



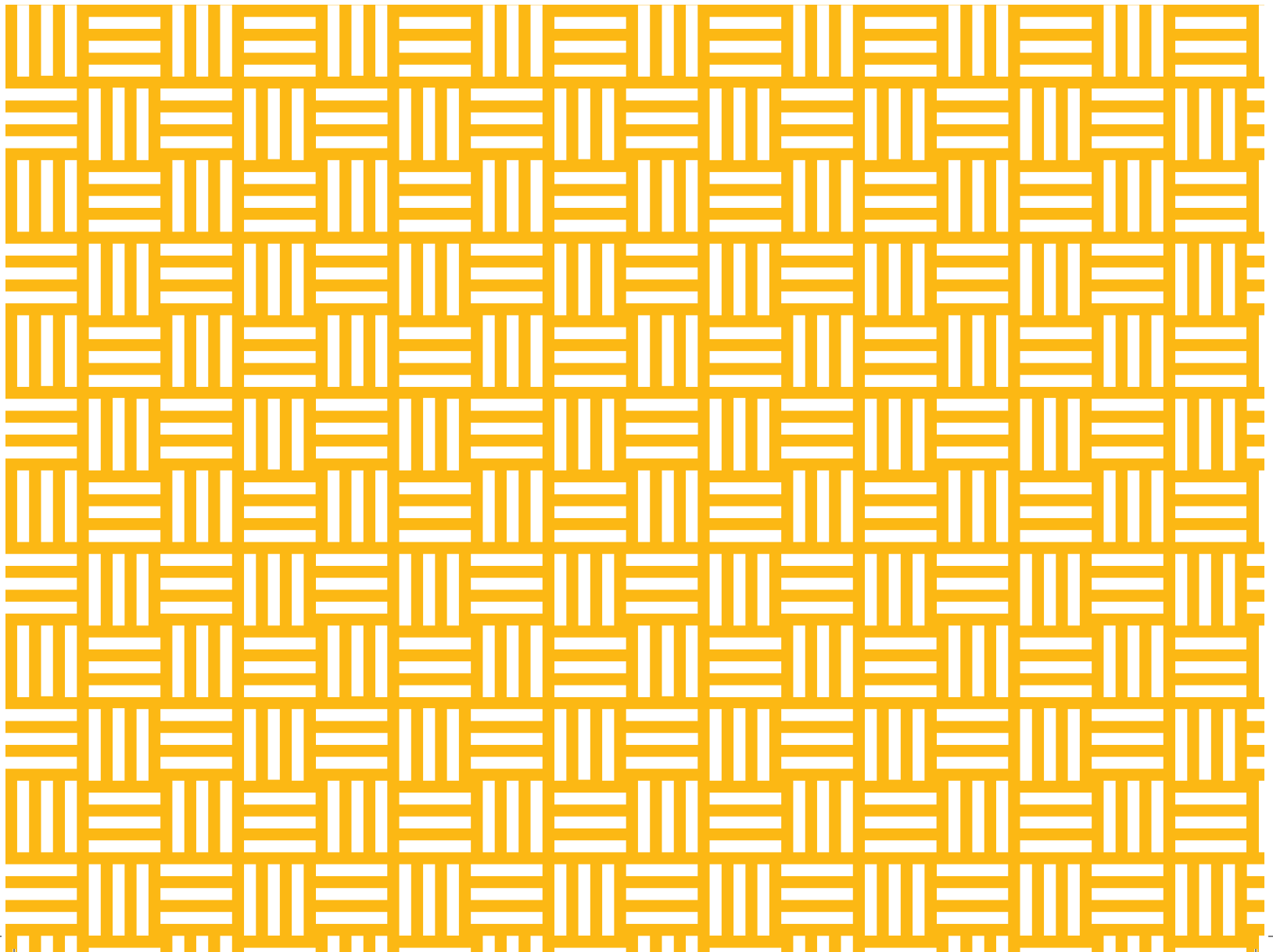
Regionalna platforma Zapadnog Balkana za zastupanje
slobode medija i bezbjednosti novinara
Western Balkan's Regional Platform for Advocating
Media Freedom and Journalists' Safety



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BOSNIA AND HERZEGOVINA

Indicators on the level of media freedom and journalists' safety







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Project goals and methodology

This report presents the findings of the research conducted within the regional project Western Balkan's Regional Platform for advocating media freedom and journalists' safety, which is implemented by the national journalists' associations in Bosnia and Herzegovina, Kosovo, Macedonia, Serbia and the Trade Union of Media of Montenegro. This report is a follow up of the baseline study on legislation, socio-economic and political situation with respect to freedom of media and security of journalists, which identified the key challenges and recommendations for associations of journalists and other stakeholders. Main goal of the second research was to identify new developments and compare the current state of media freedom and security of journalists with the situation established in 2016.

The research was conducted by Rea Adilagić based on a common methodology developed for all five countries. The methodologies used for data collection and analysis were the following:

- 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
- Qualitative interviews - 7 interviews (journalists, lawyers, media experts, representatives of public institutions or NGO's).²
- Official statistics requested from public institutions or collected from available websites or from other published sources.

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 BH Journalists Association, Media freedom level and journalists' safety indicators Bosnia and Herzegovina, (Sarajevo: BH Journalists Association, 2016).

(A) Legal protection of media and journalists' freedoms

Media experts generally hold the view that BiH media legislation is of a good quality. It appears that the problem lies in poor application of laws. Media legislation in Bosnia and Herzegovina is lacking a law on transparency of media ownership. Adoption of this law would pave the way for better understanding of editorial policies. At present the media outlets are financed in an absolutely non-transparent manner. In 2017, an increase in hate speech was recorded, mostly on Internet portals.

The Regulatory Agency is the responsible institution for regulation of public broadcasting telecommunication networks and services. The fact that the General Director of this agency is appointed based on political standards makes a big problem for Bosnian and Herzegovian media space. In this way, institutions are deprived of their independence. Legislation regulating the public system operations is inefficient. For some years now, numerous initiatives have been proposed for setting up the third, Croatian public service in Bosnia and Herzegovina, in addition to the existing three public services. Moreover, the BiH Public Broadcasting System is facing bankruptcy. Programme production is limited and there is no political will to amend pertinent laws as to save the public broadcasting service at national level from the total disintegration. (A1)

Libel is primarily regulated under law for protection against libel at entities' level and in the District of Brčko. On the average, approximately 100 libel actions are filed. Given the fact that judiciary is not independent, reporters and journalists feel frightened. Libel actions against journalists are perceived as a means of pressure on the media. Actions and threats against journalists in smaller local communities have a particularly discouraging effect on journalists. Frequently public figures announce by way of the media their readiness to take legal action against journalists despite the fact that such actions are never taken, or they give up on their law suits. Undoubtedly, this appears to be a message and threat directed to journalists and the media. Responsibility of such a large number of legal actions lies on some journalists as well- those who fail to observe ethical standards of journalism (A2).

Pertinent laws in Bosnia and Herzegovina envisage just, professional and proficient reporting with respect for pluralism. Hate speech in the media has been decreased, but yet there are numerous examples of other forms of inappropriate speech in the public domain. Cases of advocacy through reporting in some media are of particular concern, i.e. inclination to report on some topics from a more positive angle than about other topics.

Most citizens are aware of their own political affinities and affinities of media outlets they follow up. Owing to permanent follow up of particular media outlets citizens become increasingly aware of inclinations and sympathies of individual media outlets towards different political parties. This is particularly pronounced with public media local outlets which are doomed to rely on financial assistance of councils as founding organisations, in addition to interference of local power wielders in appointment of directors and editors in such media outlets. (A3)

Free work is guaranteed for all workers, including journalists under BiH legislation. Labour laws provide for a possibility of workers' union associations. Two union associations are active within the BHRT public service. According to presidents of both organisations, regrettably the two union associations do not cooperate sufficiently.

