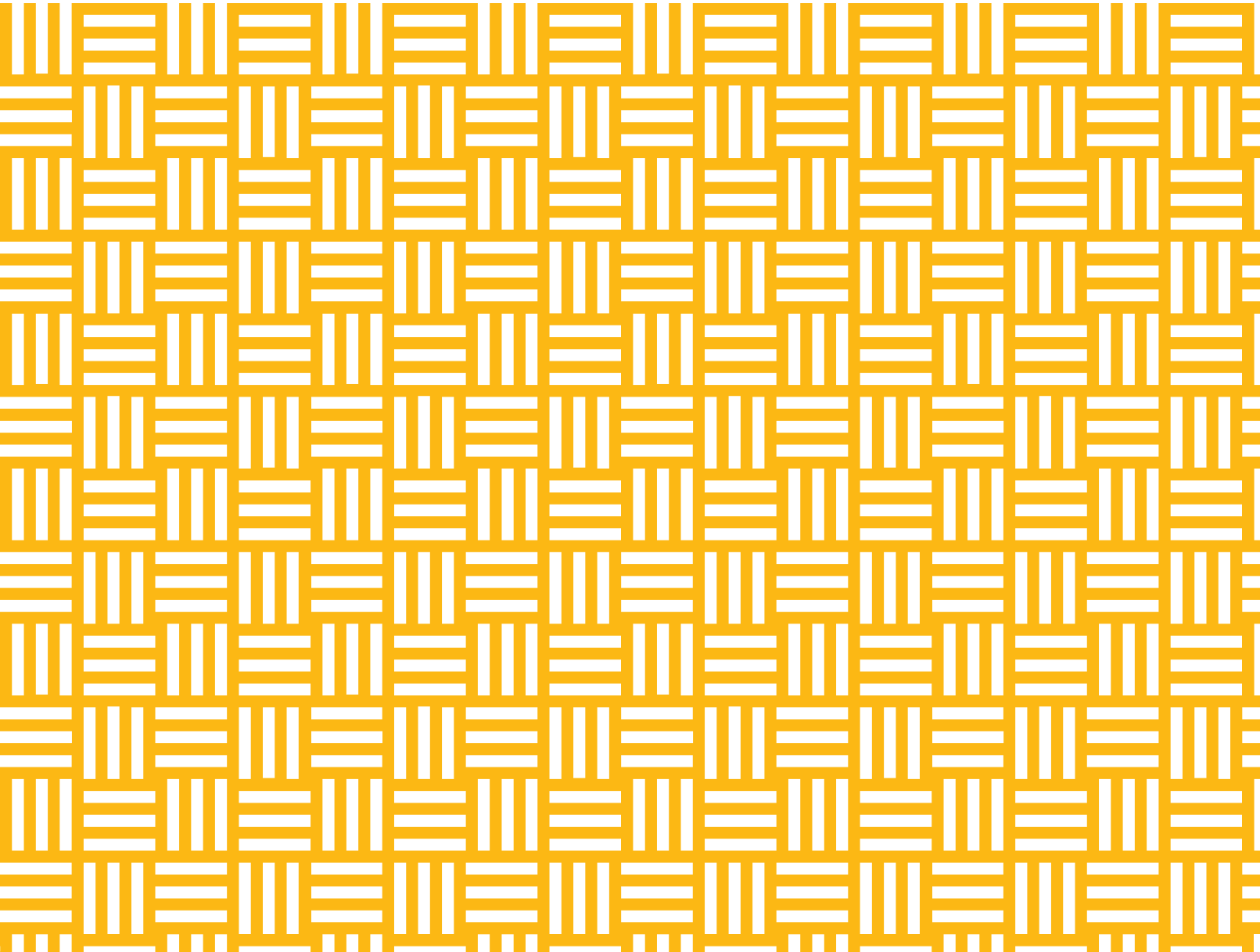




Regionalna platforma Zapadnog Balkana za zastupanje  
slobode medija i bezbjednosti novinara  
Western Balkan's Regional Platform for Advocating  
Media Freedom and Journalists' Safety

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





# **MONTENEGRO**

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

**Authors:**  
**Marijana Camović**  
**Bojana Laković-Kontar**

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*Authors*

Marijana Camović

Bojana Laković-Konatar

*Translator*

Vanja Miličić

*DTP*

Lavi studio

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## Objective and methodology of the research study

This report presents the findings of the third research study conducted within the regional project Western Balkan's Regional Platform for advocating media freedom and journalists' safety<sup>1</sup>, implemented by the national journalists' associations in Bosnia and Herzegovina, Kosovo, Macedonia, Serbia, and trade union in Montenegro. This report is a follow-up of two baseline studies which more broadly presented the legislation, socio-economic and political situation with media freedom and journalists' safety identifying the key challenges and recommendations for journalists' associations and other stakeholders<sup>2</sup>. The main objective of this third research study is to detect new developments and to make comparisons with the level of media freedoms and journalists' safety identified in 2017.

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

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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 Organizations*

<sup>2</sup> *Trade Union of Media of Montenegro, Indicators on the level of media freedom and journalists' safety (Podgorica: Trade Union of Media of Montenegro, 2016)*

- Qualitative Documents Analysis (QDA) of: research studies and analyses produced by other research organisations, academia, NGOs, individual researchers etc.; official documents produced by public institutions (legal acts, by-laws, strategies, annual reports, minutes from meetings, press releases) and media coverage (texts, articles, news reports and other published materials).
- Qualitative interviews with 12 individuals (journalists, lawyers, media experts, representatives of public institutions or NGOs).
- Survey with 136 journalists<sup>3</sup> from different media organizations on the basis of a structured questionnaire which is adapted partly based on the one from the Worlds of Journalism Study<sup>4</sup>.
- Official statistic data requested from public institutions or collected from available websites or from other published sources.

## Indicators A:

### Legal protection of media and journalists' freedom

Amendments to the Media Law and the Law on National Public Broadcaster of Radio and Television of Montenegro are underway, and in early 2019 amendments to the Law on Electronic Media will begin. The Media Law stipulates that 0.03% of the budget will be allocated to help commercial media through the Media Pluralism Fund. (A1)

In two years, 35 electronic publications were registered, but the number of active portals is much higher because there are no sanctions for those who are not registered. Increasing the inspection's powers including the possibility of imposing penalties would, in the opinion of international experts, strengthen the Agency for Electronic Media. The independence of this regulator was jeopardized by political influence that resulted in the replacement of a member of the Council. (A1)

Public sector's advertising continues to cause concern for both the domestic and international public, primarily due to the non-transparent distribution of money. Media in the languages of national minorities can only count on money from the Fund for the Protection and Exercise the Minority Rights. Although 0.15% of the state budget is allocated to this Fund, the last public call for distribution of these funds was announced in the first half of 2017. (A1)

Political influence on the Radio Television of Montenegro has been restored, so two members of the Council and complete management have been replaced since September 2016. For financing the Public Service in the

next three years, the Government will provide about 40 million Euros. (A1)

Practice has shown that it is easier to sue for damaging the honor and reputation than to defend against such accusations. There is still a large number of lawsuits on this basis, and from 2011 to 2017, the courts processed 109 cases for compensation for damaging honor and reputation. In these cases, more than a million Euros were demanded from the media, while in 24 adopted cases, media had to pay 45,300.00 Euros. The research has shown that the possibility of a lawsuit for damaging honor and reputation influences nearly every other journalist. Low level of criticism by public figures in combination with high fees, according to international experts, can lead to self-censorship and they indicate weak self-regulation mechanisms. It is necessary to improve cooperation between the existing self-regulation mechanisms, so they do not reflect the sharp division of the media scene. (A2)

The amendments of the Law on Electronic Media were adopted following the recommendations of the OSCE/ODIHR Election Observation Mission that monitored the parliamentary elections in 2016. These amendments regulate the political advertising and the election campaign. The analysis of the Center for Civic Education showed that during the presidential election in 2018 the media focused on mutual criticism and attacks of candidates. (A3)

Every fourth journalist was not allowed to report from an event because they did not have accreditation. The rights of journalists and other media workers are protected by two trade unions and several associations. Journalists have more freedom to be part of the association, but they rarely decide to join because they feel that they cannot fix the situation. Every fifth journalist does not feel free to be a member of trade union, but still, there are more journalists that are members of unions than of associations. (A4)

In 2017, the number of employees in the media sector, which has 1,350 employees, was again reduced. There were no changes in the regulations guaranteeing the protection of journalistic sources, but there were registered cases in which journalists were asked to disclose their sources. (A5) Amendments to the Law on Free Access to Information made it hard for the media to reach important data and opened space for the state authorities to prescribe the obligation of keeping secrets thus depriving the public of important information. Journalists see the Parliament as the most transparent institution from year to year. The prosecution was rated as the least transparent institution, as 40% of the respondents indicated that it was little transparent or non-transparent. (A6)

<sup>3</sup> More details can be found in Appendices

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



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

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Earnings of around 800 journalists are still below the national averages, and the survey found that about 35% of journalists receive a salary of 400-500 Euros, while every third journalist receives a salary of less than 400 euros. Journalists from private media can boast of higher salaries. The local media is still owed even up to eight salaries, as in the case of RTV Pljevlja, which led employees of this local media to go on strike by end of 2017. They are in a similar position as their colleagues in the RTV Atlas in bankruptcy, which owe about 800,000 Euros for salaries and taxes. (B1)

In addition to low and irregular wages and work in the black market, novelty in the media sector is also hiring through agencies for temporary assignment of employees. The interviewed journalists testify that working hours extended; also, as many as 60% of respondents point out that the economic position of journalists has weakened to a significant or to a certain degree. Even 15% of respondents were forced to seek additional work despite already being overburdened at the main job in the editorial offices. However, journalists are still not ready to publicly talk about their problems. (B1)

From year to year journalists point out to great pressures that they suffer because of profit making (63%). Also, a serious problem is the pressure because of sensational reporting, as witnessed by 70% of the interviewed journalists. (B1)

Experts of the Council of Europe point out the need to ensure editorial independence of the editorial staff. However, the working group for amendments to the Law on Media had no sensitivity to the Trade Union of Media of Montenegro and the Council of Europe's recommendations about the introduction of provisions that would reduce self-censorship and the influence of the owners on editorial policy, so they were not adopted. Journalists believe that the impact of marketing on their work is poor. (B2)

Two years after the amendments to the Code of Conduct of Journalists of Montenegro have been adopted, amendments regarding the on-line comments are being prepared. The public are not aware of open pressures on journalists, but interviews with journalists show that pressures exist and that their colleagues adjust their work to the will of the editor or media owners. (B2)

Independence of editors and journalists of the Radio Television of Montenegro is formally high, but in practice there is an obvious influence on this medium, especially after the replacement of the previous management and part of the Council. Politicians see this media as a political resource. Similar problems exist in local media, whose independence would be ensured by changing the current model of financing. (B3)

The Montenegrin media scene is characterized by a negligible number of non-profit media, which are undeveloped and unsustainable, and consequently with limited influence. (B4)

Although journalists consider that they are free in their work, the data show that their freedom is limited and conditioned by numerous factors. Every third journalist has a small or a certain degree of freedom in the selection of stories they work on, and almost the same number of them have a certain degree of freedom in choosing the aspects of the story to emphasize. (B5)

For the third year in a row, the journalists point out to the hierarchy of influence, that is, to the fact that people with whom they cooperate on a daily basis have the greatest influence on them. In the first place, those are editors, and almost 80% of the respondents claim that they have an extreme, strong or partial influence on their work. For the second year in row, media managers are the second regarding their influence on journalists. Politicians and state officials have little direct influence on journalists, but it is likely that this influence is achieved through editors and managers. The editorial policy has a powerful influence on the press. (B5)

Even 46% of journalists report a strong influence of censorship, while 47% of their colleagues say that this influence is weak or that it does not exist at all. Every third journalist faces the censorship, and some editors are also exposed to it. (B5)

The work of every other respondent is limited by ethical standards, while every fifth respondent says that ethics affects them poorly, partially or not at all. Nevertheless, every other journalist claims that there is a noticeable decline in ethical standards in journalism. (B5)

In the first seven months of 2018, the Media Self-Regulation Council received 30 complaints, but did not act on them because the Complaints Commission did not meet as its members have not been paid for their work. (B5)

## Indicators C: Journalists' Safety

The Trade Union of Media of Montenegro registered seven cases of assaults on journalists and media from the beginning of July 2017 to the end of June 2018, while there are two more cases in the records of the Montenegrin Police Directorate, which are related to threats directed at the former journalist, who is currently at the head of one political party. The most drastic case of attacks occurred in May 2018, when the journalist of Vijesti Olivera Lakic was wounded by gunshot. The attackers and the orderers have not yet been found, and the FBI is involved in the case. (C1)

At the end of 2017 and early 2018, two cases of threats were registered as well as throwing an explosive device in front of the house of the journalist Sead Sadikovic, in which case the perpetrators were quickly found and punished. (C1)

Vijesti journalist, Jelena Jovanovic, was also threatened at the workplace, and the court proceedings are underway. At the end of 2017, the case of burned vehicles of the correspondent of Vecernje Novosti, Miroslav Drobnjak, was also registered, and this case is characteristic because the Council for Civilian Control of Police Work has established that the police, during the investigation, acted unprofessionally. (C1)

According to information from the Council of Europe from the beginning of 2004 to the beginning of 2018, the Montenegrin prosecution registered 33 cases of attacks on journalists, and in 6 cases the perpetrators have not yet been found. (C1)

The mandate of members of the Commission for Investigating Attacks on Journalists has been extended for another two years. During the second term, the Commission, addressing 15 cases of assaults on journalists and property of the media, found numerous omissions, and according to available information, in only one case, the prosecution worked on eliminating the found failings. (C2)

After wounding Olivera Lakic, the Police Directorate asked from the media for the names of journalists writing about the crime news in order to assess their safety. They also announced that they will propose that a new position be opened for a person who would follow attacks on journalists. It is also planned to appoint a person in the security centers and departments who would monitor and take measures to protect the employees of the public word and to ensure their unhindered work. (C2)

Officials generally condemn all attacks, but the main problem are unresolved cases from the past which are about to become obsolete. (C2)

No laws or regulations were enacted to protect women jour-

nalists in particular. There is no difference between different types of media. When at the beginning of 2017 the Human Rights Action and the Trade Union of Media attempted to change the Criminal Code in terms of providing additional protection for journalists, there have been no similar initiatives since. (C3)

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

- Launch amendments to the Law on Electronic Media in order to ensure sustainable financing of local public broadcasters as well as their editorial independence by changing the way they choose their governing bodies - the councils;
- Since the media concentration should be regulated in terms of the influence of the owners on editorial policies, the Law on Media should adopt mechanisms that ensure the editorial independence of editorial offices and the legal protection of journalists when there is a change in ownership and / or editorial policy;
- The new Law on Media should lay down clear criteria for assisting commercial electronic and print media since earlier funds are abolished;
- The new Law on Media should lay down clear criteria for advertising the public sector in the media in order to increase transparency, but also to ensure full transparency of media ownership;
- Strengthen the legal powers of the Agency for Electronic Media in order to sanction portals which are not registered but also impose penalties for offenses to electronic media;
- Strengthen self-regulation mechanisms in Montenegro in order to raise professional standards;
- Amend the Law on Free Access to Information because the existing one restricts access to a large number of information of public importance;
- Finish the negotiations on the new Collective Agreement in the field of media with the aim of improving the economic position of media workers;
- Strengthen efforts to address old cases of assaults on journalists since many of them are threatened to become obsolete in 2019.

