



The Civil Society Facility, Media Freedom and Accountability Programme,
EuropeAid/134613/C/ACT/MULTI

LABOUR AND LEGAL STATUS OF JOURNALISTS IN MONTENEGRO

JOURNALISM BETWEEN FEAR FOR EXISTENCE AND DIGNITY OF THE PROFESSION



This project is funded by
The European Union



A project implemented by
Center for Independent Journalism

South-East European Partnership for Media Development

SEE Partnership for Media Development is implemented by a consortium of media organizations from **Albania, Bosnia-Herzegovina, Former Yugoslav Republic of Macedonia, Montenegro, Serbia, Bulgaria, Romania**. Media professionals from Kosovo and Turkey will also be involved.

The Project is co-financed by the European Commission, the Civil Society Facility, Media Freedom and Accountability Programme, Europe Aid/134613/C/ACT/MULTI

The SEENPM members that are part of the project: Albanian Media Institute (Albania), Mediacenter for Media and Civil Society Development (BiH), Media Initiatives – Association for Media Development and Promotion of Professional Journalism (BiH), Macedonian Institute for Media (Macedonia), Montenegro Media Institute (Montenegro), Media Center (Serbia), Media and Reform Centre Nis (Serbia), Media Development Center (Bulgaria).

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PODGORICA, MARCH 2015



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THE WAY RESEARCH WAS CONDUCTED

Montenegro Media Institute conducted (most of) the research about labour and the legal status of journalists in Montenegro in the period between July and November 2014; information was added at the end of March because some significant changes occurred on the media scene of Montenegro. The research was conducted as part of the regional project South-East European Partnership for Media Development, in which Montenegro Media Institute participates as a partner.

In accordance with the methodology presented in the project, most of the data is obtained from interviews and questionnaires done or answered by more than 20 media employees including journalists, photographers, technical staff and chief editors from broadcasting, on-line and print media as well as bloggers. The answers were requested from the Ministry of Culture, Agency for Electronic Media of Montenegro, Statistical Office Monstat, Agency for Protection of Competition, Employment Agency of Montenegro, representatives of the unions, media directors and many others who are competent to speak about the working conditions of media employees. All laws and documents dealing with the subject were also consulted.

The methodology is adapted to the specific features of the complex media scene in Montenegro, the current unfavourable circumstances for most (if not for all) media. Our main goal was to reach certain conclusions and provide some recommendations which could lead to solutions of at least some problems that media employees encounter every day.

The main problem during the research was the lack of some basic data that state institutions (e.g. Basic Court and Monstat) are supposed to have; the unwillingness of some media management to talk about the way they do business, the circulation, ratings, salaries of their employees, forms of contracts etc was an equally serious problem. As a result data - which would most certainly complete the whole picture - is missing.

MANNER OF ESTABLISHMENT AND THE MEDIA OWNERSHIP TRANSPARENCY

The large number of media outlets, especially electronic and print media, is disproportionate to the population size in Montenegro, which is around 630.000¹. According to the data of the Ministry of Culture and The Agency for Electronic Media of Montenegro (AEM) there are more than 700 print media, but only 50 of them are active, and 83 active electronic media, out of which 38 commercial radio broadcasters, two radio and three television stations which are part of the Public Broadcasting Service, 14 local public radio broadcasters, two non-profit radio broadcasters, three local public TV broadcasters, 17 commercial TV stations out of which four have national coverage (Vijesti, MBC, Prva i Pink M)².

According to the Media Law, a print media outlet shall be founded by a Deed of Foundation, freely and without obtaining any approval and shall be entered in the media record kept by the competent Republican authority. In addition to the application, the Deed of Foundation of the media shall be submitted along with name of the media and residence or seat of the

1 www.monstat.org, population census 2011.

2 Data from The Agency of Electronic Media

founder of the media³.

As easily as they are founded Print media outlets can be easily set up and easily closed, which accounts for the lack of information regarding the number of active print media – claims the Ministry. However, we do know that there are four daily newspapers, which are completely published and produced in Montenegro (Vijesti, Dan, Pobjeda, Dnevne novine), and several Serbian dailies which are only partially made in Montenegro (Blic and Informer) and a number of correspondent offices of media from Serbia (Vecernje novosti, Politika). Regarding the weeklies, only Monitor has informative political nature, while the rest of them are entertainment, specialized monthlies and science outlets.

