

JOURNALISTS AS DEFENDANTS

SLAPP LAWSUITS AS AN OVERTURE INTO EXHAUSTION

THE CASE OF THE KRIK NEWSROOM

Vesna Radojević

April 2022.





USAID
OD AMERIČKOG NARODA

CRTA:

JOURNALISTS AS DEFENDANTS

SLAPP LAWSUITS AS AN OVERTURE INTO EXHAUSTION
THE CASE OF THE KRIK NEWSROOM

April 2022.

Publisher:

The Belgrade Centre for Security Policy
www.bezbednost.org

Author:

Vesna Radojević, KRIK journalist

Design:

Srđan Ilić

This case study was developed as part of a joint effort by the Centre for Research, Transparency and Accountability (CRTA), the National Coalition for Decentralisation (NKD), the Belgrade Centre for Security Policy (BCSP) and Partners for Democratic Change, to encourage greater citizen participation in the decision-making process through the project "Citizens Have Power", supported by the United States Agency for International Development (USAID). The views expressed in this case study are solely those of the authors and do not reflect the views of USAID.



NACIONALNA
KOALICIJA ZA
DECENTRALIZACIJU



BCSP
Belgrade Centre
for Security Policy



PARTNERI
SRBIJA

Content

Introduction	4
What are SLAPP lawsuits?	5
The public as the only defence	6
“I lost my reputation in the society because of KRIK”	7
The Luxembourg Faberge	8
Lawsuit in Geneva, two years after publication	9
Lawsuit for the news	10
“Half a million dollars’ damage”	11
“Sanctions because of KRIK”	12
The Unit	12
“You are our unfair competition”	13
228 dinars	14

Introduction

How to make your story 'bullet-proof' is one of the most important skills that investigative journalists need to master. That, among other, means that any piece of information published in the story must be verifiable in court. That is why the *fact-checking process*, i.e., checking the allegations, is one of the exhausting processes in working on an investigative text.

That process actually implies that editors and fact-checkers ask from the author evidence for every single sentence – for example, if you write in your article that a “criminal is close to the government”, you need to prove that fact. Any figure, company, contract, is checked several times. That is done, of course, not only because of court proceedings, but also for the responsibility that journalists have in a society – such texts may bring about significant change, may mean an end of someone’s career or be the grounds for prosecutors to respond by initiating official investigation.

Ever since establishment in 2015, all the way until a year and a half ago, KRIK had faced only a few lawsuits, none of which having a negative outcome for the newsroom. Those lawsuits clearly meant pressure on the journalists’ work, but those were, as it turned out subsequently, isolated cases. Such, for example, were the lawsuits of the minister without portfolio, Nenad Popović, who sued KRIK four times in 2018 for a story published within the international project of “Paradise Papers”. Yet, Popović later suppressed the suits in three cases, and one was rejected.

Ironically, when Popović’s lawsuits were arriving to the newsroom one after the other, we were thinking about it as an unbelievable attempt to put pressure on the work of a journalist team and financially exhaust it. Organisations dealing with the rule of law deemed Popović’s lawsuits back then as so-called SLAPP lawsuits – the only aim being fatiguing and pressure. However, that was only the beginning and an overture into a proper surge of lawsuits that KRIK was washed with later.

Thus, in the past year, our newsroom was literally swamped with blue envelopes sent by courts, and in most of the nine ongoing court proceedings conducted against KRIK and its journalists, the plaintiffs are members of government or people close to them.

The value of the proceedings is even three times higher than KRIK’s annual budget – the claimants requested almost 90 million dinars as damages from KRIK and its journalists. KRIK’s team, but also numerous organisations, see this blast of lawsuits as an attempt to exhaust KRIK and ultimately put it out.

What are SLAPP lawsuits?

Strategic Lawsuits against Public Participation – in a nutshell, claimants most often do not seek justice in court with SLAPP, they want to exhaust or intimidate the respondents. It is precisely these methods that were recognised in the lawsuits that KRIK has received lately.

This phrase has relatively recently come in use in Serbia, while in some countries, like the USA, such cases are quite recognisable, thus the means to prevent them are well developed. For instance, a typical example of such suits would be one filed by a large corporation against environmental activists. In the lawsuit, they would state that the activists have negative impact on their operations, but in the legal systems that recognise SLAPP, both parties would be heard, and the process would end very quickly.

In the case of Serbia, things are far more complicated, and every lawsuit has got repercussions even before the trial starts.

