

# REGIONAL PERCEPTION STUDY



## Journalists' views and perceptions of judicial transparency

A comparative study in three Western Balkans countries:  
Bosnia and Herzegovina, North Macedonia and Serbia

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# Table of Contents

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<b>Executive summary</b>	<b>1</b>
<b>Introduction</b>	<b>4</b>
<b>1. Literature Review</b>	<b>7</b>
1.1 The growing need for transparency and openness of the judiciary	7
1.2 Rights and limitations of media reporting on court proceedings	8
1.3 Pressures on the judiciary and the media in the fragile democracies of the Western Balkans countries	10
1.4 Relations between the judiciary and media in each country	13
<b>2. Research design and methods</b>	<b>17</b>
<b>3. Findings</b>	<b>21</b>
3.1 Journalists' views and perceptions of the transparency and communications of the judicial institutions	21
3.1.1 Perceptions of the principles of publicity and motivation of judicial institutions to communicate with the media and journalists	21
3.1.2 Perceptions of specific communicators	24
3.1.3 Perceptions of communication services provided by judicial institutions	26
3.1.4 Summary	30
3.2 Journalists' experience with the judicial system	31
3.2.1 Difficulties obtaining access to court files	31
3.2.2 Sources of information used by journalists in reporting about the judiciary	34
3.2.3 Difficulties experienced in covering open trials	36
3.2.4 Summary	39
3.3 Journalists' perceptions of the role of the judiciary in ensuring media freedom and the safety of journalists	40
3.3.1 Attitudes towards the role of the judiciary in ensuring media freedom	40
3.3.2 Attitudes towards the efficiency of institutions in investigating threats and attacks against journalists	42
3.3.3 Summary	45
3.4 Journalists' knowledge of the principles of reporting and the work of the judiciary	46
3.4.1 Journalists' self-perceptions of their current level of knowledge	46
3.4.2 Topics on which journalists need additional instruction	46
3.4.3 Journalists' knowledge of and attitudes towards the ethics of reporting	48
3.4.4 Number and type of training courses attended by journalists	55
3.4.5 Summary	57
<b>Conclusion</b>	<b>58</b>
<b>Recommendations</b>	<b>63</b>
<b>References</b>	<b>65</b>

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## Executive summary

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### Research objectives and methodology

This study presents the findings from the regional research project conducted among journalists from three Western Balkans countries: Bosnia and Herzegovina, North Macedonia and Serbia. The main objective was to gain insight and identify means of facilitating dialogue and cooperation between journalists and judicial authorities in these countries and to establish priority areas and actions for transforming the current “antagonistic” relationship into a partnership for the benefit of the public. At a regional level, this is the first comprehensive study that comparatively examines the various aspects and causes of the tense relationship between these two professions, both of which are exceptionally important for a democratic society.

In each country, primary data collection was conducted from July to November 2021 and consisted of three phases: in-depth interviews, online surveys and focus groups with journalists who report on court proceedings or who report or comment on the work of the judicial system. Journalists’ associations from the three countries selected national researchers who conducted the interviews and focus group discussions, while the online survey was administered by a professional research agency. In each country, an expert was engaged to review the research reports drafted by the national researchers.

### Main research findings

- **Process of Judicial Reforms.** The process of judicial reforms in the three countries is proceeding at different speeds, depending on the socio-political context and the level of development of the legislation and the judicial system of each country. The views of journalists on the work of judicial institutions to a great degree reflect the current state of the development of democracy, including the progress achieved in judicial reform processes. In Bosnia and Herzegovina, the reform process of the judicial system is completely blocked; in Serbia it is unfolding with many obstacles and delays; and in North Macedonia it seems that some minimal progress has been noted. Hence, journalists from Bosnia and Herzegovina and Serbia express a higher level of dissatisfaction with and criticism of the justice systems in their countries than journalists in North Macedonia.
- **Perceptions about the principle of publicity of the courts.** The prevailing attitude among journalists from all three countries is that judicial institutions are not sufficiently proactive in fulfilling the principle of publicity. There are several reasons for this: slow reforms of the judicial system, lack of resources and knowledge and political influence and pressure on the judiciary. Journalists therefore believe that the general standard for the judiciary to apply the principle of publicity should be established at a systemic level, in an equal way for all judicial institutions and as an obligation required by law.
- **Perceptions about the openness and responsiveness of specific communicators.** Journalists from all three countries believe that, despite some positive exceptions, the judiciary-media relationship is dominated by a general climate of secrecy and fear. Most of the judicial representatives see journalists either as enemies or as public relations channels for publishing information that suits their needs. Journalists rate the spokespersons as the most open and responsive to the needs of the media and rate the prosecutors, judges and court presidents as much less open and responsive. With a few exceptions, however, spokespersons lack the knowledge and experience to communicate efficiently with the media.

- **Perceptions about communication services provided by judicial institutions.** In all three countries, the communication of the judicial institutions with the journalists is largely reduced to press releases, information published on the websites of the judicial institutions and communication with the spokespersons. Journalists lack live or direct communication with judges, prosecutors and court presidents (especially press conferences, briefings and individual interviews), which would allow professionals from both groups to better understand each other's needs and could help to overcome the current communication gap. Modern communication tools (social networks, chat applications, etc.) are rarely used.
- **The role of the judiciary in safeguarding media freedom and journalists' safety.** Despite some differences in the treatment of the media by state institutions in the three countries, most journalists are almost equally critical of the work of the judiciary in terms of protecting journalism. Political influence and pressure are the main reasons the judicial system does not fulfil this crucial function. Such pressure is mostly felt by journalists from Serbia, and slightly less by journalists from Bosnia and Herzegovina and North Macedonia. Journalists point out the persistence of the climate of impunity, as perpetrators of attacks and threats against journalists are rarely identified and punished.
- **Access to documents and information held by the judiciary.** Most journalists from all three countries complain about problems in accessing documents and information from prosecution offices and courts. Judicial institutions, with rare exceptions, are not well organised and proactive in providing information and documents to journalists or in publishing them on their websites. Many journalists must formally request access to such documents, but the procedure is complicated and slow, making it particularly difficult for them to make daily reports. Journalists face particular problems in accessing documents and information from prosecution offices in the first phase of the process (pre-investigation and investigation), which often leads to mistakes in their reporting. They are aware of the sensitivity of reporting at that stage of the proceedings, but believe that providing the basic information can greatly aid in reducing errors and improving the accuracy of their reporting.
- **Sources of information for reporting about the judiciary.** In all three countries, prosecutors, judges and court presidents are rarely available to journalists. Journalists mostly communicate with the spokespersons, while outside the courts they receive information from lawyers and independent experts. The journalists ascribe the lack of communication, especially with prosecutors, judges and court presidents, to the established rules of communication within the judiciary, to the distrust of journalism and to the fear and political pressure on some members of the judiciary.
- **Problems in reporting from public trials.** Journalists who regularly report from public trials have problems with timely access to the minutes and other important information from the hearings, the use of recording equipment in the courtrooms, unclear rules for reporting from court hearings and the distrust and hesitancy of judges to help journalists to report accurately from the hearings. They also emphasise that the distrust between the two professions is especially evident during the public hearings. The prevailing view is that many judges are restrained and do not make an effort to help journalists improve their reporting from the hearings. However, journalists also state that, in general, the reason for the distrust lies on both sides: the reticence of prosecutors and judges fuels the sensationalism and low standards in journalism, and non-compliance with ethical standards increases the distrust and reticence of the judiciary towards the journalists. It must be emphasised that in all three countries great self-criticism was directed at the journalism profession itself, because only a few journalists spend as much time in courtrooms as is necessary to closely follow the developments of court cases.

- **Need for new knowledge, training and adherence to ethical standards.** The journalists who took part in the online survey have a high opinion of the level of their own knowledge on topics related to the judiciary. At the same time, most journalists in all three countries believe that it would be (extremely or very) useful for journalists to gain new knowledge on various topics, such as the processes of the courts and the terminology employed in the judicial system; the legal rules and constraints in covering various stages of criminal investigations, prosecutions and trials; and writing fairly, accurately and without sensationalism about criminal and civil cases.
- In all three countries, most newsrooms are understaffed. There are almost no journalists who specialise in court and legal reporting; most court reporters also cover other topics. Many of them do not have the necessary knowledge about the relevant legislation and the specific legal terminology. This is predominantly the case with online media, which often employ only a few journalists and frequently publish sensationalist news, thus adding to the negative image of journalism.

### Recommendations

- Journalism organisations can engage in various activities to improve the communication between journalists and the judicial institutions and to establish a climate of cooperation and trust between the two professions: initiate and strengthen cooperation with representatives of all relevant institutions in the justice sector; support the development and implementation of communication strategies and plans of the judicial institutions; co-operate with press councils and judicial-media councils where they exist to increase journalists' knowledge about the legal and ethical rules related to reporting from court proceedings; and establish long-term cooperation with the police, prosecutors and courts with the aim of strengthening their capacity and efficiency in prosecuting those who threaten or attack journalists and media professionals.

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## Introduction

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The courts in the judicial systems of the Western Balkans have long been veiled in an aura of secrecy and discretion. A deeply embedded attitude exists among judges and other court employees that participation in public communication risks undermining judicial independence and authority. The media in these countries, as anywhere else, need continuous and meaningful access to information on the work of the judiciary. While not causing damage to individuals or to the authority and impartiality of the judiciary, the task of a journalist is to provide information on matters of public concern and thereby act as a guarantee that the judiciary does not abuse its prerogatives (Article 10.2 of the European Convention on Human Rights [ECHR]).

Over time, the high level of scrutiny from the press and the public and ongoing demands for additional information have created tension between those demanding information (the media) and those in charge of disseminating it (the judiciary). The insufficient participation of the judicial authorities in the public debate has created an information gap which has often been filled with misinformation and incorrect interpretation of the courts' decisions. This practice has made judicial power less visible to the citizens, whose right to timely and accurate information remains unfulfilled. As a result, the public's trust in the work of the judiciary, the rule of law and overall access to justice is in continual decline.

The restraint and distrust of the representatives of the judiciary towards journalists is a result of the general situation in which the profession of journalism finds itself. The structural pressure from politics and from the competition in the digitalised market environment have undermined the quality of journalistic work. The dominant market logic and business interests of media owners have led to sensationalism and tabloidism in reporting and a disregard for basic ethical standards and values. Hence, the profession of journalism is labelled as ethically degraded and inferior, and neither the general public nor the representatives of the judicial system have trust in it.

This study presents the findings from the regional research project conducted among journalists from three Western Balkans countries: Bosnia and Herzegovina (BiH), North Macedonia and Serbia. The main objective was to gain insight and identify means of facilitating dialogue and cooperation between journalists and judicial authorities in these countries and to establish priority areas and actions for transforming the current "antagonistic" relationship into a partnership for the benefit of the public. The ultimate goal of this work is to contribute to the creation of an environment in which media freedom and freedom of expression are respected.

To accomplish this general goal, the research was designed to achieve the following objectives:

1. To investigate journalists' understanding, perceptions and experience of the work of the judiciary and its level of transparency and manner of communication when delivering information to journalists and the general public.
2. To explore journalists' views and perceptions of the role of the judiciary in safeguarding media freedom.
3. To discover deficiencies in journalists' knowledge regarding the basic principles and standards of reporting on court proceedings and the judiciary in general, as stipulated in international documents and professional codes of ethics.
4. To identify priority issues and points of actions to improve the relationship between journalists and the judiciary.

Four sets of research questions were formulated to achieve the four specific objectives.

Specific objectives	Specific research questions
1. To investigate journalists' understanding, perceptions and experience about the work of judiciary, its level of transparency and manner of communication when delivering information to journalists and the public.	<ol style="list-style-type: none"> <li>1. What are the journalists' understanding and perceptions of the way the justice system works in general?</li> <li>2. How do journalists perceive the responsiveness and communication of judicial institutions?</li> <li>3. What are the journalists' experiences with the justice sector (access to court files, sources of information for court cases, cooperation with courts' representatives, difficulties in reporting from open trials etc.)?</li> </ol>
2. To explore journalists' views and perceptions on the role of judiciary in safeguarding media freedom.	<ol style="list-style-type: none"> <li>4. How do journalists understand (and perceive) the role of the justice sector in safeguarding media freedom?</li> <li>5. What is the journalists' perception of the judiciary in cases pertaining to threats and attacks on journalists and media?</li> </ol>
3. To identify the knowledge shortcomings in the work of journalists in terms of the basic principles and standards of reporting about the court proceedings and judiciary in general, as stipulated with international documents and professional codes of ethics.	<ol style="list-style-type: none"> <li>6. What is the level of journalists' knowledge about the basic principles and standards of reporting about the work of the judiciary?</li> <li>7. What do journalists know about the purpose and main principles of judicial communication?</li> <li>8. What are journalists' knowledge and awareness gaps that impede the delivery of timely, professional, and accurate information about the justice system to the public? How can such gaps be filled?</li> </ol>
4. To detect priority issues and points of actions in order to improve the current relationship between journalists and judiciary.	<ol style="list-style-type: none"> <li>9. What are the main challenges (in the current relationship between journalists and judicial institutions) and what are the identifiable paths for possible improvements?</li> </ol>

**Table 1:** *Research Objectives and Research Questions*

The study is commissioned by the Dutch organisation Free Press Unlimited and implemented by the RESIS Institute based in North Macedonia and three local partners: BiH Journalists Association, the Independent Journalists' Association of Serbia and the Association of Journalists of North Macedonia. Based on the common methodology designed by the RESIS Institute, local partners hired experienced national researchers who collected and interpreted data and produced national reports. The online survey with journalists from the three countries was implemented by the independent research agency Valicon from BiH.

The study is implemented within the framework of the multi-annual regional project "Strengthening Media Freedom in Bosnia Herzegovina, North Macedonia and Serbia", funded by the MATRA Rule of Law programme of the Dutch Ministry of Foreign Affairs and implemented by the consortium of partners including the Netherlands Helsinki Committee (NHC) and Free Press Unlimited (FPU) in collaboration with regional partners in the Western Balkans.



The study is divided into five chapters.

- **Chapter 1** introduces readers with the relevant literature and empirical research conducted on this topic in the three countries and briefly presents the basic Council of Europe standards about the role of media in reporting on court proceedings.
- **Chapter 2** explains the research design of this specific study, methods for data collection and analysis including sample design.
- **Chapter 3** presents the detailed findings of the study and is comprised of four sections that integrate the quantitative and qualitative research evidence to answer the specific research questions: (1) journalists' views and perceptions of the level of transparency of judicial institutions, of specific communicators and quality of communication services provided by judicial institutions, (2) journalists' experience with the court system (access to court files, sources of information and experience in covering open trials), (3) journalists' attitudes towards the role of judiciary in ensuring media freedom and journalists safety, and (4) knowledge shortcomings and needs for additional instruction of journalists in terms of reporting about the court proceedings and judiciary in general.
- **Chapter 4** summarises the findings of the study by answering the specific research questions, presents the data about the demographic and job-related profile of the journalists who report about judiciary in the three countries and identifies the limitations of the study.
- **Chapter 5** contains the recommendations and summarizes the findings relevant to the fourth objective of the study - to detect priority issues and points of actions in order to improve the current relationship between journalists and judiciary.

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# 1. Literature Review

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This chapter aims to introduce readers to the relevant literature and empirical research conducted on the same (or similar) topic – journalists and the judiciary, mainly published in the three countries that are included in this study:

- In the first part (2.1) we address the relevance of the topic in the context of changes caused by digital communication technologies and the growing demand for transparency of the judiciary.
- In the second part (2.2) we give a brief overview of the basic standards of the Council of Europe that underpin the role of media in reporting on court proceedings and, in general, on the work of the judiciary.
- In the next part (2.3) we discuss the specific political context in which both the judiciary and media work in the weak (non-consolidated) democracies of the three Western Balkans countries.
- In the fourth part (2.4) we provide an overview of what has been explored so far with regards the relationship between journalists and judiciary in the three countries, as well as of the efforts and activities of judicial institutions and media community to improve the communication between these two important professions for a democratic society.

## 1.1 The growing need for transparency and openness of the judiciary

The issue of transparency and openness of the courts gained particular importance in European countries in the 1980s and 1990s, as a result of the loss of public confidence in the justice system and the demand for its greater democratic accountability.<sup>1</sup> The European Court of Human Rights has particularly contributed to the change in the communication practices of the courts throughout Europe with its “appearance doctrine”; that is, by emphasising “the increased sensitivity of the public to the fair administration of justice”.<sup>2</sup> The representatives of the judiciary are becoming increasingly aware of the need to be open to the public and to use various communication strategies and tools that would improve the public perception of their decisions and their work in general. For example, in its Opinion No. 18 (2015), the Consultative Council of European Judges (CCJE) of the Council of Europe stressed that “accountability is as vital for the judiciary as for the other powers of the state because it, like them, is there to serve the public ... provided a careful balance is observed, the two principles of judicial independence and accountability are not irreconcilable opposites”.<sup>3</sup>

During recent decades, with the emergence of transnational communication flows and the rise of digital technologies, the means of informing the public have been thoroughly transformed, while the very term “public” has taken on a completely different meaning today. To adhere to the basic principle of “publicity” in their work, it is not enough for the present-day courts only to provide media and journalists access to the courtrooms. Proactive and strategically planned communication of the professionals in the courts is needed to regularly submit simple, understandable and accurate information, not only to the media and journalists, but to the widest possible circle of individuals. The relationship between the judiciary and journalists has also evolved, as the judiciary today should reach the public not only through the media, but also through various forms of direct (digital) communication.

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1 L. Chrétien, A. de Peretti-Schlomoff, and Y. Viguiér. “Judicial Communication and Professional Ethics. Renewing the Relationship between the Judiciary and the Public.” Themis Competition (2015).

2 ECHR, Case of *Borgers v. Belgium*, 1991.

3 Council of Europe, Consultative Council of European Judges (CCJE): OPINION NO. 18 (2015) “The position of the judiciary and its relation with the other powers of state in a modern democracy”, London: 16 October 2015, p.8. Accessed on January 25th: <https://rm.coe.int/16807481a1>

The growing demand for transparency across Europe has resulted in attempts by the judiciary to adapt rules and practices to a higher level of openness and communication with the media and the public, with countries differing on two issues: (1) which persons in the judicial institution (prosecutors, judges, spokespersons) are responsible for communication with the media and the public; and (2) what communication tools are used and what the ethical rules are for communicating outside the courtroom to protect the basic principles of the right to a fair trial.<sup>4</sup>

Regarding the first issue, there is a difference between countries in terms of who represents prosecutors and courts in public. In most countries, prosecutors or their deputies are responsible for communicating with the media and the public<sup>5</sup> The national situations are different for judges: one group of countries have designated press-judges (including Austria, Belgium, Bulgaria, England and Wales, the Netherlands and Romania), while in others all judges are given freedom to communicate with the media and public (even if each court has a spokesperson) in accordance with particular guidelines (including France, Ireland, Spain, Norway, Sweden and Croatia).<sup>6</sup>

The second issue is much more complex and requires more space to present all the comparative data. Here, we will only briefly mention that the practice and rules are continually evolving and, in many countries, in addition to traditional communication techniques (press conferences, press releases), judicial institutions are increasingly applying modern tools that allow them to quickly reach the widest possible audience. For example, judicial institutions in some countries (including Denmark, Norway and Lithuania) have already introduced guidelines governing communication through social networks (especially Facebook and Twitter).<sup>7</sup>

Despite the requirement for transparency and regular communication with the public, the representatives of the judiciary should respect certain ethical rules during the communication so as not to infringe the authority and impartiality of the judiciary, not to influence the course of the court proceedings and not to violate the individual rights of participants in the court proceedings. These rules should be known and respected by journalists who report on the work of the judiciary.

## 1.2 Rights and limitations of media reporting on court proceedings

The Council of Europe has adopted two sets of standards that underpin the role of the media in reporting on the court proceedings and, in general, on the work of the judiciary: (1) the principles set out in the documents adopted by the Committee of Ministers on the provision of information through the media in relation to criminal proceedings,<sup>8</sup> and (2) the rules stipulated in the European Convention on Access to Official Documents<sup>9</sup> and other Council of Europe instruments related to the access to public information and official documents.<sup>10</sup> In addition to these documents, the regulatory framework

4 L. Chrétien, A. de Peretti-Schlomoff, and Y. Viguier. "Judicial Communication and Professional Ethics. Renewing the Relationship between the Judiciary and the Public." Themis Competition (2015), p.7.

5 Council of Europe, Analysis of replies to the questionnaire circulated with the view to preparation of the Opinion No. 8 of the Consultative Council of European Prosecutors – Relationship between prosecutors and media, Working Group of the Consultative Council of European Prosecutors (CCPE-GT), Strasbourg 15 March 2013. Accessed on November 13th: <https://rm.coe.int/working-group-of-the-consultative-council-of-european-prosecutors-ccpe/1680723892>

6 European Network of Councils for the Judiciary, Justice, Society and the Media: Report 2011-2012. Accessed on November 13th: [https://www.encj.eu/images/stories/pdf/GA/Dublin/encj\\_report\\_justice\\_society\\_media\\_def.pdf](https://www.encj.eu/images/stories/pdf/GA/Dublin/encj_report_justice_society_media_def.pdf)

7 Ibid.

8 Council of Europe, Recommendation Rec (2003)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings. Strasbourg, 10 July 2003. Accessed on November 13th: <https://wcd.coe.int/ViewDoc.jsp?id=51365>

9 Council of Europe, The Council of Europe Convention on Access to Official Documents. Strasbourg, 18 June 2009. Accessed on November 14th: <https://rm.coe.int/1680084826>

10 There are two relevant documents: Council Recommendation (2002) 2 on access to official documents and Recommendation No. R (81) 19 on access to information held by public authorities.

related to this issue is complemented by the judgments of the European Court of Human Rights in which the Court consistently emphasises the importance of “public scrutiny” of the work of the judiciary as a precondition for the fulfilment of the right to fair trial (Article 6 of the ECHR) and as a means of building and maintaining the citizens’ confidence in the courts.

The key issues emerging from the Council of Europe documents and the relevant case law of the European Court of Human Rights can be summarised as follows: (1) the requirement for publicity; (2) the right to access the courts’ official documents and information about the proceedings; (3) a number of legal restrictions that must be taken into account by journalists to balance their right to report on the court proceedings with other rights.

The principle of publicity is directly related to the obligation of the states, under Article 6.1 of the ECHR,<sup>11</sup> to guarantee the right to a fair and public hearing to every individual and to ensure that the court judgments are publicly pronounced. The requirement for holding court hearings in public is, however, subject to exceptions. Article 6.1 of the Convention provides that “the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society where the interests of juveniles or the protection of the private life of the parties so require or are strictly necessary, according to the opinion of the European Court, in special circumstances where publicity would prejudice the interests of justice”.