According to the Law on Electronic Media, electronic media can be founded by a natural or a legal person. Media shall be deemed to be established in Montenegro if the service provider has its head office or residence in Montenegro and the editorial decisions are taken in Montenegro, but decisions can be taken in another state provided that a significant part of the workforce involved in the pursuit of the audiovisual media service (AVM) activity operates in Montenegro. An AVM service provider can have its head office or residence in Montenegro, while the editorial decisions are taken in a European Union (EU) Member State and a significant part of the workforce involved in the pursuit of the AVM service activity operates both in Montenegro and the respective EU Member State. The Law also covers the possibility that the electronic media has its head office or residence in Montenegro while the editorial decisions are taken in an EU Member State and a significant part of the workforce involved in the pursuit of the AVM service activity does not operate either in Montenegro or the respective EU Member State, but started AVM service activity in Montenegro provided that it maintains a stable and effective link with Montenegrin economy⁴.

At the moment there is no authority in Montenegro in charge of the establishment and activities of on line media and that segment is completely neglected because it is not covered by any legal framework. The Agency for Electronic Media recently stated that they are preparing the book of regulations for registration of that type of media. Although there is no official register, the most popular news portals in Montenegro are Vijesti (www.vijesti.me), Cafe del Montenegro (www.cdm.me), Analitika (www.portalanalitika.me), and, lately, the Portal of the Public Broadcasting Service (www.rtcg.me). AEM does not official data about the number of the registered and active news agencies in Montenegro, but unofficially there is only one news agency - Mina (www.mina-info.me).

Formal ownership of all media is transparent and registered in the Central Registry of Business Subjects⁵ and on the site of AEM⁶. AEM deals with the cases of excessive concentration of ownership, and in 2013 AEM initiated three proceedings in cases of cross-ownership in a number of media, when some individuals possessed a share larger than allowed by the Law. The owners were given the opportunity to explain the circumstances that led AEM to initiate proceedings and also the time frame to remove the irregularities. It was the case of the owners of Jumedica Mont company who also owned Radio D and Daily Dan, and had shares in Radio D Plus owned by MD Company. The legal proceeding was also initiated against the owners of the MD Company, which led them to reduce the percentage of total ownership. The same case was with the owners of TV Vijesti and Daily Vijesti who had excessive concentration of media ownership registered on their names⁷.

According to the Law the media concentration is considered illegal if a broadcaster holding a licence for national coverage broadcasting also holds a stake in the founding capital of another broadcaster with such licence with more than 25% share of capital or voting rights, holds more than a 10% stake in the founding capital of a legal entity publishing daily print media with the circulation exceeding 3,000 copies, or vice versa, holds more than a 10% stake in the founding capital of a legal entity performing the activity of a news agency and vice versa, concurrently publishes the daily print media with the circulation exceeding 3,000 copies. The same applies if a broadcaster, except for the national public broadcaster, broadcasts over the same area more than one television and one radio programme with the same or similar programme base. in case local or regional radio or television programme a broadcaster should not hold more than 30% stake in the founding capital of another broadcaster with regional or local coverage over the same area or concurrently, in a local daily print media in the same or a neighbouring area⁸.

3 Article 8, Media Law, Official Gazette of Montenegro 51/02

4 Article 4, Law on Electronic Media, Official Gazette of Montenegro 53/11

5 www.crps.me

6 www.ardcg.org

7 same

8 Article 131, Law on Electronic Media, Official Gazette of Montenegro 53/11

FAIR PLAY OR COLLUSION

Besides The Agency for Electronic Media, which oversees the transparency of the ownership and monopolies, or the possible manipulations, the similar work is also done by the Agency for Protection of Competition which was co-founded by the Government in accordance with the Law on Protection of Competition.

The Agency stated that they discovered unlawful behaviour of the owners of Montenegro media in the year 2012, when - during the proceedings - they proved the „existence of the unlawful (collusion) agreement concerning price-fixing between the publishers of the country's major newspapers“. Although no newspapers were named, the same year the public was informed that dailies Vijesti and Dan raised the price on the same day by the same amount of money, and they themselves wrote about it, but also other newspapers⁹. On May 1, 2012 the price of those newspapers went up from 50 to 70 cents.

