

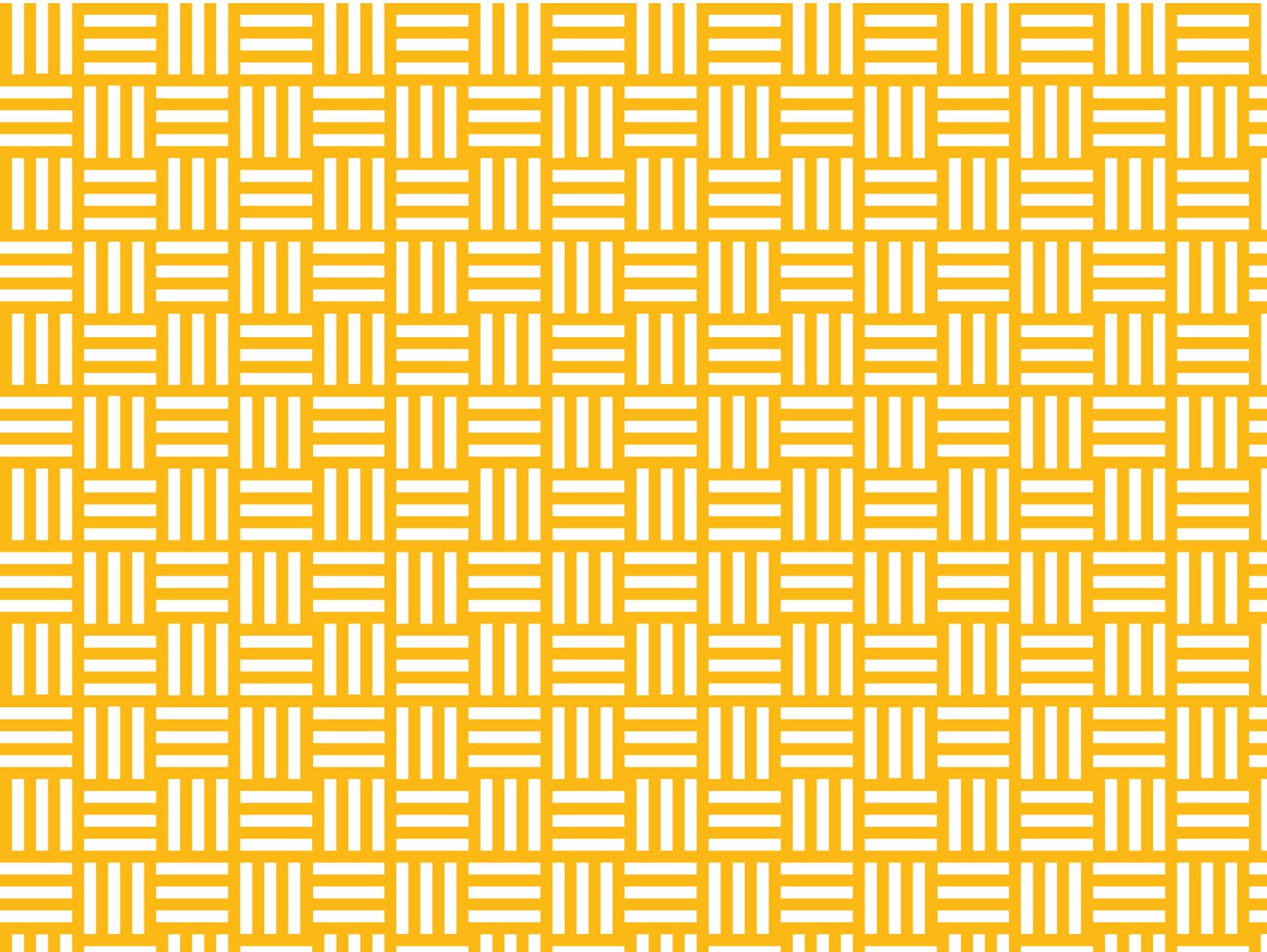


Regionalna platforma Zapadnog Balkana za zastupanje
slobode medija i bezbjednosti novinara
Western Balkan's Regional Platform for Advocating
Media Freedom and Journalists' Safety



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MONTENEGRO Indicators on the level of media freedom and journalists' safety



MONTENEGRO

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Authors:
Marijana Camović
Bojana Laković

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Authors

Marijana Camović

Bojana Laković

Translator

Vanja Miličić

DTP

Lavi studio (Adi Kerović)

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Objective and methodology of the research study

This report presents the findings of the second research study conducted within the regional project Western Balkan's Regional Platform for advocating media freedom and journalists' safety¹, which is implemented by the national journalists' associations in Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia. This report is a follow-up to the baseline study which presented more broadly the legislative, socio-economic and political situation with media freedom and journalists' safety and identified the key challenges and recommendations for journalists associations and other stakeholders². The main objective of this second research study is to detect new developments and to make comparisons with the level of media freedoms and journalists' safety identified in 2016.

This second research study was conducted by Marijana Camović and Bojana Laković, on the basis of a common Methodology developed for all five countries. The following methods have been employed for data collection and analysis:

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 Trade Union of Media of Montenegro, *Indicators on the level of media freedom and journalists' safety* (Podgorica: Trade Union of Media of Montenegro, 2016).

- 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) and media coverage (texts, articles, news reports and other published materials).
- Qualitative interviews with 19 individuals (journalists, lawyers, media experts, representatives of public institutions or NGO's).
- Survey with 64 journalists³ from different media organisations on the basis of a structured questionnaire adapted from the Worlds of Journalism Study⁴.
- 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' freedom

At the end of July 2016, the Law on Public Broadcasting Services of Montenegro was amended (now it is, the Law on the National Public Broadcasting – RTCG), as well as Law on Electronic Media which came into force on September 1, 2017. The aim of the changes was to ensure a greater financial independence and sustainability of RTCG. The amendments specify who can get the broadcasting license, what is considered as broadcaster' production, and defines the obligation of public broadcasters to provide public services. The novelty is that public services, the amount, and the sources for their financing are determined by a contract between the Government and the national public broadcaster or a local self-government unit and a local public broadcaster. (Section A1).

The manner in which media are established has not been changed. By the middle of June there were 21 registered portals in Montenegro, but the number of active is much higher. Agency for Electronic Media (AEM) is defined by the law as an independent regulator whose leadership is elected by the Parliament of Montenegro. However, the European Commission warns that its independence continues to be undermined but to a lesser extent than before. Advertising of the public sector still lacks transparency. Two funds which encouraged the production of programs of public interest of commercial broadcasters were abolished. Constitutional Court, at the end of 2016, found the provision of the Law on Traffic Safety, which stipulated that the owners of cars with a built-in radio receivers owe to pay two Euros for its use, unconstitutional. The income referred to the provision went to the Fund for Assistance to Commercial Radio Broadcasters. The Agency for Electronic Media is

interested in establishing a sustainable and stable mechanism or support fund for electronic media. (Section A1).

At the request of the Broadcasting Center, in the beginning of March, the Government adopted the Decision to assist all active broadcasters in the amount of EUR 1.8 million. This decision in public, apart from one or two exceptions, has not been commented although it is a violation of the Law on State Aid Control.

During 2017, there were significant changes in the Public Service, almost complete management structure was changed. The new RTCG Director General was elected as well - Andrijana Kadija. The new Law on Public Broadcaster stipulates allocation of 0.3% of gross domestic product from the budget, which is considerably more than previous 1.2% of the current budget.

Media Council for Self-Regulation in Montenegro gathers 19 media, while some of the leading media such as Dan, Vijesti, Monitor and TV Vijesti have their ombudsmen. With the introduction of the Ombudsman, a novelty was introduced in terms of which complaints can be filed and who can file them. Ombudsmen rarely accept complaints, and in order to consider the complaint, a series of restrictive conditions must be met, and only a damaged or authorized attorney can file a complaint. (Section A2)

There is a common view that political parties do not have equal access to media either in the electoral or non-electoral period (Section A3). In Montenegro, parliamentary elections were held in October 2016 and weaknesses in the media sector were noticed, especially those related to editorial independence and detailed reporting, polarization and self-regulation.

More journalists are members of trade unions than associations. Official statistic house Monstat registered an increase in the number of employees in the sector for 130 therefore, there are in total 1,375 people employed in media. Trade Union of Media of Montenegro (SMCG) asked directors of the leading media at the national and local level whether there was a change in the number of employees and the amounts of average earnings, but according to these data, provided that no one was dismissed in these media, there was an increase of only 39 persons (Section A4).

At the beginning of July 2017, while interrogated in the police station, journalists of daily newspapers Vijesti were asked to disclose their sources. The interviewees stressed that the freedom to choose interlocutors is not absolute, and that each media has a "list of unwanted interlocutors". (Section A5)

At the beginning of May 2017, the Law on Free Access to Information was amended. NGOs and some media criticized the new law because in their opinion it is not in consistence with the Constitution, since it introduces the possibility that the authorities restrict access to informa-

³ More details can be found in Appendices

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

tion and label some documents as secret. (Section A6)

Journalists still rarely seek information using this Law, but through Network for Affirmation of NGO Sector (MANS), which has the Program for Free Access to Information, they receive a considerable amount of data. From September 2016 to July 2017, 42 stories were published with data gathered by MANS.

The interviewed journalists and editors generally assessed that the main institutions in Montenegro are partially transparent, and the most transparent are the Parliament and political parties, since 20.3% of the respondents consider that they have shown complete or high degree of transparency in their work. This is somewhat disproportionate to the situation in practice, since at the end of May this year, cameramen and photographers were forbidden to record entry of part of MPs in the plenary hall of the Parliament of Montenegro.

Indicators B:

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

Journalists' salaries are generally less than the average salary on the state level, which, according to Monstat data, amounted to 510 Euros in June 2017. More than half of the respondents (54.7%) receive less than 500 Euros, out of which 13 journalists earn 300-400 Euros. On the other hand, 15 respondents receive a salary of 500 to 600 Euros. (Section B1) In addition to low wages, the biggest problem is their delay, which is the most common situation in local public broadcasters. As of the end of September 2016, RTV Atlas employees stopped broadcasting the program because they did not receive five salaries. Therefore, a bankruptcy procedure was initiated in this media house. In August 2016, the Ministry of Finance approved a reprogramming of tax debt to the media in the total amount of 764.000 Euros, for newspapers and television Vijesti, TV Pink M and radio Antena M.

Almost 8% of journalists have a status of honorary associate, while about 11% of respondents is employed on a fixed term. The respondents agreed that their economic situation worsened even in relation to the previous year, and 53% of them said that the economic situation had weakened considerably. The economic situation is also reflected by the fact that even 31.3% of the respondents is forced to have another, which is a 13% increase compared to the previous year.

In addition to economic ones, journalists also face problems regarding their professional status in newsrooms. Large number of them are overburdened, especially due to persistent demands from a journalist to cover several areas and performing tasks which are not part of their

job description.

The pressures to create sensationalist news are increasing.

Last year, the private media did not introduce any kind of internal regulations to regulate the work in newsroom, nor did they formally separate newsroom from marketing departments. In some media, critical reporting on major advertisers is not allowed. Journalists face self-censorship in terms of being aware which topics they can cover depending on the media editorial policy. (Section B2).

The public service was previously denounced for taking a side of the ruling party, but after the change of management and editorial structure, the public believes that there have been improvement. After the changes interviews with senior officials are lacking because they refuse to show. (Section B3).

Non-profit media are still underdeveloped. (Section B4).

Imposing interlocutors and topics limit journalists in their work, and interviewed journalists explain that "self-censorship exists when you have to choose a topic within the frameworks of the media where you work or - just do not "rock the boat" and you will not have major problems". (Section B5) Even 43.8% of respondents indicate that editorial policy affects them extremely or to a great deal, and 34.4% said that it partially affects their work. They say that the topics are imposed by media editorial policy media and by the preferences of the editorial board. The task of a journalists is, as they say, to work within the defined frameworks.