The Council of Europe standards on the access to information held by the public authorities also refer to the information and documents held by the judicial institutions. Both the European Convention on Access to Official Documents (ETS 205)<sup>14</sup> and other Council of Europe instruments emphasise that all official documents are public and that the public institutions should make them available proactively and on their own initiative. It is only in strictly defined situations that official documents can be withheld by the authorities to protect other rights and legitimate interests – such as national security, public safety, privacy, protection of commercial or other economic interests. According to these standards, there is no distinction between the journalists and other individuals in regard to the right of access. In addition, the authorities should make official documents and information available to all journalists, without discrimination.

The specific aspects of media coverage of court proceedings, including restrictions on reporting so as not to infringe the rights of others, are explained in more detail in Recommendation (2003)<sup>13</sup> and justified in several judgments of the European Court of Human Rights.<sup>12</sup> The most important issues that journalists must be aware of concerning their rights and restrictions when reporting on court proceedings are the following:

- **Publicity and access to information about indictments and hearings.** According to Recommendation (2003)<sup>13</sup>, journalists must be able to freely report and comment on the functioning of the criminal justice system (Principle 1), and competent authorities should make available to journalists the necessary information about indictments or scheduled hearings, upon simple request and in due time, unless impracticable. In addition, journalists should be allowed, on a non-discriminatory basis, to make or receive copies of publicly pronounced judgments and to disseminate or communicate these judgments to the public (Principle 15).

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11 Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, Accessed on January 25th: [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf)

12 European Audiovisual Observatory, Media in the Courtroom, IRIS Plus 2014-2, Strasbourg: 2014, p.37. Accessed on November 14th: <https://rm.coe.int/1680783dae>

- **Non-discriminatory access to regular information.** Principles 4, 5 and 6 oblige the judicial authorities and police services to regularly provide information to the media about their activity related to criminal proceedings, so long as this does not prejudice the secrecy of investigations and police inquiries. Such information should be provided on a non-discriminatory basis and through various means to all journalists.
- **Access to the courtroom.** Principles 12 and 13 of Recommendation (2003)<sup>13</sup> stipulate that journalists should be admitted to public hearings without discrimination and without prior accreditation requirements. In addition, the judicial authorities should provide a sufficient number of seats for journalists in the courtroom, without excluding the presence of the public. Journalists should not be excluded from court hearings, unless or no more than the public is excluded in accordance with Article 6 of the Convention.
- **Live reporting and recordings.** Principle 14 of Recommendation (2003)<sup>13</sup> prescribes that live reporting and recordings from the criminal proceedings should not be subject to authorisation, except in situations where there is a serious risk “of undue influence on victims, witnesses, parties to criminal proceedings, juries or judges”. The European Court of Human Rights further explained that “the national authorities, in particular the courts ... are better placed than the European Court in assessing whether live broadcasting in a given case may be prejudicial to the fair administration of justice”.<sup>13</sup>
- **Right to presumption of innocence.** Principle 2 of the Recommendation emphasises that, when reporting from a criminal trial, journalists should respect the fundamental right to presumption of innocence of the suspect or accused.
- **Protection of privacy.** Another legitimate restriction on the reporting from criminal trials is based on the right to privacy of suspects, the accused or convicted persons guaranteed by Article 8 of the ECHR. Principle 8 of the Recommendation puts special emphasis on the protection of minors and vulnerable persons and of victims and their families.
- **Protection of witnesses.** Journalists should also bear in mind the importance of protecting the identity of witnesses, especially in situations when this revealing the identity might endanger the life or security of the witness. The identity of the witness could be disclosed only if they have given prior consent or the testimony has already been given in public (Principle 16 of the Recommendation).

### 1.3 Pressures on the judiciary and the media in the fragile democracies of the Western Balkans countries

All the countries in the Western Balkans are defined as democracies according to the formal characteristics of the political systems embedded in their constitutions and laws. It is the degree of application of the basic democratic safeguards in the legally established democratic systems that distinguishes young and fragile democracies in the Western Balkans from consolidated democracies mainly in Western and Northern Europe.<sup>14</sup> The fragile democracies of the three Western Balkan countries are vulnerable to still-present authoritarian tendencies due to the high level of corruption, political clientelism and state capture practices. They are characterised by frequent attempts by the authorities to assault civil liberties, interfere in the judiciary and restrain media and journalist freedom.<sup>15</sup>

13 P4 Radio Hele Norge ASA v. Norway, no. 76682/01, 6 May 2003 (Inadmissibility decision)

14 International Institute for Democracy and Electoral Assistance, “The Global State of Democracy 2019: Addressing the Ills, Reviving the Promise”. Stockholm: 2019. Accessed on May 16th, 2022: <https://www.idea.int/sites/default/files/publications/the-global-state-of-democracy-2019.pdf>

15 *Ibid*, p.213.

Freedom House's 2021 report characterises most of the countries in the Western Balkans region<sup>16</sup> as transitional or hybrid regimes, including Serbia, BiH and North Macedonia. BiH scores low, with 38 out of 100 points.<sup>17</sup> This assessment is predominantly based on the persistent institutional dysfunction of the national governance and the abuse of the checks and balances by the political actors to block the functioning of the state. The report identifies the judiciary's independence and efficiency in dealing with corruption as one of the high-priority issues, while the media are described as financially unsustainable and vulnerable to political and commercial pressure. For Serbia, the score is 46, which is 2 points worse than in the previous year.<sup>18</sup> This is primarily due to the intimidation of civil society organisations by government officials and pro-government media; increasing government pressure on independent media outlets and journalists; and numerous scandals that point to links between state structures and ruling party officials on the one hand and organised crime on the other. The judiciary is assessed as politicised, which is supported by numerous cases that raised questions about the independence and passivity of the prosecutors and courts.<sup>19</sup> North Macedonia scored 47 out of 100,<sup>20</sup> only 1 point more than Serbia. The country maintained a status quo in its liberal-democratic development: corruption is present at all levels of government administration and across economic and professional sectors. The justice system is labelled as "heavily politicised, leading to impunity for top officials and a general inability to establish the principle of rule of law in judicial practices".<sup>21</sup> The media sphere is described as deeply polarised along political lines, while the journalists' position is still vulnerable to political and other pressure.

The EU institutions also point out numerous democratic deficiencies in the countries under analysis, especially regarding the rule of law. According to the European Commission, the judiciary is the least independent and efficient in BiH, followed by Serbia and North Macedonia, where some positive steps have been noted in the reform process. The 2021 Report notes that in BiH no progress was made in the area of the judiciary, emphasising that there was a lack of commitment from political actors to implement the judicial reform. Hence, the poor functioning of the judicial system in BiH continued to undermine citizens' enjoyment of rights and the fight against corruption and organised crime.<sup>22</sup> The Expert Report on Rule of Law Issues in Bosnia and Herzegovina ("Priebe report") issued in 2019 outlines serious deficiencies at all levels, especially in the criminal justice system, including the following: first, none of the four existing criminal justice jurisdictions functions adequately, and they are thus failing to combat serious crime and corruption; second, prosecutors are failing to lead crime policy and criminal investigations; third, the quality of many criminal investigations is low; and fourth, the prosecutors are highly susceptible to influence.<sup>23</sup>

As for Serbia, the European Commission has repeatedly expressed concerns about sustained political influence over the judiciary under the current legislation,<sup>24</sup> indicating that delays in constitutional reform have repercussions on the adoption of stronger legal safeguards for judicial independence and on building a merit-based system of appointment and evaluation of the work of judges and prosecutors.<sup>25</sup>

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16 Ibid, p.13.

17 Freedom House, Nations in Transit 2022: Bosnia and Herzegovina. Accessed on May 16th, 2022: <https://freedomhouse.org/country/bosnia-and-herzegovina/nations-transit/2022>

18 Freedom House, Nations in Transit 2022: Serbia. Accessed on May 16th, 2022: <https://freedomhouse.org/country/serbia/nations-transit/2022>

19 Ibid.

20 Freedom House, Nations in Transit 2022: North Macedonia. Accessed on May 16th, 2022: <https://freedomhouse.org/country/north-macedonia/nations-transit/2022>

21 Ibid.

22 European Commission, COMMISSION STAFF WORKING DOCUMENT Bosnia and Herzegovina 2021 Report. Accessed on May 17th, 2022: <file:///C:/Users/Snezana/Downloads/Bosnia%20and%20Herzegovina%202021%20report.PDF>

23 European Commission, Expert Report on Rule of Law issues in Bosnia and Herzegovina, Brussels: 2019, p.10. Accessed on May 17th, 2022: <https://europa.ba/?p=66927>

24 European Commission, COMMISSION STAFF WORKING DOCUMENT Serbia 2020 Report, p.5. Accessed on May 17th, 2022: [https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/serbia\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/serbia_report_2020.pdf)

25 European Commission, COMMISSION STAFF WORKING DOCUMENT Serbia 2021 Report, p.6. Accessed on May 17th, 2022: <file:///C:/Users/Snezana/Downloads/Serbia-Report-2021.pdf>

Although some positive steps were notable in terms of a relaunch of constitutional reform, serious concerns still prevail and are expressed by the European Commission due to the country's weak track record in the processing of war crimes cases and the prevention and repression of corruption. The Commission also closely monitored the situation regarding media freedoms and the safety of journalists, noting that no progress has been made yet to improve the overall environment for freedom of expression and expressing a great concern about numerous cases of threats, intimidation and violence against journalists.<sup>26</sup>

For North Macedonia, the European Commission stated that although some positive steps have been made, efforts are still needed to ensure systematic implementation of the updated action plan on the judicial reform strategy and the human resources strategies for the judiciary and the prosecution.<sup>27</sup> The need for full respect of the principle of independence of the judiciary and its increased transparency is emphasised, notably in the work of the Council for Public Prosecutors. The mutual efforts of the Association of Judges and the Judicial Media Council to strengthen transparency as one of the tools to restore public trust in the judiciary are positively assessed. The Commission also underlined that the general context is favourable to media freedom and allows for critical media reporting, although greater transparency should be ensured regarding media advertising by state institutions and political parties. The labour rights of journalists are the weakest point in the current situation, and there is an urgent need to address this problem.<sup>28</sup>

The findings of the European Court of Auditors presented in its 2022 Special Report prepared for the European Commission shed additional light on the level of democracy development in the Western Balkan countries. The report states that the insufficient political will and the lack of engagement of the authorities was the main reason for the poor results in advancing the fundamental rule-of-law reforms in the Western Balkans. Although the countries in the region have implemented some technical and operational reforms, serious problems persist in areas such as the independence of the judiciary, the fight against corruption, the freedom of expression and police cooperation and the fight against organised crime.<sup>29</sup> The judicial reforms in these countries have predominantly been reduced to updating the legislative framework and other technical matters, but implementation and anticorruption performance has remained weak.

In December 2020, Transparency International conducted a comprehensive study that examined two key enabling factors of state capture in the Western Balkans and Turkey: impunity for high-level corruption and tailor-made laws. The report concludes that the judiciary does not cope with corruption-related problems effectively and that "the power of political parties and the loyalty they command are key ingredients in the success of patronage and clientele networks".<sup>30</sup> Among the most common problems in all Western Balkans countries is the political influence on the judiciary, lengthy court proceedings and obstacles associated with the investigation and prosecution of high-level corruption. As a result of the lack of independence and excessive influence, public perception and trust in the entire judicial systems in the Western Balkans countries is low. According to some studies, between 55% and 94% of the citizens of the Western Balkan countries believe that judiciary officials are corrupt.<sup>31</sup>

26 European Commission, COMMISSION STAFF WORKING DOCUMENT Serbia 2020 Report, p.5. Accessed on May 17th, 2022: [https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/serbia\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/serbia_report_2020.pdf)

27 European Commission, COMMISSION STAFF WORKING DOCUMENT North Macedonia 2021 Report, p.18. Accessed on May 17th, 2022: [file:///C:/Users/Snezana/Downloads/North-Macedonia-Report-2021%20\(4\).pdf](file:///C:/Users/Snezana/Downloads/North-Macedonia-Report-2021%20(4).pdf)

28 Ibid, p.6.

29 European Court of Auditors, EU support for the rule of law in the Western Balkans: despite efforts, fundamental problems persist, 2022, p.33. Accessed on May 18th, 2022: [https://www.eca.europa.eu/Lists/ECADocuments/SR22\\_01/SR\\_ROL-Balkans\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR22_01/SR_ROL-Balkans_EN.pdf)

30 Transparency International, Examining State Capture: Undue Influence on Law-Making and the Judiciary in the Western Balkans and Turkey, 2020. Accessed on May 18th, 2022: [https://images.transparencycdn.org/images/2020\\_Report\\_ExaminingStateCapture\\_English.pdf](https://images.transparencycdn.org/images/2020_Report_ExaminingStateCapture_English.pdf)

31 SELDI Policy Brief No.12, Judiciary in the Western Balkans: the long road from political dependence towards EU standards, December 2020, p.5. Accessed on May 18th, 2022: <https://seldi.net/wp-content/uploads/2020/12/Policy-brief-The-Judiciary-in-Anticorruption.pdf>

Thorough reforms of the media in all Western Balkans countries have been identified as a crucial component in the reform and democratisation process, but they are continually delayed and sometimes even blocked due to several structural challenges.<sup>32</sup> In Serbia, the process of media reform started in 2017, but in the working groups for the development of the new media strategy, the journalists' associations had to repeatedly fight with the representatives of the government to uphold the freedoms and rights already acquired through legislation. Moreover, due to continued attacks on journalists and independent media outlets, six journalists' associations left the working group in March 2021 and later founded their own Coalition for Media Freedom.<sup>33</sup> In recent years, there have been several initiatives in BiH to amend laws relating to the freedom of media and journalists, and the Association BiH Journalists is leading the advocacy for these changes. However, by the end of 2021, there had been no progress in adopting these laws.<sup>34</sup> In North Macedonia, the structural reforms required by civil society are continually delayed by the main political actors, and so most of the old systemic deficiencies are still present: the market is fragmented, most media outlets are financially weak and unsustainable, the links between private media owners and politics undermine the independence of the media and the working status of journalists is insecure and unstable.<sup>35</sup>

## 1.4 Relations between the judiciary and media in each country

In recent years, communication between journalists and the judiciary in the three countries covered by this study has been characterised by similar dynamics and a similar level of mutual misunderstanding, mistrust and antagonism. At the regional level, no comprehensive research can be found that systematically analyses all the aspects and causes of the tense relationship between these two professions which are extremely important for a democratic society. However, this general conclusion can be drawn from certain analytical efforts, debates, educational materials and training programmes that have been initiated and implemented as part of the judicial system reforms or activities aimed to promote ethical standards in journalism.

For example, in 2019 the Association of Judges of Serbia published a comprehensive analysis titled "Relations between the Courts and the Public",<sup>36</sup> which aimed to ascertain the situation in journalistic reporting, to clarify the dilemmas and open questions of journalists and judges in terms of the legal framework for reporting on court proceedings and to provide guidelines for improving the relations and co-operation between courts and journalists. The analysis, in addition to international standards, describes in detail the legal framework and ethical standards at a national level that regulate the rights and obligations of both representatives of the judiciary and journalists. In addition, certain gaps and inequalities in the regulation of this matter are identified in the bylaws and in the practice of the various courts.

The results of that study indicate that the representatives of both professions hold negative perceptions of each other. For example, a survey of judges in Serbia conducted in 2017 found that 79% felt that journalists were not sufficiently aware of the rules of procedure, and 66% said that journalistic coverage of court proceedings was not objective. Furthermore, the judges and prosecutors believe that

32 Aspen Institute Germany, *Media Freedom in the Western Balkans*, Valeska Esch & Viktoria Palm (eds.), December 2021. Accessed on May 18th, 2022: [https://www.aspeninstitute.de/wp-content/uploads/2021\\_Aspen-Germany\\_Media-Freedom-in-the-Western-Balkans.pdf](https://www.aspeninstitute.de/wp-content/uploads/2021_Aspen-Germany_Media-Freedom-in-the-Western-Balkans.pdf)

33 Nikola Burazer, *Media Freedom in Serbia: Media Capture on the Rise, Critical Media Under Threat*, in "Media Freedom in the Western Balkans", Valeska Esch & Viktoria Palm (eds.), December 2021, p.38. Accessed on May 18th, 2022: [https://www.aspeninstitute.de/wp-content/uploads/2021\\_Aspen-Germany\\_Media-Freedom-in-the-Western-Balkans.pdf](https://www.aspeninstitute.de/wp-content/uploads/2021_Aspen-Germany_Media-Freedom-in-the-Western-Balkans.pdf)

34 Leila Bičakčić, *Challenges to Media Freedom and Pluralism in Bosnia and Herzegovina*, in "Media Freedom in the Western Balkans", Valeska Esch & Viktoria Palm (eds.), December 2021, p.15. Accessed on May 18th, 2022: [https://www.aspeninstitute.de/wp-content/uploads/2021\\_Aspen-Germany\\_Media-Freedom-in-the-Western-Balkans.pdf](https://www.aspeninstitute.de/wp-content/uploads/2021_Aspen-Germany_Media-Freedom-in-the-Western-Balkans.pdf)

35 Snežana Trpevska and Igor Micevski, *Media Sector Hotspots in North Macedonia: Decisive Reforms Long Overdue*, in "Media Freedom in the Western Balkans", Valeska Esch & Viktoria Palm (eds.), December 2021, p.29. Accessed on May 18th, 2022: [https://www.aspeninstitute.de/wp-content/uploads/2021\\_Aspen-Germany\\_Media-Freedom-in-the-Western-Balkans.pdf](https://www.aspeninstitute.de/wp-content/uploads/2021_Aspen-Germany_Media-Freedom-in-the-Western-Balkans.pdf)

36 Bjelogrić, S. at al., *Relations between the Courts and the Public (Odnos sudova i javnosti)*, Association of Judges of Serbia. Belgrade: 2019. Accessed on December 15th, 2021: [https://www.sudije.rs/Dokumenta/Publikacije/odnos\\_sudova\\_i\\_javnosti.pdf](https://www.sudije.rs/Dokumenta/Publikacije/odnos_sudova_i_javnosti.pdf)



journalists should not be trusted and that their interest in the judiciary is focused only on those trials that would attract large audiences due to the personality of the parties and other participants in the proceedings.<sup>37</sup> Moreover, there is a generally accepted opinion among judges and prosecutors that journalists' reporting is mostly unprofessional and inaccurate, without objectivity, which has negative effects on the status of the judges, the courts and the overall trial process. Most of the surveyed judges and prosecutors (96%) agreed that such reporting represents some kind of pressure on their work. Although no similar research has been conducted on journalists' perceptions, this analysis, as well as other published texts,<sup>38</sup> claims that journalists also have negative perceptions about the openness of the judiciary and the accessibility of its judges and prosecutors. Journalists believe that the judges and the courts in general are reluctant to provide the necessary information regarding court proceedings. Court hearings are usually public, and journalists are allowed to follow them, but this rarely happens because they are overloaded with work and do not have enough time to attend the entire trial. To collect relevant information, therefore, journalists call judges to issue a statement or to give an interview. Judges are not usually accessible, however, or they give statements only to some journalists who enjoy their trust.<sup>39</sup>

An analysis published by BIRN Serbia in 2020 of the media coverage of court trials confirmed that the negative perceptions of the judiciary representatives (as well as the entire public) towards journalists are to a certain extent a result of the biased and unethical reporting of some media and journalists. The study monitored the reporting of seven Serbian media outlets on court proceedings for organised crime and corruption was monitored. The findings show that the way in which the media report on the organised crime and corruption trials depends primarily on the editorial policy of the specific media outlet. The media whose editorial policy is already biased towards the ruling party report in a positive tone, but also systematically avoid reporting on lawsuits and topics such as conflicts of interest relating to high officials. Differences in editorial approaches are visible not only in the selection of and the way the media frame the topic, but also in the choice of and the approach to the sources of information, the presence of a critical approach and the tendency towards sensationalism.<sup>40</sup>

Judicial institutions in Serbia have recognised the need to be more transparent and to address existing problems in communication with the media and the public in general. In November 2018, the Communication Strategy of the High Council of Judiciary and Courts was adopted.<sup>41</sup> The document highlights that the High Judicial Council and courts are not proactive in communicating with the public and are passive in regard to online forms of communication and that the existing communication system in the judiciary is not efficient and does not deliver the expected results. According to the information that the Independent Association of Journalists of Serbia<sup>42</sup> received from the High Judicial Council, the Commission for the Implementation of the Strategy has not been established yet and the Action Plan was adopted only for 2019. However, some activities foreseen by the strategic document have indeed been implemented: training sessions for spokespersons were conducted, a network of court spokespersons in Serbia was created and the Guide for Court Spokespersons was developed.

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37 Ibid, p.33

38 Udruženje Novinara Srbije "Odnos suda i medija: Obostrana nezavisnost, uz saradnju i poštovanje" (The relationship between the court and the media: Mutual independence, with cooperation and respect). *Danas*, April 1st, 2019. Accessed December 23rd, 2021: [danas.rs](https://www.danas.rs)

39 Bjelogrić, S. at al., Relations between the Courts and the Public (Odnos sudova i javnosti), Association of Judges of Serbia. Belgrade: 2019, p. 34. Accessed on December 15th, 2021: [https://www.sudije.rs/Dokumenta/Publikacije/odnos\\_sudova\\_i\\_javnosti.pdf](https://www.sudije.rs/Dokumenta/Publikacije/odnos_sudova_i_javnosti.pdf)

40 BIRN Serbia "Pravda u ogledalu javnosti: Monitoring medijskog izveštavanja u sudskim procesima" (Justice in the Mirror of the Public: Monitoring of the Media Reporting on Court Proceedings), June 4th 2020. Accessed May 20th, 2022: [birnsrbija.rs](https://birnsrbija.rs)

41 Komunikaciona strategija visokog saveta sudstva i sudova (Communication Strategy of the High Council of Judiciary and Courts), November 2018. Accessed May 20th, 2022: [vss.sud.rs](https://vss.sud.rs)

42 Petrović Škero, V. "Iskustvo i percepcije novinara o transparentnosti pravosuđa u Srbiji" (Journalists' experience and perceptions about the transparency of judiciary), p. 2. Beograd: Nezavisno udruženje novinara Srbije, 2022. Accessed September 21st, 2022: [https://nuns.rs/media/2022/09/FPU\\_rapport\\_srb-final.pdf](https://nuns.rs/media/2022/09/FPU_rapport_srb-final.pdf)

Furthermore, the Communication Strategy of the Prosecutors' Office in Serbia was adopted for 2015 to 2020. This document identifies several deficiencies in the overall communications practices of prosecution offices: employees are insufficiently trained and there is a fear of negative media reporting and of information leaks. However, there is no initiative for adopting a new strategic document based on the results achieved from the implementation of the first strategy.<sup>43</sup>

In BiH, no comprehensive research has been conducted so far on the perceptions and attitudes of the judiciary representatives or journalists on the relationship and communication between these two professions. For example, the general perception among judges and prosecutors is that what dominates in journalism is the "simplification of complex legal issues and a tendency towards sensationalist reporting".<sup>44</sup> This claim is further illustrated with examples from reporting on the courts' practice and court decisions: it is rare for journalists to require final verdicts from the courts even though they must write about them; in the courtroom, journalists are most often present at the opening of the main hearing and at the announcement of the first instance verdict; journalistic reporting neglects the underlying reasons for court rulings, and the judiciary is often unjustifiably criticised and labelled as corrupt and inefficient.<sup>45</sup> Still, it is implicitly acknowledged that the judiciary itself is also to blame for this situation, as it does not make enough effort to translate long and difficult-to-understand judgments into summaries that use simple and understandable language for journalists and the public. Although there has been some positive shift in the opening of the courts to the public and the media with the appointment of public relations (PR) officers, it is emphasised that journalists rightly object to the incomprehensible and poor information and statements published by judicial institutions.