<sup>5</sup> These general recommendations were developed based on interviews with the members of the Main Committee of the Trade Union of Media of Montenegro. They represent only the general principles based on which the Trade Union of Media will in the future develop its initiatives and activities in lobbying for the improvement of media and journalistic freedoms and upgrade, supplement and specify them.

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

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

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

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

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

8 Available at: [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/images/Themes/Freedom\\_of\\_expression/safety\\_of\\_journalists/JSI\\_national\\_eng\\_20150820.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/images/Themes/Freedom_of_expression/safety_of_journalists/JSI_national_eng_20150820.pdf)

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

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

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

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

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

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

Taken as a whole, the listed methodologies and guidelines offer a good starting point to define indicators in line with the needs and priorities of the national journalist associations (NJAs) in the Western Balkans. However, most of them are designed to serve the objectives of the international organizations and are more focused on detecting comparable national data and general global trends on media freedoms. Therefore, while reviewing all these documents, only those indicators are taken into consideration which may reflect the specific perspective of the NJAs in advocating for better protection of journalists' work and freedom in their countries. The main focus has been put on the implementation of the legal guarantees of the freedom of expression and media independence, on a range of factors that prevent the journalists to freely exercise their daily work in the newsrooms and on the conditions under which the journalists can be safe and protected from intimidation, harassment or violence.

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

### Legal protection of media and journalists' freedoms

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

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

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

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

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

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

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

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

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

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

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

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

### Journalists' safety

C.1 Safety and impunity statistics

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

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

# A

## Legal protection of media and journalistic freedom

The amendments of several laws in the field of media are in progress, thus amendments to the Law on Electronic Media are expected in 2019, which should ensure the sustainability of local public broadcasters. In Montenegro, 35 electronic publications – portals were registered. Political pressure on the Council of the Agency for Electronic Media, which resulted in replacement of its member, jeopardized the independence of this regulator. Public sector advertising is still non-transparent and focused on the media that is close to the government. The political influence of the ruling party on the Radio and Television of Montenegro was re-established resulting in replacement of the director general, almost all editors, and two members of the Council of this media house. Since defamation has been decriminalized, until the middle of 2017, the Montenegrin courts processed 109 cases for compensation for damage of honor and reputation, and the claims amounted to more than one million euros. Every fifth journalist does not feel free to become a member of trade union, and yet more of them are members of trade unions than of associations. The number of employees in the media sector has slightly decreased. There was a case where police officers asked reporters to disclose the source of information. Journalists see the Prosecution as the least transparent institution.

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

Right to freedom of speech is guaranteed by the Constitution of Montenegro as well as other laws governing this area: Law on Media, Law on Broadcasting Services and Law on the National Public Broadcaster of Radio and Television of Montenegro (RTCG) as well as adopted conventions.

Although announced in October 2016<sup>14</sup>, the media strategy has not been prepared yet, but the Law on Media and the Law on the National Public Broadcaster of RTCG are being amended primarily in order to increase the independence and reduce the possibility of influencing the Public Service<sup>15</sup>. A new organizational scheme was proposed starting from the introduction of the management board<sup>16</sup>. It is announced that the amendments to the Law on Electronic Media will start in January 2019.

Both the Law on Media and the Law on the National Public Broadcaster of RTCG should be adopted by the end of the year, and all interested parties were involved in drafting their proposals. The Law on Media will be amended in detail, and novelties are planned in terms of media registration, transparency of ownership, reports on the amount of money that the media receives from advertising, and the establishment of a fund for pluralism of the media, to which 0.03% of the state budget will be allocated and from which all the commercial media will be financed. Most of the demands of the Trade Union of Media were accepted. They included the increase in the autonomy of journalists in relation to their texts and interventions that editors can enter, and which are contrary to the Code and the author's views<sup>17</sup>. However, the proposals of the Trade Union of Media about the intro-

duction of statute in the media specifying the manner in which the editor-in-chief is appointed have not been adopted to have, nor was adopted the proposal about the introduction of guarantees that the text in the public interest will be published regardless of the attitude of the owner. This was an attempt to reduce self-censorship, censorship and the influence of owners on editorial policy, as pointed out by experts of the Council of Europe<sup>18</sup>, who noticed that this phenomenon was the Montenegrin specificity. However, at the level of the Working Group there was no understanding for these ideas.

In accordance with the Rulebook on Electronic Publications (Portals)<sup>19</sup>, a total of 35 portals<sup>20</sup> have been registered, but the number of active ones is much higher. There are no sanctions if the portal is not registered. There were no reports that during the previous year any of the media was a target of hacking attacks or that the use of Internet was in any way disabled.

The Agency for Electronic Media (AEM), which by the law represents an independent regulatory body for audiovisual media services, "operates in an extremely challenging environment"<sup>21</sup> because their competencies are limited due to legal deficiencies and the inability to effectively control and sanction the media. There is a serious overlap between jurisdictions of self-regulation and legal regulation of audiovisual media, and experts from the Council of Europe and the European Commission have recommended, among other things, that the AEM should be re-assigned the possibility to carry out inspections as well as to impose adequate and proportionate penalties for any offenses that can be unequivocally established and for which no judicial review is required. The influence of politics on operation of the AEM was evident when the member of the AEM Council, Darko Ivanovic<sup>22</sup>, was replaced. This was also pointed out by the European Commission that indicates in its Report<sup>23</sup> that the independence of the regulator is being undermined in this way.

14 "Ekspozé mandatará za sastav Vlade CG Duška Markovića na sjednici Skupštine CG"; [Exposé of the Mandatar for Composition of the Government of Montenegro headed by Dusko Markovic at the session of the Parliament of Montenegro], Government of Montenegro, last modified November 28, 2016, accessed on September 2, 2018: <http://www.gov.me/vijesti/167232/Ekspozé-mandatará-za-sastav-Vlade-CG-Duška-Markovića-na-sjednici-Skupštine-CG.html>

15 I.P. "Izmjenama zakona do pune nezavisnosti RTCG"; [With amendments to the law to full independence of the RTCG], RTCG Portal, February 02, 2018, accessed June 30, 2018: <http://www.rtcg.me/vijesti/drustvo/194419/izmjenama-zakona-do-pune-nezavisnosti-rtcg.html>

16 Mitrović, Natasa "Upravni odbor – put u dvovlašće?"; [Board of Directors - the way to dual power], RTCG Portal, July 22, 2018, accessed July 30, 2018: <http://www.rtcg.me/vijesti/drustvo/209713/upravni-odbor-put-u-dvovlasce.html>

17 "Povodom dana novinara poslanicima dostavljeni predlozi za izmjene medijskih zakona"; [Proposals for amendments to media laws submitted to MPs on the occasion of the Journalists' Day], Trade Union of Media of Montenegro, last modified January 23, 2018: <http://sindikatomedija.me/index.php/aktivnosti/236-povodom-dana-novinara-poslanicima-dostavljeni-predlozi-za-izmjene-medijskih-zakona>

18 Council of Europe, *Analysis of Montenegro Media Sector with Recommendations for Harmonization with the Standards of the Council of Europe and European Union*, 2017, accessed May 15, 2018: <https://rm.coe.int/analiza-medijskog-sektora-u-crnoj-gori-sa/16807b4d7d>

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

20 Jadranka Vojvodić, interviewed by Marijana Camović, July 26, 2018.

21 *Analysis of Montenegro Media Sector with Recommendations for Harmonization with the Standards of the Council of Europe and European Union*, 2017, p. 8, accessed May 15, 2018: <https://rm.coe.int/analiza-medijskog-sektora-u-crnoj-gori-sa/16807b4d7d>

22 Vijesti online, "DPS nastavio po svome: Razriješili Ivanovića"; [DPS continued on its own: Ivanovic replaced], December 27, 2017, accessed June 25, 2018: <http://www.vijesti.me/vijesti/dps-nastavio-po-svome-razrijesili-ivanovica-969357>

23 European Commission, *Montenegro 2018 Report*, accessed May 20, 2018: <http://senat.me/wp-content/uploads/Izve%C5%A1taji-o-napretku-Crne-Gore-2018-EU.pdf>

When it comes to the public sector advertising in the media, the European Commission expressed concern and noted that there was still room for concern<sup>24</sup> over non-transparent money allocation, as noted by Council of Europe experts in its analysis. They pointed out that generally there is a consensus that the annual market for private advertising is about 10 million Euros, but that is not enough for the media to function<sup>25</sup>. The experts' analysis states:

“Many broadcasters, with whom the experts discussed, as well as some political figures, expressed the opinion that there are too many broadcasters on the Montenegrin market, more than the market can absorb. Channels considered to be superfluous vary, naturally, depending on the person to whom you are talking. However, some less biased observers agree that some media outlets only survive thanks to the generosity of the government, which allegedly directs advertising of the public sector institutions and subsidies to media groups that are having hardships but that incline to their attitudes and policies.”<sup>26</sup>

They add that the fact that the public sector institutions advertise only in some newspapers while the others do not get almost anything is an issue of fair competition in the market.

There are no special media subsidies but the state is helping the media by reducing the value added tax (VAT) rate to 7 percent<sup>27</sup> (instead of 21 percent).

Media in the languages of national minorities are financed in the manner prescribed by the Law on Minority Rights and Freedoms<sup>28</sup>. Since last year, these, like the rest of the media, cannot count on financing their programs from gambling revenues. The only source of funding these media is the Fund for the Protection and Realization of Minority Rights. At least 0.15% of the state budget is allocated to this Fund, which is distributed by public competition. The last such a competition was announced in the first half of 2017, when a total of 292,926.00 Euros

were distributed for 67 projects<sup>29</sup>. On the website of the Fund, information about the competition in 2018 cannot be found. When it comes to the media in the languages of national minorities, the only weekly *Koha Javor*, issued within the National Council of Albanians in Montenegro, is financed from the state budget, specifically from the funds allocated to the Parliament<sup>30</sup>. Namely, after the daily *Pobjeda* was privatized in 2014, the Parliament decided to finance further publication of *Koha Javor*, which was published alongside that newspaper.

The formal independence of the editorial office and the institutional autonomy of RTCG are envisaged by both the Law on RTCG, of July 2017, and the RTCG Statute, but the political influence on this media became current again, as noted by the EC<sup>31</sup>. After the replacement of managers and editors took place in the spring 2016, the same thing happened again two years later when, in December 2017, Council member Goran Djurović<sup>32</sup> was replaced for allegedly conflict of interests. Several weeks later, for the same reason, the Council member Nikola Vukčević<sup>33</sup> was replaced, and finally, Vladimir Pavicević<sup>34</sup> was replaced from the position of the President of the Council in March 2018. The Council replaced the whole management that appointed new editors<sup>35</sup>. These replacements as well as the replacement in the AEM Council resulted in the court proceedings initiated by all those who were replaced<sup>36</sup>.

Formal reason for the replacement of the Director General of the RTCG, Andriana Kadija, who was under the attack of formal and informal representatives of the ru-

24 *Ibid.*, p. 27.

25 Council of Europe, *Analysis of Montenegro Media Sector with Recommendations for Harmonization with the Standards of the Council of Europe and European Union*, 2017, p. 21, accessed May 15, 2018: <https://rm.coe.int/analiza-medijiskog-sektora-u-crnoj-gori-sa/16807b4d7d>

26 *Ibid.*, p. 21.

