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WORKING CONDITIONS FOR JOURNALISTS IN BOSNIA AND HERZEGOVINA

JOURNALISTS IN A GAP BETWEEN DEVASTATED MEDIA AND LEGAL INSECURITY



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**FONDACIJA
MEDIACENTAR
SARAJEVO**

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1 INTRODUCTION: ABOUT THE SURVEY AND METHODOLOGY

The Media Initiatives organization in Sarajevo, carried out a survey on working conditions for journalists in the period of July – August 2014 as part of the regional project “South-East European Partnership for Media Development”, implemented in collaboration with the “Mediacentar” Foundation. This topic is deeply interwoven with a number of current economic, media and political problems in BiH and the following report is a testimony to a socially turbulent period where media and journalists are struggling to survive – both in an ethical (professional) and economic sense. It will be shown, and this is not only typical of countries in transition, that - to a large extent - these two elements are mutually dependent.

The objective of the survey is to provide an overview of the working conditions for journalists in BiH, indicate what media professionals consider the biggest problems in this regard and identify possible solutions. Semi-structured interviews and analysis of documents, primarily laws, earlier reports on the media situation and - to a lesser extent - media content, were used in the survey. Twenty-two interviews were made with journalists, editors, directors, media owners, representatives of journalist associations and trade unions, as well as courts. Several interviewees wanted to remain anonymous to prevent potential problems in their newsrooms or business environments.

2 OVERVIEW OF THE ENVIRONMENT

After the end of the war (1992-1995), with support from the international community, a regulatory and self-regulatory framework was established for the media in Bosnia-Herzegovina. However, the ethno-political divisions and lack of implementation mechanisms for these frameworks thwarted the development of independent, professional and free journalism. The media sphere today remains deeply divided. Ethnic divisions and conflicts have jeopardized or even stopped the implementation of generally very good media legislation. Media reporting is deeply divided ethnically and politically, especially in the public services and in print media, while commercial TV and radio stations, due to entertainment and film programming, enjoy greater acceptance in different ethnic and territorial communities. This kind of political and media situation diminishes the power of collective organizing of journalists and prevents them from advocating together for labor rights. Ethnic divisions also result in lack of solidarity among journalists, even with regard to threats to journalists' freedom.

Although the country has a population of 3.8 million, a vast number of media exist in BiH today. According to the Communications Regulatory Agency (CRA) data, in 2014 there are 195 broadcasters in BiH, comprising 148 radio stations and 47 TV stations. Five dailies are published (three have been shut down since 2009), along with three dailies from Serbia and Croatia which have editions for BiH. There are no print media registers with updated and complete data, but according to Press Council data from 2011, there are another 184 various editions of magazines in total. Six news agencies have general and other specialized services. In the last five years many newly-launched online news portals have increasingly become becoming sources of exclusive information, platforms for public debate; however, they sometimes seem to reincarnate hate speech and vulgar communication, a phenomenon that generally affects this most democratic medium. Most mainstream media have their own websites.

Entry in the press and web media market is completely free, while radio and TV stations must undergo a process of registration with the CRA, for which they have to meet prescribed programming, technical and financial criteria. No substantial objections related to bias of the licensing procedure in broadcasting sector have been expressed so far, but some media consider the license fees an excessive financial burden. Namely, each media outlet, in addition to paying a fee to the Communications Regulatory Agency, must also pay a state contribution for the use of the radio frequency spectrum¹.

Media analysts in BiH are virtually unanimous in the opinion that there are too many media outlets for the strength of the media market. Due to deep ethnic divisions, most media are unable to sell their production across the whole country, which has a significant impact on advertising revenue. In addition, having such a large number of media considerably fragments their advertising "shares". Insufficient media revenue, as well as dependence on the small number of sources of revenue, jeopardize journalists' labor rights.

3 MEDIA OWNERSHIP

According to a Mediacenter survey from 2014, ownership in BiH is largely unregulated and its transparency is ensured to a degree only through a general requirement for registration of business entities. The ownership structure of broadcasters is reported to the Communications Regulatory Agency (CRA) due to the licensing procedure for television and radio stations, in addition to which any change in ownership structure involving more than five percent share is reported². There has been no regulation of ownership concentration at all since 2006, the year when the Rule on Media Concentration and Cross-Ownership of Broadcasting and Print Media expired (adopted 2004). Relevant institutions have not shown much interest in developing relevant policies in this regard³. Practically today, one person or company has the possibility of full accumulation of ownership over different media. For now, the situation is not being substantially abused. The possibility of concentration has been used to some extent by Fahrudin Radoncic⁴, former owner of the highest circulation daily, a number of other print editions and a TV station, and by Zeljko Kopanja⁵, who owns two dailies and a radio station.

4 REVENUE IN MEDIA MARKET DWINDLING IN RECENT YEARS

Media in BiH generate revenue in different ways, depending on the type of ownership. Private broadcasting media are largely tied to advertising revenue. Print media, in addition to advertising, also generate revenue from circulation sales, while the three public broadcasting services additionally get revenue from radio and television subscription fee, which makes up more than one-half of incoming funding. In the Republika Srpska, amendments to the Law on the Public Service in 2013 allow the possibility of funding RTRS from budget resources although this possibility has not yet been applied. Local public radio and television stations are largely sustained directly by funding from cantonal and municipal budgets. Media owned by large companies, such as Oslobođenje, receive additional funds spilling in from their owners' other activities. Some media also receive part of their funding through international donations (e.g. for production of content on human rights, corruption, etc.). For example, the second largest media outlet in the country, RTVFBiH, generated 28,358,458 KM (around 15 million Euro)⁶ in 2013, out of which revenue from subscription fee accounted for 55% of total revenue, advertising and sponsorship revenue accounted for 40 percent, while the remaining 5 percent consisted of other sources⁷. As for the other two public services, which have smaller advertising revenue, the subscription fee share is much bigger percentage-wise.