In addition to the two mentioned union organisations, there is also «the Union of Graphic and Media Workers» comprising 350 journalists from all parts of Bosnia and Herzegovina. Journalists working in private media outlets do not feel free to associate in trade unions, holding that the founders of such media outlets do not approve of workers associating in trade unions. There is a large number of journalists who do not have appropriate contracts. (A4)

The journalist has the right, as well as the duty, not to reveal his/her source of information. Protection of journalist sources constitutes the crucial foundation of media freedom. Even laws prescribe that for the purpose of protection of sources of information, journalists can not be interviewed as witnesses in a criminal proceeding. However, some legal solutions are still missing in this area.

However, if we accept the fact that public interest is the guiding principle in journalistic work, anonymity of sources is guaranteed only in a case that the journalist has exhausted all other possibilities in obtaining information. (A5)

In 2017, the BiH Ministry of Justice prepared a Draft Law on Free Access to Information which was not in compliance with the standards requiring that the test of public interest be conducted not only in exceptional situations, but instead every time when it is necessary to strike a balance between the right to access to information and restriction of access for the purpose of protection of other rights. Civil society representatives forwarded a letter to the Ministry of Justice requesting that the said draft be withdrawn for further consideration. Journalists in Bosnia and Herzegovina follow legal procedures for the purpose of collecting of information from public institutions. 15-day waiting period, as prescribed under the Law on Free Access to Information, appears to be too long to facilitate journalistic reporting in real time. (A6)

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

Labour laws at entity level contain provisions envisaged to provide efficient protection of human rights and freedoms. However, problems occur in practice when it comes to application of laws, in addition to every day violation of basic rights of employees. Economic insecurity is most frequently a form of pressure against journalists. Mechanisms used to this effect are mainly: « grey market employment”, part time employment, fear from being fired, etc.

This is equally true for both private and public media outlets. The most precarious situation is in local media outlets. At present there are at least 1, 168 media workers registered with the Employment Bureau. Of this number, 1, 128 are journalists and communicologists, and additional 40 candidates are seeking employment in similar media areas, such as PR managers, media relations counsels and business communication managers. There is a prevailing opinion that poor working conditions affect the quality of journalistic work. If salaries were higher and working conditions better, it would certainly have positive influence on journalism. (B1)

Media freedom is based on financial independence. A desirable model of financial independence implies that a single media outlet should have several small advertisers which would provide for freedom and flexibility in adherence to editorial principles. During election campaigns media outlets claim for themselves to be of a good quality because they carry out debates where political candidates are confronted. However, on the other hand, it is evident that media outlets are paid for that work. If we analyse the media it can be observed that some actors who were not followed up but that media outlet in the past suddenly appear in programmes and news broadcast by that media. (B2)

Public services work in the interest of political elites, and not in public interests, particularly when it concerns entities' broadcasters. Managerial structure in public services is based on political affiliation, thus undermining editorial and journalistic independence. There are no developed media policies nor clearly set up models of financing of the media from public budgets in Bosnia and Herzegovina. Financing of public cantonal and local media outlets is left to discretion of local authorities, and hence it is not based on relevant criteria. (B3)

Non-profit on line media are increasingly present in Bosnia and Herzegovina as of recently. It relates to the media which are founding civil society organisations financed mainly by foreign donors. Some media outlets of this type represent the most important producers of contents in certain areas. (B4)

Censorship is present, but not so much as self-censorship. Censorship is present to a sufficient degree to reflect on self-censorship of journalists. It is known in advance amongst journalist what is «permitted» and what is not. These are unwritten rules which are being transferred from one generation to another. In this way, a large number of media outlets manage to survive because of information they omit to publicise. (B5)

(C) Journalists' safety

According to data provided by SOS line for journalists, forty-one (41) attacks on journalists were recorded. (C1)

State institutions and political actors do not assume responsibility for the protection of journalists. Contrary to this, politicians are frequently attacking journalists. Reasons for such attacks are mainly rather positive examples of reporting disliked by politicians. Such attacks are mainly never sanctioned. (C2)

The data base related to judiciary work (CMS) cannot provide for a possibility to register cases which exclusively relate to threats and attacks against journalists in BiH. There is general agreement that insufficient attention is being paid to development of capacities and working conditions for prosecutor's offices in Bosnia and Herzegovina. As it is established in statistical indicators in the annual report of the High Prosecutorial and Judicial Council, prosecutor's offices are still faced with a large number of unresolved cases in their work. (C3)

General recommendations:

- Adoption of the Law on Transparency of Media Ownership in order to legally regulate transparency of ownership over media outlets and media financing
- Provision of more efficient implementation of European Court for Human Rights jurisprudence in domestic jurisprudence in cases of defamation, aimed at reduction of a number of law actions for defamation against journalists submitted by politicians
- Development of capacities of labour inspection and courts in processing and sanctioning of labour rights violation.
- Legal regulation of systematic and regular research studies and analysis of working conditions of journalists, as well as a degree of observance of labour rights of media employees.
- To continue with raising of awareness of journalists about importance of association into trade unions.
- Long term resolution of public services financing and provision of political independence for public services
- Development of CMS system in a manner that attacks on journalists and court proceedings against journalists be kept on records as a separate category
- To ensure more adequate protection of journalists by introduction of new amendments to criminal legislation in Bosnia and Herzegovina

Indicators for the level of media freedom and journalists' safety

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

- Council of Europe: [Indicators for Media in a Democracy](#)³
- European Commission:
- UNESCO: [Media Development Indicators \(MDI\)](#)⁴ and [Journalists' Safety Indicators: National level](#)⁵
- USAID – IREX: [Media Sustainability Index](#)⁶
- Freedom House: [Freedom of the Press Survey](#)⁷
- BBC World Service Trust: [African Media Development Initiative](#)⁸
- Committee to protect Journalists: [Violence against journalists](#)⁹
- Reporters without Borders: [World Press Freedom Index](#)¹⁰

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

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

5 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

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

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

8 Available at: http://downloads.bbc.co.uk/worldservice/trust/pdf/AMDI/AMDI_summary_Report.pdf

9 See more: <https://www.cpj.org/>

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

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

Taken as a whole, the listed methodologies and guidelines offer a good starting point to define indicators in line with the needs and priorities of the NJAs in the Western Balkans. However, most of them are designed to serve the objectives of the international organisations and are more focused on detecting comparable national data and general global trends on media freedoms. Moreover, they do not prescribe a fixed methodological approach, preferring to offer a comprehensive list from which indicators should be tailored to the particularities of the national context. Next, they have been drawn up in the developed Western democracies and therefore lack certain degree of customisation essential for reflecting the local media context in the Balkan countries. Therefore, while reviewing all these documents, only those indicators are taken into consideration which may reflect the specific perspective of the NJAs in advocating for better protection of journalists' work and freedom in their countries. The main focus has been put on the implementation of the legal guarantees of the freedom of expression and media independence, on a range of factors that prevent the journalists to freely exercise their daily work in the newsrooms and on the conditions under which the journalists can be safe and protected from intimidation, harassment or violence.

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

Legal protection of media and journalists' freedoms

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

A.2 Do Defamation Law cause 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 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?

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 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?

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

Generally speaking, the media legislation in Bosnia and Herzegovina (BiH) is of high quality. The problem is in poor implementation of these laws. Media legislation in BiH lacks the law on transparency of media ownership. The Communications Regulatory Agency (CRA) is responsible for regulating broadcasting and public telecommunications networks and services, and director of this agency is elected along political lines. Initiatives were pushed for several years to create yet another public broadcasting service, Croatian, in addition to the existing three public broadcasting services. The programme production of PBS is limited but there is no political will to amend the law and save the state PBS from a complete collapse. Defamation is primarily regulated by the Entity laws on defamation i.e., the Law on defamation of Brčko District. An average of 100 defamation lawsuits is filed a year. Defamation lawsuits are perceived as a means of exerting pressure. There is an evident trend of advocacy journalism BiH media.