27 Montenegro Media Institute, *Media Ownership and Media Financing in Montenegro* (Podgorica: Montenegro Media Institute, 2015), accessed on May 15, 2018: [http://www.mminstitute.org/files/Medijisko%20vlasnistvo%20i%20finansiranje%20medija%20u%20crnoj%20gori%20\(1\).pdf](http://www.mminstitute.org/files/Medijisko%20vlasnistvo%20i%20finansiranje%20medija%20u%20crnoj%20gori%20(1).pdf)

28 Law Amending the Law on Minority Rights and Freedoms, Law on Minority Rights and Freedoms, Article 12

29 “Odluka o drugoj (II) raspodjeli sredstava Fonda za zaštitu i ostvarivanje manjinskih prava za 2017.godinu”, [Decision on Second (II) Allocation of Funds for the Protection and Realization of Minority Rights for 2017], Fund for Protection and Realization of Minorities' Rights of Montenegro, last modified July 21, 2017: <http://www.fzm.me/v/index.php/haslovnad>

30 Decision on Publishing and Financing the Weekly Newsletter in the Albanian language “Koha Javore”, Official Gazette of Montenegro 1/2015

31 European Commission, *Montenegro 2018 Report*, accessed May 20, 2018: <http://senat.me/wp-content/uploads/lzvjec%20C5%20A1taj-o-napretku-Crme-Gore-2018-EU.pdf>

32 Zivaljević, Nemanja, “Đurović razriješen članstva u Savjetu RTCG, Andrija i Genci protiv”, [Djurović absolved of membership of the RTCG Council, Andrija and Genci against], FOS Media, December 29, 2017, accessed June 20, 2018: <https://fosmedia.me/infos/politika/durovic-razriješen-clanstva-u-savjetu-rtcg-andrija-i-genci-protiv>

33 Čadjenović, Ivan, “RTCG između objektivnog i političkog”, [The RTCG between objective and political], *Vijesti*, November 24, 2017, accessed June 20, 2018: <http://www.vijesti.me/vijesti/rtcg-izmedu-objektivnog-i-politickog-964482>

34 “Smijenjen predsjednik Savjeta RTCG”, [President of RTCG Council replaced], *Safe Journalists*, accessed March 20, 2018: <http://safejournalists.net/me/smijenjen-predsjednik-savjeta-rtcg/>

35 IN4S, “Smijenjena Kadija: Nijesam korumpirana, nećete mi slomiti kičmu!”, [Kadija replaced: I'm not corrupt, you will not break my back], IN4S, June 7, 2018, accessed June 20, 2018: <https://www.in4s.net/smijenjena-kadija-nijesam-korumpirana-necete-mi-slomiti-kicmu/?lang=lat>

36 Dan, “Darko Ivanović ide u Strazbur”, [Darko Ivanović goes to Strasbourg], CDM, April 25, 2018, accessed August 15, 2018: <https://www.cdm.me/hronika/darko-ivanovic-ide-u-strazbur/>



ling party for a long time, was the project contract of the Public Service with the NGO Center for Civic Education, financed by the European Delegation in Montenegro. This contract allegedly gave the authority to this non-governmental organization to influence editorial policy<sup>37</sup>. The members of the RTCG and AEM Councils were replaced by decisions of the Parliament that had not waited for the opinion of the courts that subsequently found that the Law on Prevention of Corruption was actually incorrectly applied.

“The Law on Prevention of Corruption does not stipulate a clear classification or ranking of the gravity of the violation. Therefore, it happens that a certain violation of the Law is treated as a simple misconduct, and fined with several hundred Euros, while in someone else’s case in an identical situation, it may cause a cessation of public office.”<sup>38</sup>

Sekulovic said that the law was not observed to the end because, and it was necessary to wait for the final decision to see whether Vukcevic and Djurovic were in conflict of interest.

“Since the lawsuits were announced to the Administrative Court, and they were filed, it was necessary to wait for the decision of the Administrative Court. The situation was rushed and the space for suspicion thus opened that this was primarily a matter of politically motivated action and systemic omission, since the Parliament took over the powers that do not belong to it according to the Law.”<sup>39</sup>

The court also found unlawful an earlier decision of the RTCG Council to dismiss General Manager Rade Vojvodic<sup>40</sup> from his duties (on November 30, 2016) because of an inadequate annulment of the competition for election of director as well as because of the abolition of certain programs and poor management. Vojvodic won<sup>41</sup> the case in the first instance procedure against RTCG.

The RTCG Council basically represents the society as a whole, and its competencies are determined by the Law, the RTCG Statute, and RTCG normative acts. Also, the Law on Public Service provides for the independence of the Council.<sup>42</sup>

When it comes to the funding the Public Broadcaster, the Law stipulates that it acquires funds from the budget of Montenegro, the production and broadcasting of advertising content, the production and sale of shows, films or series and sound and image carriers that are in the public interest, from sponsorship of programs, organizing concerts and other events, as well as from other sources<sup>43</sup>. From the budget of Montenegro, for the realization of the core activity of RTCG, as foreseen in the new Law on Public Service, it is allocated 0.3% of gross domestic product. A three-year agreement on the financing<sup>44</sup> of the Public Service was signed with the Government, worth about 40 million Euros.

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

Since the middle of 2011 when defamation was decriminalized, compensation for damage to honor and reputation has been achieved through civil litigation and on the basis of the Law on Obligations<sup>45</sup>. The Analysis of the Media Sector of the Council of Europe and the European Union states that the decriminalization of defamation was a positive progress, but that legislation regulating this area and its implementation in practice is often an enemy of freedom of expression “in the sense that it is relatively easy to sue for defamation and relatively difficult to defend from such allegations.”<sup>46</sup> The analysis further states: “Defamation cases must be resolved correctly and cannot be used to “mute” the media. In this regard, the Prosecutor’s Office of Montenegro is obliged to guarantee appropriate, accurate, and timely information, protecting the necessary transparency in cases of investigation against journalists.”<sup>47</sup>

37 FOS Media, “Izmijenjen ugovor RTCG-a i CGO-a”, [Revised contract of RTCG and CCE], FOS Media, May 15, 2018, accessed August 18, 2018: <https://fosmedia.me/infos/drustvo/izmijenjen-ugovor-rtcg-i-cgo>

38 Sergej Sekulovic, interviewd by Marijana Camovic, July 31, 2018.

39 Ibid.

40 Cadjenovic, Ivan, “Rade Vojvodić pušten niz vodu”, [Rade Vojvodic sent down the hill], Vijesti, December 1, 2016, accessed 30, 2018: <http://www.vijesti.me/vijesti/rade-vojvodic-pusten-niz-vodu-914221>

41 Ajkovic, Danilo, “FOS saznaje: Vojvodić nezakonito razriješen dužnosti generalnog direktora RTCG-a”, [FOS finds out: Vojvodic unlawfully replaced from the position of RTCG’s Director General], FOS Media, May 29, 2018, accessed June 15, 2018: <https://fosmedia.me/infos/drustvo/fos-sznaje-vojvodic-nezakonito-razrijesen-duznosti-generalnog-direktora-rtcg-0>

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

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

44 “Vlada će za finansiranje RTCG u naredne tri godine izdvojiti oko 40 miliona eura”, [The Government will allocate around 40 Euros million to finance the RTCG in the next three years], Ministry of Culture, last modified April 19, 2018: <http://www.mku.gov.me/rubrike/Sektor-ME/184004/Vlada-ce-za-finansiranje-RTCG-u-naredne-tri-godine-izdvojiti-oko-40-miliona-eura.html>

45 Law on Obligations of Montenegro, Article 149.

46 Analysis of Montenegro Media Sector with Recommendations for Harmonization with the Standards of the Council of Europe and European Union, 2017, accessed May 15, 2018: <https://rm.coe.int/analiza-medijskog-sektora-u-crnoj-gori-sa/16807b4d7d>

47 Ibid, p. 11.



In the period from 2011 to June 2017, Montenegrin courts worked on a total of 109 cases concerning compensation for damages upon lawsuits against journalists or media, of which more than 1 million Euros was requested<sup>48</sup>. The report of the Supreme Court<sup>49</sup> states that 80 cases were resolved, that the claim was partially or fully adopted in 24 cases for which 45,300 Euros were charged. The report also states that in 19 cases the claim was dismissed, then, 35 claims were withdrawn, and three claims were dismissed, and in one case the proceedings was concluded with “a ruling that the matter was not in the court’s jurisdiction”<sup>50</sup>. “In 29 cases the proceedings are pending. In 72 cases the decisions are final. (...) As for individual amounts awarded by judgments, they range from 500 to 2,000 Euros, while in one case 5,000 Euros is awarded, and in one case 7,000.”<sup>51</sup>

The Supreme Court points out that there has been a slight decline in the number of complaints since 2011. They also add that out of total number of complaints, in 13 cases the complaint was filed against media and journalists, while in all other cases only media were sued. In only one case, the damaged party sued solely a journalist, but this lawsuit was withdrawn. “Out of the above 13 cases, three claims were partially accepted, whereby in these cases, the damages awarded were far lower than the amounts set forth in the claims. In four cases, the lawsuit was rejected, two lawsuits were withdrawn, while the proceedings are pending in four cases.”<sup>52</sup>

At the end of June 2018, the European Court of Human Rights issued a Decision<sup>53</sup> declaring the application of the independent daily Vijesti and the directors and co-owner of that media (Zeljko Ivanovic) inadmissible. Ivanovic and Vijesti complained that their freedom of expression had been violated by a final judgment requiring that they pay Milo Djukanovic, the president of the ruling Democratic Party of Socialists and the president and prime minister of Montenegro, the amount of 10,000 Euros for damages to honor and reputation on several occasions. Vijesti wrote “that he ‘sent his cerberus’ to beat Ivanovic and that he and his ‘biological or criminal’ family were

responsible for the attack on Ivanovic in the night of 1 September 2007, after the celebration of the tenth anniversary of work of Vijesti.”<sup>54</sup>

“The European Court found that the applicants made factual allegations in relation to the said person, which were subject of proving, but not proven. It was found that there was a difference between the statement that Djukanovic was politically responsible for a particular situation and charges that he personally sent somebody to physically attack Ivanovic. It was also concluded that the amount was proportionate to the damage that in the particular case was inflicted on Djukanovic’s reputation.”<sup>55</sup>

This court ruled in another case in which police officer Ekan Jasavic won a dispute against Montenegro, because the state violated his right to trial within a reasonable time. Namely, Jasavic sued the state after the proceedings against the daily Dan, which was conducted before the Basic and High Courts in Podgorica, lasted for six years one month and seven days. He filed a lawsuit in October 2004 when he claimed compensation for non-pecuniary damage due to inflicted damage of honor and reputation “caused by publishing inaccurate information about him in connection with the case of Moldavian S.C.”<sup>56</sup> Following the order from Strasbourg, the state paid Jasavic 1,500 Euros in the name of non-pecuniary damage, as well as 500 Euros in the name of the costs of the proceedings.

Another first-instance judgment<sup>57</sup> was rendered, after six years long proceedings, in which the journalists of the weekly Monitor, Milka Tadić Mijovic and Milena Perovic Korac, sued the daily Pobjeda (then owned by the state) for insults and hate speech, but this judgment was not rendered in their favor.

The Council of Europe points out that the number of lawsuits for violation of personality rights remains high, that high amounts of compensations are harmful for journalists and media, and that the courts have not yet implemented the practice that public figures and officials must have a higher threshold for criticism. All of this, they add,

48 Ajkovic, Danilo “FOS priča: Od novinara i medijskih kuća traženo više od milion eura!”, [FOS story: More than a million Euros demanded from journalists and media outlets!], FOS Media, March 25, 2018, accessed March 25, 2018: <https://fosmedia.me/infos/drustva/fos-prica-od-novinara-i-medijskih-kuca-trazeno-vise-od-milion-eura>

49 Supreme Court of Montenegro, Report on the Application of the European Convention for the Protection of Human Rights and Fundamental Freedoms in the Practice of the Supreme Court of Montenegro, January 2015 - July 2017, p. 57, accessed August 01, 2018: <http://sudovi.me/podaci/vrsh/dokumenta/8601.pdf>

50 Ibid.

51 Ibid.

52 Ibid, p. 58.

53 European Court of Human Rights, Decision in case No. 24387/10, June 05, 2018: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-184463%22%7D>

54 “28/6/2018 Odluka: Ivanović i Vijesti protiv Crne Gore (24387/10)”, [28/6/2018 Decision: Ivanovic and Vijesti against Montenegro], Human Rights Action, last modified on June 28, 2018, accessed on July 15, 2018: <http://www.hrraction.org/2018/06/28/28-6-2018-odluka-ivanovic-i-vijesti-protiv-crne-gore-24387-10/>

55 Ibid.

56 Ajkovic, Danilo, “FOS priča: Jasavić dobio Crnu Goru pred Strazburom”, [FOS story: Jasavic won case against Montenegro before the Court in Strasbourg], FOS Media, August 07, 2018, accessed August 07, 2018: <https://fosmedia.me/infos/drustvo/fos-prica-jasavic-dobio-crnu-goru-pred-strazburom>

57 Boricic, Maja, “Presuda je nova uvreda”, [The judgement is a new insult], Vijesti, September 04, 2018, accessed September 04, 2018: <http://www.vijesti.me/vijesti/presuda-je-nova-uvreda-1002792>

can lead to self-censorship among journalists “because the media they work for do not have the resources to fight with legal remedies.”<sup>58</sup>

That the number of lawsuits for defamation is still high is also indicated in the report for 2018 of the European Commission. They point out that this indicates to “weak self-regulation mechanisms.”<sup>59</sup>

Self-regulation in Montenegro is carried out by the Media Self-Regulation Council, which includes 19 media, the Local Press Council, as well as ombudsmen of the daily newspapers Vijesti, Dan, and weekly Monitor. That is precisely why, according to the experts, it can be said that the Montenegrin media takes care of respecting professional and ethical standards. Professor Natasa Ruzic believes that the media has progressed in certain areas because, for example, in the media, the bodies of victims of road accidents cannot be seen anymore in close-ups or headlines with shocking photographs from the crime scene.

“However, numerous ethical problems remain. Media self-regulatory bodies do not react too often on violating the code of ethics, they react only in some extreme situations. I think that self-regulatory bodies are “too quiet and almost invisible” and should not react only in cases of citizens’ complaints.”<sup>60</sup>

According to her, a unique self-regulatory body would be an ideal solution, but, given the polarization of the modern market, this is impossible. She explains that there are several self-regulatory bodies in large markets, but it is completely unnecessary to have that number in a small media market and in a small country.

“In order to improve the situation, it is necessary that journalists themselves want to fight for their profession. Journalists regardless of the editorial policy of the media should understand that they are on the same side when it comes to self-regulation because they are struggling exclusively for quality journalism and professional and ethical standards. Otherwise, alternative media will take over the role of the mainstream media.”<sup>61</sup>

Similar opinion is given by Paula Petricevic, Ombudsman of the independent daily Vijesti and weekly Monitor. According to her, self-regulation is effective only if the media perceives it and treats it seriously “starting from financing the form of self-regulation they have decided to apply to publishing decisions by which the complaint is adopted, that is, the complaints that state the violation of the Code by that media.”<sup>62</sup> “This practice is crucial for respecting ethical standards as it shows the readiness of the media to accept responsibility, acknowledge their mistakes and minimize their repetition in the future.”<sup>63</sup>

From the European Commission they point out that self-regulatory bodies still reflect the overall polarization of the media scene in Montenegro, and that dialogue between different mechanisms of self-regulation should be improved “with the aim of further improving professional standards in media reporting.”<sup>64</sup>

Research with journalists has shown that the possibility of a lawsuit for defamation has a very strong or strong effect on the work of almost every other journalist (49.2%). Just over 21% of the respondents said that the possibility of a lawsuit partially affected them, while almost 19% of them said that the possibility of a lawsuit for defamation affected little or had no impact on their work.