1 The cost of an annual license for CRA depends on the size of population covered by signal and ranges from 120 to 11,000 euros. However, the contribution to the state is more than twice of that amount and ranges from 250 to 22,000 euros.

2 Petković, Bašić-Hrvatini, Hodžić – The importance of Media Integrity: Bringing Media and Journalists Back into Public Service (*Značaj medijske integriteta: vraćanje medijevinarstva u službu javnosti*), Media Centar

3 Ibid

4 President of the party Alliance for a Better Future, who sold the Dnevni avaz to his wife in 2011 to clear up the situation in order to get the position of minister of security of BiH.

5 Former journalist who lost both legs in 1999 in a car bomb explosion believed to be related to investigations into Serb war crimes.

6 Out of that amount, 6 million Euro goes for employee salaries: gross salaries are a little under 4 million Euro, fees for outside associates are around 450,000 Euro and the rest are fees for members of the Steering Board, audits, meal allowance, per diems etc. Source: Report on the Work and Operation of RTVFBiH for the Period of January –December 2013 (Izveštaj o radu i poslovanju RTVFBiH za period januar – decembar 2013. godine)

7 Ibid

There is no single register or source of data on advertising investments in media. The sources are the advertising agencies and pools and the media themselves. For several years the most relevant source used to be the Sarajevo-based Association of the Media Industry (UMI), whose members were the strongest media in BiH and advertising agencies. However, as of 2012, due to fierce conflicts between some private media and public services, the association ceased its activities. The Communications Regulatory Agency, which generally did not deal with the issue of broadcasters' source of revenue, produced a broadcasting market analysis in 2013, which offers some data on broadcasters.

According to the data from the Sarajevo-based Fabrika advertising agency, the most successful year by far in terms of advertising investments in the media was 2008 with 251 million Euro⁸. A substantial trend of reducing investments in advertising has been present since 2008, in line with the global economic recession. According to the latest data for 2013⁹, advertising revenue amounted to approximately 42 million Euro. Television has by far the biggest advertising share with 78.4% in 2009, 70% in 2010 and 75% in 2011¹⁰. As we learned from RTVFBiH's advertising director who analyzes the media market, in 2013 television had a roughly 70 percent advertising share in the market. These percentages are no surprise as a lot of research shows that television is convincingly the most popular medium. Advertisements go where most people will see them. Overall revenue in the TV sector (including subscription fee, advertising and other sources) amounted to 80.02 million Euro (Broadcasting Market Analysis, CRA, 2013). According to the CRA report, out of the total value of advertising for 2013, the three public TV services took a little over one-third of this amount, or a little over 10 million Euro. The most successful media outlet by far in terms of advertising is the public service of the BiH Federation (2013, around 6 million Euro). Outdoor (10%), print (8%), radio (8%) and internet (5%) had incomparably smaller advertising shares in 2013¹¹.

The second factor responsible for the dwindling of overall revenue in the media market is the fact that since 2010 the revenue from subscription fee, through which the three public broadcasting services are financed, has been on a steep downward line. According to data from the two entity services RTRS and RTVFBiH, from 2009 to 2014 the public broadcasting system lost close to 11 million Euro due to a fall in collecting the subscription fee. The main reason is that a large number of households switched to an IPTV¹² connection which includes a telephone that operates via a modem. As the subscription fee is collected along with bills issued for landline telephony, the switch to this service means losing the fee-payer because telecom operators do not want to charge the subscription fee together with their bills. The fee collection service in the Republika Srpska has partly been able to absorb the loss, while in the BiH Federation the biggest provider, BH Telecom, does not want to give any information to the public service on people who leave landline telephony. It is thus estimated that Federation RTV's overall revenue will be around 11.5 million Euro, or 3.5 million Euro less than in 2013.

Along with international donors, some media receive donations from governments. The most generous donor is the Government of the Republika Srpska. According to documents obtained by CIN, from 2009 to 2012 the RS Government gave 14.5 million KM to the media in the RS. As much as 3.9 million went to private media, with most of that money going to media owned by Zeljko Kopanja – Nezavisne novine and Glas Srpske – more than two million KM¹³. Analysts believe that it was aimed at buying media support and that the process of allocating these donations was not transparent. However, due to a budget deficit in the RS, such donations were reduced considerably this year. The FBiH Government passed a decision in 2013 on funding equipment for a digital studio for RTVFBiH, but the donation has not yet been implemented, which is also considered pressure on media.

There is no data on press sales, because media are hiding or exaggerating them for business reasons. Data from the Media Plan Institute's survey from 2006 cited a daily circulation of 100,000, Freedom House in 2010 reported 90,000, while today's estimates are that the daily newspapers circulation, including editions from Serbia and Croatia, does not exceed 70,000 copies. An important reason for the circulation drop is a tremendous rise in consumption of media over the internet, via computers and mobile applications on telephones. According to CRA data for 2013, BiH had 57 percent of internet users through provider connections in households and companies, rising to as much as 70 to 75 percent if we include smartphones, which are not attached to fixed connections¹⁴.

8 These are gross figures, i.e. total amounts based on advertising price-lists, but they are basically not the actual financial results because all media offer extremely big discounts. Advertising experts point out that these figures should be at least three times lower.

9 According to RTVFBiH advertising Director Adnan Bilal, who produces economic media analyses, they are not based on gross figures (according to price lists), but on how much was **actually paid** (with discounts and offsetting included).