“During the legal procedure the Agency determined that there was an agreement among the competitors on the market, followed by the exchange of confidential business information, with the goal of price fixing. Following the decision of the Agency, two publishers initiated the administrative dispute before the Administrative Supreme Court of Montenegro against the decision of the Agency while the proceedings are conducted before the basic courts to determine the fines for every individual participant in the unlawful agreement. According to the Law the fine can be the most 10 percent of the total annual income obtained by the organization in the year 2012”, the Agency stated.

WHAT DO THE MEDIA SAY ABOUT THEIR BUSINESS?

In Montenegro Progress Report (published in October 2014) it is stated that when it comes to the state of media „there are still concerns regarding possible state aid and funding allocated for advertising in print media in 2012, which was not in accordance to the rules about public procurement and could have jeopardized the competitiveness of the media“¹⁰. Certain individual media owners also point to the problem.

The representatives of the print media did not provide data about circulation, except for the weekly Monitor which sells about 3000 copies. Daily Pobjeda said that when it comes to sales their market share is 11 %t. Unofficially the daily circulation of Pobjeda is less than 4000 copies, for Dnevne Novine and Vijesti around 6000, and for Dan around 8000.

Some media, for example Monitor, do not have any income from advertising from state or the local communities. Three-quarters of their revenue come from the sale of newspapers, and only one from advertising. They notice the disproportionate allocation of money from advertising among media.

“Media outlets, like Monitor, that are not under the control of the governing structures, have big problems with advertisers”, said Milka Tadic Mijovic, director of the Monitor.

The executive director of the daily Vijesti, which is also owner of the Portal Vijesti, Zeljko Ivanovic said that 60% of their revenues come from advertising, and the rest from sales. Only 3% of the total revenue of this media stems from the state and companies owned by the state and by local authorities.

In 2013 the state owned daily Pobjeda, which declared bankruptcy in August 2014, had an income of 650 000 euros, and 12 000 euros from the portal. The revenue from advertising was around 1,3 million euros. In Pobjeda they don't keep exact records about the revenues from advertising from the national and municipal institutions and companies, but they estimate that the share of local communities is about ten percent. They did not assess the advertising money received at a national level. Pobjeda declared bankruptcy at the initiative of the Tax Administration of Montenegro because of a debt of about 1.5 million euros. In mid-October the Company Media Nea, which owns Dnevne novine, offered 757 000 Euros to buy Pobjeda.

The takeover agreement was signed in November 2014 and Drasko Djuranovic, who had been editor in chief of Portal Analitika, was appointed as the executive manager and editor-in-chief.

9 <http://www.cdm.me/ekonomija/od-danas-vijesti-i-dan-kostaju-po-70-centi>

10 http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-montenegro-progress-report_en.pdf

In this capacity, Djuranovic said that the monthly advertising income of Analitika ranges between 11000 and 11 500 euros. The share from state institutions is 28 %, and from local authorities less than 4%.

Radio of Montenegro, part of the Public Broadcasting Service, said that the total annual advertising income ranges between 30 000 and 35 000 euros, and the share of the state is small because the Public Broadcasting Service is obliged to broadcast content for free, for example political adds. Advertisers are more interested in TV than the radio content of the Public Broadcasting Service. Officially, the income from marketing in the entire Public Broadcasting Service represents only 12 % of the total amount.

The income from advertising in Television Vijesti during the year 2013 was 2.1 million euros, and they claim that the advertising budget for televisions is not allocated according to the ratings.

“A significantly greater disproportion is evident when it comes to state institutions and enterprises, which allocate the greatest part of their budgets to the Public Broadcasting Service”. The regional televisions also have their own “group of friends”, enterprises and companies which are advertising only on those televisions, irrespective of the ratings in Montenegro”, said Television Vijesti.

The share of the state in advertising is less than 50 000, which at the annual level is less than two percent of the total advertising revenues on TV Vijesti. According to the latest research by IPSOS Strategic Marketing of December 13, TV Vijesti accounts for 20.09 % of the total audience.

It is a known fact that there is an obvious problem regarding incomes from advertising when it comes to televisions with residence outside of Montenegro (TV Pink M, TV Prva). Those televisions represent an unfair competition for local broadcasters because they offer better conditions or even free advertising for the market in Montenegro if the clients agree to advertise on their media in Serbia. In that way they are taking away the share of income from local broadcasters, and the state is in no position to charge tax rates proposed by the Law.

