

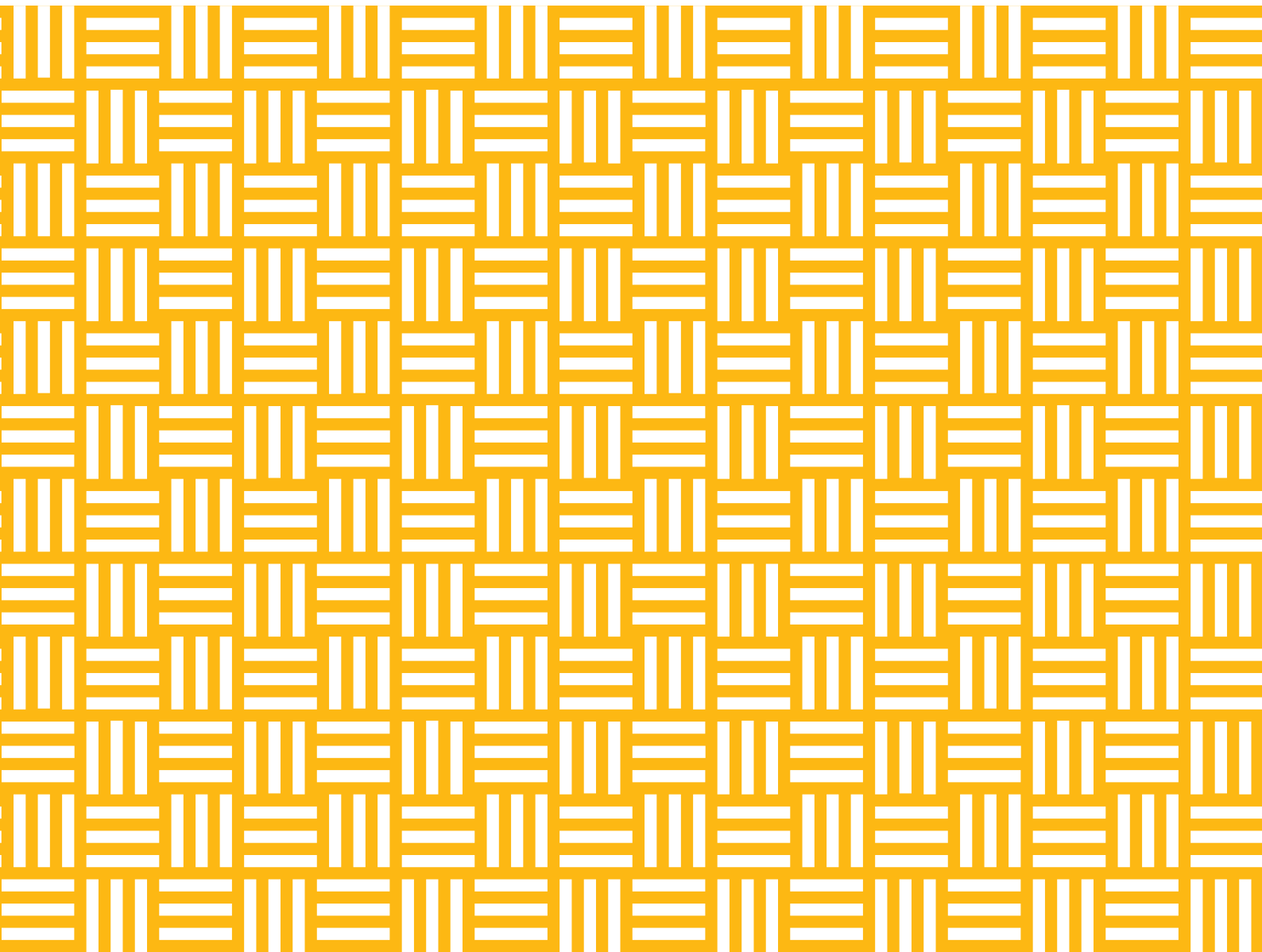


Regionalna platforma Zapadnog Balkana za zastupanje
slobode medija i bezbjednosti novinara
Western Balkan's Regional Platform for Advocating
Media Freedom and Journalists' Safety



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Media freedom level and journalist safety indicators [BOSNIA AND HERZEGOVINA]



**Media freedom
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This report presents the findings of the research 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. The main objective of the research study was to provide base-line assessment and evidence on the level of media freedoms and journalists' safety which will be further used in a regional mechanism for monitoring and advocating media freedoms and journalists' safety at local, national and regional levels.

The research study was implemented by a regional research team composed of a lead researcher² and five researchers at country level nominated by the national journalists' associations. The research in Bosnia and Herzegovina was conducted by Rea Adilagić on the basis of a common methodology for all five countries. A range of different qualitative and quantitative methods were employed for data collection and analysis.

Qualitative Documents Analysis(QDA): 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).

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

- Qualitative interviews – 15 interviews (journalists, lawyers, media experts, representatives of public institutions or NGO's).
- Survey with 207 journalists³ from different media organisations on the basis of a structured questionnaire developed within the Worlds of Journalism Study⁴.
- Official statistics requested from public institutions or collected from available websites or from other published sources..

Indicators A: Legal protection of media and journalists' freedoms

Legislation of Bosnia and Herzegovina guarantees the highest level of human rights and freedoms, including the right to freedom of expression. The only thing not expressly regulated by a special law in Bosnia and Herzegovina is the right to access the Internet, but the rights guaranteed by the legal documents of Bosnia and Herzegovina include to the Internet as well. The main problem in Bosnia and Herzegovina is not the lack of legislation, but inadequate implementation thereof. Statistics show that the situation in the media in general is at a worse level today than it was in previous years. (Section A1)

The process of making media and other laws relevant for the media was generally transparent. It is estimated that some aspects of the functioning of the Internet portals should be additionally regulated. However, the freedom of expression on the internet can be compromised by the fact that the Law on public order and peace of Republika Srpska defines the internet as a public place, so that all individuals, including journalists, who cause damage to someone by defamation, insult or similar actions, may face fines. Communications Regulatory Agency (CRA) is the body which, among other things, issues licenses for radio and television broadcasting and imposes sanctions for the media in cases where they do not comply with the law and regulations of the regulatory body. The work of the regulatory agency is generally perceived as fair and non-discriminatory, but also insufficiently effective. (Section A1)

3 The survey was conducted on a deliberate quota sample of 207 journalists from different types of media in Bosnia and Herzegovina, at national, regional / cantonal levels. Of the total number of respondents, 66 journalists were from public broadcasters, 38 from private radio and TV stations, 44 from the private print media, 42 from private Internet portals, and 17 from news agencies. It is important to note that, even though the quota sample does not allow for drawing general conclusions for the entire journalistic population in BiH, the resulting attitudes nevertheless provide a good basis for understanding the current situation in terms of media and journalistic freedoms.

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

The big problem is the lack of transparency in the funding of the media and the lack of clear rules on the basis of which national authorities should allocate the budget among different media outlets. This leads to unequal and non-transparent financing. (Section A1)

Minority peoples in Bosnia and Herzegovina are guaranteed media content on their respective PBS at least once a week. Due to lack of funding, this guarantee exists on paper only. (Section A1)

All public broadcasters in Bosnia and Herzegovina for years have been coping with difficult financial situation due to the lack of an effective and stable system of collection of the ration and television fee. Under political pressures all three public broadcasters give preference to the national and political interests over the interests of the public, thus bringing into question the role of public broadcasting service as an independent and professional media. (Section A1)

Although Bosnia and Herzegovina was the first country in the region to decriminalise defamation, the judiciary on average receives as many as 300 libel suits a year. The law is largely in line with European laws on defamation and relevant case-law, however, it still has visible flaws, most notable of which is disparity of case law in the Federation of Bosnia and Herzegovina and Republika Srpska and the lack of provisions to regulate defamation in the on-line space. Fear of libel suits and the effect of self-censorship among journalists is a major problem for freedom of expression in Bosnia and Herzegovina. (Section A2)

Although the media laws stipulate the obligation to respect and encourage pluralism of political ideas, the situation is different in practice. The division of BiH society and strong political influence on the media largely prevent pluralism in the media. All media in Bosnia and Herzegovina, regardless of whether they are private or public, are under the influence of some political party. This effect is particularly noticeable during the election campaigns. The journalists report according to the instructions of their management and owners, based on their political and material interests, giving preference to one while negating other parties, not disclosing to the public all relevant information and creating competition atmosphere or, at best, they are seemingly neutral in their reporting. (Section A3)

Journalistic profession is not subject to any specific licensing other than operating licenses that are issued to individual journalists by the media for which they work. Free-lancers however face the problems. Since they are not employed with any particular media, which would issue them an accreditation, they are experiencing many problems when reporting on various events. (Section A4)

Legally speaking, the journalists have the right and duty not to disclose the identity of those who provide them information in confidence. However, this only applies to laws on defamation. Other laws, especially criminal laws, do not address the issue of whether confidentiality of the journalists' sources may be violated in criminal proceedings, if so in what situations, who is making decision and to whom the identity is to be revealed in such a case. An exception is the provision in the Code of Criminal Procedure stipulating that, in order to protect the source, a journalist cannot be summoned to testify as a witness. (Section A5)

Progress has been made in the area of ensuring the right of access to official documents and information by the adoption of the Free Access to Information Act (FOIA) at the state level. Unlike entity and Brčko District laws, FOIA at the state level stipulates fines, which can reach up to BAM 15,000, for public figures who withhold information. In practice, under disguise of "privacy protection" and "data confidentiality" some try to hide the activities of public officials related to their public function or associated with criminal groups. Protection of confidential data is governed by the state level Law on Confidential Data. This law is completely contrary to the Freedom of Access to Information Act, because it does not allow nor does it consider any requests for information that are subject to the Law, even when information sought is not entirely confidential. (Section A6)

Public institutions in Bosnia and Herzegovina are not sufficiently transparent. According to respondents, the highest level of transparency is demonstrated by parliaments (state and entity). 92% of respondents claim that the parliaments are completely or largely transparent. The respondents were also satisfied with the transparency level of the police. 91% of respondents claim that the police are completely or largely transparent. The least transparent appear to be the governments and politicians. (Section A6)

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

Laws in Bosnia and Herzegovina governing labour rights in their text contain a number of provisions that should provide an effective protection of human rights and freedoms. However, in reality these laws are not implemented and as a result the fundamental rights of employees are being violated on a daily basis. When it comes to the protection of these rights, the lack of labour laws at the state level is a significant drawback. Such a law would stipulate the basic rules in this area, as well as accom-

panying instruments to ensure the enforcement of this law by both the administrative and judicial authorities. One of the common problems in the exercise of labour rights is the division of responsibilities between the entity and cantonal inspections. Namely, the trade unions and workers often do not know whom to turn to. A large number of journalists work without the appropriate employment contract and their other rights are often violated: the duration of the holiday, payment of contributions, payment of overtime and so on. (Section B1)

In Bosnia and Herzegovina there is no journalists' union. There are other unions which the journalists can join. The unions are formed at the levels of the Entities and Brčko District. What's missing is the state level union, which would allow all journalists in Bosnia and Herzegovina to act together. In private media the unions usually do not exist. The main reason for this is the fear and distrust of workers in the real strength of labour unions. (Section B1)

In a small number of private media in Bosnia and Herzegovina there are internal rules that should ensure the editorial independence from the owners and management. These rules are not effective in protecting journalistic independence or protecting journalists from the pressures by management, governing bodies and political actors outside of the media. What are missing are provisions that protect journalists when they refuse an engagement that is not in accordance with professional standards and ethics of journalism. Private media usually do not have their own specific codes of ethics of the Professional reporting; instead they are subject to the general code of ethics. (Section B2)

In public media, there is an official division between editorial and managerial and governing bodies. According to these codes, protection of journalistic independence is formally one of the main principles. According to interviewed respondents, journalists are exposed to large pressure and influences from various subjects, both outside and within the media on a daily basis. (Section B3)

The survey showed that most influence on the work of journalists comes from the competent and senior editors, even 76%. The least influence on the work of journalists is made by the colleagues from their own or other media outlet, less than 1%. 48% of respondents said that government officials partly influence their work, while 44% claimed that politicians are those who partly influence their work. A small number of the respondents, less than 1%, claimed that politicians do not affect the work of journalists.