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

Currently, about 110 media are registered in Montenegro.<sup>65</sup> While the media scene remains very polarized,<sup>66</sup> there is not a great variety of media content. “The lack of training and unprofessional behavior of journalists

58 Council of Europe, *Analysis of Montenegro Media Sector with Recommendations for Harmonization with the Standards of the Council of Europe and European Union*, 2017, p. 91, accessed May 15, 2018: <https://rm.coe.int/analiza-medijskog-sektora-u-crnog-gori-sa/16807b4d7d>

59 European Commission, *Montenegro 2018 Report*, p. 27, accessed May 20, 2018: <http://senat.me/wp-content/uploads/lzvj%C5%A1taj-o-napretku-Crme-Gore-2018-EU.pdf>

60 Natasa Ruzic, interviewed by Bojana Lakovic Konatar, July 29, 2018.

61 Ibid.

62 Paula Petricevic, interviewed by Bojana Lakovic Konatar, August 13, 2018.

63 Ibid.

64 European Commission, *Montenegro 2018 Report*, p. 29, accessed May 20, 2018: <http://senat.me/wp-content/uploads/lzvj%C5%A1taj-o-napretku-Crme-Gore-2018-EU.pdf>

65 The Register of the Agency for Electronic Media shows that there are 11 commercial television stations, 34 commercial radio broadcasters, 35 electronic publications (portals), 4 local television stations, 14 local radio stations, two non-profit radio broadcasters, as well as Public service - Radio and Television of Montenegro, which consists of 5 media. Also, four daily newspapers and one weekly newspaper are published in Montenegro, while during a certain period of 2018, the daily newspaper Sloboda was published.

66 European Commission, *Montenegro 2018 Report*, p. 5, accessed May 20, 2018: <http://senat.me/wp-content/uploads/lzvj%C5%A1taj-o-napretku-Crme-Gore-2018-EU.pdf>

combined with political and economic interference and small salaries of journalists occasionally contribute to bias reporting.”<sup>67</sup>

In 2018 for three months, the daily newspaper Sloboda was published, but it failed to place itself in the market and was shut down.

“Sloboda at the very start was doomed to failure because some sales chains refused to introduce the code under which they would sell newspapers so they could not be sold. Numerous shopkeepers refused to sell Sloboda. The only motive that I can recognize is that Sloboda was written in Cyrillic and it was nationally colored.”<sup>68</sup>

Media monitoring of election campaigns is envisaged by the Law on National Public Broadcaster of RTCG and the Law on the Election of Councilors and Members of Parliament<sup>69</sup>. It is legally defined that AEM has an obligation to monitor whether the electronic media operates in accordance with the legal framework, and has the right to issue warnings, impose fines or temporarily or permanently suspend the license.

After the parliamentary elections in 2016, the OSCE/ODIHR Election Observation Mission indicated that the Law on Electronic Media did not specifically regulate the election campaign, but defined the general standards of program content and paid advertising. “It would be useful to change the existing legal framework for media in the part relating to the definition of political advertising.”<sup>70</sup>

By means of these recommendations, the Parliament of Montenegro adopted the Law on Amendments to the Law on Electronic Media in December 2017<sup>71</sup>. The law is supplemented by a chapter dealing with political advertising and an election campaign, and it defines political advertising and stipulates that it “shall not be counted in the allowed duration of advertising.”<sup>72</sup> In addition, the amendments envisage the obligation of the Council of the Agency for Electronic Media to adopt a regulation that closely regulates the conditions for realization of the rights and obligations of the broadcasters when it

comes to election campaigns and political advertising. This regulation should be adopted no later than seven days from the date of calling the election. This document envisages also a special procedure for filing complaints regarding the work of the broadcaster, and defines the deadlines for resolving these objections.

In 2016, the monitoring mission assessed that the media mainly focused on monitoring the campaign, but dealt less with analysis of campaigns and programs. “It is recommended that public media make additional efforts to actively monitor the campaign in an impartial and professional manner, rather than relying on materials provided by political parties.”<sup>73</sup>

On the other hand, media monitoring during the presidential elections of 2018, carried out by AEM, showed that the amount of media coverage on television was between two and two and a half times higher than that of radio. “Two thirds of media presentations on television were made through informative or special shows about the presidential election. Political communication via radio is primarily conducted through short advertising content.”<sup>74</sup>

The Agency says that they have not received any candidate’s complaint on the work of electronic media, but they point out that broadcasters did not use the “paid” or “free” political ads, but used the label “political marketing” for paid ads.

The analysis of the Center for Civic Education showed that in the period from March 15 to April 15, 2018, the media published 4,534 announcements about the presidential election, and that most of these publications were on online media (55%). “The negative campaign was somewhat more prevalent (30,4%), compared to the positive (25%), and the data shows that the media also focused more on criticism and attacks among the candidates.”<sup>75</sup>

67 State Department, Human Rights Report for Montenegro for 2017, 2018, accessed August 15, 2018: <https://me.usembassy.gov/wp-content/uploads/sites/250/IZVJE%C5%A0TAJ-O-LJUDSKIM-PRAVIMA-ZA-CRNU-GORU-2018.pdf>

68 Gajko Raicevic, interviewed by Marijana Camović, jul 25, 2018.

69 Law on Election of Councilors and Members of Parliament, Article 6

70 OSCE/ODIHR, Montenegro Parliamentary Elections 2016 - Final Report of the Monitoring Mission, January 25, 2017, accessed June 25, 2018: <https://www.osce.org/me/odihr/elections/montenegro/295781?download=true>

71 Law Amending the Law on Electronic Media, Official Gazette of Montenegro 92/17.

72 Ibid, Article 96a

73 OSCE/ODIHR, Montenegro Parliamentary Elections 2016 - Final Report of the Monitoring Mission, January 25, 2017, p. 16 accessed June 25, 2018: <https://www.osce.org/me/odihr/elections/montenegro/295781?download=true>

74 Agency for Electronic Media of Montenegro, Report on Media Presentation during the Election Campaign for the President of Montenegro held on April 15, 2018, accessed on August 1, 2018: <http://aemcg.org/wp-content/uploads/2018/04/izvje%C5%A1taj-o-medijskom-predstavljanju-za-Predsjedni%C4%8Dke-izbore-2018-april-2018.pdf>

75 Center for Civic Education (CCE), SPINoFAKT 2 - Political advertising between spin and facts - Media Monitoring Report for 2018 Presidential Elections in Montenegro (Podgorica: CCE, 2018), p. 47, accessed June 21, 2018: <http://media.cgo-cce.org/2018/06/Spinofact-2-publikacija-08-06-2018.pdf>

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

In the last year there have been no serious initiatives for the introduction of licenses or work permits for journalists. Who will be the journalist will still be determined by the media houses themselves, most often by internal advertisements.

The research showed that every fourth journalist was denied to report from certain places or events because they did not have accreditation. On the other hand, 65% of them did not have such problems. In that way, the 21st Century Coalition, consisting of two political parties, the Democrats and the URA, refused to accredit the representatives of the FOS Media portal to report from their premises after the closure of polling stations for the local elections in Podgorica, held by end of May 2018. The accreditation of the press crew, as they explained, was rejected “because of extremely unprofessional, malicious, biased, and inaccurate reporting before and during the election campaign.”<sup>76</sup>

In Montenegro, there are several media associations operating at the local and national level, and among them are the Association of Commercial Electronic Media of Montenegro, the Association of Local Services, the Union of Local Public Broadcasters of Montenegro, and the Association of Independent Electronic Media. The interests of journalists are protected by several professional associations, which are very inactive, and some of them are politicized. Currently, the Association of Professional Journalists of Montenegro, the Association of Journalists of Montenegro, and the Association of Professional Journalists of Montenegro are functioning in Montenegro.

The interviewed journalists were asked whether they were free to join a journalist association and whether they were part of any of them. Judging by the results of the survey, journalists are mostly free to join the association of journalists, and as many as 75% of the respondents said so. However, only 23.5% of them said they were part of an association, while as many as 75% of respondents were not part of any journalists’ association, because there is general opinion that they cannot improve their position.

Labor and, partly, professional rights of journalists are also protected by trade unions, primarily the Trade Union of Media of Montenegro (SMCG), which gathers more than half of the employees in the media sector. In addition to the SMCG, there is also the Trade Union of Information Graphic and Publishing Activities, which includes a part of the media employees. In mid-2018, representatives of these two unions signed an agreement on joint representation, envisaging activities that would enable a better position of media employees<sup>77</sup>. There have been no cases of threats and formal pressures on the work of trade union representatives and representatives of journalists’ associations in the public. There is no information about formal prohibition or pressure on employees not to join the union, but colleagues point out to informal threats if they join a union.

This year’s survey showed that every fifth journalist does not feel free to join trade union. Even 8% of the respondents answered the question “Are you free to join one of the trade unions?” with “I do not know”, which may indicate to fear of consequences that a “more honest answer” would bring. When it comes to the union activity of respondents, 38% said that they were a member of one of the trade unions, while 60% said that they were not a member of any union.

The data of the official national statistical office Monstat show that the number of employees in the media sector is changing from year to year. Thus, after a huge increase in the number of employees in 2016<sup>78</sup>, Monstat registered a reduction in 2017, so according to official data in the Montenegrin media currently there are 1,350 people working<sup>79</sup>. This decline was mainly due to a reduction in the number of employees in the sector of “production and broadcasting of TV programs”.

76 FOS Media, “Koalicija Demokrate i URA odbila da akredituje FOS Media za izbornu noc”, [The Democrat and URA Coalition refused to accredit FOS Media for an election night], FOS Media, May 26, 2018, accessed June 15, 2018: <https://fosmedia.me/infos/drustvo/koalicija-demokrate-i-ura-odbila-da-akredituje-fos-media-za-izbornu-noc>

77 “SMCG potpisao sporazum sa Sindikatom informativne, grafičke i izdavačke djelatnosti”, [TUMM signed an agreement with the Trade Union of Information, Graphic and Publishing Activities], Trade Union of Media of Montenegro, last modified June 25, 2018: <http://sindikatommedija.me/index.php/saopstenja/274-smcg-potpisao-sporazum-sa-sindikatom-informativne-graficke-i-izdavacke-djelatnosti>

78 Trade Union of Media of Montenegro, *Indicators of Media Freedom and Journalists’ Safety, Montenegro*, (Podgorica: Trade Union of Media of Montenegro 2017), p. 18, accessed June 6, 2018: <http://safejournalists.net/wp-content/uploads/2017/11/Sindikatom-medija-final-izvjestaj-2017.pdf>

79 Answer, Statistical Office of Montenegro - Monstat, No. 01-830/2, March 23, 2018

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

In Montenegro, there were no changes in regulations that guarantee the legal protection of journalistic sources. This area is stipulated by Article 21 of the Law on Media. With the announced changes to this Law, the right to protection of the source will be fully harmonized with Article 10 of the European Convention on Human Rights.

Confidentiality of information sources is generally observed, but there were also cases in which journalists were asked to disclose their sources, as noted in the report of the European Commission on Montenegro for 2018<sup>80</sup>. One of those cases was when the journalists of Vjesti, Jelena Jovanovic and Samir Adrovic, were invited for an informative interview. Namely, after publishing the text<sup>81</sup> in mid-2017 about the event in the Ulcinj prosecution, they were invited to an informative interview in the police and were asked to disclose sources from which they learned about the event<sup>82</sup>, which they refused. At the beginning of February 2018, the Council for Civilian Control of the Police assessed that, in this case, the police officers "exerted pressure on the journalist and the possibility of journalists to protect the confidentiality of the sources, thereby exceeding official authority."<sup>83</sup>

"The Council specifies in particular that the Police Directorate in all subsequent cases should very carefully assess the aforementioned facts, domestic and international standards and regulations in that regard, so not to jeopardize the work of journalists by any similar action, especially in terms of pressuring them to discover the source, or other acts that would violate the personal and professional rights of journalists."<sup>84</sup>

Almost every other interviewed journalist said they had

great freedom in choosing the interlocutors to work with, while every fourth journalist had absolute freedom in that regard. Almost 57% of respondents report that they maintain contact with their sources of information very often or constantly; slightly more than 23% of them keep this contact occasionally, while about 12% of respondents rarely or almost never contact sources of information.

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

After amendments to the Law on Free Access to Information<sup>85</sup> were adopted at the beginning of May 2017, the situation in this area has deteriorated considerably<sup>86</sup>. These changes have been criticized by numerous experts in the field of free access to information "because of the high degree of generality, inaccuracy and their mutual contradiction" that opens space to arbitrary interpretations and refusal of access to information. According to the coordinator of the legal program of Network for Affirmation of NGO Sector (MANS) for the Promotion of the Non-Governmental Sector, Vuk Jankovic, the list of restrictions on access to information has been expanded which is "contrary to the Constitution of Montenegro and international standards".