The data from the Ministry of Finances show that the state authorities help media through state aid, by assuming debt and by paying compensations for broadcasting. So, in the years 2009 and 2010 there was debt assumption for every electronic media toward Agency for Electronic Media, as well as debt toward Radio-Diffuse Centre worth 3.43 million euros. The biggest state financial support went to Pobjeda, which was supposed to be privatised ten years ago but because of the enormous debts none was interested in buying it. So this year after it declared bankruptcy, the burden of five millions of bank guarantees and loans fell on the state, or, in other words, on the citizens of Montenegro, and only in 2010, 5,47 million euros was paid from the state budget.

Recently it was announced that Public Service will receive financial support of additional 2.4 million euros from the state, in order to pay for tax debts and salary compensation.

IS THE STATE AWARE OF WHOM JOURNALISTS IN MONTENEGRO ARE?

There is total of 174,156 employed citizens in Montenegro, while 32,916 people or around 20%¹¹ are unemployed, as noted in the Progress Report of the EU Commission.

There are no official data on the number of journalists in Montenegro because the official statistical office Monstat does not make that kind of classification and, as it has stated, has not categorised media workers in that way. It is impossible to get any information about the number of employees, workplaces they cover, gender, amount of their earnings etc. from the Monstat. The only available information was obtained from the Monstat by the Trade Union of Media of Montenegro¹² at the end of 2013 when the organization needed to determine its representativeness at the occupation level. The Trade Union learned that that the Montenegrin media employed 1,972 people, 700 of which were working for the Public Broadcasting Service¹³.

11 <http://www.slobodnaevropa.org/archive/news/latest/500/500.html?idâ26664072>

12 <http://monstat.org/userfiles/file/publikacije/2014/10/zaposlenosti%20zarade.pdf>

13 Source: The Trade Union of Media of Montenegro archive

In late 2014, the OSCE Mission in Montenegro presented the “Report on the Social Status of the Journalists in Montenegro”, in which, based on the information received, it is stated that there are 809 journalists in Montenegro working for 57 media outlets¹⁴.

The Monstat data refers to those who signed either an indefinite or fixed term contract of employment, but not to the so-called “honorary employees” who are engaged under temporary service contracts in accordance with the Law on Obligations. Thus they work in the media as if they were regular employees, but they do not exercise any rights arising from the Labour Law relations. The employer does not provide health insurance or pension benefits for those employees because they are not employed in accordance with the Labour Law, the Government does not get the relevant taxes paid and the employees live in constant fear of losing their job. The number of those employees is unknown because they work in a grey area, but it is certain that almost all media have such employees, particularly the private media outlets.

Their honorariums are not sufficient to satisfy fundamental human needs, let alone to pay taxes and contributions. As they say, they are in a hopeless situation because employers can easily get rid of those who demand respect of their rights or insist on having their honorariums raised. Most of the correspondents from the northern and southern parts of Montenegro are employed in that way.

Freelance journalists are in a similar position. They are mainly journalists who have lost their jobs in some of the media, but still try to stay in journalism. There are not fixed prices for articles/TV reports, they cannot make living a from reporting as a sole source of income and it is uncertain if and when they would be employed. The number of those journalists is also unknown.

According to the records of the Employment Agency of Montenegro, 38 bachelors of journalism, 21 specialists and 29 journalists (graduated from faculties according to the previous system of studying) are unemployed. There are also 24 journalists specialized for sports journalism who graduated from the Faculty of Sport and Physical Education in Niksic. The total number of unemployed journalist is 112. According to an estimate released by the Trade Union of Media, around 500 media employees have lost their jobs in the past three years and three TV stations one radio station and one daily have gone bankrupt.

A lot of employees of the local and national media claim they do not get their salaries while lay-offs and wage cuts are frequent.

The Journalism Department of the Faculty of Political Sciences was established in 2005, and since then 30 journalists on average have graduated from those studies annually. According to the official data, a total of 314 students graduated from bachelor studies, 189 from specialist studies and 25 from master studies. Until recently, the Department of Journalism provided no practical training for students.

The School of Journalism of the Montenegro Media Institute has been recognized as a very good model of training for journalists and it has had eight generations and nearly 100 attendants so far. Media owners rarely conduct professional trainings for their employees and do not invest in educational training programs.

