

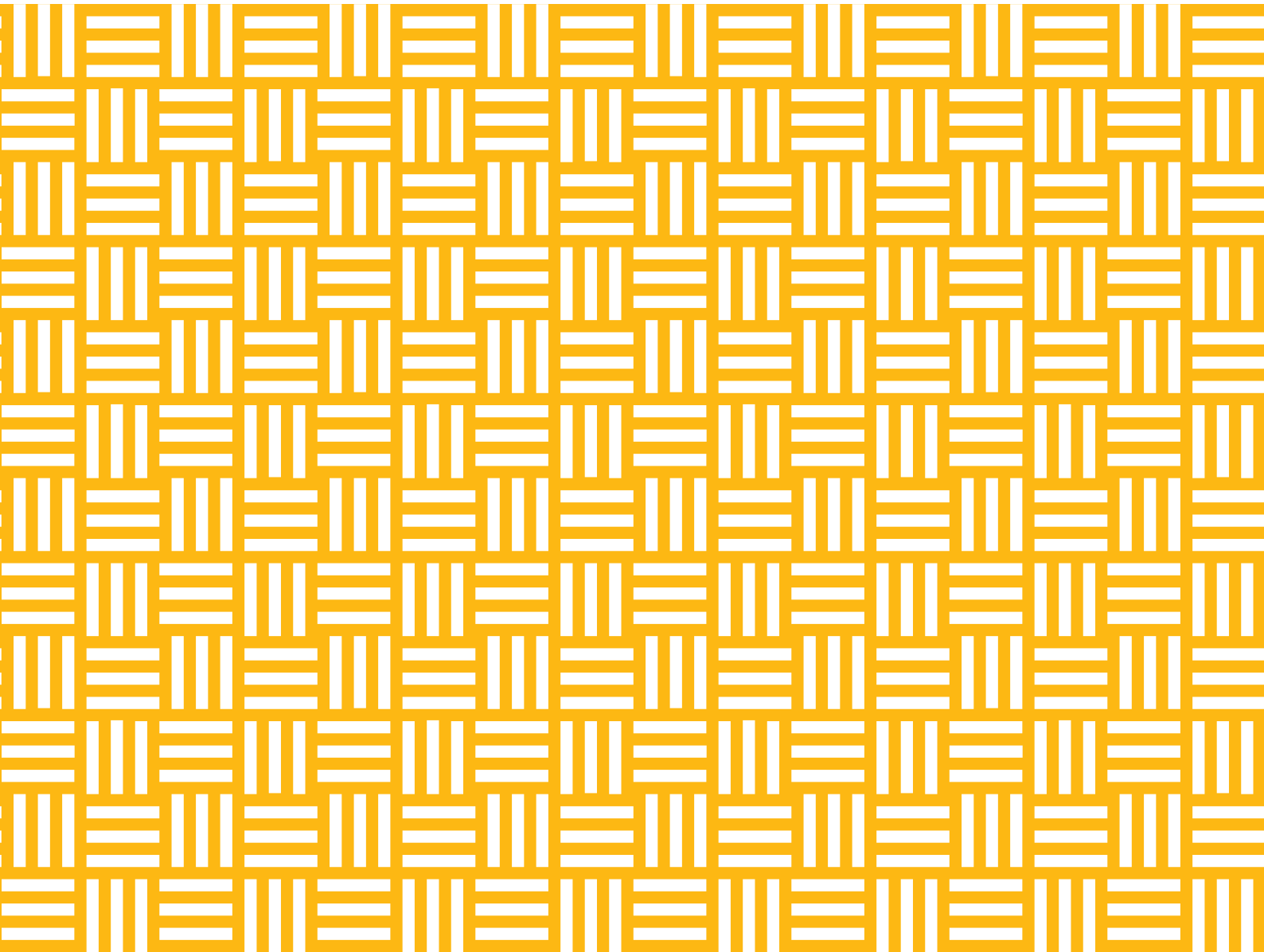


Regionalna platforma Zapadnog Balkana za zastupanje  
slobode medija i bezbjednosti novinara  
Western Balkan's Regional Platform for Advocating  
Media Freedom and Journalists' Safety



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# Indicators for the level of media freedom and journalists' safety [MONTENEGRO]





**Indicators for the  
level of media  
freedom and  
journalists' safety  
[MONTENEGRO]**

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## **Objective and methodology of the research study**

This report presents the findings of the research conducted within the regional project Western Balkan's Regional Platform for Advocating Media Freedom and Journalists' Safety<sup>1</sup>, which is implemented by the national journalists' associations in Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia. The main objective of the research study was to provide base-line assessment and evidence on the level of media freedoms and journalists' safety which will be further used in a regional mechanism for monitoring and advocating media freedoms and journalists' safety at local, national and regional level.

The research study was implemented by a regional research team composed of a lead researcher<sup>2</sup> and five researchers at country level nominated by the national journalists' associations or trade unions. The research in Montenegro was conducted by Marijana Camović, national researcher, on the basis of a common Methodology for all five countries. A range of different qualitative and quantitative methods were employed for data collection and analysis:

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- 1 *The project is funded by the European Commission, under the Civil Society Facility and Media Programme 2014-2015, Support to Regional Thematic Networks of Civil Society Organisations.*
  - 2 *The research team was headed by Dr Snezana Trpevska, expert in media law and research methodology.*

- Qualitative Documents Analysis (QDA) of: research studies and analyses produced by other research organisations, academia, NGOs, individual researchers etc.; official documents produced by public institutions (legal acts, by-laws, strategies, annual reports, minutes from meetings, press releases etc.) and media coverage (texts, articles, news reports and other published materials).
- Qualitative interviews with 12 individuals (journalists, lawyers, media experts, representatives of public institutions or NGOs).
- Survey with 54 journalists from different media organisations<sup>3</sup> on the basis of a structured questionnaire developed within the Worlds of Journalism Study (WJS)<sup>4</sup>.
- Official statistic data requested from public institutions or collected from available websites or from other published sources.

#### Indicators A:

#### Legal protection of media and journalists' freedoms

Montenegrin media scene would appear to be a lot more decent if the laws relating to the media were applied. Although partly obsolete, the media laws still provide good guarantees for press and media. During the summer 2016, there were attempts to amend these laws by political will, without public debate or consultation with media experts. However, although the decision was a part of the pre-election political agreement between the government and the opposition, it was not implemented. Experts believe that it is not good to impose political will, since it will not improve the situation in the media (A1 section).

The Agency for Electronic Media is formally separated from political or public figures influence by the law which defines it as an independent regulator the leadership of which is elected by Montenegrin Parliament, but it is not publicly perceived as an independent entity. It is believed that the Agency has not been immune to the influence of politics, which is huge in Montenegro. It is also criticised for not being proactive – it does not react on its own initiative, but only when it is forced by other interested parties.

Advertising funded from the state and local budgets is not transparent enough. The exact amount of money allocated for that purpose is unknown, since this kind of information is not publicised. It is estimated that the gov-

ernment exerts undue influence on the media by financing media outlets favourable to the government.

The Public Broadcaster Service's (PBS) leading editors were dismissed under political pressure by part of the opposition, thus reducing the influence of the ruling party, which had earlier been accused of making the PBS its own broadcasting service. The public broadcaster Radio and Television of Montenegro (RTCG) is funded from the state budget, but these funds are insufficient for its normal functioning. So the new financing modalities are being sought.

Part of the PBS programme is broadcasted in languages of minority peoples and communities.

By writing their debts off, the government helped electronic media (A1 section). The Law on Public Broadcasting Services and the RTCG Statute stipulate institutional autonomy and editorial independence of the public broadcaster.

Even five years after defamation was decriminalised, there is no common position whether that was a good idea and if the Montenegrin society was ready for that step, although in some cases draconian sentences for defamation had been imposed. Those who believe defamation should be criminalised again claim that civil litigation does not provide adequate satisfaction. There are no statistics on the number of slander cases or on the number of cases brought before the court. Journalists do not feel comfortable when investigating organised crime and high-level corruption. Only 18.5% of the interviewed journalists do not worry about whether they will be sued for defamation (A2 section).

There are numerous media outlets in Montenegro, but there is also the issue of lack of uniform and balanced media reporting, since the media display their biases openly, supporting either the government or the opposition (A3 section).

Political pluralism in the media during election campaigns is regulated by law. Political parties and coalitions shall be equally presented. Before each election the Parliament shall form a special committee to monitor the application of those provisions. The Agency, as a regulator, has no additional pre-election obligations. Experts agree that political parties do not have equal access to the media since each media outlet has its favourites.

Montenegrin journalists do not need licenses to practice. However, according to the survey results (A4 section) Montenegrin journalists are often prevented from covering certain events or getting press credentials. There are media associations in the country, but they are not sufficiently active, so 80% of respondents said

<sup>3</sup> See in Appendices

<sup>4</sup> Available at: <http://www.worldsofjournalism.org/>



that they did not belong to any association. When it comes to the trade unions, the situation is slightly better and 56% of the interviewed journalists are members of a union. However, it is more difficult for the unions to survive due to the pressures.

Setting up self-regulatory bodies is not regulated by law and media outlets become members of these bodies voluntarily. The Media Council for Self-Regulation brings together 19 media outlets, but it does not include some of the leading media that are critical of the authorities. These outlets have their internal ombudsmen.

Protection of sources of information is guaranteed by the Law on Media, which is good, but the law does not sufficiently specify the issue. There were several cases when judges and prosecutors asked the journalists to disclose their sources (A5 section).

The Law on Free Access to Information is not used enough. The institutions often violate it and this segment depends on political will. In 2015, the journalists submitted only 35 such requests (A6 section). The interviewed journalists and editors assessed major institutions as partially transparent.

#### **Indicators B: Journalists' position in the newsrooms, professional ethics and censorship level**

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There is no official data on the total number of journalists in Montenegro. An OSCE researches showed that there were about 800 of them in 2014. It was also found that three quarters of journalists in Montenegro have permanent work contracts and they mostly work for the Public Broadcasting Service. Number of media employees is constantly decreasing due to frequent layoffs in the media, but a lot of them, particularly journalists, also leave the profession and usually find new jobs in the PR sector.

The average salary is below the national average, which has been confirmed by the survey according to which 24% of respondents earn between €400 and €500, 20% of them earn between €500 and €600, whereas almost 15% of the respondents earn €300–€400. Editors have twice higher salaries than journalists. Even 83% of respondents agree that the economic position of journalists has been significantly or partially weakened in the past five years, whereas a quarter of them believe that there has been a large increase in the average working hours of journalists. Overtime work is much more prevalent in the print and private media (B1 section).

The survey has also showed that employers have excessive expectations since journalists are required to cover various topics and do not have chance to improve themselves in one area. As many as 67% of respondents have confirmed that. A quarter of respondents believe that the credibility of journalism has been greatly undermined, and only 28% of respondents have noted that there is certain increase in the importance of journalism in society.

Some journalists have pointed out that they were told not to negatively report about the companies that are the largest advertisers in their media outlets and that employers prefer to accept negative articles about politicians than those about the powerful businessmen or their companies (B2 section). They see the large number of outlets fighting for survival at a limited marketing market as the reason for that.

Self-regulatory body does not bring together all the media outlets and there is no uniform self-regulation. Leading media that are perceived as opponents of the ruling party have their own ombudsmen.

Unlike employees in the private media, who have standard employment contracts, the contracts of employees in the PBS contain the ethics code provisions. The independence of journalists and editors is mentioned only in the RTCG Statute (B3 section). The independence of the public broadcaster from the ruling elite always represents a topical issue and it is also mentioned in the European Commission's 2015 Report on Montenegro. According to the general perception, the PBS editorial board is not able to cope with the pressures, but journalists of the broadcaster emphasise that the situation is gradually improving.

There have also been cases of mobbing and isolation (B3 section), as well as obstruction by the management when a journalist published a series of investigative stories on crime and corruption in one of the coastal towns, the protagonist of which was a high-ranking official of the ruling party.

Non-profit media have not been developed in Montenegro (B4 section).

Journalists believe that censorship and self-censorship are commonplace in Montenegrin media and that they represent two main factors restricting media freedom. It seems that the subtle censorship, which is imposed through journalists' economic and social dependence on media owners, is more common than direct and open censorship (B5 section). However, journalists' opinions about censorship are quite divided. Thus, more than half of respondents (54%) believe that censorship affects their work to some extent. However 46.3% of respondents say that censorship hardly affects

their work. As many as 83% of journalists point out that editors affect their work, whereas only 13% of them feel that editors slightly influence their work.

**Indicators C:**  
**Journalists' safety**

From 2013 until July 2016, the Police Directorate of Montenegro registered 41 cases related to threats/endangering media employees, including attacks on editors, journalists, freelance journalists, photographers, cameramen, as well as attacks on property (C1 section). In its report "Media employees/journalists endangerment risk analysis" from July 2014, the police assessed that the attacks on journalists were very likely to be resolved soon, but it did not happen before this Report is published.

Government officials regularly respond when attacks on journalists or media occur and condemn them, but it seems that these statements are populist and formal, because the situation is hardly changed or not changed at all (C2 section). Representatives of certain media point out that the government officials hold them accountable for the attacks, since they regularly mention the responsibility of the media for the content they publish when they comment on the attacks.

In addition to standard procedures taken by the Police Directorate and the prosecutor's offices when an attack occurs, there is no special monitoring of the attacks on journalists planned. The state has not recognised the need to adequately deal with investigations, prosecution of perpetrators, protection and safety of journalists, or to address the problem of impunity of perpetrators, which is evident in all high-profile cases in Montenegro.

NGO Action for Human Rights (HRA) and the Trade Union of Media of Montenegro (SMCG) advocate for amending the Criminal Code and propose introducing new criminal offenses to prevent and punish attacks on journalists while performing their professional duties. They believe it would contribute to strengthening the awareness that such a social phenomenon is unacceptable and that it must be severely punished.