10 Data from Fabrika agency

11 Data from Mareco Index Bosnia

12 Internet Protocol television

13 <http://www.cin.ba/vlada-rs-a-nastavlja-finansirati-privatne-medije/>

14 Annual Survey of CRA License Holders for Providing Internet Services in Bosnia-Herzegovina for 2013: CRA, 2014

5 HYPER-PRODUCTION OF JOURNALISTS

According to data from the Statistics Agency of BiH, in February 2014 there were 556,868 unemployed people in BiH, while the nominal unemployment rate was 44.6 percent, far above the regional average of 27 percent unemployed. The unemployment rate among young people is around 67 percent, about nine percent higher than the unemployment rate for young people in BiH reported in 2008¹⁵. Of the total 387,000 unemployed people in the BiH Federation, 25,000 have a university education, according to Federal Employment Bureau data. Among the unemployed, there are most of those who have a degree in economics or law, as well as those who graduated from schools of political science. The data demonstrate a lack of harmony between the labor market and the education system. There are no precise data on the number of unemployed journalists because most, thanks to the fact that there are so many media outlets as well as organizations that need PR staff, work off the books or find part-time jobs, irregularly paid.

According to data from the Sarajevo-based “Mediacentar” Foundation, estimates on the total number of journalists and the number of journalists who are fully employed are very imprecise. According to estimates by representatives of journalist associations from the RS and FBiH, the total number of journalists is between 2,000 and 3,500, while between 1,574 and 2,755 journalists are employed. Data from the end of 2012 show that 539 journalists and 86 communicologists were registered with the Employment Bureau.

Part of the problem is the hyper-production of journalists. There are as many as six departments at public faculties of journalism in BiH (some on their own and in some places in combination with public relations and various types of communicology) and two private faculties. BiH gets around 400 new journalists or communicologists every year. Sarajevo-based Media Plan Institute estimates that the actual needs for this kind of staff are not even half that number.

There are practically no government requirements or licensing processes for journalists and entry in the journalism profession is totally free.

6 GOOD LEGAL FOUNDATION FOR MEDIA FREEDOMS AND LABOR RELATIONS, POOR IMPLEMENTATION

Bosnia-Herzegovina has media regulations that are harmonized with international standards. The fundamental document that guarantees the right to freedom of expression is Annex 6 of the General Framework Agreement for Peace in Bosnia-Herzegovina (so-called Dayton Peace Agreement) from December 1995. The Constitution of Bosnia-Herzegovina prescribes that the European Convention for the Protection of Human Rights and Fundamental Freedoms and all of its protocols shall apply automatically. Legal regulations for media were derived from these constitutional solutions in Bosnia-Herzegovina. Ethical norms in journalism are also well developed in the framework of relevant documents.

A number of laws regulate the operation of broadcasters. The Communications Regulatory Agency (CRA), an independent body, licenses broadcasters and implements laws and regulations in the broadcasting sector. Print media are covered by a system of self-regulation implemented by the Press Council of BiH. The **Press Code of BiH** was adopted in 1999 by all journalist associations operating at the time. The Code establishes the basis of the press self-regulation system and is considered morally binding for journalists, editors, owners and publishers of newspapers and periodicals. The Code was later adapted to journalism content on the web as well, but some online media believe the Press Council is not an institution that has jurisdiction over them¹⁶. In practice the internet is for the most part unregulated in terms of content. Incitement to violence, sexual exploitation of children or other criminal acts committed within online space are of course punishable by law, but the implementation is limited. Hate speech in online communication is not rare, especially in user generated content. Exercising of the journalistic norms in online media is also limited.

15 Analyses of the Situation and Needs of Young People in the Federation of BiH in 2013: Towards a Youth Policy of FBiH: (2013) (Analizestanjaipotrebamladih u FederacijiBiH 2013. godine: Na putukapoliticipremamladimaFBiH: (2013), Kult, Sarajevo

16 Views expressed at a Media Plan Institute conference in 2010, “Internet – Freedom without Boundaries?”, when it was announced that the Press Code would be amended, as well as a year later at a conference organized by the same organization on respect for ethical norms in media.

In addition to the **Code on Audiovisual Media Services** for broadcasting media, the work of media is also regulated by the **Law on Protection against Defamation (2002)**, an important positive step because it decriminalizes defamation. However, the large number of defamation lawsuits is considered to put unjustified pressure on journalists and media. Another important law is the **Freedom of Information Act – FOIA (2002)**. The FOIA is designed for all citizens because it guarantees their right to access information in the possession of all government bodies, public enterprises and institutions. The FOIA implementation is important for the media in the context of investigative stories. The law protects them from the arbitrariness of the representatives of authorities which avoid giving the public insight into their work. In practice there are restrictions in the implementation of the FOIA, but case law shows that complaint procedures, although long-lasting, can lead to a positive outcome.

The fields of labor rights and social protection are not regulated by one law at national level, but are instead under the jurisdiction of the Federation of Bosnia-Herzegovina (FBiH), Republika Srpska (RS) and Brčko District (BD). The Constitution(s)¹⁷ of Bosnia-Herzegovina encompass several international human rights protection instruments which pertain to labor relations as a whole. Labor relations in the media are primarily regulated by the general norms related to labor and labor relations because there are no specific regulations on labor relations in this field, with the exception of a branch collective agreement signed in the RS. The laws that regulate labor relations in Bosnia-Herzegovina are the Law on Labor of FBiH, Law on Labor of RS and Law of Labor of BD. There are no major differences in these laws, except that the Law on Labor of the RS is a little more extensive and regulates certain issues with greater precision.

The implementation of labor-related norms is thus divided into three territorial units according to the following hierarchy: 1. Laws on labor – 2. General collective agreements (signed by the Government, Association of Employers and Union of Independent Trade Unions – 3. Company work regulations (by law every company with more than 15 employees must have them) – 4. Employment contract (the document relating to the final individual). Of course, all documents must be in legal harmony.

