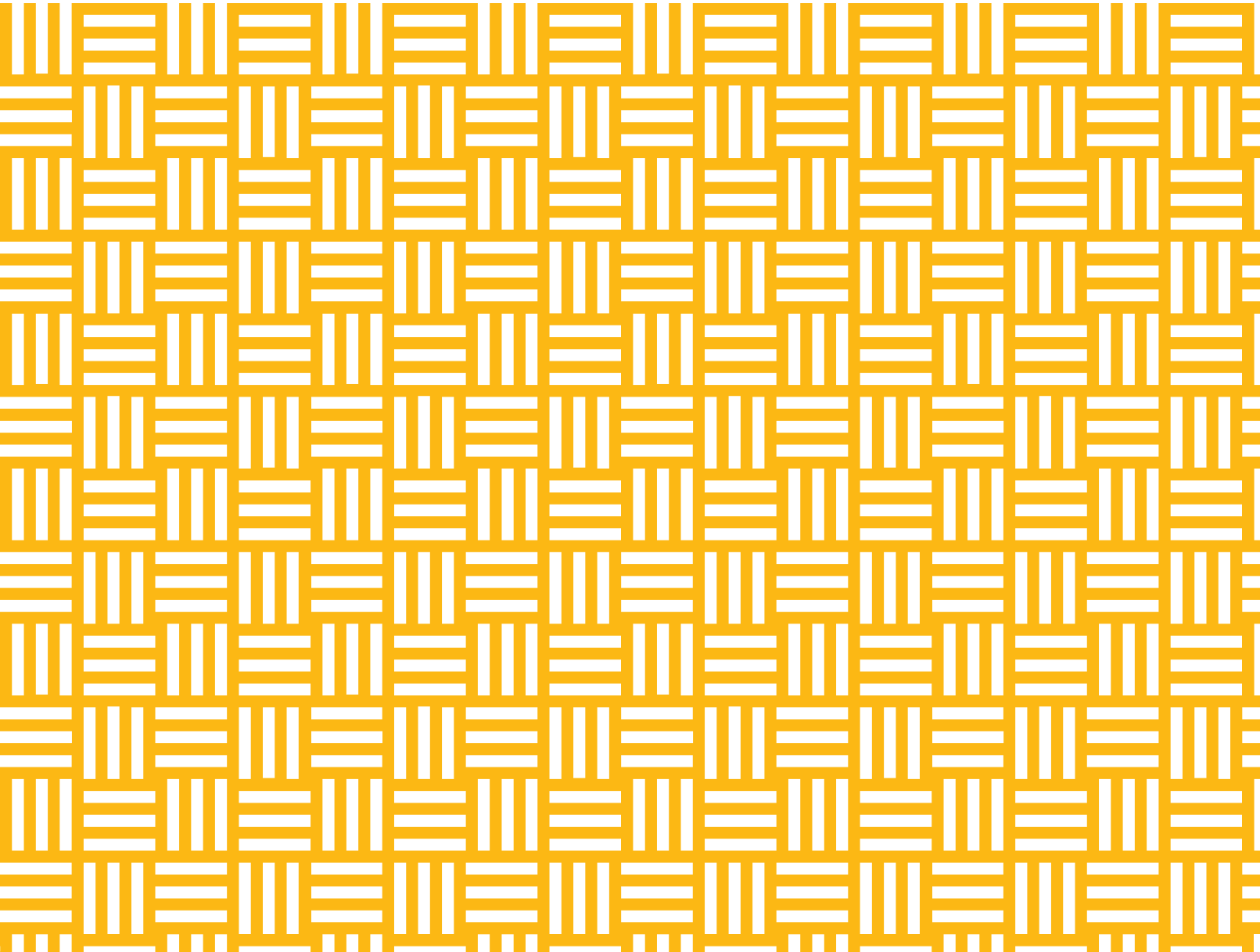




Regionalna platforma Zapadnog Balkana za zastupanje  
slobode medija i bezbjednosti novinara  
Western Balkan's Regional Platform for Advocating  
Media Freedom and Journalists' Safety

# **BOSNA I HERCEGOVINA**

## **Indicators on the level of media freedom and journalists' safety 2018**





**BOSNA I  
HERCEGOVINA**  
**Indicators on the  
level of media  
freedom and  
journalists' safety**

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# Summary of the findings

## Project goals and methodology

This report presents the findings of the research conducted within the regional project Western Balkans Regional platform for advocating media freedom journalists' safety<sup>1</sup>, which is implemented by national journalists associations in Bosnia and Herzegovina, Kosovo, Macedonia, Serbia and the Trade Union of Media in Montenegro. This report is a follow up of the base line studies, on legislation, socio - economic and political situation with respect to freedom of media and sacecurity of journalists, which identified the key challenges and recommendations for associations of journalists and other stakeholders.<sup>2</sup> Main goal of the third research was to identify new developments and compare the current state of media freedom and security of journalists with the situation established in 2016 and 2017.

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:

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<sup>1</sup> *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.*

<sup>2</sup> *BH Journalists Association, Media freedom level and journalists' safety indicators Bosnia and Herzegovina, (Sarajevo: BH Journalists Association, 2016).*

- 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).
- Qualitative interviews - 9 interviews (journalists, lawyers, media experts, representatives of public institutions or NGO's).
- Official statistics requested from public institutions or collected from available websites or from other published sources.
- Survey with 242 journalists, conducted as a part of the project Media for Human Rights <sup>3</sup>, financed by the European Union

### **(A) Legal protection of media and journalists' freedoms**

The media sector is well regulated Bosnia and Herzegovina's legislation . However, there are laws that need to be refined: harmonisation of defamation laws at the entity level is needed, changes in the laws on freedom of access to information which would ensure shorter time limits for the institutions when they provide information which do not require additional processing, updating the Law on Communications in accordance to technological changes. It is also necessary to regulate the advertising market and to adopt the Law on transparency of media ownership. However, even when legislation fulfills expectations, there is lack of adequate implementation of the law.

Communications Regulatory Agency (CRA) is a body responsible for the regulation of the labor and business activities in broadcasting and telecommunications sectors (adoption of rules, licensing, frequency allocation, etc.). Journalists believe that the CRA should function better. They also believe that political influence on this institution is obvious. The public sector in Bosnia and Herzegovina directs significant resources to media outlets on the basis of commercial contracts for advertising and other media services. Information about the amounts and allocation procedures are not published. The criteria used to select media advertisers are usually not defined, nor publicly available. Inadequate regulation of these issues opens up possibility of misuses. Nongovernmental sector researches point to possible examples of instrumentalization of commercial relations between the public sector and the media outlets for political interests.

In Bosnia and Herzegovina there have not been cases of filtering content on the Internet by governmental institutions so far, but the problem of "online portals in Bosnia and Herzegovina without impressum" is constantly growing. It often comes to portals that are politically funded for disseminating propaganda, and there is also a large number of portals that are made for making profit through advertising.

Regarding the program for minorities and public services, they partly fulfill the law given norms of the program time slots relating to these groups. The law requires a minimum that is possible to fulfill in financially bad situation in which public services are. The real need for this type of program is much higher. Management structures in public services are selected by party lines, and ineffective system of funding these services in Bosnia and Herzegovina is still ongoing. There is a lack of political will to resolve this issue. (A1)

Defamation is decriminalized in Bosnia and Herzegovina, and the defamation laws of FBiH and RS are based on the highest democratic principles of European legislation. These laws establish balance between the right to freedom of expression and protection of reputation and personal dignity. There is a lack of data on the exact number of defamation suits - the assumption is that there are more than 100 complaints a year. These defamation suits are a means of pressure on media, especially in smaller communities. Certainly, it is partly the journalists responsibility, because they do not check controversial information, or do not give a chance to the other side to comment on the controversial subject. However, even when the complaints are unfounded, when there is no defamation, these complaints certainly make great pressure, because some media outlets are simply not financially ready for any trials. (A2)

The laws oblige all media to report on election activities professionally, and prohibits favoring political actors and options. CRA monitors the implementation of these provisions. However, CRA capacities do not provide monitoring of all media outlets in BiH. The past researches suggest unequal representation of political parties in media during the election campaign. (A3)

The legislation of BiH does not provide special licensing of journalists, nor the law specifically defines the term "journalist". Trade unions and freedom of work are guaranteed by the legislation, but the interest of trade unions in the media is low. There were cases of the representatives of the authorities preventing journalists from reporting from some meetings. (A4)

Protection of journalists' sources is guaranteed by the

<sup>3</sup> Full name of the project: Mapping Human Rights in media observing position on citizens, vulnerable layers of society and media community in BiH



Law on Defamation, the Press and Online Media Code, principles of the Communications Regulatory Agency, and even by criminal laws. However, issues on sanctions for journalists who violate these principles are not regulated, neither it is regulated what are the exceptions to the principles of protection of journalistic sources if there are any. (A5)

Free access to information is legally regulated at entity and state level. This law is applied to all citizens, including journalists. However, many journalists do not use this right because the process of obtaining information is too long and complex. The legal deadline of 15 days is too long for some information that do not require specific application. For the journalists working in the news media, this information is not useful after 15 days of waiting for the purpose for which it had been requested. A positive example is the Center for Investigative Reporting, which sues key institutions for not responding to their requests for information. However, not all media outlets are in a financial position to enter into court proceedings. Restrictions for monitoring the parliamentary sessions are not provided by legislation, but in practice there were cases like this and similar cases. (A6)

### **(B) Journalists' position in the newsroom, professional ethics and level of censorship**

A significant number of journalists work under no or with inadequate employment contracts. Even signing the contract does not provide safety in a sense of full enjoyment of the rights provided by the employment. The biggest problem is the combination of political and economic pressures. In 2018, the number of violations of labor rights and labor disputes increased comparing to the previous year. (B1)

A big problem for journalists in private media is the dependency of editors and editorial policy on media owners. Journalists are not allowed to write articles that criticise advertisers. However it is not always pressure from the owner or the editor. Even the journalists themselves are aware that if they lose an advertiser, the media outlet they work in will probably lack money for their salaries. This is a typical form of economic pressure that leads to censorship. (B2)

Independence of journalistic newsrooms from management is not respected enough as a principle, not in public services nor in public local media. According to respondents, public services are politicized. Public local media depend on the budget resources of local communities, which means that they are not free to report in a criticising manner about the ruling parties in their local communities. (B3)

There is less and less non-profit media in BiH. There are some media outlets established by civil society organizations and funded mostly by foreign donors. The level of editorial and journalistic independence in these media outlets is at a higher level than in media outlets that work on making profit because foreign donors do not interfere directly in editorial policy but focus on setting thematic priorities. In the sphere of electronic broadcasting there are very few non-profit media outlets. (B4)

Journalists do not have enough freedom in reporting. In many cases, editors make unacceptable changes in their articles, or decide not broadcast reports at all if they deal with a politically or business "unpleasant" topics, and censorship and self-censorship is very common. Journalists agree that they are often under the pressure due to editors and owners, however pressure from governing politicians is still the most alarming problem in this sphere. (B5)

### **(C) Journalists' safety**

Until September 2018, 21 cases of verbal and physical attacks on journalists were registered. There is a large number of serious criminal offenses against journalists, and the problem of impunity of perpetrators of these acts is still concerning and still not satisfactory. These attacks cause fear and uncertainty among journalists, and in this way they have a very negative impact on freedom of expression. (C1)

Journalists are unsatisfied with the reactions of relevant institutions and political actors, and they demonstrated this in protests organized in five towns across Bosnia and Herzegovina after the brutal attack on a journalist from Banja Luka, which was characterized as attempted murder. The Institution of Human Rights Ombudsman in BiH has made a positive step through its first report and recommendations aimed at improving the level of journalists' safety in Bosnia and Herzegovina - bringing an attack on journalist into the criminal laws as a special criminal offense. (C2)

There are no state statistics on attacks on journalists related to their professional activities because these attacks are not characterized nor registered differently from any other type of attack on citizens. Since women in Bosnia and Herzegovina remain a vulnerable category of the population to which are directed different forms of discrimination, the position of female media employees is more problematic. Investigative and judicial authorities are slow in implementing justice. Capacity building projects exist but they are not sufficient. (C3)



# A

## Legal protection of Media and Journalists' Freedom

Media section is well regulated in the legislation of Bosnia and Herzegovina. However, there are laws that need to be refined more precisely: Law on Defamation at the entity level, Laws on Freedom of Access to Information, Laws on Communications. It is necessary to control the advertising market and the adoption of the Law on Media Transparency. However, even when legal regulations meet the expectations, there is a lack of adequate law implementation. Journalists believe that the political influence on the regulatory body is obvious. Financing advertising in the media from the public budget is highly non-transparent and the criteria used to select media advertisers are usually not even defined. The number of online portals without impressum in BiH is constantly growing, whether it is about portals that are politically funded for disseminating propaganda or portals that are founded for making profit through advertising. Regarding the program for minorities and public services, they partly fulfill the law given norms of the program time slots related to these groups. But the real need for this type of program is much higher. Management structures in public service are selected by the political line and inefficient system of financing these services in Bosnia and Herzegovina is still ongoing.