There is general opinion that the government has not adequately responded to the attacks on journalists and media, since major perpetrators and masterminds have remained unknown.

## General recommendations<sup>5</sup>:

Media laws are good, but they are not obeyed. Amending and further alignment with European regulations are certainly needed. Therefore, the SMCG has to be more actively involved in this process and provide concrete proposals.

In its public appearances, the SMCG must constantly insist on professional work, respect for the Code of Ethics, journalists' education and frequent professional debates.

Work on the strengthening the SMCG, but also intensify the cooperation with other trade unions in this sector, in order to improve the rights of journalists and media employees.

Journalists use the Law on Free Access to Information insufficiently. Therefore they should be presented the benefits stipulated by the law and its importance in general. State authorities shall also be advised to meet journalists' requests, ie to respect the law.

Activities leading to amending the Criminal Code should be continued in terms of introducing new criminal offenses to prevent journalists and punish attacks on media employees while performing their professional duties.

Work on improving the economic position of journalists, primarily through negotiations on the Branch Collective Agreement.

Insist on editorial and financial independence of the Public Broadcasting Service, as well as on transparent and legal private media from the state budget.

Insist on solving a number of unresolved attacks on journalists and media assets in Montenegro.

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<sup>5</sup> *These general recommendations have been developed based on interviews with members of the SMCG General Board. They represent only the general principles on which the media trade union will develop its own initiatives and activities in lobbying for the improvement of media and journalists' freedoms. Thus the principles will develop, upgrade and become more concrete.*



# Indicators for the level of media freedom and journalists' safety

The set of Indicators for the level of media freedom and journalists' safety in the Western Balkans are developed to meet the specific needs and objectives of the journalists' associations to advocate for greater media freedoms in their countries and for better conditions and freedom of journalists' work. In the recent years, several inter-governmental or international organisations have adopted guidelines or methodologies for comparative assessment of media freedom and journalists' safety in different countries. Among the most renowned assessments or methodologies there are those published by the following organisations:

- Council of Europe: Indicators for Media in a Democracy<sup>6</sup>
- European Commission
- UNESCO: Media Development Indicators (MDI)<sup>7</sup> and Journalists' Safety Indicators: National Level<sup>8</sup>
- USAID – IREX: Media Sustainability Index<sup>9</sup>
- Freedom House: Freedom of the Press Survey<sup>10</sup>
- BBC World Service Trust: African Media Development Initiative<sup>11</sup>
- Committee to Protect Journalists: Violence against Journalists<sup>12</sup>
- Reporters without Borders: World Press Freedom Index<sup>13</sup>

6 Available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17684&lang=en>

7 Available at: <http://unesdoc.unesco.org/images/0016/001631/163102e.pdf>

8 Available at: [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/images/Themes/Freedom\\_of\\_expression/safety\\_of\\_journalists/JSL\\_national\\_eng\\_20150820.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/images/Themes/Freedom_of_expression/safety_of_journalists/JSL_national_eng_20150820.pdf)

9 Available at: <https://www.irex.org/resource/media-sustainability-index-msi-methodology>

10 Available at: <https://freedomhouse.org/report/freedom-press-2015/methodology>

11 Available at: [http://downloads.bbc.co.uk/worldservice/trust/pdf/AMDI/AMD\\_summary\\_Report.pdf](http://downloads.bbc.co.uk/worldservice/trust/pdf/AMDI/AMD_summary_Report.pdf)

12 See more at: <https://www.cpj.org/>

13 Available at: <https://rsf.org/index2014/en-index2014.php>

In addition to the listed methodologies, special consideration has been given to the European Commission strategic framework aimed at assessing the fulfilment of the political goals in the fields of freedom of expression and integrity of media. This framework is summarised in the DG Enlargement Guidelines for EU support to media freedom and media integrity in enlargement countries, 2014-2020. The Guidelines are of key importance for the network of journalists' associations in the region since they have taken into consideration the common contextual problems with the media freedoms in the region and therefore provide the basis for both national and regional approach to addressing the common problems. In addition, the relevance of this document for the journalists' associations comes from the fact that they are themselves identified in the Guidelines as one of the key drivers of the media reforms in the region.

Taken as a whole, the listed methodologies and guidelines offer a good starting point to define indicators in line with the needs and priorities of the national journalist associations (NJAs) in the Western Balkans. However, most of them are designed to serve the objectives of the international organisations and are more focused on detecting comparable national data and general global trends on media freedoms. Moreover, they do not prescribe a fixed methodological approach, preferring to offer a comprehensive list from which indicators should be tailored to the particularities of the national

context. Next, they have been drawn up in the developed Western democracies and therefore lack certain degree of customisation essential for reflecting the local media context in the Balkan countries. Therefore, while reviewing all these documents, only those indicators are taken into consideration which may reflect the specific perspective of the NJAs in advocating for better protection of journalists' work and freedom in their countries. The main focus has been put on the implementation of the legal guarantees of the freedom of expression and media independence, on a range of factors that prevent the journalists to freely exercise their daily work in the newsrooms and on the conditions under which the journalists can be safe and protected from intimidation, harassment or violence.

The Indicators for the level of media freedom and journalists' safety in the Western Balkans are structured in three categories while each category consists of a number of indicators:

## **Legal protection of media and journalists' freedoms**

A.1 Does national legislation stipulate guarantees for media freedom and is it efficiently implemented in practice?

A.2 Does the Defamation Law produce a 'chilling' effect among journalists?

A.3 Is there sufficient legal protection of political pluralism in the media before and during election campaigns?

A.4 Are freedom to work and freedom of association guaranteed to journalists by the law?

A.5 What is the level of legal protection of journalists' sources?

A.6 What is the level of protection of the right of access to information?

## **Journalists' position in the newsrooms, professional ethics and censorship level**

B.1 Is economic position of journalists abused to restrict their freedom?

B.2 What is the level of editorial independence from media owners and managing bodies?

B.3 What is the level of editorial and journalistic independence in the PBS?

B.4 What is the level of editorial and journalistic independence in the non-profit media?

B.5 How much freedom do journalists have in the news production process?

## **Journalists' safety**

C.1 Safety and impunity statistics

C.2 Do the state institutions and political actors undertake responsibility for protection of journalists?

C.3 Does the criminal and civil justice system deal effectively with threats and acts of violence against journalists?





# A

## Legal protection of media and journalists' freedoms

The laws concerning the media contain quality, although partly obsolete solutions, but these are not applied, which is why there are numerous problems. During 2016, there were attempts of amending the laws, without consulting with experts, journalists and civil society. The Agency for Electronic Media is defined as an independent regulator, the leadership of which shall be elected by the Parliament of Montenegro, but it is not generally perceived as an independent entity. There is lack of transparency in how public institutions advertise with media outlets and money is provided mostly to the outlets favourable to the government. Funding of the Public Service Broadcaster is regulated by the Budget Law, but these funds are insufficient for its normal functioning. Journalists do not feel comfortable when reporting on organised crime and high-level corruption. There are no data on the number of libel suits, the possibility of which affects the work of 44.5% of the interviewed journalists. Journalists are often denied press credentials. Journalists insufficiently use the Law on Free Access to Information and the institutions often violate it. Political parties are not treated equally in the media. There have been cases of open pressure and coercion against journalists to disclose their sources of information. Institutions are partially transparent and courts and the armed forces are perceived as the most non-transparent.

## A.1 Does national legislation stipulate guarantees for media freedom and is it efficiently implemented in practice?

Exercising the right to freedom of expression is regulated by the Constitution and media laws, including the Law on Media, the Digital Broadcasting Act and the Law on Public Broadcasting Services of Montenegro. Internet access is not regulated in a specific way, although Article 10 of the European Convention on Human Rights (ECHR) covers that right. Nevertheless, there were no cases of restricting Internet access in Montenegro, at least according to the information coming from media and law experts, journalists or the Ministry for Information Society and Telecommunications<sup>14</sup>. However, on the general elections polling day, 16 October 2016, websites of Antena M Radio and Caffe del Montenegro (CdM) news portal were under hacker attacks<sup>15</sup>. On the same day, the Agency for Electronic Communications and Postal Services ordered all telecommunication operators to suspend the Viber and WhatsApp Internet services that were used for sending unsolicited spam political text messages from an unknown source<sup>16</sup>. The suspension lasted for about two and a half hours and it was assessed as a violation of the right to freedom of expression<sup>17</sup>. Generally, the media laws have been assessed as good, although partially obsolete. There is also assessment that the media scene in the country would be a lot better if the laws were obeyed to a greater extent than it is currently the case.

Within preparations for the elections in October 2016, amending media laws was planned in Montenegro. The current parliamentary majority with a part of the opposition parties based the decision on the Law on the Implementation of the Agreement on Creating Conditions for Free and Fair Elections, which was signed

in April 2016<sup>18</sup>. The Agreement stipulated amendments to the Law on Public Broadcasting Services, the Law on Media and the Law on Electronic Media. However, this did not happen because the attempt to adopt new laws failed after the ruling majority estimated that they would be contrary to the European regulations and that a broader expert debate would be necessary for their adoption<sup>19</sup>. The political Agreement stipulated that media laws should be amended, but without having to consult experts in this branch. The Agreement also stipulated the control of the media in terms of checking their objectiveness and professionalism<sup>20</sup>. This kind of monitoring was not carried out, but the PBS's leading editors were dismissed under political pressure by part of the opposition, who accused the public broadcaster's editorial board of siding with the ruling party.

Interviewed experts and journalists believe that imposing political will, as it was planned by the Agreement, is absolutely wrong and that it will not improve the situation in the media and the way in which they report, or affect the level of media freedom in general. Long-time journalist and the director of the Media Institute of Montenegro, Vladan Mićunović, said that the consequences of applying the Agreement may not be problematic in the first period, "because the situation is bad precisely in the areas where changes are planned"<sup>21</sup>.

It is very easy to establish a media outlet, particularly print and online media. You only need to register the outlet with the Ministry of Culture or the Agency for Electronic Media. For registering TV and radio stations frequency authorisation is also required. In January 2016, the Agency for Electronic Media adopted the Rulebook on Electronic Publications (as news portals are defined in the Law on Electronic Media) which prescribes the contents, the methods and procedure for registering electronic publications and closer defines the rights and obligations of legal and natural persons providing electronic publication services<sup>22</sup>. Attention was particularly paid to regulating the way of posting readers' com-

14 Ministry for Information Society and Telecommunications, e-mail message to the Trade Union of Media, May 26, 2016

15 "Web portal Vlade Crne Gore izložen DDoS napadima" [Government Web Portal under DDoS attacks], Government of Montenegro, last modified October 19, 2016; <http://www.gov.me/vijesti/166151/Web-portal-Vlade-Crne-Gore-izlozen-DDoS-napadima.html>

16 "Privremeno obustavljanje korišćenja aplikacija Viber i WhatsApp" [Temporary suspension of Viber and WhatsApp Internet services], Telekom, accessed October 19, 2016; [https://telekom.me/objave-za-medije-2016-ns\\_article-privremeno-obustavljanje-korisčenja-aplikacija-viber-i-whatsapp.nspix](https://telekom.me/objave-za-medije-2016-ns_article-privremeno-obustavljanje-korisčenja-aplikacija-viber-i-whatsapp.nspix)

17 "Povodom jučerašnjeg isključivanja aplikacija Viber i WhatsApp u Crnoj Gori" [On the occasion of yesterday's suspension of Viber and WhatsApp in Montenegro], Human Rights Action, last modified October 17, 2016; <http://www.hrraction.org/?p=11509>

18 The Law on the Implementation of the Agreement on Creating Conditions for Free and Fair Elections is the *lex specialis* created on the basis of the agreement that enabled the part of the opposition to enter the government and use the control mechanisms to prevent possible abuse of the elections by the ruling Democratic Party of Socialists (DPS).

19 A.O., "Većini odgovara haos na medijskom tržištu" [Majority satisfied with the chaos on media market], Dan, August 2, 2016, accessed August 15, 2016; <http://www.dan.co.me/?nivo=3&rubrika=Drustvo&datum=2016-08-02&clanak=558380&naslov=Ve%EB6ini%20odgovara%20haos%20na%20medijskom%20tr%BEi%B9tu>

20 The Agreement on Creating Conditions for Free and Fair Elections, p.5

21 Vladan Mićunović, interview by Marijana Camović, June 23, 2016.

22 The Council of Agency for Electronic Media of Montenegro, "Pravilnik o elektronskim publikacijama" [Rulebook on Electronic Publications], (Podgorica: Agency for Electronic Media of Montenegro, 2016), Article 1.

ments, because there were examples of hate speech in them earlier.

According to its representatives, the Agency for Electronic Media is formally separated from political or public figures influence because it is defined by law as an independent regulator the leadership of which is elected by the Montenegrin Parliament. However, the Agreement adopted by the parliamentary majority is considered to interfere with the issues that fall within the Agency's competence and to undermine its independence<sup>23</sup>. Protecting minors, preventing discrimination and hate speech are the main tasks of the Agency and its representatives believe it performs those tasks successfully.