The closer an individual is to a journalist in his/her everyday work, the more influential he/she is a journalist reporting. Therefore, even 76.6% of the respondents point out that their editors influence their work very much or partially. The interviewed journalists agree that media owners and managers almost have no influence on them, which can be explained by the fact that managers and owners actually influence editors, who then impose these demands on journalists. (Section B5)

Indicators C:

Journalists' safety

From September 2016 to mid-July 2017, the Police Directorate of Montenegro recorded seven events related to attacks on journalists, media employees and media assets. Journalist Vladimir Otašević received death threats on September 11, 2017 - in a telephone conversation, a brother of Prime Minister Duško Marković, Velizar Marković, threatened him. It is symptomatic that most cases are classified as misdemeanours. (Section C1).

The Government's commission for monitoring the actions of the competent authorities in investigations of threats and violence against journalists, murder of journalists and attacks on media assets began its second term in September 2016. It dealt with the case of the first attack on journalist Tufik Softić in November 2007, the attack on journalist Mladen Stojović in August 2008, for which in the meantime statute of limitations expired, threats to journalist Damira Kalač in April 2015, and cases of stoning of the TV Pink M building on two occasions. It found that there were numerous flaws in all these cases and that the police and prosecutors did not undertake all measures and actions within their jurisdictions. Representatives of SMCG, during a meeting with the representatives of the Police Directorate and the Supreme State Prosecutor, requested review of all cases, especially those facing expiration of statute of limitations. (Section C2)

It is estimated that the state does not respond adequately to cases of violence against journalists and that the Prosecution and the police act inefficiently. Lack of accountability is also noted. (Section C3).

After the Government proposed amendments to the Criminal Code in January 2017, the NGO Human Rights Action and the Trade Union of Media of Montenegro have again proposed the introduction of new criminal offenses to prevent and punish attacks on journalists when performing professional duties, which was not supported.

General recommendations⁵:

- Propose amendments to the Law on Media in order to, even legally, provide journalists, and partly editors, independence in relation to managers, media owners and advertisers. This would allow as well, protection against unethical treatment and attitudes imposing, and would reduce censorship and self-censorship.
- Due to the difficult financial situation in certain local public broadcasters, but also the undefined legal framework established by the amendments to the Law on Electronic Media from 2016, the application of new provisions should be carefully monitored and additional amendments, that would regulate financial sustainability of these media, should be prepared in the upcoming period.
- Support the idea of establishing a support fund for electronic media (or a media pluralism fund) to support programs of public interest of commercial broadcasters. Public discussion should lead to the conclusion that, apart from radio stations, commercial televisions and portals might participate in competition for fund allocation.
- Support all initiatives aimed at introducing regulations and objective criteria for advertising from the public funds.
- Monitor the application of the amended Law on Free Access to Information and in the upcoming period prepare changes that will allow journalists to easier access this type of information.
- Insist that media which have an ombudsman reduce the restrictive conditions for filing complaints against violations of the Code of Conduct and thus allow all interested stakeholders file a complaint.
- In the negotiations on the new Special Collective Agreement insist on concrete proposals in order to improve working and economic rights of media employees.
- Continue with public advocacy for amendments to the Criminal Code that would introduce new offenses related to attacks on journalists and increase sanctions for attackers.
- Continue to insist strongly on resolving all unsolved attacks on journalists in Montenegro, especially those threatened by expiration of statute of limitations.

⁵ These general recommendations have been developed based on interviews with members of the SMCG Main Board. They represent only the general principles based on which Trade Union of Media of Montenegro will develop its initiatives and lobbying activities for the improvement of media and journalists' freedom. Thus the principles will develop, upgrade and become more concrete.

Indicators on 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 Democracy⁶
- European Commission
- UNESCO: Media Development Indicators (MDI)⁷ and Journalists' Safety Indicators: National Level⁸
- USAID - IREKS: Media Sustainability Index⁹
- Freedom House: Freedom of the Press Survey¹⁰
- BBC World Service Trust: African Media Development Initiative¹¹
- Committee to Protect Journalists: Violence against Journalists¹²
- Reporters without Borders: World Press Freedom Index¹³

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/JSI_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/AMD/AMD_summary_Report.pdf

12 More at: <https://www.cpj.org/>

13 Available at: <https://rfsf.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. 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 journalist' freedoms

The Law on Public Broadcasting Services of Montenegro has been amended, and its title has been changed into the Law on the National Public Broadcaster of Radio and Television of Montenegro. The aim was to ensure a greater financial independence and sustainability of the Radio and Television of Montenegro (RTCG). The amendments to the Law on Electronic Media were adopted and came into force on September 1, 2017. Amendments specify who can get a broadcasting license, what is considered as broadcasters' production, and defines the obligation of public broadcasters to provide public services. The novelty is that the public services, the amount, and the sources for their financing are determined by a contract between the Government and the national public broadcaster or a local self-government unit and a local public broadcaster. The Law does not specify who will control the compliance with these contracts, or what happens when one of the parties, the Public Broadcaster or the Government, fails to fulfil the obligations under the contract. By the middle of June, 21 portals were registered in Montenegro. Research confirms that the state is still one of the key factors that can shape the advertising market. The Fund for Assistance to Commercial Radio Broadcasters was shut down because it was established pursuant to an unconstitutional provision. At the request of the Broadcasting Center, the Government adopted the Decision to assist all active broadcasters in the amount of EUR 1.8 million. During May 2017, a new management of the Public Service was elected. There are no official statistical data on the number of cases in which journalists have been sued for insulting one's honour and reputation. It is considered that the lack of a single self-regulatory body weakens the idea of self-regulation and therefore it does not accomplish its purpose. Media reporting is not balanced. There was an increase in the number of employees in the media by 130. Generally, the interviewed journalists have not been asked to disclose the identity of a trusted source. When it comes to interlocutors, newsrooms have their "favourites".

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

The Constitution of Montenegro, as well as the set of media laws that includes: the Law on Media, the Broadcasting Law and the Law on the National Public Broadcasters of Radio and Television of Montenegro (RTCG), regulate the exercise of the right to freedom of expression. These laws, however, do not regulate the right to access to the Internet, which is covered by Article 10 of the European Convention on Human Rights. In the period from September 2016, restrictions on access to the Internet have been registered, on the day of parliamentary elections on October 16¹⁴. Two days later, the RTCG Portal was exposed to the DDoS (Distributed Denial of Service) attack¹⁵. Portals of the Government, some state bodies, and some media were exposed to a series of cyber-attacks in mid-February¹⁶. Media experts and lawyers evaluate laws as solid, but there are occasional proposals for some changes and improvements in the area. Prime Minister Duško Marković in his exposé also pointed to this need¹⁷.

Although the amendments to the set of media laws (Law on Broadcasting Services, Law on Media and Law on Electronic Media) were planned during the preparations for the October 2016 elections, the pressure of a part of the opposition and the NGO sector did not give result¹⁸. At the end of July 2016, the Law on Public Broadcasting Services of Montenegro was amended, when also the name of the law changed into the Law on the National Public Broadcasting RTCG. The aim of the changes was to ensure a greater financial independence and sustainability of the RTCG. Besides, at the end of July, amendments to the Law on Electronic Media were adopted and came into force on September 1, 2017. These amendments specify who can get the broadcasting license, what is considered as broadcaster' production, and defines the obligation of public broadcasters to provide public services. The novelty is that the public services, the amount, and the sources for their financing are determined by a contract between the Government and the national public broadcaster or a local self-government unit and a local public broadcaster.

"The contract is concluded for a period of three years, in accordance with the macroeconomic and fiscal policy guidelines for the national public broadcaster, and in line with the budget plans and projections of local public broadcasters."¹⁹

The drafting of the contract is in progress, and in the Public Broadcaster they say that no one asked them if they agreed with the changes, that there were no sanctions for possible non-compliance with the contract, and that "it is obvious that no good preparation has been made" before the adoption of the Law.²⁰

In addition to the public services, the amendments also specify the ability of broadcasters to perform commercial audio and audio-visual services.

The way of establishing a media has not changed. It is a simple procedure and foresees registration with the Ministry of Culture, that is, the Agency for Electronic Media (AEM), while for television and radio stations a frequency is required. After the AEM adopted the Rulebook on Electronic Publications (portals)²¹ at the beginning of 2016, it defined, among other things, the method of their establishment, and since then until mid-June, a total of 21 portals were registered in Montenegro²². However, the number of active portals is much higher, but they do not suffer sanctions if they are not registered.

The AEM is formally separated from the influence of politics or individuals from public life, because the law defines it as an independent regulator whose leadership is elected by the Parliament of Montenegro. However, the European Commission warns that its independence continues to be undermined but then again to a lesser extent than before²³.

When it comes to advertising of the public sector, it cannot be said that there has been an improvement, as it is still evaluated as "non-transparent, unregulated and uncontrolled."²⁴ The European Commission in the Montenegro 2016 Report also raised this issue.²⁵ The latest research by the Center for Civic Education (CCE) confirmed that "the state remains individually one of the key factors that can shape the (advertising) market at the expense of or in favour of individual media, and therefore their sustainability."²⁶ According to the CCE data, about 2.5 million Euros are invested annually from public funds in the media and related entities.

14 Trade Union of Media of Montenegro, *Indicators for the level of media freedom and journalists' safety*, (Podgorica: Trade Union of Media of Montenegro, 2016), p. 16.

15 RTCG Portal, "Oboren Portal RTCG" [RTCG Portal Crashed Down], Portal RTCG, October 18, 2016, accessed May 20, 2017: <http://www.rtcg.me/vijesti/drustvo/144816-oboren-portal-rtcg.html>

16 Portal Analitika, "Novi sajbber napadi na portale Vlade i medija" [New Cyber Attacks on Portals of Government and Media], Portal Analitika, February 17, 2017, accessed, May 20, 2017: <http://www.portalanalitika.me/clanak/260212/novi-sajbber-napadi-na-portale-vlade-i-medija-imaju-veze-sa-izazivanjem-nestabilnosti>

17 "Ekspozé mandatará za sastav Vlade CG Duška Markovića na sjednici Skupštine CG" [Exposé of the Mandatory for Composition of the Government of Montenegro, Duško Marković, at the session of the Parliament of Montenegro], Government of Montenegro, last change November 28, 2016, accessed May 20, 2017: <http://www.gov.me/vijesti/167232/Ekspozé-mandatará-za-sastav-Vlade-CG-Duška-Markovića-na-sjednici-Skupštine-CG.html>

18 Trade Union of Media of Montenegro, *Indicators for the level of media freedom and journalists' safety*, (Podgorica: Trade Union of Media of Montenegro, 2016), p. 16.

19 Law on the National Public Broadcaster Radio and Television of Montenegro, Article 76a

20 Andrijana Kadjić, interviewed by Marijana Camović, August 16, 2017.

21 Council of the Agency for Electronic Media of Montenegro, *Rulebook on Electronic Publications*, (Podgorica: Agency for Electronic Media, 2016)

22 Jadranka Vojvodić, interviewed by Marijana Camović, August 04, 2017.

23 European Commission, *Montenegro 2016 Report*, p. 50, accessed May 20, 2017. <http://www.delimne.ec.europa.eu/upload/izvjestaj.pdf>

24 Center for Civic Education, *Equal Chances for All Media in Montenegro*, (Podgorica: CCE, 2017) p. 94, accessed June 19, 2017: <http://media.cgo-cce.org/2017/06/Jednake-sanse-za-sve-medije.pdf>

25 European Commission, *Montenegro 2016 Report*, p.27, accessed May 20, 2017. <http://www.delimne.ec.europa.eu/upload/izvjestaj.pdf>

26 Center for Civic Education, *Equal Chances for All Media in Montenegro*, (Podgorica: CCE, 2017) p. 7, accessed June 19, 2017: <http://media.cgo-cce.org/2017/06/Jednake-sanse-za-sve-medije.pdf>

“Practice of concluding contracts between institutions and certain media that virtually show that the media is paid for the way they report on the work of these institutions is a matter of concern, and in their reporting no paid marketing is mentioned. In short, it’s about misleading marketing that must be sanctioned, because instead of getting objective reporting, people are being propagated.”²⁷

The lack of criteria even in tendering procedure, as well as their defining in a way that eliminates certain media at the very beginning, is part of the objections that media representatives point out.

“When we applied for tenders of certain public companies we were eliminated because they asked that the contents of the media be published on the website and in the newspapers. We have a website, but we are rejected because we do not publish the obituary from Dan on the Internet. Why the fact that we do not publish the obituaries on the web site is important for someone who announces the tender and wants to advertise in the newspapers.”²⁸

A number of media representatives believe that the amount of two million Euros that the state authorities have given for advertising is a controversial matter, and that the story of favouring certain “pro-government media” is inflated and does not correspond to the truth²⁹.