Defamation is decriminalized in BiH, however there is still a large number of defamation suits against journalists. The laws stipulate the obligation of all types of media to professionally monitor election activities and prohibit favoring political subjects. CRA monitors the implementation of these provisions, but for now it is impossible to monitor all media outlets in BiH. The past researches suggest unequal representation of political parties in the media and election campaigns. Trade unions and free labor, protection of journalists' sources and the right to free access to information are guaranteed by the legislation, but there are still cases of violation of these rights registered.

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

Media section is well regulated in the legislation of Bosnia and Herzegovina. Constitution of BiH guarantees freedom of expression, and laws that specifically regulate the work of the media outlets<sup>4</sup> have been adopted. However, there are laws that need to be refined more precisely, such as laws on defamation at the entity levels that are not fully harmonized, or laws on freedom of access to information which, as all interviewed journalists agreed, leave unnecessarily long deadline for response of institutions on request. The Press Council states that the Criminal Law should be amended because we have cases of hate speech and discrimination, that are not defined under that term. And because of that the right judgment is omitted.<sup>5</sup> From the CRA they say that the Law on Communications should be amended, and updated in a way to reflect some technological changes that have occurred in the meantime, in order to define the independence of this agency more clearly, primarily financial independence<sup>6</sup>.

“The agency argues that there should be a universal law which would regulate the area with setting the basic competence of CRA and with the possibility that CRA directly make bylaws, because the CRA could act more quickly in the market in this way. Ministry of Communications and Transport has accepted the initiative of the CRA to regulate these areas by one, universal law and a working group with participation of representatives of the agency has been established at ministerial level. This working group is engaged in drafting a law that is tentatively called “Law on Electronic Communications and Electronic Media”. This law will regulate currently unregulated issues, which have been incurred as a result of technological progress in recent years. Technology has already overcome laws that

are in effect for about twenty years.”<sup>7</sup>

However, the lack of transparency in media ownership issue remains a priority for integration of BiH into the European Union. Although there are no binding international standards for the country in terms of regulating the transparency of media ownership, that request is understanding in the international documents which insists on guarantees of freedom of expression, media pluralism and the right to information.<sup>8</sup>

“Politicized media, hungry for sensation, without clear professional and ethical discourse, have become one of the most powerful lever for taking over or stay in power, and often for financial fraud. At this rate, many of them are on the right track to languish captured in undefined terms, degrading the professional standards, reputation and dignity of the journalistic profession. And what is equally tragic, they do that in a way that they disorient, and even madden populists.”<sup>9</sup>

The lack of harmonized regulation of advertising is still one of the problems on the way to the formation of a strong and prosperous market and a concise legal framework is needed to increase transparency and legitimacy of the advertising practice. In practice, advertising in Bosnia and Herzegovina is regulated by several other laws, rules and codes<sup>10</sup>, but the large number of different laws often causes disharmony both in terms of the terminology they use and the ways they regulate certain issues.<sup>11</sup>

There are no laws that specifically regulate the online space, but the general view is that the laws that regulate the electronic media are directly applicable to online media as well. The Press Council has expanded its activities to online media, and changed its name to the Council for Press and Online Media. The Code of Ethics of the Council for Press and Online Media<sup>12</sup> makes no distinction in the rights and

4 „Zakon o komunikacijama Bosne i Hercegovine“ (Law on Communications of Bosnia and Herzegovina), „Zakon o Javnom radio – televizijskom sistemu Bosne i Hercegovine“ (Law on the Public Broadcasting System of Bosnia and Herzegovina), „Zakon o Javnom radio – televizijskom servisu Bosne i Hercegovine“ (Law on the Public Broadcasting Service of Bosnia and Herzegovina), „Zakon o Javnom radio – televizijskom servisu Republike Srpske“ (Law on the Public Broadcasting Service of Republic of Srpska), „Zakon o zaštiti od klevete Federacije BiH“ (Law on Protection against Defamation of the Federation of BiH), „Zakon o zaštiti od klevete Republike Srpske“ (Law on Protection against Defamation of the Republic of Srpska), „Zakon o zaštiti od klevete Brčko Distrikta BiH“ (Law on Protection against Defamation of Brčko District of BiH), „Zakon o slobodnom pristupu informacijama BiH“ (Law on Freedom of Access to Information in BiH), „Zakon o slobodnom pristupu informacijama FBiH“ (Law on Freedom of Access to Information of FBiH), „Zakon o slobodnom pristupu informacijama Republike Srpske“ (Law on Freedom of Access to Information of Republic of Srpska), „Izborni zakon BiH“ (Election Law of BiH)

5 Lejla Turčilo and Belma Buljubašić, *Mediji i Shrinking Space (Media and Shrinking Space)* (Sarajevo, 2017), 26

6 Lejla Turčilo and Belma Buljubašić, *Mediji i Shrinking Space (Media and Shrinking Space)* (Sarajevo, 2017), 27

7 Helena Mandić, interviewed by Rea Adilagić, 05/09/2018

8 Arman Fazlić, „Ejournalist – editorial“, 52 (2018): 1, Accessed on 03/09/2018: <https://bhnovinari.ba/wp-content/uploads/2018/04/52enovinar.pdf>

9 Brankica Spasenić, „Netransparentnost u medijskom sektoru na štetu publike i medijskih profesionalaca“ (Lack of transparency in the media sector to the detriment of the public and media professionals), 52 (2018): 2, Accessed on 03/09/2018: <https://bhnovinari.ba/wp-content/uploads/2018/04/52enovinar.pdf>

10 Elvira M. Jukić, „Tržište oglašavanja u BiH: Malo potlačeno i bez adekvatnog zakonskog rješenja“ (Advertising market in BiH: A little repressed and without an adequate legal solutions), *Media.ba*, 02/06/2017 Accessed on 04/09/2018 <http://media.ba/bs/magazin-novinarstvo/trziste-oglasavanja-u-bih-malo-potlaceno-i-bez-adekvatnog-zakonskog-rjesenja>

11 Sanela Hodžić and Anida Sokol, *Oglašavanje i drugi komercijalni odnosi između javnog sektora i medija: Smjernice za javne organe u BiH (Advertising and other commercial relations between the public sector and the media: Guidelines for public authorities in Bosnia and Herzegovina)* (Sarajevo: Foundation for the development of the media and civil society “Mediacentar”, 2018), 50

12 “Vijeće za štampu u Bosni i Hercegovini” (*The Press Council in Bosnia and Herzegovina*), Google, Accessed on 03/09/2018 [https://www.vzs.ba/index.php?option=com\\_content&view=article&id=218&Itemid=9](https://www.vzs.ba/index.php?option=com_content&view=article&id=218&Itemid=9)

responsibilities of journalists from these two types of media, but they are all subject to the same code.

In 2015, Ministry of Internal Affairs of the Republic of Srpska publicly expressed the view that The Public Order Act will be adequately implemented if someone disturbs public order via social network, instigates a fight or assault others or endangers safety by threatening of attacks on the life, body or property. The same year, The Public Order Act of the Republic of Srpska<sup>13</sup> expanded the definition of a public place, taking into account social networks through which certain types of violation of public order are organized.<sup>14</sup>

**“In the past three years, Free Media Help Line has met with several cases in which safety of journalists had been endangered via social network. This law used to be applied in cases of incitement of attacks on journalists in the RS via social networks. However, criteria are still not clear, when a threat via social networks is serious enough to be characterized as a criminal act and when it is an offense.”<sup>15</sup>**

All interviewees agree that even in cases where the legislative framework meets expectations, there is a lack of adequate implementation of the law and that there is a huge gap between the quality and application of the law. This places BH into a group of corrupted countries with captured institutions.<sup>16</sup> All other respondents agree with this opinion:

**“In Bosnia and Herzegovina we do not apply written norms, but we are finding ways to avoid them. Even the decisions of the Constitutional Court are not complied with. Why, then, all legal frameworks to protect the media and journalistic profession would be respected?”<sup>17</sup>**

Communications Regulatory Agency (CRA) operates at the state level, and is responsible for the creation and promotion of rules in the broadcasting and telecommunications sectors, operator licensing, planning, management and allocation of frequency spectrum, administering technical and other standards regarding quality, and setting and maintenance of license fees. Modeled on similar institutions in Europe, the competence of the Agency is based on the principles of independence, implementation of the regulation and supervision of compliance with laws and rules, insurance of technical, financial and personnel prerequisites for the efficient tasks performance.<sup>18</sup> In 2017, CRA imposed a

total of 4 enforcement measures (1 written warning, 3 fines) regarding violation of the relevant provisions of the Code on Audiovisual Media Services and Radio Media Services, then 7 enforcement measures (financial penalties) based on the established violation of the applicable provisions of the Code of Commercial Communications and 64 enforcement measures for violation other rules and regulations of the Agency.<sup>19</sup>

However, journalists believe that the Communications Regulatory Agency should work better<sup>20</sup>, and most interviewees agree that even in the appointment of representatives of the CRA political influence was visible.