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

The common view of the media experts is that media legislation in Bosnia and Herzegovina (BiH) is of high quality.¹¹ Bosnia and Herzegovina is a divided society, which is defined by its constitutional arrangement. This fact is important for understanding the legislative framework governing the freedom of expression as a basic human right and the exercise thereof in practice. The division of BiH society has significantly contributed to the division of media and other communication channels as means of receiving and imparting information, thus it can be concluded that the flow of information, ideas and opinions in the public sphere of BiH is divided along Entity, national, political and economic lines.¹²

“The problem is in poor implementation of these laws, and to change that for better, the implementation must be stipulated by law”.¹³

Media legislation in BiH lacks the law on transparency of media ownership and the law on transparency of advertising and financing of media from public budgets.

“Adoption of the law on transparency of media ownership is one of the most important goals, as such a law would allow public to know of the media ownership and thus ensure a basis for better understanding of editorial policies.”¹⁴ “With more transparent information on media ownership we can try to understand the position of reporters and a wider picture of ownership concentration. Information on media financing will tell as whether there are subtle pressures exerted on the media”, says Edin Ibrahimović from the Ombudsman’s Office.¹⁵ Also, transparency of media ownership can be interpreted as a legacy of the constitutionally guaranteed freedom of speech. Under the Norwegian Media Ownership Act¹⁶ the constitutionally guaranteed right to freedom of expression and information is construed broadly enough to serve as a basis for such a law. Free Access to Information Acts were adopted as a result of such interpretation.

Regarding the freedom of opinion and the freedom of expression, the UN Human Rights Committee is

concerned about reports of harassment and intimidation of journalists, and that the media continues to be subjected to excessive influence from governments, political parties and private interest groups, and of the political and financial pressures faced by public broadcasters from the Government, which leads to self-censorship and subjective reporting. It takes note with concern that the Law on Freedom of Access to Information has not yet been fully implemented. The Committee was also concerned about reports of the pervasive use of hate speech, especially in the media and on the Internet. It noted that the legislation in place did not cover all grounds of discrimination and did not specifically address the issue of hate speech on the Internet.¹⁷ The appeal of the Press Council of BiH from March 2017 confirms the concern about an increasing rate of hate speech on the Internet portals. The hate speech trend is on the rise and it is a global phenomenon, but at least those online media whose editorial boards are transparent are obliged to act against the hatred in “their” respective online spaces.¹⁸

Although funded by public money, most public media do not publish business reports, financial reports or programme plans for the next year. According to the survey conducted by Mediacentar in July 2016, the lack of transparency is particularly noted among the local media. The survey included visiting of 80 websites of the public media operating in different regions and an analysis of information available on their work. Out of a total of 80 local media included in the research, 74 does not have budget, financial statement or business or performance report published on their respective websites. A large number of public media have no impressum published, which should provide basic information on the team working in the media and the person responsible for media content, which is, after all, partly paid from the public money.¹⁹ Apart from having no knowledge about the financing of local media, the BiH public is also faced with different techniques of concealing and manipulating numbers concerning their financing. Financial statements adopted by the municipal and cantonal assemblies show that the transfers are being made for very vaguely defined purpose such as “for information”, “for culture”, “grants to help media” etc. Changes to legislation are needed in several areas and they require very precise legal solutions to prevent such manipulations of official statistics and public eye.

11 Hallilović, M. i Džihana, A. (ur.) (2012) *Medijsko pravo u Bosni i Hercegovini*, Sarajevo: Internews u BiH.

12 Borka Rudić. *Osnovne slobode, sloboda govora, udruživanja i pristupa informacijama*. (Sarajevo: Centar za promociju civilnog društva, 2013)

13 Borislav Vukojević, interviewed by Rea Adilagić and Milica Andrijašević, 31 May 2017

14 Mirjana Popović, interviewed by Rea Adilagić and Milica Andrijašević, 29 May 2017

15 „Mediji i javni ugled: Društvo je limitirano bez transparentnosti vlasništva medija”. *Nezavisne.com*, 23. juni 2017, Accessed on 23 August 2017. <https://www.nezavisne.com/novosti/drustvo/Mediji-i-javni-ugled-Drustvo-je-limitirano-bez-transparentnosti-vlasnistva-medija/431777>

16 “Media Ownership Act,” Google http://www.wipo.int/wipolex/en/text.jsp?file_id=225665

17 *The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, Special report on the status and case of threats against journalists in Bosnia and Herzegovina* (The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, June 2017)

18 „Apel žalbene komisije Vijeća za štampu u BiH”, *Vijeće za štampu*, 13.03.2017, Accessed on 12 February 2018. http://www.vzs.ba/index.php?option=com_content&view=article&id=2663:apel-za-bene-komisije-vijea-za-tampu-u-bih-13032017&catid=14:reagiranjia-i-saoptenja-za-javnost&Itemid=17

19 „Informacije o radu javnih medija BiH nisu tajne, ali nisu ni javne”. *Media.ba*, 01.novembar 2017, Accessed on 23 August 2017. <http://media.ba/bs/investigative-journalism/informacije-o-radu-javnih-medija-u-bih-nisu-tajne-ali-nisu-ni-javne>

According to data from 2017, Bosnia and Herzegovina is ranked 65th on the list of Reporters without Borders, which is three positions higher than in 2016. Efficient implementation of the law is held back by a saturated judicial system. Journalists are often the targets of threats and political pressure. The pro-government media continue to enjoy direct and indirect state subsidies.²⁰

Bosnia and Herzegovina has a Communication Regulatory Agency as a functionally independent and a non-profit making institution with the status of a legal person.²¹ The BiH Communications Regulatory Agency (CRA) is responsible for regulating broadcasting and public telecommunications networks and services, including licensing, tariffing, interconnection, and defining the basic conditions for the provision of common and international communications facilities, and planning, co-ordinating, allocating and assigning the use of the radio frequency spectrum.²²

“Director of this agency is elected along political lines, which is a huge problem for the BiH media scene. It is a way of turning independent institutions to dependant ones”.²³ “The Communications Regulatory Agency performs the technical side of the job professionally but is less concerned with editorial policy.”²⁴

Legislation regulating the work of the BiH public service is completely ineffective. Initiatives were pushed for several years to create yet another public broadcasting service, Croatian in addition to the existing three public broadcasting services,²⁵ in Bosnia and Herzegovina. In June 2017, the Croatian People’s Assembly of Bosnia and Herzegovina, which brings together the largest Croatian political parties in BiH, proposed a bill on the RTV system pushing for the establishment of a radio-television channel in the Croatian language, headquartered in Mostar. The bill proposed a radio and television system composed of five organisational units – the existing BHRT as a national broadcasting service, RTV of the Federation of Bosnia and Herzegovina with headquarters in Sarajevo and Radio Television of Republika Srpska headquartered in Banja Luka, the establishment of a Federation RTV channel based in Mostar and a public network operator to technically assist the RTV services.²⁶

“There are no Bosniak and Serb channels in Bosnia and Herzegovina”, says Aleksandar Bogdanić, a professor of the Banja Luka University.

20 Reporters without Borders. Accessed on 22 August 2017. <https://rsf.org/en/bosnia-herzegovina>

21 Law on communications of Bosnia and Herzegovina, Article 36.

22 The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, Special report on the status and case of threats against journalists in Bosnia and Herzegovina (The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, June 2017)

23 Srdan Puhala, interviewed by Rea Adilagić and Milica Andrijašević, 01 June 2017

24 Aleksandar Bogdanić, interviewed by Rea Adilagić and Milica Andrijašević, 30 May 2017

25 BHRT – PBS of Bosnia and Herzegovina; FTV – TV of the Federation of BiH – PBS of the Federation of BiH; RTRS – Radio and television of Republike Srpske – PBS of Republika Srpska

26 „Hrvatski narodni sabor želi osnivanje RTV kanala na hrvatskom jeziku”. *Direktno.hr*, 16. juni 2017. Accessed on 27 August 2017.