“Of course, it is necessary that every cent of taxpayers spent by the state including advertising be transparent and that we know exactly where and how the state uses the money received from us (tax payers - author’s comment). That is the best way to avoid misunderstandings and spinning.”³⁰

In the radio Antena M they point out that the media sporadically “does business with the state”, but “there is almost no advertising of state organs in the full sense of the word.”³¹

The Law on Electronic Media stipulates that the funds from the revenue from games of chance shall be allocated for encouraging the commercial broadcasters to produce the program content of public interest. However, the Law on Games of Chance of June 2017 provides the abolition of the Commission for the allocation of part of the revenue from games of chance as of December 31, 2017, which was in charge of allocating these funds. The state will no longer help commercial radio broadcasters, as it previously did through the AEM and the Commercial Radio Broadcasting Assistance Fund. Namely, at the end of 2016, the Constitutional Court found that the provision of the Law on Traffic Safety providing that the owners of cars with a built-in radio receiving set that pay two Euros for its use was unconstitutional³² and these funds were going

to the Commercial Radio Broadcasting Assistance Fund. The Agency, through a public call for competition, allocated money to commercial public broadcasters. The last competition announced in May this year was cancelled by the decision of the AEM Council, which some media complained about.³³

Deputy Director of AEM, Jadranka Vojvodić, emphasizes that the Agency is interested in establishing a sustainable and stable mechanism or support fund for electronic media. According to her, these funds should be distributed by an independent body “based on public competition and objective, transparent and measurable criteria and scoring methodology”.

“The complete or partial abolition of existing models, without a comprehensive consideration of new solutions, negatively affects the media and particularly investments in quality content of broadcasters’ production that focus on topics of public interest or that are intended for vulnerable or minority target groups.”³⁴

A sustainable and stable mechanism or support fund for electronic media is also desired in the student radio Krš where around 40 students work voluntarily and their expenses, which they hardly cover, are brought down to overheads and administrative expenses and obligations towards the AEM and the Radio Broadcasting Center.

“The AEM’s Fund for Commercial Radio Broadcasting Assistance, which was recently declared unconstitutional and thus abolished, provided a significant help. We think that this or similar kind of aid to commercial radio stations in Montenegro is a necessity, because it is more than obvious that radio stations have a big problem of financial sustainability.”³⁵

The state helps the media by reducing the value added tax (VAT) rate by 7 percent (instead of 19 percent).³⁶ At the beginning of March, the Government of Montenegro adopted the Decision³⁷ to grant assistance to all active broadcasters in the amount of EUR 1.847.189,16 at the request of the Broadcasting Center. As stated in the Decision, these funds represent an amount of 36 monthly invoices of all active broadcasters (13 local radio broadcasters, 31 commercial radio broadcasters, 3 local and 6 commercial TV broadcasters) to whom the Broadcasting Center provides a service. Pink M TV and Vijesti received the highest amount of the state aid of 285,507 and 289,792.44 Euros respectively.

27 Ibid. p.94

28 Nikola Marković, interviewed by Marjana Camović, July 28, 2017

29 Sonja Drobac, interviewed by Bojana Laković, August 30, 2017

30 Ibid.

31 Darko Šuković, interviewed by Bojana Laković, September 5, 2017

32 M.S. „Pala neustavna taksa“ [Unconstitutional Compensation Taken Away], Dan, December 31, 2016, accessed June 25, 2017: <http://www.dan.com.me/?nivo=3&rubrika=Drustvo&clanak=579815&datum=2016-12-30>

33 Pobjeda, „Antena M podnijela tužbu protiv AEM-a“ [Antena M Filed a Lawsuit Against AEM], Portal Analitika, July 5, 2017, accessed July 10, 2017: <http://portalanalitika.me/clanaci/273960/antena-m-podnijela-tuzbu-protiv-aem-a>

34 Jadranka Vojvodić, interviewed by Marjana Camović, August 4, 2017.

35 Milica Petričević, interviewed by Bojana Laković, August 14, 2017.

36 Media Ownership and Financing in Montenegro, (Podgorica: Montenegro Media Institute, 2015), accessed May 15, 2017: [http://www.mmstitute.org/files/Medjisko%20vlasnistvo%20i%20finansiranje%20medija%20u%20Cmoj%20Gor%20\(1\).pdf](http://www.mmstitute.org/files/Medjisko%20vlasnistvo%20i%20finansiranje%20medija%20u%20Cmoj%20Gor%20(1).pdf)

37 Information on assistance to commercial and local radio and TV broadcasters, Government of Montenegro, March 02, 2017, accessed May 15, 2017: http://www.gov.me/sjednice_viade_2016/15

„Law on State Aid does not allow this measure to be taken twice in a ten-year period, and as the Government of Igor Lukšić did similarly, it makes this measure taken by Marković completely illegal.”³⁸

The fact that the government, in the time of austerity and the constant lack of money in the state budget, decided to help all electronic media under very unusual circumstances, is also problematic for media experts who think that “somebody is riding on someone else’s tail”.

“I do not know what the motives are of the Government’s Decision to help the media. Media industry, as a very important segment of democratic society, must have a development strategy and then, if it is said that certain media is assisted for the sake of developing media pluralism, then you must have a serious explanation why you are helping ones or others, or all of them, but it is not logical that everyone should be helped.”³⁹

The manner of financing the media of national minorities is prescribed by the Law on Minority Rights and Freedoms⁴⁰. These media will be able to receive funds through a competition for the distribution of gambling revenues only in 2017 and not anymore. Projects of the national minority media through a public call for competition are also financed by the Fund for the Protection and Exercise of Minority Rights, for which the state allocates at least 0.15% of the budget.

The formal independence of the editorial board and the institutional autonomy of the Public Broadcaster (RTCG) are envisaged by the Law on RTCG of July 2017 and the RTCG Statute. This law defines that the main activity of RTCG is the provision of public audio-visual services, but that, besides this, the Public Broadcaster may also offer commercial audio-visual services. The work of the RTCG portal is also regulated for the first time. Public services are “RTCG’s program obligations that fulfil democratic, social and cultural needs of Montenegrin society and guarantee pluralism, including cultural and linguistic diversity, and RTCG is obliged to produce and broadcast program content with the application of high standards of professional ethics and quality without any form of discrimination.”⁴¹ The Law stipulates that as of September 01, 2017, the program obligations, as well as the amount of funds and the source of their financing, will be determined by a contract between the Government and the RTCG, which will be concluded for a period of three years.

“Before concluding the contract, the RTCG is obliged to prepare a proposal for the program obligations of

the RTCG and conduct a public debate for 45 days in order to clarify the public’s compliance with the proposed program obligations and criteria prescribed in Article 9 of this Law.”⁴²

Earlier, the Public Broadcaster was perceived as being on the side of the ruling party, so within the preparations for the elections in 2016, and under the political pressure of a part of the opposition, there were shifts of leading editors at the Public Broadcaster. On November 30, 2016, the Council of this media dismissed General Manager Rade Vojvodić⁴³ due to inadequate annulment of the competition for the selection of the director of public television, as well as due to the abolition of certain programs and mismanagement. Vojvodić, dissatisfied with the decision of the Council, filed a lawsuit against this decision before the competent court because, as he claims, he was the victim of various political and interest groups⁴⁴. During May 2017, the new Director General of RTCG - Andrijana Kadija was elected.⁴⁵

Basically, the RTCG Council represents a society as a whole, and its competencies are determined by the law, the RTCG Statute and the RTCG normative acts. Also, the Law on Public Broadcaster provides for the independence of the Council.⁴⁶

“The RTCG Council in the previous, as well as in the current mandate, has made a significant contribution to the recovery of RTCG, which has been systematically destroyed for years. There is still some resistance by the Council when it comes to more radical measures that could more quickly make order in functioning of the RTCG, but there is a joint recognition of the problems which the public broadcaster faces with.”⁴⁷

When it comes to financing of the Public Broadcaster, the Law stipulates that it shall acquire funds from the budget of Montenegro, the production and broadcasting of advertising content, the production and sale of shows, films or series and sound and image carriers that are in the public interest, from sponsorship of program content, organization of concerts and other events, as well as from other sources.⁴⁸ 0.3% of gross domestic product from the Budget of Montenegro is allocated for the realization of the core business of RTCG, as envisaged by the new Law

42 Ibid. Article 9a

43 Ivan Čadenović, „Rade Vojvodić pušten niz vodu“ [Rade Vojvodić Sent Down the Hill], *Vijesti*, December 1, 2016, accessed May 30, 2017: <http://www.vijesti.me/vijesti/rade-vojvodic-pusten-niz-vodu-914221>

44 Agencies, „Rade Vojvodić tužio RTCG“ [Rade Vojvodić Sued RTCG], *In4S*, December 17, 2016, accessed July 17, 2017: <http://www.in4s.net/rade-vojvodic-tuzio-rtcg/>

45 Ivan Čadenović, „Andrijana Kadija generalna direktorica RTCG“ [Andrijana Kadija General Director of RTCG], *Vijesti*, March 21, 2017, accessed July 21, 2017: <http://www.vijesti.me/vijesti/andrijana-kadija-generalna-direktorica-rtcg-929926>

46 Law on the National Public Broadcaster Radio and Television of Montenegro, Article 21

47 Goran Đurović, interviewed by Marijana Camović, August 1, 2017.

48 Law on the National Public Broadcaster Radio and Television of Montenegro, Article 15

38 „Osvrta na 100 dana rada Vlade Crne Gore“ [Review of 100 days of work of the Government of Montenegro], *Civic Alliance*, last change March 6, 2017, accessed May 13, 2017: <http://www.gamn.org/index.php/mn/novosti/1120-osvrt-na-100-dana-rada-vlade-crne-gore.html>

39 Dragoljub Duško Vuković, interviewed by Marijana Camović, July 18, 2017.

40 Law on Minority Rights and Freedoms, Article 12

41 Law on the National Public Broadcaster Radio and Television of Montenegro, p. 9

on Public Broadcaster, which is considerably more than up to now (1.2% of the current budget was allocated). The allocations for the RTCG will be around 17,861,000 Euros this year. While slightly more than 11.5 million is intended for the RTCG program, the budget also envisages allocation of 6.35 million for digitization of the RTCG.

RTCG Director General Andrijana Kadija points out that changes in the way of financing are good for the Public Broadcaster, but it is not certain that this money will be sufficient for the functioning of that media house.

“We will adapt and it’s much more than we had before. We do not plan to spend the entire amount on salaries. We have set aside some 630,000 per month for earnings, and that’s the most possible, but we need to have some to invest in the program.”⁴⁹

A.2 Does Defamation Law cause a “chilling effect” among journalists?

The defamation has been decriminalized in Montenegro for six years (since mid-2011), and since then, the decision on this grounds is rendered within the civil disputes⁵⁰ through the Law on Obligations, which specifies what is a violation of the rights of the person and reputation (non-pecuniary damage).

There are no official statistical data on the number of cases in which journalists have been sued for insult of honour and reputation. The public knows only the most drastic cases in which prosecutors are politicians and businesspersons. At the beginning of this year, a judgment has been rendered ordering that the daily newspaper Informer, which in the meantime ceased publishing, is obliged to pay 5,000 Euros the Social Democratic Party because it “has published false and incomplete information, and because the contents of the controversial texts could harm the reputation of the SDP.”⁵¹ On the other hand, the first-instance decision of the Basic Court in Podgorica, found the daily newspaper Dan guilty of insulting the lawyer Ana Đukanović’s honour and reputation.⁵² The judgment obliged this daily to pay 5,000 Euros to Đukanović in compensation for the text “She tried to hide a deal with Telekom”.