In response to the question whether the CRA acts as an independent body, one of the respondents replied:

**“Since it is a subject to parliamentary review and selection of management structures through widespread allocation of functions based on the principle of the electoral booty, it would be too naive to consider it as an independent and transparent body. Individual susceptibility to corrupt practices in such circumstances of the ‘party and political of protection’ can only increase.”<sup>21</sup>**

Director General of the Communications Regulatory Agency is appointed by the Council of the Agency and affirmed by the Council of Ministers of BiH. The Council of the Agency is made up of seven members nominated by the Council of Ministers on the basis of a list of candidates submitted by the Council of the Agency and appointed by the Parliamentary Assembly of BiH.<sup>22</sup>

Many areas that are directly or indirectly concerned with the advertising market are completely unregulated (Internet, new media, media funding, discounts on the advertising costs, etc.). There is a noticeable and different regulation on the same basis in two entities. It can be concluded that BiH lacks adequate and harmonized legislation that would cover all forms of advertising through a concise legal framework that would help increasing transparency and legitimacy of the advertising practice.<sup>23</sup> The public sector in Bosnia and Herzegovina directs significant funds to media outlets on the basis of commercial contracts for advertising and other media services. Information about the amounts and financial allocations are often not published and the public is not allowed to have an insight to the ultimate purpose of advertising the public sector

13 “Zakon o javnom redu i miru Republike Srpske” (The Public Order Act), Article 2

14 “Ministarstvo unutrašnjih poslova Republike Srpske” (Ministry of Internal Affairs of Republic of Srpska), Google, Accessed on 03/09/2018 <http://mup.vladars.net/lat/index.php?vijest=11693&vrsta=saopstenja>

15 Una Telegrafčić, interviewed by Rea Adilagić, 05/09/2018

16 Lejla Turčilo and Belma Buljubašić, *Mediji i Shrinking Space (Media and Shrinking Space)* (Sarajevo, 2017), 23

17 Anonymously, interviewed by Rea Adilagić, 30/08/2018

18 “Regulatorna agencija za komunikacije” (Communications Regulatory Agency), Google, Accessed on 04/09/2018

<https://www.rak.ba/bos/index.php?uid=1265547993>

19 Regulatorna agencija za komunikacije (Communications Regulatory Agency), *Reports on rules violation (March, 2018)*

20 Lejla Turčilo and Belma Buljubašić, *Mediji i Shrinking Space (Media and Shrinking Space)* (Sarajevo, 2017), 27

21 Anonymously, interviewed by Rea Adilagić, 30/08/2018

22 Regulatorna agencija za komunikacije (Communications Regulatory Agency), Google, Accessed 04/09/2018 <https://www.rak.ba/bos/index.php?uid=1265547993>

23 Barbara Krajnc and Selma Kadić-Maglajlić, *Regulation of the advertising market (2018)*, 50

in BiH. The criteria used to select the media outlets with whom these contracts will be signed are given through public procurement procedures in some cases, while they are not published or not defined in many other cases. The disturbing fact is that these issues are not adequately regulated, which makes room for possible malversations.<sup>24</sup> Researches of nongovernmental sector point to possible examples of instrumentalization of commercial relations between the public sector and the media for political interests. Although such abuses are not proven by court judgments, it is certain that the lack of regulations, supervision and monitoring in this area make possible abuses easier.<sup>25</sup>

Samra Lučkin, Director of the Boram Agency says that the value of the advertising market in BiH is about 30 million euros, but that the real value could be even higher if the large part of funds did not come from BiH due to unregulated markets.<sup>26</sup>

An increasing problem in Bosnia and Herzegovina are online portals without impressum, whose owners and editors are not known. It often comes to portals that are politically funded due to disseminating propaganda, but some of them aim only to financial profit. The editor of the portal "raskrinkavanje.ba" Emir Zulejhić states that they have found more than 500 such online media portals and 1,200 articles that appear on the grounds of this country. There is a large number of portals without the impressum that are made for making profit through advertising.<sup>27</sup> The question is how this advertising is being financed, whether it is legal, since the portals are not registered.

However, forms of financing media from public budgets in BiH do not meet the minimum conditions under which the interest of the citizens would be promoted: there is no assessment of the public interest on which criteria for the allocation of funds would be based, decisions are made by political bodies directly, transparency of decision-making procedures and commitments for media is limited, and there are no efforts to ensure the editorial independence of the media that receive funding.<sup>28</sup>

According to the rules of CRA ten percent of the total weekly

program reserved for news and other informative and educational program should be devoted to issues of national and other minorities and vulnerable groups of the population. Local public broadcasters financed from the budget should follow these rules, but the monitoring of radio and television programs of local stations in order to verify compliance with the rules has not been made yet, so we can not say with certainty how much do the local public broadcasters deal with issues related to minorities and vulnerable groups of population.<sup>29</sup> People from the Association of Deaf and Hard of Hearing People of Sarajevo Canton say that "the media in Bosnia and Herzegovina are not adjusted to the hard of hearing." As an example they state TV show "Govor tišine" ("Speak of Silence") which is broadcasted on the BHRT (Radio and Television of Bosnia and Herzegovina) once a week.

"This TV show is the news program which provides an overview of information from the whole week, but most of these information are already outdated. Documentaries, entertainment, programs for children, are not adjusted for the hearing impaired at all." <sup>30</sup>

From the same Association they suggest that, if the financial situation does not allow to hire a sign language interpreter, then the content of the program can be at least "subtitled".<sup>31</sup> From CRA they say that they certainly agree that there should be more programs and content adjusted to these groups. However, they believe that any commitment of public broadcasting services to make more of this content would be in vain, because they can not respond to these requirements in such a poor financial situation. Larger changes need to be promoted together with the expected process of digitization.<sup>32</sup>

Lejla Turčilo, professor at the Faculty of Political Science, University in Sarajevo points out that:

"providing program content for people with any kind of disability and the expansion of its target audience to persons with disabilities is not just an obligation but also an interest. These people have an identical right to be informed as all other citizens. It is the responsibility of the media not because they are inclusive or moral, but because that person has the right to be informed"<sup>33</sup>

24 Sanela Hodžić and Anida Sokol, *Advertising and other commercial relations between the public sector and the media: Guidelines for public authorities in Bosnia and Herzegovina* (Sarajevo: Foundation for Development of Media and Civil Society "Mediacentar" 2018), 7

25 Sanela Hodžić and Anida Sokol, *Advertising and other commercial relations between the public sector and the media: Guidelines for public authorities in Bosnia and Herzegovina* (Sarajevo: Foundation for Development of Media and Civil Society "Mediacentar" 2018), 12

26 Elvira M. Jukić, "The advertising market in BiH: A little repressed and without an adequate legal solutions" *Media.ba*, 02/06/2017, Accessed on 04/09/2018 <http://media.ba/bs/magazin-novinarstvo/trziste-oglasavanja-u-bih-malo-potlaceno-i-bez-adekvatnog-zakonskog-rjesenja>

27 A.J.R. „Lažni portali sve veći problem“ ("Fake portals as a growing problem"), *Glas Srpske*, 05/09/2018 Accessed on 05/09/2018 <https://www.glasrpske.com/drustvo/vijesti/Lazni-portali-sve-veci-problem/lat/262243.html>

28 Sanela Hodžić, *Restoring public interest in the financial relations between public sector and media* („Media centar“ Foundation, 2016), 2.

29 Tamara Zablocki, "Reporting on minorities without continuity and journalistic self-initiative" *Media.ba*, 30/01/2018/ Accessed on 04/09/2018 <http://www.media.ba/bs/mediametar/izvjestavanje-o-manjinama-bez-kontinuiteta-i-novinarske-samoinicijativnosti>

30 Jasminka Proho, interviewed by Rea Adilagić, 04/09/2018

31 Jasminka Proho, interviewed by Rea Adilagić, 04/09/2018

32 Helena Mandić, interviewed by Rea Adilagić, 05/09/2018

33 Lejla Turčilo, interviewed by Rea Adilagić, 29/08/2018

Ineffective system of public service funding and a great debt of entity broadcasters to BHRT led to multimillion debts of BHRT to the European Broadcasting Union (EBU) whose member is BHRT.<sup>34</sup> This problem has been an enduring topic of the parliamentary sessions, but the solution is still lacking. In September 2018, members of the Legislative Commission of the House of Representatives of the Parliament of Bosnia and Herzegovina did not support amendments of two laws regulating the public broadcasting system and service, which has predicted services to be funded from the budget of competent institutions.<sup>35</sup>

At the same time, a key role in the appointment and dismissal of members of the Governing Board of public broadcasters have state and entity parliaments, which are one of the direct ways to control, and that is being indicated and warned by representatives of professional journalists' associations, non-governmental organizations, and representatives of the international community again and again.<sup>36</sup>

“It has become obvious that the citizens are beginning to recognize the forms of political manipulation through management structures, but also through direct interference of the political elites in the program content. We have three parallel public services, it is not a system, these are three separate public services that actually serve to different ethnic groups, different political structures, different interest groups within the country, but serve the least to the citizens.”<sup>37</sup>

Only in 2018 there were five cases of labor disputes in the public service of BHRT, for which there is a suspicion that they were about violation of rights as a result of political influence in public service. Three out of five of these cases are currently being prosecuted in court, while in two cases, relevant labor inspections are involved.<sup>38</sup>

## A.2 Do Defamation Laws cause a “chilling” effect among journalists?

In Bosnia and Herzegovina there are three separate laws,

two entity laws and a law at the level of the Brčko District, adopted in the respective parliaments in the period of three years (2001-2003). Laws have been passed on the initiative of the High Representative and on the basis of the draft prepared by the mixed group of foreign and local experts. Court proceedings for defamation and insult took place in accordance with the criminal laws until 1999.<sup>39</sup> The basis of the new laws represent the highest democratic principles contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms, recommendations/declarations of the Council of Europe on the protection of media freedom, and the standards established in the judgments of the European Court of Human Rights. These laws establish a balance between the right to freedom of expression of all people (not just journalists) and the protection of the reputation and dignity of a person.<sup>40</sup>

There is no valid data on the number of lawsuits against media and journalists, because courts do not keep separate records for defamation cases in media. BH Journalists Association estimate that there are annually more than 100 defamation suits against the media in BiH.

According to the survey, defamation suits are strong means of pressure. An important fact which confirms the frequency of suits of some political figures - from a few suits to several dozen suits against targeted media. Lawsuits and threats against journalists in smaller local communities in particular have a chilling effect on journalists.<sup>41</sup> Part of it is certainly journalists responsibility. Journalists often do not check their sources of information in cases of controversial issues and do not give a chance to the other side to be heard, what is as a key of journalistic work. The law contains a balance between the right to freedom of expression and the dignity and reputation of every person.<sup>42</sup> The results of the survey showed that journalists are not familiar enough with the provisions of the Law on Defamation. Less than half of respondents, 49% said they are mostly familiar, while 16.5% of respondents answered that they are fully familiar. 13% of respondents are not familiar with the contents of these laws at all. A positive example is Center for Investigative Reporting (CIN), which has been writing about corruption and crime for more than thirteen years. “All the information are checked many times before publication, they are based on relevant documents and the testimonies of actors who prove the allegations in the articles.” Because

34 Radio Sarajevo, „PSBiH/ How to establish a stable funding of public service broadcasting”, 23.05.2017. Accessed on 04/09/2018 <https://www.radiosarajevo.ba/vijesti/bosna-i-hercegovina/duzan-ko-bhrt-kako-uspostaviti-stabilno-finansiranje-javnog-rtv-servisa/263386>

35 Radio Sarajevo, „PD/ Parliament of BiH: Has not found a suggestion that public services are funded from the budget”, 03/09/2018 <https://www.radiosarajevo.ba/vijesti/bosna-i-hercegovina/parlament-bih-nije-prosao-prijedlog-da-se-javni-servisi-finansiraju-iz-budzeta/311532>

36 Lejla Turčilo, „System of public broadcasting in BiH— Is there a solution?” (BH Journalists Association, 2018)

37 Lejla Turčilo, interviewed by Rea Adilagić, 29/08/2018

38 Una Telegrafčić, interviewed by Rea Adilagić, 05/09/2018

39 Mehmed Halilović, “Defamation suits against journalists—a means of pressure on the media” (BH Journalists Association, 2018): <http://safejournalists.net/wp-content/uploads/2018/01/Kleveta-BiH-1.pdf>