Indicators C: Journalists' safety

According to statistics, journalists in Bosnia and Herzegovina often face various forms of assaults. From 2013 until mid-2016, there were 67 threats and 15 physical assaults on journalists recorded. In its laws the State does not recognise journalists as a separate category that requires protection. The assault against a journalist is treated as an assault against any other individual in the country. There are initiatives of the Ministry of Human Rights and the Ministry of Justice for more effective protection of journalists. During the 1992-1995 war in Bosnia and Herzegovina, 45 journalists were killed. Yet none of these cases has been prosecuted. (Section C1)

The number of backlog cases indicates that public officials, politicians and others do not attach sufficient importance to attacks on journalists and media outlets, and accordingly the necessary actions are not implemented effectively. (Section C2)

In general, journalists are dissatisfied with the efficiency of the criminal justice system. The assault against a journalist is treated as an assault against any other individual in the country, and it does not constitute a separate category. Court proceedings are very lengthy and only 28% of respondents believe that the judiciary is transparent, while only 4% believe in the transparent work of the Government. (Section C3)

Recommendations:

The concept of on-line media should be legally defined to explicitly specify the rights and obligations of on-line media, define the responsible persons in the on-line media and their rights and obligations.

All the government institutions should be required to proactively disclose information concerning the financing of the media.

In the budget for the financing of the media the state should anticipate the share for financing the programmes in minority languages.

Training of judges aimed at more effective implementation of the law on defamation and provision of legal assistance to media outlets should be organised.

The possibility of filing complaints to the Press Council and CRA prior to initiating libel suits before the courts should be promoted.

Criteria and timelines for assessment of emotional distress should be determined.

Case law in addressing cases of defamation in the Federation of Bosnia and Herzegovina and Republika Srpska should be harmonised.

Private media should commit to professional reporting and equal treatment of all political subjects.

Amendments to the laws that include penalties for public bodies and individuals in such bodies who fail to comply with the Free Access to Information Act should be adopted.

At the legislative level, the Law on classified information should be harmonised with the text of the Free Access to Information Act in order to prevent automatic denial of access to information based on the reference to former law.

The issue of violation of the principle of the confidentiality of journalists' sources in criminal proceedings should be legally regulated.

Systematic and regular surveys and analysis of working conditions of journalists, and the degree of compliance with the labour rights of employees in the media should be legally regulated.

All media should adopt an internal code, whereby they are to clearly separate the editorial board from the management and steering bodies.

The media legislation should introduce the provisions that protect journalists who refuse to publish the text that is contrary to the moral principles of journalism.

A new provision in the entity criminal codes, according to which an assault against journalists or in relation to their professional activity would be treated as an assault against an official person should be introduced.

Indicators of the level of media freedom and journalist safety

Indicators of the level of media freedom and safety of journalists in the Western Balkans are designed to respond to the specific needs and objectives of journalists' associations and improve their advocacy efforts for greater media freedom in their respective countries and better working conditions and freedom of journalistic work. In the past couple of years, several intergovernmental and international organisations have adopted guidelines on the methodology for the comparative assessment of media freedom and safety of journalists in different countries. Perhaps the best known guidelines or methodologies are those that were published by the following organisations:

- Council of Europe Indicators for media in a democracy⁵
- The European Commission
- UNESCO: Media Development Indicators (MDI)⁶ and Journalists' safety indicators: National level⁷
- USAID – IREKS: Media Sustainability Index⁸
- Freedom House: Freedom of press Survey⁹
- BBC World Service Trust: African Media Development Initiative¹⁰
- The Committee to Protect Journalists: Violence against journalists¹¹
- Reporters without borders World Press Freedom Index¹²

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

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

7 Available at: http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/images/Themes/Freedom_of_expression/safety_of_journalists/JSL_national_eng_20150820.pdf

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

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

10 Available at: http://downloads.bbc.co.uk/worldservice/trust/pdf/AMDI/AMD_summary_Report.pdf

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

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

In addition to the above, special attention was paid to the strategic framework of the European Commission aimed at assessing the fulfilment of the political objectives in the field of freedom of expression and media integrity. This framework is presented in the DG Enlargement Guidelines for EU support to media freedom and media integrity in the 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 journalists' associations in the Western Balkans. However, most of them are designed to serve the objectives of the international organisations and are more focused on detecting comparable national data and general global trends on media freedoms. Moreover, they do not prescribe a fixed methodological approach, preferring to offer a comprehensive list from which indicators should be tailored to the particularities of the national context. Then, they have been drawn up in the developed Western democracies and therefore lack certain degree of customisation essential for reflecting the local media context in the Balkan countries. Therefore, while reviewing all these documents, only those indicators are taken into consideration which may reflect the specific perspective of the independent journalists' associations 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:

A. Legal protection of media and journalists' freedoms

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

A.2 Do Defamation Law causes 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 Is freedom of journalists' work and association is guaranteed in 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 to access to information?

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

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 independence of the journalists in the public broadcasting services (PBS)?

B.4 What is the level of editorial independence of the journalists in the non-profit sector?

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

C. 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 deals effectively with threats and acts of violence against journalists?

A

Legal protection of media and journalists' freedoms

Media laws offer good quality solutions, although there are some issues that have not been precisely regulated, which leads to arbitrary interpretation of existing provisions. The laws are not adequately implemented in practice, and some provisions are often ignored, but nevertheless this non-compliance is not sanctioned. The work of the regulatory agency is perceived as fair and non-discriminatory, but also insufficiently effective. Financing of the media is completely non-transparent. As a result of inadequate system of fee collection, public broadcasting services for years have struggled with huge financial problems. There is a large number of libel suits, which to some extent affects the work of journalists. Political parties absolutely do not have equal treatment in the media. Most of the media has "their own" political parties which they favour. Protection of the confidentiality of journalists' sources is not precisely regulated by the law. Freedom of Access to Information Act exists not only at the state level but also at the level of entities and Brčko District, but journalists are not satisfied with its implementation. Institutions are partially transparent. According to respondents, the government and parliaments at both state and entity levels appear to be the least transparent.

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

The BiH Constitution, as well as entity constitutions¹³ and Statute of Brčko District guarantee the highest level of human rights and freedoms, including the right to freedom of expression. In addition, the freedom of expression is guaranteed by several laws regulating the media and communications,¹⁴ defamation laws,¹⁵ criminal codes¹⁶ and Freedom of Access to Information acts.¹⁷ Internet access is not explicitly listed as the right guaranteed by law, but constitutional and legal guarantees and rights guaranteed by other legal acts apply also to the Internet. However, the Law on Peace and Public Order of Republika Srpska, in the version adopted in 2015, treated the Internet as a public space, which is an obvious attempt to control on-line activism and social networks, expanded the jurisdiction of the police, and even took over some provisions contained in other laws.

Bosnia and Herzegovina is a divided society, which is determined by its constitutional system. This fact is important for understanding the legal framework that protects freedom of expression as a fundamental human right, and the exercise of this right in practice. The division of Bosnian society largely contributed to the division of the media and other communication-channels as a means of receiving and imparting information. Accordingly, one can conclude that the flow of information, ideas and opinions in a public space of Bosnia and Herzegovina is divided along entity, national, political, interests and economic lines.¹⁸

In general, media legislation in Bosnia and Herzegovina is of a good quality. The problem is that this legislation

is not implemented in practice. Media sustainability reports (MSI, IREX) show that in 2016¹⁹ compared to 2015²⁰ the situation in media sector, including respect for media freedoms slightly deteriorated.

In 2016 Bosnia and Herzegovina dropped down to 68th place on the Press Freedom Index, the global index maintained by the Reporters without Borders. This is due to the fact that journalist in BiH are often a target of threats and political pressures, despite very good laws.²¹

According to one of the interviewed media law experts „with the invention of the Internet and enabled communication via internet portals, implementation of the freedom of expression has generally improved. Any person who has access to the Internet automatically has the freedom to express his or her thoughts, opinions and attitudes. In the past, such expression of thoughts perhaps required an individual to pay for an ad in a newspaper.”²²

According to the same source, the process of adoption of the media and other laws relevant for the media was in general transparent, and the media community in Bosnia and Herzegovina had an opportunity to propose amendments thereon. Some aspects of them should be additionally regulated. These mainly refer to the functioning of the Internet portals. All other media contents are subject to regular legislative procedure in the Parliament and there are regulated methods for proposing changes and amendments to these laws.²³

The procedure for obtaining radio and television broadcasting licence in Bosnia and Herzegovina is very simple. The licence is issued by the Communications Regulatory Agency pursuant to the BiH Communications Law, provided that there are no obstacles for it. In order for an applicant to obtain a broadcasting licence, it must meet the minimum requirements: 1) eligibility requirements, 2) the services to be provided by the applicant must be in accordance with the licence; and 3) there has to be a purpose to audio-visual services for broadcasting of which the applicant seeks a permit. If the applicant meets all the requirements, the licence is

13 „The Constitution of the Federation of Bosnia and Herzegovina, Article 2 and „The Constitution of Republika Srpska”, Article 25.

14 “The Law on Communications of Bosnia and Herzegovina”; “The Law on the Public Broadcasting System of Bosnia and Herzegovina”; “The Law on the Public Broadcasting Service of Bosnia and Herzegovina”; “The Law on the Public Broadcasting Service of the Federation of Bosnia and Herzegovina”; “The Law on the Public Broadcasting Service of Republika Srpska”

15 “Law on Protection Against Defamation of the Federation of Bosnia and Herzegovina”; “Law on defamation of Republika Srpska”; “Law on the Protection Against Defamation of Brčko District of BiH”

16 “The Criminal Code of Bosnia and Herzegovina”; “Criminal Code of the Federation of Bosnia and Herzegovina”; “The Criminal Code of Republika Srpska”; “The Criminal Code of the Brčko District of BiH”

17 Law on Free Access to Information of Bosnia and Herzegovina; “The Law on Free Access to Information of the Federation of Bosnia and Herzegovina”; “The Law on Free Access to Information of Republika Srpska”

18 Borka Rudić, *Fundamental freedoms, freedom of speech, association and access to information*. (Sarajevo: Centre for Promotion of Civil Society, 2013)

19 IREX, *Media sustainability index. 2015. 17*. Accessed on November 5, 2016 <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-urasia-2016-bosnia.pdf>

20 IREX, *Media sustainability index. 2015. 17*. Accessed on November 5, 2016 <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-urasia-2015-bosnia.pdf>

21 „Reporters without Borders for freedom of information – countries – Bosnia-Herzegovina.” Reporters without Borders. Last modified . <https://rsf.org/en/bosnia-herzegovina>

22 Nusmir Huskić, interviewed by Rea Adilagić, 08 April 2016.

23 Nusmir Huskić, interviewed by Rea Adilagić, 08 April 2016.

issued within two (2) months following the submission of the application.