Financial impact – For a non-profit organisation such as KRIK, paying attorneys' fees is quite of a luxury. When multiplied by nine cases that we have at the same time, we get a proper financial coup. Although the journalists do not expect to lose the cases, due to the length of proceedings the reimbursement of court expenses may be expected only in the years to come.

Time – A resource even more important and lost for journalists dealing with lawsuits is time. The newsroom, especially team of journalists and editors working on a story, must actively participate in preparing response to the claims and provide all evidence. Due to the size of some claims, this work may last for days, distracting them from their core activity – journalism. The greatest consequence in this regard is borne by editor-in-chief, Stevan Dojčinović, who is the respondent in most cases, as the responsible person at KRIK, meaning that he must appear in court hearings in person for different cases.

Also, given the situation in the judiciary, i.e., the **slow court proceedings**, the end of process may be expected to come after a few years at best. This is additionally upsetting, especially in cases of criminal proceedings against journalists. If the situation were different and if the judicial system could recognise SLAPP lawsuits, the duration of the proceedings would be much shorter so the burden on the newsroom would be much lesser.

Stress and demotivation – When journalists are sued several times for one article, or the amount of damages requested by the claimants is abnormally high, the newsrooms that are not prepared for that may face a rather depressing situation. The main motif of such suits is precisely to make them stop investigate and report on the claimants or their affairs. In the case of KRIK, it is therefore especially important that articles about businessmen like Stanko Subotić and Nikola Petrović were published even after they sued KRIK.

Also, from our own experience, and also from exchange with other colleagues, being taken to court is an especially aggravating circumstance of all journalists. Thus, for example, Nikola Petrović, former CEO of the Serbian Electric Grid company sued our colleague Dragana Pećo and myself, which means that we need to appear in the courtroom every time. Sitting in the defendant's chair and at the same time knowing that you did your job of a journalist in the best public interest may be rather stressful.

The public as the only defence

The first response to the deluge of lawsuits in our newsroom was stress, first for the loads of work about the suits that needs to be done after the working hours, because the work of our newsroom must not bear the brunt. Yet, when the number of suits amounted to ten, KRIK decided to go public and explain the problem we are facing.

Besides pointing to this problem, we wanted to flag the incremental trend of meaningless lawsuits, because they are also a message to other media to expect such form of pressure in their work.

After we informed the public, many local and international organisations reacted.

Domestic journalist associations recognised this problem as an attempt to intimidate KRIK and deemed the lawsuits as SLAPP, stating that their number has grown lately, turning into a trend. Thus, the Independent Association of Serbian Journalists (NUNS) stated that these suits signal and orchestrated pressure. "KRIK's journalists have been targeted by various representatives of the government and their propaganda machinery from the beginning of the year, but it is getting symptomatic that interest groups and public figures are starting to simultaneously sue this newsroom. SLAPP against journalists exist in the world as a special tactic to smother the freedom of media and journalists' reporting, therefore is growingly popular in Serbia".

President of the Independent Association of Vojvodina's journalists (NDNV), Norbert Šinković, named the array of lawsuits against KRIK an abuse of mechanisms supposed to ensure justice. "Yet another sign that media freedom in Serbia exists mainly on paper only and that even institutional mechanisms, like lawsuits, supposed to ensure justice, will be abused and serve as vehicles to suppress media freedoms".

European journalist organisations also reacted, stating in their joint communication that these suits are aimed at silencing the challenging and asking questions of public importance, as well as mental and financial exhaustion of journalists.

This problem was mentioned even at the Nobel Award ceremony in December 2021, when one of the editors of the journalist network Organized Crime and Corruption Reporting Project (OCCRP), Miranda Patručić, said that these synchronous lawsuits were one of the final strikes, after "all the so-far threats and intimidation did not work".

Below follows a list of KRIK's ongoing court proceedings, designated as SLAPP.

"I lost my reputation in the society because of KRIK"

Predrag Koluvija

Respondent: KRIK, Stevan Dojčinović

Dispute value: 400,000 RSD

Predrag Koluvija

Respondent: KRIK, Stevan Dojčinović

Dispute value: 2,800,000 RSD

One of the currently major ongoing court proceedings against organised crime in Serbia is the "Jovanjica" case, where the owner of the eponymous property near Stara Pazova, Predrag Koluvija, and many of his employees and persons from government structures, were charged with breeding a ton and a half of marijuana. So far, there have been two indictments in this case and the trials have begun.

Precisely for this, this is one of the most bizarre cases where KRIK ended up, because Predrag Koluvija sued KRIK twice, requesting monetary damages of 3.2 million dinars. So, someone accused of being chief of the group that produced more than 1.5 tons of marijuana on their property claims that KRIK, describing him in the articles as "the accused narco-boss", infringed on the presumption of innocence, thus committing defamation.