"In practice, there is a significant increase in the number of decisions by authorities that use the shortcomings of this law and limit access to lots of information of public importance. Such amendments allow for the denial of the public's right to know when a body prescribes the obligation to keep the secret, because in this case the Law on Free Access to Information does not apply to the requested information."<sup>87</sup>

Therefore, in the opinion of MANS, it is necessary to start working on the amendments to the existing Law as soon as possible and to fully harmonize it both with international standards and the Constitution of Montenegro. In 2017, MANS submitted over 9,000 requests for access to information, while in 2018, up to date, about 7,500. Nevertheless, state authorities denied access to information, on average, for every third request. "The basis is different - either the authority does not have the information requested, or it prohibits access to information. There is still a high percentage of situations where "the administration is silent," so for around 20% of cases no

80 European Commission, *Montenegro Report 2018*, p. 27, accessed May 20, 2018: <http://senat.me/wp-content/uploads/lzvjje%20A1taj-o-napretku-Crme-Gore-2018-EU.pdf>

81 Jovanovic, Jelena, Adrovic, Samir, "Gužva u ulcinjskom tužilaštvu: Advokati jači od policije, spriječili hapšenje", [Mess in Prosecution Office of Ulcinj: Lawyers stronger than police, prevented the arrest], *Vijesti*, July 08, 2017, accessed June 15, 2018: <http://www.vijesti.me/vijesti/guzva-u-ulcinjskom-tuzilastvu-advokati-jaci-od-policije-spriječili-hapsenje-945713>

82 Mihajlovic, Danilo, "Policija saslušavala novinare "Vijesti": Pitali ih za izvore"; [Police Interrogated Journalists of Vjesti: Asked them about their sources], *Vijesti*, July 12, 2017, accessed June 15, 2018: <http://www.vijesti.me/vijesti/policija-saslusavala-novinare-vijesti-pitali-ih-za-izvore-946258>

83 Conclusion, Council for Civilian Control of Police Work, No. 33/8 - 17, March 02, 2018, p. 2, accessed August 08, 2018: <http://www.kontrolapolicije.me/sites/default/files/lzvjestaji/Ocjena%20gra%C4%91anske%20kontrola%20policije%20Policija%20prekorac%CC%8Cila%20ovlas%CC%8Cc%CC%81enja%20prema%20novinar-ki%20ND%20Vijesti%20J.Jovanovic%CC%81.pdf>

84 *Ibid.*, p. 3

85 *Law on Free Access to Information, Official Gazette of Montenegro 030/2017*

86 Vuk Jankovic, interviewed by Bojana Lakovic Konatar, August 14, 2018.

87 *Ibid.*



response has been received from the authorities.”<sup>88</sup>

In 2017 and 2018, eight research stories were published based on the information that this NGO received by means of the Law on Free Access to Information.

“Our experience tells us that year after year we feel a significant shift when it comes to using the Law on Free Access to Information by journalists. Often it happens that we are contacted by journalists to clarify the process of filing a request to them or they simply ask us to act as intermediary in accessing specific information.”<sup>89</sup>

In 2017, Montenegrin journalists submitted to the Agency for the Protection of Personal Data and Free Access to Information 67 requests for free access to information, where 13 of which were rejected. From January to July this year, journalists filed 20 requests for free access to information, and 8 of them were rejected.

“In 2017, a total of 9 complaints were filed against: the Property Directorate, the Ministry of Agriculture and Rural Development, the Public Radio and TV of Montenegro, the Basic State Prosecutor’s Office Herceg Novi, the High Court of Podgorica, the Basic Court of Herceg Novi, the Basic State Prosecutor’s Office Kotor, Real Estate Directorate PJ Podgorica, and the Ministry of Economy.”<sup>90</sup>

On the other hand, during 2018, journalists complained against the Investment Development Fund, the Food and Phytosanitary Administration and the Central Bank of Montenegro.

A survey of the Trade Union of Media of Montenegro showed that almost every third journalist has never asked for information from the authorities on the grounds of free access to information, while almost the same number of their colleagues filed such requests but were denied. On the other hand, 23% of respondents filed a request for free access to information, and were not rejected.

The research also showed that, according to the journalists, the main institutions in Montenegro are partially transparent, while the Parliament of Montenegro was assessed as the most transparent. Namely, a quarter of the respondents assessed that the Parliament of Montenegro showed a high degree of transparency or complete transparency, while slightly more than 13% indicated that it showed poor transparency or non-transparency. The majority of respondents said that the Parliament was partially transparent.

Every other respondent sees the government as partially

transparent, while slightly more than 18% of them pointed out that the Government has shown a high degree of transparency or complete transparency, and about 15% of respondents think that the Government has proved to be little or completely non-transparent. 45% of respondents think that political parties are partially transparent, while 21% of them say that they are non-transparent or little transparent. About 18% of respondents pointed out that political parties were very or completely transparent.

Interestingly, journalists consider that politicians are less transparent than the parties, so 27% of respondents said that politicians showed little transparency, while 41% said that they were partially transparent. About 15% of respondents consider that politicians show a high degree of openness.

Courts, the police and the Army are at the bottom in terms of transparency, and the last place and the title of the least transparent institution, according to the reporters, has the prosecution. Similar opinion was given by interviewed journalists in 2016, when they rated the Army and the courts as least transparent, while the Parliament was rated as the most transparent.

This year’s survey showed that about 37% of respondents indicated that the courts showed low level of transparency, every third respondent thinks that they are partially open, while only 16% of respondents consider the courts as very or completely transparent. Even 37.5% of the respondents indicated that the Army showed a low degree of transparency, while almost every third respondent said that the Army was partially transparent. About 14% of respondents said it was completely or very open.

When it comes to the police, 38% of respondents think it is completely non-transparent or shows poor transparency. 35% of the respondents think that the police are partially transparent, and 13% think that this institution is completely or very transparent. The survey showed that the Prosecutor’s Office was the least transparent institution, and even more than 40% of the respondents indicated that it turned out to be non-transparent or little transparent. About 29% of respondents said that the Prosecution was partially transparent, and slightly more than 16% of respondents said that it showed a great deal of transparency or complete transparency.

In MANS, they point out that on daily basis they run into a large number of institutions that hide data of public importance. However, the practice has shown that those are some of the most prominent bodies: the Privatization and Capital Projects Council, the Investment Development Fund, the Tax Administration, the Ministry of Economy, the Ministry of Transport and Maritime Affairs, the Ministry of Agriculture and Rural Development, as well as state enterprises: Elektroprivreda Crne Gore, Plantaže July 13, Montenegro Airlines.

<sup>88</sup> *Ibid.*

<sup>89</sup> *Ibid.*

<sup>90</sup> Letter, Agency for Personal Data Protection, No. 07-43-6150-2/18, August 06, 2018

# B

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

Journalists still earn lower salaries than the average national salary and even every third journalist earns less than 400 Euros net per month. Local media are owed up to eight salaries, and even 60% of journalists claim that their economic situation has deteriorated. Media daily life in Montenegro is characterized by overtime work, work in grey economy, hiring through agencies for temporary assignment of employees, overloaded employees, pressures for sensationalism and profit making, as well as journalists' unwillingness to publicly speak about their problems. Recommendations to introduce provisions in the Media Law to ensure editorial independence in newsrooms were not adopted. The amendments to the Code of Conduct of Journalists are currently being drafted in order to regulate on-line comments. The independence of local public broadcasters and the Public Broadcasting Service is often called into question. Journalists feel free to work, but are influenced by a large number of external and internal factors. 80% of respondents claim that editors have the greatest influence on journalists. Every third journalist faces censorship and every second journalist' work is limited by the ethical standards. The Media Self-Regulation Council does not consider the complaints due to lack of finance.

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

There have been no recent surveys on the number of journalists, but obsolete data are used according to which there are about 800 journalists in the Montenegrin media. There is no progress even when it comes to journalists' readiness to talk about their economic and social situation, but there is information that some media have hired some of their journalists through agencies for temporary assignment of employees. I work as a reporter for an agency for temporary assignment of employees and I do not have an employment contract in the medium I work for, but I am extending the contract for each three months. I receive part of the salary via the bank account, while they give me the rest of the money in cash."<sup>91</sup>

When it comes to salaries, they are often irregular and insufficient, and in many cases, they are late. The Trade Union of Media's research has once again confirmed that the salaries of journalists are below the national average, which in July 2018 amounted to 508 Euros<sup>92</sup> net. More than a third of the interviewed journalists (35%) receive a salary amounting to 400-500 Euros and every third journalist receives less than 400 Euros. Every fifth journalist can boast a salary of 500-600 Euros, and only 12.5% of journalists receive a salary higher than 600 Euros. Salaries in private media are higher than in the state-owned media. The research also showed that the editors were generally not willing to talk about their salaries that journalists mostly receive less than 500 Euros, but also that there was a big difference between salaries of editors and journalists, which affects the amount of average salary in the media.

**Table 1:** In which of the following categories does your monthly salary fall, after taxes?

	Number of answers	%
0-200	5	3.7
201-300	11	8.1
301-400	23	16.9
401-500	48	35.3
501-600	27	19.9
601-700	11	8.1
701-800	3	2.2
801-900	1	0.7
901-1000	0	0
>1000	2	1.5
no answer	4	2.9
I don't know	1	0.7
Total	136	100

Frequent salary delays forced employees of the Local Public Broadcaster of Radio Television of Pljevlja to go on strike at the end of 2017. Since the employees in that media, whom Municipality of Pljevlja, founder of that media, owed five salaries, were on the verge of biological survival<sup>93</sup>, bankruptcy<sup>94</sup> was initiated in mid-November, but interrupted at the beginning of 2018 without major success for employees. In addition, salaries are two to eight months paid late in other local public broadcasters, which is also total amount of current debts of the Municipality towards Radio Berane.

Employees in private media are not devoid of the problems either. Thus, since March 2017, bankruptcy proceedings have been initiated before the Commercial Court over the Atlas Television, which, among other things, owes about 800,000.00 Euros for salaries and taxes for about 36 former employees.<sup>95</sup> In the meantime, the A1TV, owned by the same person, was established. Former employee of that media house, journalist Dusanika Pejovic, said that employees were demanding the cancellation of two sales contracts between the Atlas Television and Atlas Media Group (founder of the A1TV), which were concluded a month before the bankruptcy

91 Anonymous, interviewed by Marijana Camovic, July 15, 2018

92 "Prosječne zarade (plate) jul 2018. godine", [Average wages, July 2018], Monstat, August 30, 2018, accessed September 01, 2018: <https://www.monstat.org/cg/novosti.php?id=2797>

93 "Zaposleni u RTV Pljevlja na ivici biološkog opstanka", [Employees of the RTV Pljevlja on the verge of biological survival], Trade Union of Media of Montenegro, October 30, 2018, accessed June 22, 2018: <http://sindikatomedija.me/index.php/saopstenja/214-zaposleni-u-rtv-pljevlja-na-ivici-bioloskog-opstanka>

94 "Ne smije biti pritiska na ljude u štrajku", [There must be no pressure on people on strike], Trade Union of Media of Montenegro, November 18, 2018, accessed June 22, 2018: <http://sindikatomedija.me/index.php/saopstenja/219-ne-smije-biti-pritiska-na-ljude-u-strajku>

95 Čadjenović, Ivan, Radulović, Mila, "Atlas u stečaju, Knežević pokreće TV A1", [Atlas in bankruptcy, Knežević starts TV A1], Vijesti, February 21, 2018, accessed June 22, 2018: <http://www.vijesti.me/vijesti/atlas-u-stecaju-knezevic-pokrece-tv-a1-976712>



was initiated.

„Overall equipment of the Atlas Television was then sold for 7,700 Euros and it was supposed to enter the insolvent estate. Now the judge has appointed experts who will determine the value of the equipment and decide whether the Atlas Media Group will pay out the amount or we will confiscate the equipment and sell it. Of course, all this if it is found that equipment is worth more than 7,700 Euros – and there is no doubt about it.“<sup>96</sup>

The procedure for the establishment of the A1TV, as stated by the Agency for Electronic Media (the AEM), was carried out in accordance with the Law on Electronic Media and the Rulebook on the Conditions and Procedure for Issuing Broadcasting Licenses. Namely, the Agency has allowed the company Atlas Media Group to permanently broadcast the TV program “Televizija Atlas” of Radio and Television Atlas.<sup>97</sup> While the AEM claims that everything was done in accordance with the law, employees believe that the establishment of the A1TV is at least controversial. They also argue as controversial the fact that the Agency allowed the newly established TV to replicate the entire Atlas TV program they have created for 10 years.

“They even took our logo and held it at the top of the screen “The best of 2006-2016““. Thus, they admit that they are two related companies, which further complicates the situation, as there are indications that someone deliberately provoked bankruptcy in order to shift business from one company, which is in debt, to another and sell the equipment for a ridiculous amount of money to oneself.“<sup>98</sup>

In addition to low salaries, which in significant number of media, especially local, are paid late after several months, the overwhelming problem is overtime work and work in grey economy. Thus, 63% of respondents said that journalists’ working hours increased to a certain extent in previous period.

The survey once again showed that journalists assess their economic position as getting worse year after year. Based on the answers, as many as 60% of the respondents say that the economic position of the journalists weakened considerably or to certain extent, and only slightly less than 9% of the respondents believe that it strengthened partially or very. For almost 30% of the respondents, the economic situation of journalists did

not change. Private media journalists mostly share the opinion that the economic position of journalists has weakened and such an opinion is not affected by the job position they perform in the media - both journalists and editors share that view.

Almost 15% of respondents were forced to work another paid job in addition to journalism. Most of those who are forced to perform another job are actually employees in private media (8%).

**Table 2:** Was there improvement or worsening in economic position of the journalists in Montenegro?

	Number of answers	%
considerably worsened	56	41.2
somewhat worsened	25	18.4
not changed	39	28.7
somewhat improved	8	5.9
improved considerably	4	2.9
no answer	3	2.2
do not know	1	0.7
Total	136	100

In October 2017, in order to influence the improvement of the economic position and professional status of journalists and other media workers, the Trade Union of Media of Montenegro started negotiations with the Montenegrin Employers Federation on Branch Collective Agreement<sup>99</sup>. Negotiations began a year after the submission of the Draft Branch Collective Agreement.

