

PARTNERSHIP FOR SOCIAL DEVELOPMENT

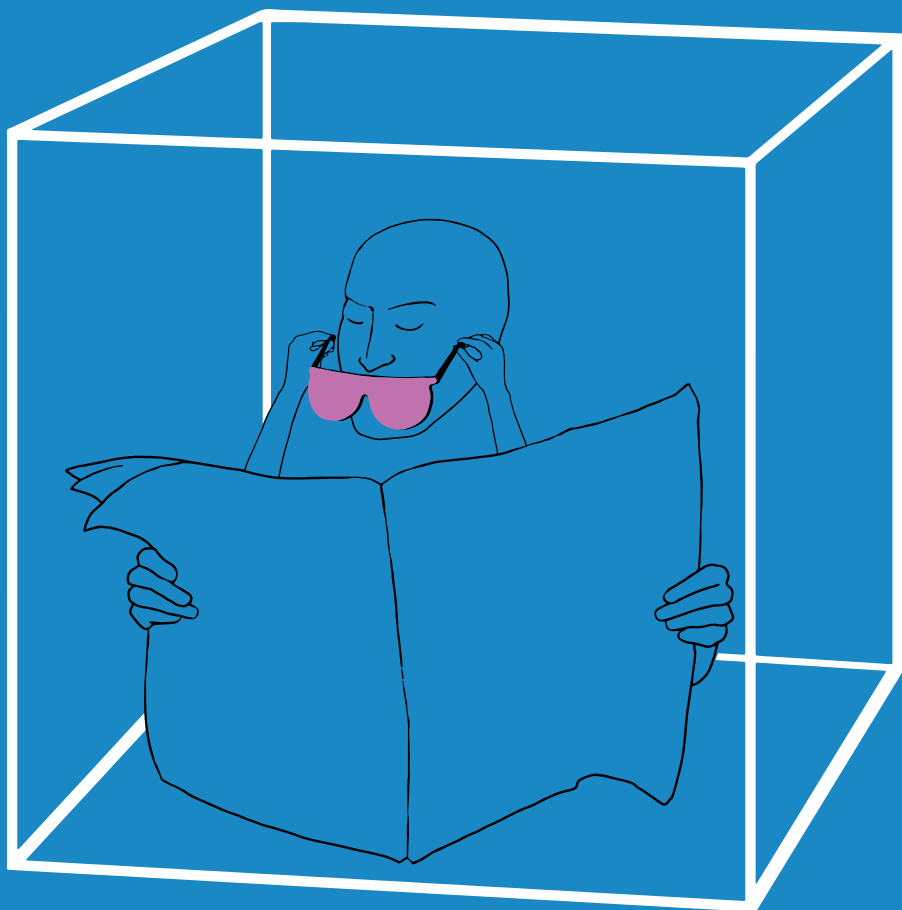
MEASURING MEDIA REALITIES

Media Clientelism Index 2016



European Union





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MEDIA CIRCLE project aims to create permanent values – a tool for monitoring Media Clientelism Index and news portal Fairpress.eu, dealing exclusively and systematically with media related issues. These unique instruments are creating data and insight into the media world that has never been available before while designing cross country emergency response system to journalists in need and continuous advocacy and awareness network of committed professionals and organizations.

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INTRODUCTION

This publication represents the outcome of a work conducted across six South Eastern Europe countries for the purpose of measuring the media clientelism index. Media clientelism index is the first cross-country comparative and country-specific report on the state of media clientelism and politicisation based on empirical data. It should be seen as a control mechanism which monitors the media environment and relations between politics, economic centres of power, the media and citizens, warning of the risks or identifying practices which may lead to the subjugation of society, public interest and public goods by narrow circles of power, that is, clienteles. The experimental research, i.e. ground zero measuring of the media clientelism index was conducted and published during 2015. Within this publication, the results of the second measurement (2016) are being presented.

We shall first describe the main concepts relevant for our subject, i.e. clientelism, corruption and media. Further, the methodology section will describe the process of data collection and the limitations in the process of gathering and analysing data. Data structure, measurement and data interpretation process will be explained, as well. Afterwards, we will briefly give an overview of different social contexts in the countries observed and then move on to presenting the media clientelism index results for 2016. Then we will turn to the regional overview of data gathered and trends recorded across countries between 2015 and 2016. Finally, country specific reports are provided based on the experts' interpretation of data.

