joj je smrskao glavu čekićem? Detalji zločina koji je potresao Šumadiju* [He abused her all her life and then smashed her head with hammer? Details of crime that shook Šumadija] (T\_2207\_1).

## Is the presumption of innocence violated in the headline?



**Chart 1.** Violations of the presumption of innocence in the headlines

These and similar headlines are followed by texts in which generically identified alleged perpetrators („taxi driver, „elderly man,” etc.) are identified by their names and family names, with or without additional qualifiers (suspect, alleged perpetrator, accused, etc.). Like in the example provided in the box below, it is evident that in the majority of these texts, rather than to quote the name of the „perpetrator,” the headline contains statements whose simplicity and decisiveness reinforce the claims of somebody’s guilt presented in the text.

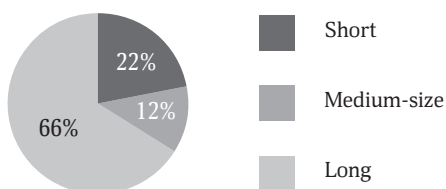


**Example 1.** Short text in which the presumption of innocence is violated (Bl\_2307\_2)

All persons described in the media as crime perpetrators are adults, which means that domestic media still exercise more care where minors are concerned. Two types of media practice may be observed in reports on adults. The first are extremely short texts (up to one paragraph) in which the names and family names of suspects, defendants, detained, are provided – such as the text in the example above. They usually do not contain statements and the design is modest. The other type of practice is

represented by longer texts in which the alleged crimes are described, and the statements of friends, relatives, neighbors of the victims and alleged perpetrators are provided. These texts are accompanied by a more elaborate design, with fact boxes and photographs. They frequently speculate, quoting unidentified sources, on previous violations, health condition, workplace, race and ethnicity or contain disqualifying allegations about the lives of the alleged perpetrators.

### Size of the text or length of the report that violates the presumption of innocence



**Chart 2.** Size of the text which violates the presumption of innocence

Previous violations, together with the health condition and other private data, most frequently serve the purpose of reaffirming the allegation that the offense has been a result of social deviance. An example of this bad practice in which different personal data are quoted is the text with the following headline: *Bebu ubio od batina zato što je plakala [He beats baby to death because it was crying]* (I\_1906\_1). The text quotes the names and family names of all participants, as well as a vivid description of the event. The alleged perpetrator is described as a „monster” who had a „bloodbath.” The text presents his statement to the police, quoting unidentified sources: „He said that he was drunk and drugged, that he took Ksalol [Xanax equivalent] and had beer.” A named neighbor serves as the source of information that he had no prior convictions, „that he was violent and used drugs,” „He collected and sold waste. He spent all his money on drugs, and they received food from soup kitchens.” The other text, provided in the box below as an example, speculates on the person’s mental state and provides data from the welfare center.

#### *MORBIDLY JEALOUS*

*His family and close friends knew that a seemingly quiet guy concealed a person who had dark thoughts, especially jealousy, which is why he is believed to have committed the massacre. Even police were notified about this on several occasions, as well as the welfare center, where the divorce proceedings between Čedić and his wife were held. (K\_2605\_1)*

**Example 2.** Personal data that „reaffirm” a person’s guilt



Somewhat more modestly, referring to a group of arrested persons, a text says: „They do not have serious criminal histories, although a number of them had previous arrests for theft” (I\_0306\_3). Searching for the defendants’ private details, the newspaper said that it had gone to their addresses – quoting the names of the streets in which they lived. Although most of their neighbors and family members were reluctant to speak for the media, the text still said: „According to unofficial information, Živković was skillful in sailing and owns a boat.” Another text described the suspect as a „long-term drug addict and ardent supporter of the Red Star [soccer club]” (T\_0407\_1), and the third, after a series of data on previous offenses, published a fact box entitled „Stopama oca i dede” [Following footsteps of his father and grandfather], quoting the offenses of his predecessors (Bl\_1307\_1)

Type of published data	Total number <sup>18</sup>	Share in the total number
Full name and family name	93	71%
Address	13	10%
Previous offenses	5	4%
Health condition	5	4%
Welfare recipient	1	1%
Race, sex, language, religious affiliation	3	2%
Workplace, employment, profession	3	2%
Assets, ownership	2	1%
Other private data	6	5%
Total	77	100%

**Table 4.** Data published on the alleged perpetrators of offenses

References to the ethnicity of alleged perpetrators were also registered: *Umorni Turčin ubio četvoricu ljudi [Tired Turk kills four]* (Bl1906\_2); *Albancu 20 godina za pokušaj ubistva policajca [Albanian sentenced to 20 years for attempted cop murder]* (K1106\_1), although the Code of Ethics of Serbian Journalists recommends that references to a suspect’s ethnicity, religion, ideology or political affiliation be made only when the committed crime is connected to ethnicity or relevant affiliations (Article IV, item 1.). The example in the box below may be treated as such a case, but it also simultaneously demonstrates the negligence of the media. Although the Bulgarian and Norwegian nationals are anonymized, which shows that the media are aware

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 18 This refers to the total number of appearances of a piece of information that violates the presumption of innocence, rather than to the total number of texts.

that the perpetrators' identities should not be revealed, the full name of the Syrian migrant is quoted.

*Syrian migrant Abdullah Zarak Dibou (55) died in a serious traffic accident, which occurred on the 7th kilometer of the Horgoš - Novi Sad road. According to police sources, he was walking along the highway towards the Horgoš border crossing, when, for no known reason, he tried to cross to the other side and, on that occasion, was literally run over by a Volkswagen Passat, driven by Bulgarian national A. E. (33). Right after that, another passenger vehicle, driven by Norwegian national E. M. (45) drove over the Syrian national's body. (I\_1307\_3)*

**Example 3.** Disclosure of the identity of the victim, anonymization of suspects

A separate group is made up of texts in which alleged perpetrators are not identified by name and family name, but which provide a sufficient amount of data for making the person identifiable in his community. Media most frequently quote their addresses or workplaces and jobs. For example, in the text on the father who beat his baby to death, the identity of the father is concealed by initials, but the exact address of the incident is quoted (street, number and part of the city) (P\_1906\_2).

*DOCENT RECEIVES BRIBE*

*By: M. R.*

*DOCENT ARRESTED*

*Niš - Docent D. Š. (41) was arrested on suspicion that he had requested and received 23,650 dinars from a Macedonian national at the Niš School of Medicine in order to ensure the recognition of the diploma of the School of Medicine of Varna, Bulgaria. (VN\_2706\_1)*

**Example 4.** Disclosure of data that point to the identity of the arrested person

Another example in which a suspect's identity was concealed is provided in the box above. Obviously, although the identity is concealed, the suspect's exact place of employment, title and age are quoted, which is sufficient for his complete identification. This is also an example of the way in which media „pass judgments” on unidentified persons, and use more toned down terminology when a person is named.

In the majority, or more than one-half, of the texts, the reported incidents occurred in Belgrade, which was to be expected, since the analyzed media are based in the Serbian capital. The distribution of other cities from which reports are coming is also understandable, in view of their comparative sizes.

Location	Total number	Share in the total number
Belgrade	47	56%
Niš	5	6%
Novi Sad	4	5%
Kraljevo	4	5%
Kragujevac	3	4%
Valjevo	3	4%
Subotica	2	2%
Not mentioned	2	2%
Other city	13	15%
Total	83	100%

**Table 5.** Cities from which the texts that violate the presumption of innocence came

Out of the three monitored media with the largest number of texts (*Blic*, *Večernje novosti* and *Telegraf*), the only significant exception from the above-mentioned distribution can be observed in the *Večernje novosti* daily. This newspaper has a wide network of correspondents, which is why one-third of its stories happened in Belgrade, while the rest happened in Novi Sad, Niš, Kragujevac and elsewhere in Serbia.

### 1.3.2. Treatment of Privacy

Citizens' expectations that media will observe their privacy are not equally observed, as it has already been stressed. Therefore, nearly all analyzed texts might be treated as separate cases with specific dilemmas concerning the expected level of privacy, on the one hand, and journalists' obligation to inform the public, on the other. However, certain regularities can be observed among the 170 texts included in this part of the analysis. This refers to several types of media practice that require a problem-based approach.

#### *I Unwilling protagonists of media reports*

The first group of reports is made up of those on „ordinary people,” in whom the public has no interest whatsoever and who become the protagonists of media reports mostly as a result of unfortunate circumstances. Larceny cases, attacks, deadly traffic accidents, rapes and murders represent reasons because of which persons who have previously never been known to the public end up as victims in media reports. Similarly to the media treatment of the presumption of innocence, two types of me-

dia treatment can be observed. One resulting in short texts, and the other resulting in longer texts in which not a single part of the victim's life is spared.

One of the longer texts that quotes details from a citizen's private life was published under the headline: *Ubij me, nema mi života bez tebe: Jezivi detalji krvoprolića u Kaluđerici!* [Kill me, I cannot live without you: Blood-curdling details of bloodshed in Kaluđerica!](T\_2207\_2). Reporting on „a murder and a suicide,“ the journalist relies on the statements of unidentified neighbors, who talk about the married couple's life. The sensationalism in the text is reinforced by three photographs, presented in the box below, which are unrelated to the incident itself, but are there to dramatize the text.



**Example 5.** Photographs illustrating the text: *Ubij me, nema mi života bez tebe: Jezivi detalji krvoprolića u Kaluđerici!* (T\_2207\_2)

While these texts and their design (sensationalist headlines, photographs) are indicative of a thorough media treatment aimed at boosting profits, with no regard for the victims, the second group of texts testifies about the ease with which media make citizens who are victims the topic of media content. A sample text of that kind, provided in the box below, shows that media protect the identities of suspects, but not those of the attacked.

#### *ROBBERS BEAT UP GUARD*

*By: T. T.*

*Niš – Dragan Simonović (54) of Niš, guard of the Elmont Company for the Rehabilitation and Training of the Disabled, was seriously injured in his workplace the night before last. Simonović was beat up by robbers who tried to steal the property of this „protective workshop.“ Police said yesterday afternoon that J. J. (22), Š. D. (19), I. P. (18) and a 15-year-old had been taken in on suspicion that they had committed the crime of robbery. The three suspects were placed in the 48-hour custody, while the juvenile suspect will be brought to the higher public prosecutor for juveniles in Niš. We learnt unofficially that Simonović had caught the robbers red-handed, after which they attacked him, inflicting on him serious head injuries. (P\_2307\_1)*

**Example 6.** A short text that quotes an assault victim's data

## ***II Victims of whom the public should know, although it is debatable to what extent***

The other group is made up of topics in which the public has a greater interest, topics about persons who are already public figures, who are important for the public or whose professions receive media attention. Examples we will present are very different, and the only thing they have in common is that the publication of the information has its pros and cons. Therefore they can be understood as grey areas, issues to which the existing regulatory framework does not offer straightforward answers. Certainly, what is important in the problematization of these cases is not just the type of the event on which the media are reporting, but also the way in which the information is treated.

The first such case refers to media reports from the trial of persons accused of killing journalist Slavko Ćuruvija. In one of the periods of sampling, nearly all media wrote about a hearing that had been held. Some of them decided to quote a statement made by one of the defendants who said that Ćuruvija had had lovers and financial issues:

*He explained that, after the news of the murder, the State Security service had continued to wiretap people he had contact with, including journalist Aleksandar Tijanić, in order to possibly find out the motive. – The conversations mostly concerned contacts with numerous women, jealousy and financial debts – Radonjić said and asked the Ćuruvija family to accept his apology for what he had said. (K\_0306\_4)*

Article 74. of the Law on Public Information and the Media says that information from ongoing criminal proceedings may be published if they have been presented at the trial. Guidelines from the Code of Ethics of Serbian Journalists, as it has already been said, call upon media professionals to be very cautious regarding connections made between a public figure who has died and a criminal offense or discriminative information. Following the guidelines, the editors of some of the analyzed media decided to leave out the disputable parts of the defendant's statement. Others, as the example shows, were probably guided by the fact that the claims had been made at the trial.

Another case is made up of texts on a journalist from Užice who was attacked during the discharge of his professional duties. The solidarity of journalists, and even more importantly, the importance of their freedom to do their job without fear or pressure, makes this incident a topic of public concern. However, once again, we have to raise the issue of the amount of details that can be provided in reports on a person's health condition without invading his/her privacy too much. Some media provided data on the condition of the injured person: „Physicians, we recall, have had to remove his

spleen and he is still under special medical supervision at the intensive care unit” (P\_1507\_1) or „he is stable, but still at the ICU,” „he underwent a surgery and his spleen was removed” (VN\_1507\_2). One of the newspapers even published a photo of the scene of the crime, showing the ambulance leaving with the injured inside. Again, like in the previous case, some media reported on the incident without providing any details about the condition of the injured person.

The third example is made up of media reports on the disappearance of children. Such cases have happened before and media doubtless play the crucial role in rallying the public to assist in the search. In those cases, the publication of children’s photographs is an established and welcome practice that can help find the minor. However, the problem lies in the fact that the rightfully awoken interest of the public never ceases and can result in the publication of personal data on the missing child and his family.

The fourth group of texts that require careful analysis are those in which media point to social issues, realizing their important role. This role is important because issues on the „agenda of the media“ become the subject matter of state policies, decisions or actions of competent institutions. Difficulties arise when, pointing to social problems such as domestic violence or physicians’ responsibility for a treatment, media report on individual cases.



Example 7. An indication of social issues or violation of the right to privacy?

So, for example, in the text *Jedna od najčuvanijih tajni: nasilje nad starima* [One of best-guarded secrets: violence against elderly] (P\_1906\_3), the name and family name of a killed woman are quoted, as well as her job, age and street in which she lived. This is just one sentence in the otherwise properly written text, and one has to wonder if the publication of these data is necessary. On the other hand, the *Blic* daily ran a campaign under the name „Stop violence against women,” throughout which mostly personal stories were published. In the text entitled *One su mogle da budu spasene* [They could have been saved] (Bl\_2506\_5), the full names and family names of 15 victims of domestic violence are quoted, along with their ages, sustained injuries and circumstances of the violence. The dilemma remains whether victims have to be identified and whether media could write about issues even without it.

### ***III Criminals without the right to privacy***

The third group is made up of texts on people who the media link with crime groups or who are described as the perpetrators of crimes. In these cases, the presumption of innocence is sometimes violated, and it seems that the alleged offense – whether there is a final judgment or not – serves as the basis for suspending the right to privacy of the alleged perpetrators as well as their families. For example, the already mentioned text *Bebu ubio od batina zato što je plakala* [He beats baby to death because it was crying] (I\_1906\_1) contains a fact box (example below) quoting personal data which the welfare center was not supposed to disclose to the media.

#### *They did not request welfare*

*The City Welfare Center of Belgrade (GCSR) says that they did not have any reports or any knowledge of domestic violence, neglect and abuse of children at the home of Kurteš Kurteši. The family was not registered with the competent department of the City Welfare Center (GCSR) as a beneficiary of welfare or any other service or right. Upon learning about the tragedy, Zemun Department experts went to the location and took mother Gorjana Milanović and one underage child in their custody. They were placed in the Materinski Dom (Mothers' Home) welfare institution – said the Welfare Center. (I\_1996\_1)*

As the second example, we can take the text entitled *Bombom raznet džip, diler preživeo napad* [SUV blown up with a bomb, drug dealer survives] (Bl\_1106\_4), which quotes the name and family name of the injured person, his age and statements of eyewitnesses. The presumption of innocence is violated and the text also says: „in view of his previous arrests, his lengthy police file includes numerous aggravated larcenies, robberies and illegal drug deals.” The same text also quotes data on his treatment: „The patient has serious injuries, fracture of the femur and burns all over

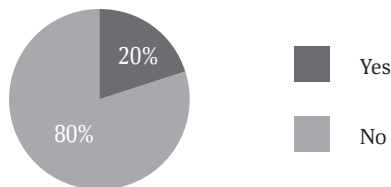
his body. He will undergo a surgery and his life is not in danger.”

#### *IV Public figures*

The fourth group is made up of public figures. There is no public concern in those cases, however, the public wants to know details from the private lives of these persons. The sample contains 29 texts of that kind, which mostly refer to the health condition of celebrities. Media reported on the health condition of actor Dragan Nikolić (VN\_1808\_1,M\_1708\_1), and due to the length of the reports, the research team analyzed them in detail in the case study.

While in the case of public figures, such as Nikolić and journalist Milomir Marić (Bl\_1906\_1), we are primarily dealing with the interest of the public that has nothing to do either with the right to be informed or with public concern, texts on politician Vojislav Šešelj, on the other hand, represent a borderline case (K\_0306\_2). Namely, the International Criminal Tribunal for the Former Yugoslavia let Šešelj return to Serbia because of his health condition, but, because of a wider social importance of cooperation between the Republic of Serbia and the Tribunal, this is an issue of public concern. Like in the other examples from this chapter, the issue is primarily the right measure and method of media reporting.

### Does the headline contain personal data?



**Chart 3.** Personal data in the headlines

As regards the texts quoting citizens' personal data, we should also add that their headlines are more appropriate than the headlines violating the presumption of innocence. One in five texts quoted personal data – most frequently just a person's name and family name – while four out of five headlines did not.

#### **1.3.3. Photographs**

The two rights are also violated through the publication of photographs or video recordings of the alleged perpetrators or citizens whose personal data are quot-



ed. Where the presumption of innocence is concerned, photographs may make anonymization useless or, if the person described as the perpetrator has been named, a photograph will additionally ruin his or her good reputation. Photographs additionally violate privacy, and the Law on Public Information and the Media says that a recording of images may not be published „without the consent of the person whose private life the information refers to, or of the person whose words, image or voice it contains, if such publication can lead to the reveal of that person’s identity” (Article 80.). The Law also specifies the exemptions from this rule (Article 82.), or situations where the public interest prevails over the interest to prevent publishing the information, or where a person sends the information to media for publishing. The publication of victims’ photographs is an especially sensitive issue, because in addition to privacy, we are also dealing with respect and unnecessary pain caused to their families.

In slightly less than one-half of the analyzed texts, persons whose rights are violated by the texts or persons close to them are not visually identified<sup>19</sup>. In 91 texts, there were 112 photos or video recordings of persons, which means that certain texts contained several photographs. Adults described as crime perpetrators, those whose presumption of innocence is brought into question through media reporting, are the most numerous group of persons presented by photos (see the table). There are no photographs of juvenile suspects, since no texts revealing the identity of alleged juvenile perpetrators have been found in the analyzed sample. Although the number of such texts is small, the fact that some media decided to publish photographs of juvenile victims is still a cause for concern.