Most journalists reporting on the judiciary in BiH complain about pressure from certain representatives of the judicial institutions, especially regarding the reporting on corruption cases.<sup>46</sup> Although these opinions concern individual judges and prosecutors and do not apply to the entire system of judiciary, they seriously undermine the trust in the judicial system and the relations between the two professions. Journalists in BiH also complain about the lack of transparency and responsiveness of many judicial institutions, arguing that "some courts and prosecutors with internal acts seek to restrict media access to court proceedings".<sup>47</sup>

The results from the studies into journalists' experiences of communication with the judiciary are supported by the content analysis of the judicial institutions' websites.<sup>48</sup> A research study, which involved monitoring 78 websites of judicial institutions and sending requests for access to information, concluded that the level of transparency is far from satisfactory, that most courts do not publish decisions or minutes from the trial and only a few courts publish information about the cases on their websites (and then only sporadically). In terms of reactive transparency, the findings are satisfactory, because most of the courts provided the requested information, with a number of courts not complying with the deadline for delivery. Another monitoring study established that the rules for publishing indictments and verdicts are applied differently, that not all courts and prosecutors' offices publish the name of the contact person in charge of communicating with the media and only a small amount of information is published by judicial institutions on their websites.<sup>49</sup>

43 Ibid.

44 Murtezić, M., "Utjecaj javne percepcije pravosuđa na integritet sudija" (The impact of public perception of the judiciary on the integrity of judges). Sarajevo: Fondacija Centar za javno pravo, 2019. Accessed December 21st, 2021: [http://fcjp.ba/analize/Melika\\_Murtezic-Uticaj\\_javne\\_percepcije\\_pravosudja\\_na\\_integritet\\_sudija.pdf](http://fcjp.ba/analize/Melika_Murtezic-Uticaj_javne_percepcije_pravosudja_na_integritet_sudija.pdf)

45 Ibid.

46 Đelilović, Z. "Odnos između pravosuđa i medija u BiH" (The relationship between the judiciary and the media in BiH). Sarajevo. BH novinari, 2019. Accessed November 20th, 2021: <https://bhnovinari.ba/wp-content/uploads/2019/07/Odnos-izmedju-pravosudja-i-medija-u-BiH-1.pdf>

47 Ibid.

48 Analitika, Policy memo: Transparentnost pravosuđa u Bosni i Hercegovini, Sarajevo: 2018. Accessed on December 23rd, 2021: [https://www.analitika.ba/sites/default/files/publikacije/Transparentnost%20pravosudja%20u%20BiH%20-%20policy%20memo\\_0.pdf](https://www.analitika.ba/sites/default/files/publikacije/Transparentnost%20pravosudja%20u%20BiH%20-%20policy%20memo_0.pdf)

49 Erna Mačkić, Transparentnost pravosuđa u Bosni i Hercegovini u domenu procesuiranja koruptivnih krivičnih djela, Sarajevo: Analitika, 2018.. Accessed May 20th, 2022: <https://www.analitika.ba/bs/publikacije/transparentnost-pravosuda-u-bosni-i-hercegovini-u-domenu-procesuiranja-koruptivnih>

Only a few studies in North Macedonia shed light on the communication between the media and judicial institutions. No quantitative research has been carried out on the perceptions of the representatives of the judiciary on journalistic reporting or on the opinions and attitudes of journalists about the openness of judicial institutions. Insights can be drawn only indirectly from several recent analyses of the transparency and accountability of the courts and prosecutors' offices. For example, according to an analysis of the openness of the courts in North Macedonia conducted in 2020, the judicial system still faces difficulties in terms of its openness and transparency, which is an obligation arising primarily from the Law on Free Access to Public Information.<sup>50</sup> The analysis states that "the courts publish information on the person responsible for contact with the media and the public, but do not publish instructions on how the media and the public can communicate with the judiciary".<sup>51</sup>

The conclusions and recommendations in the same analysis emphasise that most judicial institutions do not have the human resources to meet the legal obligations to publish information. The courts, in particular, have neither the resources nor the knowledge to meet the relevant norms of the Court Rules of Public Relations. In addition, there is no policy document to increase the transparency and openness of the courts, and this issue is not even addressed in the existing Strategy for Legal Sector Reform. It is therefore necessary to develop a special strategy to ensure the openness of the judiciary and to develop a methodology according to which the Judicial Council will monitor the websites of the courts and develop guidelines according to which the courts will communicate with the public.<sup>52</sup>

In 2018, the Judicial-Media Council was established as an advisory body of the Association of Judges of the Republic of North Macedonia.<sup>53</sup> The role of this body is not only to facilitate the dialogue between the media and the courts, but also to monitor and analyse the extent to which the judiciary is transparent. The Council has so far implemented several measures and published several manuals and guidelines related to the legal framework and standards for journalistic reporting on court proceedings. In November 2021, the Council also adopted the Strategy for Improving and Strengthening Judicial Transparency,<sup>54</sup> which is a brief document that defines the mission, vision and values of the Judicial-Media Council and determines the general strategic goals and directions for actions aimed at increasing the transparency of the judicial institutions and the level of knowledge of journalists who report about the work of the judicial system.

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50 Center for Legal Research and Analysis, Openness of the judiciary in the Republic of North Macedonia (Otvorenost na sudstvoto vo Republika Severna Makedonija), Skopje: 2020. Accessed on December 18th, 2021: <https://cpia.mk/wp-content/uploads/2021/10/9.pdf>

51 Ibid, p.41.

52 Ibid, p.89.

53 <http://www.mja.org.mk/Default.aspx?id=4be874bd-034e-4776-bf4b-953e9188b64f>

54 The Strategy is available in Macedonian language at: <http://www.mja.org.mk/Upload/Content/Documents/%D0%A1%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D0%B8%D1%98%D0%B0.pdf>

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## 2. Research design and methods

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The research strategy and design of the study were devised to provide the necessary qualitative and quantitative empirical evidence to achieve the objectives and to answer the formulated general and specific research questions. At a country level, we applied a mixed methods research strategy. This is a type of strategy that combines quantitative and qualitative data within a single study, enabling the researcher to gain a more thorough knowledge of the phenomenon under investigation. The primary data collection in each country consisted of three sequential stages: qualitative → quantitative → qualitative. Thus, one phase of the process informed the next phase in such a way that different forms of data were nested within each other and shed light on nuanced aspects of the phenomenon. Finally, the qualitative and quantitative data were integrated to allow for a comprehensive analysis of the research problem. At all three stages, particular attention was paid to research ethics to preserve the anonymity of the respondents and confidentiality of the collected personal data of journalists.

The research questions were answered taking into consideration the cross-country comparative perspective so as to observe the effects of national and sub-national contexts on perceptions and behaviours of various groups of journalists involved in the study. The data collected at a country level were analysed across the three countries to explain their similarities and differences, for example: Do the journalists from all countries face similar levels of non-transparency of judicial institutions? Do the journalists' perceptions of the role of the judiciary in safeguarding media freedom and journalists' safety vary across the countries? Are there similarities or differences in the level of knowledge among journalists about the most relevant issues and principles of reporting on the judiciary?

The research design consisted of the following three sequential stages (Table 2):

- **Qualitative (semi-structured) interviews**

In the first stage, country researchers conducted preliminary in-depth interviews with 4-5 of the journalists most experienced in reporting on judicial institutions. The main purpose of this data collection stage was to obtain a deeper insight into the topic and to inform the next (quantitative) stage.

- **Online survey**

Based on the findings from the preliminary in-depth interviews, a structured questionnaire was designed for the online survey. The independent research company Valicon, based in BiH, was selected to administer the survey in all three countries.

A purposive sample of journalists was selected for the online survey through five steps. First, a list of media outlets with news departments was compiled, according to the following criteria: type of media (TV, radio, print, online, news agency) and level of coverage (national, regional, local) to represent the media landscape in the country. Second, through communication with the editors-in-chief of the selected media, two categories of journalists were identified in the newsrooms: those who primarily report on the judiciary and those who report or comment on other issues (political and economic controversies, corruption etc.) but also occasionally report on the work of the judiciary. Third, lists of journalists who were sued for defamation and/or who were victims of attacks or violence were compiled. Fourth, the research agency engaged in email correspondence with all of the journalists identified in the previous steps, inviting them to participate in the online survey. Fifth, to increase the response rate, several reminders were sent to media newsrooms and journalists.

Stage	Method	Procedure
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <b>Qualitative data collection and analysis</b> </div> <div style="text-align: center;">↓</div>	<ul style="list-style-type: none"> <li>○ Qualitative (semi-structured) interviews with 4-5 journalists per country.</li> </ul>	<ul style="list-style-type: none"> <li>○ Select journalists to be interviewed.</li> <li>○ Develop interview protocol.</li> <li>○ Conduct interviews.</li> <li>○ Record interviews or take notes.</li> <li>○ Summarise responses in the coding matrix.</li> </ul>
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <b>Qualitative data collection and analysis</b> </div> <div style="text-align: center;">↓</div>	<ul style="list-style-type: none"> <li>○ Online survey with journalists from the three countries.</li> </ul>	<ul style="list-style-type: none"> <li>○ Develop survey questionnaire.</li> <li>○ Select journalists to be included in the sample.</li> <li>○ Administer the online survey.</li> <li>○ Analyse the quantitative data.</li> </ul>
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <b>Qualitative data collection and analysis</b> </div>	<ul style="list-style-type: none"> <li>○ Focus group discussions with 20-25 journalists in each country.</li> </ul>	<ul style="list-style-type: none"> <li>○ Develop topic guide.</li> <li>○ Select participants in the group discussions.</li> <li>○ Conduct group interviews.</li> <li>○ Record discussions or take notes.</li> <li>○ Summarise responses in the coding matrix.</li> </ul>

**Table 2:** *The stages of primary data collection at a country level*

Some media outlets, despite several invitations and telephone calls from the research agency and from the respective journalists' associations, did not respond at all to the invitation to participate in the survey. The response rate to the survey was not the same in all three countries, which was reflected in the different structure of the national samples. The highest response to the online survey was by journalists from BiH, and the lowest by journalists from Serbia.

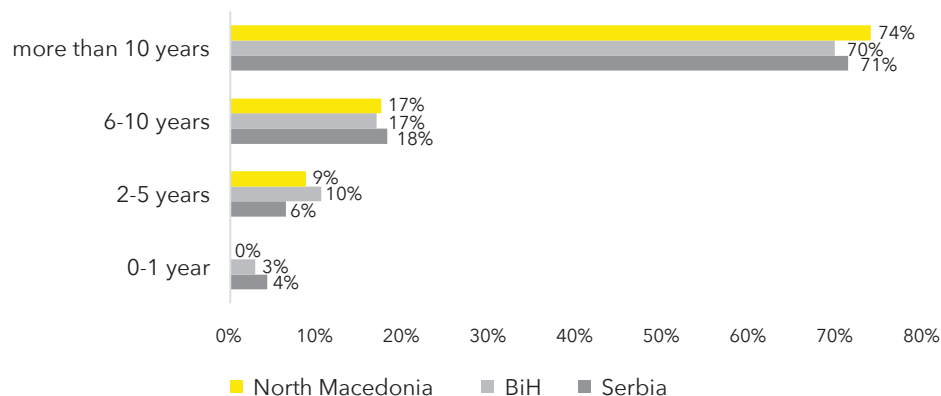
Given that the sample (Table 3) included a sufficient number of journalists from all types of media, at both a state and a regional level, the survey data still provide a good basis for drawing comparative conclusions. Nevertheless, the results cannot be considered representative of all the journalists in each country, but they should be considered indicative of their individual experiences and perceptions.

	Serbia	Bosnia and Herzegovina	North Macedonia
TV stations	28	57	32
Radio stations	5	28	6
Print	21	14	6
Online	37	71	24
Freelancers	/	2	1
News agencies	3	/	/
Total	94	172	69

**Table 3:** The sample of journalists who completed the online survey

The online survey was conducted in the three countries mainly with journalists who have long experience in their profession (Chart 1). In the sample of surveyed journalists in each country, the proportion of journalists who have over 10 years of professional experience is about 70%, and those who have been in the profession from 6-10 years constitute about 17-18%. A lower proportion of younger journalists, with up to 5 years of experience, participated in the survey.

**Professional experience of the interviewed journalists**



**Chart 1:** Professional experience of interviewed journalists

In Serbia, of all the journalists who participated in the survey, 50 were female (53%) and 44 male (47%); 17 had a high school diploma, and 77 had a college or university degree. In BiH, 93 were female (54%) and 79 were male (46%). In North Macedonia, 39 were female (57%) and 30 were male (43%). The participation of more female than male journalists in the survey is most likely because in the newsrooms they more often hold journalist positions, while their male colleagues most often take the editorial positions.

None of the survey respondents works exclusively on topics related to the judiciary, which indicates that almost no journalists in the three countries have such a specialisation (Table 4). The second category of journalists (those who specialise in topics related to the judiciary, but occasionally report on other current affairs) accounts for about one fifth of the respondents in North Macedonia (20%) and BiH (17%) and 10%

in Serbia.<sup>55</sup> Among the surveyed journalists, the most represented are those who work mainly on other topics (politics, economy, corruption, etc.) but occasionally report on topics related to the work of the judicial system.

	Serbia	Bosnia and Herzegovina	North Macedonia
I work exclusively on topics related to the judicial system	0%	0%	0%
I work mainly on topics related to the judicial system, but I also cover other topics	10%	17%	20%
I work mainly on other topics (politics, economy, corruption, etc.), but I also occasionally report on topics related to the work of the judicial system	90%	83%	80%

**Table 4:** *To what extent do you report on the judicial system in your daily work as a journalist?*

**Focus group interviews**

The topic guide for the group discussions with journalists was developed based on the preliminary analysis of the survey data. The purpose of the third qualitative stage was to collect additional qualitative data to provide more information and deeper understanding about the specific context in each country and to anchor the findings from the survey. In total, 10 focus group discussions were conducted with journalists who primarily report on the work of the judiciary: three in Serbia,<sup>56</sup> four in BiH<sup>57</sup> and three in North Macedonia,<sup>58</sup> including 42 journalists altogether from different types of media.

55 It is important to note here that these percentages do not reflect most accurately the structure of the entire population of journalists in each of the countries, especially in Serbia and Macedonia where the response rate of journalists invited to take part in the survey was lower. However, given the situation of the media in the three countries, it is very likely to assume that only a small number of newsrooms can afford to invest in specialisations of journalists for reporting about specific fields.

56 In Serbia, 3 focus groups were conducted with 13 journalists: 10 female and 3 male journalists; 8 from online media, 1 from radio, 2 from the press and 2 from TV.

57 In Bosnia and Herzegovina, 4 focus groups were conducted with 19 journalists: 15 female and 4 male journalists; 13 from online media, 2 from radio, 2 from the press, 1 from TV and 1 from a news agency.

58 In North Macedonia, 3 focus groups were conducted with 10 journalists: 6 female and 4 male journalists; 4 from online media, 4 from TV, 1 from radio, 1 correspondent journalist for a foreign TV station.

## 3. Findings

This Chapter aims to introduce readers to the detailed findings of the study, by integrating the data collected from the quantitative (survey) and the qualitative stage (interviews and focus groups). The four sections provide detailed quantitative and qualitative research evidence corresponding to the research objectives and specific research questions formulated in the beginning of the study.<sup>59</sup> In the end of each section, there is also a summary of the findings. This chapter explores:

- Journalists' views and perceptions of the level of transparency and motivation of the judicial institutions to communicate with the media and journalists, of specific communicators and the quality of communication services provided by judicial institutions (part 3.1).
- Journalists' experience with the court system: access to court files, sources of information used by journalists and experience in covering open trials (3.2).
- Journalists' attitudes towards the role of judiciary in ensuring media freedom and journalists safety (3.3).
- Knowledge shortcomings and needs for additional instruction of journalists in terms of the basic principles and standards of reporting about the court proceedings and judiciary in general (3.4).

### 3.1 Journalists' views and perceptions of the transparency and communications of the judicial institutions

#### 3.1.1 Perceptions of the principles of publicity and motivation of judicial institutions to communicate with the media and journalists

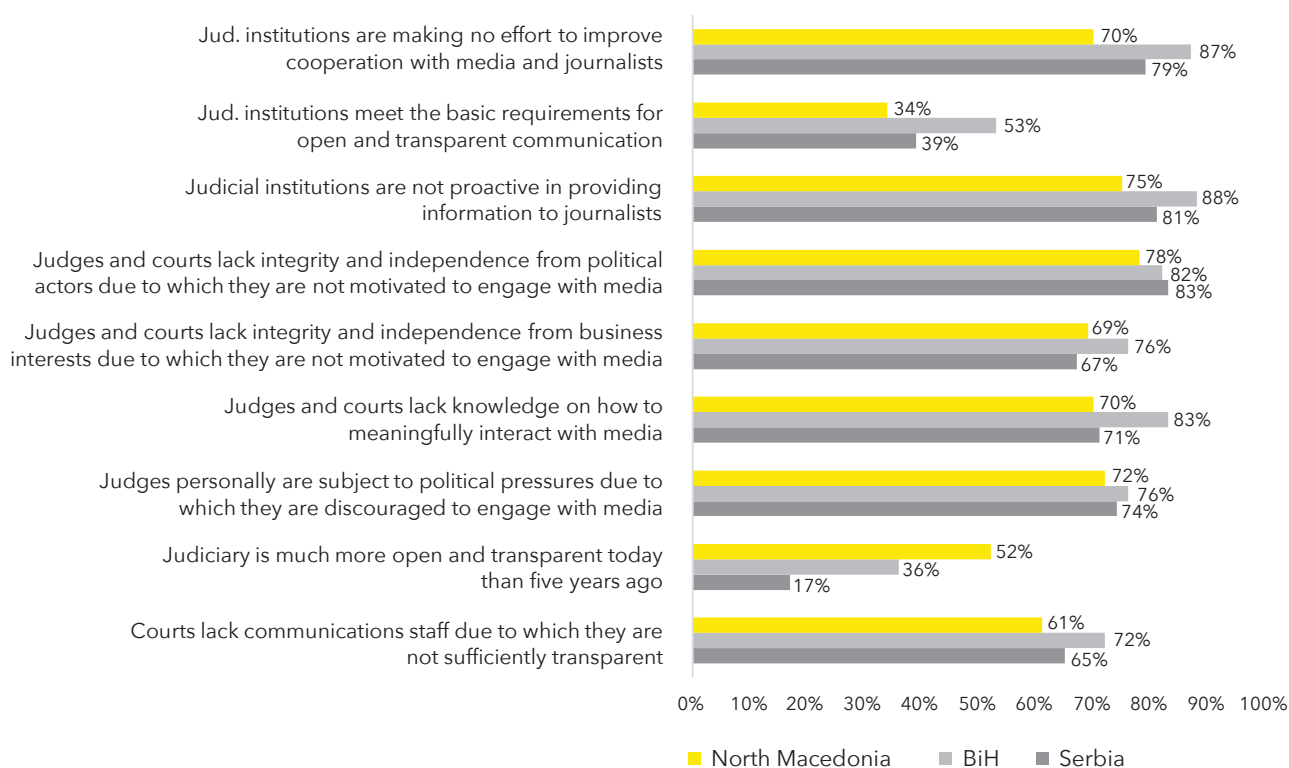
In the online survey, journalists were asked to indicate the extent to which they agreed with several statements related to the implementation of the principle of publicity of the justice system. The graph below (Chart 2) shows only the answers of the journalists who strongly or somewhat agree with the respective statement. The results indicate that journalists from all three countries have critical perceptions of the transparency of judicial institutions, although journalists from BiH and Serbia express a higher level of criticism towards the justice systems in their countries:

- Judicial institutions do not make an effort to improve cooperation with the media and journalists and are not proactive in providing information: over two thirds of the surveyed journalists agreed (strongly or somewhat) with these two statements, with BiH journalists being the most critical (87% and 88%), while journalists from Serbia and North Macedonia have a slightly milder attitude towards the judiciary in their countries.
- Judges and courts lack knowledge of how to interact meaningfully with the media: over 70% of journalists in all three countries believe in this statement, while a large percentage of journalists said that the judiciary lacks trained PR staff. Again, BiH journalists were more critical towards the judiciary in their country than their colleagues from Serbia and North Macedonia.
- Judges and courts lack integrity and independence from political actors: about 80% of the journalists in the three countries agreed with this statement, and about 70% agreed with the statement that the reason why judges are not motivated to communicate with the media is the political pressure to which they are exposed.
- Judges and courts lack integrity and independence from business interests: over two thirds of the journalists agreed (strongly or somewhat) with this statement.
- The perceptions of the journalists from the three countries differ greatly in relation to the statement that the judiciary is much more open and transparent today than five years ago: in North Macedonia 52% agreed with this view, in BiH 36%, and in Serbia only 17%.

<sup>59</sup> The findings relevant to the fourth research objective - to detect priority issues and points of actions in order to improve the current relationship between journalists and judiciary, are presented throughout all sections and summarised in the Recommendations (Chapter 5).