40 Mehmed Halilović, “Defamation suits against journalists—a means of pressure on the media” (BH Journalists Association, 2018): <http://safejournalists.net/wp-content/uploads/2018/01/Kleveta-BiH-1.pdf>

41 Mehmed Halilović, “Defamation suits against journalists—a means of pressure on the media” (BH Journalists Association, 2018): <http://safejournalists.net/wp-content/uploads/2018/01/Kleveta-BiH-1.pdf>

42 Rubina Čengić, “Public authorities use defamation suits as a means of pressure on journalists” (BH Journalists Association, 2017): <http://safejournalists.net/wp-content/uploads/2017/12/Rubina-%C4%8Cengi%C4%87-bosanski-1.pdf>



of this way of work, CIN (Centre for Investigative Reporting) and its journalists have never been convicted of defamation, as they state from this organization.<sup>43</sup>

One of the most obvious indicators of how defamation suits influence the media is the case of the magazine *Slobodna Bosna*, which ended with the publication of the printed edition because of the large number of defamation suits in December 2015. Similar examples are continuing. A journalist from *Oslobodenje* was sued for defamation 105 times.<sup>44</sup> Basic Court in Banja Luka had a few controversial verdicts and ruled in favor of some politicians who have sued the media and even individuals for defamation.<sup>45</sup> However, there are positive examples. The same court in 2018 issued a first-instance verdict and freed the author of one controversial text from suit for defamation, making at the same time a clear distinction between defamation and value of judgement. The data of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, according to which, part of the complaint is withdrawn when the complainant obtains satisfaction through publishing corrections or through the mediation of the Press Council and Communications Regulatory Agency of BiH, represent a positive step forward.<sup>46</sup>

Most respondents confirmed that defamation affects their work. Free Media Help Line for journalists constantly makes necessary efforts to educate journalists to report correctly, respecting the principles of journalism and "... stresses that if journalists comply with the code of ethics and journalistic principles, there will be no defamation, no matter the type of information, but also to educate lawyers and judges. In the long term, this reduces the number of defamation suits against media and journalists."<sup>47</sup> There is still a problem of smaller, less financially strong media. The journalist of such a portal, said:

"First of all, our media outlet is not ready financially for any trials, and it is exhausting to explain, re-examine and deal with one subject after its publication, just because someone who is considered to be impaired, gave his version of the story in a perfidious way."<sup>48</sup>

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

The Election Law of BiH stipulates the obligation of all media on a fair, professional and expert monitoring of electoral activities, while respecting democratic principles and rules, particularly the principles of freedom of expression.<sup>49</sup> This law prohibits favoring political subjects, and it is especially emphasized for officials at all levels who are candidates in the elections at the same time.<sup>50</sup> Laws on public broadcasters stipulate the obligation of the media to honor and encourage pluralism of political, religious and other ideas.<sup>51</sup> In addition, there is a provision of the BH Journalists Code of Honor, which requires all journalists to be obliged to respect the pluralism of ideas and opinions.<sup>52</sup>

According to the Law on Communications of BiH, the regulatory principles of broadcasting include the protection of freedom of expression and diversity of opinion while respecting generally accepted standards of behavior, non-discrimination, fairness, accuracy and impartiality.<sup>53</sup> It follows that the Communications Regulatory Agency is obliged to take into account the implementation of the regulatory principles in the field of audiovisual media services, whether it is the time of election campaigns or any other period. From CRA we found out that they will work on monitoring of seven broadcasters during the election campaign in 2018. Total of 234 media outlets are obliged to follow election campaign. But an overarching monitoring is not possible due to objective limitations of CRA.<sup>54</sup>

However, although these laws are good foundation, research shows that the implementation of these laws is constantly manipulated. Long-range media (three public services, the portal in both entities, the biggest commercial broadcasters and leading print media) do not respect political pluralism in their programs.

In the election campaign 2016, the results showed the difference between commercial and public television stations: commercial media has put in place neutral reporting, and public services were biased. The exception is BHRT which had 98% of neutral reporting on the candidates, while the most biased was RTRS - in 25% of cases. Another problem that has been identified in this report is the abuse of political functions, and it was often noticed that the current officials were in a privileged position when it came to publicity.<sup>55</sup>

43 Aladin Abdagić, „Kako izbjeći tužbu za klevetu“ (“How to avoid defamation suit”), *Media.ba*, 25/06/2018 Accessed on 06/09/2018 <http://media.ba/bs/magazin-novinarstvo/kako-izbjeci-tuzbu-za-klevetu>

44 Lejla Turčilo and Belma Bujubašić, *Mediji i Shrinking Space (Media and Shrinking Space)* (Sarajevo, 2017), 25

45 Lejla Turčilo and Belma Bujubašić, *Mediji i Shrinking Space (Media and Shrinking Space)* (Sarajevo, 2017), 26

46 Rubina Čengić, „Javne vlasti koriste tužbe za klevetu kao sredstvo pritiska na novinare“ (“Public authorities use defamation suits as a means of pressure on journalists”), *BH Journalists Association* (2017): <http://safejournalists.net/wp-content/uploads/2017/12/Rubina-%C4%8Cengi%C4%87-bosanski-1.pdf>

47 Una Telegrafić, interviewed by Rea Adilagić, 05/09/2018

48 Nikolija Bjelica, interviewed by Rea Adilagić, 03/09/2018

49 “Izborni zakon BiH” (Election Law of BiH), Article 16.1

50 “Izborni zakon BiH” (Election Law of BiH), Article 16.3

51 “Zakon o javnom radio televizijskom servisu Republike Srpske” (Law on Public Broadcasting Service of the Republic of Srpska), article 14; “Zakon o javnom radio televizijskom servisu Federacije BiH” (Law on Public Broadcasting Service of the Federation of BiH), Article 39

52 *BH Journalists Code of Ethics, general principles*

53 “Zakon o komunikacijama BiH” (Law on Communications of BiH), Article 4

54 *BH Journalists*, “Novinari da ukazuju svojim sagovornicima da je neprikladan govor neprihvatljiv” (“Journalists should tell their respondents that inappropriate language is unacceptable”) (*BH Journalists*, 05/09/2018, Accessed on 06/09/2018: <https://bhnovinari.ba/bs/2018/09/05/u-susret-izborima-izvjestavanje-medija-u-toku-predizborne-kampanje/>)

55 Borislav Vukojević, „Mediji i izborna kampanja u BiH – političke stranke preuzele uređivačke politike medija“ (“Media and election campaign in BiH - political parties in the editorial policy of the media”) (*BH Journalists Association*, 2018): <http://safejournalists.net/wp-content/uploads/2017/12/Borislav-Vukojevic-bosanski-1.pdf>



The respondents agreed that political parties and candidates do not have equal access to the media, which is especially expressed during the election campaign.

“The media tends to emphasize their quality because they broadcast debates between the candidates, but on the other hand, when you see what is happening behind the scenes you can realise that they get money for it”<sup>56</sup>

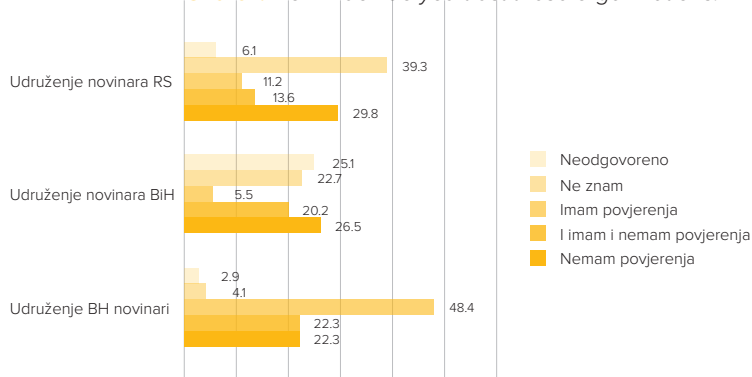
#### A.4 Is freedom of journalists' work and association guaranteed and implemented ?

In accordance with the BiH legislative, special licensing of journalists is not provided, nor the law specifically defines journalists. Labor legislation guarantees free work for all workers, including journalists. Trade unions are guaranteed by the labor regulations.<sup>57</sup>

In 2018, there were three physical attacks on journalists by the citizens with the aim of preventing the recording / documenting protests at the protests of citizens.<sup>58 59 60</sup>

BH Journalists Association is the leading professional association of journalists in Bosnia and Herzegovina, and the only one that has an impact on the decision makers in BiH. There is also the Society of Journalists and Association of Journalists of RS. According to the EU report on the progress of Bosnia and Gerzegovina, BH Journalist Association is the most active civil society organisation in the field of freedom of expression, the

Chart 1: How much do you trust these organizations:



56 Borislav Vukajević, Interviewed by Rea Adilagić and Milica Andrijašević, 31/05/2017

57 “Zakon o radu FBiH” (“Labour Law of FBiH”), Article 6; “Zakon o radu RS” (“Labour Law of RS”), Article 209

58 “BH novinari” (BH Journalists), accessed on 06/09/2018: <https://bhnovinari.ba/bs/2018/07/27/osuda-napada-na-novinarske-ekipe-klixa-i-aj-jazeera-balkans/>

59 “BH novinari” (BH Journalists), accessed on 06/09/2018: <https://bhnovinari.ba/bs/2018/07/03/protest-policjskoj-upravi-ljubuski-zbog-napada-na-novinare-portala-bjesak/>

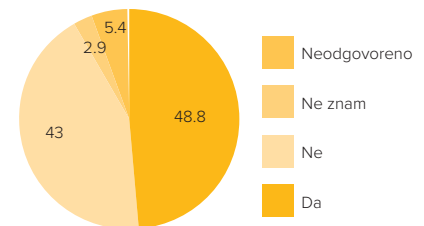
60 “BH novinari” (BH Journalists), accessed on 06/09/2018: <https://bhnovinari.ba/bs/2018/03/01/osuda-napada-na-ekipu-bhtf-u-tuzli-tokom-protesta-demobiliziranih-boraca/>

freedom of the media, the protection of journalists and media integrity.<sup>61</sup>

The results of the questionnaire showed that journalists have the most trust in BH Journalists Association (48.4% of respondents said that they generally have trust or that they have trust).

However, according to the questionnaire results, a great number of journalists (43%) is not a member of any professional association, which is a worrying fact.

Chart 2: Are you a member of any professional association?



BH Journalists Association repeatedly encountered with political pressure, calling out in public and the like. In 2016 one politician on his Facebook profil labeled members of the Association and Secretary General of the Association as the followers of Fethullah Gulen’s policy in BiH.<sup>62</sup> In March 2018, a political representative of the city council threatened to sue the Secretariat of the BH Journalists Association for defamation.<sup>63</sup>

In general, the level of union organization in media is low.<sup>64</sup> Within the public service of BHRT there are two unions which, unfortunately, according to the presidents of both unions, do not cooperate enough. Apart from these, there are two officialy oldest unions: “The union of graphic, publishing and media workers” and “Union of media and graphic artists of RS”.<sup>65</sup> Among other workers, journalists enroll in these unions as well.