Visual identification	Total number	Share in the total number
None	96	46%
Visual identity of the suspect: adults	41	20%
Visual identity of the victim: adults	37	18%
Visual identity of public figures	14	7%
Visual identity of the family, relatives, neighbors	14	7%
Visual identity of the victim: minor	6	3%
Visual identity of the suspect: minor	0	0%
Total	208	100%

**Table7.** The presence of visual identification

19 Many texts contain photographs, but they have not been analyzed if they do not necessarily refer to the incident itself (so-called dramatization) or if they do not contain the image of a person.

Media	Total number of texts	Number of texts with photos	% of texts with photos out of the total number of all texts with photos	% of texts with photos out of the total number of texts in the relevant medium
<i>Blic</i>	43	26	29%	60%
<i>Večernje novosti</i>	28	15	16%	54%
<i>Informer</i>	27	14	15%	52%
<i>Telegraf</i>	27	13	14%	48%
<i>Kurir</i>	10	8	9%	80%
<i>Mondo</i>	17	7	8%	41%
<i>Politika</i>	16	3	3%	19%
<i>B92</i>	5	2	2%	40%
<i>RTS</i>	4	1	1%	25%
<i>Pink</i>	4	1	1%	25%
<i>Danas</i>	5	1	1%	20%
<i>Južne Vesti</i>	0	0	0%	0%
<i>RTV</i>	0	0	0%	0%
<i>Studio B</i>	1	0	0%	0%
<i>Total</i>	187	91	100%	

**Table 8.** Visual identification per media

Photos are more frequently published in tabloids and semi-tabloids – especially in *Kurir*, *Blic*, *Informer* and *Večernje novosti*. This shows that media violate citizens' rights as a result of sensationalist selection and treatment of news. Although the share of texts with photographs in the total number of selected texts published by a particular medium may be discussed only conditionally, because we are dealing with relatively small numbers, it seems that some media publish texts just because photographs exist: as much as 80% of the analyzed texts in *Kurir* contain visual identification, while in *Blic*, *Večernje novosti* and *Informer* texts with citizens' photos account for more than one-half of all analyzed texts. At this point, we should also stress that even when identification photographs do not exist, some media publish illustrative photographs, which have nothing to do with the incident itself, but are aimed at scandalizing the audience and making the text sensationalist (photographs of blood, weapons, etc.).

### Sources of photographic or video identification

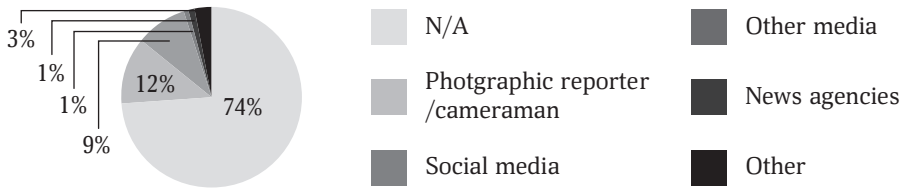


Chart 4. Sources of photographs and recordings

The fact that photographs were not credited in nearly three-quarters of the texts is especially worrying. We can only guess about the ways in which journalists get them, and there is also the question of whether the photographs have been obtained in a problematic way (for example, if the police is the source) or if the media are simply negligent. Although the distribution of photographs without a source can be discussed only after noting that their number is small, it is indicative that, in terms of numbers, the newspapers *Blic* (24%, 16 texts), *Večernje novosti* (22%, 15 texts), *Informer* (18%, 12 texts), *Telegraf* (12%, 8 texts) and *Kurir* (10%, 7 texts) are in the lead. The *Danas* daily, the *Južne Vesti* portal, and *RTV* and *Studio B* did not publish a single photograph or recording without crediting them to a source.

The research shows that social media are also used for downloading photographs. For example, the report on a trial for the murder of a minor contains a photograph of the person charged with the crime, which was credited to *Facebook* (BI\_0306\_1). In another example, Facebook photographs are insufficient in some texts and they are combined with other illustrations for the purpose of dramatization. (M\_2601\_1).



Example 8. Photographs downloaded from social media

Although the number of photographs is small (nine in the total sample), certain trends can also be observed. Serious, good-quality press does not use photos from social media to illustrate texts. In the (ab)use of these photographs, *Telegraf*, which published four photographs from *Facebook*, was in the lead, followed by *Blic*, which published two, while *Informer*, *Mondo* and *Kurir* published one photo each.

### 1.3.4. Professionalism of Journalists: Sources of Information and Authorship of Media Texts

Photo credits are not the only thing that testifies about the professionalism of journalists; this is also the case with the signing of the texts and treatment of sources. A number of previous researches show that domestic media publish unsigned texts<sup>20</sup>. A prominent feature of the texts analyzed within the sample was that just one-third were signed with the full name and family name of the journalist, one in five had no signature and more than one-third were signed by journalists' initials. A relatively large number of unsigned texts, on the one hand, and a small number of agency news, on the other, may indicate that media do not feel the need to attribute a text to the author where news agencies are their source. However, if we agree that the selected sample really contains 10 texts taken over from news agencies and other media, this means that the editorial staff and journalists play an active role in the violation of citizens' rights.

Author of the text	Total number	Share in the total number
Not indicated	37	20%
Journalist's full name (P. Petrović, Petar Petrović)	61	33%
Journalist's initials (P.P.)	66	35%
News agency	3	2%
Other media	7	4%
Total	187	100%

**Table 9.** Quoting the author of the text

Citing the source of information is important in professional journalism, because the professional credibility and the credibility of individual texts and media are developed on the basis of this principle. Therefore, in this segment we reviewed not only

20 Valić Nedeljković and Kleut, 2012; Krstić and Milojević, 2015.

the sources of disputable claims (sources of personal data or claims on the offense), but also all sources on which journalists relied while reporting. Observing the wider context, we can recognize key players in the society who should be more comprehensively informed about the right to the presumption of innocence and the right to privacy, and even involve some of them in the dialogue on the open or disputable issues.

Two groups of sources were distinguished in the analysis – official or identified, and unofficial or unidentified. The official sources were those whose names and family names were provided in the text and those who were identifiable because of their unique position (e.g. head of the Novi Sad police, chief judge of a court in Belgrade). The unofficial sources were those that could not be clearly identified, „disguised“ by the usual phrases (e.g. „from the sources close to the police,“ „an interlocutor from the prosecutor’s office claims“). All sources in the texts were registered, and, as a result, the total number of individual sources was greater than the total number of analyzed texts.

Two groups can be singled out among the official sources. The first is made up of participants in different stages of investigation and court proceedings – police, courts, prosecution, defense. In total, they account for 18% of all official sources. The other group is made up of people close to the victims, alleged crime perpetrators or public figures – relatives, neighbors and friends, who account for 11% of the total number of sources. The number of medical and educational institutions, employers and others is slightly smaller.

Sources of information	Official sources: total number	Official sources: share in the total number	Unofficial sources: total number	Unofficial sources: share in the total number
N/A	97	48,02%	115	58,67%
Courts	12	5,94%	5	2,55%
Prosecution	11	5,44%	5	2,55%
Family	11	5,44%	6	3,06%
Defense attorney	10	4,95%	0	0%
Neighbors	10	4,95%	15	7,56%
Medical institution	7	3,46%	5	2,55%
Educational institution	6	2,97%	0	0%

Police	5	2,46%	21	10,71%
Victims, suspects	5	2,46%	0	0%
Local governance/ mayors	4	1,98%	1	0,51%
Eyewitnesses	4	1,98%	3	1,53%
Other media	4	1,98%	2	1,02%
Friends	2	0,99%	3	1,53%
Employers	2	0,99%	1	0,51%
Welfare center	1	0,49%	0	0%
NGOs	1	0,49%	1	0,51%
Others	10	4,95%	13	6,63%
Total	202	100,00	196	100,00

**Table 10.** Official and unofficial sources of information

There is a total of 196 unofficial sources in 73 texts. This shows that, where journalists do quote anonymous sources, they do so repeatedly within a single text. This is a concern, because, as it is said in the self-regulatory document: „Often, the use of unnamed sources of information is only the way for the source or a journalist/media to present inaccurate, incomplete or insufficiently verified information”<sup>21</sup>. The structure of unidentified sources partly matches that of identified sources. A significant difference appears in the case of police sources: while police appear as official sources in 2% of the cases, they are quoted as unidentified sources in 21 cases and, with 11%, represent the largest group. Also, there is a slightly larger number of unidentified sources among neighbors. A comparatively high percentage of “others” among unidentified sources is also a cause for concern, because these interlocutors could not be included in the set categories due to the absence of a close description.

*According to unofficial information, the motive of this horrible crime is the money that Ivana owed to Pavić, whose girlfriend she allegedly was.*

*As Novosti have learnt, Ivana was Pavić’s girlfriend. Predrag was allegedly lending her money, and when she decided to stop seeing him, he asked her to return the debt. Since she had been refusing to do so for some time, Pavić eventually committed this horrible crime. (T\_1708\_2)*

**Example 10.** Anonymous sources provide information on motives

Linguistic formulas used for introducing anonymous sources are relatively common:

21 Code of Ethics of Serbian Journalists: Instructions and Guidelines, 2015: 20.

„as we learn from the prosecution,” „says a neighbor who wanted to remain anonymous,” „says an elderly citizen of Mirijevo,” „police sources confirm.” Although in these cases journalists at least partly indicate the status of the source, there are also numerous examples, like in the box below, in which there is not even so much as a hint of the origin of the information. In these cases, we are very frequently dealing with assumptions about the circumstances of tragic developments or motives that caused them.

Media	Texts containing unofficial sources: total number	Share in the total number of texts
Blic	19	26.03%
Večernje novosti	15	20.55%
Informer	11	15.07%
Telegraf	9	12.33%
Politika	6	8.22%
Danas	4	5.48%
Kurir	3	4.11%
Mondo	3	4.11%
B92	2	2.74%
Pink	1	1.37%
Južne Vesti	0	0%
RTS	0	0%
RTV	0	0%
Studio B	0	0%
Total	73	100,00

**Table 11.** Unidentified sources per media

One should note that the use of unidentified sources differs from one medium to another. Only four media, including two public broadcasting companies, did not use anonymous sources in the analyzed period. With more than 20% of unidentified sources, the *Blic* and *Večernje novosti* dailies are in the lead, and they are followed by *Informer* and *Telegraf*. Although the *Politika* and *Danas* dailies observed best practices concerning other issues encompassed by the research, in this regard they found themselves very close to *Kurir*.

## 1.4. Case Study – Health Condition of Dragan Nikolić

*The fact that I was at the doctor's is my private affair.  
Please understand me.  
Dragan Nikolić, 2014<sup>22</sup>*

As it has already been said during the presentation of qualitative and quantitative results, media reports on public figures may represent a special challenge, since it is sometimes very difficult to strike a balance between the right of the public to be informed and a public person's right to privacy. In the text below, we will present the way in which media reported on the health condition of actor Dragan Nikolić.

As early as in 2012, media found out „from Military Medical Academy (VMA) sources” that Nikolić was hospitalized in this medical institution.<sup>23</sup> Two years later, in 2014, media reported again about Nikolić's condition.<sup>24</sup> The reports especially intensified in May 2015. In the text entitled *Pozlilo poznatom glumcu: Dragan Nikolić opet u bolnici [Famous actor gets sick: Dragan Nikolić hospitalized again]*<sup>25</sup>, published in the *Culture* section, the *Večernje novosti* daily said that Nikolić had been admitted into a hospital and that he underwent a surgery, and added other information about his condition and therapy, on the basis of information obtained from a „source of the newspaper.” *Novosti* recalled that Nikolić had undergone a surgery at a clinic within the Clinical Center of Serbia in February, which this newspaper had learned „from circles close to the family.” Other media subsequently also published the news, quoting his family, friends or the Clinical Center of Serbia as their sources. The *Mondo* portal published the news in the *Entertainment – Stars and Gossip*<sup>26</sup> section, and the *Alo* daily initially published it in the *AloLive!*<sup>27</sup>, and then in the *Showbiz* section<sup>28</sup>. In a story with the headline *Gaga se pomirio sa sudbinom! Pustite me da umrem u miru! [Gaga reconciled with his fate! Let me die in peace!]*<sup>29</sup>, published in the Entertainment section, the

22 Kurir, Dragan Nikolić hitno prebačen u bolnicu, October 17, 2014. <http://stil.kurir.rs/dragan-nikolic-hitno-prebacen-u-bolnicu-clanak-21843>

23 Puls Online, Dragan Nikolić leži na VMA, April 23, 2012. <http://www.pulsonline.rs/puls-poznatih/11307/dragan-nikolic-lezi-na-vma>

24 Kurir, Dragan Nikolić hitno prebačen u bolnicu, October 17 2014. <http://stil.kurir.rs/dragan-nikolic-hitno-prebacen-u-bolnicu-clanak-21843>

25 Večernje Novosti, Pozlilo poznatom glumcu: Dragan Nikolić opet u bolnici, May 21: <http://www.novosti.rs/vesti/kultura.71.html:549262-Dragan-Nikolic-se-bori-za-zivot>

26 Mondo, Gaga Nikolić prebrodio krizu, samostalno diše, May21, <http://mondo.rs/a796960/Zabava/Zvezde-i-tracevi/Dragan-Nikolic-u-bolnici.html>

27 Alo!, Gaga Nikolić skinut sa aparata, May 21, <http://www.alo.rs/vesti/aktuelno/gaga-nikolic-skinut-s-aparata/98382>

28 Alo!, Molimo se Bogu za našeg Gagu, 23. May, <http://www.alo.rs/v-i-p/estrada/molimo-se-bogu-za-naseg-gagu/98546>

29 Informer, Gaga se pomirio sa sudbinom! Pustite me da umrem u miru!, May 22, <http://www.informer.rs/zabava/film/15192/GAGA->



Informer daily says the following: „I just want to die in a dignified manner. I want the people to remember me as the great Dragan Nikolić, and not as a man dying in pain – said the famous actor and thus explicitly prohibited the publication of details about his illness.” Later in the text, however, *Informer* asks its readers to continue following its exclusive story: „Find out what else was said by the popular actor exclusively in the printed edition of *Informer* tomorrow.”

The Ombudsman and Commissioner issued a joint statement on May 22.<sup>30</sup> In the statement, they called for the following:

„That much more attention be paid in reports on citizens’ lives, even in the case of public figures, to privacy and elementary tactfulness, as elements of human dignity. Not only is the way in which the news about the hospitalization of famous actor Dragan Nikolić was published in contravention with the obligation to keep the secrecy of data on one’s health condition, but has also resulted in unnecessary and improper disturbance of his family.” The Commissioner and Ombudsman recalled the obligation of all employees at medical institutions to protect the right to privacy of the patient and his family.”

In the article entitled *Dragan Nikolić je dobro, porodicu uznemiravaju lažne vesti* [*Dragan Nikolić is well, family disturbed by false news*]<sup>31</sup> on May 23, the Večernje novosti daily said that sources at the „Emergency Medical Center told Novosti that all monitored vital parameters of Nikolić were currently good.” The text also contained an excerpt from a statement – appeal of the Clinical Center to the media – not to publish unchecked and untruthful information. On the same date, the newspaper *Alo* in a text entitled *Molimo se Bogu za našeg Gagu!* [*We are praying to God for our Gaga!*] published a photograph of Dragan Nikolić in the hospital bed, as well as a photo of the arrival of [his wife and also an actress] Milena Dravić Nikolić in a visit.<sup>32</sup>

A few days later, Milena Dravić Nikolić addressed the public in a statement, pointing to the unacceptable reports on the health condition of her husband, and describing them as „media lynch.”<sup>33</sup>

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SE-POMIRIO-SA-SUDBINOM-Pustite-me-da-umrem-u-miru

30 Ombudsman and Commissioner, I javne ličnosti imaju pravo na privatnost, May 22: <http://www.zastitnik.rs/index.php/lang-sr/2011-12-25-10-17-15/4119-2015-05-22-12-37-35>

31 Novosti, Dragan Nikolić je dobro, porodicu uznemiravaju lažne vesti, May 23, 2015. <http://www.novosti.rs/vesti/scena.147.html:549557-Dragan-Nikolic-je-dobro-porodicu-uznemiravaju-lazne-vesti>

32 Alo, Molimo se Bogu za našeg Gagu, May 23, 2015. <http://arhiva.alo.rs/v-i-p/estrada/molimo-se-bogu-za-naseg-gagu/98546>

33 Danas, Milena Dravić: Prekinite medijski linč Dragana Nikolića, May 29, 2015. [http://www.dayss.rs/dayssrs/drustvo/milena\\_dravic\\_prekinite\\_medijski\\_linc\\_dragana\\_nikolica\\_.55.html?news\\_id=302519](http://www.dayss.rs/dayssrs/drustvo/milena_dravic_prekinite_medijski_linc_dragana_nikolica_.55.html?news_id=302519)

After nearly half a year, media reported again about the actor's health condition. In the *Entertainment* section, *Informer* said, quoting its „source,” that Nikolić had been admitted to the Emergency Medical Center, where he was receiving a treatment because of a surgery he had been subjected to earlier in the year.<sup>34</sup>

The presented articles quote numerous data regarding a patient's condition. The Law on Personal Data Protection treats such information as especially sensitive. The texts made it impossible to determine beyond doubt the source of information on the patient's condition, and to determine the truthfulness of the presented. The statement of the Clinical Center of Serbia, part of which was published by the *Novosti* daily, might indicate that certain media had published unchecked and untruthful information, ascribing them to sources from the Clinical Center of Serbia.

However, at this point we would like to point to information about Nikolić's condition, presented by an identified source employed at the Clinical Center of Serbia. In February 2015, *Novosti* said that Nikolić had undergone a surgery at the Clinic for Digestive Illnesses of the Clinical Center of Serbia.<sup>35</sup> According to the text, Nikolić is „recovering well after the surgery,” which has been confirmed to *Novosti* „at this institution.” Later in the text, the daily quoted the doctor who had performed the surgery as saying:

*I performed the surgery the best I could and I hope for the best – Novosti was told by professor Zoran Krivokapić, surgeon and one of the best international experts for the diseases of the colon.*

*Professor Krivokapić did not want to comment on the recovery of the patient, regarding this as an intrusion of his privacy.*

Although the doctor was reserved regarding details on the patient's recovery, the fact that his specialization had been mentioned and that a surgery was performed contextually provide enough information about the patient's condition. This statement given by a member of the medical staff prompted the researchers to examine the Clinical Center of Serbia internal procedures on the methods and rules of communication with the media and public about patients' health condition. The researchers wanted to give the Clinical Center of Serbia an opportunity to present its criteria for deciding on whether to share a piece of information with the public or refrain from comments;

34 *Informer*, GAGI NIKOLIĆU ponovo pozlilo, hitno prebačen u bolnicu, May, 28, 2015. <http://www.informer.rs/zabava/film/34084/GAGI-NIKOLICU-ponovo-pozlilo-hitno-prebacen-u-bolnicu>

35 *Novosti*, Dragan Nikolić operisan, stanje stabilno, February 12, 2015. <http://www.novosti.rs/vesti/kultura.71.html:533658-Dragan-Nikolic-operisan-stanje-stabilno>

whether the full identity of a patient is presented when information is presented to the public; whether there is a difference concerning public figures; who is authorized to disclose information, etc. We tried to collect this information, using a request for a free access to information of public importance. However, the Clinical Center did not respond to the request by the end of this case study, so we could not present the rules of the Clinical Center of Serbia, if it had established them.