The establishment of self-regulatory bodies is not regulated by law and the membership of the media in these bodies is voluntary. There is a Media Council for Self-Regulation in

Montenegro, and 19 media are its members, while some of the leading media such as Dan, Vijesti, Monitor and TV Vijesti have their ombudsmen. With the introduction of the Ombudsman, a novelty was introduced in terms of which complaints can be filed and who can file them. Ombudsmen rarely accept complaints, and in order to consider the complaint, a series of restrictive conditions must be met, and only a damaged or authorized attorney can file a complaint.⁵³

“Montenegro is not yet at that civilization and democratic level, so that an ombudsman paid by a certain media could be completely independent in his job. I think that decisions on the introduction of ombudsmen are only an excuse so that these media do not join in a single self-regulatory body rather than a sincere decision to engage in self-regulation.”⁵⁴

Vujović also believes that the lack of a single self-regulatory body weakens the idea of self-regulation and therefore, the way it is applied in Montenegro does not realize its full purpose.

“I do not have information about what is happening in the courts and whether they consider our decisions and whether people who complain about certain media are waiting on us to bring decisions so that, if they are in their favour, they could use them in court as an additional argument.”⁵⁵

Based on survey among journalists and editors, it can be concluded that opinions are divided when it comes to the influence of possible defamation lawsuit on their work. This possibility affects the work of 37.5% of the respondents, while 26.6% of them said that this possibility was very or extremely influential on their work. Slightly more than 20% of respondents indicated that this possibility somewhat influenced their work.

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

There is a large number of media⁵⁶, however, it does not imply pluralism of media content. The general assessment of the media scene in Montenegro, as described in a large number of reports on media freedom, is that there is a lack of balanced reporting. This is also highlighted in the State Department Report for 2016. “The lack of training and the unprofessional behaviour of journalists combined with political and economic interference and low salaries for journalists have occasionally contributed to bias reporting...”⁵⁷

49 Andrijana Kadija, interviewed by Marijana Camović, August 16, 2017

50 Law on Obligations of Montenegro, Article 149

51 Maja Boričić, „Presuda: Tabloid Informer platiće 5.000 eura odštete Socijaldemokratskoj partiji“ [Judgment: Tabloid Informer to pay 5,000 euros in damages to Social Democratic Party], Vijesti, March 23, 2017, accessed July 17, 2017: <http://www.vijesti.me/vijesti/presuda-tabloid-informer-platice-5000-eura-odstete-socijaldemokratskoj-partiji-930338>

52 Maja Boričić, „Sud prihvatio tužbeni zahtjev Ane Đukanović: Znak pitanja vrijedi 5.000 eura“ [The Government accepted the request of Ana Đukanović: Question mark worth 5,000 euros], Vijesti, April 22, 2017, accessed June 22, 2017: <http://www.vijesti.me/vijesti/sud-prihvatio-tuzbeni-zahjev-ane-djukanovic-znak-pitanja-vrijedi-5000-eura-934661>

53 Rules of Procedure of the Protector of Rights of Readers of Dan, accessed June 1, 2017: <http://www.dan.co.me/ombudsman/>

54 Ranko Vujović, interviewed by Marijana Camović, July 24, 2017

55 Ibid.

56 According to the Agency for Electronic Media there are 75 electronic media in Montenegro: Public Broadcaster RTCG (2 TV, 2 radio, SAT), 14 commercial TV stations, 3 local public television stations, 14 local public radio stations, 37 commercial radio stations and two non-profit radio. From the beginning of 2016 to June this year, 21 web sites have been registered. There are four daily newspapers and one weekly.

57 US Department of State, Montenegro 2016 Human Rights Report, page 12, accessed August 4, 2017: <https://me.usembassy.gov/wp-content/uploads/sites/250/2017/03/lzvjestaj-o-ljudskim-pravima-za-Crmu-Goru-za-2016.-godinu-.pdf>

The Law on the National Public Broadcasting Service RTCG and the Law on Election of Councillors and Parliament Members regulate political pluralism in the media during the pre-election campaigns.⁵⁸ There is a common position that political parties do not have equal access to the media, whether it is an electoral or non-electoral period. In October 2016, parliamentary elections were held in Montenegro, and the European Commission Report assessed that “the weaknesses of the media sector, especially those related to editorial independence and detailed reporting, polarization and self-regulation, were evident during the recent election campaign.”⁵⁹

A non-governmental organization Civic Action monitored the media coverage during the pre-election campaign for the parliamentary elections last year, which showed that the media took side of certain political parties and coalitions and thus jeopardized objective information to the public. The Civic Action noted that the media, especially printed, were often one-sided in reporting, but that they also were using a “covert campaign”. Thus, every fifth text in the newspaper covertly promoted one of the parties, while in the last month of the campaign each third report contained the elements of the covert campaign. The research, according to the NGO, showed that “the media have “favourite” political subjects, but also those political subjects have their “favourites” among media.”

“On the basis of the results that we have come up with, we could conclude that the media showed unprofessionalism by providing limited and politically coloured information about the electoral process.”⁶⁰

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

Media in Montenegro are those who set the criteria in journalism, because journalists do not have the necessary licenses, nor do they have special permits to practice.

The interviewed journalists pointed out that they were not denied to report from certain places or events for not having accreditation. Such an answer was given by as high 81% of them.

The Association of Commercial Electronic Media of Montenegro, the Association of Local Broadcasters, the Union of Local Public Broadcasters of Montenegro, and the Association of Independent Electronic Media are just some of the media associations existing in the country. In addition, there are several associations, active to some extent, that deal with protecting the interests of journalists: the Association of Professional Journalists of Montenegro, the Association of Journalists of Montenegro and the Society of Professional Journalists of Montenegro. Some of them are

often perceived as politicized. Although as many as 80% of journalists said that they were free to join a journalist association, 70% of respondents pointed out that they were not members of any association. 28% of them confirmed that they were members of some professional associations.

In addition to the Trade Union Media of Montenegro (SMCG), which gathers about 300 media employees, there are two trade unions operating in the Public Broadcaster. The Trade Union of Media of Montenegro is a branch union of the Union of Free Trade Unions of Montenegro. According to the responses, the interviewed journalists feel more freedom when it comes to joining the trade unions, because more than 84% of the respondents said they had the freedom to join the union. Unlike the situation with associations, about 47% of the respondents indicated that they were members, while 52% of the respondents pointed out that they were not members of trade unions.

And while no significant pressures on associations have been recorded, the division and harsh conflict between the media makes it difficult for the trade unions and their attempts to protect rights and improve the position of journalists in the country.

Journalists are not formally forbidden to become trade union members, but they are very inactive, and because of the fear of losing their jobs, they hardly decide to make that move. Functioning of one trade union organization is hampered due to the bureaucratic formalities on which the employer insists.⁶¹

In 2016, the official statistic house Monistat registered an increase in number of employees in the media. So, in 2016, 1,375 people worked in the Montenegrin media, that is, even 130 more than in 2015. SMCG tried to find out more about this increase and asked the directors of the leading media at the national and local level about the change in the number of employees and the amount of average earnings.⁶² According to these data, 11 major media at the national and local level, who agreed to give answers, employed a total of 39 people in the past year, so, with the condition that no one in those media has been fired, it remains unclear where the rest of 100 people are employed. Also in some of these media, some employees left so that this figure of 39 is not absolute.

The European Commission warns that “the effectiveness of self-regulation of the media is hindered by the fact that this self-regulation is divided into different forms, which reflects the division into the media community itself.”⁶³ That the media is still divided can be concluded from mudslinging campaigns that result in lawsuits.⁶⁴

⁶¹ Data of the Trade Union of Media of Montenegro

⁶² More details in appendices.

⁶³ European Commission, *Montenegro 2016 Report*, p. 27, accessed May 20, 2017 <http://www.delimne.ec.europa.eu/upload/izvjestaj.pdf>

⁶⁴ Ivan Čadenović, „Ružičasta htjela da nas osramoti” [Pink wanted to Embarrass Us], *Vijesti*, August 11, 2017, accessed August 11, 2017: <http://www.vijesti.me/vijesti/ruzicastah-tjela-da-nas-osramoti-950018>

⁵⁸ *Law on Election of Councillors and Members of Parliament*, Article 6

⁵⁹ European Commission, *Montenegro 2016 Report*, p. 27, accessed May 20, 2017. <http://www.delimne.ec.europa.eu/upload/izvjestaj.pdf>

⁶⁰ Kristina Četković, interviewed by Bojana Laković, August 3, 2017.

Table 1: Data on number of employees and average salaries in media

| | Total number of employees | Total number of journalists | Newly employed since September 2016 | Average salary at company level | Average salary of journalists | Number of part-time associates |
|------------------|---------------------------|-----------------------------|-------------------------------------|---------------------------------|-------------------------------|--------------------------------|
| Radio HN | 23 | 11 | 0 | 502.52 | 505.33 | 0 |
| RTV Budva | 50 | 16 | 3 | 420.00 | 450.00 | |
| RTV Pljevlja | 31 | 9 | 1 | 290.47 | 448.90 | 1 |
| Portal Analitika | 11 | 10 | 1 | 344.41 | 336.82 | 12 |
| TV Vijesti | 69 | 28 | 4 | 468.00 | 511.00 | 10 |
| Monitor | 5 | 4 | 0 | 600 | 650 | 10 |
| RTCG | 735 | 242 | 21 | 480 | 572 | 51 |
| Antena M | 16 | 11 | 1 | 500 | 500 | 10 |
| TV Prva | 49 | 17 | 1 | 550 | 550 | 0 |
| ND Vijesti | 126 | 62 | 5 | 718.84 | 776.79 | 29 |
| Radio Berane | 19 | 9 | 2 | 372,73 | 418,59 | 0 |

According to the MSS Executive Secretary Ranko Vujović, during the period of analysis there were no pressures on him and his colleagues.

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

The legal protection of journalists' sources is still defined in the same way (by Article 21 of the Law on Media) while the Committee of Ministers Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information⁶⁵ provide for full elaboration of this principle to all members of the Council of Europe including Montenegro.

At the beginning of July 2017, while interrogated in the police station, journalists of daily newspapers Vijesti were asked to disclose their sources⁶⁶. Generally, the interviewed journalists previously did not have situations in which they are asked to disclose the identity of a trusted source. However, some experiences were different.

"I was asked several times to disclose the source of the information, but not outside the editorial board. I did it once considering that I did not endanger the source of information and with the permission of the source - I told my editor who gave me the information in order to eliminate suspicion in authenticity of information."⁶⁷

Our interlocutors point out that the freedom to choose the interlocutor is not absolute, and that each media has a "list of unwanted interlocutors."⁶⁸

"I cannot say that I have complete freedom in the choice of my interlocutor, moreover, I even think that it is quite limited. This is because, in the media where

I work, as well as in all print media in Montenegro as it seems to me, the interlocutors in important topics are selected (imposed) exclusively by those whose attitudes and statements can be predicted, and which correspond to the context of the story."⁶⁹

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

At the beginning of May 2017, the Law on Free Access to Information was amended. NGOs and some media criticized the new law because in their opinion it is in disagreement with the Constitution, since it introduces the possibility that the authorities restrict access to information and designate some documents as secret. For this reason, a proposal to assess the constitutionality of these amendments has been made⁷⁰. In addition, according to the Network for Affirmation of the Non-Governmental Sector (MANS), the list of information to which access is restricted has been extended "so that institutions have a legal alibi to hide information that can reveal how some business deals are concluded, as well as information related to tax debts and liberation, etc." They add that the new decision also abolished the obligation of the meritory making decision of the Agency for Protection of Personal Data and Free Access to Information.