In experts' opinion, introducing regular viewership/listenership measurement, more regular monitoring of broadcasters' production and advertising share in certain programmes aired by public and private broadcasters, etc. would improve Agency's performance and increase confidence in it. Generally, the Agency is not perceived as an independent entity, because all the institutions in Montenegro are heavily influenced by politics. Therefore it is criticised because "it reacts only when it ends up in a situation in which it must respond or when it is forced to release a statement"<sup>24</sup>, as well as because it is not proactive and not sufficiently mindful of respect for the standards in the electronic media. The Agency is believed to be the main culprit for the media failure to fulfil obligations prescribed by law. The reason for this is the fact that the Agency acts selectively and grants privileges to certain media outlets or allows some broadcasters not to pay the broadcasting fee<sup>25</sup>, which is contrary to the law. "Instead of immediately applying the law which is clear in this respect and stipulates revoking broadcasting license as the last measure, the Agency did nothing. It justified its illegal decision arguing that the law application would result in closing the media outlets."<sup>26</sup>

Advertising in the public sector is mainly assessed as non-transparent. According to the Law on Budget of Montenegro, the public sector includes the state authorities, local self-government units, independent regulatory bodies, prosecutor's offices, courts, public institutions, majority state-owned companies and municipal enterprises. Results of the research done by the Centre for Civic Education (CGO) clearly indicate that "advertising by public institutions in Montenegro lacks clear and consistent allocation criteria, and is awarded

at the discretion of officials, often by direct agreement and without procedures stipulated by the Law on Public Procurement"<sup>27</sup>. For instance, in 2012 the state spent at least €852,000 on advertising, specialised media services and on other grounds, whereas in 2013 it spent €2.2m and €2.1m in 2014<sup>28</sup>. Slightly less than 60 percent of the total amount for 2014 was paid directly to the media, whereas the remaining amount was allocated for production and advertising companies.

However, the report points out that these figures may be significantly higher, since "institutions in Montenegro do not publicise the data about total amount of state money on annual level that has been spent on advertising... and a significant number of them violates the provisions of the Law on Free Access to Information in order to hide these data".<sup>29</sup> The situation is similar when it comes to local authorities. Through these financial allocations the government, as it is pointed out in the report, exerts undue influence on the media. The European Commission pointed out the issue in its 2015 Progress Report on Montenegro<sup>30</sup>.

Taking into account all these problems, CGO and Goran Đurović, a member of the RTCG Council, called on lawmakers to urgently adopt amendments to the media laws, including amendments to the Law on Media. By these amendments, as pointed out, it is necessary to ensure a transparent advertising in the print and electronic media by state institutions, local governments and all organisations that are partially or fully funded from public budget. "In this regard, the proposed amendments provide the framework that ensures equal chances for all media and limit the discretion of heads of state and local authorities to channel significant funds to the media without clear criteria and procedures."<sup>31</sup>

The current Law on Electronic Media, which entered into force in 2010, stipulates funds allocation aimed at fostering media pluralism and fostering production of commercial broadcaster programmes of public interest. Article 136 stipulates that funds shall be provided from a share of games of chance revenues in order to

23 Jadranka Vojvodić, interview by Marijana Camović, May 27, 2016.

24 Vladan Mićunović, interviewed by Marijana Camović, June 23, 2016

25 Goran Đurović, interview by Marijana Camović, June 27, 2016

26 Ibid.

27 *Eroding Freedoms: Media and Soft Censorship in Montenegro*, (Paris: WAN-IFRA, 2015), accessed May 20, 2016: <http://media.cgo-cce.org/2015/11/cgo-cce-prikrivena-kontrola-medija-u-cg.pdf>

28 *Equal Chances for all media in Montenegro – 2014 Annual Report*, (Podgorica: Centre for Civic Education, 2015), accessed May 20, 2016: <http://media.cgo-cce.org/2015/12/cgo-cce-jednake-sanse-za-sve-medije-u-cg.pdf>

29 Ibid, p.58

30 *European Commission, Montenegro 2015 Report*, Brussels: 2015, accessed May 25, 2016: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_montenegro.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_montenegro.pdf)

31 "Hitno usvojiti u Skupštini izmjene medijskih zakona" [Urgently adopt amendments to the media laws in the Parliament], Centre for Civic Education, last modified June 8, 2016, <http://cgo-cce.org/2016/06/08/hitno-usvojiti-u-skupstini-izmjene-medijskih-zakona/#V3uGf-t97V>

foster media pluralism, commercial broadcaster production and preservation of electronic media diversity in Montenegro<sup>32</sup>. According to the law, the funds shall be used to foster commercial broadcaster production which is of public interest and which is, among other things, important for: minority nations and other minority national communities in Montenegro; promoting prevention and suppression of all discrimination forms; encouraging and promoting social integration of persons with disabilities; encouraging audio-visual media providers to gradually make their services accessible to people with hearing loss or vision impairment and developing gender equality awareness.

In order for citizens to exercise their right to information in their own language, the state is obliged to allocate part of the funding for the programmes providing information in the languages of national and ethnic groups. The method of financing national minority media is prescribed by the Law on Minority Rights and Freedoms<sup>33</sup>. In addition to tenders for allocating share of state gaming revenues which are announced by the Ministry of Finance, the media outlets of national minorities can be financed through the projects evaluated by the Fund for Protection and Exercise of Minority Rights (Minority Fund). The government allocates at least 0.15% of the budget to finance the Fund, which distributes the sum among national minorities on the basis of public competitions. The state used to provide assistance to the media outlets through writing their debts off. They also pay lower value added tax (VAT). The rate of VAT applied to the media is 7% (instead of 19%)<sup>34</sup>.

The government also helps commercial radio broadcasters through the Agency for Electronic Media. Specifically, in 2015 the Agency adopted the rulebook on allocating assets from the Agency's fund for assisting commercial radio broadcasters. The assets from the fund are treated as state aid which is granted as a compensation for providing services of general economic interest. This year, the third public competition has been announced for allocating €100,000 help to commercial radio broadcasters<sup>35</sup>. However, there were objections

that in 2015 this aid had been granted to the broadcasters that were recognised as close to the ruling party<sup>36</sup>.

Law on Public Broadcasting Services of Montenegro and the Statute of the Public Enterprise Radio and Television of Montenegro stipulate institutional autonomy and editorial independence. In Articles 13 and 14, this law defines the independence of RTCG on two bases: programme independence and the independence of journalists. Programme independence refers to the fact that the PBS shall be independent in producing broadcasting content, whereas journalists employed with RTCG shall be independent in their work and they shall act in the public interest. Journalist may not be dismissed from a job, his/her salary may not be reduced, his/her job position in editorial office may not be changed, and he/she may not be held responsible for opinion or position expressed in accordance with professional standards and programme-related rules<sup>37</sup>.

RTCG Statute stipulates, among other things, that RTCG shall autonomously determine the internal organisation and work methods, but also that "programme editors, journalists and other programme-makers in the RTCG shall be independent and autonomous in their work within the framework of the programme conception and status code<sup>38</sup>". It also stipulates the cases in which it is forbidden to dismiss RTCG journalists or editors and that they shall have the right to demand the protection of the RTCG Council in case of violation of this right. Responsibilities of the Council, which represents the interests of the public, are prescribed by the Law, the RTCG Statute, as well as RTCG normative documents. It applies the defined powers at the Council sessions. The Law on Public Broadcasting Services also stipulates the Council's independence. "The RTCG Council shall be independent of any public authority, as well as of all organisations and persons involved in the production and broadcasting of radio and television programmes or related activities (advertising, telecommunications, etc)"<sup>39</sup>.

The Council is a nine member body and the Law defines the criteria for appointment of its members. A member of the body "shall be esteemed expert in the field relevant for performing RTCG activities (media, law, economy, technical sciences, sociology, marketing, broad-

32 "Zakon o Elektronskim medijima" [Law on Electronic Media], Article 136

33 "Zakon o manjinskim pravima i slobodama" [Law on Minority Rights and Freedoms], Article 12

34 Media Ownership and Financing in Montenegro, Podgorica: Montenegro Media Institute, 2015, accessed May 15, 2016: [http://www.mmminstitute.org/files/Medijisko%20vlasnistvo%20i%20finansiranje%20medija%20u%20Crnoj%20Gori%20\(1\).pdf](http://www.mmminstitute.org/files/Medijisko%20vlasnistvo%20i%20finansiranje%20medija%20u%20Crnoj%20Gori%20(1).pdf)

35 "KONKURS: Za komercijalne radio stanice 100.000 eura" [COMPETITION: €100,000 for commercial radio broadcasters], Portal Analitika, May 25, 2016, accessed May 30, 2016: <http://portalanalitika.me/clanak/230761/konkurs-za-komercijalne-radio-stanice-100-000-eura>

36 Čadenović Ivan, "Miljenici vlasti dobili najviše?" [Government's favourites got most state funding?], Vijesti, May 9, 2016, accessed June 1, 2016: <http://www.vijesti.me/vijesti/miljenici-vlasti-dobili-najvise-887157>

37 "Zakon o javnim radio-difuznim servisima Crne Gore" [Law on Public Broadcasting Services of Montenegro], Article 14.

38 RTCG Council, "Statut javnog preduzeća Radio i televizija Crne Gore" [The Statute of the Public Enterprise Radio and Television of Montenegro], (Podgorica: Radio and Television of Montenegro, 2012), Article 40.

39 "Zakon o javnim radio-difuznim servisima Crne Gore" [Law on Public Broadcasting Services of Montenegro], Article 21.

casting, etc), with permanent residence in Montenegro, who is a holder of a university level degree, at least<sup>40</sup>. In principle, the Council represents society as a whole, given that, according to the Law, the following entities shall nominate one member each: universities; Montenegrin Academy of Sciences and Arts and Matica Crnogorska; national cultural institutions and NGOs engaged in cultural affairs; Chamber of Commerce and the employers' association represented in the Social Council; NGOs engaged in the field of media; trade union represented in the Social Council; Montenegrin Olympic Committee and Montenegrin Paralympic Committee. Two Council members shall be nominated by the NGOs protecting human rights and freedoms.

Whereas on the one hand the Council is criticised for lacking substantial impact and letting the government influence RTCG editorial policy, on the another hand there are opposing opinions.

**“The Council’s role is perceived as political. It needs to take care of the programming principles, and I am afraid that it currently acts rather as the editorial staff than as the Council”<sup>41</sup>**

When it comes to the financing the Public Broadcasting Service, the Law stipulates that it shall be funded from general incomes of the Budget of Montenegro; advertisements production and broadcasting; production and sale of shows, films, series and sound and picture repositories of public interest; sponsorship of programme contents; organising concerts and other events; from the budget and from other sources<sup>42</sup>. Every year 1.2% of the budget is allocated for RTCG, which will be about €14.2m this year. In addition to allocating slightly more than €11.2m for the RTCG production, €3m from the budget is planned to be spent on digitisation of the PBS. However, some of the RTCG Council members point out that these funds are insufficient for normal functioning of the media outlet<sup>43</sup> and that the state should allocate more money in order to ensure the independence and sustainability of the Public Broadcasting Service<sup>44</sup>.

## **A.2 Does the Defamation Law produce a ‘chilling’ effect among journalists?**

In accordance with the Council of Europe recommendations, Montenegro decriminalised defamation in mid-2011 and removed libel and slander from the Criminal Code. Since then, damages on that basis can be claimed within the civil litigation<sup>45</sup> by the Law on Obligations, which defines the violation of personal rights and reputation (non-pecuniary loss).

Neither in 2011, nor today is there a common position whether decriminalisation is a good idea and if the Montenegrin society is ready for that step. However, the most of people are satisfied because journalists can no longer be prosecuted for what they said or wrote. Some experts believe that these changes were necessary because “...compensation for damages due to violating honour and reputation were huge, sometimes even draconian, and completely disproportionate to the loss suffered”<sup>46</sup>.

The case of the Informer tabloid, which exposed a civic activist and a critic of the Montenegrin regime, Vanja Čalović, to a brutal and continuous campaign to discredit and humiliate her, has been the reason for initiating debate on returning criminal defamation liability<sup>47</sup>. Editor in chief of Dan daily newspaper emphasises that the working conditions for journalists have been improved after abolishing criminal defamation, but it “...has also proved that there is not sufficient level of democratic consciousness in our society, so we have the negative consequences of abolishing criminal defamation in the media and in general”<sup>48</sup>.

Veseljko Koprivica is a journalist who has ended up in court for violating someone’s honour and reputation as many as record-breaking 23 times. He has said that he was sued by journalists and politicians from Montenegro as well as from other countries in the region. He has been convicted and acquitted, and points out that the verdicts were different even when two persons sued him for the same article, which is why he addressed to the European Court of Human Rights:

<sup>40</sup> *Ibid*, Article 25.

<sup>41</sup> Draško Đuranović, interview by Marijana Camović, July 1, 2016.

<sup>42</sup> “Zakon o javnim radio-difuznim servisima Crne Gore” [Law on Public Broadcasting Services of Montenegro], Article 15.

<sup>43</sup> MINA, “Radović: Potrebno više novca za Javni servis” [Radović: More money needed for the Public Broadcasting Service], *Vijesti*, January 28, 2016, accessed July 1, 2016: <http://www.vijesti.me/vijesti/radovic-potrebno-vise-novca-za-javni-servis-872210>

<sup>44</sup> RTCG, “RTCG ostvarila dobit 792.000 eura” [RTCG made €792,000 profit], *CDM*, June 29, 2016, accessed July 1, 2016: <http://www.cdm.me/ekonomija/rctg-ostvarila-dobit-792000-eura>

<sup>45</sup> “Zakon o obligacionim odnosima Crne Gore” [Law on Obligations of Montenegro], Article 149

<sup>46</sup> Aneta Spaić, interview by Marijana Camović, June 25, 2016

<sup>47</sup> Komnenić Petar, “Slučaj ‘Informer’: Kako se zaštititi od medijskog linča” [Informer case: How to protect yourself against media mudslinging], *Radio Free Europe*, October 31, 2014, accessed May 25, 2016: <http://www.slobodnaevropa.org/a/slucaj-calovic-nemoc-institucija-da-zastite-pojedinca-od-medijskog-linca/26667955.html>

<sup>48</sup> Nikola Marković, interview by Marijana Camović, June 23, 2016

“Anyone who makes a mistake should be held responsible for that, but sanctions must not be draconian as they were in my case. It happened that a judge publicly admitted that he had to convict me because I supported the opposition and not because I broke the law. Judges can interpret the legal norms in different ways and I think that they are the problem, rather than laws. The penalties are excessive and disproportionate. Journalist salaries are usually low and we are vulnerable from various aspects. The media outlets did not provide financial support to me and I paid fines amounting to tens of thousands of euros.”<sup>49</sup>

Some representatives of the media community believe that civil litigation does not provide “adequate satisfaction for people who are wrongly placed on the pillar of shame”<sup>50</sup>, which is why it is profitable for the media to be tabloid – they are allowed to pay for damages to persons they slandered to increase their circulation. Some experts believe that statements coming from certain journalists that defamation should be criminalised again are “extremely manipulative, because they either miss the essence or deliberately manipulate, since all those who think that they have been defamed may claim damages in a civil litigation”<sup>51</sup>.