Dragan Nikolić is doubtless a public figure and part of the public evidently wanted to be informed about his health out of the best intentions and genuine concern. However, we have to note that the interest of (part of) the public in the health condition of a public figure does not mean that the media have the obligation to respond by publishing very intimate details about these people and their families.

As Nikolić himself put it, public figures have the right to be left alone when their private affairs have nothing to do with their public affairs. Greater caution in reporting about sensitive private issues can result in satisfying the legitimate public interest, while observing the privacy of the person who is being reported on.

### 1.5. Case Study – Changes in the News in Online Editions of the Media

During the preparation of the project, *Partners Serbia* observed that news and headlines on media websites were changing. This happens when a text on an existing URL address is changed, and readers of the website can no longer see the previous content. Since the previous story simply disappears from the Internet after being replaced by a new one, readers can no longer access the previous versions of the story. Specifically, the Blic daily on December 14, 2014 initially published a story under the headline *Elitna prostitutka pronađena mrtva u Hajatu [Elite prostitute found dead at Hyatt]*, and later that day changed the headline into *Pronađena mrtva devojka u Hajatu [Dead girl found at Hyatt]*. It is interesting to note that only the headline of the story was changed and that the URL address remained the same.<sup>36</sup>

The URL was later changed and harmonized with the headline.<sup>37</sup> A similar change was also registered on the website of the Alo daily, where the original headline, *Elitna prostitutka pronađena mrtva u Hajatu [Elite prostitute found dead at Hyatt]*<sup>38</sup>, was

36 Blic, June 14, 2015. Elitna prostitutka pronađena mrtva u Hajatu, <http://www.blic.rs/Vesti/Hronika/518727/Elitna-prostitutka-pronadjena-mrtva-u-Hajatu>

37 Blic, June 14, 2015. Pronađena mrtva devojka u Hajatu, <http://www.blic.rs/Vesti/Hronika/518727/Pronadjena-mrtva-devojka-u-Hajatu>

38 Alo, June 14, 2015, Elitna prostitutka pronađena mrtva u Hajatu, <http://www.alo.rs/vesti/hronika/elitna-prostitutka-pronadjena-mrtva>

later changed, and the new story that later appeared at the same URL address was headlined *TELO U HOTELSKOJ SOBI Devojka nađena mrtva u Hajatu je ćerka poslanice* [BODY AT HOTEL ROOM Girl found dead at Hyatt is MP's daughter].<sup>39</sup>

The screenshot shows the Blic news website interface. At the top, the URL is [www.blic.rs/Vesti/Hronika/518727/Elitna-prostitutka-pronadjena-mrtva-u-Hajatu](http://www.blic.rs/Vesti/Hronika/518727/Elitna-prostitutka-pronadjena-mrtva-u-Hajatu). The navigation bar includes links for ENGLISH, DOBRE VESTI, RSS, MAPA, FORUM, ŽENA, ARHIVA, MOJ AUTO, ONLINE PRODAJA, and IGRICE. The main header features the Blic logo and a banner for 'NonStop SHOPPING' with the text 'POKLON ZA NJEGA'. Below the header, there are navigation tabs for NASLOVNA, POMOĆ, VESTI, SPORT, ZABAVA, KULTURA, and SLOBODNO VREME. A secondary navigation bar lists categories like Politika, Tema Dana, Svet, Društvo, Ekonomija, Hronika, Beograd, Srbija, and Vojvodina. The main content area displays a news item with a photo of a man and the headline 'Kif: Niko ne prića o otvaranju poglavlja u decembru, ni premijer Vućić'. To the right, another headline reads 'POTRESNO Poslednja poruka devojke koju je svirepo ubio stari iz Zaječara'. Below the main headline, there are social media sharing buttons for Like (47), Share (7), Tweet (2), and G+1 (4). The main headline is 'Pronađena mrtva devojka u "Hajatu"'. Below it, the text reads: 'I.B. iz Novog Sada pronađena je mrtva juće ujutru u jednoj od soba u beogradskom hotelu "Hajat"'. On the right side, there is a 'Najnovij' section with a list of recent news items.

The researchers registered something similar in reports on a deadly traffic accident on the Belgrade-Niš highway in the spring of 2015. Thus, the Blic daily on June 14, 2015 published a story headlined *Turk kills mother's only son Aleksandar*.

This story held the central position in the header of the online edition of *Blic*.

va-u-hajatu/77497

39 Alo, June 14, 2015, TELO U HOTELSKOJ SOBI Devojka nađena mrtva u Hajatu je ćerka poslanice, <http://www.alo.rs/vesti/hronika/devojka-nadena-mrtva-u-hajatu-je-ćerka-poslanice/77497>

On the next day, June 15, the headline and the story itself were changed and the new headline read as follows: *Ostali bez sina jedinca [They lost their only son]*.<sup>40</sup>

The screenshot shows the website alo.rs with a navigation bar and a news article. The article title is "Devojka nađena mrtva u Hajatu je ćerka poslanice". The author is Alo.rs, dated 12.12.2014. Below the title is a sub-headline "TELO U HOTELSKOJ SOBI". The article text begins with "Ivana Bakić Bodrožić (31) koja je pronađena mrtva juće ujutru u jednoj od soba u elitnom hotelu 'Hajat' na Novom Beogradu, ćerka je poslanice vojvođaskog parlamenta Nade Bodrožić." There are social media sharing buttons for Facebook, Twitter, and Google+.

The screenshot shows the Blic online website with a navigation bar and a news article. The article title is "Kako nas TRUJU aditivima". The article text begins with "Objavljen snimak automobila kojim je kidnapovan Stefan Ilić?". There are social media sharing buttons for Facebook, Twitter, and Google+.

This is bad practice for at least two reasons. The first is the absence of media professionalism. Sensationalist headlines obviously serve the purpose of attracting as many readers as possible. The public is thus guided towards a particular value judgment on the reported incident. However, after reaching the initial objective, the daily decides

40 Blic, June 15 2015, Ostali bez sina jedinca, <http://www.blic.rs/Vesti/Hronika/567579/Ostali-bez-sina-jedinca>.



## Blic Online | Turčin ubio majci sina jedinca Aleksandra

www.blic.rs/.../Turcin-ubio-majci-sina-jedinca-Aleksa... ▾ Translate this page  
 13 hours ago - 23:16h | Foto: M. Ivanović | Komentara: 17. **Vožać turskog šlepera, kriv ili ne za tragičnu nesreću kod Niša, ugasio je domaćinstvo Mlade Jovanovića, porodicu Stojanović ostavio bez jedinog sina Aleksandra, a u crno zavio i familije Cvetković i Dojčinović. SPREMAJU SAHRANU: Komšije Mlade Jovanovića.**

www.blic.rs/Vesti/Hronika/567579/Ostali-bez-sina-jedinca

ENGLISH DOBRE VESTI RSS MAPA FORUM ŽENA ARHIVA MOJ AUTO ONLINE PROJEKTI

**BLIC** online

NASLOVNA ZA DECU VESTI SPORT ZABAVA KULTURA SLOBODNO

Politika Tema Dana Svet Društvo Ekonomija Hronika Beograd Srbija

Kako nas TRUJU aditivima

Objavljen snimak automobila kojim je kidnapovan Stefan Ilić? VIDEO

VESTI HRONIKA

Like 0 Share 2 Tweet 0 +1 0

### Ostali bez sina jedinca

M. Ivanović | 14. 06. 2015. - 23:16h | Foto: M. Ivanović | Komentara: 17

Vožać turskog šlepera, kriv ili ne za tragičnu nesreću kod Niša, ugasio je domaćinstvo Mlade Jovanovića, porodicu Stojanović ostavio bez jedinog sina Aleksandra, a u crno zavio i familije Cvetković i Dojčinović.

to withdraw the provocative story and to bring it closer to the professional standards of journalism. In the specific cases mentioned in the text above, the victim's right to privacy was violated, as was the presumption of innocence of the person suspected of/charged with the causing of the traffic accident in which four persons had been killed. Still, this type of media reporting does not necessarily have to be related to

the violation of the two rules which are in the focus of this research; instead, it can violate many other rights of the persons mentioned in the reports as well as the professional standards of journalism.

The other reason why this may be bad practice lies in the fact that it undermines the control over public authorities, as one of the main functions of the media. It is not difficult to imagine a situation in which, after a medium of communication decides to investigate a corruption scandal or some other unlawful behavior of public figures or other power-wielders, those circles of power-wielders put pressure on the medium to remove the content from its website. Media can thus become additionally vulnerable to external pressure.

Although in the first case we can talk about the media responsibility for the violation of human rights and professional standards of journalism, and in the second about a medium of communication as the victim of an attack and violation of the freedom of the press and freedom of expression, it is important to note that in both cases the public remains deprived of complete, timely and objective information, which is in contravention with the need for realizing the public interest in the media.

This practice is typical of electronic media and differs from the method of editing of printed newspapers. Once the press is distributed to sales points, it is physically impossible to change its content, while a fruitful attempt of stopping the distribution of such content can hardly be imagined. The content of online media editions, however, can be changed with an infinitely greater ease, which paves the way to violations of the public interest in the media, which has already been discussed.

This is why one of the recommendations of this research refers to the need for improving the Code of Ethics of Serbian Journalists, in such a way as to ensure its additional harmonization with the specific features of online media, as well as to indicate that changes of online content (where no trace of the original content remains) are not in line with the professional principles of journalism. The Code of Ethics of Serbian Journalists insufficiently recognizes this issue. This area is partly regulated in Chapter IV, item 6. of the Code, where the media are suggested to make corrections of content in order to harmonize it with facts:

*6. A journalist fosters the culture and ethics of speech, respects the right of reply, apology and correction, and is obliged to publish a timely and appropriate correction.*

*Guideline:*

*Media are required, without delay, to publish correct and complete information, even*

*if they have unintentionally published a story that later turned out to be an unfounded accusation, rumor or defamation.*

However, this item and the accompanying guideline do not recognize that unchecked, sensationalist stories might be deliberately and dishonestly published, and then permanently removed. The researchers recommend the inclusion in the Code of a provision requiring from the media to visibly mark towards the end of the text the date when the content was changed, to indicate the message of the removed story, and briefly to present the reasons for the change. The Code would thus be adapted to new trends in online media, and media that would accept such rules of reporting would demonstrate responsibility towards their readers and their profession and thus also reaffirm the public interest in the media.

## 1.6. Conclusion

The main task of the media monitoring conducted by Partners Serbia between June and August 2015 was to determine the frequency of publication of texts in which the right to the presumption of innocence and right to privacy had been violated, according to the existing regulatory and self-regulatory documents. In the 14 media monitored for 14 days, the research team identified 83 texts in which the presumption of innocence had been violated. In view of the fact that this right is guaranteed by the Constitution, media laws and other documents, this indicator can be described as one that gives rise to concern.

The same conclusion cannot apply entirely on the violation of privacy, in view of the nature of this right and of the fact that that, under the media legislation and the Code of Ethics of Journalists, it does not apply equally on all citizens. Nevertheless, using three questions<sup>41</sup>, the research team selected 170 media stories in which citizens' personal data could have been left out. This result at least indicates that the professional community and society as a whole need to discuss citizens' privacy in media reporting more frequently.

As for the right to privacy, it would be good to observe two groups separately – public figures and persons unknown to the public. If the legal framework is observed, by the nature of their public affairs, public figures cannot have the same expectations as other citizens, i.e. they must be prepared for media stories about parts of their private lives. This implies, and this position is partly contained in the regulations,

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 41 Could a medium have left out the published personal data without bringing into question the public interest to be informed? Was a victim identified (made recognizable) by his/her name and family name or a photograph? Was a minor identified (made recognizable) by name and family name or a photograph?



that citizens who are not public figures have the right not to have their private lives discussed by the media. The case law of the European Court of Human Rights concerning public figures shows that the following questions are used as criteria: whether the published information contributes to a debate in the general interest; how well is the relevant person known to the public; how did he/she act previously and what are the content, form and consequences of the publication of the article. For example, this leads to a conclusion that the assets and income of members of the authorities are a matter of public interest and that their publication does not violate the right to privacy.

On the basis of the research, two additional questions can be asked: Are there and what are the areas of public figures' lives that should remain outside the media? The recommendation, under the Law on the Protection of Personal Data and on the basis of the Dragan Nikolić case study, would be that, if reports on a person's health are necessary at all, one should bear in mind how sensitive the situation is and write them with measure. The publication of photographs and video recordings of public figures at health centers represents a serious violation of privacy.

Citizens who do not engage in public affairs become the topic of media stories most frequently in three situations – when they do something unexpectedly good (for example, return a large amount of money somebody has lost), when they are taken as an example of a social phenomenon (for example, extreme poverty) or when they become participants in unfortunate developments, either as victims or as suspects whose responsibility should be examined and proven at court. By the very nature of the analyzed topic, the third group was the most frequent. While reporting that draws attention to a social issue can be said to contribute to a debate of general concern, one has to wonder whether and in which way reports on accidents, murders, assaults, etc. contribute to a public debate. Or, more specifically, what are the cases in which the public has to know the identity of a victim or the (alleged) perpetrator?

The research of the media shows that the presence of bad news is justified, because citizens orient themselves in accordance with media reporting; they help them to find their way in the world and adjust their behavior to their surroundings. They learn about their environment in the media. Looking from this perspective, media cannot be deprived of the right to report on robberies, attacks and crime in general. However, the issue is how media treat a particular topic, rather than whether they should do it or not. That is why the general finding on the frequency of violation of the two rights in the media has to be supplemented by differences encountered in the editorial policies and among the types of media. Television stations – *RTS, RTV, TV Pink, TV B92 and Studio B* – represent a separate group of media in which the presumption of innocence and citizens' privacy are generally observed. The differences between

them are small, and one can conclude that, in view of the limited duration of prime-time news programs, the production of TV news does not leave room for the violation of rights<sup>42</sup>. An important piece of information from the analysis should certainly be added to this: that public broadcasting companies, which should serve as a model of professionalism, have reaffirmed their position.

Significant differences appear among dailies and portals. Basically, they can be divided into three groups. The first is made up of those which: 1) more frequently violate the presumption of innocence, 2) more frequently publish the photographs of alleged perpetrators, their victims, and other persons whose privacy has been violated, 3) frequently omit the sources of such photographs, and 4) publish texts based on unidentified sources. The *Blic*, *Večernje novosti*, and *Informer* dailies, as well as the *Telegraf* portal belong to this group. The second group is made up of the *Kurir* daily and the *Mondo* portal, which have the above-mentioned elements, but which were not so prominent during the period of the analysis like it was the case with the previous group. The third group is made up of media (*Danas*, *Južne Vesti*, *Politika*) that have high professional standards and whose reports either do not violate the two citizens' rights at all, or do so very rarely.

Newspapers and portals with a tabloid approach publish long texts, illustrated with a large number of sensationalist photographs, and in the absence of photos from the scene, they use dramatic illustrations. Looking for photographs, they even use personal archives of the alleged perpetrators and victims, which they find on the social media. This practice is not covered by domestic regulations, and should be regulated as soon as possible.

The research shows that public institutions also cooperate in the publication of personal data and violation of the presumption of innocence. Sources from the police frequently appear as anonymous sources, which indicates that police insufficiently understand citizens' rights and regulations that protect them. Other identified or unidentified sources are also prosecutors' offices, defense attorneys and medical centers. All these groups should review their PR practice within their relevant fields of expertise, bearing in mind the protection of their clients and observation of human rights.

Another aspect, which is beyond the framework of analyzed media texts, but without which media practice cannot be understood, should be added to the presented

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 42 This conclusion should be additionally tested, for example, by analyzing TV reports and the information portal of the same medium. Only then would we be able to make a definitive conclusion on whether the difference comes from the medium or professionalism of the editorial staff.

findings. It was indicated by the journalists and editors who commented on the preliminary results at the meetings held within the research in Belgrade on March, 21 and 28. There is fierce competition among Serbian media in the fight for audience and advertizers. Journalists are exposed to pressure, and the profession has become precarious, since it is characterized by existential uncertainty, legal insecurity, job insecurity and uncertainty regarding working hours<sup>43</sup>. The number of views and sold copies, and frequently also the salaries and jobs, depend on the shocking and sensationalist headlines which leave no room for linguistic nuances, such as suspect, defendant, convicted in the first instance, etc. There is justified suspicion that the technology of news production works this way: otherwise relatively correct official statements or tips are equipped with sensationalist headlines and photographs. This is why the weight of strong commercial imperatives should be added to the scales on which the freedom of information (freedom of the media to publish information and citizens' freedom to receive the information) is on one side, and the rights to privacy and presumption of innocence are on the other. The business model based on such imperatives is sometimes opposed to citizens' rights.

The punishment of media by fines that would minimize commercial motives would be a possible, albeit unpopular measure in a democratic society (especially in a society where the media are poor). Many countries avoid this through strong and functional self-regulatory bodies that defend the profession by defending citizens. In Serbia, however, some of the media are not interested in professional standards, and neither observe the decisions of the Press Council, nor participate in its work. This relatively new authority in the media system has so far made decisions on numerous complaints, but not so frequently on the violations of the presumption of innocence and right to privacy, despite the fact that the Council itself has recognized in its own research that violations of the presumption of innocence represent the most frequent violations of the Code of Ethics of Serbian Journalists<sup>44</sup>. This leads to the conclusion that citizens who are not involved in public affairs and who the media frequently write about have no resources, or maybe even insufficient information, for referring their issues to the right address.

## Reference

Berelson, B. (1952). *Content Analysis in Communication Research*. Glencoes, IL: Free Press.

Kodeks novinara Srbije: Uputstva i smernice, 2015.

43 Mihajlović, 2016.

44 [http://www.savetazastampu.rs/cirilica/izvestaji/110/2016/03/11/1019/izvestaj-o-radu-saveta-za-stampu-za-2015\\_godinu.html](http://www.savetazastampu.rs/cirilica/izvestaji/110/2016/03/11/1019/izvestaj-o-radu-saveta-za-stampu-za-2015_godinu.html)

Krippendorff, K. (1980). *Content analysis. An introduction to its methodology*. Berverly Hills: Sage.

Krstić, A., Milojević, A. (2015). Etički i profesionalni aspekti izveštavanja dnevne štampe u Srbiji. U: Veljanovski, R. (ur.). *Indikatori profesionalnog/neprofesionalnog ponašanja novinara i medija - mogućnosti za poboljšanje stanja*. Beograd: Fakultet političkih nauka Beogradskog univerziteta, 2015, str. 11-37.