"In practice, this will result in delays in proceedings, without the possibility of making a final decision in a specific case - the authorities will continually make illegal decisions that the Agency will continually terminate and this will go on and on. This is one of the biggest steps backwards when amendments of the law are in question, as it will directly affect the efficiency of the procedure and the possibility to reach certain information faster."⁷¹

This NGO has a Program for Free Access to Information that facilitates the access to information to journalists in a way

65 Committee of Ministers Recommendation No. R (2000) 7 (of the Council of Europe) on the right of journalists not to disclose their sources of information, accessed May 25, 2017: http://ravnopravnost.gov.rs/downloads/files/se_preporuka_r_2000_7.pdf

66 Danilo Mihajlović, „Policija saslušavala novinare "Vijesti": Pitali ih za izvore" [Police Interrogated Journalists of Vijesti: Asked them about their source], Vijesti, July 12, 2017, accessed July 17, 2017: <http://www.vijesti.me/vijesti/policija-saslusavala-novinare-vijesti-pitali-ih-za-izvore-946258>

67 Vladimir Otašević, interviewed by Marijana Camović, August 1, 2017

68 Ibid.

69 Anoumous, interviewed by Bajana Laković, July 20, 2017.

70 Vijesti online, „Podhijet Predlog za ocjenu ustavnosti odredbe Zakona o slobodnom pristupu informacijama" [Proposal for assessing the constitutionality of the provision of the Law on Free Access to Information submitted], Vijesti, May 26, 2017, accessed July 12, 2017: <http://www.vijesti.me/vijesti/podhijet-predlog-za-ocjenu-ustavnosti-odredbe-zakona-o-slobodnom-pristupu-informacijama-939532>

71 Vuk Janković, interviewed by Marijana Camović, June 30, 2017.

that they directly contact MANS with the request they need to send to a particular institution. MANS specifies the text of the request, sends it to this institution, and journalists receive the final answer that they use in their investigative reports. This way, journalists much easier reach information especially in the event when institutions refuse to provide information because MANS reaches the requested data through legal proceedings. From September 2016 to July this year, 42 investigative reports have been published with data provided by MANS, 10 of which published this year. MANS estimates that journalists are becoming more and more aware of the fact that institutions can answer questions incompletely, unclearly or even hide certain information, while through the Law on Free Access to Information they receive concrete documents.

“Insisting that journalists in daily newsrooms publish certain stories as soon as possible is a big problem - the problem of so-called “daily tapes”, because investigative journalism requires time to get certain documentation and data. In this sense, many ideas for the story literally “go to waste”, get published incomplete, instead to wait some time, collect the documentation and then do a story that will be wrapped up and complete.”⁷²

From September 2016 to early June 2017, journalists filed only 33 requests for free access to information to the Agency for Protection of Personal Data and Free Access to Information. Out of that number, five requests were rejected. The Agency pointed out that journalists had filed 4 complaints against state bodies in 2016. In the previous survey, the number of requests for free access to information from journalists was negligibly small.

“With the amendments to the Law on Free Access to Information, this law has been harmonized with the new Law on Administrative Procedure, and one new institute has been introduced - re-use of data.”⁷³

Even 36% of respondents pointed out that they sought access to information of public importance, but that their requests were denied. On the other hand, 22% said that they were not refused. Almost 27% of respondents have never sent a request for free access to information.

The interviewed journalists and editors generally assess that the main institutions in Montenegro are partially transparent. Even one quarter of respondents thinks that the government demonstrates little or no transparency, while 42.2% believe it shows some transparency. Also, a quarter of the respondents say that politicians are little or completely non-transparent. A little less than 33% of the respondents see courts as little or completely non-transparent, which makes the courts the least open institutions in journalists' opinion. When it comes to monitoring the work of courts, there were two exceptions this year in which the media were allowed to record trials, both of which relate to the “Coup case”. In the beginning of December 2016, the High Court provided the media with a record of the trial

of the alleged criminal organization that planned to provoke chaos in Montenegro on the day of parliamentary elections on October 16⁷⁴. In addition, after the courtrooms were technically equipped⁷⁵ at the beginning of the year, the media were enabled to follow live the “trial of the century” in the “Coup case”⁷⁶.

Interviewed journalists think the same way regarding the fact that not all information from institutions reach all the media at the same time, and that there is a problem of “preferential media”, especially by the Prosecutor's Office.

“When it comes to the Prosecutor's Office, selective distribution of information and a privileged attitude towards some of the media, which are always on the spot when allegedly secretive actions occur, is noticeable. It takes a long time to get information from this institution, and sometimes they never arrive.”⁷⁷

According to the respondents' answers, the Parliament and the political parties are most transparent, as 20.3% of the respondents consider that they show a complete or a great deal of transparency in their work. This is somewhat disproportionate to the situation in practice, since by the end of May this year, cameramen and photographers were forbidden to record arrival of some MPs in the plenary hall of the Parliament of Montenegro.⁷⁸

The Law on Free Access to Information, according to the MANS, showed that the most non-transparent are the following institutions: Privatization Council, Ministry of Economy, Ministry of Agriculture and Rural Development, Customs Administration, Investment Development Fund of Montenegro, “Plantaže 13. Jul AD”, Statistical Office, etc.

The impression is that there is a visible selective attitude of state authorities towards the media.⁷⁹

“It is not specifically a Montenegrin thing, it is more or less present everywhere in the world. Journalists and politicians like to talk about each other as natural enemies, whereas, in reality, they often find a common language. Two or three media have a privileged position primarily in the judiciary, the prosecution and the police, and some other media are privileged at some other addresses.”⁸⁰

⁷⁴ „Sud prihvatio sporazum - Mirko Velimirović: Spasio sam crnogorski narod (VIDEO)” [Court Accepts Agreement - Mirko Velimirović: I Saved Montenegrin People (VIDEO)], Portal Analitika, December 5, 2016, accessed May 19, 2017: <http://portalanalitika.me/clanak/252628/sud-prihvatio-sporazum-mirko-velimirovic-spasio-sam-crnogorski-narod-video>

⁷⁵ „Svečanost povodom završenog opremanja sudnice Višeg suda u Podgorici” [Ceremony on Occasion of Completing Furnishing of the High Court in Podgorica], Sudovi.me, February 10, 2017, accessed August 1, 2017: <http://sudovi.me/vrns/odnosi-sa-javnoscunajave/>

⁷⁶ Agencija Mina, „TV Vjesti će prenositi sudenje za pokušaj terorizma na izborni dan” [TV Vjesti will broadcast a trial for attempted terror attack on election day], Vjesti, July 17, 2017, accessed July 17, 2017: <http://www.vjesti.me/vjesti/tv-vjesti-prenosice-sudenje-za-pokusaj-terorizma-na-izborni-dan-946850>

⁷⁷ Anonymous, interviewed by Bojana Laković, July 20, 2017.

⁷⁸ „Novinarima mora biti omogućen normalan rad u Skupštini” [Media must be allowed normal work in the Parliament], Trade Union of Media, June 30, 2017, accessed June 30, 2017: <http://sindikatomedija.me/index.php/saopštenja2/188-novinarima-mora-biti-omogucen-normalan-rad-u-skupstini>

⁷⁹ Dako Šuković, intervjuisala Bojana Laković, septembar 5, 2017.

⁸⁰ Ibid

⁷² Ibid.

⁷³ Answers of the Agency for Protection of Personal Data and Free Access to Information, Septembar 05, 2017

B

Journalists' position in the newsroom, professional ethics and censorship level

After the employees of RTV Atlas stopped broadcasting the program by the end of September because of five unpaid salaries, a bankruptcy procedure was introduced in this media. SMCG has actively followed the case, provided support to colleagues, and informed the local and foreign public about situation in Atlas. After several unsuccessful attempts to find a way to settle debts on broadcasting fees, in 2016 and 2017, the Agency for Electronic Media launched eight bankruptcy proceedings before the Commercial Court. In August 2016, the Ministry of Finance approved the reprogram of tax debt to the media. Journalists estimate that their economic situation deteriorated compared to the last year, 53% of which said that the economic situation has deteriorated considerably. The fact that as much as 31.3% of respondents were forced to do some other paid job, which is a growth of almost 13% in comparison with the previous year, supports this data. Pressures to create sensational news are increasing. Even 66% of respondents consider that the pressures are stronger, and 61% of respondents believe that the credibility of the journalism has weakened. Journalists face self-censorship, meaning that they know which topics they cannot work on, depending on the editorial policy of the media. The novelty is that media owners increase the influence on the work of journalists. Some politicians and businesspersons are in a privileged position due to their close relationships with the management of some media. The Media Council for Self-Regulation received 16 complaints this year, accepted 15 of them all related to the daily newspaper Dnevne novine.

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

Based on now partly outdated research, there is an estimation that about 800 journalists work in Montenegro.⁸¹ Generally, they are not willing to talk about their position and working conditions, and they decide to take this step only when they got fired.

This year's survey confirmed that journalists' salaries are generally less than the average salary on the state level, which, according to Monstat data, amounted to 510 Euros in June 2017.⁸² More than half of the respondents (54.7%) receive less than 500 Euros, out of which 13 journalists earn 300-400 Euros. On the other hand, 15 respondents receive a salary of 500 to 600 Euros. Previous SMCG surveys for 2016⁸³, as well as a number of other surveys, show that this trend has been present for many years. The position of the editors is seen as "safe", bearing in mind the amount of their salaries that according to the last year's research of the Institute for Media of Montenegro⁸⁴ range from 1.000 to 3.000 Euros.

Table 2: In which of the following categories does your monthly salary fall, after taxes?

| | Number of answers | % |
|-----------|-------------------|------|
| 0-200 | 3 | 4.7 |
| 201-300 | 4 | 6.3 |
| 301-400 | 13 | 20.3 |
| 401-500 | 15 | 23.4 |
| 501-600 | 15 | 23.4 |
| 601-700 | 9 | 14.1 |
| 701-800 | 2 | 3.1 |
| 801-900 | 1 | 1.6 |
| 901-1000 | 1 | 1.6 |
| >1000 | 1 | 1.6 |
| no answer | 0 | 0 |
| Total | 64 | 100 |

In addition to low wages, the biggest problem is their delay, which is the most common situation in local public

broadcasters. Such problems are also present in private media. As of the end of September 2016, RTV Atlas employees stopped broadcasting the program because they did not receive five salaries. Therefore, a bankruptcy procedure was initiated in this media house. The SMCG has actively followed this case, provided support to colleagues, and informed the local and foreign public about what was happening in Atlas.⁸⁵

After several unsuccessful attempts to find a way that the media settle their debts for 2016 and 2017, the Agency for Electronic Media initiated eight bankruptcy proceedings against the broadcasters for unpaid liabilities for broadcasting fees.⁸⁶

In August 2016, the Ministry of Finance approved a reprogramming of tax debt to the media⁸⁷ in the total amount of 764.000 Euros, for newspapers and television Vijesti, TV Pink M and radio Antena M.

Non-payment of contributions, illegal employment, overtime and work during the holidays are just some of the problems that media employees face. A survey among reporters and editors showed that 75% of them have a contract on indefinite. Almost 8% of journalists have status of part-time associate, while about 11% of respondents work on fixed term. The respondents agreed that their economic situation worsened even in relation to the previous year, and 53% of them said that the economic situation had weakened considerably. Only 6% of respondents perceive that the economic situation has improved considerably, while 11 respondents see no change. The fact that as many as 31.3% of the respondents were forced to work another paid job, which is a 13% growth compared to the previous year, speaks a lot about their economic situation.

Table 3: Was there improvement or worsening in economic position of the journalists in Montenegro?

| | Number of answers | % |
|-----------------------|-------------------|------|
| considerably worsened | 34 | 53 |
| somewhat worsened | 9 | 14 |
| not changed | 11 | 17.2 |
| somewhat improved | 5 | 7.8 |
| improved considerably | 4 | 6.3 |
| no answer | 1 | 1.6 |
| Total | 64 | 100 |

81 *Social Status of Journalists in Montenegro*, Podgorica: OSCE, 2014, p. 44.

82 „Prosječne zarade (Plate) jun 2017. godine“ [Average Wage (Salary) June 2017], Monstat, July 28, 2017, accessed August 15, 2017: <http://www.monstat.org/cg/novosti.php?id=2456>

83 *Trade Union of Media of Montenegro, Indicators for the level of media freedom and journalists' safety*, (Podgorica: Trade Union of Media of Montenegro, 2016), p. 28.

84 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), accessed June 15, 2017: <http://mediaobservatory.net/sites/default/files/Divided%20to%20the%20Detriment%20of%20the%20Profession.pdf>

85 „SMCG uputio otvoreno pismo ambasadam“ [SMCG Addressed Open Letter to Embassies], Trade Union of Media, last change October 7, 2016, accessed June 17, 2017: <http://sindikatomedija.me/index.php/saopstenja/123-smcg-uputio-otvoreno-pismo-ambasadama>

86 „Saopštenje za javnost“ [Press Release], Agency for Electronic Media, last change March 23, 2017, accessed June 17, 2017: http://www.ardcg.org/index.php?option=com_content&task=view&id=397&Itemid=1

87 *Mina-business*, „Reprogram duga za medije“ [Reprogram of Dept for Media], Portal RTCG, August 12, 2016, accessed June 17, 2017: <http://www.rtcg.me/vijesti/ekonomija/137895/reprogram-duga-za-medije.html>

In addition to economic ones, journalists also face problems when dealing with their professional status in newsroom. They are increasingly being overburdened, especially because of insisting that one journalist cover several areas, often being given tasks that do not fall into the description of their job, such as editing, designing page layout, taking photos, photo processing, etc.