61 European Comission. *Bosnian and Herzegovina 2018 Report*. 2018. 18. <http://europa.ba/wp-content/uploads/2018/04/20180417-bosnia-and-herzegovina-report.pdf>

62 Council of Europe. Report by Nils Muižnieks following his visit to Bosnia and Herzegovina 12 to 16 June 2017. Strasbourg 2017. 17. <https://rm.coe.int/report-following-the-visit-to-bosnia-and-herzegovina-from-12-to-16-jun/16807642b1>

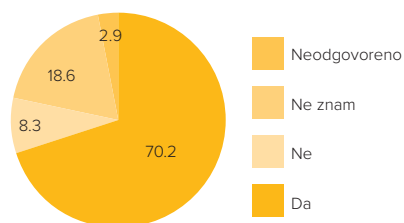
63 Free Media Help Line data

64 Milica Milojević, “Novinari u Bosni i Hercegovini (ne) vjeruju sindikatima – Rad na crno, vijesti i toalet papir” (“Journalists in Bosnia and Herzegovina (dis)trust unions - Illicit work, the news and the toilet paper”), BH Journalists Association (2017): <http://safejournalists.net/wp-content/uploads/2018/02/Novinari-u-BiH-nevjeruju-sindikatom.pdf>

65 Rea Adilagić, (Bosnia and Herzegovina) Indikatori nivoa medijskih sloboda i sigurnosti novinara (Indicators of the level of media freedom and journalists' safety) (BH Journalists Association, 2016), 22

There are no precise data on the number of journalists who are members of unions. It has been estimated that only 16% of private media outlets has unions and there are no trade union associations of journalists and media workers at the state level.

Asked whether the media company they work for allows founding associations for journalists in order to protect their rights and promote their profession, 70.2% of respondents answered that it is allowed and 8.3% claimed that it was not allowed. It is interesting that 18.6% of journalists answered "I do not know", and 2.9% refused to



answer.

**Chart 3:** Does media company you work for allow founding associations for journalists in order to protect their rights and promote their profession?

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

Protection of journalistic sources is guaranteed by a series of laws. The laws on defamation propose that a journalist has every right not to reveal the identity of his sources.<sup>66</sup> This issue is also regulated by the Code for the Press and Online Media which, among other things, states that journalists do not only have the right but also the duty to protect the identity of those who provide information in confidence, regardless of whether they are expressly requested to remain anonymous.<sup>67</sup> According to the Code of the Communications Regulatory Agency, the protection of the identity of the source is the general principle.<sup>68</sup> The criminal procedure at entity and state level provides that a journalist can not be interviewed

as a witness in criminal proceedings in order to protect sources of information.<sup>69</sup> Regulations in Bosnia and Herzegovina do not provide situation nor sanctions when a journalist or anybody else violates the principle of confidentiality of sources of information.<sup>70</sup>

But a BiH legislation does not answer all the relevant questions. Therefore, there are no legal canons which regulate (1) whether the confidentiality of journalists' sources may be violated within the criminal proceedings; (2) in which situations or for which offenses the possibility of violating confidentiality of journalists' sources is permissible; (3) who is the decision-maker about the violation of the principles of the confidentiality of journalists' sources; (4) whether media facilities or homes of journalists can be searched with the purpose of of criminal proceedings.<sup>71</sup> The only legal instrument applicable in BiH, which partly answers this question is the European Convention on Human Rights. The right of journalists to protect sources of information is not considered as an absolute right because it may be subject to limitations under paragraph 2, Article 10 of the Convention, namely such restrictions or sanctions proposed by law which are necessary in a democratic society in the interests of national security, territorial integrity or public safety, disorder or crime prevention, the protection of health or morals, reputation or rights of others, prevention of spreading confidential information or for maintaining the authority and impartiality of the judiciary.<sup>72</sup>

The case of searching facilities and seizure of property from the newsroom of Klix portal in December 2014 showed that the laws have no purpose if the authorities decide to deal with dissident journalists and the media.<sup>73</sup> This case highlighted a collision between normative regulations of the right of journalists to protect sources of information and their implementation. Police of one entity searched company facilities of legal entity "InterSO-oft" Ltd., founder and owner of informative Internet portal "Klix.ba", whose headquarters are in another entity, and confiscated some of the electronic equipment. The legal basis was that there were reasonable grounds to suspect that a criminal offense relating to the unauthorized

66 „Zakon o zaštiti od klevete Federacije Bosne i Hercegovine“ („Law on Protection Against Defamation of the Federation of Bosnia and Herzegovina“), Article 9; „Zakon o zaštiti od klevete Republike Srpske“ („Law on Protection Against Defamation of the Republic of Srpska“), Article 10; „Zakon o zaštiti od klevete Brčko Distrikta“ („Law on Protection Against Defamation of Brčko District“), Article 9

67 „Kodeks za štampu i online medije“ („Code for the Press and Online Media“), Article 13

68 „Kodeks o emitiranju radio-televizijskog programa“ („Code on broadcasting radio and television program“), Article 13

69 „Zakon o krivičnom postupku Bosne i Hercegovine“ („Criminal Procedure Code of Bosnia and Herzegovina“), Article 82; „Zakon o krivičnom postupku Federacije BiH“ („Criminal Procedure Code of Federation of BiH“), Article 96; „Zakon o krivičnom postupku Republike Srpske“ („Criminal Procedure Code of Republic of Srpska“), Article 147

70 Parliamentary Assembly of Bosnia and Herzegovina, „Zaštita povjerljivosti novinarskih izvora“ („Protecting the confidentiality of journalists' sources“), (Sarajevo, 2013),6

71 Parliamentary Assembly of Bosnia and Herzegovina, „Zaštita povjerljivosti novinarskih izvora“ („Protecting the confidentiality of journalists' sources“), (Sarajevo, 2013),6

72 Nihad Jeleč, „Zaštita novinarskih izvora u BiH“ („Protection of journalistic sources in BiH“), E – journalist, 43 (2018):2. Accessed on 06/09/2018: [https://bhnovinari.ba/wp-content/uploads/2012/06/bhn\\_e-novinar-septembar2016\\_.pdf](https://bhnovinari.ba/wp-content/uploads/2012/06/bhn_e-novinar-septembar2016_.pdf)

73 Arman Fazlić, „Uvodnik“ („Editorial“), E – journalist, 43 (2018): 1. Accessed on 06/09/2018: [https://bhnovinari.ba/wp-content/uploads/2012/06/bhn\\_e-novinar-septembar2016\\_.pdf](https://bhnovinari.ba/wp-content/uploads/2012/06/bhn_e-novinar-septembar2016_.pdf)

wiretapping and audio recording was committed. The purpose of the search was finding and seizing the source of the original material (audio and video), recording of the interview with Prime Minister of Republic of Srpska, Željka Cvijanović (which was published on news portal 'Klix.ba'), that is the disclosure of journalistic sources of information. After the appeal had been made, Cantonal Court in Sarajevo subsequently established the atrocity of the procedure undertaken. After the "Klix" case, at the beginning of 2015, a completely new provision in the Law on the protection of public order was adopted in Republic of Srpska, which is not closely related to the protection of journalists' sources, but may significantly affect the freedom of expression of journalists and their interlocutors, i.e. the journalists' sources of information. The Law on the Protection of Public Order provides for the "insult" and "insulting", which is not subject to factual evidence. Law implies the term "insult" as a sense of physical threat or disturbance of a citizen caused by harsh insulting of another person on political, religious or ethnic grounds or other reckless endangerment. The definition of "offense" does not encompass any exceptions, eg. in the context of political speech and debates or in the case of public interest, and it is also not sufficiently clear and precise and leaves too much room for arbitrary application and the restriction of freedom of speech.<sup>74</sup>

In judicial practice of Bosnia and Herzegovina cases of sanctioning journalists who refused to reveal the source of information are not known, and the majority of interviewed people agree that they are free to stay in touch with sources of information.

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

Access to information is regulated by laws on the state and entity level.<sup>75</sup> According to the resolutions of these laws, all citizens and legal entities are entitled to obtain information held by public institutions, except in a case of publication of the information which could harm the

safety of the state or threaten the right to protection of personal and confidential commercial data.<sup>76</sup>

Many journalists do not use the legal provisions on the right of free access to information because they know that this process is long and they often need to combat with institutions for data, and the media article can not wait that long.<sup>77</sup> The experience of journalists show that public institutions do not respect the provisions of these laws.

"There are few examples when I received adequate answers to the questions addressed to the competent institutions. If you do not have personal contacts in an institution, the most common answers are scarce or do not concern the subject you are working on and they are, therefore, unusable for a journalist. There are often cases when I get an answer only after more queries. Public companies, as a rule, do not answer questions that are considered "inconvenient" -from the ways of employment procedures to the public procurement procedures. The most common queries are ignored. At the same time, there is discrimination among media companies, so they give answers or information to those media that are considered friendly."<sup>78</sup>

Respondents agree that for some information which requires special preparation, the statutory period of 15 days is too long. For the journalists working in the news media, in most cases this information is no longer useful for the purpose of the news story after the legal deadline of 15 days.

"Since I work in electronic media I often need information in a very short period of time. In certain situations and depending on institutions and the type of the information, it can be obtained very quickly. However, other institutions answer too late and that information is no longer recent."<sup>79</sup>

Center for Investigative Reporting (CIR) takes legal actions against those institutions which unjustifiably refuse to respond to their requests for access to information. They send an appeal, and then, if they do not grant the appeal

74 Nihada Jeleč, "Zaštita novinarskih izvora u BiH" ("Protection of journalistic sources in BiH"), *E – journalist*, 43 (2018):2. Accessed on 06/09/2018: [https://bhnovinari.ba/wp-content/uploads/2012/06/bhn\\_e-novinar-septembar2016\\_.pdf](https://bhnovinari.ba/wp-content/uploads/2012/06/bhn_e-novinar-septembar2016_.pdf)

75 "Zakon o slobodi pristupa informacijama Bosne i Hercegovine" ("The Law on Free Access to Information of Bosnia and Herzegovina"); "Zakon o slobodi pristupa informacijama Federacije Bosne i Hercegovine" ("The Law on Free Access to Information of Bosnia and Herzegovina"); "Zakon o slobodi pristupa informacijama Republike Srpske" ("Law on Free Access to Information of Republic of Srpska")

76 CIN, "Odstupanje od slobodnog pristupa informacijama" ("Exemptions from free access to information"), *Cin.ba*, 28/09/2015, Accessed on 06/09/2018: <https://www.cin.ba/odstupanje-od-slobodnog-pristupa-informacijama/>

77 Una Čilić, "Intervju sa Mirjanom Popović, zamjenicom glavnog i odgovornog urednika Centra za istraživačko novinarstvo u Sarajevu" ("Interview with Mirjana Popović, deputy editor in chief of the Center for Investigative Reporting in Sarajevo"), *Osservatorio Balcani e Caucaso*, 01/12/2017, Accessed on 06/09/2018: <https://www.balcanicaucaso.org/bhs/zone/Bosna-i-Hercegovina/CIN-Sarajevo-Ne-odustajemo-od-borbe-za-informacije-184464>

78 Milanka Kovačević, interviewed by Rea Adilagić, 06/09/2018

79 Velida Kulenović, interviewed by Rea Adilagić, 03/09/2018

they sue them.<sup>80</sup> In 2018 the District Court in Banja Luka issued a verdict on the complaint of CIN against the Basic Court in Banja Luka, in the case of freedom of access to information, in favor of CIN, in the case of exercising the right to freedom of access to information.<sup>81</sup> However, not all media, especially smaller ones, have the financial capacity to take legal actions against some institutions.