Mihajlović, S. (ur). (2016). *Od novinara do nadničara. Prekarni rad i život*. Belgrade: Centar za razvoj sindikalizma.

Neuendorf, K. (2002). *The Content Analysis Guidebook*. London: Sage.

Valić Nedeljković, D., Kleut, J. (2012). *Predstavljjanje siromaštva u tradicionalnim i novim medijima*. Novi Sad: Filozofski fakultet, Odsek za medijske studije.

Van Dijk, T. (1988). *News as Discourse*. New Jersey: Lawrence Erlbaum Associates.

Voorhoof D. et al and McGonagle T. (Ed. Sup.) (2015). *Freedom of Expression, the Media and Journalists: Case-law of the European Court of Human Rights, IRIS Themes*. Strasbourg: European Audiovisual Observatory.

Weber, R. P. (1990). *Basic Content Analysis*. (2nd edition). Newbury Park, CA: Sage.

## 2. Activities of the Ministry of Internal Affairs and Public Prosecutors' Offices aimed at Preventing the Unauthorized Use of Citizens' Personal Data and their Leakage to the Media

Parallel with the monitoring of media reports, discussed in the previous chapter, Partners Serbia conducted a research on the procedures implemented by the Ministry of Internal Affairs and public prosecutors' offices within their cooperation with the media and publication of information about their work, and preventive measures of protection from unauthorized use of citizens' personal data. A special stress was laid on the measures aimed at preventing information leaks to the media and on public prosecution activities regarding criminal reports filed by the Commissioner for Information of Public Importance and Personal Data Protection in connection with criminal offenses related to personal data protection. The results of the research are presented later in the publication.

### 2.1. Research Methodology

The research refers to the measures of personal data protection undertaken by the MoI and public prosecutors' offices in connection with Article 47. of the Law on Personal Data Protection (LPDP). This article says that:

*Data must be adequately protected from abuse, destruction, loss, unauthorized alterations or access.*

*Controllers and processors shall take all necessary technical, human resources and organizational measures to protect data in accordance with the established standards and procedures in order to protect data from loss, damage, inadmissible access, modification, publication and any other abuse, as well as to provide for an obligation of keeping data confidentiality for all persons who work on data processing.*

It is the obligation of every controller (person required by law to collect and later use personal data) to protect personal data in his possession from abuse, destruction, loss, unauthorized alteration or access.<sup>45</sup> Referring to the established standards and procedures, the legislator requires from the controllers to learn about international and domestic legal framework on personal data protection, and, in that context, says that controllers must take all necessary technical, staff-related and organizational measures to protect data from the above mentioned activities. The legislator also says that controllers must oblige persons in charge of data processing to maintain

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<sup>45</sup> The following publication was used for the purpose of writing this Chapter: Uroš Mišljenović, Ana Toskić, Blažo Nedić, Protection of Privacy in Serbia, Analysis of Implementation of Personal Data Protection Law, Partners for Democratic Change Serbia, 2013.

data confidentiality. This refers to all persons who, within the scope of their professional activities, come into any contact with citizens' personal data. This means that this provision also refers to the inspection of documents, rather than only to possible interventions on the data, their multiplication or transfer to third persons.

In view of Article 47. of the LPDP, information leaks to the media may be interpreted as an omission of a controller to implement personal data protection measures, if the information contains personal data. In its penal provisions, the LPDP (Article 57.) says:

*A fine in the amount of RSD 50,000 to 1,000,000 shall be charged for infringement to a collector, a processor or a user with the status of a legal entity that [...]*

*11) Acts in violation of the duty to take the measures referred to in Article 47, paragraph 2 of this Law.*

Personal data can be efficiently protected through the establishment of clear internal personal data processing procedures. The Law on Personal Data Protection does not oblige controllers to closely regulate, in internal documents, the way in which the personal data of their clients and employees will be processed. Still, such internal documents are certainly desirable in order for the controller to make a first step towards the fulfillment of his obligations referred to in Article 47. of the Law. These documents can regulate who can have access to (insight in) a particular set of personal data, impose a rule of registration of every access to a case from a single user account, regulate the procedure for transferring personal data to third persons, etc. Persons who have daily contact with personal data will thus have greater responsibility and less discretion, which will prevent abuse. In view of the fact that the MoI and public prosecutors' offices sometimes have data on persons' health or welfare receipts, criminal convictions, and on circumstances that point to the use of violence against the victim, it is very important to regulate the protection of this type of information, since it enjoys a higher level of protection under Articles 16-18. of the LPDP.

Within this research, we examined whether the Ministry of Internal Affairs and public prosecutors' offices fulfilled the above-mentioned legal obligations, laying a special stress on the measures of protection within the prevention of information leaks to the media. Requests for free access to information of public importance were used as means for collecting information. A sample request is provided in the Appendix. The requests contained questions about the:

- Regulation of the procedure for the provision of information to the media about the MoI activities in the detection of crimes and participation in

- criminal proceedings;
- Criteria for providing information to the media about the identities of suspects, defendants, victims and injured parties;
- Measures it has undertaken to protect data from leaks to the media, pursuant to Article 47. of the LPDP, especially information on the results of polygraph testing, utilization of the video surveillance equipment and access to information obtained during interrogation;
- Possible existence of records on persons and times of inspection of a case (documents or case files) in the possession of the MoI.

The researchers sent the requests to the following organizational units of the MoI:

- Criminal Police Administration;
- Service for Combating Organized Crime;
- Media Cooperation Bureau;
- Police Administration of the City of Belgrade;
- Police Administration of Niš;
- Police Administration of Subotica.

The researchers also relied on the information obtained from the Commissioner by means of a request for a free access to information. The collected information referred to the Commissioner's monitoring of the MoI in two cases, as follows:

- a case from the year 2011, in connection with the publication of data on persons suspected of the commission of crimes;
- a case from the year 2015, regarding the publication of data from the register of misdemeanors and data on a public figure's health, in connection with his bringing to MoI premises.

In order to collect information about the data protection measures undertaken by public prosecutors' offices, requests for free access to information of public importance were sent. A sample request is provided in the Appendix. The requests contained questions about the:

- Personal data protection measures at prosecutors' offices, in accordance with Article 47. of the LPDP, laying a special stress on the prevention of information leaks to the media;
- Existence of internal documents on personal data protection at prosecutors' offices;
- Possible existence of records on persons and times of inspection of a case (documents in the case file) in the possession of prosecutors' offices.

Such requests were sent to the addresses to a total of 16 public prosecutors' offices, as follows:

- Basic Public Prosecutor's Office in Ruma;
- Basic Public Prosecutor's Office in Subotica;
- Basic Public Prosecutor's Office in Vršac;
- First Basic Public Prosecutor's Office in Belgrade;
- Second Basic Public Prosecutor's Office in Belgrade;
- Basic Public Prosecutor's Office in Zaječar;
- Basic Public Prosecutor's Office in Užice;
- Basic Public Prosecutor's Office in Kraljevo;
- Basic Public Prosecutor's Office in Leskovac;
- Basic Public Prosecutor's Office in Vranje;
- Higher Prosecutor's Office in Belgrade;
- Higher Prosecutor's Office in Novi Sad;
- Higher Prosecutor's Office in Niš;
- Higher Prosecutor's Office in Kragujevac;
- Appellate Public Prosecutor's Office in Novi Sad;
- Appellate Public Prosecutor's Office in Niš.

## 2.2. Ministry of Internal Affairs

The Ministry of Internal Affairs represents one of the biggest personal data controllers in Serbia, which refers to at least five criteria:

- number of citizens whose data are processed,
- type of processed data,
- number of data sets, or records entered in the Central Register at the Commissioner's website,
- number of organizational units, and
- number of employees whose job is process citizens' data.

In view of the above, soon after the adoption of the LPDP, the Ministry of Internal Affairs started working on the harmonization of its activities with the law. Some of its protection measures are presented in the *Analysis of the Implementation of the Law on Personal Data Protection, published by Partners Serbia in 2013*.<sup>46</sup>

The Police Administration of the City of Belgrade and the MoI Bureau for Infor-

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 46 Uroš Mišljenović, Ana Toskić, Blažo Nedić, Zaštita privatnosti u Srbiji, Analiza primene Zakona o zaštiti podataka o ličnosti, Partnes for Democratic Change Serbia, 2013, pp 40-41.



mation of Public Importance responded to the requests for information about the subject-matter of this research, the MoI measures of data protection. The Police Administration of the City of Belgrade informed the researchers that all questions „refer to the work of the Criminal Police Administration“ and that the [Belgrade] Administration „does not have internal legal documents that regulate the matter to which [your] questions refer, and applies the Law on the Police and the Law on Personal Data Protection in its activities.”

The Bureau for Information of Public Importance informed the researchers about the data protection measures that will be presented in detail later. In its response, the Bureau did not say whether it was responding on behalf of the other organizational units of the MoI to which the requests were sent, so it remained unclear to which request (or requests) the response had formally referred. Still, since the requests contained identical questions and since the MoI represents a single entity with obligations under the Law on Public Access to Information of Public Importance and controller in the sense of the LPDP, the response can be interpreted as a unified Ministry response to all requests sent to its organizational units.

Later in the text, we will present three cases that are indicative of the level of personal data protection at the Ministry of Internal Affairs in the context of prevention of leaks and inappropriate transfer of information to the media. Information collected from the MoI was cross-referenced with the information collected from the Commissioner and then analyzed in the context of necessary data protection measures, pursuant to the relevant provisions of the LPDP.

### **2.2.1. Use and Maintenance of the MoI Video Surveillance System**

In early 2011, a recording of a sexual intercourse between two young people near the Belgrade Arena was published. In the monitoring procedure initiated because of the publication of the recording, the Commissioner found out that the recording had been made by MoI equipment, and that the MoI had not established the rules of access to stored video materials or to the premises housing the video surveillance equipment. Shortly afterwards, the Commissioner also filed a criminal report against an unidentified MoI employee for making a police recording available to the public.<sup>47</sup>

Within this research, information was collected on the protection measures relating to the use of video surveillance equipment at the MoI. Specifically, to the question:

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<sup>47</sup> RTS: Prijava zbog snimka kod Arene, 4. april 2011. <http://www.rts.rs/page/stories/sr/story/135/Hronika/870122/Prijava+zbog+snimka+kod+Arene.html>

*“In view of the obligations of personal data protection controllers envisioned in Article 47. of the LPDP, has the MoI undertaken measures aimed at protecting data (e.g. results of polygraph testing, recordings made by MoI cameras installed in public places, interrogation records, etc.) from leakage to the media. If such measures have been undertaken through the adoption of certain internal documents, please send the relevant documents to us.”*

the Ministry responded that the requested information was available in the Mandatory Instructions on the Conditions for the Use and Maintenance of the Video Surveillance System in the Republic of Serbia, which was sent in the attachment (hereinafter referred to as: mandatory instructions).

The 2011 mandatory instructions define the conditions for the use and maintenance of the video surveillance system managed by the MoI, and regulate the relations between the MoI and the owner of the system, if the MoI does not play this role, as well as rules of cooperation with the users of the video surveillance system, mostly regarding the handover of the recordings. The general provisions state that the video surveillance system primarily serves the purpose of ensuring „long-distance surveillance for security purposes, in order to perform police duties in accordance with the law,” that „in the process of collection, processing and use of data obtained through the video surveillance system [...] the action in accordance with Articles 76. to 81. of the Law on Police and the Law on Personal Data Protection is mandatory,” and that „the implementation of technical measures of protection in order to get access to the video surveillance system is mandatory at the MoI user centers.”

The mandatory instructions regulate the MoI organizational units’ competences for the use and maintenance of the video surveillance system. The MoI Analysis, Telecommunications and IT Sector is in charge of „reviewing spatial and technical requirements and drafting project tasks for new video surveillance systems [...] managed by the Ministry, which define the minimum technical conditions that should be satisfied.” The instructions say that „within the video surveillance system managed by the Ministry, images are monitored and cameras managed at the user center of the MoI organizational unit in charge of the relevant system.” The organizational unit within which the video surveillance system is situated is responsible for the recording and safekeeping of video recordings, and is required to apply technical protection measures at special-purpose rooms.

There is also the obligation of organizing training for Ministry employees (controllers). The training refers to the „work on user applications on video surveillance workstations used by the Ministry, as well as to the field of implementation of the Law on Personal Data Protection.” The Ministry Analysis, Telecommunications and IT

Sector is in charge of the trainings and „trains the controllers and issues appropriate controller training certificates” in cooperation with the Directorate for Police Education, Professional Training, Development and Science. Additional training is also envisioned, „in accordance with the needs expressed by the organizational units of the Ministry.” The instructions also say that „cameras are handled only by controllers – Ministry employees who have completed the relevant training.”

Regarding technical measures of protection, the mandatory instructions say that „all controllers of the video surveillance system must have special user names and passwords in order to be able to access the video surveillance system, or their rights of access must be recognized by the video surveillance system in another way,” and that „the video surveillance system must contain the relevant record of access and use by each controller.” The Ministry has thus regulated the obligation to register the access to video materials even if no interventions are made on their content, which might reduce the possibility of their abuse.

Regarding the maintenance of the video surveillance system, the competent organizational unit has an entire set of obligations. *The organizational unit of liaison and encryption at the relevant police administration looks after the administration of the system, user accounts, and control of the telecommunication equipment, while ensuring smooth operation [...] and uninterrupted charging is the responsibility of the logistics unit within the relevant police administration.* If system maintenance exceeds the capacity of an organizational unit, it will have the obligation to „initiate, through the competent services of the Ministry, the proceedings for the engagement of a specialized company that will intervene on the relevant system.” Under such circumstances „the specialized external company cannot have access to data obtained through the use of the video surveillance system,” which guarantees additional protection of information contained in video recordings, which can sometimes include personal data.

The mandatory instructions regulate the conditions and ways in which the video material can be stored and used later. „Data collected through the use of video surveillance systems managed by the Ministry in the Republic of Serbia are stored in the electronic format on an automated data storage system, whose dimensions are defined under the project task, without the systemic transfer to external media, in such a way as to ensure that only system users can have access to it, in accordance with the approval for use.” It is further said: „The competent organizational unit of the Ministry will designate controllers who will have the right to access the data base, or the possibility to view the video recording retroactively using different criteria, to download it from the database and to export it to external media.” The Ministry has thus defined the circle of people who can have access to the video material in real time or later, and then also regulated procedures to be observed when the ma-

material is handed over to other persons, both within and outside the MoI. When the material is handed over to other organizational units, „the viewing and obtaining of the recorded material from the data storage system may be requested by each of the MoI organizational units in a letter signed by its head, whose rank must be at least department chief,” where „immediately upon copying data to portable media, the controller who carried out the copying is required to delete the relevant video recording from the local memory of the workstation or any other temporary memory location.” The previously mentioned obligation of training for the use of video materials also applies on the persons who view such content. The material stored on portable media is handed over once the record on the handover of the recorded material is filled out and signed. The record „contains the date, name of the organizational unit of the applicant, type of media and information about the place of the camera, date and period to which the recorded material refers, data on the deletion of the material from the local memory of the workstation, name, family name and signature of the employee who prepared the material, as well as the name, family name and signature of the employee who took over the material. The record on the handover of the recorded material is signed by the responsible person designated by the organizational unit which is competent for the relevant system.”

When the material is handed over to other subjects, the mandatory instructions envision the following: „at the request of the court or prosecution, and at the justified written request, data obtained by using this system may be handed over also to other authorities and physical persons, in accordance with the Law on Personal Data Protection.” The conditions under which the MoI may transfer the signal from certain cameras to other subjects are also defined. First of all, the signal can be transferred only to „other state authorities and companies that hold public powers,” and they are prohibited from „distributing further the recordings made by the video surveillance cameras, and engaging in the software management of the cameras and archiving, or recording material.” The purpose, conditions and rules under which the signal can be used are regulated by agreements between the Ministry and external users, and the transfer of the signal may be approved at the „justified request and for specific purposes,” with the agreement of the police director and approval of the minister.

This research did not include an analysis of agreements between the Ministry and external users of the video surveillance system, or of other authorities' requests to hand over recordings; rather than that, it is limited to the general rules of personal data protection at the Ministry. In connection with this, we would like to point out that the handover of video recordings on the basis of which a person can later be identified must be carried out in accordance with the legal personal data protection framework, which primarily refers to Article 42. of the Constitution and the LPDP. We would especially stress the fact that recordings made under such circumstances

may be used only for the purpose for which they were originally made. If the purpose of processing were to be changed, processing approvals would be needed from all persons from the recording that might be identified, and without such approvals, the use of the video material for any other purpose would be unlawful.

The mandatory instructions were presented in detail in order to demonstrate the efforts of the Ministry of Internal Affairs to regulate the way in which video surveillance equipment is used. We saw that the Ministry had imposed clear obligations on several organizational units, envisioned training for employees who handle the video surveillance system, envisioned technical measures of protection through access codes, determined who and how can view the recorded material and specified the procedure for the handover of the material to other persons. We believe that the presentation of this internal document may motivate other subjects – both in the public and private sectors – to make similar rules for the use of video surveillance equipment, in view of the fact that this field has remained unregulated in Serbia's legal system.

Certainly, the implementation of this internal document represents a separate research area which, due to its volume, could not be included in this research. For the needs of the research, an illustrative case is the one that occurred in Novi Sad in 2014, when the recording of a fatal traffic accident was published, together with the personal data of all of its participants.<sup>48</sup> On this occasion, the Commissioner once again cautioned the MoI for not taking the technical, staff-related and organizational measures aimed at protecting personal data taken from the video surveillance system of the Police Administration of Novi Sad. Specifically, the Commissioner determined the following:

- Although the PA uses a video surveillance system consisting of nearly one thousand HD network cameras, there are no clear procedures that regulate the matter;
- Activities of persons who use special-purpose computers to access the system are neither monitored nor registered;
- The PA room where the special-purpose computer used for accessing the system is situated does not represent a restricted area, accessible only to certain authorized persons;
- Overtaken video recordings can be transferred to portable digital storage media, thumb drives or optical disks without leaving a trace.<sup>49</sup>

48 RTV, Šabić: Objavljivanje snimaka krivično delo, June 10, 2014 [http://www.rtv.rs/sr\\_ci/vojvodina/novi-sad/sabic-objavljivanje-snimka-krivicno-delo\\_493871.html](http://www.rtv.rs/sr_ci/vojvodina/novi-sad/sabic-objavljivanje-snimka-krivicno-delo_493871.html)

49 Blic, Šabić upozorio MUP zbog video nadzora, July 11, 2014, <http://www.blic.rs/Vesti/Drustvo/479967/Sabic-upozorio-To> the

The Commissioner's findings leave the impression that the MoI has not succeeded in achieving a uniform level of implementation of internal documents regulating the field of video surveillance at all organizational units. Three years after the already described incident at the Belgrade Arena parking lot, the same type of omission regarding the protection of data from unauthorized access and further use was registered in Novi Sad, despite the fact that an internal system of data protection rules had been established in the meantime, which certainly gives rise to concern.