**Motivation of the judicial institutions to engage in communication with media and journalists (journalists who strongly agree and somewhat agree with the presented attitudes)**



**Chart 2:** Motivation of the judicial institutions to engage in communication with media and journalists

In the focus group discussions, the participants stated that the judicial institutions' lack of proactivity in providing information is, in general, due to the slow reforms of the entire judicial system, lack of resources and specific knowledge and, in particular, political influence and pressure on the judiciary. For example, journalists in North Macedonia emphasised that in practice things change slowly. Although some progress has been made in addressing this issue with the establishment of the Judicial-Media Council, procedures for maintaining regular communication between courts and journalists are still lacking, and courts do not have sufficient resources and specific knowledge for communication with the public:

- Lack of proactivity in providing information affects the quality of articles not only in daily journalism, but also in investigative journalism ... Time lost in waiting for information means that you lose the topic - that is, the exclusivity, topicality and relevance of the topic. This also means losing the opportunity to point out a systemic error or poor functioning of the judiciary.<sup>60</sup>
- In terms of lack of resources, the Criminal Court in Skopje has one person (court spokesperson), which is the only channel of communication with all media. Only one person ... has to respond to all the requests of the media, and in this court the most serious criminal cases are processed. With such limited resources, one cannot expect efficient transparency and communication of the courts with the public.<sup>61</sup>

60 Participant in the Focus Group 3 with journalists from North Macedonia, conducted on November 6th, 2021.

61 Ibid.

Journalists from all three countries agreed that a much more important reason for the closure of the judiciary is the influence of political and other centres of power:

- I really think that everything would be much easier if we start from the root of the problem, and that is to lower the pressure of the executive power on the judiciary. Then the spokespersons, judges and prosecutors will, in my opinion, be much freer to communicate with the media...<sup>62</sup>
- Additional education can certainly strengthen the integrity of [judicial staff], but as long as these institutions are not free and captured, a thousand training sessions are in vain when they simply ... cannot do their job. There are many such people, just as there are many more good people in the police, but they cannot do their job.<sup>63</sup>

Journalists from Serbia clearly illustrated why judicial institutions are much more closed today than five years ago. The reasons mostly involve influence and pressure from both politics and powerful groups or individuals:

- The Palace of Justice was [previously] not so alienated from the public. Yes, today it is definitely so ... We were not allowed to enter the building of the Special Court at all ... without first being accredited. Of course, after some time, they realised that it was not consistent with the law, because the trials should be public, and then ... instead of advancing and allowing cameras to enter the courtrooms ... we took a step back ... Judges are now much more afraid of communicating with the media... judges are not superheroes either ... They will just hide and just do their job in the courtroom...<sup>64</sup>

BiH journalists in the focus groups also expressed critical views on the openness and transparency of the judiciary, although in the online survey they were divided on this issue. In particular, critical remarks were addressed to the prosecution due to the non-transparency and political influences on this institution:

- Courts need to be more transparent so that the public can see what they are doing and whether they are administering justice fairly. The more closed the court is in its work, the less public confidence it has. It is common knowledge that corruption is deep in all segments of our society. We can hear that the police arrested someone for corruption, that an indictment was filed, but when it comes to the court, there is a kind of lull ... and that is precisely because the courts are closed to the public.<sup>65</sup>
- I'm just talking about the state court and the prosecutor's office. One gets the impression that they don't care about doing what they're paid to do. When, for example, an investigation was being conducted against [an influential person], we had information two years earlier that he would be arrested, because it was in the interest of the prosecution. However, it is never a matter of public interest, but of the narrow political interest of the people in the prosecution. In that case, you will receive all the necessary information, statements and the like. However, when they decide that it isn't in their interest to provide information, then you can't get anything.<sup>66</sup>

In the discussions, journalists also suggested ways the situation in the judicial institutions can be improved. For example, the judicial institutions should introduce the practice of regularly preparing public releases that would be sent to all media and would be published through all communication channels. They should not wait for requests to be submitted by journalists, but to organise themselves and prepare information for the public and journalists in advance. To achieve that, a systemic approach

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62 Participant in the Focus Group 2 with journalists from Serbia, conducted on November 16th, 2021.

63 Ibid

64 Participant in the Focus Group 3 with journalists from Serbia, conducted on November 23rd, 2021.

65 Participant in the Focus Group 2 with journalists from BiH, conducted on November 22nd, 2021.

66 Participant in the Focus Group 1 with journalists from BiH, conducted on November 22nd, 2021.

or a general communication strategy is necessary, as well as "education and professionalisation ..., training of as many people as possible for communicating with the media ... and those people should be professionals who will work only on that."<sup>67</sup>

### 3.1.2 Perceptions of specific communicators

With the online survey, we checked the perceptions of journalists on how open and responsive the representatives of the judiciary are. The following comparative observations can be drawn from the answers (Table 5):

- Among all representatives of the judicial institutions, the respondents rated the spokespersons as the most open and responsive: in BiH and North Macedonia about 50% of the journalists said that they are always or often open and responsive, and in Serbia about one third (34%).
- In all three countries, prosecutors, judges, court presidents and members of the prosecution and judicial councils are generally assessed as less open and responsive in their communication with journalists.

Openness and responsiveness in communication with journalists	Serbia				Bosnia and Herzegovina				North Macedonia			
	Always and often	Sometimes and rarely	Never	Don't know	Always and often	Sometimes and rarely	Never	Don't know	Always and often	Sometimes and rarely	Never	Don't know
Spokespersons	34%	50%	0%	16%	50%	42%	0%	8%	52%	37%	0%	12%
Judges	3%	67%	6%	23%	1%	67%	15%	17%	7%	64%	12%	17%
Prosecutors	13%	60%	13%	15%	11%	57%	15%	17%	18%	57%	9%	16%
Presidents of the courts	5%	54%	10%	31%	5%	59%	16%	20%	17%	60%	4%	19%
Members of the Judicial Council									5%	54%	14%	26%
Members of the Prosecutors' Council	5%	45%	12%	38%	8%	56%	9%	27%	4%	54%	16%	26%

**Table 5:** How would you rate the following representatives of the judicial institutions in terms of their openness and responsiveness in their communication with journalists?

In the focus groups, the journalists confirmed that the spokespersons are the ones from whom they receive the most information, but for the spokesperson to respond to the requests of the media, it is necessary to obtain the consent of the responsible judge or president of the court. Often, the spokesperson does not have or cannot obtain the necessary information about the cases, and so the journalists do not receive the information they need. Many courts, especially in smaller towns, do not have spokespersons; journalists must address one of the judges, but they are often too busy with the ongoing court proceedings and are not able to respond to journalists' requests for information.

Journalists in Serbia stated that, with some exceptions, spokespersons lack the knowledge and experience to communicate with the media. They are mainly trainees, junior associates or judges who

<sup>67</sup> Participant in the Focus Group 1 with journalists from Serbia, conducted on November 12th, 2021.

have not been trained to communicate with the public and therefore journalists cannot expect simple and clearly formulated statements from them:

- There are a thousand reasons why sometimes we are not satisfied with what we receive from them, and when we receive messages and announcements they are full of legal terms, articles of law, definitions ... They were trained to be judges, prosecutors, lawyers ... They are mostly young people, new in the work – similar to our journalistic texts that were catastrophic in the beginning ... Those who are older are more experienced ... It will be easier for them to explain to us ... Older judges, presidents of the courts, presidents of the prosecutors' offices who have been in the field for a long time know what they can say.<sup>68</sup>

The President of the Skopje Criminal Court was given as a positive example. Before the COVID-19 pandemic, the President held regular press briefings during which, in addition to receiving the necessary information on court cases and hearings, journalists were able to discuss the difficulties and problems they faced while reporting on court proceedings. The journalists said that "regular communication and briefings of court presidents or designated judges with journalists should be regulated as a mandatory procedure ... Now, they are not obliged to do so, and it is left to their good will to decide how transparent they will be."<sup>69</sup>

Journalists from Serbia and BiH explained that, despite some positive examples, a climate of secrecy and fear prevails over the judiciary – especially among judges and prosecutors dealing with organised crime cases. Journalists therefore also consider that the obligation of the judiciary to apply the principle of publicity should be established at the level of the entire system, as a mandatory obligation: both prosecutors and judges should be obliged to maintain regular and direct communication with journalists who report about the judiciary:

- In every country that nurtures a minimum of democratic values, prosecutors hold press conferences ... We are still waiting for our prosecutor 'to come out of the cave' ... Journalists can only meet him by chance when he is hiding behind folders ... The chief prosecutor for organised crime appeared in public only once ... with a recorded statement for the public broadcaster ... after which he got lost. So, first of all, they should hold regular press conferences – that would give everyone equal treatment.<sup>70</sup>
- We know that these are officially closed channels, which mostly look at journalists and their inquiries as a problem. Most people from the institutions of the system are hostile to the media, unless they want the media to act as PR channels for their needs. In all judicial reforms, ... the judiciary received the most attention from the international organisations, because they believed that strengthening the judiciary is the basis for strengthening democracy. However, all this [efforts to reform the judicial system] seems to me to have been in vain.<sup>71</sup>

68 Participant in the Focus Group 3 with journalists from Serbia, conducted on November 23rd, 2021.

69 Participant in the Focus Group 2 with journalists from North Macedonia, conducted November 4th, 2021

70 Participant in the Focus Group 1 with journalists from Serbia, conducted on November 12th, 2021.

71 Participant in the Focus Group 4 with journalists from BiH, conducted on November 23rd, 2021.

Political influences and the climate of fear among members of the judiciary also affect the atmosphere in which journalists work. Journalists in Serbia who write critically or work on investigative topics on corruption and crime complain about the climate of conspiracy and attacks and smear campaigns by pro-government media, by individuals close to the government and by some powerful groups:

- Whoever talks to you can be demonised ... There was a campaign on the front pages for a month ... because we talked to a lawyer. Imagine what would've happened if we'd talked to the prosecutor ... It's terrible that these people who should represent society - they do not have complete integrity, and they are afraid of someone who should not have any influence on their work...
- A man from the judiciary said to me that I constantly annoy him with emails and, in the end, a judge invited me to see him, and I went to that meeting, and suddenly he appeared, but he entered through another entrance ... He didn't carry a mobile phone with him ... and he said to me: 'I want to show you that I'm a real person and that I respect you, but I'm afraid.' ... You see, journalists are treated as destroyers, conspirators who destroy the constitutional order, conspirators who are staging a coup - they have not yet started treating us as terrorist organisations.<sup>72</sup>

### 3.1.3 Perceptions of communication services provided by judicial institutions

One of the issues related to the openness and communication practices of judicial institutions was the extent to which they use different types of traditional and modern communication techniques and platforms. The answers of the interviewed journalists are based on their personal experience in reporting on the work of the judiciary, and the journalists who do not report regularly on such matters or for whom this is not their primary professional task had the opportunity to choose the answer "I do not know". The following general observations can be drawn from the answers (Table 6):

- According to journalists in all three countries, judicial institutions predominantly use press releases, post information on their websites, communicate directly via spokespersons and judges, communicate via email and to a lesser extent prepare summaries of court verdicts.
- Some of the traditional techniques (press conferences, briefings and individual interviews with judges and prosecutors) are rarely used.
- The most rarely used means of communication are the modern communication tools: publishing information on social networks and informing the media and journalists through chat applications (Skype, Zoom, Viber, WhatsApp etc.).

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72 Participant in the Focus Group 1 with journalists from Serbia, conducted on November 12th, 2021.

Types of communication tools	Serbia				Bosnia and Herzegovina				North Macedonia			
	Always and often	Sometimes and rarely	Never	Don't know	Always and often	Sometimes and rarely	Never	Don't know	Always and often	Sometimes and rarely	Never	Don't know
Summaries of court decisions	7%	58%	10%	26%	19%	63%	7%	11%	10%	49%	23%	17%
Information about court decisions published on the website	12%	65%	3%	20%	31%	59%	3%	6%	37%	40%	9%	14%
Press conferences	0%	52%	32%	16%	3%	80%	16%	7%	7%	58%	25%	10%
Briefings with journalists	0%	42%	36%	21%	1%	45%	40%	15%	9%	64%	12%	16%
Direct (face-to-face) interviews with judges, presidents of the courts, prosecutors	0%	36%	45%	20%	0%	48%	35%	17%	8%	46%	23%	22%
Press releases	20%	65%	3%	12%	46%	51%	0%	4%	40%	47%	7%	6%
Communication via email	20%	50%	9%	21%	26%	54%	9%	12%	27%	39%	14%	19%
Communication via chat applications (Skype, Zoom, Viber, WhatsApp etc.)	4%	24%	43%	30%	3%	39%	38%	20%	3%	36%	36%	25%
Direct communication with spokespersons and judges via telephone	18%	48%	15%	19%	22%	58%	9%	11%	33%	44%	9%	14%
Information about court decisions published on social networks	0%	24%	51%	26%	6%	43%	37%	14%	4%	29%	42%	25%

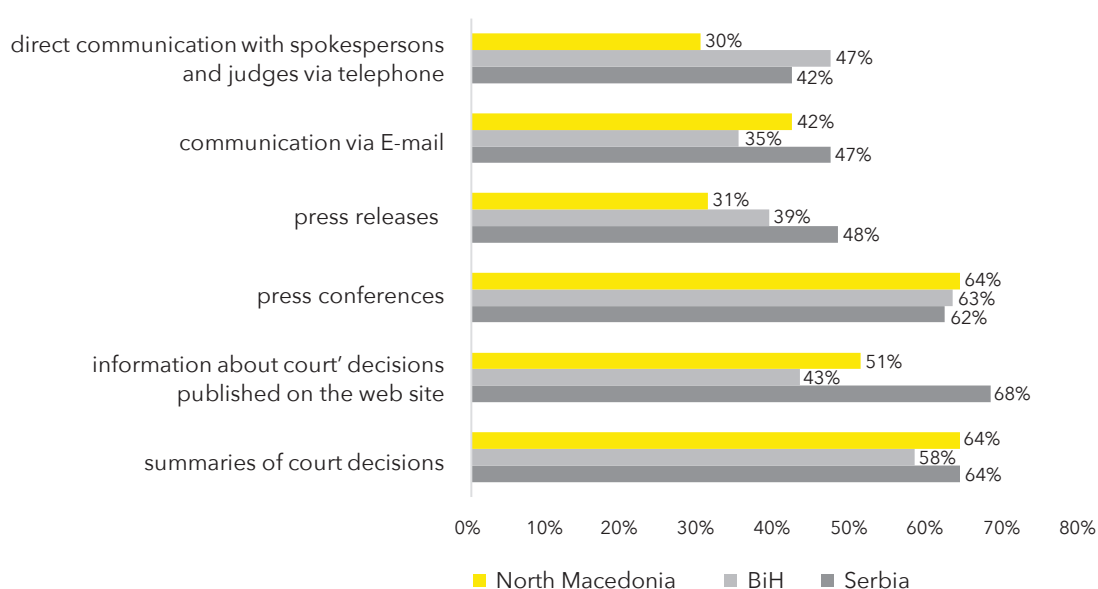
**Table 6:** How often are the following communication services and tools provided by judicial institutions?

Journalists were also asked to comment on the quality of communication tools used by judicial institutions (Chart 3). In all three countries, a relatively large percentage of journalists are dissatisfied with the content of the information provided by the courts:

- Almost two thirds of the surveyed journalists in Serbia and North Macedonia, and a little less in BiH, assessed the summaries of the court verdicts as poor or very poor in quality.
- Almost two thirds of the surveyed journalists in all three countries are not satisfied with the quality of the press conferences held by the judicial institutions.

- The journalists in Serbia are the most dissatisfied with the quality of information published on the websites (68%), followed by 51% of their colleagues in North Macedonia and 43% in BiH.
- The content of press releases received the lowest ranking by journalists in Serbia (48%), just over one third (38%) in BiH and almost one third in North Macedonia.
- Email communication from the judiciary is regarded as poor in quality by almost half of the journalists in Serbia (47%), 43% of the journalists in North Macedonia and about one third (35%) in BiH.
- BiH journalists are most dissatisfied with the quality of direct communication with spokespersons (47%), followed by journalists in Serbia (42%) and journalists from North Macedonia (30%).

**Journalists who answered that the quality of communication services is poor or very poor**



**Chart 3:** Journalists' answers about the quality of communication services of judicial institutions

In the focus groups, the journalists explained that they mostly lack regular and direct communication with the presidents of the courts, judges and prosecutors through briefings, interviews and press conferences, where the journalists can ask questions, clarify certain points or discuss the problems in communication. Introducing these forms of regular and direct communication would enable the representatives of both professions to better understand the specifics of their work and the current communication gap will be bridged faster and more successfully:

- Regarding the transparency of the courts, it's not enough for the websites to be timely and properly updated; it's not enough for a judge to be appointed as a spokesperson for the court ... Regular briefings are needed with the judges responsible for cases that are of public interest, but also regular briefings with court presidents.<sup>73</sup>

73 Participant in the Focus Group 2 with journalists from North Macedonia, conducted on November 4th, 2021.

Another important issue which was highlighted by journalists in all three countries is the need to “timely and properly update the courts’ websites, which is not the case now”.<sup>74</sup> Judgments are published late on the courts’ websites, sometimes even with several months’ delay. In addition, it is important to publish more detailed information about the development of the cases so that journalists can tell which cases have been initiated and their current stage:

- Every court has its own website, but that site exists as a kind of empty internet space ... where occasionally some reports are published, but in fact we can rarely find anything there that is useful for the public.
- As for the websites, my opinion is that, for a start, all public information that is legally public documents in the court should appear on the site ... If the court confirmed the indictment and scheduled the main trial in a particular case, then I see no reason ... why we should have to ask for the indictment ... Public documents, such as the indictment, the witnesses called to the next trial ... those are very important things [to be published].<sup>75</sup>

Journalists in Serbia also point to positive models from the past, according to which the communication of the entire court system should be organised:

- There was a project funded from abroad ... On the website of the Prosecutor’s Office for War Crimes ... indictments of all the ongoing and past cases could be found ... The schedule of all the trials was announced in advance, as well as brief summaries of the trials that were finished ... All that information was so precious, but it lasted only six months. If such things existed at the level of every prosecution, it would be great – my job would be easier, and in the end my stories would be better, but they don’t.<sup>76</sup>

In general, all journalists agree that it is necessary for the reforms of the judicial system to envisage a segment related to the improvement of the communication with the journalists and the public in general; that is, to introduce a single procedure so that all judicial institutions are equally obliged to implement the principle of publicity. In this sense, the use of new communication channels should also be taken into consideration:

- Spokespersons and others in charge of communication should work similarly, their work should be standardised ... For example, a private address cannot be used, a reply cannot be sent by SMS ... There must be a channel of communication that is verified, that is standardised, that will give us some confidence that what we receive is really the answer of that person in their capacity as an official representative of the institution.<sup>77</sup>
- “A communication strategy is needed that determines what is on their website, how active the spokespersons are and many other issues. Now, when the spokesperson is on sick leave, they can’t provide information ... We can’t accept that. It is necessary to publish indictments, verdicts, send press releases that are more specific, ... appoint a spokesperson who will provide answers within the legal deadlines, organise press conferences .... Websites are redesigned every two years, but they always lack key information.”<sup>78</sup>

74 Participant in the Focus Group 3 with journalists from North Macedonia, conducted on November 6th, 2021.

75 Participant in the Focus Group 3 with journalists from Serbia, conducted on November 23rd, 2021.

76 Participant in the Focus Group 1 with journalists from Serbia, conducted on November 12th, 2021.

77 Participant in the Focus Group 3 with journalists from Serbia, conducted on November 23rd, 2021.

78 Participant in the Focus Group 2 with journalists from BiH, conducted on November 22nd, 2021.



### 3.1.4 Summary

The prevailing view among journalists from all three countries is that judicial institutions are generally not proactive enough in fulfilling the principle of publicity. The reasons for this are the slow reforms of the entire judicial system, the lack of resources and specific knowledge, and especially the political and other influence and pressure on the judiciary. Journalists also state that there is a lack of a strategic approach to this issue and unique procedures for maintaining regular communication between courts and journalists. Journalists' perceptions differ only in regard to the openness and transparency of the judiciary today compared to five years ago. The journalists in Serbia have the most critical attitude, claiming that the judiciary is much more closed and non-transparent today than five years ago. This is mainly due to the influence and pressure from politics and from powerful groups or individuals. There is also a critical perception on this issue among BiH journalists. Only in North Macedonia do most journalists believe that the judiciary is more transparent and open today than five years ago.

Among the representatives of the judiciary, journalists rate the spokespersons as the most open and responsive and the prosecutors, judges and court presidents as much less so. With a few exceptions, spokespersons lack the knowledge and experience to communicate effectively with the media. In all three countries, prosecutors, judges, court presidents and members of the prosecution and judicial councils are generally assessed as less open and responsive in their communication with journalists. However, the survey results indicate that in North Macedonia judges and presidents of the courts are slightly more open and responsive to the media and public than their colleagues in Serbia and BiH.

Journalists from all three countries explained that, despite some positive examples, there is a general climate of secrecy and fear among the representatives of the judiciary. Most of them see journalists either as enemies or as PR channels for placing their information. Journalists therefore believe that the obligation of the judiciary to apply the principle of publicity should be established at a systemic level in an equal way for all judicial institutions and as a mandatory obligation.

In all three countries, the communication of the judicial institutions with journalists is reduced mostly to press releases, information published on the websites and communication with the spokespersons. Journalists mostly lack live or direct communication with judges, prosecutors and court presidents (especially through press conferences, briefings and individual interviews) because such communication would help the representatives of both professions to better understand the specifics of their work and could contribute to overcoming the current communication gap. Modern communication tools (social networks, chat applications, etc.) are rarely used.

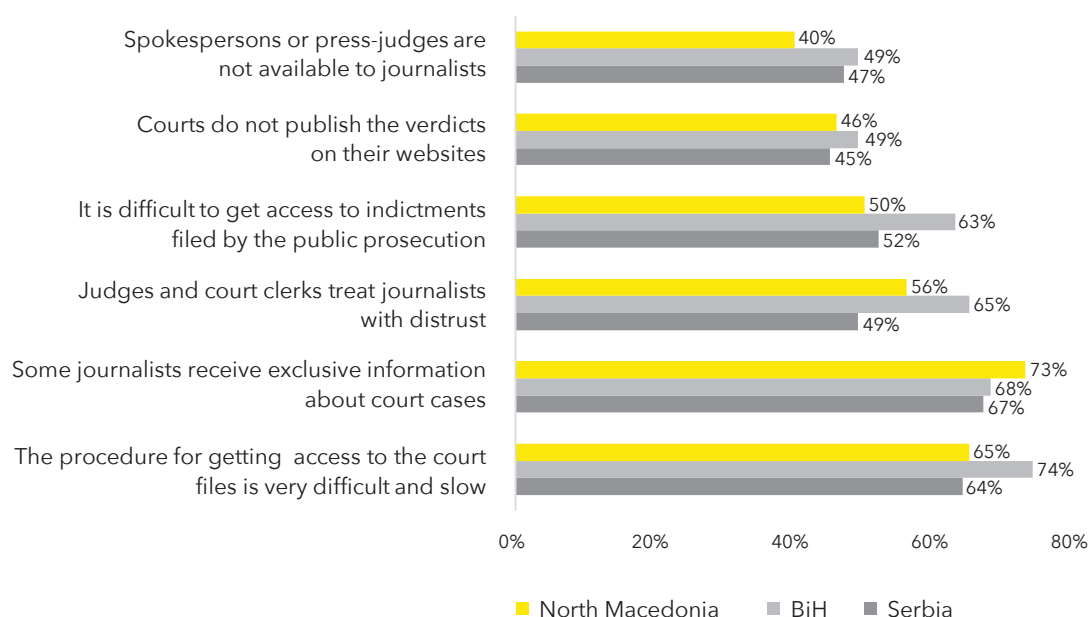
Most journalists are also not satisfied with the quality of the communication services of the judicial institutions. They particularly complain about the use of incomprehensible legal terminology in the summaries and press announcements, the slow publication of information and documents on the websites of the judicial institutions and the absence of relevant information on the websites.