Communication Regulatory Agency (CRA) publishes detailed annual reports on its activities. According to statistics in these reports, in 2015 CRA imposed 12 fines, which is significantly more than in previous two years.²⁴ In the opinion of a journalist,²⁵ „the problem is that CRA is not accountable to anyone for their work. “ According to her opinion „the sanctions they impose are mainly appropriate, but there is a need for establishing a separate body responsible for sanctioning. This need is even greater if we have in mind the level of hate speech present on the Internet. “

Helena Mandić, assistant director of broadcasting of CRA claims that since 2001 only two CRA decisions were rejected in court.²⁶ CRA is responsible for imposing sanctions on the media which have acted contrary to the law provisions and the CRA regulations. First-instance decisions are rendered by the general manager of CRA. These decisions can be appealed before the Appeals Panel. Therewith the administrative procedure is completed and after that a dissatisfied party may launch an administrative dispute before the Court of Bosnia and Herzegovina. So far, the Court mainly upheld the decisions of CRA, with a few exceptions.²⁷

In the opinion of interviewed journalists, CRA performs its function and mission in an independent and non-discriminatory manner. But, according to some, even though CRA does not depend on any of the media, it performed its function fairly superficially.²⁸

The Government of Bosnia and Herzegovina provides a budget fund at different levels for financing of both the public and private media. However, there are no clear rules as to criteria based on which the state authorities are to distribute the budget among the media outlets. This confirms that the policy and criteria for budget allocation are non-transparent and they lead to unequal funding. Also, the state media are awarded grants without clearly defined criteria or publicly announced tenders to which the other media could apply.

It is important to note that it is particularly difficult to obtain information from the state and entity institutions about financing of the media. Lack of transparency in the funding of the media is the result of political clientelism

in the media. Budget funds are managed non-transparently at the levels of cantons, the Federation of BiH and Republika Srpska.²⁹

As emphasised in some analyses, „...although they have a reason, the media sometimes do not want to criticise certain enterprise or they decide not to investigate such enterprises due to potential marketing profit they can make from them.”³⁰

The Law on Protection of National Minorities in Bosnia and Herzegovina identifies 17 national minorities living in Bosnia and Herzegovina. These are: Albanians, Montenegrins, Czechs, Italians, Jews, Hungarians, Germans, Poles, Roma, Romanians, Russians, Rusyns, Slovaks, Slovenians, Turks and Ukrainians. However, the media laws in Bosnia and Herzegovina do not give clear instructions as to the languages of national minorities and other obligations to them. Legislation of Bosnia and Herzegovina and international documents³¹ failed to clearly define the concept of „national minority media“. This shortcoming creates room for free interpretations.

The Law on protection of national minorities of Bosnia and Herzegovina, as well as entity laws contain a Chapter V titled „Information“. Article 15 of this Law stipulates that members of national minorities in BiH shall have a right to establish radio and TV stations, issue newspapers and other print media materials in the language of minority they belong to. This view has already been criticised because it is only declarative statement, since all citizens and legal persons anyway have the right to establish a media outlet. Then, Article 16 stipulates that radio and television stations, whose founders are BiH, entities, cantons, cities and municipalities, and which have the role of a public service shall be obliged to provide in their programme schedules the special programmes for members of national minorities, and they may also provide for other materials in the minority languages. According to the same Article, public broadcasting services of BiH shall at least once a week secure informative programme for members of national minorities in their own languages. Generally speaking, no PBS in BiH meets these obligations. Financial problems and

24 CRA, 2015 Annual report of the Communications Regulatory Agency (CRA, April 2016) , 12.

25 Vanja Elezović, interviewed by Rea Adilagić, 04 April 2016.

26 Helena Mandić, interviewed by Rea Adilagić, 23 September 2016.

27 Helena Mandić, interviewed by Rea Adilagić, 23 September 2016.

28 Dragana Sivonjić, interviewed by Rea Adilagić, 18 April 2016.

29 Munir Podumljak, *Media Clientelism Index 2015 – Measuring media Realities*. (Zagreb: Partnership for Social Development, 2015). Accessed on September 19, 2016 <http://integrityobservers.eu/UserDocs/Images/MCI-2015-ENG.pdf>

30 Irma Husić. "Freedom and responsibility of the media in Bosnia and Herzegovina." *Mediacentar_online*, October 12, 2011. Accessed on September 13, 2016 <http://www.media.ba/bs/etikaregulativa-novinarstva-etika/sloboda-i-odgovornost-medija-u-bosni-i-hercegovini>

31 "The European Convention for the Protection of National Minorities" and the "European Convention on Human Rights"

lack of human resources are usually mentioned as main reasons for not meeting this obligation.³²

“Declarative statements or phrases that minority peoples have the right to establish media is a travesty, which only goes in favour of the authorities in Bosnia and Herzegovina, as evidence of their commitment to meet the requirements set by the European Commission. Of course, with hindsight, we see that from the time when the Law on the Rights of Minorities was adopted nothing was fulfilled or implemented. On the contrary, the rights of minorities are even more jeopardised.” (Džemina Zejnullahu, Albanian Community in BiH)³³

Pursuant to the Law on the Public Broadcasting System in BiH, all public broadcasting services in Bosnia and Herzegovina (BHRT, RTVFBiH and RTRS) are independent. However, the Public Broadcasting Service of Bosnia and Herzegovina has been struggling with a very difficult financial situation for a while. This PBS is mainly financed through subscription fees and advertising slots. Due to the lack of an efficient and stable fee collection system in these three public broadcasting services and due to political pressures and attempts to destroy public information system and give preference to national and political interests above the public interest, the survival of public broadcasting service as an independent and professional media has been seriously brought into question.³⁴ The current system of collection of subscription fees is extremely inefficient. The subscription fee of about 3.8 Euros shall be paid by each household that owns a TV and / or Radio receiver. This fee is currently collected through Telecom operator as a part of the fixed telephony service bill. The amount so collected is constantly declining since 2009, mainly due to customer migration to other phone operators.³⁵

Another serious problem faced by the public broadcasting services is the aspiration of a number of Croats from Bosnia and Herzegovina represented by the leading Croatian party, HDZ BiH, to form the fourth public broadcasting service, which would represent this national group. There are no financial resources available for this project.

Overall, there is no political interest in developing a model of financing of public broadcasting system or for its rationalisation in terms of organisation and functioning.

A.2 Do Defamation Law cause a ‘chilling’ effect among journalists?

Bosnia and Herzegovina was the first country in the region to decriminalize defamation. At the end of July 1999, the High Representative rendered this decision, whereby imprisonment for defamation was abolished. Defamation is regulated under the Law on Protection against Defamation of the Federation of Bosnia and Herzegovina; the Law on Protection against Defamation of Republika Srpska; and the Law on Protection against Defamation of Brčko District of BiH. This issue is also subsidiarily regulated by the Law on Obligations, Code of Civil Procedures of the Federation of Bosnia and Herzegovina and of Republika Srpska, both of which are in force in Bosnia and Herzegovina.

In the opinion of media experts, this law is largely in line with European laws on defamation. The main problem in Bosnia and Herzegovina is the fact that there is a huge number of lawsuits against the media and journalists, and that the fines are too high. The law should explicitly prescribe the upper limit for the sanctions that can be imposed on the media outlet or journalist found guilty of defamation.³⁶ Although the content of the law is largely in line with European standards, the practice is not. Even though the law calls for an urgent resolution of these cases, civil disputes concerning defamation still tend to be quite lengthy. Another problem relating to the application of the law lies in the fact that the courts still have no uniform approach to proving emotional distress. Thus, some courts conduct expert analysis to prove the existence of such distress, and some do not. It should be noted that some courts literally interpret certain provisions of the law, especially in cases of de-

32 Radenko Udovčić. *Nejra Plasto. Jasmina Korda. Zoran Udovčić. „Minorities and the media in the Western Balkans”* (Sarajevo, Media Institute Plan, Novosadska novinarska škola, Високата школа за новинарство и односи со јавноста. 2012). Accessed on September 20, 2016 <http://www.mediaonline.ba/ba/pdf.asp?ID=505&n=MANJINE%20I%20MEDJI%20NA%20ZAPADNOM%20BALKANU>

33 Radenko Udovčić. *Nejra Plasto. Jasmina Korda. Zoran Udovčić. „Minorities and the media in the Western Balkans”* (Sarajevo, Media Institute Plan, Novosadska novinarska škola, Високата школа за новинарство и односи со јавноста. 2012). Accessed on September 20, 2016 <http://www.mediaonline.ba/ba/pdf.asp?ID=505&n=MANJINE%20I%20MEDJI%20NA%20ZAPADNOM%20BALKANU>

34 *Shadow report for Bosnia and Herzegovina.* (Sarajevo: Press Council in Bosnia and Herzegovina, BH Journalists Association, 2012) Accessed on 09 August 2016 http://vzs.ba/images/stories/ba_word_slike_pdf/indikator/IZVJESTAJ_U_SJENI.pdf

35 Sanela Hodžić, *Financial links between the media and the State of Bosnia and Herzegovina: Increasingly dependent and obedient media* (Sarajevo: Media center, 2015). Accessed on 09 August 2016 http://www.media.ba/sites/default/files/finansijske_veze_izmedu_medija_i_drzave_u_bih-1.pdf

36 Nusmir Huskić, interviewed by Rea Adilagić, 08 April 2016.

termining locus standi. (For example, who is the author of the information presented?)³⁷

One of the shortcomings of the law became evident due to widespread use of the Internet. With a number of social networks and blogs, as well as on-line editions of traditional media, regulation of any kind has become a very difficult task. Namely, it is unclear what the term “media” entails, as well as who can be considered a journalist.³⁸ The laws on defamation should have a provision regulating defamation in the on-line space.

In addition to paying compensation for emotional distress, at the initiative of the Plaintiff the media against which the judgement was rendered may be required to publish the ruling of libel judgement. The possibility to publish the full text of the judgement in the media has not been used, which reduces the potential positive effects of litigations related to defamation.³⁹

Given the size of the country and the number of media in Bosnia and Herzegovina, journalists are faced with a huge number of lawsuits – 300 lawsuits a year. Currently, there are 173 pending defamation cases. According to data by Free Media Help Line⁴⁰, on the average 100 defamation lawsuits is filed a year.

There is an obvious problem in the legal practice of the Federation of BiH and Republika Srpska. Similar cases have different outcomes in these two entities. As an example we will present one of the most famous cases in Bosnia and Herzegovina. Namely, a politician has filed two lawsuits for defamation, one in the Federation of Bosnia and Herzegovina and another in Republika Srpska. Referring to the standards of the European Court of Human Rights in Strasbourg, the trial court – in this case the Cantonal Court in Sarajevo – issued a decision in which it explained that the prosecutor is a public figure, and as such he or she is expected to demonstrate a greater degree of tolerance. The court in Banja Luka, however, rendered a completely opposite decision. According to the decision of the court in Banja Luka, since the prosecutor is a public figure and holds

a high government office, he or she is to suffer more damage.⁴¹

Damages awarded by the courts range from BAM 500 to 20,000. The majority of damages awarded ranged from BAM 2,000 to 5,000. Unfortunately, the courts awarded the highest damages to the plaintiffs who were highest state and political officials (from 10 to 20 thousand). This indirectly shows that our courts do not adhere to the standards of the European Court, according to which the public figures must have a higher degree of tolerance against public criticism, even criticism in the media, and thus lower level of protection and compensation in such cases.⁴²

In Bosnia and Herzegovina there is also the Press Council, a self-regulatory body for print and on-line media, to which a party may file complaint against the content considered to be contrary to the Press Code of BiH, seeking publishing of a denial, supplement information, correction of an apology, after which the Complaints Commission decides by consensus whether there was any breach of the Code.

Decisions of the Press Council are not legally binding, but they are professional. In each court proceedings the judge decides whether or not to take into account the decision of the Press Council. In practice, courts usually take account of these decisions and even seek opinions of the Press Council. Pursuant to Article 8 of the Law on Protection against Defamation of Republika Srpska and Article 8 of the Law on Protection against Defamation of the Federation of Bosnia and Herzegovina, the defendant can enclose a decision by the Press Council as an attachment to his or her statement of defence.