There are no official statistics and the media do not openly report on how many times they have been sued for violating honour and reputation and what the outcomes of those processes were. There are only reports on the most drastic cases in which plaintiffs were either people engaged in politics or persons/businessmen close to the government. There were a lot of such cases, particularly in the earlier period and their compensation claims were extremely high, but the courts did not accept the plaintiffs’ claims when found media outlets and journalists guilty, but levied lower fines. One of the recent cases in which three media were convicted, is the ruling against Vijesti and Dan daily newspapers and Monitor weekly magazine based on lawsuit filed by Prime Minister Milo Đukanović’s sister Ana Đukanović due to a series of articles on the Telekom affair. The media outlets were sued on the same basis and Đukanović demanded €100,000 in damages from each of them, but Vijesti was fined €2,000, whereas Dan and Monitor were fined €5,000 each<sup>52</sup>.

There are also conflicting opinions on the fairness and possible political motivation in the trials. Some experts believe that this belongs to the past and that “the ECHR approach, according to which politicians and public officials are required to be more tolerant towards criticism and offensive tone, prevails. Therefore I believe that there will be fewer politically motivated rulings, although such a practice was often used in the past”<sup>53</sup>. For the time being, the courts of first instance show more understanding for the European standards, trying to fully rely on them and to perceive all the details. However, in the second (or other) instance, the courts have an extremely rigid attitude. That happened in the case against Dan, Vijesti and Monitor based on the lawsuit filed by prime minister’s sister.

“I think that the judges do not apply the standards of the European Court of Human Rights in an appropriate manner yet, ie they do not apply Article 10 of the European Convention on Human Rights as interpreted by the Strasbourg Court. The courts of first instance are often more willing to apply the practice than higher courts, which is a worrying trend because it should be vice versa: senior judges are supposed to have better knowledge.”<sup>54</sup>

Setting up self-regulatory bodies is not regulated by law and media outlets become members of these bodies voluntarily. There is Media Council for Self-Regulation in Montenegro and 19 media outlets are its members, whereas some of the leading media outlets, such as Dan and Vijesti newspapers and Vijesti TV, have their internal ombudsmen. Monitoring compliance with the Code of Ethics for journalists in Montenegro falls within the bodies’ competence and the Code was amended during 2016 with the consent of both opposing sides and the mediation of the OSCE Mission in Montenegro. As stated in the State Department’s Montenegro 2015 Human Rights Report, “deep divisions between pro-government and opposition media prevented the establishment of a functional and unified self-regulation mechanism for journalists”<sup>55</sup>.

Formal complaints to the media are rare and the media outlets do not always respect the right of reply. One of the examples is the final judgement in the case the NGO Human Rights Action director Tea Gorjanc Prelevic launched against the Pink M company. During the proceedings, it was determined that Pink M TV violated her honour and reputation in its news programme “Minut

49 Veseljko Koprivica, interview by Marijana Camović, June 21, 2016

50 Draško Đuranović, interview by Marijana Camović, July 1, 2016

51 Vladan Mićunović, interview by Marijana Camović, June 23, 2016

52 Baričić Maja, “Trebalo je opreznije da pišete o sestri” [You should have reported about the sister more carefully], Vijesti, April 16, 2016, accessed May 15, 2016: <http://www.vijesti.me/vijesti/trebalo-je-opreznije-da-pisete-o-sestri-884042>

53 Aneta Spaić, interview by Marijana Camovic, June 25, 2016

54 Tea Gorjanc Prelević, interview by Marijana Camović, July 1, 2016

55 US Department of State, Montenegro 2015 Human Rights Report: Montenegro, April 2016, accessed May 19, 2016: <http://www.state.gov/documents/organization/253093.pdf>

dva” and it was ordered to pay €1,000 in damages and air the judgment “in the same terms and number of broadcasts”, which means ten times a day<sup>56</sup>. Before the case ended up in court, Gorjanc Prelevic had consulted the Media Council for Self-Regulation and the Agency for Electronic Media. The entities determined Pink M TV’s unprofessional reporting. There is no legal provision that obliges courts to take into account self-regulatory bodies’ decisions during the trials.

Previously published reports indicate that “Montenegrin journalists do not feel comfortable to investigate organised crime and high-level corruption. Furthermore, fear among journalists is even greater since many cases of violence against journalists have neither been resolved nor duly processed by courts”<sup>57</sup>.

Based on a survey conducted among journalists and editors, it can be concluded that opinions are divided when it comes to the influence of possible defamation lawsuits on their work. Most of the respondents said that such a possibility was very or extremely influential on their work (44.5%), 18.5% of them said that the possibility was somewhat influential, whereas 33% of them noted that the possibility does not affect their work.

Table 1: How much influence does the risk of being sued for defamation have on your work?

	Number of answers	%
Not influential	10	18,5
Little influential	8	14,8
Somewhat influential	10	18,5
Very influential	14	25,9
Extremely influential	10	18,5
No answer	2	3,7
Total	54	100

When their answers are matched with the positions they hold, we can conclude that as many as 16 assignment editors said that this possibility affects their work to certain extent.

### A.3 Is there sufficient legal protection of political pluralism in the media before and during election campaigns?

There are too many media outlets that inform a population of about 630,000 in Montenegro<sup>58</sup>. However, a large number of media outlets do not imply pluralism of media content and it is pointed out in numerous reports on Montenegro, which often express concern about “the lack of uniform and balanced media reporting”. For instance, the Media Sustainability Index 2016 report emphasises that “although the market is small, the number of media outlets in relation to the population is above the European average”<sup>59</sup>. The report further states that political and commercial motivations drive internal divisions within the media community and they become quite visible during elections and political confrontations, when the “media display their biases openly, supporting either the government or the opposition”. The US State Department report contains similar assessments.

“Some media outlets, such as Dan, Vijesti, and Monitor, demonstrated a willingness to criticise the government, but at times their coverage included personal attacks reflecting the business or political interests of their owners. The prominence of articles and television programmes critical of authorities suggested self-censorship was not a major problem. Combined with a lack of training, unethical journalistic behaviour, and low pay, such factors contributed at times to biased coverage.”<sup>60</sup>

Political pluralism in the media during election campaigns is regulated by law. Article 9 of the Law on Public Broadcasting Services of Montenegro stipulates that RTCG shall “produce and broadcast programmes, applying high standards of professional ethics and quality” and with no form of discrimination or social difference. During the election campaign, it shall provide “equal presentation of political parties, coalitions and individuals, according to special regulations”<sup>61</sup>. On the other hand, the Law on Election of Councillors and Members

56 “Pravosnažna presuda: TV Pink M povrijedio čast i ugled direktorice HRA” [Final judgment: TV Pink M violated honour and reputation of HRA executive director], CDM, May 17, 2016, accessed June 25, 2016: <http://www.cdm.me/drustvo/cma-gara/pravosnazna-presuda-tv-pink-m-povrijedio-cast-i-ugled-direktorice-hra>

57 Media Sustainability Index 2016: The Development of Sustainable Independent Media in Europe and Eurasia, (Washington, DC: IREX, 2016), p.100, accessed May 25, 2016: <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2016-full.pdf>

58 According to the data published on the Agency for Electronic Media web site, there are 56 radio stations and 19 TV broadcasters in Montenegro. In addition, there are five daily newspapers, one weekly magazine and one private news agency (MINA). By mid-July 2016, the Agency registered 10 news portals.

59 Media Sustainability Index 2016: The Development of Sustainable Independent Media in Europe and Eurasia, p.103

60 US Department of State, Montenegro 2014 Human Rights Report: Montenegro, June 2015, accessed May 19, 2016: <http://www.state.gov/documents/organization/236770.pdf>

61 “Zakon o javnim radio-difuznim servisima Crne Gore” [Law on Public Broadcasting Services of Montenegro], Article 9.

of Parliament<sup>62</sup> stipulates that the media shall “consistently apply the principle of equality of all first candidates on the electoral registers and candidates from these registers”<sup>63</sup>. The Law also stipulates that before each election the Parliament shall form a special committee to monitor the application of this law in the part referring to the media. That provision bothers the Agency for Electronic Media because after the Law was adopted, the Agency as a regulator has been denied yet another important competence: “That is an ad hoc body composed of MPs who may or may not be associated with the media and who have no capacity to carry the monitoring out. They consider objections to media outlets’ work and take positions and draw conclusions on the objections”<sup>64</sup>. During the election period, the Agency has no additional obligations and continues its regular monitoring.

There is a common view that political parties do not have equal access to the media either during the election periods or generally and that each media outlet has its favourites. Also, given that the ruling party is most powerful, its impact is the highest particularly through the Public Broadcasting Service. “I often hear that the PBS should follow the national interest, but that is not its role. There is a public interest that is not necessarily compatible with national interest. The state can be in a position to do something that is contrary to the public interest.”<sup>65</sup>

The media are also criticised for lack of creativity in covering political parties’ activities, as well as for being politicised “often beyond decency level”<sup>66</sup>. The media outlets are also dubbed “the megaphones of political parties”<sup>67</sup> and they are reproached for “covering the political agenda in a way created by someone else through various media and quasi media events. The media do not look for news topics themselves, but rather cover the ones they are tasked with by political parties”<sup>68</sup>.

#### **A.4 Are freedom to work and freedom of association guaranteed to journalists by the law?**

Montenegrin journalists do not need licenses or special permits to practice and for the time being, there is no initiative to introduce this obligation. Specifically, media companies determine the criteria for their journalists individually. There is a perception that “the absence of any journalistic licenses has resulted in a great loss of quality and professional standards”<sup>69</sup>. While advocates believe that licensing would protect the quality and reputation of journalism, others believe that they can be protected through trainings and professional development of journalists. Since the end of 2009, visa-free regime has been on in Montenegro so that both domestic and foreign journalists can enter and leave the country more easily.

However, although there are no barriers to “enter” the profession, according to the survey results Montenegrin journalists have often been refused to report from certain places or events on the ground of not having an accreditation issued by the authorities. As many as 43% of the interviewed journalists (23 of them) say they have been refused to report from certain places or events because they had no accreditation issued by the competent authority. On the other hand, 48% of them have not had such problems in their previous work.

*Table 2: Have you ever been refused to report from certain places or events on the ground of not having an accreditation issued by the authorities?*

	Number of answers	%
Yes	23	42,6
No	26	48,1
I don't know	2	3,7
No answer	3	5,6
Total	54	100

There are several media associations in the country, such as the Commercial Electronic Media Association of Montenegro, the Association of Local Public Services, the Union of Local Public Broadcasting Services of Montenegro, and the Association of Independent Electronic Media. In addition to them, there are several more media associations protecting journalists’ interests, such as the Association of Professional Journalists of Montenegro and Association of Journalists of Montenegro. However, these associations are almost

62 “Zakon o izboru odbornika i poslanika” [Law on Election of Councillors and Members of Parliament], Article 6.

63 *Ibid.*

64 Jadranka Vojvodić, interview by Marijana Camović, May 27, 2016

65 Mirko Bašković, interview by Marijana Camović, June 20, 2016

66 Aneta Spaić, interview by Marijana Camović, June 25, 2016

67 *Ibid.*

68 Dragoljub Duško Vuković, interview by Marijana Camović, June 22, 2016

69 *Media Sustainability Index 2016: The Development of Sustainable Independent Media in Europe and Eurasia*, p.101



inactive. To certain extent it is confirmed by the survey with journalists. According to the survey results, the most of journalists in Montenegro are not members of a media association. Nearly 80% of respondents have said that they are not members of any association. These data are consistent with the OSCE report presented in 2014<sup>70</sup>, which showed that over 80% of journalists did not belong to any professional association. According to the survey, the largest share of respondents did not want to state any reasons for not being members of any professional association. Out of the small share of those who did state the reasons, these include lack of conviction and interest<sup>71</sup>. In addition, journalist associations are often criticised of being politicised. In the last three years, no cases of pressure on associations or individual members have been recorded.

The situation is different when it comes to trade unions. Employees in the Montenegrin media have been organised in several unions. In addition to the Trade Union of Media of Montenegro (SMCG), there are several trade unions in the Public Broadcasting Service that are acting independently and one of them is operating within the Union of Informative, Graphics and Publishing Activity, which is the branch union of the Confederation of Trade Unions of Montenegro (SSCG). On the other hand, the Trade Union of Media of Montenegro is a branch union of the Union of Free Trade Unions of Montenegro (USSCG) and has about 300 members who are employed with the media. Zamjeniti sa: When it comes to the overall structure of SMCG members in relation to the media outlets they work for, the most of members are coming from TV Vijesti, than daily Vijesti, Radio Herceg Novi, RTV Budva and daily Pobjeda and smaller percentage from TV Pink M and daily Dnevne novine. For example, almost all employees in Radio Herceg Novi and weekly Monitor are members of SMCG. In addition, SMCG also includes several members who are employed with the PBS. One third of the total members are individual employees of the media which trade unions have not been set up in. The survey among journalists has shown that the largest share of respondents (56%) belong to a trade union, whereas a significant percentage of respondents (43%) have said that they are not union members. OSCE's report has shown that almost two thirds of respondents are not members of any union: "The journalists from print media are to greater extent union members compared to the electronic media, just like the employees in state-owned media are more often union members than the ones in the private media".<sup>72</sup>

Confrontations and bitter rivalries within the media community make trade union activities more difficult, as well as unions' efforts to protect journalists' rights and improve their position in the country. "There have been some developments in media trade union organising, but this has not yet led to stronger social and legal protection of journalists. The apparent disintegration of the professional media community has made journalism less and less of a respectable and influential profession."<sup>73</sup>

Journalists are free to become union members, but they are quite inactive. Also, there is no open pressure or a ban on journalist to become union members, but they are usually reluctant to take that step due to the fear of losing their jobs. Cases of pressure against the trade union leaders have been reported. Thus, SMCG president, who worked as a journalist for Vijesti newspaper, was dismissed in September 2014<sup>74</sup>. She was formally declared redundant, although union leaders cannot be dismissed simply on those grounds alone. She sued Vijesti newspaper and a year later, based on the final judgment, she was reinstated but not as a journalist – she was transferred to the position of a marketing and advertising assistant instead.