Professional status of journalists in newsrooms is also problematic. Journalists are often overloaded and the media lack people and equipment. The Radio Television Budva also faces this type of problems, and the editor-in-chief of that media station, Iva Pavlovic, points out that the problem is that there are not enough people “with knowledge and integrity“ who can talk about topics important for their city, “so it is sometimes tedious to constantly invite the same people to speak.“

“The other thing that can be a problem, but it is specific to the local media, is that everyone perceives us as family members - too close, so they need to keep telling us what and how to do. Being critical here is much more difficult than in larger systems.“<sup>100</sup>

96 Dusanka Pejovic, interviewed by Bojana Lakovic Konatar, August 02, 2018

97 Decision, Agency for Electronic Media of Montenegro, No. 01-2155/1, December 20, 2016: <http://aemcg.org/wp-content/uploads/2018/06/Saglasnost-Savjeta-za-prenos-odobrenja-RTV-Atlas-na-Atlas-Media-Group-d.o.o.-20.12.2016-1.pdf>

98 Dusanka Pejovic, interviewed by Bojana Lakovic Konatar, August 02, 2018

99 “Počeli pregovori o novom Granskom kolektivnom ugovoru za oblast medija”, [Started negotiations on new Branch Collective Agreement for Media], Safe Journalists, last modified October 18, 2018, accessed August 15, 2018: <http://safejournalists.net/me/poceli-pregovori-o-novom-granskom-kolektivnom-ugovoru-za-oblast-medija/>

100 Iva Pavlovic, interviewed by Bojana Lakovic Konatar, July 05, 2018

Journalists agree that the pressures for profit making have strengthened to some extent, and this opinion is shared by more than 63% of the respondents. For only 12% of them, these pressures have weakened to a certain extent. The situation is even worse when it comes to pressures due to creation of sensational news. Thus, almost 70% of the interviewed journalists think that these pressures have somewhat or much strengthened, while 11% of their colleagues think that these pressures have weakened.

Moreover, while the pressures are getting stronger, almost every second respondent believes that the credibility of journalism is reduced to some extent. On the other hand, as many as 47% of respondents consider that the education of journalists in previous years has weakened partially or considerably, while 30% believe that it has somewhat or significantly strengthened.

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

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Montenegrin media do not have internal regulations that would regulate the work of the newsrooms, nor did they formally separate the editorial board for information from advertising. Expert analysis has shown that there is a great need to adopt a legal mechanism to ensure the editorial independence of the newsroom. There was no understanding for this idea, which the Trade Union of Media pressed for at the meetings of the Working Group drafting the Amendments to the Media Law. As explained at these meetings, this would constitute a business barrier. Earlier, there was an example that some media did not allow critical reporting on major advertisers.<sup>101</sup>

This year's research with journalists shows that advertising do not influence at all or have little influence on more than 52% of respondents, while slightly more than 16% of respondents indicated that the influence of advertising on their work is large or remarkable. Every fourth surveyed journalist said that advertising partly influences his/her work.

The Code of Ethics of Journalists of Montenegro was amended in 2016 and new amendments are being prepared (in the part relating to on-line comments), which, as well as the basic text, will be binding for journalists who want to write ethically. As far as it is known, no private media has adopted specific ethical rules. The Media Self-Regulation Council consists of 19 media and all major private media have their ombudsmen.

Due to fear of consequences, the journalists do not speak openly about the pressures they face, but in informal talks, they stress that they are under pressure and adapt their work to the will of editors and media owners.

**“Based on indirect testimonies, the impression is that there is an inappropriate influence, and that colleagues in public and local media, whose founders are in the municipality, are exposed to this influence. However, it is not excluded that there is a possibility to talk about various types of ‘influences’ on journalists of private media as well.”<sup>102</sup>**

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

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In formal terms, the level of editorial and journalistic independence in the Public Broadcasting Service (RTCG) is at a high level and will be further strengthened through new amendments to the Law on National Public Broadcaster of Radio and Television of Montenegro (RTCG), but the problem is evident political influence on this medium.<sup>103</sup>

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<sup>101</sup> Trade Union of Media of Montenegro, Montenegro - Indicators of the level of media freedom and journalists' safety (Podgorica: Trade Union of Media of Montenegro, 2017), p. 23, accessed June 6, 2018: <http://safejournalists.net/wp-content/uploads/2017/11/Sindikatomedija-final-izvjestaj-2017.pdf>

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<sup>102</sup> Olivera Nikolic, interviewed by Marijana Camovic, August 15, 2018

<sup>103</sup> European Commission, Montenegro 2018 Report, p. 65, accessed May 20, 2018: <http://senat.me/wp-content/uploads/izvje%C5%A1taj-o-napretku-Crne-Gore-2018-EU.pdf>

An integral part of the employment contract in the RTCG is the provisions of the Code of Ethics. In addition, unlike private media, the RTCG has its own Code of Ethics, which prescribes the rules of conduct of the Council members, the RTCG Director, the RTCG employees and the ethical principles of advertising. The RTCG Statute and the Law on National Public Broadcaster of RTCG specify the independence of journalists and editors.

The RTCG is a “big political resource”<sup>104</sup> and it would be an illusion to think that there are some other reasons, because in all the previous cases, when something changed, politics was primarily behind everything.

“A legal provision can regulate lot of things, but ultimately everything remains on the political culture and practice and in the development of democratic consciousness, but I think we’re pretty far from it. In the first step, it should be regulated by law and take such actions and create a system that could function as much as normal. This should be done through amendments to the Law on RTCG and the structure of the Council’s composition, the manner in which it is elected.”<sup>105</sup>

There is a high risk of political interference in editorial policy in local public broadcasters and therefore special attention should be paid to the current model of financing these media.<sup>106</sup> In its Analysis, the Trade Union of Media provided the proposal on a sustainable way of financing, which would ultimately lead to the guaranteeing of the editorial independence.<sup>107</sup>

“The mere fact that municipalities may be founders or co-founders of local or regional public broadcasters does not prevent the political influence on their editorial policy in an adequate way. The Law on Electronic Media should be amended in order to provide sufficient guarantees for the institutional autonomy of regional and local public broadcasters.”<sup>108</sup>

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

During the analyzed period, new non-profit media in Montenegro have not been established and the existing media are still underdeveloped and with little impact due to their unsustainability. There are no precise data on the number of non-profit media in Montenegro, and three non-profit media have been registered on the website of the Agency for Electronic Media (AEM) so far: PCNEN electronic newspapers and two radio stations - Radio Fatih and Radio Homer. However, there are several other non-profit media such as Radio Bruksin, Mulj Portal and others. Except that there is no record of these media, the biggest problem they face is the lack of donations on which they base their work<sup>109</sup>.

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

Montenegrin journalists generally assess that they are free in their work, but emphasize that a large number of factors, internal and external, affect them daily. First, there is a polarization of the media, pro-government and pro-opposition, which is also registered in the Council of Europe’s Analysis.<sup>110</sup> The Council of Europe’s experts explain that media in Montenegro, contrary to those in other countries, “do not pretend” to be objective, that is, they do not try to conceal their adherence.

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<sup>104</sup> Sergej Sekulovic, interviewed by Marijana Camovic, July 31, 2018

<sup>105</sup> Ibid.

<sup>106</sup> Council of Europe, *Analysis of Montenegro Media Sector with Recommendations for Harmonization with the Standards of the Council of Europe and European Union*, 2017, p. 79, accessed May 15, 2018: <https://rm.coe.int/analiza-medijskog-sektora-u-crnoj-gori-sa/16807b4d7d>

<sup>107</sup> Trade Union of Media of Montenegro, *Analysis of the position of local public broadcasters and journalists in media laws of Montenegro*, (Podgorica: Trade Union of Media of Montenegro, 2017), accessed May 28, 2018: [http://safejournalists.net/wp-content/uploads/2018/01/Pravna-analiza\\_MNE.pdf](http://safejournalists.net/wp-content/uploads/2018/01/Pravna-analiza_MNE.pdf)

<sup>108</sup> Council of Europe, *Analysis of Montenegro Media Sector with Recommendations for Harmonization with the Standards of the Council of Europe and European Union*, 2017, p. 29, accessed May 15, 2018: <https://rm.coe.int/analiza-medijskog-sektora-u-crnoj-gori-sa/16807b4d7d>

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<sup>109</sup> Bogdanovic, Milica, “Neprofitni mediji u CG – daleko od novca i zakona”, [Non-profit media in Montenegro - away from money and law], April 10, 2018, accessed April 25, 2018: <https://www.cdtmn.org/2018/04/10/neprofitni-mediji-u-cg-daleko-od-novca-i-zakona/>

<sup>110</sup> Council of Europe, *Analysis of Montenegro Media Sector with Recommendations for Harmonization with the Standards of the Council of Europe and European Union*, 2017, p. 79, accessed May 15, 2018: <https://rm.coe.int/analiza-medijskog-sektora-u-crnoj-gori-sa/16807b4d7d>

“This polarization not only structures the media landscape, it also makes it both accusing and confronting. The relationship between public authorities and some media is exasperated and aggressive, and competition among media outlets is characterized by resentment and suspicion.”<sup>111</sup>

Thus, we asked journalists how much freedom they have in the choice of stories to work on. The survey showed that every third journalist has a small or a certain degree of freedom in selecting stories to work on, while 68% of them have great freedom in this or even absolute freedom. Nevertheless, it is important to emphasize that respondents' answers are affirmative when they speak about their position, while when commenting on the general situation in their newsroom they have a negative attitude that obviously points to censorship and self-censorship. The interviewed journalists revealed to us that they had more freedom in deciding which aspects of the story would be emphasized, so 66% of them stated that they had a high degree of freedom or absolute freedom in that, while slightly more than 29% of them indicated that they had a certain degree of freedom.

The survey found that almost every third interviewed journalists frequently attended the editorial and newsroom meetings, that just under 30% of them always attended the editorial meetings, while 37.5% of the interviewed journalists said that they sometimes, rarely or almost never attended such meetings.

The research has again shown that there is a hierarchy of influence, that is, there are people who influence the work of journalists and their influence is greater if they are closer to journalists in their everyday work. Thus, according to answers of the interviewed journalists, it can be concluded that editors have the greatest influence on their work. Almost 80% of the interviewed journalists said that editors had an exceptional, large or partial impact on their work, while only 17% of respondents said that editors had little influence or did not influence on their work at all. Among those journalists on whom editors have great influence are mostly employees in private media, so every fifth respondent employed in private media said that editors very or exceptionally influenced them.

Media managers, who according to the opinion of 53% of the interviewed journalists influence them to some extent (in part, very or exceptionally), are found in the second place for the second year in a row. On the other hand, 42% of the respondents pointed out that they had little influence or did not affect their work at all. The influence of managers is most obvious in private media, as evidenced by the research that showed that every fourth respondent faced such a problem, and journalists (35%) mostly experience pressure from managers.

Media owners do not influence or poorly affect the journalists according to the answers of 39% of respondents. 33% of them claim that they have a partial influence, while just under 20% of respondents consider that owners have a great or extraordinary influence on journalists.

The survey showed that state officials generally do not influence or have a little influence on respondents (60%), and the situation with politicians is similar (65%). However, 21% of respondents believe that state officials have a partial influence on their work, and more than 18% of respondents said this for politicians. 77% of respondents claim that businesspersons have the least influence on them, and it is possible for them to have indirect impact by influencing the editors.

The members of the Joint Consultative Committee of Civil Society of the European Union and Montenegro (JCC) recognized these problems. In the Declaration adopted at the end of 2017<sup>112</sup>, they demanded from the Montenegrin authorities to provide a legal framework in order to ensure the independence of journalists and editors from managers, media owners and advertisers, but also to provide protection against unethical behavior and reduce censorship and self-censorship.

“Once again, the JCC invites all authorities responsible to take appropriate measures to create a safe environment for professional and independent investigative journalism, free from political and economic pressure.”<sup>113</sup>

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<sup>111</sup> *Ibid.*

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<sup>112</sup> “Obezbijedite nezavisnost novinara od menadžera i vlasnika medija”, [Ensure the independence of journalists from managers and media owners], Trade Union of Media of Montenegro, last modified January 09, 2018, accessed May 15, 2018: <http://www.sindikatomedija.me/index.php/aktivnosti/234-obezbijedite-nezavisnost-novinara-od-menadzera-i-vlasnika-medija>

<sup>113</sup> *Ibid.*

Even almost 80% of respondents indicated that editorial policy affected them to a certain degree (partially, very or exceptionally), and this influence was the most intense in private media where 11% of respondents said that editorial policy had an exceptional impact on their work.

The respondents' opinions are divided when it comes to the impact of censorship on them. Even 46% of respondents pointed out that censorship affected their work (partly, very or exceptionally), while a little more (47%) said that censorship did not affect at all or have a little influence on them. Almost every fourth respondent in private media faces censorship, and when it comes to employees in public broadcasters, this degree is lower (13%). According to the answers of the respondents, censorship affects the part of the editors and almost every third journalist.

The problem of censorship is also highlighted in the European Commission's Report for 2018: "The precarious economic situation of journalists, particularly due to job insecurity and low salaries, is putting them at risk of editorial interference and possible self-censorship."<sup>114</sup>

Also, in the Analysis of Media Sector, drafted within the Jufrex program, it was assessed that "political and finan-

cial pressures, poor transparency or lack of the transparency, journalist's fear for jobs, and sometimes even for their lives, a weak and divided self-regulation system lead to self-censorship, split within the media industry and the highly polarized sector."<sup>115</sup>

Ethics has an exceptional impact on the work of more than 49% of respondents, out of which 27% say that ethics affects them very much, while slightly less than 20% of respondents said that ethics partially or poorly affects their work or does not affect it at all.

Almost every second media employee thinks that the competition has strengthened somewhat or quite a lot, and only 7% of the respondents consider that it has weakened significantly.