Several years after the decriminalisation of defamation it was noted that since the new law was adopted there have been significantly more complaints than before. The journalists need to understand that the abolishment of criminalisation did not result in abolishment of defamation or libel lawsuits.⁴³

“Not because of the new law, but because of the increased number of libel suits, journalists are in-

37 Mehmed Halilović. *Amer Džihana. „Media right in BiH“*. (Sarajevo: Intermews in Bosnia and Herzegovina, 2012). 177.

38 Kristina Čendić. *Libel online in the Federation of BiH*. (Sarajevo: Intermews in Bosnia and Herzegovina, 2014). Accessed on August 10, 2016 [http://www.ckdbih.com/dokumenti/STOP%20GOVORU%20MRZINJE_IV%20\(4\).pdf](http://www.ckdbih.com/dokumenti/STOP%20GOVORU%20MRZINJE_IV%20(4).pdf)

39 Sanela Hadžić. *Under pressure: Report on media freedoms in BiH*. (Sarajevo: Media centar, 2010). Accessed on 10 August 2016 http://www.media.ba/msonline/files/shared/Izvjestaj_o_stanju_medjiskih_sloboda_u_BiH.pdf

40 Free Media Help Line operates within the framework of the Association “BH Journalists” as domestic, BiH institution for support and assistance to journalists in their daily work, as well as in protection of their rights and freedoms.

41 Halilović Mehmed. *„Dodik vs. Bosić: Who is a thief, and who is a pathological liar“*. *Analiziraj.ba*, 15 April 2015. Accessed on October 5, 2016. <http://analiziraj.ba/2015/04/15/dodik-protiv-bosica-ko-je-lopov-a-kopatoloski-lazov/>

42 A. Du., Mi. K. Dž. Č. *“Defamation in Bosnia and Herzegovina – a means of protection or abuse.”* *Avaz.ba*, February 2, 2015. Accessed on September 13, 2016 <http://www.avaz.ba/clanak/164982/kleveta-u-bih-sredstvo-za-zastitu-ili-zloupotrebu?url=clanak/164982/kleveta-u-bih-sredstvo-za-zastitu-ili-zloupotrebu>

43 Halilović Mehmed. *“The application of the new law on defamation in Bosnia and Herzegovina: Journalists have not profited much.”* *Mediacentar_online*, March 3, 2015. Accessed on 03 October 2016. <http://www.media.ba/bs/etikaregulativa-navinarstvo-etika/primjena-novog-zakona-o-zastiti-od-klevete-u-bih-novinari-nisu>

creasingly reluctant to publish stories of “more interesting” content, which had a negative impact on investigative journalism. Investigative journalism has become a rarity. The law on defamation supports investigative journalism, but, unfortunately, it has produced the opposite effect”⁴⁴

In the opinion of another journalist, no law has been enacted to improve the position of journalists.

“When laws are implemented, they serve the country, not journalists. But there is always room for serious research work, which can be in accordance with the Law on Protection against Defamation. There is a special connection between the public interest and information. Published information should be in the public interest. Unfortunately, this is not always the case.”⁴⁵

In the survey conducted for the purpose of this research, 27% of journalists said that libel seriously affects their work, while 34% of journalists said that they feared to write about political subjects, because they believe they can very easily be sued for defamation.

Table 1. To what extent does the Defamation Law affect your work?

	Number:	%
Extremely influential	100	48.31 %
Very influential	65	31.40%
Somewhat influential	26	12.56%
Little influential	2	0.97%
Not influential	0	0.00%
Not relevant for respondents work	12	6%
Don't know	2	1%
Refused	0	0%
Total	207	100

44 (anonymous) interviewed by Rea Adilagić, 03 April 2016.

45 Mario Malkić, interviewed by Rea Adilagić, 4 April 2016.

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

Laws on public broadcasting services stipulate the obligation of the media to respect and encourage pluralism of political, religious and other ideas.⁴⁶ In addition to this provision, there is also a provision of the Code of Journalists' Ethics, which provides that all journalists are obliged to respect the pluralism of ideas and opinions.⁴⁷

Critical thinking, pluralism of ideas, openness of the media to the free flow of different messages is not yet at the level of media in mature democracies. Politicians of all three ethnic groups deliberately heat up such unhealthy atmosphere, mirroring it to the media. Journalists assumed the role of socio-political workers, promoting their entities, their people rather than pointing out to the failures of the ruling circles, the economic crisis, and widespread poverty in the region.⁴⁸

The concept of media ownership has existed since the very inception of the mass media, but it became particularly problematic with the creation of global market. The concentration of capital has opened the possibility of distortion of the pluralism concept, be it at the level of a country or globally. Technological advancement and the digital revolution of the '90s created the conditions for the expansion of the media empires, which in the absence of market barriers could affect the audience from around the world. The question is whether media owners can guarantee the diversity of positions in Bosnia and Herzegovina.⁴⁹

In mid-2013, the Association BH Journalists organised a debate on the transparency of ownership of all media, and the main conclusion was that “a BiH media register should be developed, and that a fund for ensuring media pluralism should be established.” At the same conference it was recognised that the main consequence of the lack of transparency is, in fact, reduced pluralism. It was also emphasised that it is not the number of media that matters but the diversity of voices in the media sphere.

46 “Law on Public Broadcasting Service of Republika Srpska”, Article 14, and “Law on the Public Broadcasting Service of the Federation of Bosnia and Herzegovina”, Article 39.

47 “Code of Journalists' Ethics”, General principles

48 Dragan Stanisavljević. Media and public opinion in Republika Srpska” (Sarajevo: Friedrich Ebert Stiftung, 2010). Accessed on September 19, 2016 <http://library.fes.de/pdf-files/bueros/sarajevo/09249.pdf>

49 Anja Gengo, Ema Bešlić, Borislav Vukojević. Transparent ownership over on-line media (Sarajevo: Internews in Bosnia and Herzegovina, 2015. Accessed on August 10, 2016 <http://internews.ba/sites/default/files/resursi/transparentnost%20vlasnistva%20nad%20online%20medijima%20u%20bih.pdf>

Researches show different outcomes in practice. Production of contents of political nature, especially when it comes public broadcasters in BiH, takes place under both hidden and open pressures.⁵⁰ All the respondents of in-depth interviews agreed that political pluralism in Bosnia and Herzegovina does not exist. All media are politicised and favour some political party. Political news in the media is largely a reflection of the attitudes and interests of the media owners

From in-depth interviews with journalists one can conclude that the general view is that political parties do not have equal access to the media in either election or non-election period.

The election law of BiH requires from all the media in BiH to report on the election activities in a fair, professional and correct manner. In doing so they must respect the journalistic code, universally accepted democratic principles and rules, and the Law specifies, respect the freedom of expression as one of the fundamental principles. The same law provides that in the electronic media programmes no entity can have a privileged position in relation to other political entities, and that officials at all levels of government who run for office must not have a privileged position in relation to other participants in the electoral process.

However, the reality is different. Almost all respondents claimed that all the media, be it private or public, serve the interests of some political party. Thus, in BiH not all political parties have equal access to the media in the election or non-election period.

During 2014 pre-election campaign Media Plan Institute conducted a Monitoring of media coverage of the 2014 General Elections, as well as monitoring of reporting in the post-election period. During the monitoring it was noted that voters could have obtained an objective view of the campaign only if they followed several types of media. In the final monitoring report⁵¹ it was published that, despite the existence of diverse media, majority of them were divided along political, ethnic and territorial lines, and under strong influence of their owners and political sponsors. In the elections reporting, a certain number of media was under some kind of influence of candidates or political parties.

50 Vedada Baraković. "Personalisation of the political scene in Bosnia and Herzegovina and the role of the media." *Mediacentar_online*. November 29, 2010 Accessed on October 3, 2016. <http://www.media.ba/bs/etikaregulativa-novinarstvo-etika/personaliziranje-politicke-scene-u-bih-i-uloga-medija> <http://www.media.ba/bs/etikaregulativa-novinarstvo-etika/personaliziranje-politicke-scene-u-bih-i-uloga-medija>

51 Media Plan Institut. "Assessment of political diversity in media reporting during the 2014 General Elections in Bosnia and Herzegovina." (Sarajevo, the Media Plan Institute, 2015), 4

A.4 Is freedom of journalists' work and association guaranteed in the law?

Journalists are licensed only by the media they work for. No licences are issued by the state authorities nor have there been any attempts to introduce such licences. Free-lancers however face the problems. Since they are not employed with any particular media, which would issue them an accreditation, they are experiencing many problems when reporting on various events. To solve this problem, many freelancers are joining the Association BH Journalists. Journalists who are members of this organisation have the opportunity to obtain not only local but also international accreditations.

The respondents agreed that such situations very rarely occur in practice. However, several of them stressed out that journalists are often harshly treated and denied statements by public officials and other public figures.

Table 2. Have you ever been denied access to report from a certain place or an event because you did not have an accreditation issued by the competent authority or for any other reason?

	Number	%
Yes	54	26.09%
No	153	73.91%
Don't know.	0	0.00%
Refused	0	0.00%
Total	207	0.00%

Data that goes in favour of the freedom of media in BiH is that according to the results of the survey 73.91% of journalists claimed that they had never been denied access to report from a certain place because they did not have an accreditation.

Foreigners may enter and stay in the territory of BiH with a valid travel document containing a visa or residence permit, unless otherwise provided by law or international agreement. Foreigners who intend to stay in BiH for the purpose of paid employment must have a work permit issued by the authority responsible for the employment of foreigners.⁵² These provisions also apply to foreign journalists. There is no special treatment for foreign journalists in Bosnia and Herzegovina. According to past experience, foreign journalists do not face problems in this segment. Only journalists from Kosovo who visit BiH face problems in this respect. But the root of this problem is in politics, not in journalism.

52 "The Law on Movement and Stay of Aliens and Asylum", Article 7.

In BiH there are five registered professional journalists' associations, of which only the Association BH Journalists actively seeks to protect and improve the exercise of the freedoms, rights and responsibilities of journalists, protect the reputation and dignity of the journalistic profession, and improve the right of the general public to be informed of developments in society.

The right to organise independent trade unions in Bosnia and Herzegovina is defined and guaranteed by entity laws and constitutions. In Bosnia and Herzegovina there are separate unions at the entity level and in Brčko District.

Within BHRT there are two unions, which, unfortunately, according to the presidents of both unions, do not cooperate enough. The two unions together have about 100 members. Apart from these two unions, there is also officially the oldest union – "The union of graphic, publishing and media workers" which includes journalists as well. About 350 journalists from all over Bosnia and Herzegovina are members of this union. There is no official statistics on the number of journalists in the country. According to unofficial estimates, there are between 2000-3000 professional journalists.

Most private media has no unions. Even in the rare cases when trade unions operate within a private media, the membership is minimal. According to the respondents, employees of private media do not believe that unions may introduce changes in the private media. For this reason they rarely join the unions.

According to Stepana Ivanuš from the Centre for Civic Cooperation in Livno, pressures do exist. She pointed out that Radio Livno had a union, but, according to journalists working there, they were under a lot of pressures and ultimately they had to shut the union down.

In the workshop organised by the Association BH Journalists in March 2016 in Livno, all participants agreed that journalists who try to join a trade union are exposed to a lot of pressure. As editor of the local radio emphasised, the union has a negative perception in public and is usually associated with the communist legacy.⁵³

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

In accordance with the laws on defamation in BiH, journalist has every right not to reveal the identity of his source.⁵⁴ This question is regulated by the Press and On-line media Code, which, among other things, states that journalists have not only the right but also an obligation to protect the identity of those who provide information in confidence, regardless of whether or not they explicitly request to remain anonymous.⁵⁵ According to the Code of the Communications Regulatory Agency, the obligation to protect the identity is the general principle.⁵⁶

State and entity Codes of criminal procedure⁵⁷ provide that a journalist, for the sake of protecting his or her source of information, cannot be heard as a witness in criminal proceedings.