There was another incident in 2015 when an employer called the company's trade union representative "scum", after he had claimed for unpaid salaries on behalf of the employees. Shortly after that, the union representative quit his job.

A constant decrease in the number of employees is also typical for the media scene. Thus, according to the data of the public statistics agency Monstat which are published by SMCG, Montenegrin media employed 1,970 people in 2012, whereas in 2014 the figure fell to 1,382 and in 2015 to only 1,245 people. This represents a net reduction of 725 employees.

## **A.5 What is the level of legal protection of journalists' sources?**

The Law on Media stipulates that journalist and other persons who, in the course of gathering, editing or publicising programme contents, obtain information that could indicate the identity of the source, shall not

70 *Social Status of Journalists in Montenegro - Report*, (Podgorica: OSCE, 2014), p.44, accessed June 27, 2016: <http://www.osce.org/montenegro/135551?download=true>

71 *Ibid*

72 *Ibid*, p. 47

73 *Media Sustainability Index 2016: The Development of Sustainable Independent Media in Europe and Eurasia*, p.106

74 "Camović: Otkaz zbog sindikalnog djelovanja" [Camović: Fired because of my union activities], RTCG, September 9, 2014, accessed May 15, 2016: <http://www.rtcg.me/vijesti/drustvo/64829/camovic-otkaz-zbog-sindikalnog-djelovanja.html>

be obliged to disclose the source of information to the legislative, judiciary or executive authority or any other natural or legal person if he/she wants to remain unknown.<sup>75</sup> Experts point out that the legal provision on journalists' sources protection is good, "but not sufficiently precise for those who interpret these norms"<sup>76</sup>. However, it is considered that the full development of this principle is offered to all the Council of Europe member states, including Montenegro, through the implementation of the Recommendation No. R (2000) 7 of the Committee of Ministers on the right of journalists not to disclose their sources of information<sup>77</sup>. The Appendix to the Recommendation specifies the situations in which it can be considered that there is an overriding requirement in the public interest (more important than the protection of journalists' sources of information) and if circumstances are of a sufficiently vital and serious nature. According to experts, the case-law of the ECHR<sup>78</sup> notably contributes to that. Montenegrin Law on Media and the Law on Electronic Media stipulate that these legal texts are interpreted in accordance with the principles of the European Convention and the case-law of the European Court of Human Rights.

In Montenegro, there were cases of direct pressure and coercion against journalists to disclose their sources of information. Interviewed journalists have said they were asked to disclose their sources and some of them have said they were subjected to unlawful surveillance and monitoring, as well as that data from their e-mail correspondence were used. Journalist Veseljko Koprivica, who has been engaged in the media business for several decades, has said that he was asked on several occasions to disclose his source of information before the court. "I was asked to disclose my sources and the judge explained to me that it was in my favour, but I never did that. Even the Hague Tribunal asked me to testify and disclose my sources. I do not know if I suffered consequences because I said nothing and whether the sentences were more severe because of that."<sup>79</sup>

A few years ago, the editor in chief of Dan daily newspaper, Nikola Marković, was also asked to disclose his source of information during a hearing at the prosecutor's office related to "publishing classified informa-

tion on Telekom affair"<sup>80</sup>. According to him, he has never been explained whether that investigation was suspended. "I was asked then to reveal how I had obtained this information. I did not do that and I always advocate further encouraging journalists to protect their sources, except when it comes to a matter of national interest such as the fight against terrorism, etc."<sup>81</sup> Marković points out that the main issue related to the protection of journalists' sources is not how the matter is regulated by law, "but whether the government abuses the law, because everything can be declared national interest". He adds that he sees no reason why he was interrogated in this particular case and that he believes that it represented a case of abuse.

Table 3: How often do you seek access and maintain contacts with sources of information while reporting on matters of public interest?

	Number of answers	%
Rarely	1	1,9
Sometimes	11	20,4
Very often	22	40,7
Always	14	25,9
I don't know	2	3,7
No answer	4	7,4
Total	54	100

Based on the survey results, it could be said that journalists in Montenegro have full freedom to seek access and maintain contacts with sources of information when reporting on matters of public interest. As many as 67% of respondents said that they very often or even always, maintained contacts with sources of information. Slightly more than 22% of respondents sometimes or rarely maintain contacts with sources, primarily due to the nature of work they do (for example chief editors). Respondents believe that there has been no significant change when it comes to journalists' relying on confidential sources. A similar share of those questioned (ie 30%) believe either that frequency of journalists' contacts with confidential sources is somewhat higher or that it has not been changed. About 9% of respondents believe that interaction between journalists and confidential sources has significantly increased in the previous five-year period.

75 "Zakon o medijima" [Law on Media], Article 21

76 Aneta Spaić, interview by Marijana Camović, June 25, 2016

77 Recommendation No. R (2000) 7 of the Committee of Ministers (of the Council of Europe) to member states on the right of journalists not to disclose their sources of information, accessed May 25, 2016: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805e2fd2>

78 Aneta Spaić, interview by Marijana Camović, June 25, 2016

79 Veseljko Koprivica, interview by Marijana Camović, June 21, 2016

80 Krcić Esad, "Crna Gora: Ko je otkrio tajne podatke u aferi Telekom" [Montenegro: Who revealed classified data in Telekom affair], Radio Free Europe, August 17, 2012, accessed April 15, 2016: <http://www.slobodnaevropa.org/a/crna-gora-ko-je-otkrio-dizavnetajne-u-afere-telekom/24680226.html>

81 Nikola Marković, interview by Marijana Camović, June 23, 2016

## A.6 What is the level of protection of the right of access to information?

The Law on Free Access to Information, which entered into force in 2012, stipulates that the public authority shall grant the access to information or a part thereof to any physical or legal entity seeking the access to information that it holds, except in exceptional cases<sup>82</sup>. On the other hand, in most of the cases, the public authority shall respond to the request for access to information within 15 days after the request was submitted. In exceptional cases, the time limit may be extended for 8 days.

According to the data obtained by the Agency for Personal Data Protection and Free Access to Information, journalists do not use this possibility sufficiently to obtain information. The Agency's data show that during 2015, all authorities that are bound by the Law on Free Access to Information received only 35 requests from journalists. Out of them, 25 requests were approved, 6 rejected, 2 forwarded, one request was delivered in the form of information, whereas one request was dismissed as unfounded. According to this law, journalists are not privileged compared to other users in terms of ease of obtaining information. The Agency has stated that in the most of cases the media requests were rejected due to lack of information (3). It has also noted that during the last year, journalists filed five complaints after their requests for access to information had been rejected and four of them were adopted. The Agency has added that complaints were filed against the following authorities: the Ministry of Finance, the Ministry of Agriculture and Rural Development, the Ministry of Interior, the Municipality of Budva, the Secretariat for Economy and Finance and the Basic Court in Bar.

As stated in the IREX report, the implementation of the Law on Free Access to Information is "uneven and selective, depending on timing, political will, and institutional preparedness of national and local administrations"<sup>83</sup>. This information is partially confirmed by the survey among journalists. In fact, it has shown that even 37% of the interviewed journalists required access to information of public interest, but were refused, whereas 31.5% of respondents received the required information. Even 22% of respondents have never requested access to information of public importance.

Table 4: Have you ever been refused by public authorities to get access to public information necessary for your reporting?

	Number of answers	%
I have never required	12	22,2
I have never been refused	17	31,5
I have been refused	20	37
I don't know	2	3,7
No answer	3	5,6
Total	54	100

The interviewed journalists and editors unanimously agree that information from the institutions does not reach all media evenly and that there is the issue of "friendly media".

*"There are no naive people any longer either in the media or within the authorities. Now they have other ways to delay, hinder our work and be inaccessible. I'm not sure if anyone ever said 'you will never get this information', but they will find a way to make sure you don't get it. We are far from the level at which the institutions would think proactively and pre-release information. Favouring certain media has always existed but I don't think that has been a matter of certain state body's policy, but rather of an already built relation between editors or journalists with certain state representatives."*<sup>84</sup>

The interviewed journalists and editors generally assess that the major institutions in Montenegro are partially transparent. A large share of respondents assess that the Parliament of Montenegro demonstrates complete or a great deal of transparency (46.5%) in its work, whereas 26% of them consider that the institution is partially transparent. Slightly less than 3% of respondents have said that the Parliament shows little transparency.

Parliament sessions are public and there are live broadcasts of them on RTCG, as well as through the Public Broadcasting Service's website. The journalists are allowed to report directly from the parliamentary sessions sitting in a separate booth. Also, meetings of the parliamentary committees, except for the Security Committee, are open to the media. However, for the first time in the history of Montenegrin parliamentarism, journalists were forbidden to report from the Parliament session on 30 May 2016. This occurred after the dismissal of the Parliament Speaker. The prohibition was in force for one day.<sup>85</sup>

<sup>82</sup> "Zakon o slobodnom pristupu informacijama" [Law on Free Access to Information], Article 13

<sup>83</sup> Media Sustainability Index 2016: The Development of Sustainable Independent Media in Europe and Eurasia, p.100

<sup>84</sup> Nataša Baranin, interview by Marijana Camović, June 27, 2016

<sup>85</sup> Murić Darwin, "Cenzura za medije i poslanike opozicije" [Censure for the media and opposition MPs], Vijesti, June 1, 2016, accessed June 1, 2016: <http://www.vijesti.me/vijesti/cenzura-za-medije-i-poslanike-opozicije-890317>

Table 5: How much transparency is demonstrated by the following institutions?

	The Parliament of Montenegro		The Government of Montenegro		Political parties		Politicians in general		The judiciary/ the courts		The police		The military	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Complete transparency	8	14,8	2	3,7	3	5,6	3	5,6	3	5,6	2	3,7	2	3,7
A great deal of transparency	17	31,5	5	9,3	8	14,8	9	16,7	5	9,3	4	7,4	2	3,7
Some transparency	14	25,9	27	50	24	44,4	20	37	16	29,6	18	33,3	12	22,2
Little transparency	2	3,7	5	9,3	7	13	6	11,1	12	22,2	12	22,2	9	16,7
No transparency at all			4	7,4	3	5,6	6	11,1	7	13	6	11,1	7	13
I don't know	5	9,3	4	7,4	2	3,7	2	3,7	4	7,4	4	7,4	13	24,1
No answer	8	14,8	7	13	7	13	8	14,8	7	13	8	14,8	9	16,7
TOTAL	54	100	54	100	54	100	54	100	54	100	54	100	54	100

The journalists perceive the government and its ministries differently – a half of the respondents have said that the government shows some transparency. Slightly more than 16% of the respondents believe that the government demonstrates little transparency or no transparency at all. Only 9% of respondents have answered that the government shows a great deal of transparency. Although some media outlets complained about lack of transparency of certain ministries when they openly refused to answer their questions<sup>86</sup>, such cases have been rarer since the Government of Electoral Trust was formed in May 2016. Opposition ministers participate in the new government and the opposition has its representatives in some of the major institutions, so a better balance in terms of openness to the media and more equal access to information has been achieved.

Most journalists see political parties as partially transparent (44%). However, about 15% of respondents note that they demonstrate a great deal of transparency. When it comes to politicians in general, 11% of respondents believe that politicians are deficiently transparent or not transparent at all, whereas 37% of them think that they are partially transparent. The situation is similar when transparency score of Police is concerned: 33% of respondents consider Police to demonstrate some transparency and 33% of them believe they show little or no transparency at all.

<sup>86</sup> Radulović Slavko, "Ko je pušio o trošku države?" [Who was smoking at public expense?], *Vijesti*, June 23, 2016, accessed June 26, 2016: <http://www.vijesti.me/vijesti/ko-je-pusio-o-trosku-drzave-893560>

The courts and the military are perceived as the least transparent institutions by 13% of the journalists. However, a higher percentage of respondents (30%) believe that judiciary demonstrates some transparency, whereas 22% of them say that for the Armed Forces. Slightly more than 9% of the interviewed journalists and editors consider that the courts show a great deal of transparency. It is interesting that as many as 24% of the interviewed journalists cannot assess the transparency degree in the work of the Armed Forces, because, generally, they have not researched the topics related to that institution.

Journalists and the public in general are allowed to attend trials, but they can only write down what is happening there. They are not allowed to make any audio or video recordings. In addition, courtrooms are small and inadequate and there are barely enough room for plaintiffs and defendants, so that journalists are forced to fend for themselves. However, the interviewed journalists do not perceive this as an issue. However, Tea Gorjanc Prelevic says that everyone is endangered if sufficient room is not provided and that transparency of judicial process is compromised<sup>87</sup>. She adds that in some countries, for instance in Croatia, recording during the first five minutes of trials is allowed, whereas there is no such practice in Montenegro. Montenegrin courts largely publish final judgments on their websites. As a rule, they are anonymised, but available.