<http://direktno.hr/svijet/dijaspora/hrvatski-narodni-sabor-zeli-osnivanje-rtv-kanala-na-hrvatskom-jeziku-89160/>

“There is a PBS of the Federation of BiH and a PBS of Republika Srpska. In such constitutional structure it is not possible to introduce a third channel, but it is possible to ensure that programmes of RTRS and FTV provide more contents in the Croatian language and thus ensure the cultural pluralism. Only if the structure of BiH changed to provide for three entities, and if each entity would have its own PBS...but again, it would not be a Croatian PBS but the PBS of the entity”.²⁷

In addition to this, PBS of Bosnia and Herzegovina (BHRT) is in a very difficult financial situation.²⁸ The programme production is currently limited and there is a lot of uncertainty around each new pay to the employees. There is no political will to amend the law and save the state PBS from a complete collapse.²⁹

A conference called “National Radio and Television Public Broadcasting Service in Bosnia and Herzegovina” was held in June 2017. Director General of BHRT, Belmin Karamehmedović pointed out that the conference was “the last call for saving the public broadcasting service of BiH”. The conference was attended by representatives of parliaments, governments, representatives of international organisations, institutions and embassies as well as experts who talked about possible solutions of the crisis and the adequate application of the Council of Europe and the European Union standards.³⁰ It was stated in conclusion of this conference that the public broadcasting service has to survive and that urgent assistance will be requested from the BiH Council of Ministers. In case the PBS is shut down an appeal will be made to the European Court of Human Rights.³¹

According to the latest information, based on a Contract concluded by Public Enterprise Elektroprivreda Bosne i Hercegovine and Public RTV Service the RTV fees will be collected via electricity bill, starting from 01 September 2017.³²

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

Bosnia and Herzegovina is the first country in the region to decriminalise the defamation. At the end of July 1999, the High Representative rendered a decision, thus lifting the sentence of imprisonment for

27 Aleksandar Bogdanić, interviewed by Rea Adilagić and Milica Andrijašević, 30 May 2017.

28 A large number of population pay no RTV fee. In the past, this fee was collected via bills for landline service. Due to a drop in the penetration of the landline service, the number of bills for landline service significantly declined and thus the inflow from the RTV fee.

29 „Delegati Doma naroda PSBiH razmatrali stanje u BHRT-u”. *N1 info*, 09. maj, 2016. Pristupljeno 25. august, 2017.

<http://ba.n1info.com/a153032/Vijesti/Vijesti/Hitno-osigurati-uvjete-za-opstanak-BHRT-a.html>

30 „Konferencija za opstanak BHRT-a / Posljednji poziv za spas javnog servisa”. *Radiosarajevo.ba*, 13. juni, 2017. Pristupljeno 25. august, 2017. <https://www.radiosarajevo.ba/metromahala/teme/posljednji-poziv-za-spas-javnog-servisa/265515>

31 „Zaključke konferencije ispoštovati, međunarodne institucije ostaju uz BHRT”. *Bhrt.ba*, 14. juni, 2017. Pristupljeno 25. august, 2017.

<http://www.bhrt.ba/vijesti/bih/zakljucke-konferencije-ispovostovati-medunarodne-institucije-ostaju-uz-bhrt/>

32 „Naplata RTV takse putem računa za električnu energiju”. *Bhrt.ba*, 09. august, 2017. Pristupljeno 27. August, 2017.

<http://www.bhrt.ba/saopstenja-za-javnost/naplata-rtv-takse-putem-racuna-za-elektricnu-energiju-ta/>

insult and defamation. Defamation is regulated by the Entity laws on Defamation i.e. Law on defamation of Brčko District. Relevant provisions of the Law on Obligations and applicable laws on civil procedure of the Federation of Bosnia and Herzegovina and the Republika Srpska, apply in the alternative in regulating this issue.

According to the Free Media Help Line³³, an average of 100 lawsuits is filed a year for defamation.³⁴ In the opinion of Aleksandar Bogdanić, a professor of the Banja Luka Faculty of Political Science, the defamation laws insufficiently protect journalists. According to Milkica Milojević, a journalist from Banja Luka, “a large number of defamation claims makes a pressure on journalists. And that is not what defamation is supposed to be about. Sometimes politicians threaten to file a lawsuit or they file it and later give up. Bearing in mind that the judiciary is not independent, there is a lot of fear among journalists in such situations”. Defamation claims against journalists are also perceived as a means of exerting pressure on the media. An important evidence that confirms this is the frequency of claims made by certain political figures – from several to a few dozens of lawsuits. Lawsuits and threats to journalists in smaller local communities have a particularly discouraging effect on journalists.³⁵ There is a common practice of public figures announcing legal actions in the media but they never really file them. This is undoubtedly a part of the message and threat addressed to journalists and media.³⁶

Journalists themselves bear some of the responsibility for a large number of lawsuits. Reporters from the Centre for Investigative Reporting (CIR) use information control filter in their everyday work which effectively protects them from defamation lawsuits even when they write about the issues reported by others who have been sued for and convicted of defamation. According to CIR reporters, “no information comes out of their “house” unless it is verified and placed in the right context, making sure that no side is given more space than the other. Standards do not allow any manipulation.”

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

According to Communication law of BiH, the regulatory principles of broadcasting include „the protection of freedom of expression and diversity of opin-

ion while respecting generally accepted standards of decency, non-discrimination, fairness, accuracy, and impartiality”.³⁸ This means that the Communications Regulatory Agency (CRA) has an obligation to ensure implementation of this regulatory principle in the audiovisual media services sector, be it during election campaign or any other time.

The Election law of BiH anticipates that all the media should cover election activities in a just, professional and competent manner, while respecting the generally accepted democratic rules and principles, especially the basic principle of freedom of expression.³⁹ General provisions of the Law foresee that electronic media should cover pre-election activities and observe the principle of balance, fairness and impartiality.⁴⁰ Any favouring of political officials, especially those running for the office is forbidden.⁴¹ The laws on PBS stipulate obligation of the media to respect and promote pluralism of political, religious and other ideas.⁴² In addition to this provision there is also a provision in the Code of Journalist Ethics requiring all the journalists to respect pluralism of ideas and opinions.⁴³

Information on reduced level of hate speech in the media is encouraging, but there are still incidents of some other forms of inappropriate speech in public sphere. What raises concerns are the incidents of advocacy journalism in some media, i.e., the trend of more positive reporting on certain subject comparing to all other subjects. This is particularly true of the incumbents who have used their positions for their self-promotion, which the media followed without any significant critical reporting.

It can be generally said that the media fulfilled their information role, while their educational (educating of political audience, especially about local topics) and orientation functions were somewhat less utilised.⁴⁴

“Most citizens are aware of their political affinities and of the political affinities of the media they follow. By following the media constantly citizens become aware which media sympathize which parties. This is detrimental to the democracy and the system in which we supposedly operate.”⁴⁵

This is particularly evident among the local media. As long as they depend on financial assistance of the assemblies, which are their founders, and as long as local authorities interfere in the election of directors and editors of these media, ensuring equal treatment and equal representation of candidates at local elections becomes a mission impossible.

33 Free Media Help Line operates within the Association of BH Journalists as a domestic, BiH institution supporting and assisting journalists in their day-to-day operations, as well as protecting their rights and freedoms.

34 There is also a case of “Slobodna Bosna” magazine, which in December 2015 shut down its print edition due to a large number of defamation lawsuits.

35 Analysis of implementation of Law on Protection against Defamation and impact of Court Practice on Media Freedom . (Sarajevo: BH Journalists Association 2017). Accessed on 12 February 2018.