However, many questions on this subject matter are yet to be addressed by our legislation. The legislation does not specify:

- (1) Can the principle of the confidentiality of journalists' sources be ignored in criminal proceedings?
- (2) In cases of which criminal offences are the journalists allowed or obliged to reveal the identity of their sources?
- (3) Who actually decides whether journalists should or must disclose the identity of their sources and to whom exactly?⁵⁸

The confidentiality of journalists' sources as the principle is mainly respected. But there are exceptions. The most striking example is that of the Internet portal "Klix" from Sarajevo. Police exerted brutal pressure on the media to expose their sources of information. In December 2014, police raided the Klix newsroom and confiscated the property of this media outlet. Police conducted an 8-hour search in the Klix newsroom, searching for the video, which was released by this Internet portal, show-

53 "BH Novinari – Aktuelnosti", BH Novinari http://www.bhnovinari.ba/index.php?option=com_content&view=article&id=890%3Asindikalno-udruzivanje-i-djelovanje-nema-alternativu&catid=63%3Adogadaji&Itemid=241&lang=bs

54 „The Law on Protection Against Defamation of the Federation of Bosnia and Herzegovina”, Article 9; „The Law on Protection Against Defamation of Brčko District, Article 9; „The Law on Protection Against Defamation of Republika Srpska, Article 10.

55 „Press and on-line media code”, Article 13.

56 „Radio and television broadcasting Code”, Article 13.

57 “Code of Criminal Procedure of Bosnia and Herzegovina”, Article 82; “Code of Criminal Procedure of the Federation of Bosnia and Herzegovina”, Article 96; “Code of Criminal Procedure of Republika Srpska”, Article 147.

58 The Parliamentary Assembly of Bosnia and Herzegovina, “Protecting the confidentiality of journalists' sources,” (Sarajevo, 2013) 2-3

ing the Prime Minister of the Republika Srpska talking about the purchase of MPs in the National Assembly of the Republika Srpska.⁵⁹

Even 49% of the interviewed journalists said that they maintain regular contact with their sources.

Table 3. How much freedom do you have to seek access to and maintain contact with sources of information when reporting on matters of public interest?

	Number	%
Complete freedom	55	26.57%
A great deal of freedom	101	48.79%
Some freedom	13	6.28%
Little freedom	15	7.25%
No freedom at all	20	9.66%
Don't know	3	1.45%
Refused	0	0.00%
Total	207	100%

The results of the survey showed that journalists in Bosnia and Herzegovina generally are free to seek access to and maintain contact with their sources, but not free enough. Almost 49% of the interviewed journalists said that they very often keep contact with their sources, while about 26% said they always keep contact with their sources. About 10% percent of the interviewed journalists almost never maintain these contacts, and 7% of them said they rarely seek access to and maintain contacts with their sources of information.

Journalists generally rely on information they receive from their sources. As pointed out Mehmed Halilović, an expert on media law in Bosnia and Herzegovina, “..information should not be taken for granted, particularly if they are received from an anonymous source whose identity is to be protected.”⁶⁰

A large number of libel suits against journalists in Bosnia and Herzegovina are just an indicator that journalists too easily rely on these sources of information, without checking them.

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

The right of access to official documents and information is regulated by law⁶¹. Adoption of the Free Access to Information at the state level is a positive step. Unlike Entity and Brčko District laws, the state law provides for sanctions, i.e. fines, which reach up to BAM 15,000 KM, for public entities withholding information. The law stipulates a 15-day period for delivery of information following the receipt of a formal request. If the requested information is denied, a party seeking information may launch an administrative procedure by referring to this Law. In practice, under disguise of “privacy protection” and “data confidentiality” some try to hide the activities of public officials related to their public function or associated with criminal groups. On the other hand, protection of confidential data is governed by the state level Law on classified information. This law is contrary to the Free Access to Information Act, because it excludes the possibility of accepting and considering, i.e. approving information that can be considered confidential.⁶²

Journalists in Bosnia and Herzegovina resort to legal procedures in order to collect information from public institutions. Most of the interviewed journalists claim that administrative procedures take too long. (Deadline for response of public institutions is 15 days)

“The request for information need to be repeated several times for administrative reasons: Sometimes one has to wait for over a month to receive information sought, which is, from the perspective of dynamic work of newsroom unacceptable.”⁶³

59 “See what a police raid of Klix.ba internet portal newsroom looked like.” Klix.ba, December 30, 2014. Accessed on November 1, 2016 <http://www.klix.ba/vijesti/bih/pogledajte-kako-je-izgledao-upad-policije-u-redakciju-portala-klix-ba/141230127>

60 Maja Isović. „Do you know what is defamation?” Inmedia.ba, 23 May 2013. Accessed on October 2, 2016. <http://www.inmedia.ba/znate-li-sta-je-kleveta/>

61 “Free Access to Information Act of Bosnia and Herzegovina; “Free Access to Information Act of the Federation of Bosnia and Herzegovina”; “Free Access to Information Act of Republika Srpska”; and “Free Access to Information Act of Brčko District”.

62 Press Council in Bosnia and Herzegovina and Association BH Journalists, „Shadow report”, (Sarajevo, 2012), 5

63 (anonymous) interviewed by Rea Adilagić, 03 April 2016.

Table 4. Have you ever been denied an access to information of public interest that you needed for your report by the authorities?

	Number	%
I have never required access to public information	89	43.00%
I have required access to public information, but I have never been refused	69	33.33%
I have required access to public information and I have been refused	48	23.19%
Don't know	1	0.48%
Refused	0	0.00%
Total	207	100%

The survey results indicate that journalists are underutilising the right of access to information of public interest, nor are public institutions effective enough in this segment. 43% of the interviewed journalists claim to have never asked for access to public information. 33% of respondents had submitted requests for information of public interest and have never been rejected. 23% of those interviewed claimed to have their requests rejected.

Only the Centre for Investigative Reporting, the journalists of which work for several months on a story, is satisfied with the free access to information in Bosnia and Herzegovina. Their journalists often resort to the legal claims in cases where public authorities refuse to disclose information.⁶⁴

The survey conducted among journalists provides evidence about their perception of transparency of various institutions.

According to journalists, the least transparent are: politicians in general (42% believe that they are not at all transparent, while 37,7% find them to be slightly transparent), governments (31,9% believe that they are not at all transparent, while 29% find them to be slightly transparent) and political parties (29% believe that they are not at all transparent, while 28,5% find them to be slightly transparent). As many as 73% of respondents find police to be transparent, while the opinions about the transparency of courts and military are divided

64 (anonymous) interviewed by Rea Adilagić, 04 May 2016.

Table 5. How transparent are the following institutions?

	The parliaments	The gouvernements	Political parties	Politicians in general	The courts	The police	The military
Complete transparency	19.32%	3.88%	3.86%	6.28%	28.99%	18.36%	26.57%
A great deal of transparency	72.95%	4.35%	5.80%	4.35%	26.09%	72.95%	29.47%
Some transparency	4.83%	27.54%	27.54%	6.28%	19.32%	5.80%	19.32%
Little transparency	0.48%	28.99%	28.50%	37.68%	7.25%	0.00%	6.28%
No transparency at all	0.48%	31.88%	28.99%	42.03%	14.49%	0.97%	14.49%
Don't know	1.93%	2.90%	4.83%	2.90%	2.42%	1.93%	2.42%
Refused	0.00%	0.18%	0.48%	0.48%	1.45%	0.00%	1.45%
TOTAL	100%	100%	100%	100%	100%	100%	100%

B

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

There is a general problem in Bosnia and Herzegovina with the lack of respect for labour rights, including journalists'. All labour rights are being violated. Salaries are often not paid in full amounts and are very low in local media. Editorial boards (newsrooms) are formally separated from media owners, however, the owners exert great pressure upon them. Censorship and auto-censorship are parts of everyday work of journalists. This problem is evident mostly in the private media, but elsewhere as well. Journalists are subjected to censorship because of the fear of losing their job. The fear is often even stronger because they are not protected by adequate contracts.

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

Laws in Bosnia and Herzegovina governing labour rights⁶⁵ in their text contain a number of provisions that should provide an effective protection of human rights and freedoms. However, in reality these laws are not implemented and as a result the fundamental rights of employees are being violated on a daily basis. A significant problem in the protection of these rights is the non-existence of the labour law at the state level whose provisions would apply on the overall territory of the country. Such a law would stipulate the basic rules in this area, as well as accompanying instruments to ensure the enforcement of this law by both the administrative and judicial authorities. There is a continuous problem with exercising these rights in the Federation of BiH due to its cantonal decentralisation and the lack of harmonisation of cantonal laws with those of the Federation of BiH, but also with the legislation of Republika Srpska. The problem emerges due to the division of competences among entity and cantonal inspections so that even trade unions and workers are often confused as to whom to address.⁶⁶

Generally, it can be said that all rights of journalists are violated to a lesser or greater extent.⁶⁷

It is fact that a great majority of journalists do not have adequate contract or salaries compatible with their qualifications and scope of work and they work informally or are engaged based on fixed-term contracts. Some have been working without any contract for years, hoping to

get the desired permanent job one day, but without any adequate mechanism to fight for it.⁶⁸

Other rights are violated as well, such as regularity and amount of salary, salary contributions, length of annual leave, overtime and holiday work, holiday allowance and other workers' benefits. Data of the Trade Union of the Media and Graphic Workers of Republika Srpska indicate that the rights of workers, i.e. journalists, are more often and to a greater extent violated where the workers are not organised in a union and where the trade union, i.e. workers do not have the possibility to fight for their rights together.⁶⁹

Between 34% and 40% of journalists work without adequate employment contracts. Those having appropriate contracts are insufficiently protected – in some media outlets journalists are paid the minimum legally stipulated salary amounts covered by tax and contributions. The rest of the money they get in cash, instead of being paid to their bank accounts. This is a common practice in Bosnia and Herzegovina. Many employers apply this practice in order to pay less for taxes and contributions.

Journalists do not speak about this problem publicly because they are afraid they will lose their jobs. In general, this is more common in the private media.

Table 6. Salaries of journalist in the media.