### 2.2.2. Protection of Data Contained in the Single Information System of the MoI; the 2015 Case of a TV Presenter

In January 2015, over a period of seven days, the *Blic* daily published a total of six texts on the bringing of a TV presenter to a police station, including information on her health and previous traffic violations. The presenter asked the Commissioner to protect her rights, believing that the published personal data had been contained in the official registers of the MoI, and that they had been handed over unlawfully to the newspaper which later published this information. Shortly afterwards, the Commissioner requested the MoI to state its position on the claims of the TV presenter, as well as to present documents on the basis of which it would be determined whether the information published in the newspaper corresponded with the official records of the MoI.<sup>50</sup>

In its response, the MoI said that necessary checks had been made at 11 organizational units of the MoI, and that the system log of the MoI Single Information System had been checked.<sup>51</sup> The checks established that 25 police officers had accessed the official MoI files containing data on the TV presenter. Their names and workplaces within the MoI job classification were listed in the attached documents.

The letter quoted the details of interviews with the MoI employees who had inspected the presenter's data. The Traffic Police Directorate head said that he had instructed his associate to „inspect the MoI Single Information System (SIS) on Traffic Accidents and Violations and obtain data on \_\_\_\_\_<sup>52</sup>,” and said that this represented the „usual practice within which the competent court, together with the request for initiating misdemeanor proceedings, receives documents from the register of traffic violations, so that, in the evidentiary procedure under Article 42. of the Law on

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Mol-zbog-videonadzora

50 Letter of the Commissioner No. 164-00-00079/2015-07 of January 27, 2015.

51 Letter to the MoI No.955/15-3 of February 12, 2015, No.955/15-5 of April 1, 2015 and 955/15-6 of April 1, 2015

52 This person's name and family name have been disclosed to the researchers, but have been anonymized in the publication.

Misdemeanors, the judge on the case can make the appropriate judgment, in view of previous convictions, personal circumstances of the perpetrator and the perpetrators' behavior after the violation."

This reason for the processing of data on the presenter may be regarded as justified. However, judging by their statements, MoI employees also used the data for other purposes. Thus, two administrative officers in the Directorate for Administrative Affairs „checked the presenter's data at the Primary ID system, with the aim of determining whether \_\_\_\_\_ was married or divorced." The administrative and technical officer at the Criminal Intelligence Department viewed the presenter's data using the name and password of his boss, Criminal Police Administration official, „with the aim of checking the year of birth of \_\_\_\_\_." An officer at the Valjevo PA did something similar, admitting that he had used another person's user name and password. In an official note, a Požarevac PA officer said that he had „checked the presenter out of curiosity, because he was interested whether she was from Požarevac by origin." A Kraljevo PA officer said that „after reading the dailies and news about the incident between \_\_\_\_\_ and the police, [he] checked this person's data through the MoI SIS, without remembering the exact date, in order to see whether this was the famous presenter or somebody else." This officer said also that he had „conducted the relevant check while he was on duty in the Ground Safety Zone in the territory of the Raška PS." A Pančevo PA officer, whose user name had been used for accessing the presenter's data, said that he had not checked the data, that he had not given his password and user name to anybody, but that „each police employee in this station can log in the system, because the last used password remains saved on the workstation, since the computer is thus programmed." A police employee said that his „user name and password for the system [SIS system] is used by other employees at the Directorate [of the Belgrade PA Traffic Police]." The commander of a traffic police station said that „the Traffic Police Administration of the PA for the City of Belgrade on several occasions requested from the IT Directorate of the Serbian MoI to ensure that all police employees who work on the registration of misdemeanor reports have their own ID cards for accessing the MoI SIS system, but that the request was not granted." The relevant request had been sent, as it was said, because of „cases where one user name and password or ID card is used by several police employees."

In its letter to the Commissioner, the MoI said that *it was an indisputable fact that, searching the Daily Events register, police employees processed information on \_\_\_\_\_ out of curiosity, but that one could not disregard the fact that police employees also processed data because of the misdemeanor and suspicion that \_\_\_\_\_ had also committed a criminal offense, which represented a piece of information or an incident police employees had to learn about in order to be efficient*



*in policing. Also, one could not disregard the fact that \_\_\_\_\_ was a public figure, that information about her had become topic of public interest and the interest of police employees as a result of her behavior. Of course, this was not a justification of the actions of police employees who processed personal data out of their own curiosity \_\_\_\_\_, and for this reason, the Ministry would undertake measures aimed at determining individual responsibility of police employees, as well as other, primarily educational, measures, with the aim of training all police employees for the proper implementation of the Law on Personal Data Protection.*

After the presentation of the MoI position, in May 2015 the Commissioner cautioned the MoI because of irregularities in the implementation and enforcement of the LPDP, stating that the MoI had neither undertaken the appropriate data protection measures, nor made it an obligation of persons in charge of processing to keep the confidentiality of data in accordance with Article 47. of the LPDP. In this specific case, the Commissioner determined that the published data on misdemeanor proceedings corresponded to the data contained in the records, and that they „evidently [...] originate from the official records of the MoI,” as well as that out of a total of 25 persons who had accessed the presenter’s personal data, just one did this „for undoubtedly justified reasons.” The Commissioner said that the fact that official records had been accessed out of curiosity *indicated that police employees were completely unaware of the fact that the MoI SIS represented a work tool entrusted to them in order to perform official activities, and that, as such, it must not be used for private purposes. As a data controller, the MoI evidently inappropriately trained police employees for the use of the MoI SIS, as a work tool. Therefore, before receiving approval for accessing the MoI SIS data search function, police employees had to be informed about their obligations and responsibilities, like they were for any other work tool (uniform, means of coercion, vehicles, etc.). Likewise, police employees had to be informed about the fact that their searches remained recorded in the system log, and that this would be used as evidence if their responsibility were to be investigated. [...] If police employees knew that they might be held liable for abusing the access to the MoI SIS, they certainly would not disclose their passwords to other persons, nor would they conduct unauthorized searches.*

In its letter to the Commissioner in connection with the above mentioned warning, the MoI said that *police employees who, according to the inspection, had conducted the unauthorized data search regarding \_\_\_\_\_ had to report to their superiors and were told that they had to implement consistently the Law on Personal Data Protection, Law on Police and Mandatory Instructions on the Rules and Procedures in the Use of the MoI Information System.* The researchers do not know whether the MoI has since undertaken the announced „measures aimed at determining the individual responsibility of police employees and other measures.”



In addition to cautioning the MoI, the Commissioner on May 4, 2015 filed to the Special Department for Combating Cyber Crime of the Higher Public Prosecutor's Office in Belgrade a report against an unidentified perpetrator *because of grounds for suspicion that he had committed the criminal offense of unauthorized collection of personal data referred to in Article 146. paragraph 3. in connection with paragraph 1. of the Criminal Code*. Steps undertaken by the competent prosecutor's office in connection with this report are presented in the next Chapter.

### 2.2.3. Publication of Information on Suspects, Defendants, Victims and Injured Parties

The Statements section of the MoI website regularly features reports on MoI activities. When the information refers to the apprehension of certain persons and/or to suspects or defendants, the Ministry, as a rule, publishes the persons' initials, ages, and sometimes even the places (municipality or city) of residence. We are quoting a statement, as the usual method of informing the public: *At the approval of the deputy higher prosecutor in Pančevo, S.M. (1995), S.V. (1994), N.M. (1993) and M.M. (1993) were arrested. They will remain in police custody for up to 48 hours and will be brought to the Higher Prosecutor's Office in Pančevo, to which a criminal report will be sent.*<sup>53</sup> The MoI thus also protects the identities of the arrested when it informs the public about its activities that concern members of public authorities. Thus, another statement says the following: *The Interior Ministry Internal Affairs Sector and the Higher Prosecutor's Office in Valjevo placed under police custody H.B. and S.D, Ljig police station employees, on grounds for suspicion that they had received a bribe.*<sup>54</sup> Even where public officials are concerned, the Ministry seems to be trying not to quote the names and family names in statements; however, it indicates the positions of these persons, which makes them identifiable. Thus, a statement says: *Ministry of Internal Affairs members in Požarevac filed a criminal report against the Žabari Mayor, authorized person of the Directorate for the Construction of the Žabari Municipality and secretary of the Žabari Municipality, because of grounded suspicion that they had committed the crime of abuse of office.*<sup>55</sup>

As for the protection of the identities of victims and juvenile suspects, the MoI seems to be even more restrictive regarding the publication of their personal data. Thus a statement says: *Ministry of Internal Affairs members in Pančevo solved the criminal offense of rape, which occurred in Kovin, on the night between September 7 and 8, 2015. At the order of deputy higher prosecutor in Smederevo three minors were arrest-*

53 The MoI statement of October 8, 2015: U dve akcije zaplenjeno više od 30kg marihuane, No. 899/15.

54 The MoI statement of September 23, 2015: Osumnjičeni za primanje mita, No.: 851/15.

55 MoI statement of September 18, 2015: Krivične prijave protiv odgovornih lica opštine Žabari, No. 833/15.

*ed and a criminal report was filed against them on grounds for suspicion that they had committed the criminal offense against an 18-year-old girl, while another minor was released because of the lack of criminal liability.*<sup>56</sup>

One can observe that MoI statements usually contain anonymized information about the arrested, but that they protect the identities of victims even more. It is also evident that the MoI is trying to offer concise information about incidents, without presuming that the relevant persons are guilty. Through this practice, the MoI ensures a high level of protection of the arrested persons' privacy, as well as the observation of the presumption of innocence of persons whose liability will be decided upon in the subsequent stages of criminal proceedings.

The described practice is a result of years of MoI engagement on the harmonization of procedures for disclosing information on policing with the personal data protection regulations. One of the most important MoI activities of that kind was a 2012 decision under which the MoI was to stop publishing recordings of arrests, and photographs and other data on the arrested. This decision was preceded by a series of Commissioner's monitoring activities in 2011, prompted by a complaint of an arrested woman.<sup>57</sup> Her name and family name, year of birth, and photograph identical to the photograph in her ID card were published at the MoI website. The information from the website was soon taken over by the media and published in printed and online editions.

In its response<sup>58</sup>, the MoI said that in the relevant case „Ministry members believed that suspects' photographs needed to be published for the purpose of ensuring the success of proceedings and for data collection purposes,” and that „the agreement of the investigative judge thereon had been obtained.”<sup>59</sup> The MoI also said that information about the relevant person had been published because such practice applied at that moment, and that the Ministry had since imposed a rule under which „only the initials of a suspect are published, and no photographs, except in the cases regulated by law.” Also, the MoI informed the Commissioner that the method of publication of adult suspects' personal data was not regulated and that, since the Ministry itself had realized that there was a need for a document that would regulate the said matter, which was also referred to in Article 5. of the Law on Police, competent organizational units had initiated the procedure of adoption of a written document that would

56 MoI statement of September 9, 2015: Rasvetljeno silovanje u Kovinu, No.: 804/15.

57 Commissioner's letter to the MoI of July 11, 2011, No.: 011-00-00308/2011-05.

58 MoI letter to the Commissioner of August 30, 2011, No.:8159/11-5.

59 The statement was published before the enforcement of the new Criminal Procedure Code, which abolished investigative judges and introduced the prosecutor-led investigation.

regulate the procedure of publication of statements, including personal data.

Reviewing the MoI response and practice of publishing information on its website, the Commissioner in 2012 cautioned the MoI for the unlawful processing of personal data on arrested adult suspects. The Commissioner said that the unlawfulness referred to the absence of a legal basis for the publication of these persons' identification data, as well as to the lack of proportion in the publication of data, in view of the purpose of processing. The Commissioner added that the unlawful processing also referred to the posting and publication of recordings of these person's arrests, which the MoI did on its website, as well as on YouTube and Facebook. In the warning, the Commissioner also said that the MoI had not changed its practice of data publication on its website, which the MoI had indicated in the previously presented letter. The Commissioner said that a number of statements published after the letter showed that the MoI had really stopped publishing photographs, but continued publishing full names and family names of the arrested, as well as their years of birth and places of residence. Two positions presented in the Commissioner's warning are especially prominent in the context of providing objective information to the public and of violations of the arrested persons' privacy and presumption of innocence.

*According to the Commissioner, the publication of the relevant, frequently upsetting, video recordings by data controllers, where the arrested persons are well-known to the domestic public, leaves the impression on the part of the audience that does not watch reality shows that they have seen something completely different from what the Law on Police describes as the 'provision of objective information to the public'.*

*These actions violate the presumption of innocence, which is guaranteed by the Constitution and law, [...] which is why persons are unnecessarily exposed to the odium of the public at a moment when it is still uncertain whether the prosecutor on the case will drop charges, or if the person will become a defendant after the issuance of a ruling on conducting an investigation by the competent court. The violation of the presumption of innocence in the way described above, at a time when the person whose photograph and data are published is still not a defendant, represents a violation of the right to privacy [...] Through the existing practice of disclosing the identities of suspects to a smaller or greater extent, the data controller brings the presumption of guilt through the backdoor, instead of reinforcing the presumption of innocence.*

In view of the above, the Commissioner told the MoI that the data could be anonymized, which would remove the observed irregularities while „maintaining the quality of objective information provided to the public about the activities of the data controller.”

In its response<sup>60</sup> to the warning, the MoI said that „all suggestions regarding the observed irregularities” had been upheld, and that „in this respect, the Ministry of Internal Affairs has started amending the Law on Police and drafting by-laws regulating the activities of the Media Cooperation Bureau.”

In connection with the correspondence between the Commissioner and the MoI, it would be useful to present the MoI organizational units’ responses to the requests sent within this research three years after the Commissioner’s monitoring activity.

The Belgrade PA said that the Criminal Police Administration did not have a person authorized for cooperation with the media, and that this cooperation went through the Media Cooperation Bureau at the Minister’s Office. This response indicates that the MoI has „centralized” its communication with the media in order to reduce the possibility of appearance of differences in the organizational units’ action in similar cases.

However, when asked:

*“How have you regulated the procedure of supplying information to the public and media about the MoI crime detection activities and action in criminal proceedings? If the procedure is regulated through an internal document, please send it to us,”*

as well as:

*“What are the criteria that guide you in deciding on the volume of information on criminal offense victims and injured parties that you will disclose to the public and media? What are the situations in which you disclose to the public and media persons’ names and family names, as well as other data that directly point to the identities of these persons? What are the situations in which you anonymize data on such persons?”*

The Ministry responded that the requested information was contained in Articles 5, 65, 69, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82 of the Law on Police (Official Gazette of the RS No. 101/2005, 63/2009 – Constitutional Court decisions 92/2011 and 64/2015).<sup>61</sup> This response indicates that the Ministry directly implements the Law on Police provisions that contain the main rules on the provision of information on policing, securing and inspecting the crime scene, recording in public places, protecting crime victims and other persons, as well as the rules of personal data collection, processing and use. However, these rules have not been concretized further through the adop-

60 MoI letter to the Commissioner of October 12, 2012, No.:8159/11-10.

61 The request and the response to the request were sent before the new Law on Police took effect, Official Gazette of the RS No. 6/2016.

tion of internal documents of the Ministry, which might facilitate the work of Ministry members, reduce their discretion and, eventually, help harmonize the practices of all MoI organizational units in the publication of information.

Asked:

*“What are the criteria that guide you in deciding on the volume of information on criminal suspects and defendants that will be disclosed to the public and media? What are the situations in which you disclose to the public and media a person’s name and family name, as well as other data that directly refer to a person’s identity? What are the situations in which you anonymize data on such persons?”*

The MoI responded that it did not have such information, „i.e. does not have a document containing the requested information.”

On the basis of this response, the researchers concluded that the Ministry had not regulated the relevant area by internal documents. The need, or rather, the necessity of adoption of relevant by-laws/internal documents was recognized by the Ministry itself, on which it notified the Commissioner on two occasions, in 2011 and 2012, like it was presented in this Chapter. The researchers do not know why the MoI has not adopted such internal documents in the meantime, or why the „competent organizational units” have not drafted a written document that would „regulate the procedures of publication of statements and personal data,” despite the fact that they „have started the procedure of adoption” of such a document.

## **2.3. Public Prosecutors’ Offices**

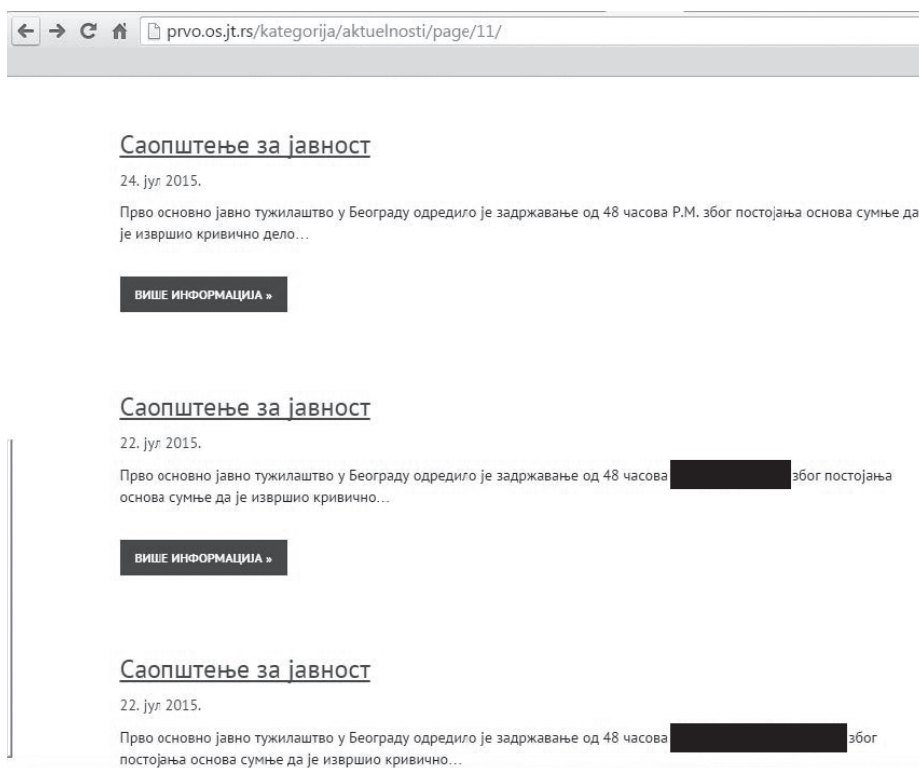
In continuation, we will pay more attention to the publication of information on the activities of public prosecutors’ offices, as well as the undertaken data protection measures that can be relevant for the prevention of information leaks from the prosecutors’ offices to the media.