“Daily layoffs and reduction in number of journalists in the newsrooms create the strongest pressure directly resulting in increase of working tasks of those who remain, while their salary are still low or even declining, with the explanation that the media is in a difficult financial situation due to the negative effect of the regime (this refers to the so-called opposition or independent media).”⁸⁸

The Trade Union of Media of Montenegro in September 2016 submitted to Montenegrin Employers Federation the proposal for new Special Collective Agreement and asked for the start of negotiations on the document. However, employers waited a year before they met this request. Negotiations began in October 2017⁸⁹ and it was agreed that details would not be released to the public until their completion.

The respondents agreed that the pressure to create sensationalist news is increasing. Even 65.6% of them believe that the pressure has considerably or somewhat strengthened. About 14% of respondents consider that they have somewhat or considerably weakened, and about 17% see no change. A similar situation is with the pressures to make a profit. Almost 60% of respondents said that pressures on journalists somewhat or heavily strengthened because of profit. A significantly smaller number of them (14%) point out that these pressures decreased to some extent. Assessing the credibility of journalism, 61% of the respondents consider that it has somewhat or considerably weakened, while around 23% see no change. Their opinions were divided in terms of education in journalism, so 37.5% of the respondents said that it has considerably or slightly strengthened, while 36% thought that the education of journalists has somewhat or significantly weakened.

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

Last year, the private media did not introduce any kind of internal regulations to regulate the work in newsroom, nor did they formally separate newsroom from marketing

departments. Although the interviewed journalists mostly agree that they are not affected by marketing, there were examples of media that did not allow critical report on largest advertisers.

The Code of Journalists of Montenegro, amended in 2016, is the basic “regulation” which journalists of private media rely on. As far as it is known, no private media has adopted specific ethical rules. The Media Council for Self-Regulation consists of 19 media, and all major private media have their ombudsmen.

Journalists do not speak openly about the pressures they face in their daily work, but interviewed journalists point out that each editorial board has a “list of desirable” interlocutors, and that journalists face self-censorship in terms of knowing which topics they can work on depending on the editorial media policy.

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

The provisions of the Code of Ethics make an integral part of the employment contract in the Public Broadcasting Service. Unlike private media, the Public Broadcaster also has its own Code of Ethics, which provides for the rules of conduct of the Council members, RTCG director, RTCG employees and the ethical principles of advertising.

RTCG Code does not cover the independence of journalists and editors, as this norm is provided for in the RTCG Statute and the Law on the National Public Service RTCG. In the period analysed, the RTCG Statute has not changed, so it still provides for independence and autonomy in work of journalists and editors, but does not specify their independence regarding advertisers.

The editorial independence of the RTCG, as stated in the latest European Commission Report, should be set as a priority, “because a truly independent, well-functioning public broadcaster is the key aspect of media pluralism.”

“It is essential for the RTCG to ensure editorial and financial independence from political influence and to ensure that all changes in the administration are in accordance with the law.”⁹⁰

⁸⁸ Vladimir Otašević, interviewed by Marijana Camović, August 1, 2017.

⁸⁹ “Počeli pregovori o novom Granskom kolektivnom ugovoru za oblast medija ” [“Started negotiations on a new Special Collective Agreement for media”], safejournalists.net, October 18, 2017, accessed: October 18, 2017, <http://safejournalists.net/me/poceli-pregovori-o-novom-granskom-kolektivnom-contract-for-area-media/>

⁹⁰ European Commission, Montenegro Report 2016. p. 27, accessed May 20, 2017, <http://www.delimne.ec.europa.eu/upload/izvjestaj.pdf>

The public service was previously recognized as being on the side of the ruling party. However, after changes in management and editorial structure, the public now perceives steps forward.

„After the appointment of the new Director General of RTCG and the new Director of TVCG, reporting of the TVCG is now more critical towards the shortcomings in the activities of the state and local government. We can say that the RTCG is now closer to achieving its role, that is, timely and objective reporting of problems in society.”⁹¹

Đurović points out that journalists bravely ask functionaries the questions, they do not go around the problems, and thus “unpleasant” themes unfold. Nevertheless, he stresses that it takes time for editors and journalists to “free themselves from self-censorship, to bring professional standards back to everyday life so they become their way of thinking.”

“It is noticeable that there are oscillations in the quality of informative programs, depending on who is in charge of regulating and managing certain content. An urgent activity should be undertaken in this field in order to provide identical approach to the topics through continuous work with editors and journalists.”⁹²

Director General of the Public Broadcaster Andrijana Kadija points out that, after the changes in that media house, there is a lack of the interviews with senior officials because they are unwilling to be guests in the programs. Still, she points out that the RTCG editors and journalists are under no pressure.

“No politics influences us. Nobody exerts any kind of pressure, maybe only the fact that they are unwilling to be guests in the programs can be interpreted as a pressure. Now we are working in conditions that enable achieving professional standards.”⁹³

She points out that the editors cannot do anything that is not approved by the superiors, but that does not refer to the selection of interlocutors and the questions to be asked.

“They are allowed to tell any story in the way they want, but to do it professionally. Their only obligation is to respect the program production plan.”⁹⁴

The journalist of the Public Broadcaster and the author of the program “Mechanism”, Mirko Bošković, who was denied access to the basic means of work by the decision of the former general manager of Rade Vojvodić, thus

stopping the continuation of the research and production of the collected material, pointed out that, compared to last year, the situation has changed for the better.

„The management and editorialist changed, and therefore the attitude towards me and what I do. At the Public Broadcaster, an investigative department has been formally established and now we work completely free, without internal and external pressures.”⁹⁵

Bošković, who is now the editor of the investigative department, reveals that the show will be back on, it is under preparation, and the broadcast is scheduled for October.

The Protector of Human Rights reiterated his last year’s position that it was not good that the work of the Public Broadcaster was causing such attention in terms of reviewing its objectivity, independence and impartiality in the work.

“The fact that we have a situation where the political influence has affected the functioning of the RTCG, regardless of the motives and reasons of any side is a matter of concern. It is clear that politics has no room in media regulation if true independence is to be achieved in every sense of the word.”⁹⁶

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

Since September 2016, no new non-profit media in Montenegro has been established. These media are still underdeveloped and have little impact due to their unsustainability. There are three of those: PCNEN electronic newspapers and two radio stations Radio Fatih and Radio Homer.

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

Imposing interlocutors and topics limit journalists in their work, and interviewed journalists explain that “self-censorship exists when you have to choose a topic within the frameworks of the media where you work or - just do not “rock the boat” and you will not have major problems.”⁹⁷

91 Goran Đurović, interviewed by Marijana Camović, August 1, 2017.

92 Ibid.

93 Andrijana Kadija, interviewed by Marijana Camović, August 16, 2017.

94 Ibid.

95 Mirko Bošković, interviewed by Marijana Camović, July 21, 2017.

96 Protector of Human Rights and Freedoms, 2016 Annual Report, (Podgorica: Protector of Human Rights and Freedoms, 2017), p. 94.

97 Vladimir Otašević, interviewed by Marijana Camović, August 1, 2017.

Editorial policy plays a very important role in the work of journalists. 43.8% of respondents indicate that editorial policy affects them extremely or a great deal, and 34.4% said that it partially affects their work. About 20% of respondents point out that editorial policy has little impact on their work.

Interviewed journalists confirmed these data. They say that the topics are imposed by the editorial policy of the media and by the preferences of the editorial board. The job of journalists is, as they say, to work within the defined frameworks.

“The topics must be in line with the editorial policy of the media and previously agreed in order to avoid withdrawal of already finished texts. If not on a daily basis, then surely every week editors impose topics that support the policy by that media.”⁹⁸

According to certain opinions, there is a special form of censorship in the media, since “private interests are very skilfully packaged in the form of fight for the public interest”.⁹⁹ “One can rightly count on a very low level of maturity of the public opinion, as 90% of people in Montenegro have no idea what fair journalism entails.”¹⁰⁰

When asked: “How much freedom have you had in choosing stories you will work on from September 2016 to the present moment”, more than half of respondents (about 53%) said they had a high degree of freedom, while 28% said they had an absolute freedom. On the other hand, 18.8% of them said that they had little or no freedom whatsoever.

The situation is almost identical when looking at the answers to the question of freedom in terms of the aspects of the story that will be highlighted. Half of the respondents said they had a high degree of freedom, while around 28% said they had absolute freedom. This type of freedom does not apply to almost 22% of respondents, who answered that in this period they had a certain degree or little freedom in selecting aspects of the story to be emphasized.

Personal experience of freedom in the work of journalists is denied by the answers regarding the hierarchy of influences. The survey once again confirmed that journalists face different influences by individuals and that the closer these individuals are to the journalists in their everyday work, the more influential they are to their reporting. Namely, as many as 76.6% of the respondents point out that their editors influence their work very much or partially. Even 9.4% of their colleagues say that editors extremely influence their work, and about 11% say editors

have little impact. The interviewed journalists agree that media owners and managers have almost none of influence on them, which can be explained by the fact that managers and owners actually influence editors, who then impose these demands on journalists.

These results are confirmed by interviewed journalists who say that the influence of editors, managers and owners is significant.

“They definitely have an impact on what will be published and when. A part of my work has never been published, which has nothing to do with quality, and which is justified by the reasons that often do not correspond with the truth.”¹⁰¹

Interviewed journalists also add that there is an influence of politicians and public officials and that some of them, thanks to friendship with the management of some media, are more protected than others.

„Autonomy in research, writing and publishing is very difficult to achieve without superiors’ support. When it comes to politicians and representatives of state organs, there is no direct influence because they know very well that by influencing editors and owners they influence the journalists themselves. Therefore, it often happens that functionaries, by influencing editors and owners, provide a larger space for themselves, a concealed advertising, and even double reporting about the same event, dissatisfied with the original attention.”¹⁰²

Editorial board of the TV Prva faces the expectations of different interlocutors that something be published in the way that the interlocutor expects. “However, there were no pressures in terms of threat or any kind of retaliation.”¹⁰³

Journalists continue to feel pressure by the people they are writing about. Since the government has financially supported the electronic media, the authorities’ attitude towards the media has changed in the way that “the top officials no longer use the most outrageous words and threaten the media, editors, journalists and owners publicly.”¹⁰⁴

Journalists generally agree that they are not influenced by marketing. The practice in the media is that journalists, depending on the schedule and duties in the field, mostly attend editorial meetings, especially the meetings of journalists who follow the same areas. Column editors usually attend editorial collegiums.

⁹⁸ Anonymous, interviewed by Bojana Laković, July 20, 2017.

⁹⁹ Darko Šuković, interviewed by Bojana Laković, September 5, 2017

¹⁰⁰ Ibid.

¹⁰¹ Vladimir Otašević, interviewed by Marijana Camović, August 1, 2017.

¹⁰² Anonymous, interview Bojana Laković, July 20, 2017

¹⁰³ Sonja Drobac, interview Bojana Laković, August 30, 2017

¹⁰⁴ Mihailo Jovović, interview Marijana Camović, September 9, 2017

Table 4: How influential each of the following is in your work?

| | Extremely | Very influential | Somewhat influential | Little influential | I don't know/no answer |
|---|-----------|------------------|----------------------|--------------------|------------------------|
| Your colleagues | 4.7% | 9.4% | 46.9% | 37.5% | 1.6% |
| Your editorial supervisors and senior editors | 9.4% | 39.1% | 37.5% | 10.9% | 3.1% |
| Managers in your media | 4.7% | 4.7% | 34.4% | 48.4% | 7.8% |
| Media owners | 7.8% | 7.8% | 32.8% | 37.5% | 14.1% |
| Editorial policy | 20.3% | 23.4% | 34.4% | 20.3% | 1.6% |
| Advertising | 6.3% | 9.4% | 26.6% | 53.1% | 4.7% |
| Journalism ethics | 59.4% | 21.8% | 9.4% | 1.6% | 7.8% |
| Possibility of defamation lawsuit | 18.8% | 7.8% | 20.3% | 37.5% | 15.6% |

Journalists agree that ethics greatly influence their work. Even 59.4% of them say that it was extremely influential, while around 22% say it has a great impact on their work. 9% of respondents point out that ethics partially influences their work. The interviewed reporters notice that ethical standards have weakened: 31.3% say they have weakened significantly, while about 22% of the respondents think they have somewhat weakened. On the other hand, 23.4% of respondents think that ethical standards have strengthened somewhat or extremely.