Local media	200 – 500 €
Public broadcasting services	700 €
Private media (including international)	900 €

According to a statement of one respondent for the public broadcasting service⁷⁰, "...just like in all other sectors, the situation in the media is really bad. Many journalists are not covered by contracts or social insurance. In many cases, even the journalists with signed contracts are not protected. This is not a problem only in private media outlets, it also happens in public broadcasting services." But, as the source says, "...the situation is worse in the private sector, particularly in smaller media."⁷¹

65 *Labour Law of the Federation of Bosnia and Herzegovina; Labour Law of Republika Srpska; Labour Law of Brčko District; General Collective Agreement; Law on Employees' Councils of the Federation of Bosnia and Herzegovina; Law on Employees' Councils Republika Srpska; Law on Strike of the Federation of Bosnia and Herzegovina; Law on Strike of Republika Srpska; Law on Employment of Foreigners of the Federation of Bosnia and Herzegovina; Law on Employment of Foreigners of Republika Srpska; Law on Employment Mediation and Social Security of Unemployed Persons of the Federation of Bosnia and Herzegovina; Law on Employment Mediation and Social Security of Unemployed Persons of Republika Srpska; Law on Professional Rehabilitation and Employment of Disabled Persons of the Federation of Bosnia and Herzegovina; Law on Professional Rehabilitation and Employment of Disabled Persons of Republika Srpska; Law on Occupational Health and Safety of the Federation of Bosnia and Herzegovina; Law on Occupational Health and Safety of Republika Srpska*

66 *Shadow report for Bosnia and Herzegovina. (Sarajevo: Press Council in Bosnia and Herzegovina, BH Journalists Association, 2012) Accessed on 09 August 2016 http://vzs.ba/images/stories/ba_word_slike_pdf/indikatoriiZVJESTAJ_U_SJENI.pdf*

67 *Mariana Šarčević. "All the rights of journalists are being violated." Mediacentar_online, May 21, 2015. Accessed on September 3, 2016 <http://www.media.ba/bs/magazin-medijaska-politika-regulativa/mariana-sarcevic-krse-se-sva-prava-novinara>*

68 *Adrijana Pisarević. "I novinari su radnici." E – novinar, broj 35, (2015): 3. Accessed on November 3, 2016. http://bhnovinari.ba/images/stories/pdf/enovinar/bhn_enovinar-decembar2015.pdf*

69 *Mariana Šarčević. "Krše se sva prava novinara." Mediacentar_online, 21. maj, 2015. Accessed on September 3, 2016. <http://www.media.ba/bs/magazin-medijaska-politika-regulativa/mariana-sarcevic-krse-se-sva-prava-novinara>*

70 *(anonymous), interviewed by Rea Adilagić, 4. april, 2016.*

71 *Vanja Elezović, interviewed by Rea Adilagić, 4. april, 2016.*

Among the identified reasons for the inefficient application of labour rights are: unclear formulation of labour rights, the tendency of employers to take into account only the financial factors and nepotism when making the decisions on employment, as well as the inefficiency of institutions that should be controlling the implementation of labour laws.⁷²

Informal black market employment is common in journalism. This refers to working without any contract or health insurance. It is often based only on the oral agreement between the employer and the employee – journalist. These journalists often have high salaries but all other aspects of their safety are not guaranteed. The employer can terminate the contract at any moment and the journalist is left without any option to protect his/her labour rights.⁷³

Table 7. Did the economic position in Bosnia and Herzegovina increase or decrease?

	Number	%
Increased a lot	2	0.97%
Decreased a lot	7	3.28%
Did not change	15	7.25%
Somewhat decreased	30	14.49%
Decreased a lot	153	73.91%
Don't know	0	0.00%
Refused	0	0.00%
TOTAL	207	100%

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

Journalism is a profession which necessarily requires professional and financial independence. Unfortunately, none of these elements are ensured in BiH.⁷⁴

In general, newsrooms in the private media are not separate or independent. A journalist from a smaller media outlet claims that as high as 90% of the newsroom she works in depends on the marketing section.⁷⁵

In some private media outlets in Bosnia and Herzegovina, there are internal rules that should ensure editorial independence from media owners and management. These rules are not effective in the process of protecting journalists' independence and protecting journalists from pressures exerted by management, steering bodies and political actors outside of the media. The rules focus on the obligations of journalists when it comes to sharing information with third parties, speaking in the public, work of other media outlets etc. The provisions protecting journalists in cases when they refuse an engagement which is not in accordance with professional standards and journalists' ethics are lacking.

As was stressed by one of the interviewed journalists, the journalists are independent from media owners only when they are individually liable for any damage they might possibly inflict.⁷⁶

The private media, in general, do not have any internal ethical codes. There is a smaller number of private media outlets that have their internal codes but the general code of journalists' ethics applies to the majority of private media.

The most common pressures exerted on journalists are of political nature. Political parties need the media to: popularise their politics, propagate their political ideas, justify their political moves, cover up their failures and emphasise their successes. A number of media partial because their newsrooms, editors in chief or other influential persons in the ownership structure and sympathising certain political options, work in a given way because of their own beliefs and thus exert pressure upon individual journalists. However, there are media outlets under direct control of a given political party. The

72 Sanela Hodžić. *Labor Relations and Media*. (Kišinj:ev. South East European Network for Professionalization of the Media, Central Independent de Journalism, 2008). Accessed on September 13, 2016. http://www.media.ba/msonline/files/shared/Labor_Relations_and_Media.pdf

73 *Izveštaj u sjeni za Bosnu i Hercegovinu*. (Sarajevo: Vijeće za štampu u Bosni i Hercegovini, Udruženje/ Udruga BH Novinari, 2012). Accessed on August 9, 2016. http://vzs.ba/images/stories/ba_word_slike_pdf/indikatori/IZVJESTAJ_U_SJENI.pdf

74 *Izveštaj u sjeni za Bosnu i Hercegovinu*. (Sarajevo: Vijeće za štampu u Bosni i Hercegovini, Udruženje/ Udruga BH Novinari, 2012). Accessed on August 9, 2016. http://vzs.ba/images/stories/ba_word_slike_pdf/indikatori/IZVJESTAJ_U_SJENI.pdf

75 (anonymous), interviewed by Rea Adilagić, April 4, 2016.
76 Vanja Elezović, interviewed by Rea Adilagić, April 4, 2016.

practice is very clear: either the journalist bows to the proclaimed editorial policy or leaves the job. The docile journalists live and work under huge ethical burdens, report on secondary issues, opt for self-censorship and often leave the profession.⁷⁷

“The type of the pressure depends on the coverage. The point is that every topic should be covered in a way that favours the interest of the media owner.”⁷⁸

According to opinions of in-depth interview respondents, the most common forms of pressure are: low salaries, threats to journalists that they will lose their job, mobbing, frequent overtime work, forcing journalist to sign reports of other people as their own, censorship, etc.

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

All PBSs have journalists' codes of conduct and codes on editorial independence. According to these codes, formally speaking, the protection of journalists' independence is one of the main principles. In practice, journalists of public broadcasting services work every day under great pressures and influences that come from various subjects from outside and inside the media.

Public broadcasting services in Bosnia and Herzegovina have their internal organisational rules which regulate the independence of newsrooms in relation to managerial and steering bodies. As is stressed by the respondents, these rules are not adequately implemented in practice. One public broadcasting service journalist even refused to answer this question.⁷⁹

The public media have separate sections, i.e. there is a separation of editorial staff and managerial and steering bodies. A journalist from a local media outlet claims that hew newsroom is fully independent from the managerial and marketing sections.⁸⁰ (B3)

The Management Board of the BHRT Public Service has four members, one from each of the three constituent peoples and one representative of the Others

– and each entity is represented by two members. Members of the Management Board are appointed by the Parliamentary Assembly of Bosnia and Herzegovina based on the list of candidates submitted by the Communications Regulatory Agency.⁸¹ The divisions present in the country are reflected in the managerial bodies of public broadcasting services, which opens doors to various forms of pressures. As is stated by the interviewed journalists, there are indirect pressures from the management and the Management Board, but also direct ones from the members of the Presidency of Bosnia and Herzegovina, the Parliament of Bosnia and Herzegovina, the President of Republika Srpska, prime ministers of both entities, ministers at various levels etc.

Pressures on public broadcasting services are often closely related to their financial problems. In June 2016, the Parliament of Bosnia and Herzegovina rejected a Proposal of Amendments to the Law on Public Broadcasting System of Bosnia and Herzegovina, which stipulated that the public broadcasting services at the territory of Bosnia and Herzegovina should be financed from tax revenues or sources collected by public broadcasting services funds and these resources were to be divided among the Radio-Television of the Federation of Bosnia and Herzegovina, Radio-Television of Republika Srpska and Radio-Television of Bosnia and Herzegovina. As is stated in the Proposal of the Law, this tax was supposed to be collected by telecom and cable operators until the funds start operating.⁸² Although the survival of the state public service is questionable, the authorities proposed in February 2015 the adoption of the Law on Amendments to the Law on Public Broadcasting Service in Bosnia and Herzegovina,⁸³ which proposes the transformation of Radio-Television of BiH into three channels, with programmes broadcasted in scripts and languages of the three constituent peoples from three studios – Mostar, Banja Luka, and Sarajevo.⁸⁴

The president of Republika Srpska, Milorad Dodik, verbally attacked journalists, even using curse words (FTV correspondent Mišo Vidović, Oslobođenje correspondent Gordana Katana etc.). The president of

77 Irma Husić. “Sloboda i odgovornost medija u Bosni i Hercegovini”. *Mediacentar_online*, 12. oktobar, 2011. Accessed on September 13, 2016. <http://www.media.ba/bs/etikaregulativa-novinarstvo-etika/sloboda-i-odgovornost-medija-u-bosni-i-hercegovini>

78 Vanja Elezović, interviewed by Rea Adilagić, April 4, 2016.

79 (anonymous), interviewed by Rea Adilagić, April 4, 2016.

80 Dragana Sivorjić, interviewed by Rea Adilagić, April 18, 2016.

81 Tarik Jusić. *Amer Džihana. Razjedinjeni propadaju: Javni radio-televizijski servisi u multietničkim državama*. Sarajevo, Mediacentar, 2008. Accessed on September 16, 2016. http://www.media.ba/mcsonline/files/shared/BiH_razjedinjeni_propadaju.pdf

82 “Burna rasprava o RTV sistemu of Bosnia and Herzegovina”. *Al Jazeera*, 15. juni, 2016. Accessed on October 3, 2016. <http://balkans.aljazeera.net/vijesti/psbih-burna-rasprava-o-rtv-sistemu-bih>

83 *Law on Amendments to the Law on Public Broadcasting Service in Bosnia and Herzegovina*, Article 1.

84 Vedrana Maglajlija. “Udar na bosanskohercegovački radio-televizijski servis: Tri kanala pod jednim krovom”. *Al Jazeera*, 20. februar, 2016. Accessed on October 4, 2016. <http://balkans.aljazeera.net/vijesti/udar-na-bhrt-tri-kanala-pod-jednim-krovom>

Republika Srpska insulted other journalists in Bosnia and Herzegovina on numerous other occasions.⁸⁵

B.4 What is the level of editorial independence of the journalists in the non-profit sector?

Non-profit media in Bosnia and Herzegovina are the Catholic Radio – “Radio Marija” from Banja Luka, “Radio Vesta” from Tuzla and “Otvorena mreža” – radio and television shows of a non-governmental organisation that helps the ill. In addition to these, there are non-profit online media supported by international donors: Žurnal, Analiziraj.ba, CIN and BYRN. The work of these media is subject to the Press and Online Media Code of Bosnia and Herzegovina.

Some media outlets call these non-profit media “foreign mercenaries” because they are financed from donations. Some media refuse to publish investigative stories of the non-profit media, often because of the animosity towards the stable functioning and existence of these media, although today the majority of media take over texts from some of them (CIN).

According to the Free Media Help Line archives, a journalist of one of the non-profit media – CIN (Centre for Investigative Reporting) was verbally attacked in July 2016. She was insulted by discriminatory statements and inflammatory rhetoric.

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

According to the survey, 54% of journalists claim that they are almost fully (29%) or fully independent (25%) in selecting the journalists’ stories. 59% of journalists claim that they have the freedom to decide what part of the story will be in the focus. The main factor when it comes to the type of the story is whether it is contrary to the interest of the management or the media owner.

A journalist from the Centre for Investigative Reporting said for N1 Television: “When you are working on a sto-

ry, it is not your choice, it is the editor’s choice and you have to complete the task.”⁸⁶

64% of journalists claim that they always or very frequently attend editors’ meetings, while 36% of them do not.

A former CIN journalist said to Frontal.ba: “When I say freedom is not sufficiently applied, I primarily refer to auto-censorship.”⁸⁷

A journalist said that, based on his previous experience of working in print media, there is some obvious favouring of certain political actors, i.e. negative treatment of others to the extent that it is “not allowed” to write anything negative about some politicians, while it is “very welcome to attack others” and “the orders to attack certain politicians come from editors”.⁸⁸

Censorship is generally not reported. As was said by a journalist who worked in print media which evidently favoured certain political options and “did not allow” any negative writings about politicians from those parties, there were no attempts to defend the young journalists employed there from such editorial requests.⁸⁹

In one of the earlier surveys⁹⁰, all respondents stated that censorship does not exist in their respective media. That can indicate that the respondents do not wish to speak about such practices publicly.⁹¹

In this survey, 51% of journalists claimed that censorship affects their work.