Although provisions are harmonized with the most developed democratic countries, the implementation of laws is poor. Slow courts and lack of qualifications of court staff to deal with defamation issues are problems that have been pointed repeatedly. One of the most serious problems is unequal criteria in case law, as a result of which there have been examples of journalists being declared guilty (or not guilty) in the case, depending on the stand of the local authorities. With regard to labor relations, a legal assistance organization called “Vašaprava/Your Rights” states in its report¹⁸ that employers usually do not apply regulations or interpret them arbitrarily and selectively, at their discretion depending on their own interests in individual cases. As we learned from Amra Hodžić, PR officer for Sarajevo Municipal Court, the court that covers the largest number of people in BiH, the average length of a first-instance proceeding in disputes related to labor relations is 440 days. Although she says this is acceptable in judicial practice, journalists in the survey consider this an long period which discourages them from instigating proceedings.

The law does not protect journalists’ autonomy and journalists’ employment contracts as a rule do not contain a conscience clause allowing them to refuse an assignment that collides with their professional principles, without consequences on their employment status an assignment that collides with their professional principles.

7 MAJOR PROBLEMS IN WORKING CONDITIONS AND LABOR RIGHTS OF JOURNALISTS

7.1. POLITICAL AND ECONOMIC PRESSURE ON MEDIA AND JOURNALISTS

Most of our respondents believe the biggest problem for journalists’ freedoms in BiH, and even for working conditions for journalists, is a combination of political and economic pressure. Media are financially dependent on political centers of power and advertisers connected with them. As a result, journalists are under a lot of pressure to be loyal to these actors and to practice self-censorship.

“The political elites in this region are always fighting for dominance over the media and we know why – that’s how elections are won.

17 Constitutions of RS and FBiH, as well as Constitution of BiH

18 A Review of the Situation Analysis and Application of Regulations in the Field of Employment Rights (*Osvrtna analiza i primjena propisa u oblasti prava iz radnog odnosa*) www.vasaprava.org

The one who rules the media is the one who wins elections in this region. It's similar in the world too. Now, there is something called self-censorship and it is particularly pronounced in this post-war transitional period in our country, including the RS. And why is it present? Simply because there is a dilemma if it is better to be totally professional and stop working after three months, because there will be no sources of funding, or is it better to be less professional and last longer?" (Zoran Sovilj)

"Thus, if you have good political connections, you will have access to various funds, public ones of course... You will have access to advertising organizations, companies that advertise and so on". (Borka Rudić)

"The intention of politics is to destroy the funding of public services through RTV subscription fee and the goal is to continue funding them from the budget. This is actually a regional problem, because we have the same thing in Serbia. Some would accept that, as their salaries are secured more or less. But in fear of whether they will be able to feed their families, their freedom of expression and reporting will first be reduced and will later come down to slavery. And there are always people who don't want to be free and want to be slaves". (Džemal Šabić)

Some of our respondents mentioned examples of open economic and political pressure on journalists.

At the private media outlet where I worked, that was a little more open than at a state media outlet. You especially have to give in due to advertising obligations. At the state media outlet where I work, I have not had any encounters with that. (Journalist of a public service)

I experienced pressure recently. We were making a story about people who suffered damage in floods, which means we were strictly bringing human stories, but we were told that we should make sure that interviewees did not besmirch the local government too much. (Journalist of a local public media outlet)

This is not a rare example of pressure of that kind. Local public media are funded from cantonal or municipal budgets and are dependent on funding provided by governments and thus generally lean in their favor.

7.2. JOURNALISTS' SALARIES NOT HIGH ENOUGH

Electrical engineers, economists and pharmacists have the highest salaries in the BiH labor market, according to a survey carried out by the posao.ba portal. IT engineers and banking sector executives have an average salary of 1,900 KM (980 €), sales directors earn 2,300 KM (1,190 €), while pharmaceutical managers receive 2,600 KM (1,330 €). Among those holding a university degree, the graduated journalists along with teachers and architects have the lowest salaries: 680 KM (340 €).

Employees at the public broadcasting services in Sarajevo – BHRT and RTV FBiH¹⁹ – have average salaries of around 1,000 KM (511 €). At RTV FBiH, journalists' salaries range from 600 KM (307 €) for beginner journalists to 3,000 (1,530 €) for the editor-in-chief. However, salaries vary greatly from one media outlet to the other, even within a media outlet. Highest paid are journalists of foreign media in BiH, especially Al Jazeera which has a large newsroom for the former Yugoslavia in Sarajevo. Salaries at big private media outlets vary from several thousand marks for people of trust (or quality) to not being paid at all, usually in case of young journalists. The average salary in BiH is 829 KM (424 €)²⁰.

In this survey the respondents acknowledge that the salary levels are a reflection of the dire economic situation in the country and the grave economic situation in the media market. Some of them, however, point out that there is a lot of variation in salaries and that salaries are not used to stimulate good journalists.

Generally speaking, journalists in the Republika Srpska are paid very poorly, but when we look at the income of most citizens, of course excluding politicians, this is our reality and an image of our society. (Female journalist of a public service)

I think salaries could be higher if better relations were established at the firm where I work. Stronger gradation should be made so that we can separate journalists' quality. Thus, journalists who really have quality and who have proven it should have much higher

¹⁹ We were unable to get such information from the Banja Luka-based RTRS public service. But Dragan Davidović, a former general director of RTRS, said in 2013 in a session of the Board of the System that after a reduction in salaries at this media outlet, the salaries were nearly 20 percent lower than their colleagues' in Sarajevo.