In addition, a special focus was given to media ownership transparency and for that reason a normative analysis of media ownership is provided as a special chapter of this publication. Here, we analysed how the countries regulate transparency of media ownership and media concentration. Our interest was the extent to which media norms correspond to the need to protect media pluralism and media diversity.

IDEAS, CONCEPTS AND APPROACHES IN MEASURING THE MEDIA CLIENTELISM INDEX

The concept of clientelism is used to define the *quid pro quo*¹ of social, political and economic relations, by defining the asymmetric forces between the participants in a particular relationship. Although attempts have been made recently to distinguish between these two phenomena conceptually, the corruption axiom $C = M + D - A$, as described by Robert Klitgaard,² has served as a framework for creating a model clientelism index in which the focus is on detecting, or rather preventing, clientelism. According to Klitgaard, corruption occurs when a monopoly of power and administrative discretion are not checked by accountability. The model was built upon later by Mungiu-Pippidi,³ who suggested that corruption was best described as the equilibrium between opportunities, or resources for corruption and motives for corrupt behaviour on one side, and deterrents, or constraints imposed by the state or society where corruption should be prevented on the other: corruption = opportunity (discretionary power + material resources) – deterrent (legal + societal norms).

Relying on the theoretical framework which regulates corruption does not mean identifying clientelism with corruption when measuring a media clientelism index. The focus of the index is on measuring society's capacity to determine the exchange of favours between politics, or economic centres of power, and the media, which leads to deviations in the media's performance of its role in society.

The media represent the backbone of democracy; among other tasks, they should operate in a democratic system as independent 'watchdogs', or external control mechanisms of the system and society as a whole. In addition, media freedom and media pluralism, with the presence of large numbers of well-informed citizens, may have a great influence on the effective control of corruption.⁴ In highly corrupt societies, disabling the media from carrying out these functions is one of the ultimate goals of political and social elites. Hallin suggests that one of the most important ways in which clientelism affects the media is through instrumentalisation, i.e. the process whereby media owners and financiers place

¹ A favour or advantage granted in return for something

² Klitgaard, R. (1998) *Controlling Corruption*. p. 75. Berkley: University of California Press

³ Mungiu Pippidi, A. (2013) *The Good, the Bad and the Ugly: Controlling Corruption in the European Union*. p. 28. Berlin: Hertie School of Governance.

⁴ Mungiu Pippidi, A. (2013) *The Good, the Bad and the Ugly: Controlling Corruption in the European Union*. p. 39. Berlin: Hertie School of Governance.

the media under their own control in order to achieve their own vested interests.⁵ Therefore the media clientelism index analyses the key characteristics of formal and informal mechanisms which should in practice ensure that universal norms and principles are respected in relationships between politicians, economic operators, the media, and citizens.

The reason why we rely on a theoretical framework to regulate corruption in analysing social systems surrounding the media lies in the fact that clientelism and the phenomenon of corruption share an essential characteristic – the indirect exchange of material and personal favours. Although the index relies on various scientific and expert works in the field concerned, its purpose is not to establish a new theory, or to test existing theories in practice. The aim of the index is to help decision makers, when they create and implement public policies in the area of governance of the media environment, to ensure that the universal values important to the quality of democracy are upheld – pluralism of ideas and opinions, and the participative role which citizens have in a democracy. Therefore, the focal point in this analysis of the media environment in the index is not just clientelist practice, although we refer to it particularly in the narrative parts, but the barriers, i.e. the formal and technical restraints which each society has set for itself in relation to clientelist practice. As a rule, a lower level or quality of restraining clientelist practice and the mechanisms which ensure it means a higher risk of clientelism occurring, with a negative effect on the functioning of the media. An increased risk of media clientelism (weak, ineffective deterrents to clientelist practice) consequently leads to a high risk of deviation in democratic processes, which may have extremely harmful, sometimes radical effects on society, the quality of democracy, and life in general. Finally, the media clientelism index should be seen as a control mechanism which monitors the media environment and relations between politics, economic centres of power, the media and citizens, warning of the risks or identifying practices which may lead to the subjugation of society, public interest and public goods by narrow circles of power, that is, clienteles.