## 3.2 Journalists' experiences with the judicial system

### 3.2.1 Difficulties obtaining access to court files

In Principle 15 of Recommendation (2003)13, the Committee of Ministers of the Council of Europe recommends that announcements of scheduled hearings, indictments or charges "should be made available to journalists upon simple request by the competent authorities in due time, unless impracticable."<sup>79</sup>

#### Problems that are experienced by journalists (always or often) when attempting to get access to court files



**Chart 4:** Problems experienced by journalists when getting access to court files

The survey results indicate that journalists from the three countries experience similar difficulties in terms of access to court files: most journalists reported that the two problems they most often face are difficult and lengthy procedures to acquire files and discriminatory practices of some institutions, which provide access to information about court cases only to some journalists.

A slightly higher percentage of journalists from BiH complained about the distrust of court representatives towards journalism (65%) and the difficulties in accessing documents from the public prosecutor's office (63%), although about half of the respondents from Serbia and North Macedonia also noted these problems. The availability of spokespersons and the publication of court verdicts on the websites are seen as lesser problems.

79 Council of Europe (2013), Recommendation Rec (2003)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings. Available at: <https://wcd.coe.int/ViewDoc.jsp?id=51365>

In the focus group discussions, the journalists illustrated with examples how important it is for them to have access to more information or documents, especially about the ongoing court cases, as this helps them to understand the nature of the case and enables them to inform the public accurately and comprehensively. They know that the courts are not allowed to disclose certain information during the proceedings, but they point out that they cannot find information even for those aspects of the case that were publicly exposed during the court hearing:

- It's different when you hold a document or a testimony in your hand, and it's a completely different thing when you hear about it ... In order not to make mistakes from the point of view of facts and knowledge about the case, it is important that we get these things for the ongoing cases as soon as possible ... [For example] a public hearing was held on a particular case, [and] the defence presented its annotations in detail ... It was quite clear what the defence thought based on what they themselves stated while the appellate prosecutor very generally reiterated some previously known position of the basic prosecution and only said that her response to the defence's complaints was very detailed ... So I could not conclude anything from her answer at that public session. Then I called her at one point and asked if I could get the document, since she didn't say anything in public and I didn't know how the prosecution was defending its case ... Then she said she couldn't do that, because the position of the Appeal Court was still pending. So as a journalist, I was deprived of a very, very important part of the story - how the prosecutor responds to the defence's comments.<sup>80</sup>

Journalists complained that the most significant problem they face is the lack of information in the first phase of the process (pre-investigation, investigation): "Due to the unavailability of files and documents, journalists have insignificant information, which leaves room for making mistakes and unintentionally spreading false information".<sup>81</sup> This is especially true for the communication with prosecutors, from where information is more difficult and slower to obtain:

- We do have some degree of cooperation with the courts - send requests, get answers, though not for all cases and not very regularly - but the prosecutor's office ... is very closed on that issue. They often require us to obtain the consent of the persons we are asking for information about, which is out of the question. For example, if we ask for information about a criminal, we should contact the criminal to ask for their consent ... even though this is contrary to the Law on Public Information and the Law on Access to Public Information, where one Article explicitly states that if the public interest prevails over personal or private data protection, consent is not required.<sup>82</sup>
- In general, we have the biggest problem with obtaining basic information from the prosecution: for example, whether someone was questioned, who is suspected of something, whether they presented their defence or defended themselves by remaining silent - all that general information that does not infringe their investigations ... The communication with them is actually much harder than with the courts.<sup>83</sup>
- The press service of the Cantonal Prosecutor's Office in Sarajevo tried in every possible way to prevent me from getting information about the number of lawsuits against a municipal mayor. I was rejected five times - bring it in writing, bring it in a memorandum, bring it in person ... and in the end they just told me that there had been lawsuits against him, without giving any other information about their status.<sup>84</sup>

80 Participant in the Focus Group 1 with journalists from Serbia, conducted on November 12th, 2021.

81 Participant in the Focus Group 1 with journalists from North Macedonia, conducted on November 4th, 2021.

82 Participant in the Focus Group 2 with journalists from Serbia, conducted on November 16th, 2021.

83 Participant in the Focus Group 2 with journalists from Serbia, conducted on November 16th, 2021.

84 Participant in the Focus Group 3 with journalists from BiH, conducted on November 23rd, 2021.

Journalists often send formal requests, based on the legislation on free access to public information, and in many cases they receive the required documents within the legally set deadline, which is 15 work days. However, access to documents also depends on the nature of the cases, and in cases related to organised crime, obtaining such documents is much more difficult and slower:

- They did not want to answer because I did not refer to the law on free access to public information. And then when I referred to the law, they said there was no need for me to refer to the law because they know the law. The worst-case scenario is when they do answer, but they are actually swamping you with useless information.<sup>85</sup>
- I asked for a first instance verdict from a court ... The acting judge refused to give it with an explanation that the procedure is still ongoing and that I can get it only when the procedure is finalised. Then I started quoting parts of the law on free access to public information ... Then I wondered if it was right for me to explain the law to a judge. In the end, he gave me the verdict, but it was anonymised to such an extent that it was impossible to find out anything from it.<sup>86</sup>

Journalistic work often requires fast reporting, especially in daily journalism, and some cases are important: "The biggest problem is that the communication is difficult, very slow – sometimes it takes a lot of time ... and given that almost all of us work in daily journalism, it is very important to get all the information on time or as soon as possible."<sup>87</sup> Moreover, journalists are also concerned that other media often use personal connections to obtain the information or documents for which they have been waiting for a long time in a formal procedure:

- This pressure to report quickly is big problem for us at the moment, but what is the biggest problem is that while we are trying to get some information in a formal procedure, all this time the tabloids are publishing information [received through their private connections] that we cannot even check from an official source. That's our biggest problem in the communication [with the judicial institutions].<sup>88</sup>

Journalists believe that the main reason it is difficult to obtain documents and other information about investigations and court proceedings is the distrust of the representatives of the judiciary in journalists and the insufficient understanding of the nature of journalistic work, especially that timely and accurate information is key to the quality of reporting: "It's my duty to check the information I obtained from the lawyer with official information from the judicial institution ... It is in their interest to tell me whether it is true or not, immediately ... so that fake news is not spread".<sup>89</sup>

Several journalists in the focus groups emphasised that they had positive experiences with some courts, especially at a local level. In North Macedonia, for example, courts in smaller towns have established good relations with journalists and regularly provide them with access to court files and documents to properly report on court proceedings which are of great public interest. In Serbia, positive examples were also pointed out of spokespersons who regularly help journalists to obtain documents more quickly,<sup>90</sup> often only on the basis of telephone communication, so there is no need to submit formal requests.

85 Participant in the Focus Group 3 with journalists from BiH, conducted on November 23rd, 2021.

86 Participant in the Focus Group 2 with journalists from BiH, conducted on November 22nd, 2021.

87 Participant in the Focus Group 3 with journalists from Serbia, conducted on November 23rd, 2021.

88 Ibid.

89 Participant in the Focus Group 2 with journalists from Serbia, conducted on November 16th, 2021.

90 Participant in the Focus Group 1 with journalists from Serbia, conducted on November 12th, 2021.

### 3.2.2 Sources of information used by journalists in reporting about the judiciary

Regarding the sources that journalists most often use in reporting on the judiciary, several general insights can be drawn from the survey data (Table 7):

- In all three countries, the sources that journalists most often use are lawyers and media articles.
- Court websites are a regular source of information for half of the surveyed journalists from BiH and for about 40% of the journalists in Serbia and North Macedonia.
- Prosecution websites are regularly used by half of the surveyed journalists in BiH and North Macedonia and by one third of the journalists from Serbia.
- Spokespersons are a regular source of information for half of the surveyed journalists from North Macedonia and BiH and for 37% of the journalists from Serbia.
- Judges, presidents of the courts and prosecutors in all three countries are rarely accessible to journalists as sources of information.
- Journalists in Serbia more often use court files as a source of information than their colleagues in BiH and North Macedonia, and journalists from BiH use independent experts as sources less often than their colleagues from other countries.
- In all three countries, a small number of journalists use personal connections in the courts and rarely contact the families of defendants to obtain information about court cases. Journalists in North Macedonia use defendants' families as sources for information more often (42%) than those in Serbia and BiH.

Sources used to obtain information about court cases	Serbia			Bosnia and Herzegovina			North Macedonia		
	Always and often	Sometimes and rarely	Never/Don't cover	Always and often	Sometimes and rarely	Never/Don't cover	Always and often	Sometimes and rarely	Never/Don't cover
Lawyers	63%	28%	9%	60%	29%	11%	54%	32%	15%
Media articles	64%	27%	8%	58%	32%	9%	54%	36%	10%
Court websites	40%	45%	14%	52%	35%	13%	38%	45%	17%
Prosecutor's office websites	33%	47%	20%	49%	35%	16%	48%	37%	14%
Court spokespersons	37%	51%	12%	49%	34%	16%	54%	29%	18%
Independent experts	44%	41%	16%	29%	44%	27%	39%	40%	21%
Open court trials	40%	37%	23%	50%	31%	19%	29%	49%	22%
Court files	37%	47%	16%	28%	51%	20%	26%	47%	26%
Judges	15%	51%	35%	11%	54%	36%	10%	59%	31%
Presidents of the courts	6%	47%	47%	5%	61%	34%	9%	53%	40%
Prosecutors	18%	55%	27%	17%	62%	22%	20%	57%	23%
Defendants' families	16%	56%	28%	25%	56%	20%	42%	39%	19%
Personal connections in the courts	23%	44%	33%	13%	43%	44%	11%	44%	45%

**Table 7:** How often do you use the following sources to obtain information about court cases?

That lawyers and media articles appear as the main sources of information in our survey indicates that journalists may be subject to possible manipulation, because they cannot compare and crosscheck the obtained information with the information from official sources. Hence, they may present the facts and arguments in a one-sided way, because they rely solely on information obtained from plaintiffs' attorneys, whose motives are to advance their arguments by using the media. In the focus groups, journalists explained that they are most likely to seek information from lawyers because they are immediately available to them, while judicial institutions are generally slow or reserved when asked for information. Relying on one source represents a problem for journalists, since professional reporting must include more than one point of view.

Among all the representatives of the judicial institutions, journalists mostly communicate with the spokespersons, but not all of them are prepared and trained to quickly provide the necessary information. It is also important that the spokespersons can accurately explain to the journalists the rules of reporting from the court hearings and the relevant legal provisions for the specific case:

- Every time I ask them what my rights as a journalist are in relation to something that I can get or what the deadlines are for some other things so that I don't have to read the law myself, they explain to me which article of the law it is, how it reads exactly and why it is so.<sup>91</sup>
- Spokespersons and lawyers are the [members of the legal profession] most available to us. However, the question is how much information we can get from the spokesperson. There are institutions where the task of a spokesperson is given to someone in addition to other obligations ... What you can expect from that person is very limited. The type of information provided by spokespersons is different from what judges and prosecutors can provide. So it depends on how trained the spokespersons are, how interested they are in giving you information and what their basic position is.<sup>92</sup>

As Table 7 indicates, journalists rarely communicate with prosecutors, judges and presidents of the courts. Some journalists pointed to examples when judges or presidents of the courts were reluctant to provide even basic information on how justice is generally administered:

- It is clear that according to the law, judges are not allowed to comment on specific court decisions they've made. We understand all that, but when you call them to give a statement on other things ... I asked for information about why ... the trial was not scheduled at all for four years, and I sent 10 requests to the court saying that I wanted the judge's statement on what the problem was, why there had been no hearing for four years, and then the court spokesperson replied to me that the judge was not obliged to tell anyone why he doesn't schedule hearings.<sup>93</sup>
- "I remembered an example ... I asked for a verdict that was not available on the website, and they couldn't send it to me, so the court clerk offered to read me the verdict, or parts of it - as if reading the verdict would help me."<sup>94</sup>
- "We have really good spokespersons, but no spokesperson can replace the president of the court or the judge himself. I don't intend to offend anyone with this, because I really appreciate spokespersons, and sometimes their statements are sufficient, but in most cases they're not. As a journalist, I need, in most cases, a court president or a designated judge. There's a big difference when you only have a spokesperson[quoted] in the text and when you have a statement on a certain topic given by the president of the court or a judge."<sup>95</sup>

91 Participant in the Focus Group 1 with journalists from Serbia, conducted on November 12th, 2021.

92 Participant in the Focus Group 2 with journalists from BiH, conducted on November 22nd, 2021.

93 Participant in the Focus Group 1 with journalists from Serbia, conducted on November 12th, 2021.

94 Participant in the Focus Group 4 with journalists from BiH, conducted on November 23rd, 2021.

95 Participant in the Focus Group 2 with journalists from BiH, conducted on November 22nd, 2021.

That it is difficult to obtain information, especially from the prosecution, is a particular problem for daily journalism. For the journalists who work in daily newsrooms, the public prosecution is an important institution, because the public interest is significant at the very beginning of a case when the investigative procedure begins:

- When it comes to daily journalism, we can't afford not to publish information, not to report what happened at an event, so when the prosecution closes the door on us, we're forced to gather information from unofficial sources - from lawyers, from the defendants, from their relatives ... And in my opinion that's what endangers every procedure to a much greater extent ... [The problem can be resolved] with a simple phone call from the spokesman in charge of a particular prosecutor's office and by giving basic information.<sup>96</sup>

Regarding the reasons for the lack of motivation of judges and prosecutors to communicate with journalists, the participants in the focus groups expressed different opinions. Some participants reported that this lack of motivation is largely due to judges' and prosecutors' distrust of journalists, but also the fear and insecurity of individual judges and prosecutors, because of which they "make a protective circle around themselves ... [so as] not to make a mistake or not to disclose their mistakes to the public".<sup>97</sup> Thus, the problem is that "distrust exists on both sides ... but also fear, especially in the judiciary. The judiciary is increasingly closed - judges rarely appear in public. Only two judges appear in public."<sup>98</sup> Other participants reported that it is due to the rules of communication that dominate the prosecution and judicial profession, whose purpose is to protect the integrity of the judiciary, the presumption of innocence and other rights of the participants in the court proceedings.

### 3.2.3 Difficulties experienced in covering open trials

Recommendation (2003)13 (Principle 12 and 13) prescribes that "journalists should be admitted to public court hearings and public pronouncements of judgments without discrimination and without prior accreditation requirements. They should not be excluded from court hearings, unless and as far as the public is excluded in accordance with Article 6 of the Convention". The Recommendation adds that "the competent authorities should, unless it is clearly impracticable, provide in courtrooms a number of seats for journalists which is sufficient in accordance with the demand, without excluding the presence of the public as such".<sup>99</sup>

As mentioned earlier, in all three countries the number of journalists reporting on court proceedings is small, and almost no journalists specialise and report only in this area. Some journalists who work only in this area either have their own online portal or are part of the newsrooms in the public broadcaster or investigative online portals. In all other newsrooms, journalists who specialise in reporting on criminal proceedings often cover other topics. This category of journalist in the survey was represented by 14 journalists (20%) in North Macedonia, 30 journalists (17%) in BiH and 9 journalists (10%) in Serbia. Table 8 presents the responses only for this category of journalists, and so these are only indicative findings, because the number of respondents in the sample is small. However, in the individual interviews prior to the survey and the focus groups conducted after the survey, it was mainly journalists with such experience who were included, and so in general the findings of the study provide a comprehensive picture of this aspect of journalistic reporting on the work of the justice system. The findings from the survey indicate the following:

96 Participant in the Focus Group 2 with journalists from Serbia, conducted on November 16th, 2021.

97 Participant in the Focus Group 2 with journalists from Serbia, conducted on November 16th, 2021.

98 Participant in the Focus Group 4 with journalists from BiH, conducted on November 23rd, 2021.

99 Council of Europe (2013), Recommendation Rec (2003)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings. Available at: <https://wcd.coe.int/ViewDoc.jsp?id=51365>

- Access to the minutes and other information from trials that they attended is a problem (always or often) for most of the journalists in North Macedonia (65%) and BiH (58%) and for 41% of the journalists in Serbia.
- More than half of the journalists from North Macedonia (54%) and slightly fewer from Serbia (41%) and BiH (37%) complained about problems in accessing courtrooms.
- Half of the journalists from Serbia (48%) and almost two thirds from BiH (58%) stated that they were required to leave their recording equipment outside the courtroom.
- More than a third of the journalists from Serbia (38%) and about a third (34%) from BiH and North Macedonia have a problem with the reporting rules which are not clearly stated before the start of the trial.
- More than a third of journalists from North Macedonia (38%), almost a third from BiH and a quarter from Serbia complained about distrust and disrespect from judges during trials.
- More than half of journalists from BiH (60%) and about half from Serbia (51%) and North Macedonia (47%) stated that judges do not communicate and do not help journalists to report from the trial.

Difficulties experienced by journalists in covering open trials	Serbia			Bosnia and Herzegovina			North Macedonia		
	Always and often	Sometimes and rarely	Never	Always and often	Sometimes and rarely	Never	Always and often	Sometimes and rarely	Never
Although present at the trial, journalists cannot get the minutes and other information from the trial	41%	20%	5%	58%	14%	1%	65%	7%	4%
Courtrooms are small and not all interested journalists can enter	41%	23%	4%	37%	35%	3%	54%	26%	0%
The COVID-19 pandemic is used as an excuse to deny journalists access to open trials	33%	22%	9%	36%	34%	6%	38%	33%	6%
Journalists are required to leave their equipment outside the courtroom	47%	12%	7%	58%	15%	2%	33%	34%	12%
Judges do not clearly state the rules of reporting before each trial	38%	22%	5%	34%	33%	6%	34%	37%	10%
Judges treat the journalists with distrust or disrespect during the trial	26%	31%	12%	31%	40%	6%	38%	33%	9%
Judges are reluctant to communicate and do not help journalists to report	51%	17%	5%	60%	16%	1%	47%	29%	4%

**Table 8:** How often have you experienced the following difficulties in covering open trials?

The journalists in the focus groups believe that the reasons for the difficulties in accessing the minutes and other information from the trials are the inefficiency of the courts and the judges' lack of knowledge about the workings of the journalist's profession. If journalists do not receive the minutes of the hearing quickly, they have to rely on their own notes, which leaves room for reporting errors. According to the journalists, the courts should publish the minutes on their websites as soon as possible, so that the information of interest (with the exception of protected and classified information) is available to the public:



- Just as the parties in the court proceedings receive the minutes, after each hearing the journalists should also receive these documents ... Now, the journalists ... keep notes, and that is the main way of reporting on the court proceedings ... But these cases can be very sensitive and serious, and this is why there are anomalies in the reporting from hearings – many errors occur [and] inaccurate data and disinformation are published.<sup>100</sup>
- To report credibly I have to write fast when he [the judge] makes a statement – I have to write extremely fast ... because I don't have time to get insights into court documents because I work in daily journalism.<sup>101</sup>

Regarding the use of equipment (cameras, tablets or laptops), several journalists expressed the opinion that, except in some situations, the existing practice (in Serbia especially) should be changed, as this could greatly improve the quality of journalistic reporting. However, to protect the privacy of witnesses and other persons involved in the proceedings, journalists agree that at least a court camera should be used:

- What I'd like to change in the Serbian judiciary ... is to be able to bring a camera into the courtroom – that would be very important to me. I know it's allowed in some Western countries ... Sometimes I see many interesting moments and gestures and behaviour ... The leakage of information could be stopped ... As for the computers in the Special Prosecution ... there are only two, and we are many journalists ... and only two can work on them ... I always let my colleagues from the agencies get to the computers first – I know that they need them most urgently.<sup>102</sup>
- Technical difficulties are indeed a big problem. I don't think we would create a problem by having a Dictaphone in the courtroom. On the contrary, it would help us to write our reports. We need to know what someone's name is, or the name of some place that is mentioned. I've often stayed until the end of the trial and asked the court clerks what the witness's name was, what the village was called. It's difficult to reach the judges. It's difficult to get information from a judge outside the courtroom.<sup>103</sup>
- I couldn't officially get the indictment that was not anonymised – the indictment I had didn't give me enough information due to the anonymisation. Neither the prosecution nor the Court approved that information. At the hearing, they didn't allow me to bring in a Dictaphone, and I could have only collected information from a witness. In short, based on all that, I cannot understand the case. If I had to write stories for daily news, I would have been in big trouble with a great likelihood of making mistakes. The most common explanation for not allowing recording equipment into the courtroom is that the case is still ongoing and I could harm the procedure with my reporting.<sup>104</sup>

The rules for reporting on court proceedings are regulated by law, and journalists should be aware of them, but according to most focus group participants, courts have different rules and practices. In some courts the rules are clearly set out and clarified by judges at the beginning of the trial, while in other judicial institutions, this is not the case:

- The approaches differ from court to court. Procedures vary – in terms of bringing in equipment or attending court sessions. It used to happen that after the hearings certain things weren't respected by the journalists, so that is probably one of the reasons for the hostility towards journalists. I used to have such problems in the lower courts, while in the Court of BiH things are settled and the rules are clear. The problem is that the rules vary from institution to institution. So it's difficult to respect them.<sup>105</sup>

100 Participant in the Focus Group 1 with journalists from North Macedonia, conducted on November 4th, 2021.

101 Ibid.

102 Participant in the Focus Group 1 with journalists from Serbia, conducted on November 12th, 2021.

103 Participant in the Focus Group 4 with journalists from BiH, conducted on November 23rd, 2021.

104 Participant in the Focus Group 2 with journalists from BiH, conducted on November 22nd, 2021.

105 Participant in the Focus Group 2 with journalists from BiH, conducted on November 22nd, 2021.

In the focus group discussions, the journalists did not complain about access to courtrooms, except in some situations when the court case attracts a great deal of public attention and in some cases during the COVID-19 pandemic. They noted that when the courts themselves considered some cases important for the public, the trials were scheduled in the smallest courtrooms so that there was not enough space for all journalists to enter:<sup>106</sup>

- In essence, you have a violation of the principle of publicity. Any court proceedings should in principle be public and open. However, in lower courts there are situations where proceedings are conducted in judges' chambers where no more than three people can stand. In such cases, you must first submit a request to attend the hearing, which must be approved by the acting judge. The judge is not even obliged to do that before the hearing, but you have to go there and only then will you find out whether you're allowed to attend the hearing or not. For example, if I follow the hearing in Travnik from Sarajevo, then I need to go there to see if I'll be allowed to attend it or not.<sup>107</sup>

Regarding the distrust of judges and prosecutors and the lack of communication with journalists during the trial itself, journalists in the focus groups expressed great self-criticism. Most of them believe that professionalism is lacking in this field of journalism and no efforts have been made to improve the manner of reporting. In the past, for example, journalists covering these topics spent much more time in the courtrooms and closely followed the developments of the cases. In doing so, they gained knowledge and acquired all the information about the cases, which ultimately ensured the quality of their reporting and the trust from the judges and prosecutors.