²⁰ Statistics Agency of BiH, <http://www.bhas.ba/>, data for June 2014.

salaries than those who don't. This is a crucial problem in a company such as a public service, although some categories do exist, but I don't think there were made properly. (Editor at BHRT)

I consider my salary decent and realistic in the scope of the budget disposed of by the newsroom. Whether journalists are underpaid or not is open to discussion – it all depends on the organization they work for and the type and kind of job they do, but I think the average salary for media staff is heavily elevated by a couple of foreign media outlets with bureaus in BiH, whose employees earn considerably more than journalists of some local BiH newspapers or TV organizations. (Female journalist of a news web portal)

One respondent, however, considers journalists' salaries extremely low for the type of work they do and for the constant exposure to public scrutiny, but she also questions the quality of the work performed by journalists:

I don't think journalists' salaries are a reflection of the economic situation in the country because if that were so, it would also reflect on the wages of other professions, but it's well known that our salaries are the lowest, although we are among the few professions whose work is exposed to public scrutiny every day. It is true that journalists here are underpaid, but it is also true that they themselves are to blame for that. Some day when we stop being mouthpieces of centers of power and become only journalists – who are in minority right now – then I hope we will be more appreciated and paid better. (Female journalist of a news agency)

It is important to note that with the decline of revenue in the media market, the media are developing saving strategies which include cutting journalists' salaries and fees. For example, in the context of decrease in RTV FBiH's revenue, the broadcaster's managing board passed a decision to reduce authorship fees and temporary service contracts by 10 percent, while salaries for full-time employees remained the same. On the other hand, at RTV BiH protests were staged at the beginning of 2014 due to announced salary cuts. Salaries were not cut, but management says that is inevitable. At RepublikaSrpska RTV salaries were cut by 10 percent due to the increased salary tax in 2013. Adnan Bilal, RTVFBiH's advertising director, says the program production also suffers as a result of the financial crisis, which in the long run weakens viewership and affects the broadcaster's economic indicators: "Of course the fall in revenue reflects on the working conditions for journalists. However, the bigger problem is you can't develop production, which reflects on salaries in the long run because you weaken the program and your ratings fall".

7.3. SENSITIVE POSITION OF JOURNALISTS COUPLED WITH HIGH UNEMPLOYMENT AND LONG WAIT FOR EMPLOYMENT CONTRACTS

For a long time the media circles in BiH have had the stand – "if you want to be an eternal volunteer, go into media". Of course, this is exaggerated, but it is based on the fact that many young journalists worked for years as volunteers waiting to get an employment contract. That was not entirely voluntary work – they did receive a meal allowance and some other financial benefits that were not subject to full taxation, but it was disgraceful that the media kept journalists for so long with promises of employment contracts.

Since recently, laws on volunteering have been in effect in the BiH Federation and RepublikaSrpska. However, only the Law on Labor of the RS prescribes volunteer work. It is defined as a "relationship with the employer without concluding a work contract" because this time period is designed for gaining experience. Volunteer work may last for as long as the law prescribes the length of traineeship for a specific profession. The employer pays 35% of the minimal salary for every volunteer to the Employment Bureau, which covers the volunteer's insurance in case of injury at work or professional illness. Volunteers have full medical coverage, like all other unemployed people registered with the Employment Bureau.

It is prescribed that during this time the trainee receives 80 percent of the minimum wage, before taking the certification exam. Media generally do not use this legal possibility, or they use it only for staff in technical departments, but not for journalists. The possibility that is used much more often is probationary work. It may last up to three months. The Law on Labor of the RS allows for the possibility that probationary work, if the parties agree, may be extended for another three months.

According to Sarajevo-based Mediacycenter's research from 2007, the status regulated by a contract on temporary or occasional work often exceeds the 90 days allowed by the law and can be extended for years. "The practice of putting pressure on journalists to work as freelancers, although they are actually performing full-time work, is a strategy employers often use to avoid paying contributions and social insurance. Young journalists are in this light treated as qualified, but cheap labor force"²¹.

21 Sanela Hodžić – "Labor Relations and Media: Bosnia and Herzegovina", published in Labor Relations and Media: Analyzing patterns of labor

Respondents in this survey are not in that situation and they have permanent employment contracts or contracts of authorship. But some of them said they are aware of the practice of employers keeping young journalists even for years in some kind of semi-legal labor situation, promising them employment contracts. Respondents suggest that the situation regarding properly registered employment is better at the public broadcasting services than in private media.

Generally speaking, most journalists have some type of contract with the employer, but the question is what the character of these contracts is. According to our trade union's findings, work "off the books" is present to some extent at more than 60 percent of the media in the Republika Srpska. (Mariana Šarčević, President of the Trade Union of Media and Graphic Workers of the Republika Srpska)

Some televisions that have a roughly 20 % market share never had more than 30 employees. For example, they take 10 million from advertising, nearly the same as Federal TV, which has 360 with all contributions paid. (Džemal Šabić, Director of RTVFBiH)

It's easy for the public services which along with advertising also have subscription fee and thus can have employees for whom they pay the 70 % contributions. (Editor at a private media outlet)

In BiH permanent employment contracts are burdened with around 70% of contributions and in that case employees have full health protection and service accrual. The contribution rate in FBiH for a temporary service contract is 18.6% and for a contract of authorship 17.6 %, while in the RS it was 10% for years and then increased in early 2014 to 28.5%. The employer assumes the obligation of paying contributions for all types of contracts and it is clear that it is more cost-effective for employers to keep staff on these two types of contracts. Some journalists also prefer to receive bigger pay and if they wish they can regulate their own health and pension insurance (as freelancers can do) rather than receiving low salaries with a permanent employment contract. However, in our survey all respondents rejected that idea.

It's hard to think long-term when you are in a crisis, when people calculate it's better if I receive a little more income now and we'll see about later. However, in the long term we do damage both to ourselves and the society. (Director of a public station and newspaper)

Social and healthcare (insurance) is very important to me. This is not only about us. It's about our families. To a young man it seems that he won't need either pension or social (insurance), but at a certain age you need especially health insurance very much. We need all kinds of medical services and I also hope we live to have pensions... (Senka Kurt, Editor-in-Chief of Old Town Radio)

7.4. OVERTIME WORK AND NEWSROOM RELATIONS

Laws on labor prescribe that the maximum working time is 40 hours a week, that an employee is entitled to a break of no less than 30 minutes a day and that night work and work on weekends and on holidays is to be paid more. However, due to the characteristics of the journalistic profession, some of these points are difficult to implement. A field journalist's regular assignment involves carrying out preparations, going to the scene of an event, returning to the newsroom and writing an article (editing an item). How can breaks be calculated in the field? Is sitting in a café while waiting for some session to finish rest or work? Sometimes journalists' assignments require less than 40 hours of work a week, but sometimes they require more. In addition, the journalistic profession involves reporting on events that also take place on weekends or at night. In a seminar on working conditions for journalists that was organized by Media Plan Institute in 2004, most media owners said journalists in their newsrooms work as much as is needed to carry out an assignment, which is sometimes less and sometimes more than the prescribed time. The majority stressed their journalists accepted this system.