⁵ Roudakova, N. (2008) *Media-political clientelism: lessons from anthropology*. p. 43. Media Culture Society.

DATA COLLECTION METHODS

The research framework, or data sets, used to measure media clientelism index, was defined according to a framework already used and existing indices such as those created by Freedom House, CIRI, Global Integrity, and World Governance. In doing so, we needed to bear in mind that the purpose of an index must focus primarily in the area of public policies, as an aid to decision-makers, to help them base issues regarding the governance of media space on empirically proven data, detected risks and clear recommendations. In this context, the key document used in defining the research framework was *Guidelines for EU support to media freedom and media integrity in enlargement countries, 2014-2020*,⁶ which gives a comprehensive outline of standard issues governing the areas of the media and media freedoms. When making our final selection of data we were guided by data or indicators which pointed to the presence or absence of deterrents to media clientelism, and the presence or absence of risks of clientelist practices.

The data used to measure the media clientelism index were gathered by the 'desk method', focusing on gathering primary data, i.e. data held by state and formal institutions. After carrying out a normative analysis of media laws, with a special focus on those which had undergone amendments in the previous year, requests were sent to the competent institutions, bodies and agencies in each country, asking them to provide information pursuant to their laws on the right to access information, and consisting of sets of questions aimed at investigating the efficacy of the legislative, regulatory and institutional frameworks regarding the occurrence of media clientelism. The index relies on primary information sources (gathered by formal institutions), but it should be noted that in order to contextualise data, or compare them, in some cases, selected secondary sources of information were also consulted, which had been gathered for the purpose of other research.

In the process of gathering and analysing data, certain limitations were obvious. In fact, many statistical data which were important for the measuring process (e.g. budget reports, reports by state statistical institutions, and those on the work of the relevant institutions) were not available in real time, but only by the middle of the current year for the previous year. So, this year's Media Clientelism Index 2016, although published at the end of the year, in fact covers, or was measured statistically on the basis of data relating to 2015. On the other hand, in order to keep the relevance of the index in real time, data from 2016 were used for certain areas such as the occurrence of clientelism in the media, or certain forms of it. An asynchronous model in data analysis is a key challenge for all indices based on data held by the state, as there are certain discrepancies between the measured

⁶ Available [here](#).

period (2015) and the measured index (2016). This was a particular challenge when we measured the index last year. But such measurements have since been stabilised by measuring trends in individual countries, so it is now possible to see hints of trends in individual societies, i.e. the progress or regression of individual indicators in relation to the index measurement from the previous year.

MEASURING AND INDEXING

During the measurement and data interpretation process, and due to the need to valorise or weight certain categories, expert groups in each country were employed. Each expert group consisted of three people from different areas covered by the index: representatives of the academic community, the civil sector (press associations) and a journalist. In the first measurement, the members of the expert group in each country were given the data gathered for their country and were asked to interpret the findings, then to weight or valorise individual data sets. The categories measured by the testers were (SG1) the legislative and regulatory framework, (SG2) the institutional framework, (SG3) ownership transparency, (SG4) market indicators and media financing, and (SG5) media freedoms and fundamental rights. The key question in each category related to the extent to which the actual situation prevented or encouraged clientelist practice in the country under evaluation (their home country). Weighting was allotted on a scale of -1 to +1, and the participants could assign any number on the given scale while explaining their decision, or interpreting the gathered data from their own point of view in relation to the quality and level of formal deterrents to clientelist practice. In the second measurement, the participants measured the vertical strength of categories in the index: (T1) the regulatory and institutional capacity of the state to detect and eliminate clientelist practice in the process of adopting media policies and in the operative activities of the media industry; (T2) practice in adopting media policies, deterrents to clientelist practices and the occurrence of clientelism; (T3) the ability of the state, or society, to understand the situation in the media compared to the declared existence of data, and finally, (T4) social capacity to measure media realities, in which all previous declared attitudes and data gathered by formal institutions are tested, and their credibility and quality assessed.

The matrix thus created actually produces three different measurements. The first relates to the 'raw' index, which is measured exclusively on the basis of empirically proven data using the Potential method which is explained later in this paper. The second measurement represents the horizontally weighted measurement in which the values individual categories are measured, i.e. the way in which the experts weighted question categories SG1-SG5. Finally, the third measurement

represents the vertically weighted measurement, i.e. the way in which the experts weighted categories T1-T4. These three measurements were carried out for various research projects, or for the potential use of the media clientelism index for the needs of various research approaches. The interpretation of the data relied on the opinions and explanations provided by the experts on the meaning of each grade/weighting assigned during their work in the expert groups.