When it comes to their attitudes about ethics, the interviewed journalists generally agree that journalists should always adhere to the Code of Ethics (94%), regardless of the situation and context. More than a quarter of respondents (26%) agree somewhat and 12% of them very strongly agree with the claim that what is ethical in journalism depends on the particular situation. 37.5% of respondents do not agree at all, while 16% of respondents agree with this statement. Almost every second respon-

**Table 3:** How influential each of the following is in your work?

	Extremely	Very influential	Somewhat influential	Little influential	No influence	Not relevant to job	I don't know/ No answer
Your colleagues	2.2%	16.2%	35.3%	22.1%	17.6%	1.5%	5.1%
Your editorial supervisors and senior editors	8.1%	28.7%	42.6%	8.8%	8.1%	1.5%	2.2%
Managers in your media	4.4%	16.9%	31.6%	21.3%	20.6%	0.7%	4.5%
Media owners	6.6%	13.2%	33.1%	14%	25%	0%	8.1%
Editorial policy	17.6%	20.6%	40.4%	8.1%	9.6%	0.7%	3%
Advertising	3.7%	12.5%	25%	14.7%	37.5%	0.7%	5.9%
Journalism ethics	49.3%	27.2%	11.8%	3.7%	4.4%	1.5%	2.1%
Possibility of defamation lawsuit	25.7%	23.5%	21.3%	7.4%	11%	1.5%	9.6%

<sup>114</sup> European Commission, Montenegro 2018 Report, p. 28, accessed May 20, 2018: <http://senat.me/wp-content/uploads/lzvje%C5%A1taj-o-napretku-Crme-Gore-2018-EU.pdf>

<sup>115</sup> Council of Europe, Analysis of Montenegro Media Sector with Recommendations for Harmonization with the Standards of the Council of Europe and European Union, 2017, p. 82, accessed May 15, 2018: <https://rm.coe.int/analiza-medjiskog-sektora-u-crnoj-gori-sa/16807b4d7d>

dent (48%) disagrees with the view that what is ethical in journalism is a matter of personal assessment. However, about 19% of respondents are to some extent in line with this claim. Almost 70% of respondents to some extent disagree with the claim that it is not acceptable to leave aside moral standards if some extraordinary activities require it. About 18% of respondents are somewhat or very strongly in agreement with this claim.

Every second respondent believes that ethical standards in journalism have somewhat or quite weakened, while almost every fourth of their colleagues believe that they have strengthened to some extent. On the other hand, 23.5% of them believe that ethical standards in journalism have not changed.

The data of the Media Self-Regulation Council (MSC) show that this body received 7 complaints from September to December 2017 and 30 complaints from January to July 2018. During 2017, the MSC did not accept 4 complaints “because they either did not refer to this body or were not written in proper manner”.<sup>116</sup> Last year, the MSC adopted 15 out of 19 valid complaints.

“The principle 1 of the Code of Journalists was violated most often, and President of the Municipality of Kolasin, Zeljka Vuksanovic, most often complained about the violation of some of the Code’s principles. In 2017, the Code was most often violated by the journalist of Dnevne novine.”<sup>117</sup>

Vujovic said that out of 30 received complaints in 2018, the MSC did not solve any “because the Complaints Commission did not want to do the job anymore because no compensation has been paid for its work during previous two years.”<sup>118</sup>

As the most common mistakes made by the media in Montenegro, experts point out the reporting on local crime news. Professor Natasa Ruzic points out that the media most often violate the principles 7, 8 and 9 of the Code:

“I think reporting on local crime news is the most problematic area from the ethical point of view. Our media as well as others continue to live by the principle of ‘good news is bad news about someone or bad news for someone’, and ‘they are often using children as an excuse’. And of course, copy-paste journalism dominates thanks to the Internet.”<sup>119</sup>

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<sup>116</sup> Ranko Vujovic, interviewed by Marijana Camovic, August 02, 2018.

<sup>117</sup> Ibid.

<sup>118</sup> Ibid.

<sup>119</sup> Natasa Ruzic, interviewed by Bojana Lakovic Konatar, July 29, 2018



The Trade Union of Media of Montenegro registered seven cases of assaults on journalists and media from the beginning of July 2017 to the end of June 2018, while there are two more cases in the records of the Montenegrin Police Directorate, which are related to threats directed at the former journalist, who is currently at the head of one political party. During 2018, the most drastic case happened, the attempted murder of journalist Olivera Lakic, which has not yet been resolved. From 2004 to the beginning of 2018, the Montenegrin Prosecutor's Office recorded 33 cases of assaults on journalists, and the perpetrators have not yet been found in 6 cases.

Although the Government's Commission for Investigating Attacks on Journalists and Media Assets has spotted numerous gaps in the investigation of 15 cases, the state reacted in only one case. A large number of these cases are threatened to become obsolete, and some of them have already become obsolete. In order to assess their safety, the Police Administration requested from newsrooms the names of journalists who are working within the field of local crime news. The Police announce re-organization in order to improve the monitoring of cases of attacks on journalists.

Judicial proceedings against journalist Jovo Martinovic are still ongoing, while journalist Tufik Softic won a case against the state that should pay him a compensation in the amount of 12,000 Euros. The lawsuit of the IN4S portal editor, Gojko Raicevic, was partially adopted according to which the state should pay him a compensation in the amount of 6,000 Euros, as he was beaten by police officers on several occasions in 2015. The Trade Union of Media of Montenegro is monitoring the court proceedings due to the threat to journalist Jelena Jovanovic.



## C.1 Safety and impunity statistics

From the beginning of July 2017 up to the end of June 2018, 9 events related to journalist/media attacks and media assets were recorded in the Police Administration of Montenegro. Two cases registered in the second half of 2017 relate to threats addressed to a former journalist currently in the leadership position of a political party.<sup>120</sup>

During the investigation period, the most brutal assault on journalists was an attempt to assassinate Olivera Lakić, a news journalist of Vijesti, who was shot in the leg by an unknown shooter on May 08, 2018.<sup>121</sup> Although there were many promises of the authorities that the case would be thoroughly researched and that the attacker and the perpetrators would be found<sup>122</sup>, this did not happen. This is not the first attack on Lakić<sup>123</sup>, and because of this attack, Montenegro is even threatened that if it does not resolve it, its accession to the EU will be questioned<sup>124</sup>. The case involved the FBI<sup>125</sup> as well.

On April 1, 2018, an explosive device was activated in front of the house of journalist Sead Sadiković in Bijelo Polje. The explosion caused a damage on a car that does not belong to Sadiković and his family, but was parked at a place where he used to park his car every day<sup>126</sup>. A day later, the police identified and arrested the suspects, Ilhan and Hilmija Pepić, who, twenty days later, were convicted of having committed the criminal offense

of “unauthorized possession of weapons and explosive materials” in perpetuation of security threats. Ilhan was sentenced to seven, and Hilmi was sentenced to four months in prison. The motive for this attack was the disruption of the reputation of a member of their family, Husnija Pepić, who was interviewed by Sadiković in his TV show “Bez granica” [Without boundaries] at the end of last year. Several months before the attack, Sead Sadiković reported to the Police Administration that he received a threatening message from “a certain P. from Rozaje”<sup>127</sup>, while in December 2017 he reported receiving multiple SMS and calls with threatening and obtrusive content. In its response, the Police Administration stated: “The competent prosecutor formed a unique case (including the event of 27 December 2017) and both events qualified as criminal offense of endangering safety.”<sup>128</sup>

Journalists Jelena Jovanović was arrested on March 22, 2018 due to the text published on that day. She was at her workplace - in the newsroom, when Zdravko Gojković threatened her, dissatisfied with the article in which he was mentioned<sup>129</sup>, announcing the lawsuit. After explaining to him that the journalist could not remove the text from the portal, but he had the right to react or deny claims from the text, he pushed the papers off the table and said “I will treat you differently from now on, I know how I will do it”, telling her to look out. The trial is in progress<sup>130</sup>, and the Prosecution suspects Gojković of committing a criminal offense of endangering security interest, for which law prescribes a fine or imprisonment of up to one year.

The Police Administration registered a case of breaking windows at the Advertising Department of the daily newspaper Sloboda that took place on May 12, 2018, and people who did it have not yet been found nor the motive has been identified.

On October 11, 2017<sup>131</sup>, in front of the family house, a car of Miroslav Drobnjak, a reporter of Vecernje Novosti from Pljevlja, was burned. Although the expert’s finding established that the vehicle was deliberately set on fire<sup>132</sup>, the Prosecution concluded that this was not a case to have been prosecuted ex officio, but that Drobnjak could initiate a private lawsuit. What distinguishes

120 Answers, Ministry of Internal Affairs - Police Administration, August 29, 2018

121 “Policija preduzima intenzivne mjere i radnje u cilju rasvjetljavanja krivičnog djela u kojem je povredu od vatrenog oružja zadobila novinarka O.L.”; [The police are undertaking intensive measures and actions aimed at clarifying the criminal offense in which a journalist O.L. suffered a gun injury], Ministry of Internal Affairs - Police Directorate, last modified May 08, 2018, accessed May 30, 2018: <http://www.mup.gov.me/uvravapolicije/vijesti/184611/Saopštenje-Policija-preduzima-intenzivne-mjere-i-radnje-u-cilju-rasvjetljavanja-krivicnog-djela-u-kom-jem-je-povredu-od-vatrenog-o.html>

122 Vijesti online, “Marković o napadu na Lakić: Zahtijevam brzu i efikasnu istragu”; [Marković about the attack on Lakić: I demand a quick and effective investigation], Vijesti, May 08, 2018, accessed May 30, 2018: <http://www.vijesti.me/vijesti/markovic-o-napadu-na-lakic-zahitijevam-brzu-i-efikasnu-istragu-987633>

123 Kodeks, “Novinarica upucana na istom mjestu gdje je i prije 6 godina pretučena, protest ispred Vlade u 11”; [The journalist shot at the same place where she was beaten 6 years ago, a protest in front of the Government at 11 o'clock], Kodeks, May 09, 2018, accessed May 30, 2018: <https://kodeks.me/clanak/165183/novinarica-upucana-na-istom-mjestu-gdje-je-i-prije-6-godina-pretucena-protest-ispred-vlade-u-11>

124 MINA, “Han razgovarao sa Lakić: Nanijeta je velika šteta ugledu Crne Gore”; [Han talked with Lakić: “A great deal of damage made to the reputation of Montenegro”], CDM, May 11, 2018, accessed May 30, 2018: <https://www.cdm.me/hronika/han-or-ranjavanju-lakic-nanijeta-je-velika-steta-ugledu-crne-gore/>

125 “Crnogorska policija saraduje sa FBI na slučaju Lakić”; [Montenegrin police cooperates with FBI in the case of Lakić], Safe Journalists, last modified June 27, 2018, accessed June 27, 2018: <http://safejournalists.net/me/montenegrin-police-cooperates-fbi-case-lakic/>

126 “Uništenje imovine, Sead Sadiković, 01.04.2018, Bijelo Polje”; [Property Destruction, Sead Sadiković, Bijelo Polje, 11/10/2017], Safe Journalists, last modified 15 May, 2018, accessed June 27, 2018: <http://safejournalists.net/me/reports/unistenje-imevine-sead-sadikovic-01-04-2018-bijelo-polje/>

127 Answers, Ministry of Internal Affairs – Police Administration, August 29, 2018

128 Ibid.

129 Borčić, Maja, “Gojković priznaje da je prijetio novinarki”; [Gojković admits threatening to journalist], Vijesti, April 15, 2018, accessed May 05, 2018: <http://www.vijesti.me/vijesti/gojkovic-priznaje-da-je-prijetio-novinarici-984402>

130 “Počelo suđenje zbog ugrožavanja sigurnosti novinarka ‘Vijesti’”; [Trial for threatening the safety of the journalist of Vijesti started], Safe Journalists, July 10, 2018, accessed 20 July, 2018: <http://safejournalists.net/me/pocelo-sudenje-zbog-ugrozavanja-sigurnosti-novinarke-vijesti/>

131 “Uništenje imovine, Miroslav Drobnjak, Pljevlja, 11.10.2017”; [Property Destruction, Miroslav Drobnjak, Pljevlja, 01/04/2018], Safe Journalists, last modified May 15, 2018, accessed June 27, 2018: <http://safejournalists.net/me/reports/unistenje-imevine-miroslav-drobnjak-pljevlja-11-10-2017/>

132 “Hitno utvrditi ko je zapalio auto Miroslavu Drobnjaku”; [Discover urgently who burned Miroslav Drobnjak’s car], Safe Journalists, last modified November 17, 2018, accessed May 31, 2018: <http://safejournalists.net/me/hitno-utvrditi-ko-je-zapalio-auto-miroslavu-drobnjaku/>



this case is that the Council for Civilian Control of Police Work has adopted the TUMM's complaint on the work of police officers, finding that the police acted unprofessionally in this case<sup>133</sup>.

Regarding the threats that Vladimir Otasevic, a journalist of daily newspaper Dan, got on September 11, 2017<sup>134</sup>, from Velimir Markovic, brother of the Prime Minister Dusko Markovic, the Basic State Prosecutor's Office in Podgorica, at the end of January, decided to dismiss the criminal charges against Markovic. The explanation states that "the recording is an illegal evidence" and that the journalist committed the criminal offense of "unauthorized eavesdropping and recording"<sup>135</sup>. Otasevic's lawyer lodged an appeal against this decision with the High State Prosecutor's Office, but it also confirmed the decision of the Basic Prosecutor's Office. At the end of April, a private lawsuit was filed against Markovic to the Basic Court in Podgorica.

Commenting on this case, Otasevic said that the Prosecution's decision was not correct and that the question was raised why the application against the Prime Minister's brother was rejected.