“The court proceedings which are marked as secret represent a bigger issue. How justified is that? It is brutally bad for the media community and society in general when classified information from certain investigations leak. Thus, the media equality on the market is violated and the media outlets that publish such information received it from one source. Therefore, the information cannot be fully verified.”<sup>88</sup>

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<sup>87</sup> Tea Gorjanc Prelević, interview by Marijana Camović, July 1, 2016

<sup>88</sup> Draško Đuranović, interview by Marijana Camović, July 1, 2016



# B

## Journalists' position in the newsrooms, professional ethics and censorship level

There is no data on the total number of journalists in Montenegro, but certain researches show that there are about 800 of them and that they mostly work for the Public Broadcasting Service. The average salary is below the national average. Number of media employees is constantly decreasing due to frequent layoffs in the media, but a lot of them, particularly journalists, also leave the profession and usually find new jobs in the PR sector. Most of the interviewed journalists, ie 83%, consider that their economic position has been weakened, whereas a quarter of them say that the average working hours has increased. Journalists do not have chance to improve themselves in one area and they are overloaded. A quarter of the interviewed journalists believe that journalism credibility is greatly reduced. The issues concerning companies that are the biggest advertisers may not be treated critically. The PBS editorial board is not able to cope with pressures. However, a new editorial team is making some steps forward. Journalists believe that censorship and self-censorship are commonplace in the media and that they represent two main factors restricting media freedom. Editors have the most influence on journalists.

## B.1 Is economic position of journalists abused to restrict their freedom?

Few details are known about the social position of journalists and their problems in the workplace. There are no official statistics on the number of journalists in Montenegro, but the OSCE, based on data obtained in the survey<sup>89</sup>, found that the total of 809 journalists work for the 57 media outlets. The survey has shown that ¾ of journalists in Montenegro have permanent work contracts, the largest share of whom are employed with the Public Broadcasting Service. Number of media employees is constantly decreasing due to frequent layoffs in the media, but a lot of them, particularly journalists, also leave the profession and usually find new jobs in the PR sector.

In recent years, several surveys on salaries in the media have been conducted and all of them confirm that the employees in this sector earn salaries that are substantially below the national average. The 2014 OSCE survey has shown that the overall average journalist's salary in Montenegro was €470 net (then it was €10 lower than the average at the state level) and that there was a minimum difference between the private-owned and the public media, whereas the salaries in the printed media somewhat exceeded the ones in the electronic media<sup>90</sup>. The survey states that the largest share of journalists in media had a fixed monthly salary and only somewhat over a half of the respondents had regular monthly salaries, while in other cases there were longer or shorter delays in payments.<sup>91</sup> The survey also shows that the employers owed salaries to journalists and that one in five journalists in Montenegro had seen a salary reduction over the previous year.

The most drastic examples were identified in local public radio broadcasters (some of them are still true), which are funded by the local governments. Thus, until November 2015 the employees of Cetinje Radio were being owed 52 salaries. Then the arrears were repaid, but half of the total 20 employees lost their jobs. Employees of Ulcinj Radio have been owed 12 salaries and during 2015 they got only six monthly salaries. The situation is similar in Berane Radio – they have been owed 12 salaries. The situation in private media is also similar. Thus, Atlas RTV owes five salaries to its employees. In protest, they quit broadcasting programme at the end of September 2016. Pink M TV owed two salaries for a long time, whereas Vijesti TV has recently paid one owed salary. These three media outlets, including Vijesti newspaper, owe taxes on several grounds and

the total amount of these debts is €1.52m. This is the official information that the minister of finance announced in mid-June 2016<sup>92</sup>. Most of the debt relates to payroll taxes and contributions. The owners of Vijesti TV and newspaper said that they would not pay taxes on earnings (health and pension insurance) until “all media are placed in the same position”<sup>93</sup>.

The survey with journalists has confirmed these findings. The results show that out of the total of 54 journalists and editors interviewed, 13 of them (24%) earn between €400 and €500, which means that their earnings are either at the national average level or below it. A somewhat smaller number of them (20%) earn between €500 and €600, whereas almost 15% of the respondents earn €300–€400.

Table 6: In which of the following categories does your monthly salary fall, after taxes?

	Number of answers	%
0-200	1	1,9
201-300	3	5,6
301-400	8	14,8
401-500	13	24,1
501-600	11	20,4
601-700	3	5,6
701-800	4	7,4
801-900	3	5,6
901-1000	2	3,7
>1000	1	1,9
No answer	5	9,3
Total	54	100

In addition to low salaries and late payments, payroll taxes and contributions also represent a big issue. The OSCE survey has shown that the full set of payroll taxes and contributions is paid to salaries of 70% of the respondents, whereas as many as 19% of respondents are unaware what is the total registered amount of their salaries. This means that at least 30% of journalists receive part of their salaries as “cash in hand” payments, ie in the gray economy zone. That is the amount for which they are deprived of payroll taxes and contributions and it is

92 Mirjačić Marija, “Televizije Vijesti, Pink i Atlas i ND Vijesti ukupno duguju državi 1,52 miliona eura” [Vijesti, Pink and Atlas TVs and Vijesti independent newspaper owe a total of €1.52m to the state], Vijesti, June 20, 2016, accessed June 25, 2016: <http://www.vijesti.me/vijesti/televizije-vijesti-pink-i-atlas-i-nd-vijesti-ukupno-duguju-drzavi-152-miliona-eura-893076>

93 “Vijesti su platile državi 14,5 miliona, koliko su ostali?” [Vijesti paid €14.5m to the state and how much the others did?], Vijesti, June 20, 2016, accessed June 25, 2016: <http://www.vijesti.me/vijesti/vijesti-su-platile-drzavi-145-miliona-koliko-su-ostali-893100>

89 Social Status of Journalists in Montenegro - Report, p.4

90 Ibid, p.10

91 Ibid, p.17



one of the ways in which employers avoid paying taxes at the expense of the state budget and employees.

While the journalist's salaries are below the national average, the position of an editor is perceived as "safe", bearing in mind their salaries. The 2016 research of the Montenegro Media Institute<sup>94</sup> shows that most of the interviewed editors have permanent work contracts and predominantly twice higher salaries than the journalists they work with. According to the survey, their contracts do not provide any additional benefits to them: "Nine out of 15 editors have said that their monthly salaries range from €1,000 to €3,000. All of them, with the exception of two, whose salaries are negotiable, have fixed incomes. Four of them receive less than €1,000 per month."<sup>95</sup>

The OSCE survey also shows the extent of overtime in the media. It turned out that 6.7% of respondents work 9 hours a day, as many as 18% of them work 10 hours on a daily basis, whereas 4% of them work whopping 12 hours a day. The long hours are the most characteristic for the print and the private media.

Most of the interviewed journalists (83%) agree that the economic position of journalists has decreased a lot or to a certain degree in the past five years. Nine percent of respondents claim that the economic position of journalists has not changed in the last five years. Only two of the respondents believe that the economic situation of journalists has been somewhat or a lot improved in the previous period. The fact that 18.5% of respondents (10 of them) engage in other paid activities in addition to journalism speaks volumes about the economic position of journalists.

*Table 7: Do you think there has been an increase or a decrease in the economic position of the journalists in Montenegro?*

	Number of answers	%
Decreased a lot	29	61,7
Somewhat decreased	10	21,3
Did not change	5	10,6
Somewhat increased	1	2,1
Increased a lot	1	2,1
No answer	1	2,1
Total	47	100

94 Vranković Daniela, *The editors' role in media integrity protection in Montenegro - Divided to the detriment of the profession*, (Ljubljana: South East European Media observatory, 2016), p.11, accessed June 15, 2016: <http://mediaobservatory.net/sites/default/files/Divided%20to%20the%20Detriment%20of%20the%20Profession.pdf>  
 95 *Ibid.*

Respondents estimate that their working hours are the same as they were five years ago (33%). However, even a quarter of them believe that in the previous five-year period there has been a large increase in the average working hours of journalists, whereas 22% of them think that it has been somewhat increased. Only 5.5% of respondents believe that working hours have been somewhat reduced. The seriousness of the situation is also showed in the OSCE report which states that almost one in four respondents work overtime, which is much more prevalent in the print and private media, and that almost one in two respondents has never received overtime pay. There is a particular discrepancy between the private and the state-owned media. "There are two times more journalists in the private media who do not receive overtime pay than in the state-owned media."<sup>96</sup> Their status is also presented by the fact that one in ten journalists do not take the annual leave and that, although they work as normal during the holidays, in only 1/3 of the cases journalists are fully compensated for, while in almost 30% of the cases this work is never paid.

When it comes to journalists' professional status in the newsrooms, the survey conducted for this project has shown that even 67% of respondents do not work on a specific beat, but they cover various topics and subjects. This fact shows that journalists do not have chance to improve themselves in one area, but also that they are overloaded and that employers have excessive expectations to cover more unrelated topics with the same level of knowledge. It often happens that in addition to the journalistic part of the job, journalists have to do technical work in the newsrooms (editing, designing page layout, shooting and photo editing, etc) which has been caused by the drastic cuts in employee number. The consequences of those cuts are borne by the remaining employees who do extra work, thus increasing working hours, but not raising their earnings.

*Table 8: Do you usually work on or supervise a specific beat or subject area, or do you usually work on or supervise various types of stories?*

	Number of answers	%
Work on a specific beat	17	31,5
Work on various topic and subjects	36	66,7
No answer	1	1,9
Total	54	100

Assessing their position in society, a quarter of the interviewed journalists and editors point out that journalism credibility decreased a lot. On the other hand, as

96 *Social Status of Journalists in Montenegro - Report*, p.26

many as 28% of respondents say that journalism has increased in importance in the society. Specifically, 22% of respondents believe that the credibility has been somewhat reduced and the same percentage of them say it has not changed. Also 18.5% of respondents believe that the same happened with the importance of journalism in society.

Bearing in mind the division of the media scene and the working conditions in the media, the Ombudsman believes that the situation in the private media is really worrisome, whereas the state-owned media are somewhat compensated for lack of money from the state budget. "... Every employer in the private media takes into account the economic feasibility. Thus, there is the full or higher than full employment in those media, as well as full journalists' engagement and low salaries."<sup>97</sup>

The Ombudsman believes that data on layoffs and leaving journalism are worrisome and that working conditions should be improved. He adds that the status of all media workers should be regulated, because the unenviable economic situation may adversely affect their professionalism and independence.

## **B.2 What is the level of editorial independence from media owners and managing bodies?**

According to unofficial reports by the journalists, Montenegrin media in general have no internal regulations on the work, so newsrooms are not formally separated from the marketing departments. Some journalists have said that they were told not to negatively report about the companies that are the largest advertisers in their media outlet and that employers prefer to accept negative articles about politicians than those about the powerful businessmen or their companies. For example, a newspaper editor states: "There are forbidden topics. They are not necessarily forbidden because they bother the authorities but also the specific structures associated with media owners."<sup>98</sup>

Journalists believe that the large number of outlets and the fact that little money is being allocated for marketing make the media fight for survival and neglect their credibility<sup>99</sup>. It is emphasised that journalist seem not to be sufficiently aware that the media owners are not allowed to interfere with journalists' work, regardless of

their interest: "Journalists have not learned it yet and they should have acquired that lesson a long time ago – media owners must not interfere with journalists' job."<sup>100</sup>

Private media have no special ethical rules they follow, but they rather formally rely on the journalists' Code of Ethics. Major media have their internal ombudsmen or they are part of the Media Self-Regulatory Body and they deal with monitoring compliance with ethical standards and receive complaints from readers and viewers. None of them address the issue of newsroom independence from advertisers and the managing bodies.

Direct pressures have not been reported but journalists point out that every newsroom is aware which topics should not be covered and that self-censorship is significantly pronounced in this sense.

## **B.3 What is the level of editorial and journalistic independence in the PBS?**

Unlike employment contracts in the private media, the contracts of employees in the Public Broadcasting Service contain the ethics code provisions. The PBS has its own RTCG Code of Ethics which stipulates the rules of conduct for the Council members, RTCG director and its employees, as well as ethical principles of advertising. However, the code does not contain provisions on the independence of journalists and editors. It is mentioned only in the Statute.

RTCG Statute<sup>101</sup> stipulates that journalists and programme editors shall have the independence and autonomy of work... and that it is forbidden to dismiss them... or deteriorate their position in any other way because of the expressed opinion that is in compliance with the programme conception and journalist code. The Statute does not explicitly state that journalists are separated and independent of the marketing sector or advertisers' influence. Formally, journalists and editors are independent, but there is a prevailing opinion that it is not true and that they are influenced by the director general and political structures.

The European Commission's 2015 Report on Montenegro draws attention to the PBS independence: "Montenegro needs to prioritise the editorial independence of RTCG, since a well-functioning and truly inde-

97 Šučko Baković, interview by Marijana Camović, June 13, 2016

98 Draško Đuranović, interview by Marijana Camović, July 1, 2016

99 Mirko Bošković, interview by Marijana Camović, June 20, 2016

100 Ibid.

101 RTCG Council, *The Statute of the Public Enterprise Radio and Television of Montenegro*, (Podgorica: Radio and Television of Montenegro, 2012), Article 40.

pendent public service media represents a key aspect of media pluralism.”<sup>102</sup>

According to the general perception, the PBS editorial board is not able to cope with the pressures, but journalists emphasise that the new editorial team is making some positive steps forward. “Public Broadcasting Service poorly manages to resist the pressures. The BPS history is the history of the pressures against the PBS... sometimes more, sometimes less. Most of the pressures came from those who give them money and it refers to the government.”<sup>103</sup>

RTCG employees point out that they have no way to protect themselves against problems, because among other things, the Council’s competences are not clear to them. “Managers should not influence the journalists’ work, but it happens. They may suggest things, like any other citizens, but must not use their position and authority to influence journalists’ work in the way they want.”<sup>104</sup>

A PBS journalist claims that he faced obstruction by the management and was forbidden to work. Therefore he invoked the Statute provisions which guarantee the independence and addressed the Council but did not receive adequate protection. His salary was reduced on several occasions and he was prevented from working in the news programmes.