Most respondents in this survey believe that working hours and over-time work are not a priority problem for journalists. Some said they have a fair relationship with the employer in this regard. In addition, most respondents believe that good working relations in the newsroom, which entail flexible working hours, mutual respect with the employer and with superiors and subordinates, pleasant working premises and good equipment, can promote the working atmosphere and efficient work performance. Denis Naprta, Human Resources Director of RTVFBiH, believes that all companies should invest in their employees because that is the key to good business. He maintains that most problems, especially at a large media organization, can be solved through communication:

Human resources should not only be a staffing service... they should be authorized and trained to communicate with employees. Because very often what is done through paperwork cannot reveal the real need of a man who is in a specific human situation. (Denis Naprta)

But some respondents believe that without a satisfactory salary, it is not possible to achieve full satisfaction with one's job. Even when it's great for me at work, when I leave for home and must buy things for myself and (my) children, all enthusiasm dwindles (Female journalist of a news agency)

7.5. DISMISSALS, TRANSFERS

The public and media in BiH have mostly focused their attention on issues related to dismissals and transfers of editors of particular media outlets, which were often interpreted as being done for political reasons. In these situations the dismissals were immediate (sudden), without a notice period. Labor laws in BiH have a number of articles that generally prescribe such situations. "The employer or the employee may cancel the employment contract, without the obligation to abide by the proper cancellation period, when, due to breach of the obligations deriving from employment or due to failure to meet the obligations from the employment contract the continuation of employment is not possible. Prior to cancellation of the employment contract, the employer may supply the employee with a written warning of the obligations deriving from the employment and instruct her/him of the potential dismissal if s/he continues with breach of those obligations"²². "If an employer cancels the employment contract caused by behavior or performance of the employee, he shall be obliged to allow the employee to present his defense, unless circumstances exist which make it unjustified to expect from the employer to proceed so"²³.

But it is clear already from these articles that the law is imprecise – "the employer may supply the employee with a written warning..." It would be logical to state – SHALL. Further, the possibility that the employer due to "justified circumstances" does not have to allow the employee to present his defense may be abused because such circumstances are not clearly defined.

The Work Regulations of RTV FBiH cite as many as 29 reasons for which an employee may be fired (or removed or transferred to another position). They regard various types of breaches and criminal actions, inflicting financial damage to the media outlet, damaging the reputation, disrespecting procedures, etc. However, there are two reasons here as well which solely concern media (the journalistic profession):

- ➔ Conduct contrary to the rules of the programming and business policy and editorial guidelines of RTV FBiH, failure to abide by the codes, recommendations and decisions of the Communications Regulatory Agency and other international organizations;
- ➔ Disseminating unverified information in programs which results in distressing the public and impairing the reputation of and inflicting damage to the Public System of BiH.

During his mandate RTV FBiH General Director Džemal Šabić dismissed two television news program editors and the editor-in-chief. Among other reasons, what dominated for one of the editors was unprofessional program conduct, for another editor it was "disrespect for superiors and subordinates," while for a third it was the fact that he did not have a university degree, which was contrary to the new job classification. Judicial proceedings followed, two of which RTV FBiH lost due to failure to abide by procedure. However, one of the dismissed people was never reinstated in the same position, with the general director's explanation that it was not a factory, but a media organization and that someone who is unprofessional may not, regardless of court decisions, perform the highest program function. Evidently, additional standards should be applied for deciding whether editors are doing their jobs in a professional way.

Šabić also believes that workers' rights may be abused to the detriment of some media organizations, especially public broadcasters:

Labor rights protect workers regardless of what kind of quality and conduct they offer. In my opinion, that constitutes legal protection of failure to work and poor results. Private media deal with this more easily but at public media you cannot fire someone who doesn't come to work or works poorly. Even if they do nothing, they will get the same salary. If you try to do something, they will run off on

22 Article 88 of the Law on Labor of FBiH.

23 Article 90 of the Law on Labor of FBiH

sick leave. If you call them to ask how they are, they might sue you for mobbing. (Džemal Šabić, Director of RTV FBiH)

However, some respondents in our survey do not agree with these observations and believe that political reasons, various animosities, as well as poor organizing of journalists, play a role in dismissals.

Journalists' biggest 'ailment' is that they are poorly organized and practically do not fight at all to protect their rights in the media organizations where they work. I consider them the most responsible for pushing into the background the main function of media, which is production of program. The example of a public broadcasting service in BiH is illustrative – only about ten percent of the available budget there is currently allocated for the program, they are not interested in their professional working position being respected and they allow a practice according to which members of management bodies have double the pay of editors, or they accept the organization's statutory solutions based on which politics appoint and dismiss editors and program directors... If this matter were solved, there wouldn't be so many unlawful dismissals, removals and disputes in courts. (Mehmed Agović, media adviser at Ministry of Civil Affairs and Communication of BiH)

8 TRADE UNIONS AND ASSOCIATIONS

For a number of years after the war ('92-95') Bosnia-Herzegovina had as many as six journalist associations. The reason is the deep ethnic and political division reflecting on the sphere of journalism. Today there are four associations in BiH – Associations of Croat Journalists of BiH, Union of Journalists of BiH, Union of Journalists of RS and Association BH Journalists. The last two latter ones are a little more active, especially BH Journalists, which have been receiving international support which makes their operations possible.