- If a journalist only once misuses the information given to him by the prosecutor or the judge in an informal conversation, then he'll never receive any new information from that prosecutor or judge ... Those contacts are built and trust is built and it is gained day by day ... These people follow what you publish and whether you misused something ... The younger colleagues maybe don't know that the Palace of Justice used to be full of journalists and that for us it was as much our place of work as the newsroom was.<sup>108</sup>
- It's precisely because of this mutual mistrust that most courts are quite closed to the media. The fact that we can attend the trials and that sometimes a press release is published on the court's website is not enough. That is exactly the problem - the closure of the courts and the denial of information. The media and journalists can try to be less sensationalist in reporting and be a little better educated about court practice ... I think that this sensationalism comes from this 'closure of the courts'. If judges were more open, accessible and ready to provide certain information to journalists, then journalists wouldn't so often seek information from sources which are partial, sometimes untrue, or insufficiently verified.<sup>109</sup>

### 3.2.4 Summary

Most journalists from all three countries complained about problems in accessing documents and information from prosecution offices and courts. With rare exceptions, judicial institutions are not well organised and proactive in providing information and documents to journalists or in publishing them on their websites. Many journalists must formally request access to such documents, but the procedure is complicated and slow, which makes it particularly difficult for them to produce daily reports.

Journalists face particular problems in accessing documents and information from prosecution offices in the first phase of the process (pre-investigation and investigation), which often leads to mistakes in their reporting. They are aware of the sensitivity of reporting at that stage of the proceedings, but believe that

106 Participant in the Focus Group 2 with journalists from Serbia, conducted on November 16th, 2021.

107 Participant in the Focus Group 2 with journalists from BiH, conducted on November 22nd, 2021.

108 Participant in the Focus Group 2 with journalists from Serbia, conducted on November 16th, 2021.

109 Participant in the Focus Group 2 with journalists from BiH, conducted on November 22nd, 2021.

even basic information provided by prosecutors, which does not violate the secrecy of the investigation, can greatly help reduce errors and improve the accuracy of their reporting.

Journalists also believe that the main reason it is difficult to obtain documents and other information about investigations and court proceedings is the distrust of the representatives of the judiciary towards journalists and insufficient understanding of the nature of journalistic work, especially that timely and accurate information is key to the quality of reporting.

Among the representatives of the judicial institutions, the spokespersons are most often available to the journalists. Journalists complain that prosecutors, judges and court presidents are rarely available to them. Outside the court, journalists often receive information from lawyers and from independent experts. Articles published in other media and websites of the judicial institutions are also a regular source of information on court proceedings and the work of the judiciary in general.

Journalists ascribe the lack of communication, especially with prosecutors, judges and court presidents, to the established rules of communication within the judiciary, the distrust of journalism, fear and political pressure on some members of the judiciary. That lawyers and other media serve as main sources of information indicates that journalists may be subject to manipulation, because they cannot compare and crosscheck the obtained information with information from official sources. Hence, they may present the facts and arguments in a one-sided way, because they rely solely on information obtained from plaintiffs' attorneys, whose motives are to advance their arguments by using the media.

Journalists who regularly report from public trials reported having to rely on their own notes; that is, unlike the parties in the proceedings, they do not receive the minutes of the hearing quickly. Another significant problem for journalists arises when recording equipment cannot be used in courtrooms, especially cameras. The quality of reporting would be greatly improved if they could at least acquire footage from court recordings.

Journalists also complain that the rules for reporting from court hearings vary. In some cases, the rules are communicated clearly to journalists, but in many cases they are not. In terms of access to courtrooms where public hearings are held, journalists have rarely encountered problems. They faced problems with accessing such hearings mostly in cases of great public interest when there is no place in the courtroom for a larger number of journalists.

The journalists emphasised that the distrust between the two professions is especially evident during the public hearings. The prevailing view is that many judges are restrained and do not make an effort to help journalists report from the hearings. However, they also stated that, in general, the reason for the distrust lies on both sides: the reticence of prosecutors and judges fuels the sensationalism and low standards in journalism, and journalists' non-compliance with ethical standards increases the distrust and reticence of the judiciary towards journalists.

### **3.3 Journalists' perceptions of the role of the judiciary in ensuring media freedom and the safety of journalists**

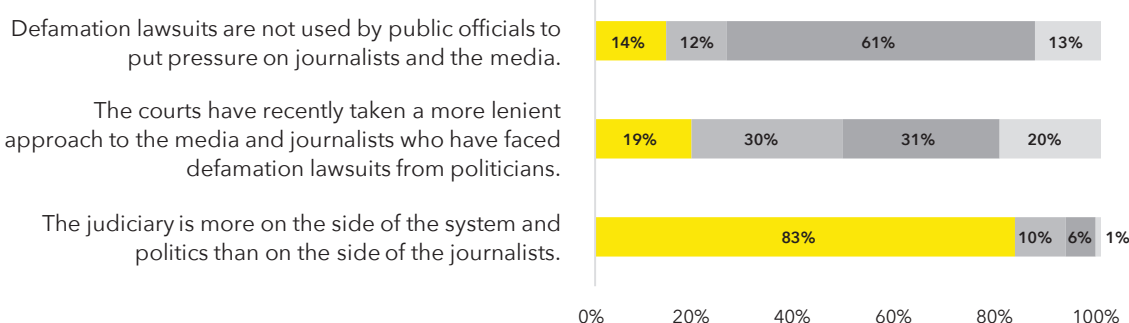
#### **3.3.1 Attitudes towards the role of the judiciary in ensuring media freedom**

To examine their attitudes on the role of the judiciary in protecting media freedoms, we asked the journalists to indicate the extent to which they agreed with three statements (Chart 5):

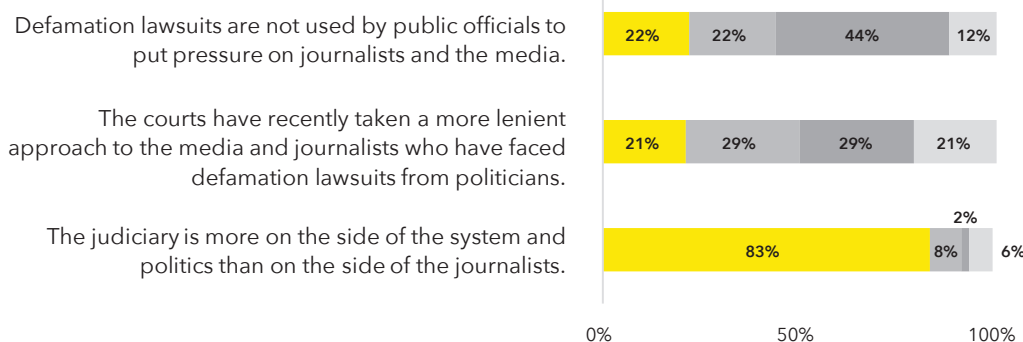
- The largest percentage of journalists surveyed in all three countries (strongly or somewhat) agree that *the judiciary is more on the side of the system and politics than on the side of the journalists*, although in North Macedonia the percentage of journalists who agreed with this statement is slightly lower (73%) than in Serbia (83%) and BiH (83%).

- Regarding *the pressure exerted on journalists and the media by public officials through defamation lawsuits*, the journalists from Serbia are most concerned, followed by their colleagues from BiH and North Macedonia.
- Regarding the view that *the courts have recently taken a more lenient approach to the media and journalists who have faced defamation lawsuits from politicians*, the opinions of journalists are divided in all three countries.

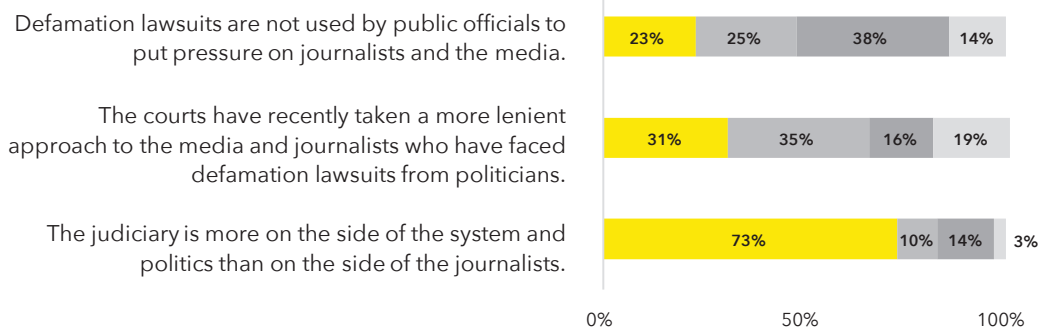
**Serbia**



**Bosnia and Herzegovina**



**North Macedonia**



■ Strongly and somewhat agree ■ Neither agree nor disagree ■ Strongly and somewhat disagree ■ Don't know

**Chart 5:** Journalists' attitudes towards the role of judiciary in ensuring media freedom

Although there is some difference in the general political climate in the three countries, most journalists are almost equally critical of the judiciary's approach to media and journalistic freedoms. Political influence and pressure are the main problem affecting the role of the judiciary in protecting the freedom of expression of journalists:

- What is the biggest problem here is the control over the institutions, so I have the impression that someone is completely conscious and deliberately putting their hand on all institutions and that they do not want any uncontrolled voice to be heard because you don't know how far that voice will reach.
- "Now, when we talk about the prosecutor's office - we used to have the prosecutor coming out and telling us about a case, and now we see the president and the minister are coming out, and the prosecutor doesn't seem to exist."<sup>110</sup>

Critical journalism can suffer severe pressure from politicians when they file numerous defamation or insult lawsuits, especially when the judiciary is biased in such proceedings, due to fear and pressure from politicians. Such pressure is most felt by journalists from Serbia and somewhat less by journalists from BiH and North Macedonia:

- If the courts were as effective in protecting journalists as they are when they are sued for defamation, then we could say that the judiciary is ready to protect us.<sup>111</sup>
- There is also the problem of case law in defamation lawsuits. The procedures take a long time. Some judgments are debatable. Then, there are some court rulings that do not rely on previous case law. Journalists, therefore, do not have adequate protection.<sup>112</sup>

Another problem that greatly affects the freedom of journalists is that they are not protected in the workplace by the media company for which they work. When a journalist faces a defamation lawsuit from a politician, it is important that the editor and the media company provide support and legal assistance:

- Whether a journalist - regardless of whether they work in a 'free' or 'non-free' newsroom - is protected when necessary by their employer, ... also, to what extent they have the right to oppose editorial policy if it's not in line with their opinion and conviction ... I'm afraid that this is the key to the problem.<sup>113</sup>

### 3.3.2 Attitudes towards the efficiency of institutions in investigating threats and attacks against journalists

The online survey measured the attitudes of journalists about the extent to which judicial institutions are efficient in punishing perpetrators of threats and attacks (Chart 6). In none of the three countries do journalists feel sufficiently safe and protected by the institutions of the judicial system:

- In all three countries, journalists (strongly and somewhat) believe that there is an atmosphere of impunity: in Serbia 73% of journalists do not agree that perpetrators of threats and attacks will be punished, in BiH 63% and in North Macedonia 62%.
- Due to impunity, journalists from all three countries do not feel sufficiently protected: 85% in North Macedonia, 82% in Serbia and 80% in BiH (strongly and somewhat) do not agree with the statement that journalists are sufficiently protected.

110 Participant in the Focus Group 1 with journalists from Serbia, conducted on November 12th, 2021.

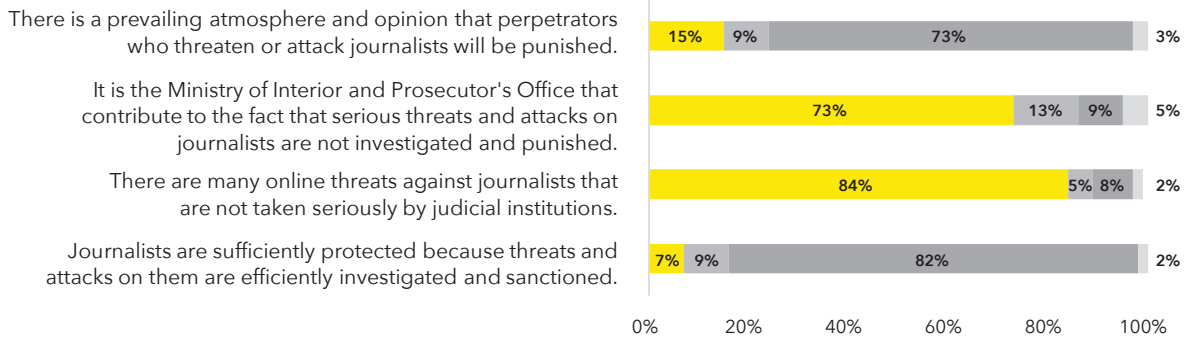
111 Participant in the Focus Group 4 with journalists from BiH, conducted on November 23rd, 2021.

112 Participant in the Focus Group 2 with journalists from BiH, conducted on November 22nd, 2021.

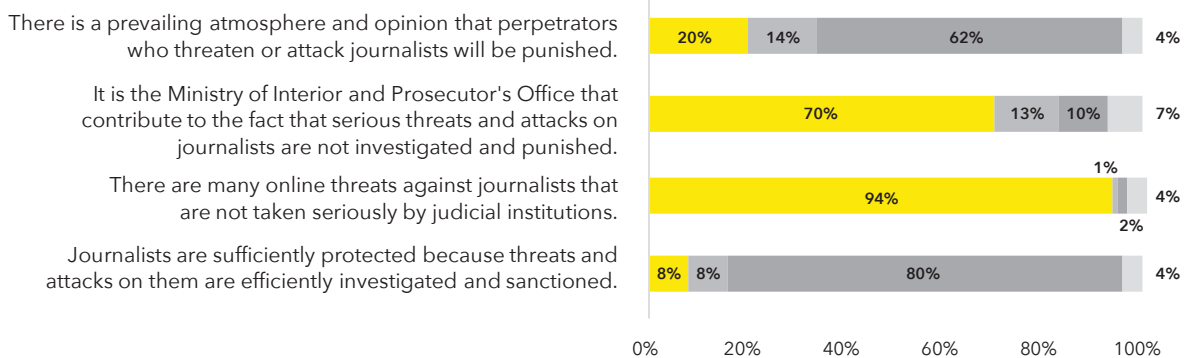
113 Participant in the Focus Group 3 with journalists from Serbia, conducted on November 23rd, 2021.

- Journalists feel particularly unprotected because the numerous threats they receive online are not taken seriously and are not processed by the institutions: in BiH such concerns were expressed by as many as 94% of the surveyed journalists, in Serbia by 84%, and in North Macedonia by 73%.
- A large proportion of the surveyed journalists from Serbia (73%) and from BiH (70%) agreed that two institutions – the Ministry of Internal Affairs and the Prosecutor’s Office – contribute to the lack of investigation and punishment of serious threats and attacks on journalists. In North Macedonia, this is the opinion of 42% of the surveyed journalists.

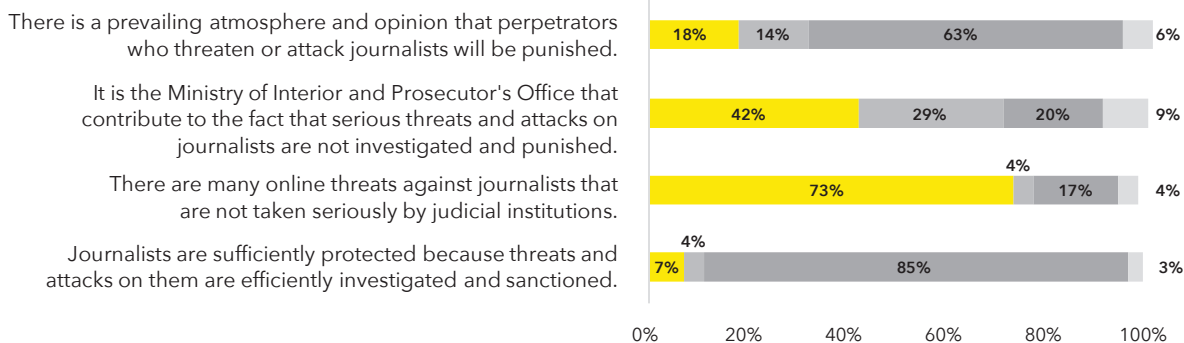
**Serbia**



**Bosnia and Herzegovina**



**North Macedonia**



■ Strongly and somewhat agree ■ Neither agree nor disagree ■ Strongly and somewhat disagree ■ Don't know

**Chart 6:** Journalists’ attitudes towards the efficiency of judiciary in punishing perpetrators of threats and attacks against journalists

In the focus group discussions, most journalists agreed that they did not feel safe while working in their profession, not only because of the threats they received, but also because the prosecution and the police do nothing to protect them. Except in rare cases, the institutions remain silent whenever there is an attack on a journalist:

- I was sitting alone in the courtroom with 11 guys who were convicted for demolishing a hall ... in a courtroom of 12 square metres ... When the judge asked who was in the courtroom, I got up and introduced myself, and five or six of them, who are huge guys, turn around and look at me for half an hour ... just to let me know ... In front of the court, they threaten me, comment on something ... and the judge ... does absolutely nothing about it.<sup>114</sup>
- I've encountered various pressures, attacks and the like, and I reported them all properly. Eight years ago the city was plastered with my photos and statements that were put in my mouth. After that, an orchestrated campaign started against me. The prosecution asked me what to do, what the criminal offence was. Despite providing them with everything I could, I never received feedback from the Cantonal Prosecutor's Office on what had been done with the case. This experience discouraged me and led to a loss of confidence.<sup>115</sup>
- They [prosecutors, judges] don't do their job and are not interested in protecting journalists. When I encountered threats and pressure, the police commissioner ... told me to stop writing and the problems would stop. My friends found out who was threatening me before the police. After a year and a half, I found out from the police who they were.<sup>116</sup>
- I don't feel protected. In my case, after threats, the prosecution decided not to conduct an investigation ... but I was threatened with beheading .... As the person continued to call me, the police filed a criminal case ... and the case has been pending for a year. I call occasionally, and I get the answer that it's in progress and that they will inform me. I doubt very much that they'll contact me at all.<sup>117</sup>

The atmosphere of insecurity and fear among journalists is particularly affected by impunity and numerous unsolved murders or physical attacks in the past. Politicians also contribute to this atmosphere by insulting the media or individual journalists. What journalists in Serbia complain about the most are the labelling and attacks on critical media and journalists by the tabloids that are close to the government:

- [Critical] opinion at this time is punished through these so-called tabloids. I think that freedom of speech is in fact so endangered that we can't talk about some kind of security for journalists or for anyone who is ready to speak openly and publicly and present the facts.<sup>118</sup>

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114 Participant in the Focus Group 1 with journalists from Serbia, conducted on November 12th, 2021.

115 Participant in the Focus Group 4 with journalists from BiH, conducted on November 23rd, 2021.

116 Participant in the Focus Group 1 with journalists from BiH, conducted on November 22nd, 2021.

117 Participant in the Focus Group 3 with journalists from BiH, conducted on November 23rd, 2021.

118 Participant in the Focus Group 3 with journalists from Serbia, conducted on November 23rd, 2021.

### 3.3.3 Summary

An independent judiciary plays a key role in protecting the freedom of expression of journalists and media freedom in general. In political systems where the government puts pressure on the judiciary, this inevitably reflects negatively on freedom of expression and the safety of journalists. It is a clear and measurable indicator of how the authorities behave in relation to journalists' rights and freedoms and the role that the judiciary should play in protecting those rights and freedoms.

The number and type of threats and attacks on the media and journalists and the measures taken by the institutions clearly demonstrate the attitude of the government towards this issue. The poor efficiency in investigating and prosecuting the most serious threats and attacks against journalists creates an overall climate of impunity that has visible negative effects on the safety and freedom of work of journalists and journalists' associations.

Although there is some difference in the general political climate in the three countries, most journalists are almost equally critical of the work of the judiciary in terms of protecting the journalistic profession. Journalists claim that the political influences and pressures are the main reason why the judiciary does not fulfil its crucial function of protecting media and journalistic freedoms.

Independent and critical journalism comes under severe pressure when politicians file numerous defamation or insult lawsuits, especially when the judiciary is biased in such proceedings due to fear and pressure from politicians. Such pressure is mostly felt by journalists from Serbia, and slightly less by journalists from BiH and North Macedonia.

As noted above, most journalists from all three countries do not feel safe while doing their job because they are not sufficiently protected by the institutions of the justice system. There is still a climate of impunity, because perpetrators of attacks and threats against journalists are rarely identified and punished. A large number of journalists feel insecure due to numerous online threats, which are almost never processed by the relevant institutions (police, prosecutors and courts).



### 3.4 Journalists' knowledge of the principles of reporting and the work of the judiciary

#### 3.4.1 Journalists' self-perceptions of their current level of knowledge

Journalists from all three countries (Table 9) highly rate their own level of knowledge on key topics related to court reporting. Most respondents in the survey described their knowledge of specific topics as excellent, good or fair. Only 10-20% of the surveyed journalists assessed their knowledge as poor or very poor. In all three countries, about half are convinced that they have excellent or good knowledge of the following topics: ethical principles of reporting on court proceedings, protecting human rights during criminal proceedings and the levels, hierarchy and functions of the national judiciary system.