“Then, the director general told me I had no right to work in the PBS as an independent journalist and if I wanted to do so, then I should open my own media outlet. I asked for a mechanism to protect myself by using the Statute and they failed to find a way to solve the problem through the institution. They told me that we should reconcile.”<sup>105</sup>

There have also been cases of mobbing and isolation of the PBS employees, which is why court proceedings of establishing the existence of abuse in the workplace are being conducted<sup>106</sup>.

The Ombudsman notes that it is not good that the PBS work provokes so much attention in terms of questioning its objectivity, independence and impartiality, which should be unquestionable principles in its work. He believes that it is necessary to work on reducing the polarisation of the media scene (as a pronounced and long-standing problem), to strengthen self-regulation

and compliance with professional and ethical standards and to make an effort to truly implement the adopted amendments to the Code<sup>107</sup>.

#### **B.4 What is the level of editorial and journalistic independence in the non-profit media?**

Non-profit media in Montenegro have not been developed or influential primarily because there is no way for them to be sustainable. The first electronic newspaper PCNEN was “launched” in 2000 and it has been registered as a non-profit. The Agency for Electronic Media has registered two radio stations in the same category (Fatih Radio and Homer Radio).

Fatih Radio is owned by the Islamic Community in Montenegro and it has been broadcasting two month experimental programme twice. It is expected to start regular broadcasting by autumn 2016. The topics this radio is to deal with will be related to faith, but it has been announced that other segments of social life will be treated as well. The programme is primarily intended for the Islamic Community and 10 people have been trained to work in the radio.<sup>108</sup>

Homer Radio is intended for people with visual impairments and programme has been broadcasted since January 2015<sup>109</sup> in two municipalities (Podgorica and Danilovgrad). They employ four persons with impaired vision whose earnings are funded from the project budget and about 10 persons within vocational training project whose salaries are funded by the Government. The radio broadcasts short news hourly and most of their programme content consists of reading radio dramas and novels, foreign language courses, documentary and educational programmes which people with visual impairments do not have access to. The radio is exempted from paying radio licence fee.

102 European Commission, *Montenegro 2015 Report*, p.20

103 Draško Đuranović, interview by Marijana Camović, July 1, 2016

104 Mirko Bošković, interview by Marijana Camović, June 20, 2016

105 Ibid.

106 Data obtained by the Trade Union of Media of Montenegro

107 Ombudsman, “Izveštaj o radu za 2015” [2015 Annual Report], (Podgorica: Ombudsman, 2016), p. 73

108 „Počinje islamski radio Faith” [Islamic Faith Radio to start broadcasting], RTCG, September 16, 2015, accessed 20 July 2016: <http://www.rtcg.me/vijesti/drustvo/103781/pocinje-islamski-radio-fatih.html>

109 “Radio namijenjen osobama sa oštećenim vidom dobilo frekvenciju” [Radio intended for people with visual impairments granted the frequency authorisation], *Vijesti*, February 25, 2015, accessed 20 July 2016: <http://www.vijesti.me/tv/radio-namijenjen-osobama-sa-ostecenim-vidom-dobilo-frekvenciju-820913>

## **B.5 How much freedom do journalists have in the news production process?**

According to journalists' perception, censorship and self-censorship are very pronounced in Montenegro and these are the two main factors restricting media freedom. It seems that the subtle censorship, which is imposed through journalists' economic and social dependence on media owners, is more common than direct and open censorship.

*"If journalists work in a situation in which they can easily be dismissed because the media outlet owner wants to reduce production costs and they are not able to find new job, then they will take into account how far they can go. They will rather turn a blind eye to something than rush to work contrary to the owner's interest or the interest of a political group the owner supports. Self-censorship can be caused by economic and social reasons. You can be a brave man, eager to be a journalist and serve the public interest, but we are all vulnerable when it comes to earning money and supporting family. Then there is no heroism or it becomes restricted."<sup>110</sup>*

Within the survey, the journalists have been asked about the impact of various factors on their work. For the purpose of this indicator, it is important to single out the responses implying the degree of journalist's freedom, ie their view on censorship impact and, in particular, influences coming from individuals inside and outside the newsroom. It is interesting that journalists' opinions on censorship are generally quite divided: more than half of respondents (54%) believe that censorship affects their work to some extent. However 46.3% of respondents say that there is no censorship or that it hardly affects their work.

Yet, it seems paradoxical that when journalists are straightforwardly asked whether they are free to select news stories or to emphasise certain aspects of a story, the most common answer is that they are allowed to freely decide. Even 70% of them claim to have some or a great deal of freedom on these issues, while 22% have complete freedom. On the other hand, 7.5% of respondents believe that there is little or no freedom at all in selecting news stories they will work on. A third of respondents (30%) point out that they are absolutely free to decide which aspects of their stories should be emphasised, whereas 63% of them believe to have a great deal or some freedom in these matters. In contrast, 7%

of respondents believe that they have little or no freedom in deciding which aspects of the story should be emphasised.

However, questions about the influence of individuals confirm the thesis about the influence hierarchy, ie that those individuals who are closer to the journalists in their daily work have the greatest impact on their reporting. According to the responses received, editorial supervisors and higher editors have the most influence on journalists: as many as 83% of journalists have pointed out that editors are extremely (14.8%), very (24.1%) or somewhat (44.1%) influential on their work, whereas only 13% of journalist feel that editors have little or no influence. The managers of news organisations are at the second position on the scale of influence: 63% of interviewed journalists have stated that managers of media extremely (13%), very (14.8%) or somewhat (35.2%) influence their work, whereas nearly 33.3% of them have pointed out that managers have little or no influence. The influence of the owners of news organisations is somewhat weaker: 55.6% of respondents have said that the owners extremely, very or somewhat influence their work, whereas 35.2% of them have noted that the owners have little or no influence on their work.

On the other hand, influential individuals outside the newsroom generally have a lower impact on the daily work of journalists, ie it can be said that they influence journalists' work indirectly through the owners, managers and editors. For example, the journalists' responses show that government officials have 27.9% of overall impact, politicians in general 20.5% and businessmen 18.50%.

When asked how often they participate in editorial and newsroom coordination, such as attending editorial meetings or assigning reporters, a large share of respondents (63%) have said that they always or often attend these meetings. On the other hand, even 11% of respondents sometimes attend those meetings. The same percentage of them almost never attend those meetings.

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<sup>110</sup> Dragoljub Duško Vuković, interview by Marijana Camović, June 22, 2016

Table 9: How much influence does each of the following have on your work?

	Extremely influential	Very influential	Somewhat influential	Little influential	Not influential	Not relevant to respondent's work	I don't know	No answer
Your personal values and beliefs	31,5%	44,4%	11,1%	7,4%	5,6%	0,0%	0,0%	0,0%
Your peers on the staff	1,9%	22,2%	44,4%	20,4%	11,1%	0,0%	0,0%	0,0%
Your editorial supervisors and higher editors	14,8%	24,1%	44,4%	9,3%	3,7%	3,7%	0,0%	0,0%
Managers The managers of your news organisation	13,0%	14,8%	35,2%	14,8%	18,5%	1,9%	0,0%	1,9%
The owners of your news organisation	14,8%	13,0%	27,8%	14,8%	20,4%	3,7%	1,9%	3,7%
Editorial policy	22,2%	29,6%	33,3%	11,1%	1,9%	0,0%	0,0%	1,9%
Advertising considerations	5,6%	7,4%	20,4%	16,7%	46,3%	0,0%	1,9%	1,9%
Profit expectations	5,6%	1,9%	5,6%	11,1%	70,4%	3,7%	0,0%	1,9%
Audience research and data	7,4%	24,1%	31,5%	9,3%	22,2%	0,0%	1,9%	3,7%
Availability of news-gathering resources	24,1%	33,3%	31,5%	3,7%	3,7%	1,9%	0,0%	1,9%
Time limits	14,8%	37,0%	33,7%	7,4%	5,6%	0,0%	0,0%	1,9%
Journalism ethics	64,8%	29,6%	3,7%	0,0%		0,0%	0,0%	1,9%
Religious considerations	1,9%	3,7%	11,1%	7,4%	66,7%	5,6%	0,0%	3,7%
Defamation Law	18,5%	25,9%	18,5%	14,8%	18,5%	0,0%	0,0%	3,7%

Table 10: How influential each of the following is in your work?

	Extremely influential	Very influential	Somewhat influential	Little influential	Not influential	Not relevant to respondent's work	I don't know	No answer
Your friends, acquaintances and family	1,9%	7,4%	31,5%	22,2%	37,0%	0,0%	0,0%	0,0%
Colleagues in other media	1,9%	0,0%	33,3%	29,6%	35,2%	0,0%	0,0%	0,0%
Feedback from the audience	22,2%	14,8%	44,4%	5,6%	13,0%	0,0%	0,0%	0,0%
Competing news organisations	5,6%	11,1%	31,5%	18,5%	33,3%	0,0%	0,0%	0,0%
Media laws and regulation	33,3%	27,8%	20,4%	9,3%	7,4%	0,0%	0,0%	1,9%
Information access	33,3%	40,7%	18,5%	1,9%	1,9%	0,0%	1,9%	1,9%
Censorship	16,7%	13,0%	24,1%	13,0%	33,3%	0,0%	0,0%	0,0%
Government officials	1,9%	5,6%	20,4%	14,8%	53,7%	0,0%	1,9%	1,9%
Politicians	1,9%	1,9%	16,7%	18,5%	57,4%	0,0%	1,9%	1,9%
Pressure groups	3,7%	1,9%	7,4%	9,3%	75,9%	0,0%	1,9%	0,0%
Business people	3,7%	3,7%	11,1%	11,1%	68,5%	0,0%	1,9%	0,0%
Public relations	5,6%	7,4%	27,8%	14,8%	44,4%	0,0%	0,0%	0,0%
Relationships with news sources	13,0%	9,3%	31,5%	29,6%	16,7%	0,0%	0,0%	0,0%
The military, police and state security	1,9%	0,0%	9,3%	14,8%	72,2%	0,0%	0,0%	1,9%



Although journalists are exposed to pressures in everyday life, they are neither protected in a special way, nor do competent institutions recognise this need. From 2013 until July 2016, the Police Directorate of Montenegro registered 41 cases related to threats/endangering media employees. The cases include attacks on editors, journalists, freelance journalists, photographers, cameramen, as well as attacks on property. Employees of the private print media have the highest chances to be attacked. Due to public pressure, government officials regularly react and condemn the attacks on journalists or media, but there is doubt about sincerity of the condemnation because nothing has changed. In addition to standard procedures taken by the Police Directorate and the prosecutor's offices when an attack occurs, there is no special monitoring of the attacks on journalists planned. The case of eavesdropping on journalists' communication was recorded in 2013. The problem of impunity for attacks on journalists is obvious. There is an idea to amend the Criminal Code in order to further protect journalists. The State has not adequately responded to the attacks on journalists and media.

## C.1 Safety and impunity statistics

From 2013 until July 2016, the Police Directorate of Montenegro registered 41 cases related to threats/endangering media employees. The cases include attacks on editors, journalists, freelance journalists, photographers, cameramen, as well as attacks on property.

According to the information police submitted to the Trade Union of Media of Montenegro<sup>111</sup>, a total of 15 such cases were reported in 2013. Two of them were classified as “causing general danger”, ie planting an explosive device against the property of Vijesti journalist Tufik Softić and in front of Vijesti headquarters. In the same year, the crime of “endangering safety” was also reported in the form of threats to Blic newspaper journalists Dragoslav Perović, as well as “aggravated theft in an attempt” to the detriment of journalist Darko Ivanović. Misdemeanour charges were also filed for insulting and insolent treatment against journalist of Monitor weekly magazine, Marko Milačić. Destroying or damaging property belonging to another was also reported, which was related to the Montena TV headquarters.

In six of the total number of cases the competent prosecutors have not classified the incidents, whereas in three cases it was determined that there were no elements of the offense.

Table 11: Police Directorate’s statistics

types of cases	2013	2014	2015
Threats / Endangering safety	1	2	4
Physical attacks on journalists or media	0	1	1
Planting an explosive device	2	0	0
Aggravated theft	1	0	2
Destruction or theft of property belonging to another	1	0	3
Insulting and insolent treatment	1	0	0
Disclosing personal and family circumstances	0	0	1
Coercion	0	1	0
Misdemeanour charges	0	3	1
Incident has not been classified	6	2	3
No elements of the offense	3	1	0
	15	10	15

There were ten cases reported in 2014, ie the number decreased by five. Among them, the most drastic one

was physical assault, ie violent behaviour against Dan newspaper journalist, Lidija Nikčević.

There were also two cases of endangering safety and threats to Vijesti newspaper journalists, Olivera Lakić and Vladimir Otašević, as well as to Vijesti TV journalist Darko Bulatović. The offense of coercive behaviour against Marko Milačić, Monitor employee, was also reported.

Two years ago, there were also three misdemeanour charges under the Law on Public Peace and Order. In one of the reported cases the competent prosecutor declared that there were no elements of a criminal offense, whereas in two others the incidents have not been classified yet.

According to police statistics, 2015 was not much easier for journalists, because a total of 15 threats and attacks were reported. Specifically, during the protests organised by a part of the opposition in Podgorica in October 2015, there was one case of stoning registered – Pink M TV headquarters was stoned – and the offence was classified as causing general danger.