There is not a single trade union at the state level. At the entity level, there is the Trade Union of Media and Graphic Workers of the Republika Srpska and in the BiH Federation there is the Union of Publishing, Graphic and Media Workers of BiH. Media outlets with the most employees have their own trade unions. Public services have two – Independent Trade Union of RTRS and Independent Trade Union of Public Service Employees. Members of the latter are workers of RTVFBiH and RTVBiH, the two Sarajevo-based public services, but as these two media are highly independent, both in financial and program terms, sometimes even politically, it is becoming increasingly difficult to profile common interests in the trade union. Besides, the efficiency of trade unions is questioned, as is their credibility, and doubts are expressed regarding their independence from management structures in media. In this regard, one of the respondents explains:

I don't think a single trade union in Bosnia-Herzegovina is set up on a healthy foundation and I believe, especially in big and bulky systems such as the Public Service, that some trade union leaders often play together with the management. There have been many activities launched by the Trade Union here at the Public Service, but the problems that have stood still for years show that the trade union leadership has not solved these problems properly, especially in the area of workers' rights and working conditions at the Public Service. I think the situation is even worse at some other media organizations, especially where the trade union is helpless before private media. (Amir Sužanj, editor at BHT)

A representative of the trade union from the Republika Srpska, however, points out several activities and forms of assistance provided to media employees:

Trade union members have individual free legal help and representation in court for which lawyers charge a lot of money. Membership in the trade union also enables gaining information, education and every other form of professional advancement in the field of law based on work and employment. Further, some form of financial assistance is provided in case of illness, death in the family, serious material situation, resumption of education, loss of job, etc. (Mariana Šarčević, President of Syndicate of Media and Graphic Workers of Republika Srpska)

With regard to labor rights, both the journalist associations and the trade unions are working on improving them. According to Borka Rudić, the general secretary of Association BH Journalists, the association often deals with issues related to workers' rights, but she also points out that reactions by inspection bodies are not always adequate when labor rights are violated:

We are engaged in trade union activities for the simple reason that the existing trade unions are not doing enough in this field. We

have legal protection for journalists and we conduct labor disputes on behalf of journalists. We often react to the Inspection, especially Labor Inspection and Tax Inspection, but unfortunately we don't always receive adequate responses from the tax bodies. Inspectors are not willing to enter the media, primarily private media, because in some way they think that if they do enter and if that media outlet targets them, they will have problems. (Borka Rudić)

Maybe they are doing something, but the very fact that I know nothing about it shows how helpful they are to journalists. (Journalist of a public station)

It is increasingly the case that numerous associations in our small territory are turning into non-governmental organizations or even private companies. They are engaged in various activities instead of the ones for which they were created. (Female journalist of a daily newspaper)

9 FAMILIARITY WITH LABOR RIGHTS AND JUDICIAL PROCEEDINGS

Most respondents in the survey said they are familiar with their labor rights. They claim they had no need to study the laws or internal documents in-depth because they did not have a problem that could not be solved, at least partly, by an agreement within the newsroom or company. Two respondents said they had instigated judicial proceedings in order to exercise their labor rights, but the proceedings are still pending. One respondent (editor of a public service) said he won a dispute and his reinstatement in his old (editorial) position was ordered, but the director failed to comply. A new lawsuit is underway, but he says it is too slow and there is indication of influence of politics. One journalist sued his former media organization for not fulfilling all conditions written in his contract (part of which regards the salary) and he has been involved in a long-lasting dispute. Generally speaking, the majority maintain that courts are slow and that after verdicts are passed in favor of workers it is very difficult to implement these decisions.

Some directors and employers, if they have the support of the parties in power, are more powerful than even judicial decisions. (Editor of a public service)

I did not deal with my labor rights in the last ten or so years and I have no need to. I did before. My labor rights had been trampled upon constantly and incessantly, but I did not see that the employer had a lot of problems because of that. I did not choose to go for a judicial proceeding. At that time the employer had seemed stronger than even the state. (Senka Kurt, Editor-in-Chief of Old Town Radio)

Labor disputes are in under the jurisdiction of municipal courts. It is not possible to get data on the number of labor disputes involving journalists because each case would have to be inspected individually, but general data on disputes are indicative. As we learned from Sarajevo Municipal Court spokesperson Amra Hodžić, in 2013 the court received a total of 6,281 lawsuits (cases) related to labor disputes of which 5,367 cases have been completed. In 90% of the cases, an appeal was filed with the second-instance Sarajevo Cantonal Court. Around 95% of the verdicts passed are in favor of the plaintiffs, i.e. persons who suffered a labor right violation. As we were told, the largest number of lawsuits pertains to differences in salaries (reduction of base salary), meal allowance or holiday allowance. It should be noted that violations of labor rights are likely far more common than the number of cases coming to court. Concerned for their subsistence and not wanting to get into long proceedings with uncertain implementation of the verdict, individuals prefer to suffer labor rights violations. Meanwhile, although relevant inspections are able to establish violations of labor rights at individual media outlets, their capacities are limited and years may pass between the time of establishing a labor right violation to a new inspection meant to see whether the irregularity was remedied.

According to the above mentioned Mediacentar research from 2007²⁴, the most commonly violated rights are related to payment of salaries (43% respondents), length of working day (39%) and overall working conditions (33%) in newsrooms.

The findings of the organization Vašprava/Your Rights are in line with the above data. The findings established by the organization Vašprava/Your Rights, which The organization offers legal assistance from in the field of labor rights. Its report²⁵

24 Sanela Hodžić – "Labor Relations and Media: Bosnia and Herzegovina

25 A Review of the Situation Analysis and Application of Regulations in the Field of Employment Rights www.vasprav.org

states that employers pose most difficulties for employees by generally denying them the benefits they are entitled to, as well as the right to efficient legal protection. “This is particularly pronounced when it comes to procedures for entering into employment, procedures for terminating an employment contract, disciplinary procedures and pronouncement of measures, but also in relation to fulfillment of rights and obligations based on earned but unpaid salaries, payment of contributions, in situations of dismissals due to economic, technical or financial reasons, and in paying, or failing to pay, severance pay,” says the report based on the applications they received.