85 “Dodik šampion u prostaklucima: Sve dosadašnje psovke i vrijeđanja novinara”. Nap.ba, 16. mart, 2016. Accessed on October 3, 2016. <http://www.nap.ba/new/vijest.php?id=9310>

86 “Priča novinara koji je “razbio” mrežu prostitucije u Bosni i Hercegovini”. Tuzlanski.ba, 3. mart, 2016. Accessed on October 4, 2016. <http://tuzlanski.ba/infoteka/prica-novinara-koji-je-razbio-mrezu-prostitucije-u-bih/>

87 “Sloboda medija kroz oči novinara: Zašto je novinarstvo nezahvalno zanimanje u Bosni i Hercegovini?” Frontal.ba, 6. mart, 2015. Accessed on October 4, 2016. <http://www.frontal.ba/novost/77875/sloboda-medija-kroz-oci-novinara-zasto-je-novinarstvo-nezahvalno-zanimanje-u-bih>

88 Sanela Hadžić. Pod pritiskom: Izvještaj o stanju medijskih sloboda u BiH. (Sarajevo, Media centar, 2010). Accessed on August 10, 2016. http://www.media.ba/mcsonline/files/shared/-Izvjestaj_o_stanju_medijskih_sloboda_u_BiH.pdf

89 Sanela Hadžić. Pod pritiskom: Izvještaj o stanju medijskih sloboda u BiH. (Sarajevo, Media centar, 2010). Accessed on August 10, 2016. http://www.media.ba/mcsonline/files/shared/-Izvjestaj_o_stanju_medijskih_sloboda_u_BiH.pdf

90 Sanela Hadžić. Pod pritiskom: Izvještaj o stanju medijskih sloboda u BiH. (Sarajevo, Media centar, 2010). Accessed on August 10, 2016. http://www.media.ba/mcsonline/files/shared/-Izvjestaj_o_stanju_medijskih_sloboda_u_BiH.pdf

91 Sanela Hadžić. Pod pritiskom: Izvještaj o stanju medijskih sloboda u BiH. (Sarajevo, Media centar, 2010). Accessed on August 10, 2016. http://www.media.ba/mcsonline/files/shared/-Izvjestaj_o_stanju_medijskih_sloboda_u_BiH.pdf

In one of the earlier research studies ⁹², all journalists claimed that censorship was not present in the media they worked for. This may be an indicator that they do not want to talk publicly about such practices, while in this study, 51% of journalists said that censorship has an impact on their work.

If we look at the impact of different individuals in a hierarchical structure on the daily work of journalists, the survey showed that major influence on the work of journalists is made by senior editors – as many as 76% of respondents claimed that their editors “extremely influence their work”, and 15.5% said that they “very much influence their work”. The editors are closely followed by media owners: 44, 9% claimed that media owners “extremely influence their work”, and 39% said that they “very much influence their work”. The third most influential factor are media managers: 39, 1% claimed that they “extremely influence their work”, and 31, 4% said that they “very much influence the work of journalists”. The least influence on the work of journalists is made by their colleagues from their own or other media – less than 1%. As many as 48% of respondents claimed that government officials partly influence their work, and 44 % suggested that politicians are those who partly influence their work.

92 Sanela Hadžić. *Pod pritiskom: Izvještaj o stanju medijskih sloboda u BiH*. (Sarajevo, Mediacentar, 2010). Accessed on August 10, 2016. http://www.media.ba/mcsonline/files/shared/-Izvjestaj_o_stanju_medijskih_sloboda_u_BiH.pdf

Table 8: To what extent do these categories impact your work?

	Extremely influential	Very influential	Somewhat influential	Little influential	Not influential	Not relevant for respondents work	Don't know	Refused
Your personal values and beliefs	7.25%	7.73%	42.51%	28.50%	5.80%	7.73%	0.48%	0.00%
Your peers and staff	0.48%	5.31%	19.81%	44.93%	14.98%	11.11%	3.38%	0.00%
Your editorial supervisions and higher editors	76.81%	15.46%	4.83%	0.97%	1.45%	0.48%	0.00%	0.00%
The managers of your organization	39.13%	31.40%	7.73%	2.90%	0.97%	1.93%	8.70%	7.25%
The owners of your organization	44.93%	29.95%	17.39%	4.83%	0.97%	1.45%	0.48%	0.00%
Editorial policy	48.79%	30.92%	12.08%	1.45%	3.86%	0.48%	2.42%	0.00%
Advertising consideration	26.09%	16.91%	21.74%	6.76%	12.56%	14.98%	0.97%	0.00%
Profit expectations	21.47%	30.43%	25.12%	14.01%	6.28%	0.97%	1.45%	0.00%
Audience research and data	5.31%	4.83%	12.56%	43.00%	16.91%	14.49%	2.90%	0.00%
Availability of news gathering sources	43.00%	28.02%	17.39%	1.45%	0.00%	10.14%	0.00%	0.00%
Time limits	31.40%	32.37%	16.91%	5.31%	0.97%	12.56%	0.48%	0.00%
Journalism ethics	92.27%	7.25%	0.00%	0.00%	0.00%	0.48%	0.00%	0.00%
Religious consideration	2.42%	6.28%	6.76%	2.90%	65.22%	12.56%	2.42%	1.45%
Defamation laws	48.31%	31.40%	12.56%	0.97%	0.00%	5.80%	0.97%	0.00%
Friends, acquaintances, family	2.42%	2.42%	22.71%	16.91%	48.79%	5.80%	0.97%	0.00%
Colleagues in other media	0.97%	5.31%	14.98%	18.84%	58.45%	0.97%	0.48%	0.00%
Feedback from the audience	12.56%	12.08%	45.89%	26.09%	3.38%	0.00%	0.00%	0.00%
Competing news organization	26.09%	19.81%	42.03%	5.31%	6.28%	0.48%	0.00%	0.00%
Media laws, regulations	46.38%	27.54%	26.64%	0.97%	0.00%	0.00%	0.48%	0.00%
Information access	54.11%	32.85%	4.35%	0.97%	0.00%	6.28%	1.45%	0.00%
Censorship	51.21%	31.40%	14.49%	0.48%	0.48%	1.93%	0.00%	0.00%
Government officials	14.98%	26.09%	48.31%	1.45%	2.90%	6.28%	0.00%	0.00%
Politicians	16.43%	28.50%	43.96%	0.97%	0.97%	6.28%	0.97%	1.93%
Pressure groups	4.83%	19.81%	68.60%	2.90%	0.97%	1.45%	1.45%	0.00%
Business people	9.18%	9.66%	40.10%	21.74%	12.58%	4.83%	1.45%	0.48%
Public relations	30.43%	43.00%	5.80%	8.70%	7.25%	2.42%	1.45%	0.97%
relationships with news sources	9.66%	9.18%	28.50%	40.10%	11.11%	0.97%	0.00%	0.48%
The military, police and state security	7.25%	12.08%	52.66%	12.56%	5.31%	7.25%	2.90%	0.00%



Attacks against journalists are not treated separately. An initiative has been launched to classify attacks against journalists as attacks against public officials, but state authorities have been reluctant to do so. Journalists and the media frequently find themselves under attack. These cases are rarely prosecuted, and even when they are the process is slow and inefficient. Besides the standard procedures of the police and the prosecutor's offices, state authorities do not monitor nor do they keep records of attacks against journalists and the media. Generally speaking, journalists feel unsafe and unprotected.

C.1 Safety and impunity statistics

Statistical data show that journalists in Bosnia and Herzegovina are often subjected to various forms of violence. According to Dunja Mijatović, OSCE representative on freedom of the media, “such events have contributed to a situation where the poor level of safety has the potential to undermine freedom of expression and freedom of media.”⁹³

Table 9. Threats and physical attacks against journalists from 2013 to 2016

	Number of threats against journalists	Number of physical attacks against journalists
2013	23	2
2014	18	5
2015	18	3
2016	8	5

According to data from the Free Media Help Line, 23 cases of threats against journalists were reported in 2013, four of which were characterised as death threats. Five threats included the exertion of political pressure on the media and journalists. Also, two physical attacks on journalists were reported in the same year.

A total of 18 threats against journalists were reported in 2014, two of which were characterised as death threats. Three threats included the exertion of political pressure on the media and journalists. The year also saw five reported physical attacks against journalists.

In 2015, there were a total of 18 threats made against journalists, one of which was characterised as a death threat. Four threats included the exertion of political pressure on the media and journalists. Three physical attacks on journalists were reported in the same year.

Eight threats have been reported so far in 2016, two of which have been characterised as death threats while three included the exertion of political pressure. Five physical attacks have been reported so far.

During the war in Bosnia and Herzegovina from 1992 to 1995, 45 journalists lost their lives, 38 of whom were citizens of Bosnia and Herzegovina, while seven were for-

eigners. None of these murders have been prosecuted and no perpetrators have ever been brought to justice.

In 1999 an attempt was made on the life of Željko Kopanja, a journalist and the owner of *Nezavisne novine* from Banja Luka. An explosive device was placed under his car. Kopanja lost both legs in the explosion. The investigation into the crime was never finalised and the perpetrator was not found.

Since 2013, a total of 217 media outlets, institutions and associations of journalists have been attacked. They include the Federal Television, Radio and Television of Bosnia and Herzegovina, Oslobođenje, BN Television, Dnevni avaz, *Nezavisne novine*, Radio and Television of Republika Srpska, Klix web portal, Buka web portal, Tačno.net, Sarajevo Television, Communications Regulatory Agency, Press Council, Association of BiH Journalists and the trade union of the Radio and Television of Goražde.

Salmir Kaplan, a member of the Party of Democratic Action (SDA), initiated a public smear campaign against the Association of BiH Journalists and Borka Rudić, spreading false information and deliberately undermining the latter’s safety and public credibility. After vitriolic statements posted on Facebook and unfounded accusations that Borka Rudić was ‘an advocate of the Gülen movement’ and a ‘chetnik apologist’, Rudić was verbally attacked in Sarajevo, which could be directly attributed to Salmir Kaplan’s smear campaign.⁹⁴

Institutions of Bosnia and Herzegovina and judicial bodies often fail to prosecute such cases. In fact, sometimes the journalists are the ones who are accused of undermining the freedom of criminals through their reporting.⁹⁵

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

Currently, the law does not recognise journalists as a special category of people who need protection. An attack against a journalist is treated as any other attack against a natural person.

93 Mijatović: “Sigurnost novinara još uvijek je dominantno pitanje koje ugrožava slobodu medija na teritoriji država članica OSCE-a.” *Večernji.ba*, 4. april, 2016. Accessed on October 4, 2016. <http://www.vecernji.ba/mijatovic-sigurnost-novinarajos-uvijek-je-dominantno-pitanje-koje-ugrozava-slobodu-medija-na-teritoriji-drzava-clanica-osce-a-1079279>

94 “Napad i hajka na Borku Rudić i članove BH Novinara nakon optužbi Salmira Kaplana iz SDA.” *Media centar*, 19. juli, 2016. Accessed on October 4, 2016. <http://media.ba/bs/vijesti-i-dogadaji-vijesti/napad-i-hajkana-borku-rudic-i-clanove-bh-novinaranakon-optuzbi-salmira>

95 A.M. “Mediji u Bosni i Hercegovini govore samo ono što je dozvoljeno u granicama slobode.” *Bjesak.info*, 17. maj, 2012. Accessed on October 4, 2016. <http://bjesak.info/rubrika/sci-tech/clanak/mediji-u-bih-govore-samo-ono-sto-je-dozvoljeno-u-granicama-slobode/41650>

A section of the Action Plan drawn up by the Ministry of Human Rights and Refugees focuses on protecting the freedom of media and the rights of journalists, especially when they are under attack or are exposed to pressure. The implementation of the Action Plan began in 2015 and is still on-going.