There were four offenses of endangering safety. Safety of Vijesti newspaper journalists was the most threatened – Siniša Luković received direct threats, editor Mihailo Jovović received threats via Facebook social network, whereas Vuk Lajović and Jelena Jovanović received phone threats. In addition to them, Marijana Bojanić, the director of Vijesti TV, was the victim of threats via Facebook. Three offenses of destruction or theft of property belonging to another were registered against Zorica Bulatović (Dnevne Novine daily), Milovan Novović (Dan daily) and Dobriša Malidžan (Pobjeda daily). In addition to them, Dnevne Novine journalist Alma Ljuca was victim of aggravated theft, as well as Slavica Jovanović, co-owner of Dan daily newspaper. There was one case classified as “disclosing personal and family circumstances” to the detriment of Vera Ratković from Dan daily newspaper.

There was also a misdemeanour charge under the Law on Public Peace and Order to the detriment of Novak Uskoković, editor in chief of the Montenegrin edition of Informer daily newspaper.

Three cases have not been classified by the competent prosecutor yet.

During 2016, one case has been reported and it has been “submitted to the competent prosecutor to be assessed”. Since 2004, there has been one case of criminal offense “aggravated murder”, when Duško Jovanović, editor in chief of Dan newspaper, was killed. The response of the Police Directorate states:

<sup>111</sup> Police Directorate, e-mail message to the Trade Union of Media, July 7, 2016



“In cases of attacks and threats of violence against journalists, officers of the Ministry of Internal Affairs of Montenegro – Police Directorate undertook measures and actions to prevent and solve crimes, identify the perpetrators and their masterminds and prosecute them, in accordance with their competences. In each case, police officers acted in cooperation with and at the behest of the prosecutor’s office. They undertook and continue to take measures and actions to solve all the cases.”<sup>112</sup>

Police broke up opposition protests in October 2015 and during the operation officers fired tear gas at a group of about 30 journalists who wore fluorescent vests with the ‘press’ emblem on them, clearly showing that they were reporters. A day before, the Ministry of Interior provided the vests to them, precisely to distinguish them from the protesters. Acting upon the complaint of the Trade Union of Media of Montenegro, the Council for Civil Control of Police adopted the conclusion concerning the police conduct and stated that “in spite of the difficult circumstances in which the police acted, the Council notes that the use of chemical agents was insufficiently careful and the indiscriminate in this case”<sup>113</sup>. The Council recommended that the Police Directorate apologise to the journalists, but the apology never happened.

## **C.2 Do the state institutions and political actors undertake responsibility for protection of journalists?**

In late June 2016, government re-established the commission for monitoring the activities of the competent authorities in the investigation of old and recent cases of threats and violence against journalists, murders of journalists and attacks on media property. It is composed of representatives of Vijesti and Dan daily newspapers, the Trade Union of Media, Media Council for Self-Regulation, media experts, the Prosecutorial Council, inspectors for control of the legality of applying police powers and the Department of Internal Control of the Police, the National Security Agency and the NGO sector.

On the day when the commission members were appointed, interior minister said that the government had adopted his proposal to offer a €1m reward for informa-

tion that may lead to the identification and prosecution of perpetrator(s) and mastermind(s) of Jovanovic’s murder.

There was a commission with a similar composition in 2014 and 2015, but it did not achieve significant results due to the deep divisions among the state and the media representatives. The most important achievement of that commission was the fact that it managed to ensure a permanent police escort for journalists Tufik Softić who was the victim of brutal attacks in 2007 and 2013. Those cases have not been resolved yet.

The prosecutor’s office in charge of conducting investigations states that journalists are protected to the same extent as all other citizens of Montenegro and that this institution has no specific protection form or approach when it comes to attacks on journalists. The prosecutor’s office has found that investigations were carried out promptly, efficiently and independently, but it admits that the investigation results are not satisfactory. It also claims that it is implementing effective criminal proceedings against the whole chain of perpetrators, ie “against people that can be reached”<sup>114</sup>.

“We can boast that there were arrests, but the quality of evidence is important. The judiciary is often criticised. Strong evidence must be presented to the court. And first of all, the evidence must be provided by the prosecutor’s office and the police. And if there is not enough evidence, it is like a returning boomerang and we will waste valuable time and the case will remain unsolved.”<sup>115</sup>

This is exactly what happened with the case of planting an explosive device outside the headquarters of Vijesti daily newspaper in December 2013, when the judgment against the two suspects for the attack became final in June 2016<sup>116</sup>.

The most brutal attacks, as the two attacks on Softić, have not been resolved. It is also the case with the murder of Dan editor, Duško Jovanović, who was killed in 2004. In that case, only one person was convicted of complicity<sup>117</sup>, whereas perpetrators, masterminds and the motive have been still unknown. In some cases, the perpetrators of attacks on journalists and media proper-

<sup>112</sup> *Ibid.*

<sup>113</sup> “Usvajene pritužbe Sindikata medija na postupanje policije prema grupi novinara 24. 10. 2015.” [Media trade union’s complaints on police treatment towards a group of journalists on 24 October 2015 adopted], Trade Union of Media of Montenegro, 24 November, 2015: <http://sindikatomedija.me/index.php/me/o-nama-2/63-saopstenje-za-javnost-25-oktobar-2016>

<sup>114</sup> Prosecutor’s office, interview by Marijana Camović, June 28, 2016

<sup>115</sup> Šučko Baković, interview by Marijana Camović, June 13, 2016

<sup>116</sup> Boričić Maja, Radević Komnen, “Državo, ko nas je bombardovao?” [Government, who bombed us?], Vijesti, June 21, 2016, accessed June 22, 2016: <http://www.vijesti.me/vijesti/drzavo-ko-nas-je-bombardovao-893129>

<sup>117</sup> Unsolved Murder of Duško Jovanović, the Director and Editor-in-Chief of Dan Daily Newspaper – Questions without Answers, Podgorica: Human Rights Action, 2016, accessed May 10, 2016 <http://www.hracion.org/wp-content/uploads/lzvjestaj.pdf>

ty have been identified, but not a single case has been fully resolved.

The Police Directorate's July 2014 analysis<sup>118</sup> shows that the total number of attacks on journalists and the media, as well as the possibility of their repetition, is alarming. It has been concluded that such a situation requires "more efficient treatment in order for all the state bodies in charge of monitoring and protecting journalists to preventively and repressively act".

It has been found that there is the highest risk for a repeat attack on employees in the private print media, emphasising *Vijesti* daily newspaper as the riskiest, and that "there is also the potential for exposure to some form of violence related to the journalists of *Dan* daily newspaper".

"Structure profile of the prosecuted perpetrators indicates that there is equal possibility for repeating violent acts against journalists, but also other categories of media employees (photographers and drivers), by members of criminal groups, businessmen and public figures. There are also mutual threats among journalists as well as among representatives of media outlets with the opposing concepts of editorial policy."<sup>119</sup>

According to the analysis, a murder of a journalists is the least likely to happen again, but there is "strong possibility" for journalists to receive threats via SMS messages or the Internet, which may be caused by "current events during the reporting". Podgorica-based journalists who report on corruption and crime are the most exposed to potential attacks. Police also noted that the media outlets took insufficient and inadequate care of their property (they lacked adequate physical and technical protection), thus increasing the likelihood for it to be targeted. "*Vijesti* independent daily newspaper is the media outlet which is most exposed to acts of violence in the form of destroying property."<sup>120</sup>

In their analysis, the police have also assessed that the attacks on journalists are very likely to be resolved soon. It turns out that this assessment was not correct.

Having come under domestic and particularly international pressure, government officials regularly respond when attacks on journalists or media occur and condemn them, but it seems that these statements are populist and formal, because the situation is hardly changed or not changed at all.

Also, representatives of certain media point out that the government officials hold them accountable for the attacks, since they regularly mention the responsibility of the media for the content they publish when they comment on the attacks.

In addition to standard procedures taken by the Police Directorate and the prosecutor's offices when an attack occurs, there is no special monitoring of the attacks on journalists planned. NGO Human Rights Action occasionally publishes the "book" of attacks on journalists and the way these cases have been prosecuted. The latest such report was released in early 2014 and it contains all the important cases of attacks on journalists and media since 2004<sup>121</sup>.

When it comes to eavesdropping on journalists' communication, there have been no such cases recently, at least not those which have become public. Earlier, at the beginning of 2013, a group of journalists claimed that the police and security services were eavesdropping on their communication in order to reveal their sources and political contacts<sup>122</sup>.

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118 "Media employees/journalists endangerment risk analysis", Police Directorate, July 2014, the Interior Ministry's answer to Marijana Camović's request for free access to information, submitted on 11 August 2016

119 Ibid.

120 Ibid.

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121 *Prosecution of Attacks on Journalists in Montenegro*, (Podgorica: Human Rights Action, 2014), Accessed May 10, 2016: <http://www.hraction.org/wp-content/uploads/Report-Prosecution-of-Attacks-on-Journalists-in-Montenegro.pdf>

122 News agencies, "CG: Istraga zbog prisluškivanja novinara" [MNE: Investigation on eavesdropping on journalists' communication], *AlJazeera Balkans*, February 25, 2013, accessed May 20, 2016: <http://balkans.aljazeera.net/vijesti/cg-istraga-zbog-prisluškivanja-novinara>

### **C.3 Does the criminal and civil justice system deal effectively with threats and acts of violence against journalists?**

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The state has not recognised the need to adequately deal with investigations, prosecution of perpetrators, protection and safety of journalists, or to address the problem of impunity of perpetrators, which is evident in all high-profile cases in Montenegro.

NGO Action for Human Rights and the Trade Union of Media of Montenegro advocate for amending the Criminal Code and propose introducing new criminal offenses to prevent and punish attacks on journalists while performing their professional duties. They believe it would contribute to strengthening the awareness that such a social phenomenon is unacceptable and that it must be severely punished.<sup>123</sup>

There is no law specifically treating female journalist or protecting them particularly. Also, there is no distinction between print, electronic or online media.

Experts and journalists generally assess that the government has not adequately responded to the attacks on journalists and media. In no case masterminds and motives of the attacks have been found, whereas in rare cases the perpetrators were identified and prosecuted.

“Generally, the national authorities have not done their job efficiently and it is a cause for serious concern. If there has been no prompt and effective investigation, then it has not met its purpose and the state cannot say it has fulfilled its legal obligation and protected a journalist. This is position of the Strasbourg Court as well. Resolving some of the key cases would seriously contribute to safety.”<sup>124</sup>

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<sup>123</sup> MINA news agency, “Camović: Zakonom pojačati zaštitu novinara” [Camović: Strengthen journalists’ protection by a law], May 7, 2015, accessed May 27, 2016: <http://www.rtcg.me/vijesti/drustvo/90674/camovic-zakonom-pojacati-zastitu-novinara.html>

<sup>124</sup> Šučko Baković, interview by Marijana Camović, June 13, 2016

# Appendices

## List of Interviewees

Name and surname	Position/Organisation	Date of interview
Jadranka Vojvodić	Assistant director of the Agency for Electronic Media	May 27, 2016
Šučko Baković	Protector of Human Rights and Freedoms of Montenegro (Ombudsman)	June 13, 2016
Mirko Bošković	Journalist at RTCG	June 20, 2016
Veseljko Koprivica	Journalist at Monitor weekly magazine	June 21, 2016
Dragoljub Duško Vuković	Media analyst	June 22, 2016
Vladan Mićunović	Director of the Montenegro Media Institute	June 23, 2016
Nikola Marković	Editor in chief of Dan daily newspaper	June 23, 2016
Goran Đurović	RTCG Council member	June 27, 2016
Nataša Baranin	Journalist at RTCG	June 27, 2016
(anonymously)	High State Prosecutor's Office	June 28, 2016
Dražko Đuranović	Editor in chief of Pobjeda daily newspaper	July 1, 2016
Tea Gorjanc Prelević	Executive director of NGO Human Rights Action (HRA)	July 1, 2016

### **On the research**

The survey was conducted on a deliberate quota sample of 54 journalists and editors from different media organisations in Montenegro, at the local and state level. The survey was carried out applying questionnaire method. The questionnaire included a total of 32 questions and it was divided into several segments. The questions in the survey were defined on the basis of a common Methodology for all five countries participating in the project.

The respondents included 54 journalists from 34 Montenegrin media outlets. There were 29 women and 25 men interviewed, out of whom 33 editors and 21 journalists. When it comes to the media type, 10 respondents work for daily newspapers, 1 for a weekly magazine, 22 for TV stations, 16 for radio stations, 1 for a news agency, 2 for news portals as independent media and 2 for news portals as online forms of printed or electronic media. The data were collected in the period May–June 2016.

It is important to note that even though the quota sample does not allow the conclusions to be generalised for the whole journalist community in Montenegro, interviewed journalists' responses still provide a good basis for understanding the current situation in terms of press freedom.

The sample includes a referent number of journalists at the following media outlets:

Table 12

media	number
TVCG	4
Atlas TV	2
Pink TV	4
Prva TV	1
Vijesti TV	4
Budva TV	2
Nikšić TV	1
Pljevlja TV	2
Srpska TV	1
Teuta TV	1
Novi TV	1
Mina news agency	1
Vijesti daily newspaper	2
Dan	3
Pobjeda	3
Dnevne Novine	2
Monitor	1
Vijesti news portal	1
Analitika news portal	1
RTCG news portal	1
CdM news portal	1
Radio Free Europe	1
RCG	2
Antena M radio	1
Roma people radio	1
Bijelo Polje radio	1
Berane radio	1
Budva radio	1
Herceg Novi radio	2
Nikšić radio	1
Pljevlja radio	1
Cetinje radio	1
Ulcinj radio	1
Rožaje radio	1

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Council of Agency for Electronic Media of Montenegro, "Pravilnik o elektronskim publikacijama" [Rulebook on Electronic Publications], No 01-170, Agency for Electronic Media, Podgorica 2016;

Law on Election of Councillors and Members of Parliament, Official Gazette of Montenegro, 4/98 and 12/2016;

Law on Electronic Media, Official Gazette of Montenegro, 46/10, 40/11 and 53/11;

Law on Free Access to Information, Official Gazette of Montenegro, 44/12;

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