The 'raw' index is measured by the "Potential method" based on graph theory, following the theoretical work of Lavoslav Čaklović, Ph.D., University of Zagreb, Faculty of Science, Department of Mathematics. The method may be applied to modelling all human activities which are based on preferences (in our case, the main priority is the existence of the previously mentioned limitations in terms of media clientelism). A short overview of the potential method is presented below.

POTENTIAL METHOD IN BRIEF

Each decision problem has data structured in the form (S,R) , where S is a set of objects and R is a preference relation. The decision-maker tries to find a representation of this preference structure in the form of a real function defined on S which preserves the preference. In reality, R is often non-transitive and incomplete, which is the reason why the correct representation of the preference structure is not possible. The potential method, based on graph theory, is flexible in the sense that it gives the best approximation of the reality in space of the consistent preference structure.

A preference multigraph is a directed multigraph with non-negative weights which may be interpreted as the aggregation of individual preferences of a group of decision-makers (or criteria graphs). The nodes on the graph represent the alternatives in consideration, while the arc-weights represent the intensity of a preference between two nodes. The ranking of the graph nodes is obtained as the solution to the Laplace graph equation.

This simple model may be integrated in complex decision structures: hierarchical structures, self-dual structures (when the weights of the criteria are not known), reconstruction of missing data in the measurement process (when some proxy data are given), classification process (medical diagnostics), classical multi-criteria ranking (including ordinal ranking and with a given intensity of preference), group decision-making and many others.

DATA STRUCTURE

As stated earlier, the index in the matrix overview measures different groups and categories of data. The structure of the gathered data is based on five sub-groups, SG1 – SG5, and four hierarchical models, T1 – T4, as listed above.

The sub-groups cover five categories: the legislative framework, the institutional framework, media ownership and transparency, the media market, and media freedoms.

In analysing the legislative framework, the environment or system was analysed in which legal acts governing the media market have been adopted, while the key question concerned the extent to which the entire process of adopting such acts was adequate, effective, and efficient in the sense of detecting, regulating and preventing clientelist influences on the final drafts of such acts. To be more precise, an analysis was conducted of the procedure through which acts were adopted which regulate the media in one way or another. Primarily, these were media laws, electronic media laws, laws regulating the functioning of public services, and laws relating to the media or affect the functioning of the media and potential clientelist practices, but specific to only one of the countries covered in the research. So, for example, in the case of Croatia, the Penal Code was analysed, since slander is still a criminal offence only in the Republic of Croatia. The questions which guided us in this part of the analysis, i.e. the data we gathered in relation to the legislative framework, included for example whether it was compulsory to hold public debates on draft laws, and if so, what the minimum number of days was allotted for public debate. Next, we asked if there was any standard operating procedure (prescribed by law, *author's note*) on the appointment of members of working groups charged with producing draft laws. Was the open access principle respected when appointing members of working groups, or was there any obligation (prescribed by law) to conduct open calls for which all interested experts could apply? Was there any requirement to publish exhaustive reports on how public debate was conducted (including comments received during the debate period, and highlighting those accepted)? Questions were also posed about the existence of a body engaged in assessing draft laws and their compatibility with the existing legal system, and for 'corruption proofing' proposed draft laws.

In the institutional framework, the efficiency and efficacy of bodies, agencies and institutions competent for the implementation of media policies, acts and sublegal acts were analysed. The analysis covered ministries of culture, electronic media agencies, parliamentary committees, and agencies for market competition protection, etc. Data were gathered on the total number and type of decisions rendered by these institutions in the preceding year (2015), the number

of newly-appointed or excused persons in their governing structures in the same year, and information regarding the body competent to make appointments in their governing structures. Next, two-level decision-making was addressed, analysing whether or not the right of appeal existed against decisions made by an institution, and how it was regulated, along with the presence or absence of accountability mechanisms in the institution. Finally, in the part of the analysis dealing with the institutional framework, there was the question of whether the institution allocated financial support, i.e. grants, and under what conditions, with what level of deterrence in terms of clientelism; and information was requested about the recipients of such funds and the amounts provided in the observation period.