### **2.3.1. Publication of Information on the Work of Public Prosecutors’ Offices**

Searching the Internet, one can see that some prosecutors’ offices have websites and inform the public about their activities. On the basis of the sample established for the needs of the research, it was observed that just one prosecutor’s office, the First Basic Public Prosecutor’s Office in Belgrade, acted in this way. The second group is made up of prosecutors’ offices that do have websites, but do not publish such information. The researchers established that there were four such public prosecutors’ offices in

the sample: the Higher Prosecutor's Office in Novi Sad, the Higher Prosecutor's Office in Niš, the Appellate Prosecutor's Office in Novi Sad and the Appellate Prosecutor's Office in Niš. Finally, 11 remaining public prosecutors' offices from the sample make up the third group of prosecutors' offices that neither have websites, nor are capable of providing proactive information about their work to the public.

During this project, the First Basic Public Prosecutor's Office in Belgrade changed its information publishing practice on two occasions. Before the first change, statements were regularly published in the Aktuelnosti (Topical Issues) section<sup>62</sup> and this practice significantly changed in the period between July 22 and 24, 2015.



*(The screenshot was made on October 22, 2015. The statements have since been removed from the Basic Public Prosecutor's Office website)*

Until July 22, the usual practice of this prosecutors' office was to publish the full names and family names of persons held in 48-hour custody on suspicion that they

62 <http://prvo.os.jt.rs/kategorija/aktuelnosti/> - the address is no longer active

had committed a crime.<sup>63</sup> However, in the July 24 statement, and all other subsequent statements, only the initials of the persons in custody were provided.<sup>64</sup> The alteration of this practice should certainly be praised, because the publication of the full name and family name of a suspect may lead the public, which frequently does not know all stages of criminal proceedings, to believe that the person has really committed the crime, although there is no final judgment to that effect.

The statements in which the data were not anonymized had been removed from the website in the meantime. This practice should be praised because of the already mentioned reasons. Information on the work of this prosecutor's office can now be accessed through a new address.<sup>65</sup>

It was also determined that, even after the change of practice, this prosecutor's office still did not anonymize the data on persons whose names appeared in cases of which the public had already learned through the media. Consequently, a statement, issued in a high-profile domestic violence and unlawful keeping of firearms case, said that, in the case against the person who was identified in the text, two witnesses (whose names were not cited) had been examined, and that the prosecutor's office was opposed to the defense's motion to the court to release the defendant from detention.<sup>66</sup> Another statement in the same case said that the prosecutor's office and the defendant – whose full name and family name were quoted – had concluded a plea agreement.<sup>67</sup> In other cases where the participants were already known to the public from media reports, the names of the defendants and injured parties were also quoted.<sup>68</sup>

After searching the Internet, it was observed that some public prosecutors' offices that had not been included in the sample offered information on their activities on their websites. For example, the Higher Prosecutor's Office in Vranje published information about a limited number of cases in the Saopštenja [Statements] section<sup>69</sup>. In providing information to the public, this prosecutor's office was guided by the standards of observation of the presumption of innocence, and its presentation of a person's status depended on the stage of criminal proceedings, without presuming the outcome of the proceedings. Searching this section, one can see that, in the provision of information to the public, this prosecutor's office has decided to protect the

63 Statement of July 22, 2015.

64 Statement of July 24, 2015.

65 <http://prvo.os.jt.rs/kategorija/saopstenja/>

66 See the statements of August 18, 2015.

67 See the statement of August 31, 2015.

68 See the statemetns of August 27, 2015 and July 30, 2015.

69 <http://www.vjt-vranje.org.rs/saopstenja.html>

identities of suspects, defendants and victims, and even persons convicted in the first instance. Thus, a statement says the following:

*Acting upon the Higher Prosecutor's Office in Vranje indictment (Kt.No.113/12 of February 12, 2012), against R.R. of Zagužanje, Municipality of Surdulica, for the criminal offense of attempted rape referred to in Article 178. paragraph 4., in connection with paragraph 1., in connection with Article 30. of the Criminal Code, committed against injured party A.M., a minor from the same village, after the completion of criminal proceedings before the Higher Court in Vranje, the judgment 3 K. No. 1/14 was issued on April 27, 2015, under which defendant R.R. of Zagužanje was declared guilty for the criminal offense of attempted rape referred to in Art. 178. paragraph 4., in connection with paragraph 1. in connection with Art. 30. of the Criminal Code, and was sentenced to 10 (ten) years of imprisonment.*

We have briefly presented the practices of these two prosecutors' offices in order to demonstrate some examples of proactive provision of information about the activities of the prosecution to the public. However, the number of prosecutors' offices acting in this way is significantly lower than the number of those that, for different reasons, do not publish detailed information about their work. Thus, we could not determine the practice of the Second and Third Basic Public Prosecutors' Offices in Belgrade because they do not have websites, which is also the case with a significant number of other basic and higher prosecutors' offices in Serbia.<sup>70</sup> The prosecutors' offices that do have websites mostly use the Statements section for publishing information on public procurement procedures,<sup>71</sup> while some websites do not have this section and offer only information about the methods of accessing information of public importance. Some prosecutors' offices have published their spokespersons' contact data, so that the public or media can contact them if they need certain information.<sup>72</sup>

This short comparative analysis has been used for collecting basic information on the transparency of work of public prosecutors' offices and provision of information on the activities of prosecutors' offices to the public. In an attempt to improve the situation in this field, the State Prosecutorial Council and Republic Public Prosecutor's Office in 2015 adopted the 2015-2020 Communication Strategy for Prosecutors' Offices (hereinafter referred to as the Strategy).<sup>73</sup> The Strategy defines the goals, types and methods of communication and activities, both within prosecutors' offices

70 Running a brief search, one can determine that the Basic Public Prosecutors' Offices in Kragujevac, Pančevo, Subotica, Kruševac, Leskovac, etc. do not have websites. The same applies to the Higher Public Prosecutors' Offices in Kragujevac, Valjevo, Vršac, etc.

71 Basic Public Prosecutor's Office in Novi Sad, <http://www.ns.ost.rs/>

72 Basic Public Prosecutor's Office in Požarevac, <http://Basic Public Prosecutors' Officespozarevac.com/>

73 <http://www.np.vi.jt.rs/dokumenta/KST.pdf>



themselves, and between the prosecutors' offices and the public [...] in order to bring the activities of this institution closer to the wider public and make it more transparent and accessible. Specifically, the goals of the Strategy are the „transparency and accessibility of work of prosecutors' offices, improvement of citizens' trust of the prosecution, protection of all participants in criminal proceedings, protection of the presumption of innocence of the defendants, timely presentation of information, truthfulness and precision of presented information, and the official character of the information.”

Under the Strategy, the State Prosecutorial Council, Republic Public Prosecutor's Office, as well as the appellate, higher and basic public prosecutors' offices are to appoint persons in charge of communication with the media, organize trainings on cooperation with the media in order to ensure the appropriate presentation of information, observing the need for informing the public and respecting the principles of criminal proceedings. Under the Strategy, all appellate, higher and basic public prosecutors' offices are also required to adopt communication protocols, which they will use in accordance with their needs in order to elaborate the provisions of the Strategy and technical guidelines of the RPPO Public Relations Department, as well as to appoint a person that will be in charge of external communication and reaffirm the work of prosecutors' offices.

During a meeting with representatives of the State Prosecutorial Council in March 2016, the researchers found out that all public prosecutors' offices had adopted communication protocols, some of which were available on the Internet (e.g. those of the Higher Prosecutor's Office in Novi Pazar,<sup>74</sup> Appellate Prosecutor's Office in Niš<sup>75</sup>, Basic Public Prosecutor's Office in Leskovac, Higher Prosecutor's Office in Belgrade, Appellate Prosecutor's Office in Niš<sup>76</sup>). The researchers believe that in the coming period other prosecutors' offices will also launch their websites, where they will publish communication protocols, in order to fulfill their obligations from the Strategy.

In view of the fact that a significant number of public prosecutors' offices do not have an established practice of providing proactive information about their work to the public, one may wonder how media get information about the work of prosecutors' offices. Some data may be disclosed to the media in accordance with the law, using official communication channels, spokespersons or other persons authorized for cooperation with the media. However, such information can sometimes be disclosed

74 <http://www.np.vi.jt.rs/dokumenta/KPT.pdf>

75 <http://www.ni.ap.jt.rs/userfiles/file/Communicationi%20protokol-lat.pdf>

76 Information collected through the responses to requests for free access to information of public importance sent to the Basic Public Prosecutor's Office in Leskovac, Higher Public Prosecutor's Office in Belgrade, and Appellate Prosecutor's Office in Niš.

outside statutory procedures, which can be seen from the fact that media sometimes quote „well-informed” or „reliable,” unofficial sources from the prosecution. Therefore, later in the text, we will present personal data protection measures undertaken by prosecutors’ offices, laying a special stress on the measures of protection from information leaks to the media, if such measures have been established.

### 2.3.2. Data Protection Measures at Public Prosecutors’ Offices

Out of the 16 public prosecutors’ offices from the sample, 14 sent responses to the requests. Responses were not sent by the First Basic Public Prosecutor’s Office in Belgrade and the Basic Public Prosecutor’s Office in Zaječar.

In their responses, most public prosecutors’ offices said that they directly applied the rules from the Criminal Procedure Code, Law on Public Prosecution and Rules of Administration of Public Prosecutors’ Offices, most frequently in connection with the rules of confidentiality of criminal proceedings in the context of disclosure of information to the public, as well as the rules of access to and inspection of case files, when a person has a legal interest to do so or when information is published, pursuant to the Law on a Free Access to Information of Public Importance. Several prosecutors’ offices (Basic Public Prosecutor’s Office in Leskovac, Higher Prosecutor’s Office in Belgrade, Appellate Prosecutor’s Office in Niš) said that they had adopted communication protocols, pursuant to obligations presented in the Communication Strategy for Prosecutors’ Offices. Apart from these documents, which regulate the method of communication with the media and the public, the prosecutors’ offices did not mention any special internal documents regulating personal data protection measures.

In continuation, we will briefly present the responses which the prosecutors’ offices provided to the questions regarding the undertaken personal data protection measures:

**The Basic Public Prosecutor’s Office in Ruma** said that a „college meeting was held with deputy prosecutors and employees [...] where the acting basic public prosecutor [...] drew the attention of everybody present to the legal obligation of preventing personal data leaks to the media and protecting data from loss, destruction, unauthorized access, alteration, publication and any other type of abuse. The acting basic public prosecutor also reminded the deputy prosecutors and employees that this was a legal obligation for all and that this prosecutor’s office will not draft an internal document thereon.”

**The Basic Public Prosecutor’s Office in Subotica** said that „special measures have

been taken with the aim of protecting personal data and preventing information leaks to the media. In accordance with this, data are protected from abuse and unauthorized access, and all employees who process data have been informed about the obligation of maintaining data confidentiality.” However, no measures were specified in the response.

**The Basic Public Prosecutor’s Office in Vršac** said that it was „acting in accordance with the Constitution and legal regulations,” as well as the LPDP, „which prohibits and envisions punishments for the use of data for any other purpose but the one for which they were collected, by applying staff-related, technical and organizational measures, which are reflected in the organization of the court clerk’s office, both in terms of technology and in terms of staff, because it is capable of working with clients, both in order to provide information to stakeholders and to provide data on other persons, and, in order to prevent the unlawful use of personal data, all requests for information that would refer to data on persons registered at the prosecutor’s office must be filed in writing, and the responses are also provided in writing, taking care to protect personal data, and using the necessary method for protecting the data from loss, destruction, unauthorized access, alteration, publication and any other type of abuse, which also represents a way of protection from possible information leaks to the media.“ The letter further says: „The prosecutor’s office does not have any special documents regulating the field of personal data protection from abuse, destruction, loss, unauthorized changes of access or transfers, or from information leaks, but such a document is being drafted and we are looking forward to a uniform approach in this regard.”

**The Second Basic Public Prosecutor’s Office in Belgrade** said that, regarding staff-related and organizational measures of protection of personal data belonging to persons whose data it had, this prosecutor’s office fully complied with the Rules on Administration at Public Prosecutors’ Offices, and that it „undertakes certain technical measures, i.e. keeps its case files in places intended for the safekeeping of objects. Also, the prosecutor’s office has an electronic register, i.e. it has introduced the SAPO information system in which data pertaining to individual cases, including personal data belonging to relevant persons, are stored in the electronic format, and this register is kept by employees trained for handling them, and their access is protected by passwords.” Also, „through the PR service [...] persons designated for communication with the media engage in this type of communication. The existence and activity of this department raises the employees’ awareness of the need and importance of thorough safekeeping of data on cases.”

**The Basic Public Prosecutor’s Office in Užice** responded that „all statutory data protection measures have been undertaken with the aim of preventing any unlawful

actions in connection with personal data belonging to persons whose personal data are in the possession of the prosecutor's office, and no cases of abuse of the data have been registered." The response, however, does not quote the relevant measures. This prosecutor's office has not adopted special measures on the prevention of information leaks to the media, and the „Basic Public Prosecutor's Office in its presentations pays attention to the phase of proceedings relevant for the information which is being presented. As a rule, the only information provided are person's initials, and no other data."

**The Basic Public Prosecutor's Office in Kraljevo** in its response referred to the Rules on the Internal Organization and Job Classification at the Basic Public Prosecutor's Office in Kraljevo. These Rules, however, have not been sent to the researchers, nor are they available online, because this prosecutor's office does not have its own website. The prosecutor's office said that this document envisioned measures preventing unauthorized persons from accessing data and established rules for the inspection of cases.

**The Basic Public Prosecutor's Office in Leskovac** informed the researchers that „in order to access electronic data, each employee entrusted with the keeping of certain case registers has his own password that only he can use." The provisions of general documents in accordance with which the prosecutor's office was acting were presented in detail later in the letter.

**The Basic Public Prosecutor's Office in Vranje** said in its response that it „does not process personal data and has no special internal documents regulating the protection of personal data from abuse, destruction loss, unauthorized alterations, access or transfer. The Basic Public Prosecutor's Office, as an autonomous state authority, processes data of importance for its work." Although, under the LPDP, there is no obligation to adopt such documents, the response of this prosecutor's office may give rise to concern because of the sentence in which it says it does not process personal data. On the basis of the response, the researchers may conclude that this prosecutor's office is not fully informed about the meaning of the term „data processing" referred to in the LPDP, which refers to „any action undertaken in connection with data," including collection, recording, transcription, multiplication, copying, transmission, searching, classification, storage, separation, crossing, merging, adaptation, modification, provision, use, granting access, disclosure, publication, dissemination, recording, organizing, keeping, editing, disclosure through transmission or otherwise, withholding, dislocation or other actions aimed at rendering the data inaccessible as well as other actions carried out in connection with such data, regardless

whether those actions are automated, semi-automated or otherwise performed.”<sup>77</sup> In continuation, the PPO said that currently „there are no technical conditions for the electronic registration of data [of importance for the work of the prosecutor’s office].”

**The Higher Prosecutor’s Office in Belgrade** referred to the direct implementation of the Rules on Administration at Public Prosecutors’ Offices, as well as to the fact that communication with the media went through the authorized PR officer’s e-mail, and that, pursuant to the Communication Strategy, meetings with employees had been organized and that they had been informed about the undesirable and negative consequences of information leaks, in terms of „undermining the holding of proceedings, and the prosecution’s credibility and public image,” which is a formulation from the Strategy.

**The Higher Prosecutor’s Office in Novi Sad** said that electronic data were „protected using electronic data protection, since employees have personalized passwords which they use to access their cases,” and, in the remainder of the response, the PPO said it applied the Rules on the Administration at Public Prosecutors’ Offices and quoted the relevant provisions of the document.

**The Higher Prosecutor’s Office in Niš** in its response presented in detail the relevant provisions of the CPC, but provided no details on the undertaken protection measures.

**The Higher Prosecutor’s Office in Kragujevac** sent information on the relevant articles of the Rules on the Administration at Public Prosecutors’ Offices, which it directly implemented, and said that it had designated the person in charge of providing information to the media, in accordance with its internal document.

**The Appellate Prosecutor’s Office in Novi Sad** said that it directly implemented the relevant provisions of the Law on Civil Servants and the Law on Public Prosecution. Clarifying the procedures for the disclosure of information to the public, this PPO said that the information provided must be „truthful and accurate, but the disclosure of an official, state or military secret must not be brought into question.” However, the Law on Data Secrecy, which took effect in 2009, introduces a new classification of confidential data. Thus, this law abolishes the categories of official and military secrets and envisions the following four categories of information: restricted, confidential, secret and top secret. In view of this, the response of the Appellate Prosecutor’s Office in Novi Sad does not make it clear whether this PPO has reclassified documents applying the legal framework that preceded the Law on Data Secrecy, or

77 Article 3, Law on Personal Data Protection.

whether it applies the Law on Data Secrecy on the classification of new documents. Moreover, this PPO has sent the Register of Requests and Decisions on Granting Access to Information of Public Importance. Although such a register is useful and necessary for the operation of prosecutors' offices, by itself, it does not represent a measure of protection from the unlawful use of personal data.

**The Appellate Prosecutor's Office in Niš** said that „persons in charge of handling and safekeeping cases [that contain data on criminal and other proceedings] have been instructed on the data safekeeping and protection methods.” The PPO said that the time frames for the safekeeping of data in all cases handled by this prosecutor's office were regulated through a „list of categories of the archival material with the time frames of safekeeping;” that the „prevention of information leaks is regulated by the CPC, Law on Juvenile Offenders and Criminal Law Protection of Juveniles, Rules on the Administration of Public Prosecutors' Offices and [...] Communication Protocol of this Appellate Prosecutor's Office, which envisions the holding of meetings with employees to inform them about the detrimental effects of information leaks.”

The presented PPO responses show that prosecutors' offices have still not adopted internal documents that would establish additional rules for the lawful use of personal data, in addition to those established under the laws and by-laws. It is worth noting that only one prosecutor's office from the sample said that it used the Standardized Application for the Prosecutorial Organization (SAPO), i.e. that this IT system was used for processing information from the case files, including personal data. The same prosecutor's office also said that the appropriate registers „are handled by employees trained for handling them and their access is protected by passwords.” This system should certainly be replicated at other public prosecutors' offices. After all, this is envisioned in the 2013-2018 National Judicial Reform Strategy <sup>78</sup>:

*Within the public prosecution, the introduction of the SAPO software is part of the IPA 2008 Project, which consists of two parts: the delivery of computer equipment to 13 public prosecutors' offices in the country, together with the central server system, which should currently and in the future support the entire computer network of public prosecutors' offices, as well as the development and delivery of the SAPO case management software for public prosecutors' offices, which will completely replace paper by electronic operation. The project should be completed by November 2013.*

During a meeting with representatives of the State Prosecutorial Council, the researchers found out that 17 public prosecutors' offices had installed the SAPO

78 [http://www.parlament.gov.rs/upload/archive/files/lat/pdf/ostala\\_akta/2013/RS42-13Lat.pdf](http://www.parlament.gov.rs/upload/archive/files/lat/pdf/ostala_akta/2013/RS42-13Lat.pdf)

software. In that context, we would like to stress that the implementation of these solutions would improve the standards of personal data protection at all prosecutors' offices and reduce the possibility of unauthorized data transfer to the media. Certainly, these protection measures refer to the electronic case management system, and equally good protection measures should also be developed for hardcopies.