“The lawsuits require resources that media companies, especially the smaller ones do not have. Representatives of institutions as well as representatives of public companies are aware of that.”<sup>82</sup>

Journalists’ opinions about courts transparency are divided. Some of the judicial institutions do not have adequate technical equipment and do not have enough well trained personnel to meet the demands of modern communications that are characteristic to a democratic society. A positive step forward in this sphere is establishing the position of officers for public relations, which have the task of “ensuring transparency and openness of judicial institutions”.<sup>83</sup>

There are no official restrictions for monitoring parliamentary sessions in Bosnia and Herzegovina. Still, in 2017, we witnessed a case in which certain media and journalists were denied to enter the Palace of Justice of Republic of Srpska. In January 2017, journalists from N1 television were denied to enter the Palace of Justice of Republic of Srpska. Ljiljana Kovačević, Beta Agency correspondent, has been prevented from entering the Palace of Justice of Republic of Srpska since 2002, and BN television from Bijeljina has been denied from that in late 2014.<sup>84</sup> After the reaction of BH Journalists Association and the Western Balkans Regional Platform for advocating media freedom and journalists safety with support of the international community, these restrictions are abolished.

Journalist of the media Prijatelji Srebrenice (Friends of Srebrenica) (UPS Media) states two examples of disabling monitoring public events:

“The UPS Media team was moved away from the meeting held in the Potočari Memorial Center, at the explicit request of the Mayor of the Municipality, under the guise that the meeting is closed to the media - although in that moment meeting was attended by the BHT team and Hayat TV team. Also, the president of the local SNSD party named our journalists as “American spies” several times. When we approached the Cabinet of RS President with a request to support local media, local representative of the SNSD Dragan Glišić suggested to the adviser Danijel Dragičević that our request is not considered, because “they are not ours”. This information is obtained from SNSD member who attended the meeting.”<sup>85</sup>

Interviewed journalists unanimously agree that the ministry and the government should be more transparent.

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80 Una Čilić, „Intervju sa Mirjanom Popović, zamjenicom glavnog i odgovornog urednika Centra za istraživačko novinarstvo u Sarajevu“, Osservatorio Balcani e Caucaso, 01.12.2017. Pristupljeno: 06.09.2018. <https://www.balcanicaucaso.org/bhs/zone/Bosna-i-Hercegovina/CIN-Sarajevo-Ne-odustajemo-od-barbe-za-informacije-184464>

81 CIN, „Presuda zbog (ne)slobode pristupa informacijama: CIN „dobio“ banjalučki osnovni sud“ (“The verdict for the (non) freedom of access to information: CIN “got” Basic Court in Banja Luka”), Faktor.ba, 06/02/2018, Accessed on 06/09/2018: <https://faktor.ba/vijest/presuda-zbog-ne-slobode-pristupa-informacijama-cin-dobio-banjlučki-osnovni-sud-282910>

82 Milanka Kovačević, interviewed by Rea Adilagić, 06/09/2018

83 Erna Mačkić and Denis Džidić, „Transparentnost sudova i odgovornost medija“ (“Transparency of courts and media responsibility”) (BIRN, 2009),25.

84 Rea Adilagić, (Bosnia and Herzegovina) Indikatori nivoa medijskih sloboda i sigurnosti novinara (Indicators of level of media freedom and journalists’ safety) (BH Journalists Association, 2017),17

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85 Lejla Turčilo i Belma Buljubašić, Mediji i Shrinking Space (Media and Shrinking Space) (Sarajevo, 2017), 31

# B

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

A significant number of journalists work undeclared or with inadequate employment contracts. But signing the contract does not provide safety in a sense of full enjoyment rights provided by the employment. The biggest problem is a combination of political and economic pressures. The big problem for journalists in private media outlets is dependency of editors and editorial policy on the media owners. Journalists must not write critique articles about advertisers. However it is not always pressure from the top. Even the journalists themselves are aware that if they lose an advertiser, media outlet they work in will probably lack money for their salaries. This is a typical form of economic pressure that leads to censorship. Media independence as a principle is not respected enough in public media, public services and in public local media. Journalists do not have enough freedom in the reporting process. In many cases, editors change text, do not publish texts and reports at all, and censorship and self-censorship is very common.

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

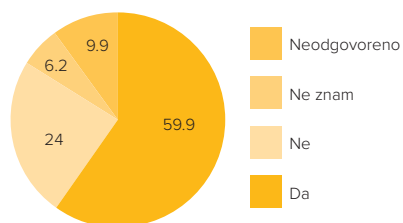
According to the survey, 61.6% of journalists are permanently employed.

**Table 1:** What is your employment status in the media you work for?

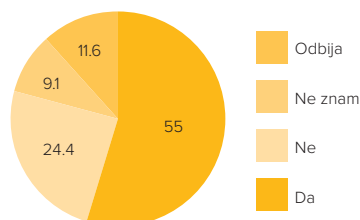
Part-time collaborator	21,1%
Apprentice	1,7%
Volunteer	3,7%
Permanently employed	61,6%
Something else	10,3%
Refuses to answer	1,7%

According to the survey, 59.9% of journalists said that health insurance is regularly paid for them, while every fourth journalist (24%) said the opposite. Medical insurances are regularly paid for 55% of journalists, while 24.4% of them claim that their pension plan has not been paid regularly.

**Chart 4:** Is your health insurance regularly paid?



**Chart 5:** Is your pension plan regularly paid?



According to the portal Plata.ba, the average salary of a journalist in BiH is 906 BAM, and the average salary of chief editor is 1377 BAM.<sup>86</sup> According to the survey most common journalist's earning range between 501 BAM and 1000 BAM.

**Table 2:** Average salary of a journalist:

Less than 500 BAM	11%
Between 501 and 1000 BAM	24,6%
Between 1001 and 1500 BAM	23,4%
1501 BAM and more	5,8%
Not answered	35,2%

65.3% of respondents said they receive salaries regularly, while 23.3% of them claim that their wages are delayed for longer or shorter period.

Journalists from BiH do their jobs in very bad conditions, and nowadays journalism in BiH is one of the most underrated professions in BiH.<sup>87</sup> Undeclared or inadequately declared work is a significant problem, however, signing an employment contract does not provide security in terms of the full enjoyment of the rights that result from the employment.<sup>88</sup> Journalists agree that the biggest problem for the working conditions for journalists is a combination of political and economic pressures. In BiH, general political and social environment is unfavorable for the development of an independent, professional and free journalism. Ethnic divisions and conflicts, with all other controversies in BH society, hindered or even stopped the implementation of a very good media legislation.<sup>89</sup>

Journalists indicate numerous problems they face every day: (1) they are demotivated because they do not have public support; (2) there is a poverty in the media and journalists do not have enough money for additional trainings; (3) journalists are forced to do a great number of stories every day, they are underpaid and do not have enough time to do stories of high quality; (4) owners have commercial interests and are interested exclusively in profit; (5) a large number of journalists work undeclared or are registered to receive the minimum wages; (6) editors have much higher salaries than journalists; (7) journalists are disunited, which is reflected in the position of journalists and to the downgrading of the profession;

<sup>86</sup> Lejla Turčilo and Belma Buljubašić, *Mediji i Shrinking Space (Media and Shrinkind Space)* (Sarajevo, 2017), 44

<sup>87</sup> Lejla Turčilo and Belma Buljubašić, *Mediji i Shrinking Space (Media and Shrinking Space)* (Sarajevo, 2017), 44

<sup>88</sup> Sanela Hodžić, „Radni odnosi u medijima u BiH“ (“Employment in media in BiH”), *Media.ba*, 2007. <http://www.media.ba/bs/publication/radni-odnosi-u-medijima-u-bih>

<sup>89</sup> Radenko Udovčić, „Radni uslovi novinara u BiH: Novinari u procjepu devastiranih medija i pravne nesigurnosti“ (“Working conditions of journalists in BiH: Journalists in the gap of devastated media and legal uncertainty”) (Sarajevo, *Media centar*, 2015), 9 i 17

(8) a substantial number of journalists is divided by ideological line; (9) for political and economic influence, a large number of journalists agrees to censorship and self-censorship for fear of losing their jobs or suffer financial penalties; (10) journalists are legally unprotected.<sup>90</sup> According to the survey, more than a half of the respondents, 54.5% answered that they are not satisfied with the economic security.

According to the Free Media Help Line data, the number of labor disputes and violations of labor rights of journalists increased in 2018 comparing to the previous years. Until September 2018, Free Media Help Line registered 10 violations of labor rights and initiated 7 labor disputes.

People who defend interests of journalists agree that journalists themselves are responsible for their situation. Journalist Andrijana Pisarević recognized that journalists are often not aware of the fact that they are employees themselves and that they have some rights as educators, police workers or sellers, but they do not fight for their rights, and their employers ruthlessly take advantage of that.<sup>91</sup>

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

The big problem faced by journalists of private media is the dependence on the editor and the editorial policy of the media owners. There is no professional journalistic autonomy in private media. Journalists must not write critique articles about advertisers of the media they work for even when there are reasons to criticize them. However, the key problem is not the pressure of media owners on journalists as to comply with the interests of advertisers of which they are financially dependent, but also the awareness of journalists that if they lose advertisers, their employer will probably run out of money to pay them. This leads to self-censorship where journalists, together with the owners, take care of not offending their sources of funding in any way.<sup>92</sup>

During the survey we found no information on the internal rules concerning media ethics and editorial independence in private media. Such rules exist in major regional media: Al Jazeera and N1. Private media, like everyone else are subject to the general ethical code and BH Legislation.

The respondents agreed that the greatest pressure is in the private media, and some of these pressures are (1) political pressures; (2) economic pressures (3); media audience or consumers who are mostly younger audience mostly oriented towards digital information, without reading habits, they evaluate good journalistic stories as poor and they rather just take a look at the text rather than read it; (4) self-censorship, which is so present that censorship is less and less “needed”.<sup>93</sup>

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

Internal codes of public services exist, but they are not publicly available on their websites, nor they are easily available even to employees in the public services.<sup>94</sup> This can be seen as a form of pressure of management and governing structure of public services against journalists and other workers.

Free Media Help Line is currently running six cases related to violation of labor rights of journalists employed in public services (BHRT and FTV). In three cases, court proceedings are ongoing, and two cases are still being tried by the Line to be resolved by an out-of-court procedure, with the help of the Labor Inspectorate and the Ombudsman for Human Rights Institution BiH..

The pressures are in the public local media, and these pressures are even greatest in the opinion of some interviewees. These media mostly depend on financing from the budget which impact their (in)dependence, and (do not) favor certain political parties. Financing, including the selection of administration and editors are unfortunately the main factor of influence of the key “political players” in the local community.<sup>95</sup> More than 100 municipal, regional and cantonal public radio and TV stations ope-

90 Lejla Turčilo and Belma Buljubašić, *Mediji i Shrinking Space (Media and Shrinking Space)* (Sarajevo, 2017), 44

91 Vlatka Vukotić, „(Ne)efikasan nadzor nadležnih tijela nad primjenom radno - pravnog zakonodavstva u privatnim medijima“ („(Non) effective supervision of the competent authorities of the application of labor - legal legislation in private media companies“ (2018). 3: <http://safejournalists.net/wp-content/uploads/2018/06/Clanak-novinari-radna-prava-domaca-verzija.pdf>

92 Amela Delić, „(Ne)slobodni mediji = (Ne)slobodno društvo Pritisaci na medije – uzroci i posljedice“ („(Not)free media = (Not)free society Pressure on media - causes and consequences“ (BH Journalists Association, 2018): <http://safejournalists.net/wp-content/uploads/2018/04/Amela-Delic-BHS.pdf>

93 Amela Delić, „(Ne)slobodni mediji = (Ne)slobodno društvo Pritisaci na medije – uzroci i posljedice“ („(Not)free media = (Not)free society Pressure on media - causes and consequences“ (BH Journalists Association, 2018): <http://safejournalists.net/wp-content/uploads/2018/04/Amela-Delic-BHS.pdf>

94 According to the information available to the Free Media Help Line, internal documents of BHRT are not easily accessible (eg: Regulations on promotion) but journalists need to require them specifically.