In the lawsuit, it is stated that due to KRIK's reporting, Koluvija lost his reputation in the society and his neighbours would not accost him in the street anymore.

What is also interesting about this case is also the reporting of other media on this case. Namely, when the "Jovanjica" property was discovered in 2019, followed by the big arrest, most media, even the pro-government ones, reported on Koluvija and his group in a negative context. Thus, sentences like "All charged with aiding "Jovanjica"'s owner Predrag Koluvija (39), accused of organised production and sales of marijuana!" or "HE IS THE LEADER OF THE NARCO-GROUP FROM PAZOVA? Known as ORGANIC food producer but grew marijuana!". So far it has not been heard that Predrag Koluvija sued any other media for negative coverage.

One of Koluvija's lawyers, who announced new suits against KRIK, said that they were "not against media, only against certain journalists".

However, after his detention, the situation changed and reporting on Koluvija started assuming more positive note, without clear indices of why this was the case. Thus, Koluvija had positive treatment in media close to the government, appeared on a TV with national frequency, hosted by one of his lawyers, Vladimir Đukanović, an influential member of the ruling SNS, who is also a member of parliament, chair of the parliamentary Committee on Security Services Control and member of the High Judicial Council.

It is of particular interest that even the Serbian President Aleksandar Vučić defended Koluvijski in public – he said he couldn't see a reason why Koluvijski had spent two years in detention as he “hadn't killed” anyone or “possessed 10 tons of cocaine”. The President tried to relativise the fact that the police found more than two tons of marijuana on Koluvijski's property, saying that most surrounding countries, like Germany, had legalised marijuana.

The Luxembourg Faberge

Nikola Petrović

Respondents: KRIK journalists Dragana Pećo and Vesna Radojević

The interest of media, especially the investigative ones, in the operations and companies of former CEO of the Serbian Electric Grid company, Nikola Petrović, is justifiable and logical. Petrović is a close friend of Serbia's President Aleksandar Vučić, known as one of his closest aides for years, and was the CEO of the public power company “Elektromreže Srbije”.

KRIK has published several investigative stories about Petrović in the past few years, [like the one about Petrović and his wife becoming the owners of two villas in Belgrade's elite districts after he left his public office, as well as their acquisition of several companies.](#)

In February 2021, KRIK published a story within the international research of “Open Luxembourg” [where we revealed that owned an offshore company](#) “Faberge Advisors” in Luxembourg, as well as the fact that someone got a range of deals in Serbia through it – development of solar energy technology, import of pharmaceuticals and air transport. The last in the row is the most important one - KRIK found a business connection between the controversial businessman Stanko Subotić “Cane” and someone close to the Serbian Progressive Party. Namely, thanks to the large international project that we took part in, we found out that Nikola Petrović bought the “Air Posh” airliner from Subotić.

It was precisely for this story that Petrović pressed criminal charges against KRIK's journalists, Dragana Pećo and Vesna Radojević, claiming that they unlawfully used his personal data. The text, however, does not contain such data, it is only the information on companies obtained from official documents, mainly from the business registries in Luxembourg and Serbia. Petrović did not request fine, but imprisonment for the journalists – two month's sentence for Pećo on parole, and one month for Radojević.

This is not the first time Petrović has sued KRIK, i.e. journalist Dragana Pećo, invoking the Law on Personal Data Protection. Although he lost the first case, in the second one he again claims that the journalists unlawfully used his personal data in order to disclose part of his business operations as well as his partners.

However, in his lawsuit there are no references to any specific data Petrović claims to have been abused. The data presented in the text are not of personal nature and their publication is common when regards journalist reporting. If, by any chance, the court admitted the claim as justifiable, no journalist article on company acquisition, for example, would ever be published.

Yet, irrespective of this, Nikola Petrović is a public figure whose affairs the public had a justifiable interest to be informed of. Also, the very reference to the Law on personal Data Protection is unfounded because the law clearly excludes applicability of almost all provisions in processing data done for the purpose of journalist reporting and publication of information via media, as well as for the purposes of scientific, artistic or literary expression.

This suit has not prevented KRIK from continued investigation of Petrović's operations either. Within the other international project, "Panama Papers", [we found that Petrović also owned the „Arkshore International“ company in British Virgin Islands](#) with which he had a bank account in Switzerland. At the same time, Petrović was CEO of the state-owned "Elektromreže Srbije" ("The Serbian Electric Grid"), but he had not reported to the Anti-Corruption Agency his ownership of the company or the account in Switzerland either.