<http://safejournalists.net/wp-content/uploads/2018/01/Kleveta-BiH-engleski.pdf>

36 Analysis of implementation of Law on Protection against Defamation and impact of Court Practice on Media Freedom . (Sarajevo: BH Journalists Association 2017). Accessed on 12 February 2018.

<http://safejournalists.net/wp-content/uploads/2018/01/Kleveta-BiH-engleski.pdf>

37 Aladin Abđagić, interviewed by Rea Adilagić and Milica Andrijašević, 29 May 2017

38 Communication Law of BiH, Article 4.1a

39 BiH Election Law, Article 16.1

40 BiH Election Law, Article 16.2

41 BiH Election Law, Article 16.3

42 Law on the PBS of Republika Srpska, Article 14, Law on PBS of the Federation of Bosnia and Herzegovina, Article 39

43 Journalist Code of Ethics, General principles

44 2016 Local elections in Bosnia and Herzegovina: Final report on civil, non-partisan observation of local elections. (Sarajevo: Koalicija Pod lupom 2016).

Accessed on 03 September 2017. file:///D:/Downloads/Pod%20Lupom%20-%20Finalni%20izvjestaj%202016%20(BOSANSKI).pdf

45 Borislav Vukojić, interviewed by Rea Adilagić and Milica Andrijašević, 31 March 2017

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

The labour law of BiH guarantees a free labour of all workers, including journalists. Labour laws provide for the formation of a workers' union.⁴⁶ In January 2017 reporters of N1 Television were denied access to the RS Palace of Justice. Ljiljana Kovačević, a correspondent of the Beta Agency was denied access to the RS Palace of Justice already in 2002, and the same thing happened to BN Television from Bijeljina again in 2014.⁴⁷ Following the reaction of BH journalists, the European Federation of Journalists and other national and international organizations, the televisions BN and N1 were granted access to this institution.

The right to organise independent unions in Bosnia and Herzegovina is defined and guaranteed by entity laws and constitutions. In BiH, the unions are separated along entity lines and Brčko District. Within PBS BHRT there are two unions, which according to the presidents of both unions, do not cooperate enough. These two unions together have about 100 members. In addition to these two unions, there is also officially the oldest union in whose membership there are also journalists - "the Union of Graphic Publishers and Media Workers". About 350 journalists from all over Bosnia and Herzegovina have joined this union. There is no official number of journalists in the country. According to unofficial estimates there are between 2,000 and 3,000 professional journalists in the country.

The last appearance of a union in the media was a reaction of the BHRT Union to the issue of questionable approach to interviewing of Sebiha Izetbegović and post-editing of the footage. The Union sought resignations of the general manager, TV director and his closest associates. Shortly thereafter, director of BHT, Mario Vrankić, resigned. Although demand of the Union was not mentioned as a reason for his resignation, one cannot neglect the contribution of the Union's reaction with respect to professionalism and objectivity.⁴⁸

Journalists working for the private media do not feel free to create a union, as they believe that founders of these media are not in favour of this kind of association, claims Milkica Milojević from Banja Luka. "Freedom of journalism officially exists, but in practice journalists are often exposed to pressures. A large number of journalists who do not have appropriate contracts. Some journalists have contracts that are valid only for a month, which is a huge pressure for them."⁴⁹

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

A journalist has the right and the obligation not to reveal the identity of his or her source.⁵⁰ The protection of sources is one of the key cornerstones of media freedom, without which the role of media as a public watchdog in a democratic society would be undermined as well as the ability of the media to impart accurate and reliable information. This is the core of the Council of Europe documents and the judgments of the European Court of Human Rights concerning the protection of journalist sources.⁵¹

The laws go so far in protecting the source of information as to prescribe that journalists cannot be heard as witnesses in a criminal proceeding.⁵²

However, there are many issues in this area that are yet to be regulated in out legislation. The existing laws are not clear with respect to the following:

- (1) Whether the confidentiality principle can be breached in criminal proceedings?
- (2) In which particular criminal offences are journalists allowed, or even required to reveal the identity of their source?
- (3) Who actually decides on whether the journalists should or are required to reveal the identity of their source and to whom exactly?⁵³

The case "Klix" from December 2014 pointed to a collision between normative regulations on the right of journalists to protect their sources and their implementation. The case has stirred a wide debate on the true freedom of the media and the right to freedom of expression in BiH. Police from one of the Entities searched the premises of "InterSoft" company, the founder and owner of the internet portal Klix.ba headquartered in another Entity and seized certain electronic equipment. The legal basis for the search was a grounded suspicion that a criminal offence from Article 174.1 of the RS Criminal Code (unauthorised interception and audio-recording of conversation) was committed. In short the purpose of the search was to find and seize the original material i.e., the audio and video recordings of a conversation of the RS Prime Minister, Željka Cvijanović (which was published on 15 November 2014 on the Klix.ba portal) and identify the source of information. The case was referred to the Sarajevo Cantonal Court, which established that the procedure conducted was illegal.⁵⁴

46 FBiH Labour Law, Article 6, RS Labour Law, Article 209

47 BH Journalists, Press release, BH Journalists <http://bhnovinari.ba/bs/saopcenja-za-javnost/>

48 „SO BHRT-a o intervju sa Izetbegović: Ovo je skandal“. *Ba.N1info.com*, 07. novembar, 2017. Accessed on 02 February 2018. <http://ba.n1info.com/a225293/Vijesti/Vijesti/Sindikata-BHRT-a-o-intervju-sa-izetbegovic-Ovo-je-skandal.html>

49 Milkica Milojević, interviewed by Rea Adilagić and Milica Andrijašević, 31 May 2017

50 Defamation law of the FBiH, Article 9; Defamation law of Brčko District, Article 9; Defamation law of RS, Article 10; Press and online media Code, Article 13, Code of RTV broadcasting, Article 13

51 Nihada Jeleč. "Zaštita novinarskih izvora u BiH." *E – novinar*, broj 43. (2016): 2. Accessed on 01 June 2017. http://bhnovinari.ba/wp-content/uploads/2012/06/bhn_e-novinar-septembar2016_.pdf

52 Criminal Procedure Code of BiH, Article 82; „Criminal Procedure Code of the FBiH, Article 96; Criminal Procedure Code of RS, Article 147.

53 Parliamentary Assembly of BiH, Protection of confidentiality of sources of information. (Sarajevo, 2013), 23

54 Nihada Jeleč. "Zaštita novinarskih izvora u BiH." *E – novinar*, broj 43. (2016): 2. Accessed on 01 June 2017.

Yet, having in mind the fact that journalist work is driven by public interest, the anonymity of the source is guaranteed only if the journalist previously explored all other possibilities to obtain information. The question here is whether it is justified to guarantee the anonymity to a person who criticizes another political option in the wake of the election campaign? Why guaranteeing anonymity for statements of general character (e.g. "a political analyst who wished to remain anonymous claims that the international community is exerting pressures)?"⁵⁵

The anonymity should be granted in the following situations:

- If a journalist has exhausted all other sources that could provide the same information;
- If a journalist has no time to check information and it is a matter of great public interest;
- If a journalist is certain that the source seeking anonymity has no ulterior motive (be it political or economic);
- In a situation where there is an obvious and serious threat to life or existence of the source.⁵⁶

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

There are many problems concerning the implementation of the existing laws on freedom of access to information. The UN Human Rights Committee noted that the laws on freedom of access to information in Bosnia and Herzegovina have not yet been fully implemented. In 2017, the BiH Ministry of Justice made a preliminary draft Law on Freedom of Access to Information, which was supposed to be forwarded to the Parliament for consideration.

The new draft law contains a list of exceptions to disclosure, i.e., information that can be denied in order to protect legitimate interests of society, such as public security. To this end, the new draft law does impose obligation on the public institutions to conduct a public interest test when deciding on the release of such information, which leaves room for abuse and unfounded denial of access to information that is of public interest. Also, the new draft law states that public authorities can, exceptionally, allow access to information if doing so is in the public interest. Such a wording is not in line with international standards, which require that a public interest test be carried out not only in exceptional situations, but whenever it is necessary to establish the balance between the right to access information and restriction thereof for the sake of protecting the other rights.