The issue of information leaks has also been recognized by the Communication Strategy for Prosecutors' Offices. Still, there is an impression that this document also insufficiently observes the fact that, within the general obligation for undertaking personal data protection measures referred to in Article 47. of the LPDP, all prosecutor's offices are required to protect information from leaks. Also, the Strategy makes no mention of the fact that human rights – primarily the right to privacy and right to the presumption of innocence – of persons to whom the data refer may be seriously violated if personal data leak to the media. Instead, the document talks about information leaks as an issue in the context of „undermining the holding of proceedings, credibility of prosecutors' offices and good public image of the prosecution.”

Information leaks are recognized as a cause of „crisis situations” within which “crisis PR” measures need to be taken. A crisis situation is defined as „one or a series of unusual events that have an adverse effect on the integrity of the prosecutorial institution, good reputation of its leaders and employees, health and mood of the employees, reduction of productivity; in other words, the crisis also affects the work of prosecutors' offices.” The Strategy says that, within the crisis PR, in certain situations, one should „undertake responsibility and provide an explanation, if they are responsible for the crisis.” However, this guideline should be implemented only in the cases in which media „ (intentionally or unintentionally) misinterpret a piece of information and alter the meaning of the message and information which the prosecutor's office wanted to place.” A „corrective procedure” is also envisioned, where the „damage should be repaired and the recurrence of the crisis should be prevented.” However, the strategy does not make it clear whether the corrective procedure is also implemented in the case of information leakage from the institution, although, according to the consequences, this doubtless represents a crisis situation.

Information leaks from prosecutors' offices have also been recognized in a SWOT analysis conducted within the Communication Strategy. A recognized shortcoming is the „dissemination of information to the public by unauthorized persons (information leaks).” In this respect, the following threat has been recognized: „leaks from prosecutors' offices of information which media publish, thus bringing into jeopardy the work of prosecutors' offices, their independence and credibility.” This shows that the issue of „information leakage is recognized only as a threat to the interests of



the prosecution, and not as a violation of the rights of the persons to whom the data (information) refer.

In view of the recognized issues, the Strategy defines its goals pertaining to different social groups. Thus, under the Strategy, employees should „become aware of the adverse effects of information leaks that bring into jeopardy the holding of proceedings, credibility and good public image of the prosecution.” For the purpose of realizing this goal, meetings with employees should be organized, in order to „point out the importance of internal communication, laying a special stress on „information leaks and detrimental effects of this phenomenon.”

The Strategy, however, does not envision appropriate personal data protection measures that would protect data from leakage to the media. The envisioned meetings with employees can certainly be useful, but cannot be sufficient for the appropriate protection of data. In view of the fact that the unlawful processing of personal data may occur as a result of a lack of attention or knowledge, such meetings can really be useful if employees receive information about the legal framework and some frequent risks from the violation of citizens' privacy. However, as a measure of protection from the intentional and deliberately unlawful (ab)use of personal data and their dissemination to the media, this method is insufficiently efficient, since an employee who were ready to engage in such practice would probably be aware of its „detrimental effects.”

In this context, it is worth noting that the LPDP does not envision only the staff-related measures of data protection, which might include the described meetings with the staff, but also the organizational and technical protection measures. Some of these measures were presented in the responses of some prosecutors' offices and some internal MoI documents, on which prosecutors' offices which have not undertaken them can rely. Protection measures may include software solutions for the electronic registers of access to certain documents, issuance of permits for access to documents, along with the creation of user accounts, which would come after the appropriate trainings for users, etc.<sup>79</sup> Also, it would be equally important to ensure that public prosecutors' offices protect all processed personal data, require from all persons in charge of processing to maintain the confidentiality of data, and treat the inappropriate use of personal data as a violation of work obligations and civil rights, for which criminal liability may exist under certain circumstances. Criminal liability for the unlawful use of personal data will be discussed in more detail later in the text.

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79 On data protection measures, see: Share Foundation, Vodič za organe vlasti – zaštita ličnih podataka, 2016, available at: <https://mojipodaci.rs/category/organizacione-mere-za-zastitu-podataka-o-licnosti-i-upravljanje-poda-cima-o-licnosti/>



### 2.3.3. Public Prosecutors' Offices Action on Criminal Reports of the Commissioner as a Result of Information Leaks to the Media

The failure to undertake data protection measures may be sanctioned as a misdemeanor, under the punitive provisions of the LPDP. However, under certain circumstances, the unauthorized use of personal data may represent a criminal offense. Article 146. of the Criminal Code – Unauthorized Collection of Personal Data, stipulates the following:

- (1) Whoever without authorization obtains, communicates to another or otherwise uses information that is collected, processed and used in accordance with law, for purposes other than those for which they are intended, shall be punished with a fine or imprisonment up to one year.*
- (2) The penalty specified in paragraph 1. of this Article shall also be imposed on whomever contrary to law collects personal data on citizens and uses data so collected.*
- (3) If the offense specified in paragraph 1. of this Article is committed by an official in discharge of duty, such person shall be punished with imprisonment up to three years. 80*

In connection with this, the Commissioner has repeatedly pointed out that competent state authorities frequently act inappropriately and without due diligence regarding the sanctioning of the unlawful disclosure of personal data to the media:

*Some media publish what the law defines as otherwise very sensitive data – data from medical files, results of the polygraph examination of suspects and complete statements of detained witnesses, although any attempt to get them, e.g., through the exercise of rights from the Law on the Free Access to Information, would almost certainly be refused, either because they represent a secret, or in order not to jeopardize the course of proceedings.<sup>81</sup>*

Under Article 153. of the Criminal Code, the criminal offense referred to in Article 146. paragraph 1. and 2. of the Criminal Code is prosecuted through a private lawsuit, while the criminal offense referred to in paragraph 3. of the same Article is prosecuted ex officio. Specifically, this Article indicates that the competent public prosecutor's office is required to act ex officio if there are grounds of suspicion that personal data are leaking from ministries, health care or educational institutions, local governance

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80 [http://www.paragraf.rs/propisi/krivicni\\_zakonik.html](http://www.paragraf.rs/propisi/krivicni_zakonik.html)

81 [http://www.b92.net/info/vesti/index.php?yyyy=2014&mm=09&dd=12&nav\\_id=898993](http://www.b92.net/info/vesti/index.php?yyyy=2014&mm=09&dd=12&nav_id=898993)

units, state agencies and funds, judicial authorities and other state institutions.

On the basis of information obtained under the Law on Free Access to Information of Public Importance and talks with representatives of the Commissioner's office, it has been established that the Commissioner has so far filed a total of 29 criminal reports in the field of personal data protection. Some reports refer to two or more offenses. All but one refer to the criminal offense referred to in Article 146. of the Criminal Code. Other reports refer to the following articles: 143. Unauthorized Wire-tapping and Recording (1 report); 144. Unauthorized Photographing (1 report); 329. Impersonation (1 report); 355. Forging a Document (18 reports); 359. and Abuse of Office (1 report).

The Commissioner said on several occasions that he did not know what the prosecution had done in connection with the reports. Thus, the annual report of the Commissioner for 2014 says that the *Commissioner does not know whether any criminal proceedings have been initiated on the basis of filed criminal reports [...] The Commissioner believes that he has provided enough elements for further prosecution in the criminal reports he has signed, for the purpose of finding and imposing appropriate punishments on the perpetrators of the criminal offenses.*<sup>82</sup> The same was also said in the Commissioner's annual report for the year 2013.<sup>83</sup>

Out of the total of 29 criminal reports referring to personal data protection filed by the Commissioner, three referred to information leaks to the media. Two, which referred to the criminal offense referred to in Article 146. paragraph 3, were filed to the Department for Cyber Crime at the Higher Public Prosecutor's Office in Belgrade. The first was filed on May 4, 2015, and the other soon afterwards, on May 14, 2015. The last, which referred to the leakage of information on a patient of a medical institution, was filed in late 2015. The Commissioner's 2015 practice should be praised, since it demonstrates his belief that sensationalism in the media can be fought through the filing of criminal reports against employees of public authorities who have unlawfully disclosed data to the media.

The collected information on criminal reports which the Commissioner has filed to prosecutors' offices refers to the: date when the report was filed, criminal offense in connection with which the report was filed, public prosecutor's office to which the report was filed, number of files in the Commissioner's records, and an indication of whether the report referred to information leakage to the media. Using the collected information, the researchers addressed all public prosecutors' offices to which the

82 <http://www.Commissioner.rs/you/o-nama/godisnji-izvestaji/2048-izvestaj-Commissioner-za-2014-godinu.html> page 70.

83 <http://www.Commissioner.rs/you/o-nama/godisnji-izvestaji/1772-izvestaj-Commissioner-za-2013-godinu.html> page 65.

Commissioner had filed reports, requesting information on the action they had undertaken in connection with them. Sample requests are provided in the Appendix.

The reports which are relevant for this research are those that refer to information leaks to the media. For this reason, it is important to point to the October 21, 2015 response of the Higher Prosecutor's Office in Belgrade to the request:

*The Higher Prosecutor's Office in Belgrade – Special Department for Combatting Cyber Crime – has acted in the following way in connection with all criminal reports filed for the commission of the criminal offense referred to in Article 146. paragraph 3. of the Criminal Code which you have quoted in your request:*

*[...]*

*6. In connection with the report No. 164-00-00079/2015-07 [of May 4, 2015] the case KTP vrk 324/15 has been formed, and a request for collecting necessary information has been sent.*

*7. In connection with the report No. 160-00-11012/2015-07 of May 14, 2015 the case KTN vrk 253/15 has been formed, and a request for collecting necessary information has been sent.*

The third report was filed in December 2015 and was not included in the request. The information received from the Higher Prosecutor's Office cannot serve as a basis for a detailed assessment of the actions undertaken by prosecutors' offices in connection with the two criminal reports, nor can one forecast the actions that will be undertaken in the following period. However, the researchers could note that, in its response, the prosecutor's office said that a request for collecting necessary information had been sent in connection with the Commissioner's criminal report of July 10, 2014, and that no further activities had been undertaken. In connection with the Commissioner's report of April 4, 2011, this prosecutor's office has „filed a letter rogatory for mutual legal assistance to the Russian Federation, and is waiting for the response.”

The actions of other prosecutors' offices in connection with the Commissioner's criminal reports cannot be described as expeditious either. In connection with a report the Commissioner filed to the Basic Public Prosecutor's Office in Bor on July 5, 2010, the Bor PPO said that, on March 31, 2011, or nearly 9 months later, it had requested from the Bor Police Administration to undertake measures and activities aimed at finding the perpetrator or perpetrators of the criminal offense. The response also said: „Since the perpetrator of the offense was not found three years after the request was filed, the public prosecutor in the March 31, 2014 decision [...] dismissed the criminal report, because of the expiry of the relative statute of limitations on criminal prosecution of the reported criminal offense, in the sense of Article 103. paragraph 1. item 6. of the Criminal Code, which, as a circumstance, permanently prevents

criminal prosecution.” The Basic Public Prosecutor’s Office in Leskovac informed the researchers about activities undertaken in connection with a criminal report filed by the Commissioner in the following way: „On December 3, 2012, a request was filed to the MoI PA Leskovac to find the unidentified perpetrator of the offense referred to in the criminal report, and after a report was sent, new requests were filed on October 14, 2013, as well as on February 3, 2014, March 3, 2014 and March 14, 2014. The perpetrator was not found [...]” The responses of the other public prosecutors’ offices from the sample also show that there is a big time gap between the moment when a criminal report is filed and that when an action thereon is taken.

On the basis of information on the action on all of the Commissioner’s criminal reports, rather than only those in connection with information „leaks“ to the media, which was collected from the public prosecutors’ offices that participated in the project, in his annual report for 2015 - as opposed to the previous reports - the Commissioner could provide more information about the action undertaken by public prosecutors’ offices. „Out of all criminal reports which the Commissioner has filed so far, one ended up with final conviction, and eight were dismissed because of the expiry of statute of limitations or as a result of implementation of conditionally deferred prosecution. The proceedings in connection with the other criminal reports have not been completed yet.”<sup>84</sup>

## 2.4. Conclusion

On the basis of everything presented in connection with the activities of the Ministry of Internal Affairs, we can conclude that the MoI is making an effort to harmonize the work of its employees with legal regulations on data protection, which (effort) is frequently much greater than that of many other controllers who sometimes do not know what their main obligations from the LPDP are, or what certain terms from the Law mean.<sup>85</sup>

Still, the presented MoI practice in connection with the control of video surveillance equipment, access to records in the MoI possession, and provision of information about Ministry activities to the public indicates that a greater effort needs to be taken to ensure the appropriate protection of citizens’ personal data, pursuant to the established standards and the LPDP.

84 Commissioner’s Annual Report for 2015, page 80: <http://www.Commissioner.rs/sr/izvestaji-Commissioner/2328-izvestaj-Commissioner-za-2015-godinu.html>

85 In connection with this, see: Uroš Mišljenović, Ana Toskić, Blažo Nedić, Protection of Privacy in Serbia, Analysis of Implementation of Personal Data Protection Law, Partners for Democratic Change Serbia, 2013.

Also, we have to note that even in its response to the request for a free access to information of public importance, the MoI has not presented details regarding the undertaken data protection measures in connection with the results of polygraph testing or interrogation records. The researchers can, therefore, conclude that these areas are not regulated by the internal documents of the Ministry, which makes it more likely that someone might access such content without authorization, multiply documents unlawfully, take documents out of the institution, as well as disclose data to the media. Therefore, one of the recommendations of this research is that the Ministry of Internal Affairs adopt internal documents that would further regulate measures for protecting the results of polygraph testing, interrogation records, and all other data for which one might reasonably assume that they might be subjected to unprofessional use or intentional abuse.

Similarly, another recommendation of this research is that the MoI adopt internal documents that would more closely regulate procedures for the disclosure to the media of MoI activities aimed at detecting criminal offenses and acting in criminal proceedings, and particularly for the disclosure of the identification data of suspects, defendants, victims and injured parties. In this way, the public interest would be indirectly protected in the media, because this would reduce the possibility for unauthorized disclosure of data to the media and contribute to the truthful and appropriate informing of citizens.

As for actions undertaken by the public prosecution, the achievement of transparency is impeded by the fact that most public prosecutors' offices do not have websites through which they would proactively inform citizens and media. This issue is expected to be overcome through the application of the 2015-2020 PPO Communication Strategy. The important thing in the process of opening of the public prosecutors' offices to the public is to define the data anonymization standards in order to harmonize actions.

Public prosecutors' offices have not adopted internal documents that would more closely regulate personal data protection measures. The issue of information leaks from public prosecutors' offices has been recognized primarily as something that undermines the good reputation of public prosecutors' offices and public trust in the PPOs. One of the recommendations of this research is that public prosecutors' offices undertake the necessary organizational, staff-related and technical measures aimed at preventing information leaks to the media, which would protect both the good reputation of prosecutors' offices and the rights of the persons to whom the data refer. Finally, this research has established that most criminal reports filed by the Commissioner are not resolved within reasonable time. Reasons for such practice may be different. For example, one of the reasons may be the fact that the public prosecutors'

offices are burdened by a large number of cases.

Still, whatever the reason for this (lack of) action on the part of prosecutors' offices, its ramifications on citizens' privacy are far-reaching and impermissible in a system that (should) strive to promote the protection of human rights and establishment of the rule of law. In that context, the MoI, prosecutors' offices, public institutions, media, and citizens themselves, respectively, should undertake their part of the responsibility in order to prevent further violations of personal privacy because of short-term media attention or other interests.

## Appendix 1 – List of All Analyzed Texts

	Code of the text	Headline or name of the file in case of a TV contribution
1	I_2605_1	Danas glavni pretres ubici Tijane Đurić
2	I_2605_2	Gaćešu ubila konkurencija ili osvetnici
3	I_2605_3	Prle čita stripove
4	Bl_2605_1	Veštak: Jelica je umrla od sepse
5	Bl_2605_2	Niko kriv a Natalija je mrtva
6	Bl_2605_3	Tijaninom ubici javno suđenje
7	Bl_2605_4	Rat za kuću i plac ispod nje
8	Bl_2605_5	One ne mogu da budu spasene
9	Bl_2605_6	Vozio 111km na sat
10	VN_2605_1	Srušen seoski zid ćutanja
11	VN_2605_2	Svi su znali i godinama tajili
12	VN_2605_3	BMV jurio 111 na sat!
13	VN_2605_4	Povređeni dečak kritično
14	VN_2605_5	Majka ubijenog Đorđa bez odštete
15	P_2605_1	Više mogućih motiva ubistva suvlasnika „Pink taksija“
16	P_2605_2	Za ubistvo u „ljubavnoj sobi“ – 30 godina zatvora
17	P_2605_3	Nastavlja se glavni pretres za ubistvo Tijane Jurić
18	D_2605_1	Za ubistvo supruge 30 godina zatvora
19	D_2605_2	Viši sud odbio zahtev Marine Andrejić
20	K_2605_1	Sanjam da se monstrum vraća i ponovo nas ubija
21	K_2605_2	Uleteo u Dunav sa 111 na sat
22	T_2505_1	Zadavio ženu u ljubavnoj sobi zatvora, da li je dobio dovoljnu kaznu
23	T_2505_2	Zna se ko je 20-godišnjak je izgoreo u kolima!
24	T_2505_3	Ove srpske lepotice mesecima vuku za nos italijansku policiju
25	T_2505_4	Slavni glumac sve bolje: Dragan Nikolić čita stripove!
26	P_0306_1	Policija privela maloletnike koji su upali na čas i oteli dnevnik
27	P_0305_2	Radonjić: Ćuruvija je praćen zbog izveštavanja o kosovu
28	D_0306_1	FHP : Zašto se suđenja kriju od javnosti

29	K_0306_1	Maskirani upali na čas i pištolj uperili u decu!
30	K_0306_2	Ćuruvija bio na merama zbog pisanja o Kosovu
31	Bl_0306_1	Ubica devojčice se brani lažima
32	Bl_0306_2	Radonjić vređao žrtvu
33	Bl_0306_3	Bajkeri iz Tuzle osuđuju čin vandalizma
34	Bl_0306_4	Upali na čas s pištoljem, direktor kaže ništa strašno!
35	Bl_0306_5	Pretres kuće švercera droge
36	I_0306_1	Naoružani dečaci oteli dnevnik od nastavnice
37	I_0306_2	Radonjić: Ćuruvija je bio u dugovima
38	I_0306_3	Narko-karteli vole kurire Srbe zato što su ljudi
39	VN_0306_1	Upali na čas s pištoljem i fantomkama!
40	VN_0306_2	Negira ubistvo
41	RTS_0206_1	Dnevnik 2 (prime-time news) – Contribution 1
42	RTS_0206_2	Dnevnik 2 (prime-time news) – Contribution 2
43	B92_0206_1	Vesti u 20 (News at 8) – Contribution 1
44	B92_0206_2	Vesti u 20 (News at 8) – Contribution 2
45	K_1106_1	Albancu 20 godlna zatvora za pokušaj ubistva policajca
46	K_1106_2	Pucao na komšinicu zbog cveća pa se ubio!
47	K_1106_3	Ubijaju se usred dana, zamalo da stradaju nedužni
48	Bl_1106_1	Ponovo suđenje Fidu
49	Bl_1106_2	Pucao u komšinicu zbog trešnje
50	Bl_1106_3	Bombom raznet džip, diler preživeo napad
51	Bl_1106_4	Produžen pritvor otmičarima Maše
52	I_1106_1	20 godina za napad na policajca
53	I_1106_2	Ranio komšinicu pa presudio sebi
54	I_1106_3	Raznet džip
55	I_1106_4	Produžen pritvor Mašinim otmičarima
56	VN_1106_1	Direktor na poslu posle pipkanja?
57	VN_1106_2	Bomba ga izbacila iz džipa!
58	M_1006_1	Valjevo: Upucao komšinicu pa se ubio
59	M_1006_2	Otmičarima male Maše produžen pritvor
60	Pi_1006_1	Nacionalni dnevnik – Contribution 1
61	T_1006_1	Pucao u komšinicu, pa sebi razneo glavu: morbidna tragedija u Valjevu!
62	T_1006_2	Produžen pritvor otmičarima male Maše!