Journalists almost have a common position that they all should adhere to the Code of Ethics regardless of the situation and context. About 78% of respondents agree strongly, while a little less than 19% of them agree with this position to some extent. However, 53.1% of respondents agree to some extent (partially or completely) with the assertion that the situation dictates what is ethical in journalism. On the other hand, 39% of their colleagues partially or completely disagree with such a claim. More than half of respondents (59.4%) partially or completely disagree with the claim that journalism ethics is a matter of personal assessment. However, 34.4% of their colleagues agree to some extent with this claim. About 56% of respondents somewhat or completely disagree with the claim that it is acceptable to leave aside moral standards if some extraordinary circumstances require so. On the other hand, as many as 33% of their colleagues partially or completely agree with this statement.

Media Council for Self-Regulation (MMS) confirms the above data. They received 46 complaints in 2016, 35 of which were considered by the MSS Appeals Commission. In 26 cases, violation of at least one of the principles of the Code of Conduct was registered.¹⁰⁵ Twenty-three appeals referred the print media, seven to the television, three to the portals, while one complaint was about work of the radio.

“Daily newspaper Dan violated at least one of the Code principles seven times, the daily newspaper Informer four times, the daily newspaper Vijesti four times, the TV Pink M three times, TV Vijesti and the weekly Monitor twice and Pobjeda, Dnevne novine, RTCG and Skala radio broke one of the principles of the Code of Conduct of Journalists once.”¹⁰⁶

The MSS emphasizes that the mostly violated is the Principle III of the Code of Journalists, which is about incorrect publication or failure to publish corrections and responses, and this principle has been violated 14 times. The violation of Principle I, relating to integrity and accuracy of information, has been violated ten times. Journalists in two cases violated the Principle II of the Code, i.e. they did not separate the news from comments.

In the first six months of this year, MSS received 16 complaints, accepted 15 and they all relate to the Dnevne novine. “In three cases, we did not find a violation of any of the Code of Conduct principles. In 12 articles, we registered violation of the Code of Conduct of Journalists. In almost all texts we found a violation of Principle I.”¹⁰⁷

¹⁰⁵ Ranko Vujović, interview Marijana Camović, July 24, 2017.

¹⁰⁶ Ranko Vujović, interview Marijana Camović, July 24, 2017.
¹⁰⁷ Ibid.



From September 2016 to September 2017, the Police Directorate (UP) recorded seven acts of violence on journalists and media assets. Journalists of print media are at most likely to be attacked, and above all journalists in Vijesti. The problem of the impunity of attacks on journalists remains, and for some of the most drastic cases there is a danger of expiration.

The Criminal Code has been amended, but the idea to provide further protection to journalists by imposing more severe penalties or introducing new criminal offenses for attackers on journalists was not supported.

Pending cases where journalists are either being prosecuted or they are suing, which SMCG follows are: the case of Jovo Martinović, a journalist who was detained for 14 months, Tufik Softić, who sued the state for violating human rights because in the period of almost 10 years the competent investigating authorities did not take all the necessary and available measures to determine who attempted to kill him in front of a family house in Berane in 2007, and Gojko Raičević, who sued the Ministry of Internal Affairs for torture by police officers, which he was subject of on three occasions during the protest of the opposition in October 2015.

C.1 Safety and impunity statistics

From September 2016 to mid-July 2017, the Police Directorate (UP) of Montenegro recorded seven events related to attacks on journalists, media employees and media assets.

The investigation covers the period from September 2016 to September 2017, but because of the seriousness of the case that happened on September 11, 2017, when journalist Vladimir Otašević received death threats, we also analysed this case. Namely, in a telephone conversation, a brother of Prime Minister Duško Marković, Velizar Marković, threatened him after which the Prosecution Office started an investigation.¹⁰⁸

As for 2016 (from September to the end of December), the police informed the SMCG¹⁰⁹ that there were two cases reported: the stoning of the TV Pink M building and the verbal intimidation of the Siniša Luković journalist, which was treated as a misdemeanour.

On September 7, 2016, in the evening, unknown person threw several stones at the TV Pink M building thereby causing minor material damage. It has not yet been determined who is responsible for the incident. The competent Prosecutor of the Basic State Prosecutor's Office (ODT) in Podgorica has not yet qualified the event.

As for the intimidation of journalist Siniša Luković, the incident occurred on October 17, 2016, when, after he published an article, he was threatened at his doorstep, and the prosecutor qualified this as a misdemeanour¹¹⁰.

In the first seven months of 2017, the police registered four cases of assaults on journalists, and media, and media assets, three of which were processed by filing a motion for initiation of misdemeanour proceedings, while in one case the prosecutor assessed that there were no elements of criminal offense or misdemeanour.

Journalist of Vijesti, Maja Boričić, filed a complaint against unknown person on February 25, 2017, who sent her SMS with disturbing content from an unknown number. The competent prosecutor from the Basic Prosecutor's Office in Podgorica said there were no elements of the criminal offense that is prosecuted ex officio in this case. During the investigation, the perpetrator was identified and found to be a mentally ill person.

108 „Brat Premijera prijetio smrću novinaru Vladimiru Otaševiću“ [Prime Minister's Brother Sent Death Threats to Journalist Vladimir Otašević], Trade Union of Media, September 12, 2017, accessed September 12, 2017: <http://sindikatomedija.me/index.php/saopstenja2/200-brat-premijera-prijetio-smrcu-novinaru-vladimiru-otasevicu>

109 Police Administration, e-mail message to the Trade Union of Media, July 19, 2017.

110 „Sindikat medija pruža punu podršku kolegi Lukoviću“ [Trade Union of Media fully supports their colleague Luković], Trade Union of Media of Montenegro, October 18, 2016, accessed June 21, 2017: <http://sindikatomedija.me/index.php/saopstenja2/124-sindikatomedija-pruzu-punu-podrsku-kolegi-lukovicu>

RTCG cameraman, Dejan Radinović, on March 21, 2017 filed a complaint against Zorica Ivanović, who acted in impediment manner shouting: “Shut down the camera, or I'll break it”, then hit the camera and broke the microphone holder. A motion for initiation of misdemeanour proceedings was filed against Zorica Ivanović and she was brought to the Misdemeanour Court in Podgorica.

Journalist of Dnevne novine, Zorica Bulatović¹¹¹, filed a complaint against Danica Anđelić, former administrative inspector, on April 5, 2017, for alleged threats after the published text. The elements of the criminal offense have not been determined so a motion for misdemeanour proceedings has been filed.

Cameraman of TV Boin, Mark Ujkaj, filed a complaint against Haris Adžović on April 29, 2017 for threatening. The ODT assessed that not even in this case there were no elements of a criminal offense to be prosecuted ex officio, so a motion for misdemeanour proceedings has been filed.

Table 5. Police Administration Statistics

| TYPES OF CASES | 2016 | 2017 |
|--|------|------|
| Death threats | 0 | 1 |
| Attacks on media organizations and media | 1 | 0 |
| Other threats to journalists | 1 | 6 |
| Total | 2 | 7 |

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

The Government's commission for monitoring the actions of the competent authorities in investigations of threats and violence against journalists, murder of journalists and attacks on media assets began operating in September 2016. It is composed of representatives of the daily newspapers Dan and Vijesti, Trade Union of Media, Media Council for Self-Regulation, media experts, Prosecutorial Council, Inspector for controlling the legality of police powers in the Police Department of Internal Control, National Security Agency and non-governmental sector. By September 2017, this Commission published two quarterly work reports.

111 „Funkcioneri da odmjeravaju svoje riječi“ [Officials to Weigh Their Words], Trade Union of Media, April 6, 2017, accessed July 21, 2017: <http://sindikatomedija.me/index.php/saopstenja2/175-funkcioneri-da-odmjeravaju-svoje-rijeci>

The President of the Commission in the new convocation as well as the editor-in-chief of Dan Nikola Marković who believes that there have been steps forward in the work of the Commission and that it is much more functional than before. "As for the government, we have promised that our relationship will improve, and that they will pay more attention to the reports and deal more with our recommendations, but that remains to be seen."¹¹²

In the second report, the Commission dealt with cases of the first attack on journalist Tufik Softić in November 2007, an attack on journalist Mladen Stojović in August 2008, which in the meantime expired, threats to the journalist Damira Kalač in April 2015 and the stoning of the TV Pink M building on two occasions. It was found that there were numerous flaws in conducting all of these cases and that the police and prosecutors did not take all the measures and actions within their jurisdiction¹¹³.

After the Analysis of the risk of vulnerability of employees in the media - the journalists¹¹⁴, conducted by the Police Administration in 2014, no similar document has been done since. However, the Police Administration says that the Analysis represents the starting point for determining priorities in preventive and repressive measures aiming to create a safer environment for work of media employees. It was reiterated that private print media was most likely to be attacked again, first of all Vijesti, whereas the employees of Dan are less likely to be attacked., TV Pink M is added to this list independently of Analysis, due to two stonings of the building of this media.

"One form of preventive measure is a regular police patrol and operative work in terms of continuous inspections of media outlets, and also, watching the persons that could endanger safety of journalists. Besides, the situation in the written and electronic media is analysed in terms of their current activities and whether those can result in endangering safety of employees in those media."¹¹⁵

As it has been explained, since May 2014, all reported events related to attacks on journalists and their property are regularly updated within the special records of the Criminal Police Department. The statistics of the police are different from those of judicial authorities or other institutions because these cases are reported and recorded to the Police Administration regardless of the content and their outcome.

In the daily newspaper Vijesti, where journalists are rated as the most vulnerable, the safety is at the same level as last year.

"Safety is at the same level as in September 2016, given the number of unsolved attacks that happened before, and nothing guarantees that they will not repeat if someone decides so."¹¹⁶

According to some opinions, there has been a progress as the number of death threats and threats to integrity of the journalist decreased, which is probably the result of a step forward in perception of society that such things are unacceptable.¹¹⁷ "I believe this is, mostly, the merits of the media itself. These topics must stay in focus in order to further emancipate society."¹¹⁸

At the meeting with the Police Administration¹¹⁹, the SMCG representatives requested that the police designate one or two contact persons who could update them with information on cases of assault on journalists. This initiative is well taken and it will be considered, as promised.

SMCG representatives introduced the Supreme State Prosecutor Ivica Stanković¹²⁰ with the problem of unsolved cases of attacks on journalists and media, expressing their concern that a certain number of cases were going to expire.

From September 2016 to September 2017, one serious attack on the media was reported, which was the stoning of the TV Pink M. Almost all political parties, as well as the NGO sector, reacted and condemned this incident.

As for creating some additional mechanisms for the protection of journalists or monitoring the cases of attacks, nothing has been done at the level of state institutions. In the case of murder of editor-in-chief of Dan Duško Jovanović, May 2004, there has been no progress either.

In the previous year, there were no cases of wiretapping of journalists that had reached the public.

¹¹² Nikola Marković, interviewed by Marijana Camović, July 28, 2017

¹¹³ A.O., „Utvrđiti odgovornost zbog propusta u istragama“ [Identify responsibility for the failure of investigations], Dan, June 6, 2017, accessed July 16, 2017: <http://www.dan.co.me/?nivo=3&datum=2017-06-06&rubrika=Drustvo&clanak=601305&najdatum=2017-06-05>

¹¹⁴ Trade Union of Media of Montenegro, Indicators for the level of media freedom and journalists' safety, (Podgorica: Trade Union of Media of Montenegro, 2016), p. 37.

¹¹⁵ Police Administration, e-mail message to the Trade Union of Media, July 19, 2017.

¹¹⁶ Mihailo Jovović, interviewed by Marijana Camović, September 9, 2017.

¹¹⁷ Sonja Drobac, interviewed by Bojana Laković, August 30, 2017.

¹¹⁸ Ibid.