The new draft law stipulates that the person seeking access to information is required to state the reasons, which is also one of the most controversial provisions in the new text. According to the basic principles of a

democratic society, public authorities are to be at the service of citizens as they are paid from public money, hence all citizens have the right to access information on their work without any restrictions.⁵⁷

According to the latest information available to us, in August 2017 a meeting was held with Transparency International and other members of the civil society in which a decision was made to send a letter to the Ministry of Justice asking them to withdraw the above-mentioned preliminary draft so that it can be improved.

As indicted in this letter, the quality of legislation regulating the area of free access to information has the most direct impact on civil and media freedoms, prevention of corruption and the transparency of the work of all public authorities, and therefore its alignment with the relevant international recommendations is particularly important. This is the second proposal to amend this law with halfway and vaguely defined solutions.⁵⁸

Journalists in Bosnia and Herzegovina resort to legal procedures to gather information from public institutions.

"Public institutions have some information readily available, and it would take them very little time to send such information to the journalists, but some information require more time to be compiled. A 15-day deadline to provide information readily available, as provided by the current Freedom of Access to Information Act, is too long for regular day-to-day reporting."⁵⁹

CIR reports annually send over a thousand requests for information.⁶⁰ According to them, "the rules prescribed by current law are formally fairly good. The problem is that some institutions take the liberty of breaching this law. It is more difficult to obtain information if the request for information is about money".⁶¹ A positive example is the judgement of the Novi Travnik Cantonal Court, which ruled in favour of CIR in the case v. Municipal Court of Bugojno, which the CIR sued for providing incomplete information. This shows that there is still a long way ahead of media to build case-law that will improve the efficiency of implementation of the laws governing media freedom.⁶²

57 New draft proposes a more restrictive BiH Law on Freedom of Access to Information. Media.ba, 06 December 2016, Accessed on 23 August 2017. <http://www.media.ba/bs/mediametar/novi-nacr-predlaze-restriktivniji-zakon-o-slobodi-pristupa-informacijama-bih>

58 Transparency International Bosna i Hercegovina, "Izmjene i dopune Zakona o slobodi pristupa informacijama BiH vratiti na doradu". 22. august 2017. Accessed on 24 August 2017. <https://ti-bih.org/wp-content/uploads/2017/08/Press-ris-22.08.2017.pdf>

59 Milica Milojević, interviewed by Rea Adilagić and Milica Andrijašević, 31 May 2017

60 Aladin Abdagić, interviewed by Rea Adilagić and Milica Andrijašević, 29 May 2017

61 Mirjana Popović, interviewed by Rea Adilagić and Milica Andrijašević, 29 May 2017

62 „CIN dobio šestu tužbu protiv institucija“. Cin.ba, 31. oktobar 2017, Accessed on 12 December 2017. <https://www.cin.ba/cin-dobio-sestu-tuzbu-protiv-institucija/>

B

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

Despite adequate legislation, economic insecurity remains the most common form of pressure exerted on journalists of both public and private media. The mechanisms used entail “moonlighting”, part-time work, threat of dismissal, etc. Statistics of the employment bureaus point to a large number of unemployed journalists. The general opinion is that poor working conditions also affect the quality of reporting, because the media freedom rests on financial autonomy.

Managing bodies of the PBS are elected along political lines, which prevent the functioning of editorial and journalist independence principles. Censorship is far more present than self-censorship.

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

Entity labour laws contain provisions, which are supposed to provide effective protection of human rights and freedoms. However, the problem in practice is the implementation of the laws and regular violation of the basic rights of employees. Providing protection of these rights is significantly hampered by the lack of labour law at national level the provisions of which would apply to the entire country. Such a law would set the fundamental rules in this field as well as the accompanying instruments to ensure the implementation of this law both at the level of administrative and judicial bodies.⁶³

Economic insecurity is the most common form of pressure exerted on journalists. "The mechanisms used in doing so entail "moonlighting", part-time work, fear of dismissal, etc. In this way, the media owners "keep the journalists on a short leash".⁶⁴

According to a journalist, "journalism is the most underpaid profession in the category of highly educated labour force. There are also cases of volunteering journalists. Some owners and media editors go so far as to use volunteers to anchor their news without paying them any compensation."⁶⁵

Media and shrinking space in Bosnia and Herzegovina, a study based on an empirical research of media actors in BiH, identified some of the main problems of journalists: journalists work on a large number of stories on daily basis, they are underpaid and do not have time to make a good story; media owners are driven by commercial interests; a considerable part of the journalist is divided along ideological lines; due to political and economic influence, a large number of journalists agree to censorship and self-censorship, fearing that they might lose the job or suffer financial consequences. (Source: Turčilo, Lejla and Buljubašić, Belma. (2017). Media and shrinking space in Bosnia and Herzegovina. Sarajevo: Heinrich Böll Stiftung)⁶⁶

The poor economic position of journalists is not limited to journalists employed in private media. Many public media – both PBS and local media outlets - have outstanding liabilities for wages and contributions of their staff, forcing them to organise strikes. According to the president of BHRT Independent Workers' Union, Damir Smital, the latest data available show that outstanding liabilities of the BHRT for wages and social contributions and health insurance amount to BAM 7 million. The Radio and Television of Republika Srpska also has arrears of several million. According to the RS Tax Administration the tax and social contribution

debt of the RTRS has reached BAM 5.8 million on 01 June 2017.⁶⁷

According to Nikola Šobat, the president of the RS Union of media and graphic services, the local media outlets are the most problematic. In April this year the employees of RTV Bihać went on a two-month warning strike before going on general strike, fighting for their wages and social contributions. In June the Union has struck a deal with management, making the employer pay the workers their regular monthly pays and meal allowance plus one of the five outstanding wages by 31 December 2017. Also, it was agreed to develop a plan within 30 days following the agreement to pay the remainder of the workers' claims. The signed agreement states that any breach of the provisions thereof would automatically trigger warning strike and preparation of the general strike.

In the opinion of Mirsad Zulić, the president of RTV Bihać Union branch, the major problem is that the city authorities of Bihać failed to make the transfer of promised funds for the functioning of RTV Bihać.⁶⁸

According to Mediacentar Sarajevo, journalist labour market of BiH is oversaturated. At least 1,168 media workers are currently seeking job through the employment bureaus in BiH, of which 1,128 journalists and communicologists, and 40 candidates who seek jobs in media related areas such as public relations - media relations managers, public and business communication managers.⁶⁹

"The general opinion is that poor working conditions also affect the quality of reporting. The better pay and working conditions would certainly make a positive impact on journalism. The journalists could then afford to be more critical. But, the poor working conditions are not a good excuse for poor reporting."⁷⁰

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

The media freedom rests on financial autonomy.