Indicators relating to media ownership and business transparency were primarily covered by general questions which aimed to determine the level of transparency and publicly available data on media ownership, but also data on the business operations of economic subjects with registered media activities, i.e. their revenues and profits/losses for the previous year. In the subcategory of media ownership, an analysis was conducted as to whether comprehensive registers of private, public and non-profit media existed and were accessible to the public. We also considered the existence or lack of any sanctions prescribed by law for undeclared media ownership, whether ownership information was publicly accessible, and how it could be accessed. Were there any legal prescriptions regarding publishing information on paid advertising by political parties in public media, was the public service provider obliged to carry out an annual audit and publish the auditor's report, and were there any obligations to publicise contracts between the public media and the public sector? These were some of the questions relating to the environment in which public service providers operated. In relation to private media, the existence or lack or the obligation to publicise contracts concluded between these media and the public sector, including political parties, was analysed.

Indicators relating to the media market included, firstly, questions on the presence or absence of a comprehensive register on grants allocated for each institution included in media financing. In addition, competitions conducted in the previous year were analysed, along with the frequency of allocating funds per particular media. It was essential to include an analysis of the advertising market in this category. Some of the questions were: is there a public register which contains information on transactions conducted by the public sector towards the media for any publication services, and is there a register of advertising agencies which are active on the market? Is there any public information about the frequency and amounts of funds paid by the private sector to the media for advertising services? In the same way, data were gathered on the economic status of each individual media body or broadcaster, their revenues and expenditure, number of

employees, losses/profits in the preceding business year, and other indicators which pointed to the economic risks associated with clientelism, such as poor business results, the risk of political influence through financing from public funds, and the media's exposure to the influence of significant advertisers.

The last category in the Media Clientelism Index covers media freedoms, ethics and the fundamental rights of journalists. The support system for journalists in situations where they find themselves under threat, or when their rights are threatened, including the right to work freely, was analysed. Next, the capacity of the state to keep records relating to the labour market, i.e. the number of employed and unemployed journalists, was analysed, along with keeping records of procedures being conducted against them before certain courts. Of course, indicators measuring the efficacy of journalists' associations, unions and self-regulating bodies were also included.

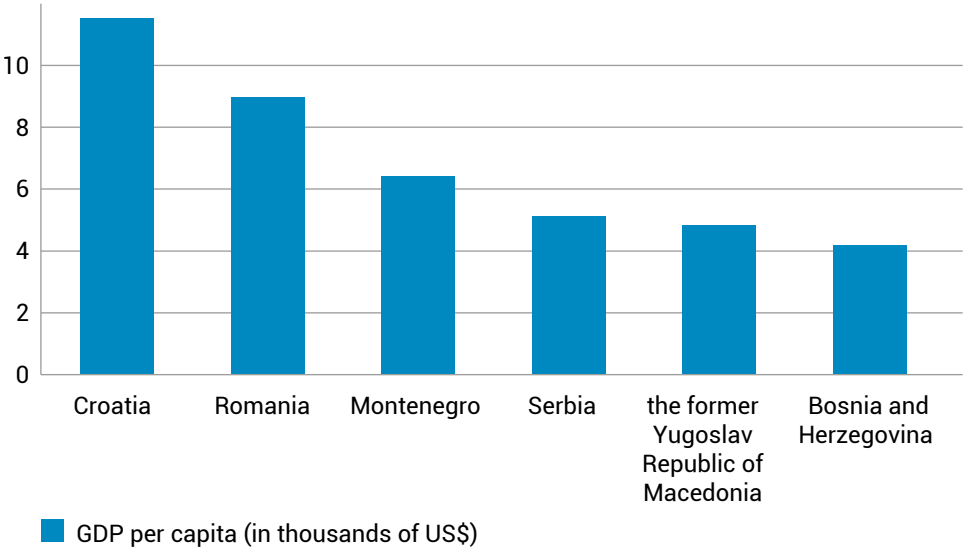
However, as stated at the beginning, apart from these five categories, there are also the four categories listed earlier (T1 – T4), i.e. levels of indicators gathered for the needs of this measurement. In gathering the data, particular attention was paid to exactly this segment of measurement, since it best displays the discrepancies between the declared capacities of the state to prevent clientelism and the actual effect of mechanisms established.