10 MAIN POINTS

- In BiH the general political and social environment is unfavorable for the development of independent, professional and free journalism. Ethnic divisions and conflicts, along with all other controversies of BiH society, have threatened or even stalled the implementation of very good media legislation. A regulatory system has been set up for broadcasters as well as a principle of self-regulation for print media, defamation has been decriminalized and a Freedom of Information Act adopted.
- According to Communications Regulatory Agency (CRA) data, there are 195 media broadcasters in BiH in 2014, comprising 148 radio stations and 47 TV stations. Five dailies come out, as well as three newspapers from Serbia and Croatia that have editions for BiH. Web media are increasingly becoming the primary source of information.
- According to data from the Statistics Agency of BiH, the unemployment rate is 44.6% percent. There is no precise data on the number of unemployed journalists because most of them, thanks to the existence of a large number of media, as well as organizations that need PR staff, work off the books or find part-time jobs, irregularly paid. Among the lowest paid staff with a university degree are **graduated journalists** with 340 €, which is lower than the average salary in BiH. Most respondents in our survey believe that journalists’ salaries are a reflection of the dire economic situation in the country and that media share the sad fate primarily of the advertising market. The lack of money results in the impossibility to develop TV production cannot be developed because programming is becoming weaker and ratings are falling, which is reflected on salaries.
- Under the circumstances on the labor market and the low media revenue, as well as due to close connections of the media with the economic and political elites, journalists’ autonomy is substantially threatened and violations of journalists’ labor rights are common. Available sources show that the most violated are rights to salary, length of working day, payment of contributions, right to severance pay, and violation of dismissal and disciplinary procedures. Participants in this survey think that the amount of salary is an important factor in the job satisfaction, but they also believe that the amount of salary and working hours are not the biggest problems encountered by journalists in their jobs, because journalists face unjust treatment, lack of working equipment and especially various kinds of pressure.
- Most analysts, as well as our respondents, believe the biggest problem for journalists’ freedoms in BiH is a combination of political and economic pressures.
- BiH laws are in harmony with international standards. The fields of labor rights and social protection are not regulated by one law at national level, but are instead under the jurisdiction of the entities.
- A virtually unanimous stand is that BiH has good laws, but courts are slow, inefficient and their verdicts are often not implemented in the field.
- A long-term practice has been pressuring journalists to work as volunteers, freelancers or for many months on probation, although they actually perform full-time jobs. This is a strategy often used by employers in order to avoid paying contributions and social insurance. Young journalists are in this light often treated as qualified, but cheap labor force. Respondents agree it is necessary to resolve journalists’ status in line with the existing laws.
- Provisions in laws that prescribe dismissals or removals from editorial positions need to be defined more precisely. A particular problem in journalism is assessing what is unprofessional (tendentious, selective), because media content is often ambiguous and those who receive this information or directly manage this process have different views. Some respondents believe that the dismissals of key people in media have been carried out for political reasons.
- Journalists who work in large newsrooms believe it is essential to create a better system for determining the amount of salaries and incentives in order to motivate the best and most professional people, which is not the case right now.
- The Syndicate of Graphic Workers and Media of the RS as well as Association BH Journalists provide legal protection to journalists and often conduct labor disputes on behalf of journalists. However, most respondents, nevertheless, are not satisfied with the activities of associations and trade unions because they believe they lose their role by working outside their scope of operation in order to get donations (associations) or benefits in collaboration with managements (trade unions).

11 PROPOSALS FOR ADVANCING WORKING CONDITIONS FOR JOURNALISTS

- Speed up the work of courts in settling proceedings involving labor disputes and proceedings involving defamation lawsuits and violations of the Freedom of Information Act. Respondents believe that progress is possible and that court capacities are developed, but extensive changes would require new operational procedures.
- Additionally educate judges in matters related to media related issues and work on strengthening legal security, reduce the influence of politics on judges in order to avoid unharmonized judgments in different parts of the country.
- Employ stronger inspection controls to eliminate journalists' workoff the books and place probationary work and volunteer work in legal frames. Insist that every employed journalist who is working continuously on a regular basis must have a full employment contract instead of being hired on a temporary service contract. Enable frequent checks to remove irregularities in the field of labor rights established by labor inspection.
- In large media systems create a reliable system for determining salaries and incentives based on conscientious job performance and quality of journalists' work, as well as a system of sanctions against employees. Committees should be set up at big public media outlets to evaluate the reasons for dismissals or removals of editors and journalists, which was identified as a problem in this survey.
- Create an external system for the evaluation of journalists' professionalism, possibly with help from the Communications Regulatory Agency, Press Council, journalist associations and media organizations.
- Work on strengthening factors that will contribute to a better position of journalists on the labor market, as well as a better position of media on the market. Higher-education institutions should harmonize their student admission policies with the needs of the market in order to avoid further hyper-production of journalists. Further, it is necessary to develop guarantees of editorial independence of media, as well as guarantees of independence of journalists, in order to prevent the influence of particular interest groups on journalists' work. Overall, it is necessary to strengthen transparency of media ownership and funding and develop policies that will lead to media market consolidation in line with the actual capacities and needs.
- Restore the dignity of the journalist associations in terms of their focus on media and journalists in relation to media freedoms, legal protection and strengthening solidarity. It is necessary in this regard to develop common activities of numerous associations in advocating for solutions to priority problems in the area of journalists' labor rights.
- Ensure the independence of trade union organizing from politics and management structures of media. Restore trust in trade unions by stepping up trade union activities in the field of labor protection of journalists.

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Working Conditions for Journalists in Bosnia and Herzegovina

Journalists in a gap between devastated media and legal insecurity