"A desirable form of financial independence implies that a media outlet has to have several small advertisers, which allows for more freedom in implementation of editorial principles."⁷¹

Free media work in Bosnia and Herzegovina in relation to political and other social structures is a complex issue. First and foremost, because the work of most media is directly and causally linked to political developments in Bosnia and Herzegovina. Due to

63 Shadow report for Bosnia and Herzegovina. (Sarajevo: Press Council in Bosnia and Herzegovina, BH Journalists Association, 2012.) Accessed on 09 August 2017. http://english.vzs.ba/images/stories/ba_word_slike_pdf/indicators/SHADOW_REPORT.pdf

64 Srdan Puhalo, interviewed by Rea Adilagić and Milica Andrijašević, 01 June 2017

65 Milkica Milojević, interviewed by Rea Adilagić and Milica Andrijašević, 31 May 2017

66 Media and shrinking space in Bosnia and Herzegovina. (Sarajevo: Fondacija Heinrich Böll, Office for BiH, Macedonia and Albania, 2017) Accessed on 12 February 2018. https://ba.boell.org/sites/default/files/schrinking_spaces_-_studija_-_bh_-_26-10-2017_-_web_1.pdf

67 „Novinari bez plata i zdravstvenih osiguranja“. Media.ba, 20. Juli 2017, Accessed on 24 August 2017. <http://www.media.ba/bs/magazin-novinarstvo/novinari-bez-plata-i-zdravstvenog-osiguranja>

68 „Novinari bez plata i zdravstvenih osiguranja“. Media.ba, 20. Juli 2017, Accessed on 24 August 2017. <http://www.media.ba/bs/magazin-novinarstvo/novinari-bez-plata-i-zdravstvenog-osiguranja>

69 „Na birou više od hiljadu diplomiranih novinara“. Media.ba, 31. Juni 2017, Accessed on 31 August 2017. <http://www.media.ba/bs/magazin-novinarstvo/bih-na-birou-vise-od-hiljadu-diplomiranih-novinara>

70 Borislav Vukojević, interviewed by Rea Adilagić and Milica Andrijašević, 31 May 2017.

71 Aleksandar Bogdanić, interviewed by Rea Adilagić and Milica Andrijašević, 30 May 2017.

political influence through advertising, media criticising the work of politicians would be “biting the hand that feeds it”.⁷²

According to information available, media boast of being good quality media for organising candidate’s debates in the election campaign. “On the other hand, it is obvious that they are getting money for it. They charge for each individual candidate, which means that only opinions of those who have enough money to pay for their appearance will be heard. There was a case of a candidate who did not attend the show on Alternative Television because he did not have BAM 1,500 he was asked to pay for the time on this TV. This means that money buys the affection of the media. This is evident from the media analysis, e.g., all of the sudden, a candidate which has not been followed by a particular media outlet starts appearing in all the news and shows of this media outlet. Thus, the media have not become but are already very dependant, because they have been founded with such an aim.”⁷³

“On the other hand, the media in BiH, as everywhere in the world, depend on advertisers. There is an increasing economic censorship in private media.”⁷⁴

“Most media produce programmes to attract advertisers, or the largest number of views i.e., visits. This kind of commercialisation shifts the media focus from citizens to the interests of the funders.”⁷⁵

“Journalists rarely write negative reviews on strong companies, as they are the biggest advertisers.”⁷⁶

The problem occasionally coming in the media spotlight is the audience measurement. While the results of these measurements should be the basis of marketing revenue and, more importantly, the distribution of public funds across the public media sector, these measurements are currently carried out by unauthorised organisations. To make the situation worse, the BiH Council of Ministers, motivated by the needs of its political parties, has been successfully circumventing the problem.⁷⁷

Nevertheless, there are some positive examples. Recently, there are initiatives of some more experienced journalists who, disappointed by the influence made on “mainstream” media, decided to respond by forming their own media. These initiatives are almost exclusively funded through google ads. Their owners claim not to have been funded by any donations, but being dependent purely on readership and the interest of the public.⁷⁸

“They inform their target audience. The limitation of these media is their local character. Local portals are an example of independent journalism, but they have no scale”.⁷⁹

72 „Između kontrole i nestanka“. Media.ba, 20. april 2017, Accessed on 31 August 2017. <http://www.media.ba/bs/magazin-novinarstvo/izmedu-kontrole-i-nestanka>

73 Borislav Vukojević, interviewed by Rea Adilagić and Milica Andrijašević, 31 May 2017.

74 Borislav Vukojević, interviewed by Rea Adilagić and Milica Andrijašević, 31 May 2017.

75 Aleksandar Bogdanić, interviewed by Rea Adilagić and Milica Andrijašević, 30 May 2017.

76 Borislav Vukojević interviewed by Rea Adilagić and Milica Andrijašević, 31 May 2017.

77 „Mjerenje gledanosti u BiH: Da li su kriminal, politika i lični interesi umiješali prste?“ Buka.com, 21. decembar, 2016. Accessed on 13 February 2018. <http://www.6yka.com/novost/118685/mjerenje-gledanosti-u-bih-da-li-su-kriminal-politika-i-licni-interesi-umijesali-prste>

78 For example the online portal <http://blmobjgrad.com/>

79 Borislav Vukojević, interviewed by Rea Adilagić and Milica Andrijašević, 31 May 2017.

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

Public service is considered complementary to the freedom of expression and as such it is a baseline for the work of PBS. Media content analyses and media monitoring⁸⁰, especially during election campaigns, show that public broadcasting services, especially those at the entity level work in the interest of political elites, not the public.⁸¹

Board of directors of PBS BHRT has four members, one from each of the three constituent peoples and one representative of “Others”, with each entity being represented by two members. Board members are appointed by the Parliamentary Assembly of Bosnia and Herzegovina from a shortlist of candidate submitted by the Communications Regulatory Agency.⁸²

“For as long as the PBS managerial structures are elected along ethnic lines, the editorial and journalist independence as the principles cannot of be functional.”⁸³

There are no developed media policies in Bosnia and Herzegovina nor clearly defined models of media funding from public budgets. Financing of public cantonal and local media depends on arbitrary decisions of local governments, not the relevant criteria. For this reason this model needs to be changed to protect the public interest.⁸⁴ If a political incumbent takes advantage of his or her position and allocates funds from current reserves to a media outlet which indiscriminately supports his or her political option, then it is undeniable that he or she is thus rewarding the obedience or wants to privatise public media space with public money.⁸⁵

Pressures exerted on public radio and television services are closely related to the financial problems that these services have been experiencing for years.

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

There is an increasing number of emerging non-profit media in BiH. These are established by civil society organisations and are funded mostly by foreign donors. Some of them are the most significant content producers in certain areas, e.g., CIR and Žurnal in the

80 Monitoring izvještavanja medija u predizbornoj kampanji za lokalne izbore 2016. (Sarajevo: Koalicija Pod lupom 2016). Accessed on 2 December 2018. <file:///D:/Downloads/Finalni%20izvjestaj%20o%20monitoringu%20izvjestavanja%20medija%20u%20predizbornoj%20kampanji%20-%20lokalni%20izbori%202016.pdf>

81 Lejla Turčilo, “System of Public Broadcasting in BiH - is there a solution” (Analysis, BH Journalists Association, Sarajevo, 20017), 02. Accessed on 2 December 2018. http://safejournalists.net/wp-content/uploads/2017/11/PBS-analysis_Turcilo.pdf

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

83 Srdan Puhalo, interviewed by Rea Adilagić and Milica Andrijašević, 01 June 2017.

84 Kriterij finansiranja medija : Slabo regulirani, neadekvatni ili nepostojeći. (Sarajevo: Mediacentar, 2017.) Accessed on 25 August 2017. http://media.ba/sites/default/files/kriteriji_finansiranja_medija_-_cetrvti_izvjestaj_-_31_august_2017.pdf

85 „Naklonost medija plaćena iz javnih budžeta“. Media.ba, 10. juni 2017, Accessed on 31 August 2017. <http://www.media.ba/bs/magazin-novinarstvo/naklonost-medija-placena-iz-javnih-budzeta>

field of investigative reporting, BIRN in the field of war crime reporting, Analiziraj in the field of media reporting analyses, etc. The general view is that the level of editorial and journalistic independence in these media outlets is higher than in the commercial media outlets because foreign donors do not interfere directly in editorial policy but are happy to set the thematic priorities only.

There are very few non-profit media in electronic broadcasting: Catholic radio – „Radio Marija” from Banja Luka, „Radio Vesta” from Tuzla and „Otvorena mreža” – radio and television shows produced by a non-governmental organisation dealing with relief activities and fund raising for the treatment of severely ill patients and aiding the sick.