SOCIAL CONTEXT

In order to understand and test the clientelism index, it was necessary to define the different social contexts in the countries observed. Six countries in South East Europe were included in the Media Clientelism Index measurement: Croatia, Bosnia and Herzegovina, Serbia, Montenegro, the former Yugoslav Republic of Macedonia and Romania. They are all post-communist countries; two are members of the European Union, while the others are engaged in the stabilisation and association process. Croatia, Serbia, Montenegro and the former Yugoslav Republic of Macedonia have parliamentary democracies, and Romania is a semi-presidential republic. The governance structure in Bosnia and Herzegovina is extremely complex, based on the Dayton Peace Agreement, and there is no consensual understanding of the state organisation and political system (Sahadžić, 2009:17).⁷ According to World Bank data, in relation to the level of gross domestic product per capita, Croatia is recording the best results and belongs to the group of countries with a high income, while the other countries covered in this research belong to the upper middle income group.

⁷ Some people describe Bosnia and Herzegovina as a simple, unitary, decentralised state, while others see it as a type of real union with strongly expressed confederal elements, etc. (See Sahadžić, 2009).

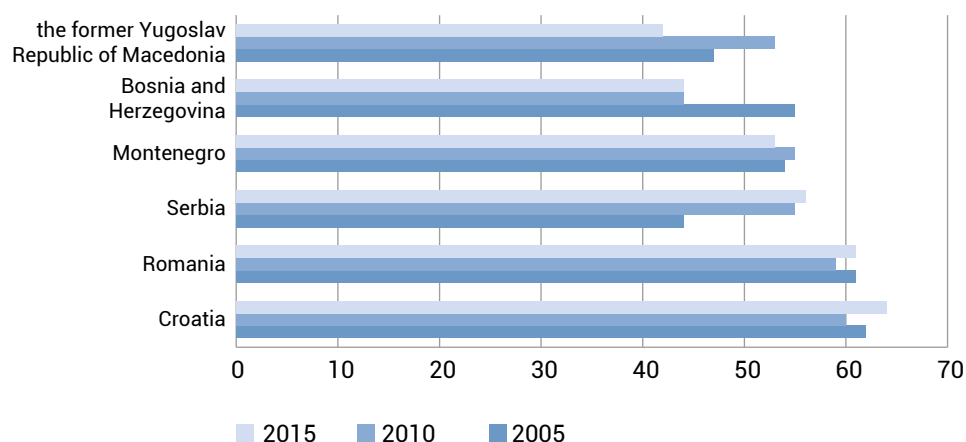
Figure 1 Gross domestic product per capita, 2015⁸



The World Bank governance indicators, and in particular the one relating to measuring civic freedoms, freedom of expression, freedom of association, and freedom of the media (*Voice and Accountability*), show that Croatia also ranks highest in this area, closely followed by Romania, while the former Yugoslav Republic of Macedonia and Bosnia and Herzegovina rank bottom.

⁸ Source: World Bank, available at: <http://data.worldbank.org/data-catalog/GDP-ranking-table>.

Figure 2 World Governance indicator: Voice and Responsibility, 2005-2015⁹



The social political contexts in which the media exist in the countries analysed are described by the results of measuring media freedom, conducted annually by Freedom House. In fact, according to their last report¹⁰, all the countries except the former Yugoslav Republic of Macedonia were described as ‘partly free’. In 2015, the former Yugoslav Republic of Macedonia experienced a significant decline in terms of journalists’ freedoms, and was labelled ‘not free’. Bosnia and Herzegovina found itself near the bottom of the table again, alongside the former Yugoslav Republic of Macedonia, while Romania was ranked highest. Interestingly, according to this measurement, Montenegro was placed higher than Croatia, which took third place.

The international journalists’ organisation *Reporters without Borders*¹¹ World Press Freedom Index also placed the former Yugoslav Republic of Macedonia lowest (of the countries in our research) in 2015, in 118th place out of 180. Romania came highest (of these countries) in 49th place. However, the results for the other countries were quite different from the Freedom House results: Montenegro was in 106th place and Serbia ranked higher than Croatia.