63	P_1906_1	Devojčice taoci suda
64	P_1906_2	Beba umrla od očevih batina
65	P_1906_3	Jedna od najčuvanijih tajni: nasilje nad starima
66	K_1906_1	Monstrum ubio bebu, ženu vezivao lancima
67	Bl_1906_1	Marić se oporavlja od srčanog udara
68	BL_1906_2	Umorni Turčin ubio četvoricu ljudi
69	Bl_1906_3	Ubio bebu jer je umislio da mu nije otac
70	I_1906_1	Bebu ubio od batina zato sto je plakala
71	VN_1906_1	Ne znam ko me je upucao
72	VN_1906_2	Četvoro diglo ruku na sebe
73	M_1806_1	Milomir Marić hitno operisan, imao infarkt !
74	M_1806_2	Ivana Buha: Čume mi je oteo ćerku, Čume: Ma, kakvi!
75	M_1806_3	Sudiji Blažiću zbog mita pritvor do 30 dana
76	M_1806_4	Čovek kome su oduzeli decu štrajkuje ispred Vlade
77	M_1806_5	Slučaj Taton: Obustavljeno izvršenje kazne Preliču
78	RTS_1806_1	Dnevnik 2- Contribution 1
79	Pi_1806_1	Nacionalni dnevnik - Contribution 1
80	B92_1806_1	Vesti u 20 (News at 8) – Contribution 1
81	T_1806_1	Psiholozi tvrde da nije psihopata: Uroš Ilić svojim lažima o otmici Stefana hteo lakše da prebrodi smrt brata!
82	T_1806_2	Crna Jasmina priznala da je ubila dečka: na sudu detaljno opisala ubistvo!
83	T_1806_3	Da li je ovo pravda? Presmešne kazne u Srbiji dobijaju se za ubistvo rođenog deteta!
84	T_1806_4	Majka spalila dete, otac bacio ćerku s trećeg sprata: ovo su najmonstruoznija ubistva beba u Srbiji!
85	T_1806_5	Evo koja kazna čeka oca koji je ubio svoju jednogodišnju bebu!
86	T_1806_6	Turčin koji je ubio četvoricu Srba tvrdi da nije zaspao za volanom!
87	K_2706_1	Pred otkazom zbog plagiranja!
88	Bl_2706_1	Milićev mogao da izbegne nezgodu
89	Bl_2706_2	“Savetnica” ostaje bez diplomatskog pasoša
90	Bl_2706_3	Hrvati pratili Draškovića dok je bio na jahti
91	Bl_2706_4	Vavič oslobođen za ranjavanje na splavu

92	I_2706_1	Vlasnik autobusa koji se prevrnuo ima 12 prijava
93	VN_2706_1	Primio mito
94.	VN_2706_2	Gašenje turističkih agencija zbog propusta
95	M_2606_1	Teodora optužena za ubistvo majke i bake
96	M_2606_2	Vavič oslobođen za pokušaj ubistva
97	M_2606_3	Milicev vozio između 85 i 110 na sat!
98	T_2606_1	Glumica satarom ubila majku i babu: Evo kolika joj kazna zatvora preti!
99	K_0507_1	Misica ubica je švalerka poslanika
100	Bl_0507_1	Plejbojova zecica mamac za ubistvo
101	Bl_0507_2	Svedoci: Za udes je kriv fudbaler
102	T_0407_1	Ubica Nenada Opačića mesecima vežbao pucanje: Novi detalji istrage o ubistvu vođe veteraničkog klana!
103	P_1307_1	Oslobođen za ubistvo dvojice nasilnika
104.	Bl_1307_1	Petostruki ubica krio se dve godine
105	Bl_1307_2	Baka poginula, borba za život trogodišnjeg unuka
106	I_1307_1	Decu progutalo živo blato
107	I_1307_2	Mali Ugar pao zbog tri ubistva
108	I_1307_3	Sirijca pregazila dva vozila
109	VN_1307_1	Mali Ugar se krio u soliteru
110	M_1207_1	Nacionalnom stroju se ne sudi ni posle šest meseci
111	Pi_1207_1	Nacionalni dnevnik - Contribution 1
112	B92_1207_1	Vesti u 20 (News at 8) – Contribution 1
113	B92_1207_2	Vesti u 20 (News at 8) – Contribution 2
114	T_1207_1	Uhapšen Mali Ugar: Optužen je za ubistvo trojice muškaraca, dve godine trajala potera za njim
115	P_1507_1	Napadač tvrdi da je novinar naleteo na nož
116	D_1507_1	Nezadovoljan radom gradskih službi potegao nož
117	Bl_1507_1	Bombaši ne ostavljaju ni svedoke ni tragove
118	I_1507_1	Jelke čuvao spisak sa 30 dužnika
119	VN_1507_1	Jelketu dužnici došli glave?
120	VN_1507_2	Novinar neće krivično goniti napadača
121	VN_1507_3	Odgovorni direktor i kuvarica?
122	M_1407_1	Zet i tast jedan drugog izboli
123	RTS_1407_1	Dnevnik 2 (prime-time news) - Contribution 1

124	T_1407_1	Zbog ubistva radnika obezbeđenja: Osuđen na 30 godina robije!
125	T_1407_2	Vratile se devedesete: Poslednjih pet brutalnih likvidacija u Beogradu nije rešeno!
126	T_1407_3	Silovao je dok joj nije slomio vrat? Da li je ovo zaslužena kazna za osumnjičenog za srpski horor?
127	T_1407_4	Evo u kakvom se stanju nalazi novinar kojeg je izbo manijak usred Gradske uprave!
128	P_2307_1	Pljačkaši pretukli čuvara
129	P_2307_2	Posle sukoba s doktorkom, pacijentkinja udarila
130	P_2307_3	Suvlasnika „čivije” ubili profesionalci
131	Bl_2307_1	Ženu ubio čekićem pa sebi nož zario u vrat
132	Bl_2307_2	Dilera ubili sa 12 metaka
133	Bl_2307_3	Taksista napao komunalne policajce
134	Bl_2307_4	Građani strepe dok se dileri ubijaju oko njih
135	Bl_2307_5	Fatljum Muslia švercovao na veliko
136	I_2307_1	Tajna veza Il' je ljubav il' su milioni
137	I_2307_2	Debu izrešetal protivnici
138	VN_2307_1	Ne odustajemo od nestalog dečaka
139	VN_2307_2	Ubio suprugu čekićem, pa zario sebi nož u vrat
140	VN_2307_3	Pritisli smo ih, nervozni su
141	VN_2307_4	Plaćene ubice likvidirale debu
142	VN_2307_5	Poginula devojka iz Hrvatske
143	VN_2307_6	Šefovi me šikanirali
144	VN_2307_7	Pao sin komandanta OVPMB
145	Pi_2207_1	Nacionalni dnevnik - Contribution 1
146	T_2207_1	Maltretirao ju je ceo život, a onda joj je smrskao glavu čekićem? Detalji zločina koji je potresao Šumadiju
147	T_2207_2	“Ubij me, nema mi života bez tebe”: Jezivi detalji krvoprolića u Kaluđerici!
148	T_2207_3	Nezapamćen zločin u Srbiji: Zdrobili mu lobanju pošto ih je uhvatio u krađi!
149	T_2207_4	Haos na begradskom aerodromu! Divlji taksista napao komunalce!
150	T_2207_5	Pedofil (74) ponudio devojčici (14) 200 evra da proveru da li je nevinu, a zatim hteo da je siluje!

151	P_3107_1	Presuda lekarima „Decedre” u ponedeljak
152	D_3107_1	Obesio se sveštenik
153	Bl_3107_1	Troje dece zauvek ostavio bez roditelja
154	Bl_3107_2	Reanimator krivac za smrt Ivane Bodrzić
155	Bl_3107_3	Porodica Jelice Radović devet godina čeka pravdu
156	I_3107_1	Vozač Milana Beka oči u oči s Majom Adrovac
157	I_3107_2	Bivši specijalac odgovoran za 5 ubistva?
158	VN_3107_1	Pritvor bahatom motociklisti
159	VN_3107_2	Predozirali ubicu Opačića
160	M_3007_1	Bivši član JSO ubio troje na Novom Beogradu
161	M_3007_2	Tri godine mrtav “jugu” na dnu Drine
162	M_3007_3	Taksista automobilom “pokosio” komunalca!
163	P_0808_1	Šoljom napao poreskog službenika
164	Bl_0808_1	Mina ne sme da oprostí nasilniku
165	Bl_0808_2	Narko-diler s nanogicom upucan zbog dugova
166	Bl_0808_3	Uhapšena banda zbog prebijanja Jagodinca
167	I_0808_1	Napao poreznike šoljicom za kafu
168	I_0808_2	Rasprodaje se imanje ubice iz Velike Ivanče
169	VN_0808_1	Službenike tukao šoljom po glavi?!
170	Bl_1608_1	Štamparija nije htela da mu pravi šablone mržnje
171	P_1708_1	Preminuo povređeni u udesu autobusa „Barcino tursa”
172	Bl_1808_1	Konobaricu ubio sa dva hica u grudi
173	Bl_1808_2	Minin otac svedoči o zetu nasilniku
174	I_1808_1	Maja Adrovac ostaje u pritvoru
175	I_1808_2	Devojčice iz Beograda povređene kod Ulcinja
176	I_1808_3	Starac ubio devojkú
177	VN_1808_1	Nikolić hitno prebačen na vma
178	M_1708_1	U bolnicu samo zbog terapije
179	M_1708_2	Kraljevo: Starac od 72 ubio 24-godišnju ljubavnicu
180	SB_1708_1	Vesti u 7 Contribution 1
181	T_1708_1	Životna drama Marinka Madžgalja: borba slavnog glumca sa opakom bolešću. cela srbija je uz njega!
182	T_1708_2	Novi detalji tragedije u Kraljevu: ubio svoju devojkú jer mu je dugovala novac?

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183	T_1708_3	Krvava tragedija u Kraljevu: ubio konobaricu (24) pa seo u bmw i pobegao!
184	Bl_3108_1	Proces žandarima
185	Bl_3108_2	Duško Vujošević imao saobraćajku
186	I_3108_1	Fida nije hteo da ubije Danilovića
187	I_3108_2	Karadžićev savetnik ide na robiju

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## Appendix 2 - Request for access to information of public importance

Basic Public Prosecutor's Office in Užice, 6, Nade Matić Street, 31000 Užice

Request No.: 53/2015

### R E Q U E S T for access to information of public importance

Under Article 15. paragraph 1. of the Law on Free Access to Information of Public Importance (Official Gazette of the RS, No. 120/04, 54/07, 104/09 and 36/10), we kindly ask you to respond within the legal time limit to the following questions and send us the requested documents in writing:

1. Have any staff-related, technical and organizational measures necessary for the protection of personal data in the possession of the prosecutor's office from unlawful action, loss, destruction, unauthorized access, alteration, publication and any other type of abuse (in accordance with Article 47 paragraph 2 of the LPPD) been undertaken and, if so, what are these measures?
2. Within the protection measures referred to in question 1), have special measures been taken with the aim of preventing personal data leaks to the media? If so, please specify such measures in the response, for the purpose of ensuring their more thorough analysis.
3. Does an internal document of the prosecutor's office regulate the field of personal data protection from abuse, destruction, loss, unauthorized change, access or disclosure? If so, please send us the relevant document or its part that regulates this field.
4. Does the internal document referred to in question 3) refer to measures aimed at protecting data from leakage to the media? If so, please mark this document visibly, for the purpose of a more thorough analysis of the document.
5. Does an internal document of the prosecution specify who and under which circumstances can inspect a particular case file? This refers to the access to documents in the electronic and printed formats. If so, please send us the relevant document or a part thereof which regulates this field.
6. Does the prosecutor's office keep a register of persons and times when they

inspected particular cases? This refers to the access to electronic and paper documents. If so, please send us additional information on the way in which the register is kept (can someone inspect a case file even without such a register, which types of data and information are collected and registered, how long are the records kept, etc.). We would like to stress that we are not asking you to send us the register (contents thereof) itself.

Please send the requested information and documents to the following address:

In Belgrade,  
June 24, 2015

Partners for Democratic Change Serbia  
9, Svetozara Markovića Street, Belgrade

Phone: 011 3231551

E-mail:

[office@partners-serbia.org](mailto:office@partners-serbia.org)

## Appendix 3 - Request for access to information of public importance

Higher Public Prosecutor's Office in Belgrade,  
Special Department for Combatting Cyber Crime  
17a, Savska Street, 11000 Belgrade

Request No.: 71/2015

### Request for information of public importance

Under Article 15. paragraph 1. of the Law on Free Access to Information of Public Importance (Official Gazette of the RS, No. 120/04, 54/07, 104/09 and 36/10), we kindly ask you to respond within the legal deadline to the following questions and send us the requested documents in writing:

Has the prosecutor's office acted in connection with criminal reports which the Commissioner for Information of Public Importance and Data Protection filed to the prosecutor's office on:

1. April 4, 2011, under the number 164-00-00030/2011-07, for the criminal offense referred to in Article 146. paragraph 3. of the Criminal Code?
2. December 20, 2011, under the number 164-00-00178/2011-07, for the criminal offenses referred to in 146. paragraph 3. and 355. of the Criminal Code?
3. April 4, 2014, under the number 164-00-00113/2014-07, for the criminal offense referred to in Article 146. paragraph 3. of the Criminal Code?
4. July 10, 2014, under the number 164-00-00337/2014-07, for the criminal offense referred to in Article 146. paragraph 3. of the Criminal Code?
5. December 9, 2014, under the number 164-00-00660/2014-07, for the criminal offense referred to in Article 146. paragraph 3. of the Criminal Code?
6. May 4, 2015, under the number 164-00-00079/2015-07, for the criminal offense referred to in Article 146. paragraph 3. of the Criminal Code?
7. May 14, 2015, under the number 164-00-00112/2015-07, for the criminal offense referred to in Article 146. paragraph 3. of the Criminal Code?

If so, please inform us about the way in which the prosecutor's office acted in



connection with each of the listed criminal reports, or about the status of the case developed on the basis of the listed criminal reports. If criminal proceedings have been initiated in connection with a report, please inform us about the current stage thereof, as well as about the case number awarded in each stage of the proceedings.

We would like to stress that, for the needs of the research, we need only information about the actions which the prosecutor's office has undertaken in connection with the relevant report, and that we are not requesting information about the persons to whom the reports refer.

Please send the requested information and documents to the following address:

In Belgrade,  
October 8, 2015

Partners for Democratic Change Serbia  
9, Svetozara Markovića Street, Belgrade  
Phone: 011 3231551  
E-mail: [office@partners-serbia.org](mailto:office@partners-serbia.org)

## Appendix 4 - Request for access to information of public importance

Police Administration of Belgrade, 107, Bulevar Despota Stefana, 11000 Beograd

Request No.: 64/2015

### REQUEST

for accessing information of public importance

Under Article 15. paragraph 1. of the Law on Free Access to Information of Public Importance (Official Gazette of the RS, No. 120/04, 54/07, 104/09 and 36/10), we kindly ask you to respond within the legal deadline to the following questions and send us the requested documents in writing:

1. How have you regulated the procedure for disclosing to the public and media information on MoI activities regarding the detection of criminal offenses and activities in criminal proceedings? If the procedure is regulated by an internal document, please send it to us.
2. What are your criteria for deciding on the volume of information on suspects and defendants that will be presented to the public and media? What are the situations in which you present a person's name and family name, and other data that directly point to the person's identity to the public and media? What are the situations in which you anonymize data on such persons?
3. What are your criteria for deciding on the volume of information on victims and injured parties in criminal cases that will be disclosed to the public and media? What are the situations in which you present a person's name and family name, and other data that directly point to the person's identity to the public and media? What are the situations in which you anonymize data on such persons?
4. In view of the obligations of personal data controllers, under Article 47. of the Law on Personal Data Protection, has the MoI undertaken measures of data protection (e.g. the results of polygraph testing, recordings from MoI cameras posted in public places, interrogation records, etc.) from leakage to the media? If such measures have been undertaken through the adoption of certain internal documents, please send them to us.

5. Does the Police Administration of Belgrade keep a register of persons who have viewed case files (documents therein) and times when they did so? This refers to the access both to electronic and printed documents. If so, please send us additional information on the way in which this register is kept (whether a case file (documents therein) may be viewed even without making an entry in the register, what kinds of data and information are being collected and registered, how long is the register kept, etc.). We would like to stress that we are not asking you to send us the register itself (contents thereof).

Please send the requested information and documents to the following address:

In Belgrade,  
July 24, 2015

Partners for Democratic Change Serbia  
9, Svetozara Markovića Street, Belgrade  
Phone: 011 3231551  
E-mail: [office@partners-serbia.org](mailto:office@partners-serbia.org)