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

Censorship and self-censorship are part of everyday work of journalists. According to a 2016 survey, 97% of journalists reported that censorship more-or-less influences their work.⁸⁶ This problem is most commonly encountered in private but also in other media. Journalists agree to censorship due to fear of losing their jobs. This fear is often amplified because they are not protected by adequate contracts.⁸⁷

In their internal discussions journalists admit without hesitation that they often write “commissioned stories” and avoid certain collocutors or whole topics, knowing that the editors or media owners they work will not like it. Unlike censorship where journalists dared to talk about their own experiences, self-censorship is an open secret. Only in some informal conversations will they speak about self-censorship, thus exchanging personal experiences or experiences of their colleagues. Very few journalists will speak publicly about self-censorship.⁸⁸

“Censorship is present, but not as much as self-censorship. Censorship is present enough to reflect on the self-censorship of journalists. It is well known among the journalists what is or isn’t “allowed”. These are unwritten rules that are passed on from one generation to the other. A significant number of media survives because of the information they do not impart.”⁸⁹

“In journalism there is a correlation between censorship and self-censorship on one side and freedom on the other. The less freedom means more censorship or self-censorship and vice versa.”⁹⁰

As argued by CIR reporters, if we as a society aspire to democracy, the journalists must be free.⁹¹

⁸⁶ *Media Freedom Level and Journalists safety Indicator [Bosnia and Herzegovina]*. (BH Journalists Association, 2016.) Accessed on 12 December 2017.

<http://safejournalists.net/wp-content/uploads/2016/12/Full-BIH-ENG-Digital-1.pdf>

⁸⁷ *The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, Special report on the status and case of threats against journalists in Bosnia and Herzegovina (The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, June 2017)*

⁸⁸ „Da li je autocenzura stvar izbora?“. *Media.ba*, 20. septembar 2016, Accessed on 24 August 2017. <http://www.media.ba/bs/magazin-novinarstvo/da-li-je-auto-cenzura-stvar-izbora>

⁸⁹ *Srdan Puhalo*, interviewed by Rea Adilagić and Milica Andrijašević, 01 June 2017

⁹⁰ *Aleksandar Bogdanić*, interviewed by Rea Adilagić and Milica Andrijašević, 30 May 2017.

⁹¹ *Aladin Abdagić*, interviewed by Rea Adilagić and Milica Andrijašević, 29 May 2017

C

Journalists Safety

According to statistics of the Free Media Help Line by the end of 2017 there were 41 attacks against journalists. The state institutions and political actors do not assume enough responsibility for protecting the journalists. On the contrary, politicians are often those who attack journalists.

The judicial content management system (CMS) does not provide for any possibility of recording cases of attacks against journalists in BiH separate from other cases.

C.1 Safety and Impunity Statistics

Attacks on journalists are not only about violating physical integrity of a person or violating a law, they also send a clear message to both the journalists and the public. To this end, the journalists are being told that if they do their job in a way that an individual or a group finds to be controversial, they will bear the consequences, while the perpetrators are granted impunity. If the general perception is physical attacks against certain public figures (including journalists) can get away with impunity, this will be understood as a lack of rule of law in the country and thus the general public will refrain from sharing its views and opinions.⁹²

According to statistics of the Free Media Help Line by the end of 2017 there were 41 attacks against journalists.⁹³ Of that, majority were threats (21), verbal threats (13) and death threats (8), physical assaults (6) and political pressures (14).

Table 1

Number of attacks	
Verbal threats	13
Death threats	8
Physical assaults	6
Political pressures	14

Dragan Bursać received, among other things, some serious death threats in July 2017, after he published a story titled “Is Banja Luka celebrating the Srebrenica Genocide?” about the rallies organised in support to Ratko Mladić on 11 July in Banja Luka.

The Board of Directors of the Association BH Journalists reminds that this was not the first threat addressed to this journalist, but one of many, all equally brutal and seriously attempting to harm the life and security of journalists. However, the competent police and judicial institutions failed to take more efficient measures and sanction the persons spreading hatred and calling for killing.⁹⁴

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

Statistics of the Free Media Help Line and examples from practice show that state institutions and political actors assume no responsibility for protecting the journalists. On the contrary, politicians are often those who attack journalists.

These attacks usually occur after a reporting which does not pander certain political or other stakeholder

groups, which is criticising or dealing with topics such as corruption, crime, war crimes, etc. These attacks usually get away with impunity.

„A vulgar attitude towards journalists that goes unpunished sends a message to other politicians that such acts get away with impunity. In a way, it gives them “the green light” to mistreat the journalists. It would be desirable for the journalists and the media to deny such politicians any space in their reporting. This way they would at least suffer some consequences.“⁹⁵

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

The judicial content management system (CMS) does not provide for any possibility of recording cases of attacks against journalists in BiH separate from other cases. The mentioned system serves for recording data and documents of prosecutorial and judicial processes including reports, criminal charges, case trial stages, rulings, suspects, accused, injured parties and all other data relevant to cases, but there is no possibility at all for recording attacks against journalists separately.⁹⁶

A general consensus is that insufficient attention is being paid to building capacities and improving working conditions of the BiH Prosecutor’s Office. As evident from the statistical indicators presented in the annual report of the HJPC, the Prosecutor’s Office is still struggling with a large number of pending cases.

In December 2016 the Banja Luka Journalist Club, which operates as part of the Association of BH Journalists, launched an initiative to amend the Criminal Code of RS. It was clearly stated that the initiative was triggered by the fact that over the past couple of years there has been a huge increase in the number of attacks against journalists/reporters and that these attacks should, therefore, be criminalised as an offence against public order and peace. Incriminating such behaviour towards media workers, including freelance reporters while on duty by integrating it in the RS Criminal Code would be a deterrent to potential attackers and thus prevent an increasing number of attacks.

The RS Government rejected this initiative, recommending the journalists in RS, including the Banja Luka Journalist Club, to join a public discussion on the amendments to the RS Criminal Code. In 2017 the Association BH Journalists held a meeting with representatives of the Ministry of Justice BiH and opened the discussion on amendments to the criminal codes in Bosnia and Herzegovina with respect to criminal protection of journalists while on duty. The Association will launch this initiative simultaneously in both entities and Brčko District.

⁹² The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, Special report on the status and case of threats against journalists in Bosnia and Herzegovina (The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, June 2017)

⁹³ This number includes political pressures, verbal threats, death threats and physical assaults.

⁹⁴ “BH Novinari – Press release”, Association BH Journalists <http://bhnovinari.ba/bs/2017/07/08/policija-i-pravsudje-moraju-istraziti-i-sankcionirati-prijetnje-smrcu-novinaru-draganu-bursacu/>

⁹⁵ Borislav Vukojević, interviewed by Rea Adilagić and Milica Andrijašević, 31 May 2017

⁹⁶ The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, Special report on the status and case of threats against journalists in Bosnia and Herzegovina (The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, June 2017)

In September 2017 the BiH Council of Ministers asked the BiH Ministry of Justice to consider, together with ministries of justice at all levels, the possibility of criminalising attacks against journalists as a separate criminal offence or as more severe form of assault against official on duty.⁹⁷

97 „BiH/Vijeće ministara: Napad na novinare mogao bi biti posebno krivično djelo”. *Radiosarajevo.ba*, 26. Septembar 2017, Accessed on 12 December 2017. <https://www.radiosarajevo.ba/vijesti/bosna-i-hercegovina/vijece-ministara-napad-na-novinare-mogao-bi-biti-posebno-krivno-djelo/276021>

Appendices

List of interviewees:

Name and Surname	Position/organisation	Interview date
Aleksandar Bogdanić	Professor at the Faculty of Political Sciences University of Banja Luka	May 30, 2017
Borislav Vukojeević	Senior assistant at the Faculty of Political Sciences University of Banja Luka	May 31, 2017
Milkica Milojević	Journalist	May 31, 2017
Srdan Puhalo	Blogger	Jun 01, 2017
Aladin Abdagić	Journalist	May 29, 2017
Mirjana Popović	Journalist	May 29, 2017
Anonymously	Journalist	August 30, 2017

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