The Ministry of Justice of Bosnia and Herzegovina has adopted amendments to the Criminal Code in order to protect and provide a safe environment for journalists to perform their work.

In an interview for *Večernji list*, the Minister of Justice of Bosnia and Herzegovina Josip Grubeša said that BiH had an up-to-date legal framework for regulating the media and the status of journalists, but that the problem lay in the lack of implementation, which is why the Ministry of Justice recommended analysing the merit of introducing new criminal offences for the sake of improving the protection of journalists in performing their work and keeping records of attacks against journalists.⁹⁶

Monitoring attacks against journalists is the job of the non-governmental sector. The Association of BiH Journalists and the Free Media Help Line react to every violation of the rights of journalists and other media professionals. The Association reacts whenever the safety of journalists is threatened, whenever they are exposed to physical or verbal attacks or are unlawfully prevented from performing their work. The Association of BiH Journalists has repeatedly called upon the relevant institutions to become involved. When necessary, the Association also calls upon the police and the prosecutor's offices to protect journalists and investigate attacks against them. Sometimes, they also demand a reaction from international organisations and embassies.

As we have seen from the experience of Free Media Help Line, the institutions do react but not as much as they should. The Ministry of Human Rights and the Ministry of Justice have launched initiatives to improve the criminal codes in Bosnia and Herzegovina as well as internal procedures designed to protect journalists and freedom of speech as one of the fundamental human rights. The OSCE Mission to Bosnia and Herzegovina has published the *Police Guidelines in Dealing with the Media*⁹⁷ and the *Media Guidelines in Dealing with the Police*.⁹⁸ These guidelines have still not resulted in amendments to laws that would obligate the police to provide special protection to media and journalists.

In the past two years, the Joint Committee on Human Rights and the Ministry of Justice of Bosnia and Herzegovina have included the Association of BiH Journalists, the Press Council and the Communications Regulatory Agency in their activities by forming a working group on the freedom of media and the protection and safety of journalists.

However, state authorities do not react adequately in cases of attacks against journalists. As we have seen from the experience of Free Media Help Line, the cooperation between state authorities and media outlets mostly comes down to sharing information, but the institutions do not treat attacks against journalists any differently from attacks against other citizens.

There is also the notorious case of tapping and publishing the conversation between Avdo Avdić, a journalist of the Federal Television and the President of the Federation of Bosnia and Herzegovina.

According to the legislation of Bosnia and Herzegovina, such actions fall under the rubric of special investigative means. Prosecutor's offices may deploy special investigative means only if there is reasonable doubt that the person who is being tapped either committed or was an accomplice in a criminal offence and if no other way of uncovering information is available.⁹⁹

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

Free Media Help Line is the only mechanism for monitoring and reporting threats, harassment and the violation of rights of journalists in Bosnia and Herzegovina. The Free Media Help Line also works on bringing such cases before the court, with the help of a network of lawyers that includes lawyers from all over Bosnia and Herzegovina.

There are no special procedures for addressing attacks against women journalists. The Free Media Help Line has recorded two cases of death threats, three physical attacks and 23 verbal attacks on women journalists.

According to the general consensus, not enough has been done to enhance the capacity and the working conditions of prosecutor's offices in BiH. The statistical data from the annual report of the High Judicial

96 *Ministar pravde Bosne i Hercegovine Josip Grubeša: Tražimo efikasniju zaštitu novinara i sprečavanje novih napada*, *Ministarstvo pravde Bosne i Hercegovine*, 30. august, 2001. October 4, 2016. <http://www.mpr.gov.ba/aktuelnosti/vijesti/default.aspx?id=5369&langTag=bs-BA>

97 *Police Guidelines in Dealing with the Media*

98 *Media Guidelines in Dealing with the Police*

99 *Criminal Procedure Code of the Federation of Bosnia and Herzegovina, Article 130*

and Prosecutorial Council show that prosecutor's offices still have a huge backlog of unsolved cases. For example, by December 31, 2013, 46% of complaints and 57% of cases prosecuted by cantonal prosecutor's offices were still open. As for regional prosecutor's offices in Republika Srpska, the ratio was 69% and 55%.¹⁰⁰

In the case of death threats directed against Lejla Čolak, a journalist at the web portal Klix, in July 2016, the Free Media Help Line reports that the Ministry of Defence of Bosnia and Herzegovina has launched an investigation against the person responsible for threatening the journalist with rape and death. Upon its request for information, the Free Media Help Line received a response from the Ministry saying that the investigation was still in the initial phase of evidence gathering.

Journalists are granted no special security or protection measures when compared to other persons in Bosnia and Herzegovina. In a report from 2012, the Association of BiH Journalists recommended expanding the provisions in criminal codes of Bosnia and Herzegovina to include the protection of journalists and their work, as well as harsh sanctions for attacks, especially physical ones, against journalists.¹⁰¹

During a meeting with the minister of the Ministry of Internal Affairs of Republika Srpska, members of the Journalists' Club from Banja Luka, which is part of the Association of BiH Journalists, argued for the inclusion of a provision in the Criminal Code of Republika Srpska that would categorize an attack against a journalist on a work assignment as an attack against an official.¹⁰²

Other than the Law on Enforcement Procedure, there are no other laws or any serious conferences or expert discussions on how to improve the enforcement procedure in Bosnia and Herzegovina.¹⁰³ According to the Free Media Help Line, legal proceedings are very slow. Data collected by the Free Media Help Line show that during 2006-2015, 67 cases against journalists were brought before the courts of Bosnia and Herzegovina. Only 15% were ruled in favour of journalists and media,

while 22% of cases have never been solved. Some of them have never even been investigated.

The high number of unsolved cases is a good indicator that government officials, politicians and other actors do not take attacks against journalists and media outlets seriously, and therefore fail to do their part.

Trainings are mostly organised by the non-governmental sector or associations of judges and prosecutors. The Ministry of Human Rights is currently drawing up a program of trainings on human rights protection.

Recommendations¹⁰⁴

Online media:

Initiate amendments to the Law on Communications of BiH, the Law on Public Information of RS and Law on Communications of FBiH. Amendments to these laws should encompass the defining of the term online media, the explicit listing of rights and responsibilities of online media, the defining of responsible persons in the online media and their rights and responsibilities; these should be integrated into the existing Law on Communications of BiH and entity laws on public information.

Transparency of media financing:

All the government institutions should be required to proactively disclose information concerning the financing of the media, including those on advertising. The media should disclose information on all types of public sector financing. Regulations of the Communications Regulatory Agency may be amended to enable such information to be published in the register of broadcasters kept by the Communications Regulatory Agency.

National minorities in the media:

In the budget for the financing of the media the state should anticipate the share for financing the programmes in minority languages.

Defamation:

The laws should clearly define how the defamation laws should be implemented to be efficient. This includes, in-

100 USAID, "USAID-ov projekat pravosuđa u Bosni i Hercegovini 2014-2019", accessed on 5th October 2016 http://usaidjp.ba/assets/files/Project_Overview_Brief_bs.pdf

101 Izvještaj u sjeni za Bosnu i Hercegovinu. (Sarajevo: Vijeće za štampu u Bosni i Hercegovini, Udruženje/Udruga BH Novinari, 2012). Accessed on August 9, 2016. http://vzs.ba/images/stories/ba_word_slike_pdf/indikator/IzVJESTA_U_SJENI.pdf

102 "Udruženje/Udruga BH Novinari." BH Novinari, 6. juli, 2016. Accessed on October 4, 2016. http://www.bhnovinari.ba/index.php?option=com_content&view=article&id=929%3Aministar-unutranjih-poslova-rs-dragan-luka-posjetio-klub-novinar-a-banjaluka&catid=63%3Adogadjaji&Itemid=241&lang=bs

103 Pavle Crnogorac. "I Bosna i Hercegovina na margini evropske efikasnosti u sudskom izvršnom postupku". Pravosuđe.ba. Accessed on October 6, 2016 http://pravosuđe.ba/vst/vf/aces/pdfservlet?p_id_doc=20848

104 These recommendations have been formulated together with the Association of BH Journalists and they constitute the general guidelines that will be used as the foundation for launching joint initiatives to improve media and journalists' freedoms.

ter alia, training of judges and provision of legal aid to the media.

Laws or special documents and rulebooks should clearly define how the defamation laws should be implemented to be efficient. This includes, inter alia, training of judges and provision of legal aid to the media.

The possibility of filing complaints to the Press Council and CRA prior to initiating libel suits before the courts should be promoted.

Maximum and minimum fines in defamation cases should be introduced.

Criteria and timelines for assessment of emotional distress should be determined.

Case law in addressing cases of defamation in the Federation of Bosnia and Herzegovina and Republika Srpska should be harmonised by improving the capacities of courts and competences of all judges working on defamation cases.

Protecting political pluralism in the media:

Private media should commit, by legal provisions and rulebooks, especially in the times of political campaigns, to professional reporting and equal treatment of all political subjects.

Access to information:

Amendments to the laws that include penalties for public bodies and individuals in such bodies who fail to comply with the Free Access to Information Act or entity level laws should be adopted.

At the legislative level, the Law on Protection of Secret Data should be harmonised with the text of the Free Access to Information Act in order to prevent automatic denial of access to information based on the reference to former law.

Protecting the confidentiality of journalist's sources:

The issue of violation of the principle of the confidentiality of journalists' sources in criminal proceedings should be legally regulated.

Journalists' labour rights and union association:

Capacity of labour inspections and courts in prosecuting and sanctioning labour right violations should be improved.

Systematic and regular surveys and analysis of working conditions of journalists, and the degree of compliance with the labour rights of employees in the media should be legally regulated.

Raising awareness on the importance of union association should be continued.

Journalists' independence:

All media should adopt an internal code, whereby they are to clearly separate the editorial board from the management and steering bodies.

The media legislation should introduce the provisions that protect journalists who refuse to publish the text that is contrary to the moral principles of journalism.

Journalists' safety:

A new provision in the entity criminal codes, according to which an assault against journalists or in relation to their professional activity would be treated as an assault against an official person should be introduced.

Capacity building of the police, investigative bodies and courts in the prosecution of attacks on journalists to enable the sanctioning of the perpetrators of threats and attacks on journalists should be organised.

Capacity of the police, investigative bodies and courts with the goal of building trust of the journalists in the social protection system should be improved.

Appendices

List of interviewees

Name and surname	Position/Organisation	Interview date
Nusmir Huskić	Attorney, Media Law Expert	April 12, 2016
Željko Bajić	BHRT Trade Union President	April 6, 2016
Damir Smital	BHRT Independent Trade Union President	April 8, 2016
Amer Toskić	President of Trade Union of Publishing, Graphic and Media Workers	April 8, 2016
Aida Čerkez	The Associated Press Journalist	April 8, 2016
Dragana Sinovinić	RTV Vitez Journalist	April 22, 2016
Vanja Elezović	RTV KISS Journalist	June 23, 2016
(anonymous)	FTV Correspondent from Brčko District	June 22, 2016
Mario Mlakić	RTV Vitez Journalist	April 22, 2016
(anonymous)	Private Media Journalist	May 6, 2016
(anonymous)	Private Media Journalist	May 6, 2016
(anonymous)	BHRT Journalist	April 5, 2016
(anonymous)	FTV Journalist	April 25, 2016
Helena Mandić	Assistant Director for Broadcasting in the Communications Regulatory Agency	September 23, 2016
(anonymous)	Smaller Private Media Journalist	April 27, 2016

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