There is no information either about discrimination based on race, gender or sexual orientation, or on the possible gap between the salaries of men and women working in media. There are few women in positions of managers or editors in chief. In the print media, there are no women in the position of editor in chief.

When it comes to mid-level editor positions the situation is better, but the ratio is still not fully balanced.

Gender equality is guaranteed by the Constitution of Montenegro, the Law on Gender Equality and Anti-Discrimination Law, but given the fact that there are more unemployed women than men, it is evident that the legislation is not adhered to when it comes to employment.

14 <http://www.osce.org/montenegro/135551>

LEGAL POSITION OF MEDIA EMPLOYEES

No relevant law or subordinate legislation defines who could be a journalist in Montenegro, which offers the employers a wide range of possibilities to choose employees and suggests that there are no standards. The profession of journalist or media worker in general is not recognized at any level, and in most cases a standard form of employment is applied without recognizing the specifics of the profession or the job in the contracts of employment. The Code of Ethics of the Journalists of Montenegro, with its 12 articles, is the only regulation journalists should adhere to. The contracts signed by the employees of the Public Broadcasting Service represent an exception as they include detailed rights and obligations of employees as well as articles of the Code of Ethics.

The General Collective Agreement which shall be applied to all employees in Montenegro has been passed this year; there is also the Branch Collective Agreement for informative, graphics and publishing business adopted 10 years ago, which has not been harmonized with the provisions of the current Labour Law, therefore it is inapplicable. There are two branch trade unions. The Union of Informative, Graphics and Publishing Activity brings together mainly the employees of the Public Broadcasting Service. It has more members, but it is more passive and does not appear in public. There is also the Trade Union of Media of Montenegro which was established a year and a half ago. It has fewer members from various, mostly private media where they were not organized in trade unions before, as well as from local radio and TV broadcasters. This union is more active and has received full membership of the International Federation of Journalists and the European Federation of Journalists. Both unions are qualified to hold social dialogue with employers at the level of companies that have trade unions established, as well as at the branch level, but that has not happened yet. In Montenegro, no private media have signed or negotiated collective agreements. Before going bankrupt, the daily Pobjeda had a collective agreement, and so did several local radio and TV broadcasters; however, due the transformation process undergone by those media the contracts are not in force¹⁵.

PROBLEMS OF MEDIA WORKERS

Employers are not in favour of the unionisation. Significant in this respect is the fact that - in early September - the President of the Trade Union of Media of Montenegro was declared redundant in the daily Vijesti where she had worked for almost 14 years¹⁶. A judicial process in that case began because she claims that she was fired due to her union activities and not in accordance with the provisions of the Labour Law and the General Collective Agreement that protect labour union activists, while the employer denies that¹⁷.

Employers are affiliated to the Montenegrin Employers Federation (UPCG) as an umbrella organization and official social partner but, as communicated by the association, they have no data to what extent employers in media adhere to recommendations of the Federation in terms of the law. UPCG is not aware of the situation within particular media.

Employees in the media, at least formally, rely on the provisions of the Labour Law and the General Collective Agreement claiming they have been denied many of the rights and that the contracts they signed represent a mere formality because the employers do not adhere to them. Media workers who had been interviewed for a survey reported that they were working overtime without being additionally paid, they were not paid for their work during holidays, their salaries were often cut without any explanation, warning or a disciplinary procedure, they were not aware of the way their salaries had been calculated and that often employees had not been paid equally for equal work. This is confirmed by research conducted by OSCE¹⁸.

It is evident that there is no solidarity among media employees including journalists and that the media workers have no will to struggle for their rights. Examples of favouritism in newsrooms and lack of any possibility to improve working conditions are frequent. Employees are easily fired, especially those who are trying to draw their employers' attention to the problems. Workers are often denied holidays and personal days off. Avoiding taxes and contributions is frequent as well as employing workers under fixed term or temporary service contracts for a long time in order to avoid indefinite term contracts. Flexible

15 Source: The Trade Union of Media of Montenegro

16 <http://portalanalitika.me/drustvo/vijesti/161268-camovi-otkaz-iz-vijesti-je-nezakonit-i-posljedica-mog-sindikalnog-angamana-aliu-se-sudu>