"We are used to selective applying of the justice in Montenegro and that the most important institutions are captured and that opinion of any person from the top of the government is more important than the letter of the law. The problem is even greater because the responsible people are doing it without any delay and without any fear of condemnation of the public."<sup>136</sup>

**Table 4: Police Administration's Statistics**

TYPES OF CASES	2017	2018
Attempted murder	0	1
Threat to life of journalists	1	0
Destruction of property of journalists/ media organizations	1	2
Other threats to journalists	6	1
Total	8	4

The Council of Europe's Expert Team received data<sup>137</sup> from the

133 "Policija neprofesionalno postupala u slučaju Miroslava Drobnjaka"; [Police acted unprofessionally in the case of Miroslav Drobnjak], Trade Union of Media of Montenegro, last modified April 04, 2018, accessed May 31, 2018: <http://www.sindikatomedija.me/index.php/saopstenja/249-policija-neprofesionalno-postupala-u-slucaju-miroslava-drobnjaka>

134 "Brat premijera prijetio smrću novinaru Vladimiru Otaševiću"; [Brother of Prime Minister threatened with death journalist Vladimir Otasevic], Trade Union of Media, September 12, 2017, accessed August 12, 2018: <http://sindikatomedija.me/index.php/saopstenja/200-brat-premijera-prijetio-smrcu-novinaru-vladimiru-otasevicu>

135 Nikolic, Predrag, "Slučaj Vladimira Otaševića: prijetnje i 'plod otrovne vauke'"; [The case of Vladimir Otasevic: Threats and „fruit of the poisonous fruit“], Safe Journalists, May 06, 2018, accessed May 09, 2018: <http://safejournalists.net/me/case-vladimir-otasevic-threats-fruit-poisonous-fruit/>

136 Vlado Otasevic, interviewed by Marijana Camovic, July 31, 2018

137 Council of Europe, Analysis of Montenegro Media Sector with Recommendations for Harmonization with the Standards of the Council of Europe and European Union, 2017, p. 83, accessed May 15, 2018: <https://rm.coe.int/analiza-medjskog-sektora-u-crnoj-gori-sa/16807b4d7d>

Montenegrin Prosecutor's Office on attacks on journalists, and this data show that from 2004 to the beginning of 2018, a total of 33 such cases were registered. Out of that number, 14 cases were resolved, 2 cases were rejected by the Prosecution, 1 case was interrupted due to the death of the accused during the proceedings, 4 cases are being resolved or were resolved through private lawsuits, and the same case number is pending to be resolved. It is also stated that in 6 cases the perpetrators are not yet known. The data also show that 13 cases were concluded with imprisonment, fines or suspended sentence, whereas in one case the accused was not found guilty.

"In relation to the information received, the exact duration of the prison sentence for the perpetrators was not specified, but the length of the prison sentences ranged from 3 months to one year. No information was provided on the duration of the suspended sentence or the amount of the fine. As for the cases that have not yet been resolved, the key information provided by the Prosecution is that the perpetrators have not yet been identified."<sup>138</sup>

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

General opinion, confirmed by this year Report of the European Commission, is that progress in addressing violence against journalists and the media is still very limited, and that a special problem is the (non)settlement of old cases<sup>139</sup>, many of which are threatened with statute of limitations.

Two out of four cases of assault on journalists and media that occurred in 2018 were resolved, but this is the result of the standard work of the police and the prosecution, and not their new measures or access to similar incidents.

The mandate of the Government's Commission for monitoring the actions of the competent authorities in investigating cases of threats and violence against journalists, murders of journalists and attacks on media assets was extended for another two years<sup>140</sup>. During its second term, which lasted from September 2016 to September 2018, the Commission dealt with a total of 15 cases of attacks on journalists and the media within its five reports. In those reports, numerous omissions of the police and the prosecutor's office were noted, which the Government itself confirmed, but almost nothing was done in this regard. Having in mind the findings from the Commission's report, Deputy Pri-

138 Ibid.

139 European Commission, Montenegro 2018 Report, p. 27, accessed May 20, 2018: <http://senat.me/wp-content/uploads/1zvje%C5%A1taj-o-napretku-Crne-Gore-2018-EU.pdf>

140 PCNEN, "Produžen mandat komisiji za napade na novinare"; [The mandate extended to the Commission for Attacks on Journalists], PCNEN, July 06, 2018, accessed July 20, 2018: <http://www.pcnen.com/portal/2018/07/06/produzen-mandat-komisiji-za-napade-na-novinare>

me Minister Zoran Pazin at the beginning of February said that the Government had recommended to the Supreme State Prosecutor's Office to, "intensify the activities and re-examine the efficiency and effectiveness of all investigations and attacks on journalists and media assets and inform the Government about the undertaken activities within thirty days."<sup>141</sup> He also said at that time that the Government had instructed the Police Administration to, within the same deadline, review the actions of police officers in investigating attacks on journalists and media assets and determine if there were any omissions in the work. However, in the Quarterly Report of the Government for Chapters 23 and 24, dated to July 2018, it was noted that there was information in one case that the Prosecution worked on eliminating the omission established by the Commission, while there was no information on implementation of other recommendations "although we requested reporting from the General Secretariat."<sup>142</sup>

In addition to the failure to resolve cases of attacks on journalists, the main problem is that a large number of cases are threatened to become obsolete, what the Trade Union of Media of Montenegro previously warned of.<sup>143</sup>

**"Efforts to effectively prosecute these cases should be intensified, as well as avoiding the application of the statute of limitations. The authorities are expected to show zero tolerance for threats and attacks on the media, and should refrain from giving statements that can create an environment that is not conducive to freedom of expression."<sup>144</sup>**

State officials react to almost all cases of journalist attacks and their condemnations are not lacking, but the problem is still the failure of resolving the large number of cases that occurred earlier, but also new ones such as the wounding of Olivera Lakic. The Police Administration did not conduct any new analysis on the threats to Montenegrin journalists but after the attack on Olivera Lakic, they sent a request to all newsrooms and asked for the names of journalists reporting about the local crime news, "for their security assessment". They stated in their letter that "the names of journalists of your media are needed to make a safe assessment of the threat that will be drafted in relation to journalists reporting on the above-mentioned issue."<sup>145</sup>

In terms of building some additional protection mechanisms for journalists at the level of state institutions, or monitoring these cases, nothing has been done. However, the Police Administration announces<sup>146</sup> that a new Proposal of Amendments to the Rulebook on Internal Organization and Systematization will propose introduction of a new job position for a police officer who will monitor the attacks on journalists and the media. In the official response, the Police Administration also states: "In addition, the Centers and Security Departments will assign an existing staff member to monitor these issues and take preventive and repressive measures to protect journalists and ensure the conditions for their smooth work."<sup>147</sup>

There is no progress in the case of the murder of Dusko Jovanovic, the editor-in-chief of Dan, which happened in May 2004. The Trade Union of Media of Montenegro, on the anniversary of the murder, together with partners from the European and International Federation of Journalists, has put this case on the Council of Europe's Platform<sup>148</sup>.

There have been no cases of eavesdropping of journalists that got into the public in the previous year.

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

The number of unresolved cases of attacks on journalists and the media is almost unchanged, and in addition to the two cases solved this year, soon after it happened, the situation is the same as in previous years. The European Commission again pointed to the high level of unsolved cases of attacks<sup>149</sup>, but the state did not change anything in dealing with the problem.

In the Government's Quarterly Report for Chapters 23 and 24 in the section dealing with the situation in the media, there is a clear recommendation to "secure the protection of journalists from threats and violence, in particular through effective investigations of previous attacks and deterrent punishments."<sup>150</sup> It was also stated that "the legal regulation and institutional framework for the

141 Portal Analitika, "Tužilaštvo da preispita efikasnost istraga napada na novinare"; [The Prosecution to review the effectiveness of investigating attacks on journalists], Portal Analitika, February 08, 2018, accessed July 20, 2018: <https://portalanalitika.me/clanak/293521/tuzilastvo-da-preispita-efikasnost-istraga-napada-na-novinare>

142 Government of Montenegro, "The Seventh Semi-annual Report on the Implementation of the Action Plan for the Negotiating Chapter 23 - Judiciary and Fundamental Rights for the period January-June 2018 with the Fourth Semi-annual Report on the Implementation of the Operational Document for the Prevention of Corruption", July 26, 2018, p. 159, accessed July 30, 2018: [http://www.gov.me/sjednice\\_vlade\\_2016/87](http://www.gov.me/sjednice_vlade_2016/87)

143 "Slučajevi se moraju rješavati prije zastare"; [Cases must be resolved before they become obsolete], Trade Union of Media of Montenegro, last modified July 04, 2018, accessed July 24, 2018: <http://sindikatomedija.me/index.php/aktivnosti/189-slucajevi-se-moraju-rjesavati-prije-zastare>

144 European Commission, Montenegro 2018 Report, p. 27, accessed May 20, 2018: <http://senat.me/wp-content/uploads/lzvje%C5%A1taj-o-napretku-Crne-Gore-2018-EU.pdf>

145 FOS Media, "Policija provjerava bezbjednost novinara crne hronike"; [The police are checking the safety of local crime news journalists], FOS Media, May 11, 2018, accessed August 15, 2018: <https://fosmedia.me/infos/hronika/policija-provjerava-bezbjednost-novinara-crne-hronike>

146 Answers, Ministry of Internal Affairs – Police Administration, August 29, 2018

147 Answers, Ministry of Internal Affairs – Police Administration, August 29, 2018

148 "Nekažnjivost u slučaju ubistva Duška Jovanovića"; [Impunity in the case of the murder of Dusko Jovanovic], Platform for promoting the protection of journalism and safety of journalists, last modified May 28, 2018, accessed August 29, 2018: <https://go.coe.int/1mHdL>

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protection of the media freedom should be re-examined and amended". However, the last such attempt by the Human Rights Action and Trade Union of Media of Montenegro Media in January 2017 was not supported, although Articles that would allow that were clearly proposed<sup>151</sup>. They proposed introduction of new criminal offenses to prevent and punish attacks on journalists performing professional duties, as they believe that this would contribute to raising awareness that this type of social phenomenon is unacceptable and that it must be severely punished.<sup>152</sup>

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

The Protector of Human Rights and Freedoms in his Annual Report pointed to the importance of the journalistic profession and the obligation that the authorities provide all the necessary conditions for journalists to perform their work in a secure environment with settled economic and legal and working conditions and status.<sup>153</sup>

The TUMM monitors cases of attacks also through a regional database on attacks on journalists that is regularly updated at the web page: [www.safejournalists.net](http://www.safejournalists.net).

The TUMM also monitors current court proceedings in which journalists are accused or they sued the state and state authorities for inadequate treatment in cases where they were victims.

The trial of journalist Jovo Martinovic continued in 2018<sup>154</sup>. He was in detention for 14 months after which he was released to defend himself from the freedom and was charged with the criminal offense of creating a criminal organization and unauthorized production, possession and distribution of narcotic drugs. Martinovic claims that he is not guilty and that he was in contact with the main suspect for the documentary films he produced for French television Capa+, which confirmed these allegations. Journalist Tufik Softic won a case against the State of Montenegro because it has been proven that the state is responsible for an ineffective investigation in the case of an attack on Softic in 2007 and it is determined to pay him compensation in the amount of 12,000 Euros.<sup>155</sup>

By the first instance decision of the Basic Court in Podgorica, the request of the editor of In4s Portal, Gojko Raicevic<sup>156</sup>, who sued the Ministry of Internal Affairs, was partly accepted because police officers beat him several times in 2015. It was determined that Raicevic "was subjected to treatment prohibited by Article 3 of the Convention on Human Rights" and that he should be paid compensation for non-pecuniary damage in the amount of 6,000 Euros. Raicevic complained about the decision.

"The basic message of the court's decision is that the police can continue to function in the same manner, to beat innocent citizens, whether they are journalists or passers-by, and that they do not have to worry much about it because they will not bear any sanctions and the state will pay 6,000 Euros and thus finish the story. Besides getting a fair compensation for everything I went through during three police attacks, my motive is also to send a clear message to the next person who tries to beat innocent citizens that he will have to bear responsibility for that, and that the state will bear the consequences for the compensation."<sup>157</sup>

The trial for threats to Jelena Jovanovic, journalist of Vjesti, is in progress<sup>158</sup>, and Zdravko Gojkovic is being tried for the crime of endangering safety.

At the end of April 2017, a Grant Agreement was signed between the Joint Program of the European Union and the Council of Europe titled "Strengthening the Judicial Expertise on Freedom of Expression and Media in South-East Europe/JUFREX" and the Judicial Training Center and the State Prosecutor's Office. The agreement envisages that training of judges and state prosecutors will be conducted by December 2018 in order to improve the application of the European Court of Human Rights practice regarding the protection of freedom of expression.<sup>159</sup> During the first half of 2018, 9 state prosecutors, 34 judges, 7 judicial advisors and 1 prosecutorial counselor were trained through 9 trainings.<sup>160</sup>

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# Appendices

## List of interviewees

Name and surname	Position/Organisation	Date of interview
Jadranka Vojvodic	Assistant Director of the Agency for Electronic Media	July 26, 2018
Ranko Vujovic	Executive Secretary, Media Self-Regulation Council	August 02, 2018
Natasa Ruzic	Professor of Journalism at the Faculty of Political Science	July 29, 2018
Olivera Nikolic	Acting Director of Montenegrin Media Institute	August 15, 2018
Paula Petricevic	Ombudsman - Vijesti, Monitor	August 13, 2018
Gojko Raicevic	Journalist/Editor	July 25, 2018
Vuk Janković	Coordinator of the MANS Legal Program	August 14, 2018
Sergej Sekulovic	Lawyer	July 31, 2018
Anonymous	Journalist	July 15, 2018
Dusanka Pejovic	Journalist/Editor	August 02, 2018
Iva Pavlovic	Editor	July 05, 2018
Vladimir Otasevic	Research journalist	July 31, 2018

### **About research**

Although this sample does not allow generalization of conclusions for the entire journalistic population in Montenegro, it is important to note that the obtained opinions of the interviewed journalists point out to existing trends. Given that the research is conducted for the second year in a row, it provides a good basis for understanding the current situation in journalistic freedoms. The questionnaire contained a total of 27 questions and was done electronically, by telephone and personally.

The survey involved 136 journalists, or even 17% of the estimated number of journalists (800). 79 women and 57 men were interviewed, out of which 43 were journalists and 93 editors. Out of the total number of interviewed journalists, 24 of them work in daily newspaper, 2 in weekly newspaper, while 56 work in television, 36 in radio, 3 in agency and 15 in portal. The majority of the respondents were from the media with national coverage (92), 33 of them from local media, 3 from the regional media and 8 from the international media. Most of the respondents were from private media (70). The data was collected from 01 January 2018 to 31 July 2018.

The sample is non-measurable and therefore cannot be said to be completely representative. It is important to note that, after three years of continuous interviewing of journalists, the obtained opinions of the interviewed journalists nevertheless point to trends and provide a good basis for reviewing the current situation regarding media freedoms.

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