Lawsuit in Geneva, two years after publication

Stanko Subotić

Respondent: KRIK journalist Dragana Pećo, OCCRP

Dispute value: 155,000 Swiss francs

Besides the Serbian courts, KRIK's journalist Dragana Pećo will also have to appear before Swiss courts because the controversial businessman Stanko Subotić "Cane" sued her, and also the international reporters' network of Organized Crime and Corruption Reporting Project (OCCRP) as well as their editor Drew Sullivan.

Stanko Subotić's lawsuit in Geneva was lodged [for a story from 2018](#), when KRIK and OCCRP revealed that this controversial businessman was going to generate huge profit from the enlargement works on Belgrade's "Nikola Tesla" airport.

Subotić filed his lawsuit against KRIK's journalist Dragana Pećo in Switzerland, whose citizen he is, because she revealed the details of his business ties with the narco-boss Darko Šarić. He claimed in the suit that the story was published within a media campaign conducted against him for years because he had been opponent of Serbia's former president Slobodan Milošević.

"For more than fifteen years now, Mr. Stanko Subotić has been victim of the media smear campaign unsurpassed, organised by mafia networks, secret services and corrupt politicians", reads the lawsuit.

The fine claimed by Subotić – 150,000 Swiss francs could challenge the future of KRIK's newsroom.

Just as in the case of Nikola Petrović, this lawsuit did not prevent KRIK from publishing more investigative articles on this businessman. Thus, in February 2021, we published that the companies of Stanko Subotić and Nikola Petrović shared the same address and the same directors in Luxembourg. Also, Petrović purchased a company from Subotić, with an airplane as part of it.

Subotić has been known for years as a powerful businessman with corporate connections in the world of crime. He had spent years as fugitive due to the accusations of organising tobacco smuggling during the nineties. However, since the Serbian Progressive Party came in power in Serbia, things have changed for Subotić. Namely, he was convicted to six years' imprisonment in 2011, however, the conviction was later redressed and new proceedings ordered. Part of the proceedings against him is now extinguished under the statute of limitation, and the judges also eliminated part of the prosecution's evidence, after which Subotić was acquitted. The Supreme Court of Cassation subsequently established that the evidence was unlawfully eliminated "in favour of the accused Subotić".

Lawsuit for the news

Bratislav Gašić

Respondent: KRIK, Stevan Dojčinović, Milica Vojinović

Dispute value: 500,000 dinars

Although the numerous lawsuits against KRIK lately have been mainly for big investigative stories, one was "earned" only by reporting on a trial against the criminal group of Zoran Jotić "Jotka" from Kruševac. KRIK has followed this trial for years, with a group charged with murders and other criminal offences. Namely, in the trial of April 2021, the prosecution's evidence included conversations intercepted between Jotić and a criminal from Belgrade, Saša Zoraja. In the talks, the name of the incumbent director of the intelligence agency (BIA), Bratislav Gašić, was also mentioned.

Namely, Zoraja said in one of those intercepted talks that Jotić didn't have to fear any enemies because he is connected with powerful people.

"Who's going to kill him? Well, he feeds Bratislav Gašić. There is no one who can kill him." The expression "to be fed" means to receive money from someone.

As usual, KRIK's journalists had sent questions to Gašić before publishing the news, but never received a reply.

In Bratislav Gašić's suit against journalist Milica Vojinović and editor Stevan Dojčinović, it is claimed that the text presented "malicious interpretation of the intercepted call",

directly attacking on his reputation and honour". The current BIA Director requested half a million dinars as a compensation for his "mental and physical pain", adding that he was subject to stress because of the text.

In the lawsuit, he stated that the court **"should respond preventively against media" by "letting them know there are limits to be observed"**.

"Half a million dollars' damage"

MINECO LIMITED

Respondent: KRIK, Stevan Dojčinović

Dispute value: 55,000 million dinars

The "Mineco" international mining corporation decided to settle its accounts with KRIK's newsroom. The founder of this corporation is on an international arrest warrant because he was convicted of bribing a judge in Romania, and three former managing directors in Serbia are accused of financial machinations. The group sued editor-in-chief Stevan Dojčinović and KRIK for a text published within an international journalist investigation, "FinCEN files", shortlisted in the Pulitzer Award finals.

KRIK revealed in the story that the British "Barclays" bank had closed "Mineco"s account after the internal control detected 99 suspicious transactions of this company – for some of them it stated that they "potentially constituted proceeds from bribe and corruption". The text was written as solely based on authentic documents of the US Treasury Department dealing with suppression of financial crime (FinCEN is the abbreviated name of the unit).