17 <http://www.portalanalitika.me/drustvo/vijesti/161283-jovovi-i-ivanovi-jovovi-i-ivanovi-marijana-camovi-proglaena-tehnolokim-vikom-jer-nijesmo-bili-zadovoljni-njenim-radom>

18 <http://www.osce.org/montenegro/135551>

working time, which make an employee always available for to his/her employer, is often abused thus exceeding the limit of 40 working hours a week. A joint opinion is that those problems are more pronounced in the private media; however media owned by the local communities also have problems because of the low salaries and the delays in payment. A part of the private media characteristically pay taxes and contributions only based on the minimum allowable amount of earnings - €192, while the remaining sum is paid in cash to avoid paying taxes. All of the interviewed either have faced some of these problems or were aware of someone else being faced with. None of the more than 20 people interviewed could come up with a positive example of a specific problem solved.

Most of the interviewed believe the problems they face at work are systemic and that the Labour Inspection is in charge of their solving. They believe that there is no response from the Inspection due to its fear of the media themselves and their possible revenge - if irregularities were found and penalties imposed, the Inspection could be placed in negative context in future articles and TV reports.

The interviewed believe that unions are not influenced by anyone, but that there were certain individual pressures. Trade unions are still weak in general, although they try to educationally influence employees and thus raise the awareness of the importance of joint action. Although they have no specific indicators, the majority believes that the media are under political, economic or individual influences.

The relevant Ministry of Culture, the scope of which competency media belong to, stated the problems mentioned above were not in their jurisdiction. The Ministry did not answer either the question whether the media from the region, or generally from abroad, treated their employees in their home countries in the same way they did in Montenegro or they applied double standards. They communicated that those media should adhere to Montenegro laws, but it was obvious that they had no insight into the situation, nor they saw it as their scope of competency. The Ministry shall harmonize the relevant legislation with the EU Acquis Communautaire for Montenegro is a candidate country and the Ministry claims that those efforts are giving results.

THE EMPLOYER PAYS FOR THOSE WHO GO TO COURT

On paper all media strive to honour ethical and professional standards, but every inspection of their work showed violation of the Ethical Code to a great extent, and that applies to all leading media in Montenegro¹⁹. So far the media employees have been protected by their employers when they legally prosecuted because of their job, meaning that they were represented by lawyers at the expense of the employer who also paid the possible fines. That kind of protection is not guaranteed by contracts, but by subsequent verbal agreements.

IS IT WORTHWHILE TO BE A JOURNALIST?

The total average salary of media employees or just journalists is unknown, because Monstat does not keep that kind of records for print or electronic media at a national or regional level.

The average net salary at a state level (the total number of employees irrespective of their profession) was 476 euros for September²⁰. Research conducted by OSCE has shown that journalists earn an average of 470 euros, which is less than the national average.

There is an obvious drastic contrast between salaries of journalists working for the same media. According to the provided data almost all of them are permanent employees.

The average salary of the employees at the Public Broadcasting Service is 445 euros, while the Radio has 62 journalists with indefinite term contracts with an average salary of 535 euros. The lowest salary is 485 euros, and the highest is 585, but those salaries are not fixed because they can be raised in accordance with the stimulus norms. That media outlet does not have any "honorarium employees".

19 Source: Report NGO Action for human rights: <http://www.hraction.org/wp-content/uploads/MONITORING-NOVINARSKIH-SAMOREGULATORNIH-TIJELA-U-CRNOJ-GORI-4.-izvjestaj1.pdf>

20 Source: <http://monstat.org/cg/novosti.php?idâ1576>

The part of Public Broadcasting Service dealing with television programme did not provide such data.

Daily newspapers Vijesti has 80 journalists with indefinite term contracts, two with fixed term contracts and about 40 honorarium employees. The average salary for journalists in that media is around 600 euros; the lowest among journalists is 400, and the highest 900 euros.

Television Vijesti employs 34 journalists, and only one of them has a fixed term contract. They have three honorarium employees, and the average salary for journalists is 522 euros. The lowest salary is 250 euros, and the highest 1 050 euros.

Data from daily and Television Vijesti were delivered in early autumn 2014, and since then the number of employees in both companies, as well as salaries have decreased.

Monitor has seven journalists with indefinite term contracts and ten honorarium employees. The average salary for journalists is 650 euros; the lowest is 504 euros and the highest 890.