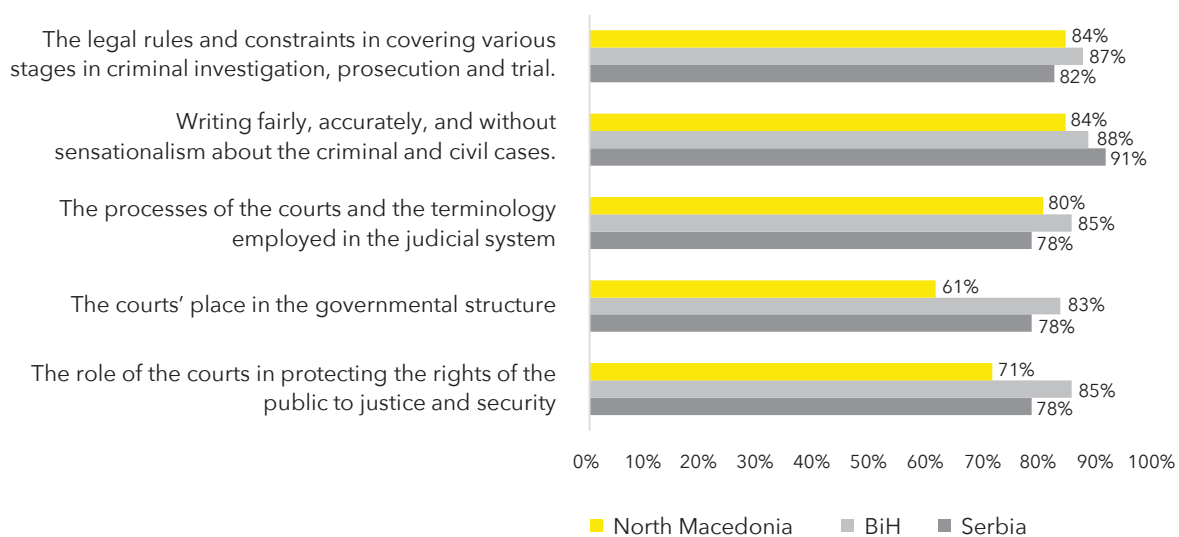
Self-perceptions of the current level of knowledge	Serbia				Bosnia and Herzegovina				North Macedonia			
	Excellent and good	Fair	Poor and very poor	Don't know	Excellent and good	Fair	Poor and very poor	Don't know	Excellent and good	Fair	Poor and very poor	Don't know
The levels, hierarchy and functions of the national judiciary system	49%	31%	13%	7%	56%	28%	12%	5%	51%	33%	10%	6%
Legal rules and constraints related to reporting from court proceedings	41%	35%	17%	7%	46%	35%	11%	8%	49%	29%	16%	6%
The basic legal procedure pertaining to a criminal trial	39%	32%	22%	6%	37%	42%	14%	6%	39%	35%	20%	6%
Protecting human rights during criminal proceedings	52%	30%	10%	7%	53%	33%	8%	6%	51%	29%	13%	7%
Legal terminology used in courts	41%	38%	15%	6%	43%	38%	13%	5%	47%	35%	10%	7%
Ethical principles of reporting on court proceedings	55%	27%	10%	7%	54%	36%	4%	6%	54%	25%	14%	7%

**Table 9:** How would you rate your own level of knowledge related to reporting on the work of the judiciary or more specifically on the court proceedings?

#### 3.4.2 Topics on which journalists need additional instruction

When asked how useful it would be for journalists who cover the work of the judiciary to gain new knowledge of reporting on the judiciary (Chart 7), 70-90% of journalists in all three countries said that it would be extremely or very useful to organise training on all proposed topics. Only on the topic “the role of the courts in the structure of government” did slightly fewer journalists from North Macedonia agree (61%).

**Topics for which it would be (extremely and very) useful for journalists to gain additional instruction**



**Chart 7:** Topics for which journalists need additional instruction

In the focus group discussions, the journalists emphasised that the situation in the media in all countries is so bad that “the newsrooms have been reduced to a small number of journalists, and now there are almost no journalists who follow only the judiciary”.<sup>119</sup> Every young journalist who is going to work on these topics must attend relevant training, but the newsrooms themselves have neither the time nor the resources to conduct quality training:

- Of course, the newsrooms are responsible for how educated their journalists are, but to be realistic, today’s media are in such a state that it is difficult to imagine that there is a journalist who only follows the judiciary ... Educational courses can be organised in an interesting way ... [and could] be conducted by people with integrity ... Then everyone will come, and they will learn something.<sup>120</sup>

Given newsrooms’ shortage of staff, most journalists who report on the judicial system also cover other topics, and many do not know the relevant legal provisions and the specific legal terminology:

- All of this is too complicated for many of them, as they haven’t made a personal effort to educate themselves, nor have the editors tried to help them ... An additional problem in their reporting is sensationalism ... It would not be bad for judicial institutions to organise training ... a simulation of a trial ... Those journalists who cover different areas at least should know basic things and terminology.<sup>121</sup>

119 Participant in the Focus Group 1 with journalists from Serbia, conducted on November 12t , 2021.

120 Ibid.

121 Ibid.

Some of the journalists still think that it is important for newsrooms to not only provide professional training, but also to equip each journalist with more knowledge about the specifics of this area of reporting:

- They have to work with journalists ... to organise a course from time to time ... I know it's hard for newsrooms ... to set aside two hours of journalists' working day to teach them what they haven't learned, ... to make sure they use the correct words and appropriate legal terminology... these are things they should learn...
- In the beginning, a journalist has to learn – he can't go to trial without preparing himself in advance; otherwise, he would only be a carrier of Dictaphone or microphone, ... but that is not a journalist ... There is no justification for covering another area yesterday and covering the trial today ... The journalist who reports from a trial need time to sit down and carefully read the details about the proceeding.<sup>122</sup>

Journalists also pointed out that ignorance and sensationalism are especially present in online media, because of the race for readership or clicks and shares. Due to the lack of their own resources, they "just take information from other media and very often use incorrect legal terminology ... and thus publish misinformation."<sup>123</sup>

- Sensationalism is a consequence of journalistic work, but it is caused by other factors that also affect the journalism itself. If we're talking about reporting on criminal cases, I know a large number of journalists who would agree to paint the story 'yellow'<sup>124</sup> just to increase the number of clicks on their portal and to please the audience."<sup>125</sup>

### 3.4.3 Journalists' knowledge of and attitudes towards the ethics of reporting

To examine the journalists' knowledge of and attitudes towards journalistic ethics, the respondents in the survey were asked two questions that are part of the questionnaire designed within the Worlds of Journalism Study.<sup>126</sup> The journalists in all three countries demonstrated a strong commitment to professional ethical standards (Chart 8). Most respondents in the online survey agreed with the statement that journalists should "journalists should always adhere to codes of professional ethics regardless of situation and context" (90% in Serbia and BiH and 91% in North Macedonia).

122 Participant in the Focus Group 3 with journalists from Serbia, conducted on November 23rd, 2021.

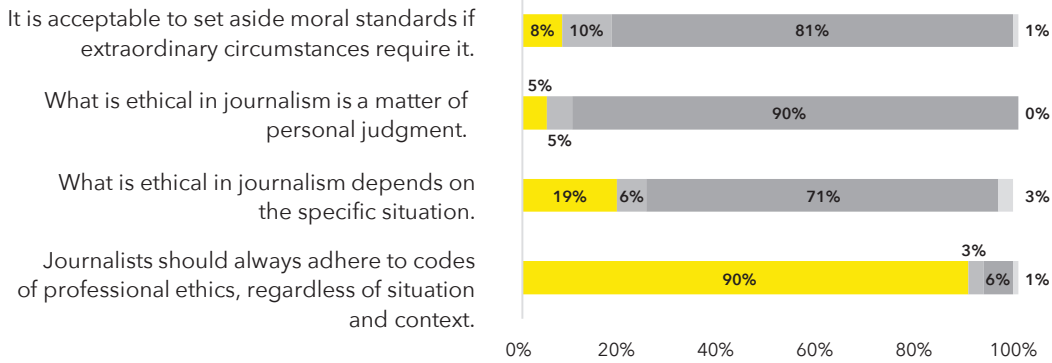
123 Participant in the Focus Group 2 with journalists from North Macedonia, conducted on November 4th, 2021.

124 It is a local jargon for 'yellow' journalism or sensationalism in reporting.

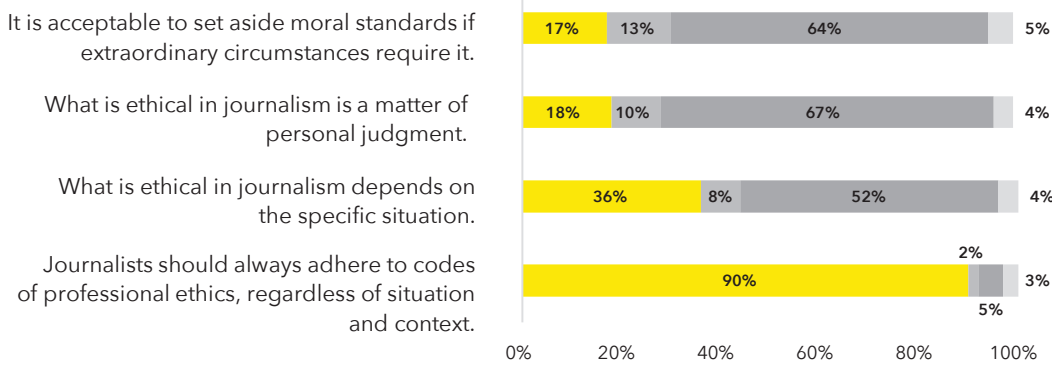
125 Participant in the Focus Group 4 with journalists from BiH, conducted on November 23rd, 2021.

126 The Methodological Framework of the Worlds of Journalism Study is available at: <https://worldsofjournalism.org/study-methodological-framework/>

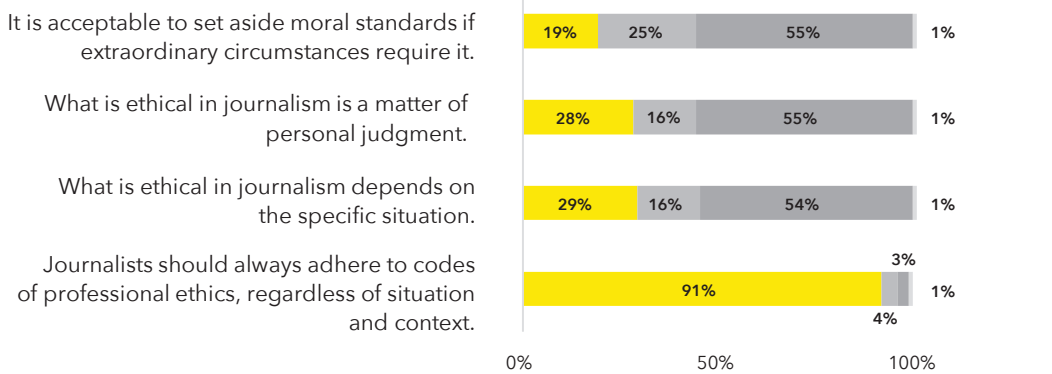
**Serbia**



**Bosnia and Herzegovina**



**North Macedonia**



■ Strongly and somewhat agree ■ Neither agree nor disagree ■ Strongly and somewhat disagree ■ Don't know

**Chart 8:** Journalists' knowledge of and attitudes towards journalistic ethics

However, acknowledging that the specific situation defines what is ethical does not always mean that specific circumstances can justify an infringement of codes of professional ethics. The ethical codes themselves allow standards to be set aside in the public interest. Stories in the public interest could include those that reveal criminal behaviour, protect public safety or disclose misleading claims made by public officials or organisations. Thus, answers to the next statement, "What is ethical in journalism depends on the specific situation", demonstrate the level to which journalists are aware of the contextual flexibility in their professional codes of ethics. There is a more rigid attitude among Serbian journalists regarding adherence to the code of ethics: one-fifth of journalists there agreed that the specific situation could affect adherence to journalistic ethics. In BiH more than a third of journalists (36%) agreed with this view, and in North Macedonia slightly less than a third (29%).

Journalists were also asked to indicate whether they agreed with the statement "What is ethical in journalism is a matter of personal judgment". The statement implies that journalists' subjective views may define which practices are appropriate. This interpretation may have led the journalists to disagree with the statement, especially in relation to the previous question about the importance of a more objective element (the specific circumstances). That difference can be seen in the responses of journalists from Serbia and BiH: in Serbia 90% of respondents disagreed with this statement, while in BiH 67% disagreed. In Macedonia, respondents expressed mixed views: 55% disagreed, 28% agreed, and 16% were undecided. It is difficult to explain this result, but it may be related to the different ways in which the question was interpreted by the journalists from this country.

The last statement, "It is acceptable to set aside moral standards if extraordinary circumstances require it", also refers to specific circumstances, but the focus is on the adherence to moral standards, which are more associated with personal and social values. Again, the journalists from Serbia demonstrated a more rigid attitude (81% did not agree) than their colleagues from BiH (64%) and North Macedonia (55%).

The results reveal a complicated picture in regard to the respondents' opinions on a number of potentially controversial reporting techniques. The first set of ethically questionable practices the journalists were asked about in the online survey were related to sources (Table 10). Exerting pressure on unwilling informants to get a story is considered justified (on occasion and always) by 31% of journalists in Serbia, 35% in BiH and 30% in North Macedonia. Journalists were then asked to express their attitude towards paying the sources. Whereas accepting money from sources is considered indefensible by almost all journalists in the three countries, paying for confidential information is considered justified (on occasion and always) by 17% of journalists from Serbia, 27% from BiH and 24% of interviewed journalists from North Macedonia.

<b>Serbia</b>	<b>Always justified</b>	<b>Justified on occasion</b>	<b>Not approve under any circumstances</b>	<b>Don't know</b>
Exerting pressure on unwilling informants to get a story	2%	29%	64%	5%
Paying people for confidential information	1%	16%	74%	9%
Accepting money from sources	0%	0%	98%	2%
<b>Bosnia and Herzegovina</b>				
Exerting pressure on unwilling informants to get a story	1%	34%	56%	9%
Paying people for confidential information	1%	26%	62%	11%
Accepting money from sources	0%	1%	95%	5%
<b>North Macedonia</b>				
Exerting pressure on unwilling informants to get a story	4%	26%	62%	7%
Paying people for confidential information	4%	20%	64%	12%
Accepting money from sources	1%	0%	94%	4%

**Table 10:** Attitudes towards ethically questionable practices related to sources

Another set of questions was asked about using material without permission (Table 11). Using confidential business or government documents without authorisation is considered acceptable by 67% of journalists from Serbia, 60% from BiH and 56% from North Macedonia. Publishing such material is considered justifiable by 67% of journalists from Serbia, 55% from BiH and 46% from North Macedonia. While the use of official material without authorisation is largely considered acceptable, the use of personal documents, such as letters and pictures, without permission is a different matter: 18% of journalists from Serbia, 22% from North Macedonia and 32% from BiH thought it was sometimes justified.

<b>Serbia</b>	<b>Always justified</b>	<b>Justified on occasion</b>	<b>Not approve under any circumstances</b>	<b>Don't know</b>
Using confidential business or government documents without authorisation	5%	62%	24%	9%
Publishing confidential business or government documents without authorisation	5%	62%	28%	5%
Making use of personal documents such as letters and pictures without permission	0%	18%	77%	5%
<b>Bosnia and Herzegovina</b>				
Using confidential business or government documents without authorisation	4%	56%	32%	8%
Publishing confidential business or government documents without authorisation	4%	51%	37%	9%
Making use of personal documents such as letters and pictures without permission	1%	31%	62%	6%
<b>North Macedonia</b>				
Using confidential business or government documents without authorisation	7%	49%	33%	10%
Publishing confidential business or government documents without authorisation	4%	42%	41%	13%
Making use of personal documents such as letters and pictures without permission	3%	19%	70%	8%

**Table 11:** Attitudes towards use of material without authorisation

The third set of questions related to using misrepresentation and hidden recordings (Table 12). The journalists from all three countries expressed mixed views about whether claiming to be somebody else is acceptable: one third (34%) of journalists from Serbia believe it is justified on occasion, and 53% from journalists in BiH and 58% from North Macedonia consider this practice justified (on occasion or always). The use of hidden microphones is considered almost equally justified by journalists from BiH (59%) and North Macedonia (55%) and slightly less by journalists in Serbia (37%). The other form of subterfuge – being employed at a firm to gain inside information – is accepted by around half of journalists in BiH (59%) and in North Macedonia (55%), and by around a third of journalists in Serbia (37%).

<b>Serbia</b>	<b>Always justified</b>	<b>Justified on occasion</b>	<b>Not approve under any circumstances</b>	<b>Don't know</b>
Claiming to be somebody else to investigate a story	0%	34%	57%	9%
Being employed in a firm or organisation to gain inside information	1%	48%	39%	12%
Using hidden microphones or cameras	0%	37%	56%	6%
<b>Bosnia and Herzegovina</b>				
Claiming to be somebody else to investigate a story	2%	51%	38%	8%
Being employed in a firm or organisation to gain inside information	5%	44%	37%	15%
Using hidden microphones or cameras	2%	57%	31%	10%
<b>North Macedonia</b>				
Claiming to be somebody else to investigate a story	4%	54%	36%	6%
Being employed in a firm or organisation to gain inside information	4%	48%	39%	9%
Using hidden microphones or cameras	3%	52%	36%	9%

**Table 12:** Attitudes towards misrepresentation and hidden recording

The fourth set of questions on ethically questionable practices related to the falsification of material and the acceptability of publishing unverified content (Table 13). Most journalists from all three countries think that publishing stories with unverified content is not justifiable under any circumstances. However, given that the codes of ethics of all journalists' associations allow no exception on public interest grounds to the professional rule about publishing accurate information, it is surprising that some journalists still believe that publishing news with unverified content is justified: 9% in Serbia, 6% in BiH and 13% in North Macedonia. A small percentage of journalists in each country approve of altering or fabricating quotations from sources, and a slightly larger percentage approve of altering photographs. The last question in this set was about the use of recreations or the dramatisation of news by actors. This practice is largely approved of by journalists in all three countries: 67% in Serbia, 49% in BiH and 55% in North Macedonia.



<b>Serbia</b>	<b>Always justified</b>	<b>Justified on occasion</b>	<b>Not approve under any circumstances</b>	<b>Don't know</b>
Publishing stories with unverified content	0%	9%	89%	2%
Altering quotations from sources	0%	4%	94%	2%
Altering photographs	0%	7%	89%	3%
Using recreations or dramatisations of news by actors	6%	61%	19%	14%
<b>Bosnia and Herzegovina</b>				
Publishing stories with unverified content	0%	6%	90%	4%
Altering quotations from sources	2%	4%	88%	6%
Altering photographs	2%	15%	75%	9%
Using recreations or dramatisations of news by actors	5%	44%	33%	18%
<b>North Macedonia</b>				
Publishing stories with unverified content	3%	10%	80%	7%
Altering quotations from sources	1%	3%	90%	6%
Altering photographs	1%	6%	84%	9%
Using recreations or dramatisations of news by actors	9%	46%	25%	20%

**Table 13:** Attitudes towards falsification and verification

In the focus groups, journalists discussed the reasons for sensationalism in reporting and non-compliance with ethical standards. No reason was given for sensational reporting other than the race for readership, clicks or shares. Journalists need to be educated and trained, but this is not sufficient - in practice it is important to adhere to the code of ethics. It is the violation of the code of ethics that affects the distrust in journalism in general. This is an issue that all journalists' associations and self-regulatory bodies should work on.

- I am personally appalled by the sensationalist headlines, the front pages of some tabloids. The right to privacy is violated first of all ... This is especially evident when it comes to tragedies - you know that journalists working in the tabloids report on serious traffic accidents, murders, suffering and publish some details which are personal and private, and that is a par excellence violation of the Code ...
- ... And this is noticed on the front pages ... So the presumption of innocence is violated, and the right to privacy is violated, both for the accused and the victims...
- I absolutely agree with what my colleagues said - I see that everyone emphasised the violation of the code - I would add that it's also a violation of the law. If the penalties were stricter, maybe that would be respected.<sup>127</sup>

127 Participant in the Focus Group 2 with journalists from Serbia, conducted on November 16th, 2021.

- It is a fact that the stories are shaped to attract more of an audience. The rights of the victims are ignored ... For example, the media report that a girl was abused by her father and then publish her father's name.<sup>128</sup>

According to some journalists, unfair competition is also a problem, especially in online media. Often such media have no newsroom and they are run by only one person, who publishes only sensationalist news and thus discredits other professional online media:

- Bombastic, sensationalist news headlines, without real content are read more than other stories.<sup>129</sup>
- The most striking thing for me is the violation of the privacy of the victims, in addition to the violation of the presumption of innocence, because journalists must know that no one is guilty until it is proven in court and until the verdict becomes final.
- I would single out cases of domestic violence. When someone kills their partner, the media is very unfair to the children ... Those children will always be able to see on the Internet those scary headlines and reports about their parents.<sup>130</sup>
- A lot of media have turned to sensationalism, especially portals, because they're not subject to legal restrictions. People who work there ... do not distinguish between basic concepts. In Tuzla, we had information that a taxi driver allegedly attacked a girl. A photo of him was published very quickly, and he was marked as a rapist. And all that happened before anything came from the police or the prosecution. The same applies to the protection of victims, minors and the like.<sup>131</sup>

In other situations, the violation of ethical principles and legal provisions on the protection of privacy and dignity of the victims is encouraged by the representatives of the institutions themselves. An example in Serbia is the publication of photographs related to the "Belivuk" case<sup>132</sup> at a press conference held by the president of the state:

- They [the tabloids] did not stop publishing those photos, we have to be honest ... journalists may have been encouraged or inspired by those photos published at the conference and continued to dig, assuming that they might find some more creepy details in that case ... I think it was unnecessary that all that came out - that flood of that creepy information...
- After presenting these horrible details ... I spoke later with the families of some of these victims ... They told me that they learned so much from the media, and some information turned out to be incorrect in the end...