¹¹⁹ „Sastali se predstavnici SMCG i Uprave policije“ [Meeting of SMCG representatives and Police Administration], Trade Union of Media, June 14, 2017, accessed 21 July, 2017: <http://sindikatomedija.me/index.php/aktivnosti/186-za-3-godine-33-slucaja-napada-na-novinare>

¹²⁰ „Predstavnici SMCG se sastali sa Vrhovnim državnim tužiocem“ [SMCG representatives met Supreme State Prosecutor], Trade Union of Media, July 4, 2017, accessed July 4, 2017: <http://sindikatomedija.me/index.php/aktivnosti/189-slucajevi-se-moraju-rjesavati-prije-zostare>

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

There is a common opinion that the state does not react adequately to cases of violence against journalists, which is also recognized in the European Commission 2016 Report, which states that “Montenegro should in particular solve older cases of violence against media, including the 2004 murder case and other sensitive ones, review such cases and identify not only the perpetrators but also those who ordered the attacks; continue to provide guidance to the judiciary on aligning decisions with the case-law of the European Court of Human Rights on freedom of expression, ...;”¹²¹

The prosecution and the police act ineffectively, but the problem is not only the ineffective investigation but the lack of responsibility as well, because there is no political will to deal with attacks on journalists and there are no professional capacities of institutions to deal with these cases.¹²²

“As a consequence, we have 99% of unsolved serious attacks on journalists and no situation where someone was held liable. Is it possible and is it fair that since the first most severe crime in 2004, the murder of Duško Jovanović, to date, none of the police inspectors has been punished at least with a warning for not working well? Had they done well, most cases would have been resolved.”¹²³

After the Government proposed amendments to the Criminal Code in January 2017, the NGO Human Rights Action and the Trade Union of Media have again proposed the introduction of new criminal offenses to prevent and punish attacks on journalists when performing

professional duties. They believe it would contribute to raising awareness that this type of social phenomenon is unacceptable and must be severely punished.¹²⁴ It was then suggested that a punishment of up to one year be imposed on a person who “publicly expose a court or state prosecution to mockery” and “who violates the presumption of innocence prior to final court decision by way of publishing statements about the proceedings in progress, or who makes a public statement intending to violate the independence of the court or to influence the state prosecutor in performance of his office or otherwise seriously impede the conduct of criminal proceedings.” The HRA and the Trade Union of Media expressed disagreement because the Government later removed these proposals from the text sent to the Assembly.¹²⁵

No law specifically recognizes women journalists or protects them in a particular way. There is no difference between printed, electronic or on-line media either.

“I find it problematic that the state does not show true concern for the protection of journalists and the media. I do not see a consistent policy that stands as a dam and deters those who might want to attack the media. No messages are sent that journalists and the media are protected. On the contrary.”¹²⁶

Similar is the assessment of Ombudsman Šučko Baković, who in his Annual 2016 Report states that “in the sphere of journalism there are no significant changes for the better,” and that it remains an issue of concern.

“(...) in this area, solving the old cases of attacks and prosecution of both perpetrators and those who ordered the attacks is an imperative. Unsolved cases burden and slow the progress down. Data on decreasing number of incidents involving journalists is encouraging, but freedom of the media must remain under the watchful and constant care of the state.”¹²⁷

¹²¹ European Commission, *Montenegro 2016 Report*, p. 50, accessed May 20, 2017. <http://www.delimne.ec.europa.eu/upload/izvjestaj.pdf>

¹²² Nikola Marković, interviewd by Marijana Camović, July 28, 2017

¹²³ *Ibid.*

¹²⁴ „Saopštenje HRA i SMCG povodom usvajanja Nacrta zakona o izmjenama i dopunama Krivičnog zakonika“ [Announcement of HRA and SMCG on the adoption of the Draft Law on Amendments to the Criminal Code], Trade Union of Media of Montenegro, January 29, 2017, accessed July 21, 2017: <http://sindikatomedija.me/index.php/saopstenja/157-bez-jace-zastite-za-novinare>

¹²⁵ Danilo Ajković, „Vlada odustala od uvođenja poruge u Krivični zakonik“ [The government has given up the introduction of mockery into the Criminal Code], *Fos media*, May 25, 2017, accessed July 21, 2017: <https://fosmedia.me/infos/drustvo/Vlada-odustala-od-uvodenja-poruge-u-krivnici-zakonik>

¹²⁶ Dragoljub Duško Vuković, interviewed by Marijana Camović, July 18, 2017.

¹²⁷ Protector of human rights and freedoms, *Annual 2016 Report*, (Podgorica: Protector of human rights and freedoms, 2017), p. 93.

Between the two reports, nothing has changed in the way institutions monitor the cases of assaults on journalists nor has any of the cases been resolved. In addition, the SMCG follows the attacks through a regional database of attack on journalists regularly updated at www.safejournalists.net.

SMCG follows current court proceedings in which journalists are being accused or they are suing the state and state authorities for inadequate treatment in cases involving them as victims.

Journalist Jovo Martinović was released from detention on January 4, 2017 and was allowed to defend from freedom¹²⁸. He was in detention for 14 months, since 23 October 2015, and he is charged with two criminal offenses: creating a criminal organization and unauthorized production, possession and sale of narcotic drugs. Martinović pleaded not guilty explaining that he was in contact with the main suspect because of the documentary films he worked on for the French television Capa+. The French television confirmed these allegations. Martinović used to do similar films before. Half a year he was without indictment; the trial is under way and will continue in autumn.

Journalist Tufik Softić filed a lawsuit¹²⁹ against Montenegro claiming non-pecuniary damage for human rights violations, because for almost 10 years the relevant investigative authorities have not taken all the necessary and available measures to determine who tried to kill him in front of the family house in Berane on November 1, 2007. In the first instance procedure, Softić won a lawsuit¹³⁰ and the judge found that due to ineffective and unproductive investigation of the state organs, the state

was responsible for the non-pecuniary damage inflicted by violating the procedural aspect of the right to life and the prohibition of torture, that is, the right to dignity and the inviolability of a person. In the name of non-pecuniary damage, instead of the requested 100,000 Euros, he was compensated 7,000 Euros. In December 2016, the Police Directorate abolished the physical protection he had since February 2014, although the reasons for introducing this kind of protection have not stopped.¹³¹

The editor of the IN4S Gojko Raičević¹³² sued the Ministry of Internal Affairs for torture by the police officer, which he was subject of on three occasions, during the opposition protest in October 2015. He claims that police officers beat him brutally, and that the line ministry did nothing to identify them.

At the end of April 2017, a Grant Agreement was signed between the joint program of the European Union and the Council of Europe titled "Strengthening the Judicial Expertise on Freedom of Expression and Media in South-East Europe/JUFREX" and the Training Center in Judiciary and the State Prosecutor's Office.

The agreement provides for the training of judges and state prosecutors in the period from May 2017 to December 2018 in order to improve the application of the European Court of Human Rights practice regarding the protection of freedom of expression¹³³.

128 „Hapšenje, Jovo Martinović, Podgorica, 23.10.2015.“ [Arrest Jovo Martinović, Podgorica, 23/10/2017], [Safejournalists.net](http://safejournalists.net), October 23, 2015, accessed July 21, 2017: <http://safejournalists.net/me/reports/hapsenjejovo-martinovicpodgorica23-10-2015/>

129 „Softić od države traži 100.000 eura jer nije utvrdila ko ga je napadao“ [Softić claims 100.000 Euros from the state for not establishing who attacked him], [Safejournalists.net](http://safejournalists.net), February 24, 2017, accessed July 20, 2017: <http://safejournalists.net/me/softic-od-drzave-trazi-100-000-eura-je-utvrdila-ko-ga-je-napadao/>

130 „Potvrđeno da država nije uradila ništa“ [Confirmed that the state did nothing], safejournalists.net, October 20, 2017, accessed: October 20, 2017: <http://safejournalists.net/me/potvrđeno-da-drzava-nije-uradila-nista/>

131 „Poslata loša poruka napadačima na novinare“ [Bad message sent to journalists' attackers], December 14, 2016, accessed in June 20, 2017: <http://sinikatmedija.me/index.php/saopstenja2/144-poslata-loša-poruka-napadacima-na-novinare>

132 Gojko Raičević, data submitted by e-mail, June, 14, 2017.

133 „Potpisan Sporazum o bespovratnoj pomoći između JU-FREX programa i Centra za obuku u sudstvu i državnom tužilaštvu“ [Agreement on grants between the JUFREX program and the Judicial Training Center and the State Prosecutor's Office signed], Courts of Montenegro, April 27, 2017, accessed 21 July, 2017: <http://sudovi.me/cenp/vijesti/potpisan-sporazum-o-bespovratnoj-pomoci-izmedju-jufrex-programa-i-centra-za-obuku-u-sudstvu-i-drzavnom-tuzilastvu-4629>

Appendices

List of interviewees

| Name and surname | Position/Organization | Date of interview |
|-------------------------|--|-------------------|
| Jadranka Vojvodić | Assistant Director of the Agency for Electronic Media | August 04, 2017 |
| Ranko Vujović | Executive Secretary, Media Council for Self-Regulation | July 24, 2017 |
| Mirko Bošković | Editor in RTCG | July 21, 2017 |
| Kristina Četković | Civic Alliance | August 03, 2017 |
| Dragoljub Duško Vuković | Media Analyst | July 18, 2017 |
| Milivoje Irić | Editor in RTV Pljevlja | July 26, 2017 |
| Nikola Marković | Editor in Chief of Dan daily newspaper | July 28, 2017 |
| Goran Đurović | RTCG Council member | August 01, 2017 |
| Darko Šuković | Editor in Chief in Radio Antena M | September 5, 2017 |
| Radomir Kračković | Editor in TV Vijesti | July 28, 2017 |
| Predrag Nikolić | Journalist at Monitor weekly magazine | July 31, 2017 |
| Anonymous | Journalist in Dan daily newspaper | July 18, 2017 |
| Vladimir Otašević | Journalist, Network for Investigative Journalism Lupa | August 01, 2017 |
| Anonymous | Journalist Dnevne novine daily newspaper | July 20, 2017 |
| Vuk Janković | Coordinator of the MANS Legal Program | June 30, 2017 |
| Andrijana Kadija | RTCG General Director | August 16, 2017 |
| Sonja Drobac | Director and Editor in Chief of PRVA TV | August 30, 2017 |
| Goran Kapor | Journalist in Vijesti daily newspaper | July 18, 2017 |
| Mihailo Jovović | Editor in Chief of Vijesti daily newspaper | September 7, 2017 |

About research:

The survey was conducted on a sample of 64 journalists and editors from various both local and state media organizations in Montenegro. Research among journalists was carried out using the survey method. The sample is intentional and unrepresentative. The survey contained 19 questions, which is considerably less than the one of last year, and it was sent to 224 e-mail addresses.

Totally, 64 journalists participated in the survey; 36 women and 28 men were interviewed, 35 of which were journalists and 29 editors. The data was collected from 01 to 31 August 2017.

Although this sample does not allow generalization of conclusions for the entire journalistic population in Montenegro, it is important to note that the obtained opinions of the interviewed journalists point out to existing trends. Given that the research is conducted for the second year in a row, it provides a good basis for understanding the current situation in journalistic freedoms.

According to official statistics of the Monstat, there was an increase in the number of employees in the media sector in 2016, which instigated the Trade Union of Media of Montenegro to try to get an approximate number of employees in the media, as well as the number of newly employed in 2016. Requests for information were sent to the addresses of 16 directors, owners and/or editor-in-chiefs of the leading Montenegrin media in June 2017. They were asked to answer the following questions:

1. How many journalists are working in this media house?
2. How many employees in total are working in this media (regardless of the workplace they cover)?
3. How many new people have been employed since September 2016?
4. What is the average salary of journalists?
5. What is the average salary at the company level (regardless of the workplace)?
6. Do you have part-time associates? If you do, how many?

A total of 11 media answered the questions: Radio Antena M, Radio Berane, Prva TV, RTV Pljevlja, RTV Budva, Radio Herceg Novi, Analitika Portal, ND Vijesti, Monitor, Radio and Television of Montenegro, until the date of publication of this research.

The following media houses have not answered the questions: CDM Portal, TV Pink M, Nova Pobjeda, Dan daily newspaper, and RTV Niksic.

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