Pobjeda has around 80 journalists, 50 of them have indefinite term contracts, the others have fixed term contracts, while are 25 honorarium employees. These data refer to 2014 and to the period before Media Nea took over Pobjeda. When the bankruptcy was declared Pobjeda had 200 employees, and later that number was reduced by half. Also, the contracts are now extended for three months even to the employees who previously had permanent term contracts.

The average salary for journalists, before declaring bankruptcy, was 430 euros, the lowest 320 and the highest 650 euros.

In Portal Analitika there are seven journalists with indefinite term contracts, seven with fixed term contracts, and they have four correspondents from abroad. The average salary is 545 euros, the intern salary is 240 euros, and journalists who met the requested norm have salary of 450 euros, while the editor in chief has the salary of 1000 euros²¹

Approximately 43% of the gross salary in Montenegro goes to taxes and deductions that employer pays on behalf of the employee. Payroll calculation method is the same in all media.

There is another category of media employees who, as well as freelancers, cannot make a living from reporting as a sole source of income and those are the bloggers. They are still not recognized in Montenegro. The bloggers who participated in the survey claim that they don't have any income from their writing, and the ones who are employed in media say that they have not encountered any problems with their employees because of something that was published on their blogs or on social networks. But they also say that it is partially because their employees are not particularly skilled when it comes to that kind of media. The first Montenegrin blog service was established in 2004.

With more frequent lay-offs of employees a new practice of multi-tasking occurs in media. The ones who kept their jobs are being told by their superiors that they are obliged to do the job of their laid-off colleagues, while their salary remains the same. Media introducing new services, such as portals, request journalists to work for both the media and the portal, without any financial compensation for the additional work.

COPYRIGHT AND ITS PROTECTION

The Law on Copyright and Related Rights does not include the journalistic text as protected work of authorship, but it includes photos and audiovisual works²² and intellectual property segment pretty much complies with EU standards as noted in the Progress Report²³.

21 Remark: From these data it is not possible to draw final average earnings, the dominant form of employment contract or number and honorary employees because a large number of media outlets, including the Public Broadcasting Service as the biggest employer, did not provide data.

22 Article 4 *Law on Copyright and Related Rights, Official Gazette of the Republic of Montenegro*, 37/11

23 http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-montenegro-progress-report_en.pdf

Media representatives claim that they do not protect intellectual property of the media in some specific way, and litigation was necessary in only a few cases in which the prosecutors accepted the apology (Daily Vijesti) or lost cases because of procedural errors (TV Vijesti). They argue that complaints can be brought due to plagiarism of information (portal Analitika). Daily Vijesti initiated proceedings over the unauthorized publication of their photographs, and they believe that the problem is that the laws do not recognize journalistic text as a work of authorship.

TV Vijesti initiated the only proceeding in 2009 and they claim they lost because of the formal, procedural flaws. They don't start legal procedures due to high legal costs and the uncertain income.

In Pobjeda they believe that the downloading of the content from various portals should be regarded as a problem as well as the free of charge reading of the newspapers in public bars.

The Basic court which is responsible for these types of disputes has no statistics or any other information that would set light how widespread is the abuse of intellectual property and copyright of media workers and media themselves. They explained that they keep the records on the basis of the parties, and not on the basis of the dispute issues.

A number of surveyed media workers also believe that the litigations should be initiated. They pointed out that copyrights of for example photo reporters are challenged by the employers themselves who claim that they are actual owners of their photographs, and those provisions are often included in contracts which are signed by the employees who are not in a position to influence the content of the contract.

CONCLUSION/RECOMMENDATIONS

1. At the state and institutional level there are no official statistics on the mass media and media employees and if there are any they are often out of date. This makes it difficult to have any serious insight into the state of the media industry in Montenegro, and especially in social status of media employees.

Monstat should statistically process relevant information concerning mass media and their employees.

The initiation of this idea should be the obligation of professional associations.

State authorities in charge for media issues and the social status of media employees should be defined. Those authorities should regularly control whether the media laws are respected and they should be able to change the laws if they allow bad practice.

It is necessary to conduct thorough research on the extents of labour right violations of media employees. The research should include the number and the shape of the cases reported on the various levels (courts, labour inspection, unions, etc.)