"Mineco" claimed in the lawsuit more than half a million dollars for tantamount alleged damage inflicted by KRIK's story. That amount significantly exceeds the budget of this independent media outlet.

“Sanctions because of KRIK”

Bogoljub Karić

Respondents: Bojana Jovanović, Stevan Dojčinović, KRIK

Dispute value: 600,000 dinars

One of the many suits is that by Bogoljub Karić, Serbian businessman close to the Serbian Progressive Party. Karić sued KRIK [for research conducted by KRIK in collaboration with a Belarus investigative organisation, Belsat, revealing the privileges that the Karić family.](#)

Namely, the Karić family has built an enviable empire in Belarus, but seems to have been generously supported by the government itself, primarily thanks to their closeness to the Belarus Aleksandar Lukashenko. Their companies, as stated in the research, got state land worth about 800 million euros, tax incentives and major state construction projects. However, the Karić have got all those although they have never completed a project as promised. Journalists have discovered new contacts of these two families too: in one of their companies, the Karić employed the wife of the Belarus President's son.

Bogoljub Karić pressed charges against Stevan Dojčinović and Bojana Jovanović claiming that KRIK damaged his honour and reputation, as well that due to KRIK's story his sons and family companies were placed under the sanctions of the European Union and the US Treasury. Their claim, besides the amount of 600,000 dinars, also includes the request that KRIK remove the text from its website.

The interest of journalists in the Karić family business is also justifiable. Reminding that he returned Serbia in 2016, after he had been on the arrest warrant for years due to investigation on financial machinations. He has been politically allied to ruling the Serbian Progressive Party, and members of Bogoljub Karić's family were members of parliament on the SNS list, even during his exile.

The Unit

Witness protection unit (Goran Živković, Milan Išić, Nebojša Pavlović)

Respondent: Bojana Jovanović, Stevan Dojčinović, KRIK

Dispute value: 750,000 dinars

Stevan Dojčinović and Bojana Jovanović were sued together [for a text written by KRIK about the problems in the police witness protection unit.](#)

Namely, we then discovered that policer officers in the Protection Unit, securing collaborative witnesses, complained to the Internal Control Sector that their managers

breached the law – they allowed some witnesses to see criminals, while bringing others into danger with their neglect. In the reports of those officers it is stated that they censored the problematic data from official documents.

The lawsuit was lodged by the commander of the police Witness Protection Unit and two more managers of the unit, considering that KRIK damaged their honour and reputation with this text and jeopardised their security, claiming 750,000 dinars for reparation.

“You are our unfair competition”

ADRIA MEDIA GROUP DOO BEOGRAD

Respondent: KRIK

Dispute value: 11,000,000 million dinars

In August 2021, an unusual lawsuit arrived. The Adria Media company, publisher of the “Kurir”, tabloid, sued KRIK to the Commercial Court claiming that we were unfair competition and that we smear their reputation with texts that we publish about false news and media manipulation of that tabloid.

In particular, they addressed ‘Raskrikavanje’s article where we established that during 2020, “Kurir” had published 163 false, unfounded or manipulative pieces of news on its cover pages. They claimed damages of 11 million dinars from us and all media that partly or entirely shared our research.

Ever since the outset, ‘Raskrikavanje’ has investigated media manipulations of many media outlets, among other the “Kurir” tabloid. Besides us, analysing other fact-checking portals in Serbia and the region, “Kurir” is always among the media marked as unprofessional and not refraining from publishing disinformation.

‘Raskrikavanje’ journalists take this suit for pressure, but also connect it to the growing influence of the local fact-checking portals that cooperate with Facebook IT company. Namely, when these organisations mark one of “Kurir”’s news on Facebook as manipulative, the algorithm of the social media puts the tabloid’s post down, i.e., reduces their visibility. Such treatment affects advertising revenues for a company like “Adria Media Group”, thus their finance too.

Only two days after KRIK informed the public of the number of suits we were swamped with, the Environment Protection Agency renounced the case. The initiated it because KRIK allegedly did not pay the environmental fee of 228 in time and the court terminated the procedure.

KRIK was late with the payment because the agency failed to inform the newsroom of the amount of fee to which was due, despite several inquiries. The Agency then launched a procedure against KRIK before the Magistrate Court, not withdrawing it even after KRIK paid the fee – although it would be customary in cases like this. The maximum fine in this case was 2.1 million dinars.



bezbednost.org