95 Velida Kulenović, „Mjesečna tranša kao alat za pritisak“ („Monthly tranche as a pressure tool“) (2018). 1: <http://safejournalists.net/wp-content/uploads/2018/04/Mjese%C4%8Dna-tran%C5%A1a-kao-alat-za-pritisak.pdf>



rate in BiH. Their mission should be to serve citizens in local communities, but they are usually under the direct control of local and cantonal authorities. Cantonal and municipal authorities directly interfere in editorial policy, make a selection of politically and nationally eligible but not educated and competent directors and editors, and monitoring committees in these media become places for “job opportunities” to loyal political staff who restrict media freedom by various brutal methods.<sup>96</sup>

In June 2018, the members of the Government and the Assembly of Una - Sana Canton are unfoundedly removed the former director of Una - Sana Canton.<sup>97</sup> Marko Divković, president of the BH Journalists Association said that this “... is a classic example of the editors who need to serve the ruling political parties. Unfortunately, RTV USK is not the only media outlet facing such pressures. These are unacceptable violations of media freedom in Bosnia and Herzegovina.”<sup>98</sup>

In 2017, Free Media Help Line, registered a case of a local media journalist TV SA, whose supervisors unabled the journalists to publish an article about the lack of media at an exhibition, which was a major event, for which media coverage would be expected.

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

Non-profitable online media is increasingly emerging in Bosnia and Herzegovina. They are the media established by civil society organizations and funded mostly by foreign donors. Several of these NGO media are the most important content producers in certain areas, for example: CIN (Centre for Investigative Reporting) and Žurnal.info in the segment of investigative journalism, BIRN in reporting on war crimes, Analiziraj.ba in analysis

of media reporting, etc. It is generally agreed that the level of editorial and journalist independence in these media is on a higher level than the media that works on the realization of profits, because foreign donors do not provide a direct interference in editorial policy, but they are satisfied with setting thematic priorities. In the sphere of electronic broadcasting there are very few non-profit media outlets.<sup>99</sup>

Pressures are most common in the investigative media, such as CIR. Free Media Help Line registered threats and verbal attacks on journalists of CIN by one political official. Pressures in the form of not responding to requests for access to information are also very frequent.

“ We are often faced with ignorance, unprofessionalism, arrogance, rudeness and obvious convictions of individuals that institutions they they work for, as well as data that are under their control, belong to them personally and serve their interests. CIN journalists spend too much time explaining the officers what the Law on Free Acces to Information is and which rights and obligations are provided for whom.”<sup>100</sup>

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

According to the survey 19% of journalists said they are daily or often confronted with editors changing texts, and 13.3% of them admitted that it daily or often happens that their text or report is not published.

96 BH novinari, „Najveći pritisci na lokalne medije“ (“The greatest pressure is a pressure on local media”), BH Journalists, 2013: <https://bhnovinari.ba/bs/2013/05/02/najvei-pritisci-na-lokalne-medije/>

97 Steering Committee BH Journalists, „Protest zbog političkih pritisaka na rukovodstvo i novinare RTV USK“ (“Protest for political pressure on management and journalists of RTV USK”), BH Journalists, 23/07/2018: <https://bhnovinari.ba/bs/2018/06/23/protest-zbog-politickih-ritisaka-na-rukovodstvo-i-novinare-rtv-usk/>

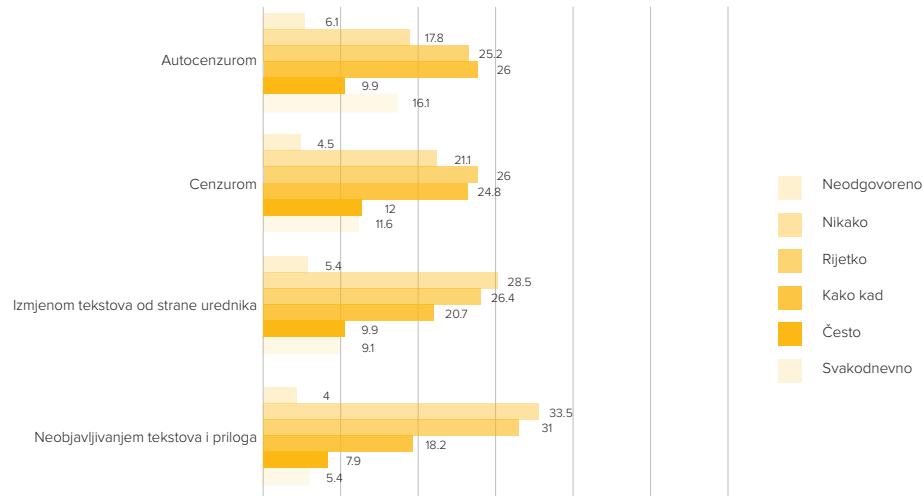
98 Regionalna platform Zapadnog Balkana za zagovaranje medijskih sloboda i sigurnosti novinara, (Regional platform of the Western Balkans to advocate for media freedom and safety of journalists), „Regionalna platforma Zapadnog Balkana oštro osuđuje prijetnje i pritiske upućene novinarima i rukovodstvu RTV USK“ (“Regional Platform of the Western Balkans strongly condemns the threats and pressures against journalists and the management of RTV USK”), BH Journalists, 29/07/2018: <https://bhnovinari.ba/bs/2018/06/29/regionalna-platforma-zapadnog-balkana-ostro-osudjuje-prijetnje-i-ritiske-na-novinare-i-rukovodstvo-rtv-usk/>

99 BH Journalists Association, Indicators of the level of media freedom and safety of journalists (Bosna i Hercegovina), (Sarajevo: BH Journalists Association, 2017)

100 Una Čilić, „Intervju sa Mirjanom Popović, zamjenicom glavnog i odgovornog urednika Centra za istraživačko novinarstvo u Sarajevu“ (“Interview with Mirjana Popović, deputy editor in chief of the Center for Investigative Reporting in Sarajevo”), Osservatorio Balcani e Caucaso, 01/12/2017, Accessed on 06/09/2018: <https://www.balcanicaucaso.org/bhs/zone/Bosna-i-Hercegovina/CIN-Sarajevo-Ne-odustajemo-od-borbe-za-informacije-184464>



**Chart 6:** How often do you face with:



Censorship and self-censorship are a result of several problems that occur in the media, including: the conditions in which journalists work, commercial and political interests, ideological profile, deficiencies in education and ineffective legislation.<sup>101</sup>

Between 23% and 26% of journalists responded that censorship or self-censorship is present in their media. Journalistic work and effort is often not recognized and evaluated by the editorial board, so editors instead of choosing between the quality of the report or text choose loyalty to certain political centers of power, if a journalist criticized some of the officials close to the media.<sup>102</sup>

**“I know the journalists who tell me “I worked all day, made the story, and then someone said that it shouldn’t be broadcast.” In this way journalists are losing faith in the profession, in the media, in everything “<sup>103</sup>**

In 2017 Free Media Help Line recorded a case in which the editor of the news program of a public media required journalists to change the statement of the political representatives, given in an interview with that journalist. In March 2018, a case on censorship in the Public Broadcasting Service was registered. The radio director asked via e-mail not to release the announcement of one of the trade unions of this public service.<sup>104</sup> However, some

journalists have more freedom in the choice of news:

**“Since I am a journalist reporter with long experience, I have to say that I am quite independent in the selection of media content and topics published by my editorial board. Of course, I try to be responsible and respect the professional code and to think about what is in the interest of citizens and to what extent. Of course I consult with the editorial board about more serious issues or shows.”<sup>105</sup>**

According to the survey, 26% of journalists said they are daily or often faced with pressures from editors and 28.1% of journalists claim that they are sometimes faced with these pressures. 28.5% of journalists said they are faced with pressures from media owners every day or often, and 24.8% of journalists rarely meet with pressures from the owners. The most often pressure comes from politicians from the government, daily or often - 38%.

<sup>101</sup> Bojana Vukojević, „Journalism Fight against Censorship and Self-censorship “ (2018). 1: <http://safejournalists.net/wp-content/uploads/2017/12/Bojana-Vukojevi%C4%87-tekst.pdf>

<sup>102</sup> Lejla Turčilo and Belma Buljubašić, *Mediji i Shrinking Space (Media and Shrinking Space)* (Sarajevo, 2017), 46

<sup>103</sup> Lejla Turčilo and Belma Buljubašić, *Mediji i Shrinking Space (Media and Shrinking Space)* (Sarajevo, 2017), 46

<sup>104</sup> Steering committee of BH Journalists, „Stop cenzuri i pritiscima na BHRT-u“. *BH novinari*.23.03.2018: <https://bhnovinari.ba/bs/2018/03/23/stop-cenzuri-i-pritiscima-na-bhrt-u/>

<sup>105</sup> Velida Kulenović, interviewed by Rea Adilagić, 03/09/2018

**Table 3:** How often do you face pressures from:

	Daily	Often	Sometimes	Rarely	Never	I do not know	Not answered
Representatives of foreign embassies and international community	1,7%	3,7%	10,3%	21,1%	55%	4,5%	3,7%
Representatives of the prosecutor's office	1,7%	4,1%	12,8%	26%	43,8%	6,2%	5,4%
Representatives of the judiciary	2,9%	4,1%	12,4%	26,9%	42,6%	6,6%	4,5%
Fellow journalists	6,6%	6,6%	24%	26,9%	27,7%	3,3%	5%
Politicians from the opposition	6,2%	11,2%	31%	23,1%	20,2%	2,5%	5,8%
Advertisers	7,9%	15,3%	17,8%	22,3%	26%	5%	5,8%
Editors	12,8%	13,2%	28,1%	16,9%	20,2%	3,3%	5,3%
Media owners	13,6%	14,9%	24,8%	14,5%	21,5%	6,2%	4,5%
Politicians in authority	14%	24%	26,4	15,3	14,9	2,1	13,3



A large number of attacks on journalists cause fear and uncertainty among journalists, and have a detrimental effect on freedom of expression. The reactions of the relevant institutions and political actors are not effective enough. State databases lack information about attacks on journalists because journalists are not separately classified.

## C.1 Safety and Impunity Statistics

Free Media Help Line registered 20 cases of attacks on journalists up to September 2018. 5 of them were physical attacks on journalists.

**Table 4:** Number of threats, pressures and physical attacks on journalists in 2018:

Threats and pressures	16 (including one death threat)
Physical attacks	5

In February 2018, a journalist and writer Nedžad Latić was physically attacked. He was seriously injured at this occasion. In September 2018, journalists Vladimir Kovačević was attacked by two masked persons. This attack is characterized as attempted murder.<sup>106</sup>

In the same year, in August, journalists and one driver of BHRT were attacked in Konjic, while the team was returning from a working assignment. These persons attacked the vehicle owned by BHT. The driver was seriously injured during the attack.