2. Advertising of state institutions and public companies is not proportionately allocated for all media bearing in mind their circulation and influence, and the practice of unfair competition in this area is introduced by media from abroad (Serbia), which are offering advertising space for lower prices.

State institutions and public companies should, while advertising in media, try not to encourage unfair competition and to respect the facts concerning audience and ratings, and by doing that their messages would reach larger audience. The relevant state authorities should find the solution for the fight against unfair competition introduced in Montenegro by foreign media which are reducing the chances for profit for national media.

It is necessary to find the way to prevent a shutdown of local media due to unfair competition from the region.

3. Business associations, whose members are also media owners, do not have enough information on the situation in the media and are not fully aware whether their recommendations on respect for the law are respected by the employers.

Union of Employers should pay more attention to its members from the media industry, both in the sense to divert them from the non-observance of the law, and in the sense to help them when necessary. Appeals should not be the only mechanism of influence.

4. Some private media, with the tacit consent of the employees, pay taxes and contributions for the minimum allowed salary of 193 euros or so, while the remaining money is paid in cash to the employees.

The media should stop the practice of paying taxes and contributions for the minimal allowed salary. By doing that they are violating the law and jeopardize the very existence of the employees in the future, when they go into retirement. Poor financial position of the media should not be an excuse for illegal behaviour that jeopardizes the long-term social status of employees.

5. Media employers often sign contracts that are unfavourable for the employees, using their fear of losing job and the fact that employees don't have a strong union support. Media which introduce new services, such as portals, make journalists work for both media outlet in which they are primarily employed as well as for the portal, without being additionally paid. Employees are not sufficiently informed about their rights and ways to organize in professional associations, which exist only on paper, and in trade unions.

Media employees should strengthen their position in relation to employers through involvement in professional and trade union organizations and through improving awareness of their rights and possibilities of fighting for their achievement. Also, labour inspection should pay more attention to media mode work control. Media employees should be more actively informed about the manner of exercising their rights, and professional associations and trade unions should take a more active role.

6. In Montenegro there is a 10 years old Branch Collective Agreement for informative, graphic and publishing activity, whose provisions are incompatible with the current Labour Act and therefore inapplicable.

It is necessary to adopt Branch Collective Agreement and comply it with the current Law on Labour, and also to upgrade rights that relate to the media industry, while trade unions must begin to negotiate with media employers on the branch and individual level. The Branch Collective Agreement should state the specific features and the essence of the journalistic profession.

7. In Montenegro there is no single journalist self-regulatory body, and Media Council for Self-Regulation, which was during the first two years of its existence funded by the state and which gathers a large number of media, is not recognized as relevant and unbiased by several influential media, which have decided to establish the institution of ombudsman.

A single self-regulatory body, which would gather all the media and contribute to the unity and cohesion within the journalistic profession, should be established, or at least mechanisms should be provided so that existing self-regulation bodies could cooperate in order to improve the professional and ethical journalistic standards in Montenegro.

8. The journalistic profession is not recognized in any law and regulation at the lower level, and there are no established requirements for practising the profession.

It is necessary to recognize the profession and its specific features through legislation and future collective agreement. Media employers should constantly educate their employees, by organizing trainings themselves but also by allowing employees to attend training events organized by institutions, organizations, trade unions and other associations in the country and abroad. In this way the training of journalists would reach a higher level, and they would be able to follow the latest trends in the profession and would simply be better equipped to do their job.

9. Portals and online media, their establishment and functioning are not recognized by any law or lower legal document. Agency for Electronic Media, which was declared competent for the job, has not come up with any regulation book that would solve this issue.

It is necessary for the Agency to provide rules that would introduce legal framework for the portals.

March 2015

ACKNOWLEDGEMENTS

The current report is part of a series of similar works produced from June 2014 to March 2015.

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On behalf of the Center for Independent Journalism in Bucharest, we would like to thank the following partners for their support and cooperation:

Albanian Media Institute (Albania), Mediacenter for Media and Civil Society Development - BiH (Kožul), Media Initiatives – Association for Media Development and Promotion of Professional Journalism (BiH), Macedonian Institute for Media (Macedonia), Montenegro Media Institute (Montenegro), Media Center (Serbia), Media and Reform Centre Nis (Serbia), Media Development Center (Bulgaria).

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