### 3.4.4 Number and type of training courses attended by journalists

Most of the surveyed journalists (Chart 9) from Serbia (90%) and BiH (85%) did not attend any specialised training course for reporting on the justice system, while in North Macedonia that percentage is

128 Participant in the Focus Group 3 with journalists from BiH, conducted on November 22nd, 2021.

129 Participant in the Focus Group 3 with journalists from Serbia, conducted on November 23rd, 2021.

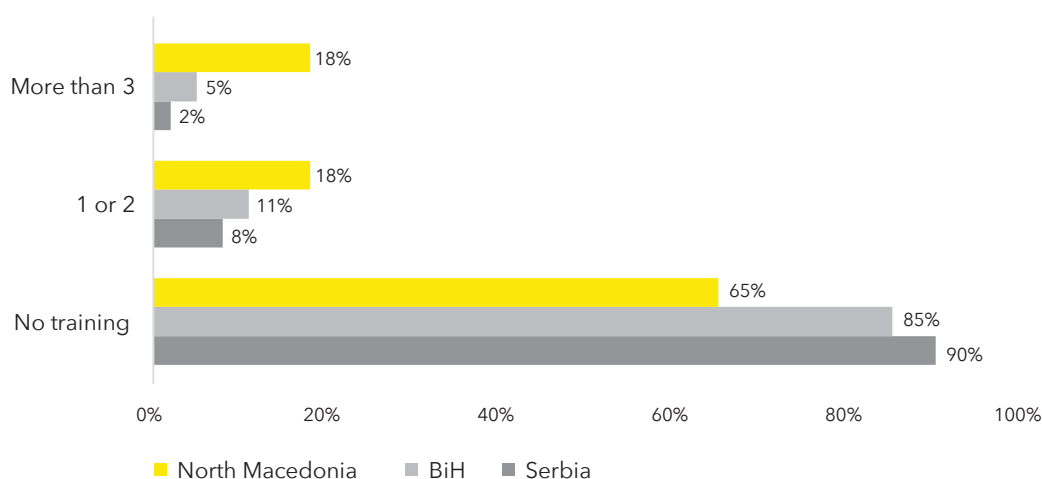
130 Participant in the Focus Group 2 with journalists from Serbia, conducted on November 16th, 2021.

131 Participant in the Focus Group 1 with journalists from BiH, conducted on November 22nd, 2021.

132 Veljko Belivuk (the leader of an organised group of Partizan fans) and his criminal group are suspected of five murders, torture and drug dealing. He was arrested at the beginning of February 2021 and at the end of July the Crime and Corruption Investigation Network (KRİK) wrote about the alleged details of his hearing in the prosecutor's office where he spoke in detail about the alleged relationship with the state leadership and the President of Serbia, Aleksandar Vučić. The President of Serbia denied Belivuk's claims and added that "murderers and butchers are trying to get out politically." Explicit photos of the alleged Belivuk victims were shown by the minister Vulin during the prime time show on national television TV Pink and later again by the President Vučić and at press conferences in July 2021. The Independent Association of Journalists of Serbia (NUNS) and the Association of Journalists of Serbia (UNS) condemned the showing of photos and called on the media to "respect the dignity of victims and not disturb the public."

lower (65%). In North Macedonia, 10 journalists reported attending one or two training courses, and 10 participated in more than three. In BiH, 15 journalists attended one or two training courses, and 7 attended more than three. In Serbia, 7 journalists attended one or two training courses, and only 2 journalists participated in more than three.

**Journalists who attended specialized training courses for the reporting on the justice system**



**Chart 9:** Journalists who attended specialised training courses

However, the total number of training courses that these journalists attended in the past years is not small (Table 14): in BiH, 22 journalists attended a total of 84 training courses; in North Macedonia, 20 journalists attended a total of 56 training courses; and in Serbia, 9 journalists attended a total of 33 training courses. Most training was organised by international and domestic non-governmental organisations. In all three countries, the media outlets where journalists work and judicial institutions organised the fewest training courses.

Organisations that organised training courses	Serbia	Bosnia and Herzegovina	North Macedonia
Training courses organised by the media outlet where I work	1	14	5
Training courses organised by non-governmental organisations	16	31	22
Training courses organised by international organisations	11	23	23
Training courses organised by judicial institutions	3	6	5
Training courses organised by higher education institutions	2	10	1
<b>TOTAL</b>	<b>33</b>	<b>84</b>	<b>56</b>

**Table 14:** Number of specialised training courses organised by various organisations

The topics covered in the specialised training of the journalists (Table 15) varied from country to country: in BiH the training covered a large number of highly specialised topics; in Serbia and North Macedonia, there seems to be a lack of training related to the specifics of court proceedings and the terminology used in the judicial system.

Topics of the training courses	Serbia	Bosnia and Herzegovina	North Macedonia
The role of the courts in protecting the rights of the public to justice and security	8	19	9
The courts' place in the governmental structure	4	8	6
The processes of the courts and the terminology employed in the judicial system	2	26	8
Writing fairly, accurately and without sensationalism about the criminal and civil cases	9	44	21
The legal rules and constraints in covering various stages in criminal investigations, prosecutions and trials	8	23	20
The implementation of new national laws in the courts practice	4	13	5
The practice of the European Court of Human Rights	9	20	18

**Table 15:** *Topics covered by the training attended by journalists*

### 3.4.5 Summary

The journalists who took part in the online survey have a high opinion of the level of their own knowledge on topics related to the judiciary. At the same time, most journalists in all three countries believe that it would be (extremely or very) useful for journalists in general to gain new knowledge on various topics: for example, the processes of the courts and the terminology employed in the judicial system; the legal rules and constraints in covering various stages in criminal investigations, prosecutions and trials; and writing fairly, accurately and without sensationalism about criminal and civil cases. Only a small percentage of the surveyed journalists stated that they had attended training in recent years. The topics covered in the training varied. It seems that the training related to the specifics of the court procedure, but the terminology applied in the court system was mostly not covered. Most of the training was organised by domestic and foreign non-governmental organisations and much less by the media outlets themselves.

The media in all three countries suffer from a lack of journalists. Today, almost no journalists specialise in court and legal reporting. As the newsrooms are understaffed, most court reporters also cover other topics, and many of them do not have the necessary knowledge of the relevant legislation and the specific legal terminology. This is predominantly the case with online media, which often work with one or two people and frequently publish sensationalist news, thus creating a negative image of all journalism.

The surveyed journalists showed a high level of knowledge and commitment to ethical standards, but during the group discussions they were critical in assessing how generally these standards are respected in the profession. The reasons some media (especially online) indulge in sensationalist reporting include not only a lack of knowledge, but above all the race for readers, clicks or shares.

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## 4. Conclusion

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The main objectives of this study were: (1) to investigate journalists' understanding, perceptions and experience of the work of the judiciary, its level of transparency and manner of communication when delivering information to journalists and the general public; (2) to explore journalists' views and perceptions of the role of the judiciary in safeguarding media freedom; (3) to discover deficiencies in journalists' knowledge regarding the basic principles and standards of reporting on court proceedings and the judiciary in general, as stipulated in international documents and professional codes of ethics; and (4) to identify priority issues and points of actions to improve the relationship between journalists and the judiciary. Here we summarize the findings considering the specific research questions formulated within each distinct research objective. At the end of the conclusion, we give a brief description of the number and profile of journalists reporting on the judiciary and address the limitations of the study.

### **Journalists' understanding, perceptions and experience of the work of the judiciary, its level of transparency and manner of communication**

Four research questions were formulated in relation to the first objective of the study: What are the journalists' understanding and perceptions of the way the justice system works in general? How do journalists perceive responsiveness and communication of judicial institutions? What are the journalists' experiences with the justice sector (access to court files, sources of information for court cases, cooperation with courts' representatives, difficulties in reporting from open trials etc.)?

The results of this research should be understood in the context of the democratisation processes in the three Western Balkan countries, including the progress achieved in judicial reforms. All three countries are categorised by international organisations as fragile democracies with a weak rule of law and insufficiently autonomous judiciaries. In all of them there is a great discrepancy between the legal regulation of the work of both the judiciary and the media (which is generally in accord with EU legislation) and the everyday practice of these two important social institutions.

Journalists in all three countries are generally critical about the transparency and accountability of the judiciary. Those from Serbia and BiH tended to be more critical of and dissatisfied with the justice system in their respective countries. It seems that this is primarily due to the unfavourable political context in which journalists work and the unreformed means of communication between the judiciary and journalists. This finding is confirmed by the journalists' answers to the question of whether the judiciary in their country is more open and transparent today than five years ago: in North Macedonia 52% responded in the affirmative, in BiH 36% and in Serbia only 17%. The structure of the sample of Serbian participants in the survey did not properly reflect the polarisation in the local journalist community, which may explain why journalists in Serbia showed the highest degree of criticism in the answers to this question.<sup>133</sup>

The journalists illustrated with many examples the reasons for their criticism and why they believe the judicial institutions are much more closed today than in the past. They identify the roots of the problem in the political system itself; that is, in the influence and pressure on the judiciary exerted by both politicians and powerful groups or individuals. Despite some positive examples, a climate of secrecy and fear prevails in the judiciary – especially among judges and prosecutors dealing with cases of corruption and organised crime. This climate of fear (especially in Serbia and BiH) among members of the judiciary also negatively affects the atmosphere in which journalists work. Journalists in Serbia, for example, who

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133 In Serbia, the survey response rate was lowest, probably due to the high polarization of the journalistic community, i.e. the fact that a large number of (conditionally saying) "pro-government" media did not respond at all to the invitation of the research agency and the Independent Journalists' Association of Serbia to participate in the survey.

carry out investigative work on high-level corruption and organised crime complain about the climate of conspiracy, attacks and smear campaigns by pro-government media and “invisible” pressure from individuals close to the government and to some powerful groups.

In all three countries, the three problems that most often hinder professional journalistic reporting on the work of the justice system and more particularly on court proceedings are the procedural obstacles in securing access to prosecution and court files, the privilege of individual journalists in obtaining such information and documents and judicial institutions’ distrust of journalists in general. The lack of information on the websites of prosecutors and courts is considered a lesser problem, while the least insurmountable problem seems to be the availability of the spokespersons. There are some differences in the extent to which these problems are highlighted in different countries, but BiH journalists generally complain more about difficulties of all kinds. This is probably a consequence of the negative assessment about the transformation of the judiciary in this country. However, the practices of the institutions vary, even within the same country, with some showing greater accountability and willingness to communicate with journalists than others.

Journalists claim that obtaining access to information is especially difficult during the pre-investigation and investigation phase. They are aware that the prosecution is obliged to protect the integrity of the procedure and to not disclose certain sensitive information, but the unavailability of accurate and reliable information leaves much scope for mistakes and the spreading of misinformation. This problem is also experienced to a great extent in reporting on court proceedings. Some institutions, however, are becoming more responsive and accessible to journalists. In North Macedonia, for example, courts in smaller towns have established good relations with journalists and regularly provide them with access to court files and documents to properly report on court proceedings. Positive examples were also pointed out of spokespersons in Serbia who regularly help journalists to obtain documents more quickly, often only on the basis of telephone communication, so that there is no need to submit formal requests.

Taking into consideration these difficulties in obtaining access to files and other information from the judicial representatives directly, it is logical that journalists mostly rely on “external” or indirect sources: lawyers, media articles (the two most frequently used sources in all three countries) and websites of the judicial institutions. Representatives of the judiciary such as judges, presidents of the courts and prosecutors in all three countries are rarely accessible to journalists, but they are considered important sources for journalists because they can provide more relevant, comprehensive and accurate information both about cases of great public interest and the work of the judiciary in general. This access is important not only for improving the quality of journalistic coverage of court proceedings and for the implementation of the reform process in this area, but also for restoring public confidence in the entire judicial system.

The most significant problem faced by journalists reporting from court hearings is that the courts do not distribute or publish the minutes of the hearings quickly, which leaves room for many reporting errors and confirms the non-transparency and lack of consideration of judges regarding the need for objective and accurate reporting. Journalists are aware that the current restrictions on using their equipment are designed to protect the privacy of witnesses and other persons involved in the proceedings, but for most of them the use of equipment (even the court cameras) would greatly improve the quality of their reporting. Access to the courtrooms was not considered a significant problem, except in some situations when the court case attracts a great deal of public attention and in some cases during the COVID-19 pandemic. In all three countries, the journalists expressed great self-criticism towards their profession, because only a few journalists today spend sufficient time in the courtrooms to closely follow the developments of the court cases.

### **The role of the judiciary in safeguarding media freedom and journalists' safety**

Regarding the second research objective, we have formulated two specific research questions: How do journalists understand (and perceive) the role of the justice sector in safeguarding media freedom? What are the journalists' perceptions of the judiciary in cases including threats and attacks on journalists and media?

A range of factors affect journalists' feeling of safety and security, especially the number of threats and attacks. These factors all influence their perceptions of the role of the judiciary in protecting media and journalistic freedoms. According to the survey data, all journalists assessed the judiciary as still more on the side of the system and politics than on the side of the journalists. The journalists in Serbia are most concerned about the pressure exerted on them by public officials through defamation lawsuits. Critical journalists suffer the most, because politicians file numerous defamation and SLAPP lawsuits against them. This is especially worrying, because the judiciary is biased in most such proceedings due to fear and pressure from politicians.

The journalists stated that they do not feel sufficiently protected by the institutions and do not believe that the perpetrators of threats and attacks will be punished. Uncertainty is especially high due to the rise of online attacks and threats, as the perpetrators are often unknown. In Serbia and BiH, the reason for impunity is most often located at the lack of efficiency of the Ministry of Internal Affairs and the prosecutor's office. What journalists in Serbia complain about the most are the labelling, smear campaigns and attacks on critical media and journalists by the tabloids that are close to the government.

### **Need for new knowledge, training and adherence to ethical standards**

For the third objective of the study, we have formulated the following research questions: What is the level of journalists' knowledge about the basic principles and standards of reporting about the work of judiciary? What do the journalists know about the purpose and main principles of judicial communication? What are the journalists' knowledge and awareness gaps that impede the delivery of timely, professional, and accurate information about the justice system to the public? How can such gaps be filled?

When examining self-judgments of respondents' knowledge, researchers may be faced with a phenomenon called overclaiming. In surveys, it is common practice for respondents to be asked an additional question about what knowledge other people may need in the same field. The results of this survey showed that journalists from all three countries have a high opinion of their own level of knowledge on several key topics related to court reporting. However, when asked what kind of knowledge journalists need in general to improve the quality of reporting on the work of the judiciary, the answers were quite the opposite from the evaluation of their own level of knowledge.

The vast majority (70–90%) of journalists in all three countries said that it would be extremely useful to raise the level of knowledge among journalists on almost all proposed topics: the legal rules and constraints in covering various stages in criminal investigations, prosecutions and trials (North Macedonia, 82%; BiH, 84%; Serbia, 87%); writing fairly, accurately and without sensationalism about criminal and civil cases (84%, 88%, 91%); the processes of the courts and the terminology employed in the judicial system (78%, 80%, 85%); the role of the courts in protecting the rights of the public to justice and security (71%, 78%, 85%); and the courts' place in the governmental structure (61%, 78%, 83%). Only for the topic "the role of the courts in the structure of government" did slightly fewer journalists from North Macedonia express agreement.

The data on the number and variety of topics covered with different types of training organised in all countries in recent years show that, although much has been invested in the additional education of journalists, this has little effect when there are serious structural deficiencies in the environment in which

journalists work. Asked in a more natural context, through discussions with colleagues in the focus groups, journalists openly expressed their self-criticism of the current standards in the profession. In all three countries, most of the newsrooms have been reduced to a small number of journalists who cover various topics, and some of them do not even have a basic knowledge of the most relevant legal provisions and the terminology used in legal proceedings. The situation is most serious in the online news media, where the level of knowledge and professionalism is lowest due to the race for readership, clicks or shares. The newsrooms themselves have neither the time nor the resources to conduct quality training, while the media owners are not interested at all in "investing" in increasing the level of professional norms. In addition to the market pressure and the reluctance of media owners to raise the professionalism in the media, political influences are an influential factor in the violation of the ethical principles and legal provisions related to the privacy and dignity of the victims in court proceedings.

This self-criticism is accompanied by a strong commitment to professional ethical standards among journalists in all three countries. Most respondents (90% in Serbia and BiH and 91% in North Macedonia) agreed with the statement that journalists should "always adhere to codes of professional ethics regardless of situation and context". Serbian journalists are most rigid in regard to making exceptions from the general ethical rule that reads: what is ethical depends on the specific situation, personal judgment and the circumstances. Journalists in BiH are somewhat less rigid, and journalists in North Macedonia show the least rigidity in terms of exceptions to the general rule.

### **Demographic and job-related profile of the journalists who report on the judiciary**

These findings were not directly related to a specific research question but emerged additionally from the literature review and the process of data collection.

The work of the judiciary and criminal court proceedings are predominantly covered by journalists with more experience in the profession. Over 70% of the journalists who participated in the survey have more than 10 years of experience in journalism. None of the journalists works exclusively on these topics, however, which confirms that there are few journalists in the three countries with such a specialisation. Exceptions may include the public service newsrooms and the investigative (online) newsrooms that work mainly on topics related to corruption, organised crime and the judiciary. The largest category of respondents in the survey (over 80%) are journalists who mainly work on other topics (politics, economy, corruption, etc.) and within those topics occasionally cover the work of the judicial system. This is primarily due to the long-term crisis in the media sector in all three countries, the pressures from the oversaturated media market and the lack of interest of media owners to invest in the professionalisation of newsrooms.

In all three countries, the economic situation of the media sector is weak. With some exceptions, the media cannot invest in the development of the news departments and in the specialisations of journalists, including specialisation in the judiciary. This study indicates that journalists who specialise in reporting on judicial issues (but who also work on other topics) are mainly from the larger newsrooms - the public service and the private media at a state level. Examples of individual journalists working in online or print media who specialise in this topic are rare.

### **Limitations of the study**

This study has certain limitations. First, during the collection of primary data, we faced a lack of accurate data on the total number and structure of journalists in newsrooms. In other countries, thorough studies have been conducted that provide a comprehensive picture not only of the number of journalists and the structure of the journalist community, but also of the overall state of the profession in the specific respective country. Such studies enable researchers and journalists' associations to detect problems and implement initiatives to improve the environment and conditions in which journalists work. Second, due to the COVID-19 pandemic and the complexity of the task, the survey of journalists could



not be administered face to face, which is the optimal survey type for achieving the maximum response rate and thus the results most representative of the entire journalist community. Although, the online survey provided relevant data, the overall response rate was arguably low. Despite several invitations for participation, many journalists did not respond to the survey. It is not clear whether this non-participation stems from work overload, conformism or polarisation in the journalist community itself. The contacted journalists most often explained that their non-participation was due to lack of time or work obligations. Another reason is the division of the journalist community. For example, journalists' associations which strongly promote media independence and professionalism have difficulty cooperating with the pro-governmental media.

Third, this research focuses only on the experiences and perceptions of the journalist community and not on what the judiciary representatives know or think about this topic. To a certain extent, this aspect is covered in Chapter 2 of this report, which deals with the question of what has been previously examined or published on this topic. Nevertheless, the results of this study can serve as a basis for a future research cycle that would go deeper into the views, attitudes and experiences of the judges, prosecutors and other representatives of the judiciary.

Fourth, the literature review provides an overview of the Council of Europe standards that underpin the role of the media in reporting on court proceedings and, in general, on the work of the judiciary. Although the three countries in this analysis are members of the Council of Europe and should have already incorporated these standards into their national frameworks, the analysis of the quality of those legal provisions was beyond the scope of this study.

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## 5. Recommendations

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The recommendations were compiled from the findings related to the fourth objective of the study, which is to detect priority issues and points of actions in order to improve the current relationship between journalists and judiciary.

### ○ Recommendation 1

The journalists' associations from the three countries should conduct a basic assessment of the situation in the journalistic profession to determine the number of journalists and their levels of education, experience, specialisations, attitudes towards professional ethics and many other issues. This assessment would enable the associations to strategically plan their actions towards further professionalisation and consolidation of journalism in their countries. The collected data should then be updated at intervals of about three to four years.

### ○ Recommendation 2

Based on the findings of this research, journalists' associations should establish a permanent relationship with representatives of all relevant institutions in the judicial system, including the ministries of justice, to address the main problems faced by journalists when reporting from the courts and the need for specific measures to improve communication between journalists and the judicial institutions.

Together with the relevant institutions, journalists' associations should develop plans for various types of activities to start overcoming the existing communication gap and the lack of mutual trust among the two professions. These activities could consist of thematic debates, mutual workshops, training courses, ad-hoc or permanent working groups and other forms of cooperation.

### ○ Recommendation 3

In their discussions with relevant institutions, journalists' associations should support the development and implementation of the communication strategies and plans of judicial institutions. The journalists' associations should focus on improving journalists' access to documents and information related to judicial proceedings and the work of the judiciary as a whole, by focusing on the following issues:

- Introduce harmonised and clear rules for communication between the media and journalists and all judicial institutions, especially regarding the journalists' access to minutes and other documents from public trials and the use of recording equipment during public trials.
- Find ways for journalists to have quick access to documents and information related to the work of the judiciary.
- Enable regular communication with journalists who report from the courts through press conferences, briefings and conversations with chief prosecutors, court presidents and designated judges and prosecutors, especially in cases of great interest to the public.
- Organise special training for the spokespersons and judges in charge of communication in order for them to acquire specific knowledge and skills in how to inform the public in clear and understandable language.
- Organise training for journalists which will be given by judges and prosecutors on specific topics related to reporting on investigations and court proceedings.

### ○ Recommendation 4

Journalists' associations should cooperate with existing judicial-media councils (North Macedonia) or initiate such bodies in countries where they have not yet been established (Serbia and BiH). Together with such bodies, journalists' associations should initiate specific activities to address the problems faced by journalists in reporting on the work of judicial institutions.

● **Recommendation 5**

Journalists' associations should establish long-term relationships with the police, prosecutors and courts with the aim of strengthening the capacity and efficiency of these institutions in prosecuting attacks on journalists and media professionals. Together, they should work on developing professional training courses which include content relevant to the safety of journalists, protection of journalistic sources and fundamental rights.

● **Recommendation 6**

Journalists' associations and self-regulatory bodies should initiate different activities in cooperation with judicial institutions or judicial-media councils (where they exist) to increase the level of knowledge of journalists about the legal and ethical rules of reporting on court proceedings:

- Devise editorial guidelines for judicial reporting for individual newsrooms.
- Create a judicial reporting handbook or translate and adapt existing ones in foreign languages.
- Engage with the donor community and local and regional organisations to increase the frequency and quality of training sessions and workshops for judicial reporting.
- Make focused efforts to support self-regulatory mechanisms and penalise breaches of ethical standards.
- Engage with grant-givers to install and develop communication systems inside judicial institutions so that they can appropriately respond to public information needs.
- Monitor and analyse journalistic reporting of court proceedings (at certain intervals) to determine which legal rules and ethical standards are most often violated.

● **Recommendation 7**

Newsrooms should invest in the education and professionalisation of their staff by giving opportunities to journalists to specialise in certain topics, such as the judiciary, investigative journalism and crime and by organising in-house training for their staff to cover these topics.

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