**“The fact about the large number of serious criminal offenses against journalists is extremely concerning. We still have a high level of impunity of crimes against journalists. It takes quick and effective reaction by the authorities to prevent similar attacks in the future. Free Media Help Line constantly appeals to the police and prosecutor’s office to quickly and efficiently carry out an investigation and to adequately sanction the perpetrators.”<sup>107</sup>**

According to the Free Media Help Line data, 80% verbal threats are addresses via Internet, and very often the perpetrators are politicians. However, most of all there are threats from anonymous people. The online sphere in BiH is legally unregulated, and as such leaves the space where individuals believe they can anonymously threaten journalists and avoid sanctions, while editors and journalists do not know how to deal with online violence.<sup>108</sup> Investigations, on who threatens journalists online under the pseudonym, last a long time, and are not effective enough. For now, the only example in which a perpetrator in criminal proceedings is convicted for an online threat to journalist’s is in the case of a journalist

<sup>106</sup> According to the data available, the Ministry of Internal Affairs of Republika Srpska detected the attackers. One of them is in custody, while the other attacker is on the run, outside the BiH borders. The Ministry of Internal Affairs of Republika Srpska forwarded the case to the competent Prosecutor’s Office for acting.

<sup>107</sup> Una Telegrafčić, interviewed by Rea Adilagić, 05/09/2018

<sup>108</sup> Lejla Gačanica and Marija Amautović, *Mehanizmi zaštite od online nasilja* (Sarajevo, 2018), 5

from Visoko. The person who threatened him was sentenced to prison for one year.<sup>109</sup>

Attacks on journalists cause fear and uncertainty and have a detrimental effect on freedom of expression. An independent judicial system is essential for timely, impartial, professional and effective implementation of the investigation of crimes against journalists.<sup>110</sup>

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

A positive step was taken in 2017 when the Institution of Human Rights Ombudsman of Bosnia and Herzegovina published a Special report on the situation and cases of threats to journalists in Bosnia and Herzegovina.<sup>111</sup> Upon the recommendation of the Institution of Human Rights Ombudsman of BiH, Ministry of Justice has begun organizing a series of meetings aimed at strengthening the level of safety of journalists in BiH.

The Ministry of Justice, in accordance with the recommendation of Human Rights Ombudsman of BiH, in cooperation with the ministries of justice at all levels in BiH, will consider the possibility that the attack on journalists is defined as a separate criminal offense or a more serious criminal offense of attack on an official person performing official duties.<sup>112</sup>

State institutions do not keep any record of attacks on journalists. The only data base of attacks against journalists in BiH was found through the data base of Free Media Help Line.

After considering the cases of violation of journalists’ rights that were reported to the Platform of the Council of Europe - Platform for protection of journalism and safety of journalists in 2017, through the BH Journalists Association, the Free Media Help Line and The Western Balkan, as well as the Regional Platform for advocating

<sup>109</sup> Municipal High Court in Visoko, 41 O K 061255 16 K, /16/12/2016/

<sup>110</sup> BH Journalists “Nezavisan pravosudni sistem neophodan za efikasne istrage krivičnih djela protiv novinara” (“An independent judicial system is essential for the effective investigation of crimes against journalists”), *BH Journalists*, 24/02/2018, Accessed on 07/09/2018: <https://bhnovinar.ba/bs/2018/02/24/sigurnost-novinaro-juftex-2/>

<sup>111</sup> „Institucija Ombudsmena za ljudska prava” (“Institution of Human Rights Ombudsmen”), Accessed on 07/09/2018: <http://www.ombudsmen.gov.ba/Dokumenti.aspx?id=28&tip=4&lang=BS>

<sup>112</sup> Radio Sarajevo „BiH/Vijeće ministara: Napad na novinare mogao bi biti posebno krivično djelo” (“BiH/ Council of Ministers: Attack on journalists might be treated as a separate criminal offense”), *Radio Sarajevo*, 26/09/2017, Accessed on 07/09/2018: <https://www.radiosarajevo.ba/vijesti/bosna-i-hercegovina/vijece-ministara-napad-na-novinare-mogao-bi-biti-posebno-krivno-djelo/276021>

media freedom and journalists safety, Council of Ministers of BiH condemned any kind of threats and attacks on journalists, which was the first public condemnation of violations of journalists' rights by public officials.<sup>113</sup>

There are no special legal provisions governing the relationship of journalists and police. However, the OSCE Guidelines for the police dealing with the media and the OSCE Guidelines for the media dealing with the police have affect.<sup>114</sup>

Although some positive steps forward have been recorded, this is still not enough. As a response of citizens and journalists on the efficiency of judicial protection and the sanctioning of perpetrators, after the attack on journalist Vladimir Kovačević, citizens and journalists organized protests in August 2018 in five cities in Bosnia and Herzegovina: Sarajevo, Banja Luka, Mostar, Tuzla and Zenica.<sup>115</sup>

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

There are no possibility for special recording and monitoring cases exclusively related to the threats and attacks on journalists in BiH, in the Content Management System (CMS) on cases in the justice system.<sup>116</sup> The Free Media Help Line is the only mechanism in Bosnia and Herzegovina for monitoring and reporting of threats, harassment and violation of journalists' rights. Besides, Free Media Help Line works on resolving these cases through the courts, with the help of a network of lawyers it cooperates with. The network includes lawyers from all parts of Bosnia and Herzegovina, thus Free Media Help Line provides national representation and action.

Since women in Bosnia and Herzegovina remain a vulnerable category of the population, on which various forms of discrimination are implied, such a negative trend further complicates the situation of female employees in the me-

dia.<sup>117</sup> According to the analysis on gender equality in the media, the share of men in the main management positions in the media is significantly higher than the share of women. Men are on more than two-thirds of directorships and positions of chief editors and editors, while women's share is below one-third.<sup>118</sup> Activists of women civil scene in BiH point out that even when women find themselves in managing positions in the media, political and other pressures increase even more. So Dragana Midžić, director and editor at the local Radio Kostajnica, was dismissed from the office without explanation due to political pressures and conflicts.<sup>119</sup>

Institutions do not have mechanisms to solve this problem, they do not speak enough on this matter, including the institutions which have been formed with the aim of promoting and ensuring gender equality. They rarely condemn such cases and there are examples when they are directly or indirectly generators of compromising the work of female employees in the media.<sup>120</sup>

According to the general opinion of experts and journalists Investigating authorities, police and prosecutors do their jobs slowly, especially in conducting effective and thorough investigations of attacks and other criminal offenses against journalists. These, inefficiently effective procedures, later prevent the efficient work of the courts and work in the interests of the injured journalists, ie punishing the attackers. There are various training sessions aiming to strengthen the capacities, but that is not enough. Nada Dalipagić, a lawyer, believes that legislation of BiH inadequately protects journalists. She evaluates that it is important to strengthen defense teams to help the journalist - the victim of the crime with their professional work and to monitor the case at the prosecutor's office.

**“Nowdays, the position of a victim in criminal proceedings is extremely marginal. The most important thing is strengthening the structure and capacity of the legal profession that deals with the representation of journalists who are victims of criminal acts. The lawyer can indicate to a journalist whether there are**

113 Rea Adilagić, “Report on the Free Media Help Line”, April 2018

114 „BH Journalists“. Google. Accessed on 07/09/2018/: <https://bhnovinari.ba/wp-content/uploads/2007/11/osceuputezapolicijuuophodenjusmedijima.pdf>

115 Aldin Arnautović, „Nakon premlaćivanja novinara u Banja Luci protesti novinara i novinarki širom BiH“ (“Protests of journalists across the country after beating of journalists in Banja Luka”), Voice of America, 28/08/2018/ Accessed on 09/09/2018: <https://ba.voanews.com/a/zboga-fizi%C4%8Dkih-napada-protesti-novinara-i-novinarki-%C5%A1irom-bih/4547117.html>

116 Institution of Human Rights Ombudsmen of BiH, Special report on the situation of journalists and cases of threats to journalists in Bosnia and Herzegovina, Institution of Human Rights Ombudsmen of BiH, June 2017

117 Zlatiborka – Popov Momčinović, „Napadi na novinarku u Bosni i Hercegovini u kontekstu ugrožavanja medijskih sloboda“ (“ Attacks on female journalists in Bosnia and Herzegovina in the context of the threat to media freedom”) (BH Journalists Association, 2018): <http://safejournalists.net/ba/resources/page/2/>

118 Amer Džihana, „Žene i mediji: Zaposlenice u upravljачke strukture“ (BH Journalists Association, 2018): <https://bhnovinari.ba/wp-content/uploads/2018/07/Zene-i-mediji-13maj2018-FINAL.pdf>

119 Zlatiborka – Popov Momčinović, „Napadi na novinarku u Bosni i Hercegovini u kontekstu ugrožavanja medijskih sloboda“ (“Attacks on female journalists in Bosnia and Herzegovina in the context of the threat to media freedom”) (BH Journalists Association, 2018): <http://safejournalists.net/ba/resources/page/2/>

120 Zlatiborka – Popov Momčinović, „Napadi na novinarku u Bosni i Hercegovini u kontekstu ugrožavanja medijskih sloboda“ (“ Attacks on female journalists in Bosnia and Herzegovina in the context of the threat to media freedom”) (BH Journalists Association, 2018): <http://safejournalists.net/ba/resources/page/2/>

elements of the complaint or not and what can be achieved.”<sup>121</sup>

#### Recommendations:

- Legally regulate the issue of advertising in the media and the transparency of media ownership
- Ensure better implementation of existing legislation
- Provide more content for minority and vulnerable groups on all three public services
- Resolve the issue of inefficient financing of public services
- Prevent political influence from the public service through non-partisan appointment of the management structure of public services
- Ensure more effective implementation of the practice of the European Court of Human Rights in the domestic judiciary, especially in defamation cases, with the ultimate goal of reducing the number of defamation suits of politicians against journalists
- Continue monitoring media coverage during the election campaign and indicating on/sanctioning media outlets which do not respect the legal principles of reporting during the election campaign
- Raising awareness of journalists on the trade unions
- Regulate the question of confidentiality of journalists' sources in more detail
- Establish a shorter deadline for access to information in cases when it comes to information that do not require special gathering/processing
- Appeal to journalists to notify political and economic pressure in the media, with the aim of reducing these pressures and strengthening editorial and journalistic independence
- Ensure more adequate protection of journalists through changes of the criminal legislation in Bosnia and Herzegovina
- Require police and security agencies to investigate attacks on media professionals more quickly and efficiently, and continue activities to ensure more effective criminal protection of journalists, as well as to reduce the number of attacks, threats and other criminal offenses against journalists.

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<sup>121</sup> BH novinari, „Nezavisan pravosudni sistem neophodan za efikasne istrage krivičnih djela protiv novinara“ (An independent judicial system is essential for the effective investigation of crimes against journalists”) BH Journalists, 24/02/2018. Accessed on 10/09/2018: <https://bhnovinari.ba/bs/2018/02/24/sigurnost-novinara-jufrex-2/>

## A list of interviewees:

Name and Surname	Working position	Date of the interview
Helena Mandić	Communications Regulatory Agency, Assistant Director of Broadcasting	05/09/2018
Jasminka Proho	The Association of the Deaf and Hard of Hearing of Canton Sarajevo	04/09/2018
Lejla Turčilo	Professor at the Department of Journalism/Communications at the Faculty of Political Science, University of Sarajevo	29/08/2018
Una Telegrafčić	Coordinator of the Free Media Help Line for Journalists	05/09/2018
Borislav Vukojević	Senior Assistant at the Faculty of Political Science, University of Banja Luka	31/05/2017
Nikolija Bjelica	Journalist	03/09/2018
Milanka Kovačević	Journalist	06/09/2018
Velida Kulenović	Journalist	03/09/2018
Anonimno	Journalist	30/08/2018

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