In comparison with the Media Clientelism Index 2015, the Media Clientelism Index

⁹ Source: World Bank, available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>.

¹⁰ Available at: <https://freedomhouse.org/report/freedom-press/freedom-press-2016>.

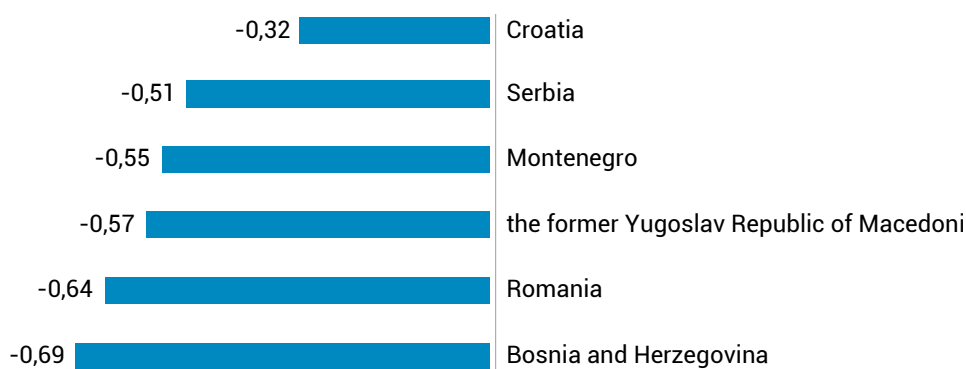
¹¹ Available at: <https://rsf.org/en/ranking>.

**MEDIA
CLIENTELISM
INDEX, 2016**

MEDIA CLIENTELISM INDEX, 2016

2016 records a significant fall in all the countries observed, along with changes in their ranking. Above all, these countries record a fall in the availability and quality of data, as is evident in the raw index (Fig. 3 below). According to both the raw index and expert ratings, Serbia and Romania recorded the most significant drop in relation to the previous year's measurement. Due to the fact that the zero index was unstable (without the reference points from 2015, when we measured the zero index), it was not possible to compare the values of the indices for 2015 and 2016. However, thanks to the use of identical methodology in gathering data, and the identical valorisation of data, the country rankings are comparable, so changes in these rankings are of great importance. Although the index shown in the graph below places Croatia well ahead of Serbia (in the previous year, Serbia was ahead of Croatia), the overall picture in Croatia has deteriorated, as can be seen from the tables and later graphs, and from the weighted tables, i.e. the data as interpreted by experts. The reason for this is that a series of key data, which were essential to establish the actual state of affairs in individual categories, i.e. to measure the risk of clientelism, were not available for 2015, although they had been available for previous measurements. No clear justification or acceptable explanations were offered for this. The 2016 measurement indicates that the situations in Serbia, Montenegro and the former Yugoslav Republic of Macedonia are very similar, thanks to the similar dynamics of political activity in these countries in the previous year. A considerably worse media picture, i.e. risk of clientelism in the media, was recorded in Romania, which corresponds to the actual state of affairs, i.e. to significant political intervention in the media in the previous year (Romania has adopted most laws in the media domain and established new institutions). The details which explain the dynamics of change in each category are explained in the further text, i.e. in comparative overviews of the countries, and in overviews of trends in individual data in relation to the previous year's measurements. In any case, it is clear from the raw index that all the countries observed are placed on the negative part of the scale, which means that the risk of media clientelism is present in all of them, and is significant, with a great probability of exerting considerable influence on how the media function. Clientelism and politicisation of the media in the societies observed have become the rule, rather than the exception, and in all these societies, it is fair to speak of fettered media, i.e. a media scene which is controlled to a significant extent by various political, economic and financial interest groups.

Figure 3 Media Clientelism Index 2016



Horizontally weighted measurement

The table below shows expert measurements by country, that is, measurements of data gathered by expert groups in each country. Due to obvious methodological limitations, it is not possible to compare numerical relations between countries, but these serve primarily to determine the level of risk in each category measured in each individual country. Table 1 shows the clientelism risk measurement in certain subgroups (areas covered by the index). For each country, the average grade awarded by the experts for each subgroup was taken, on a scale where the negative extreme (-1) represented the absolute absence of deterrents to clientelism, and the positive extreme (+1) the presence of fully effective deterrents, i.e. the establishment of media space in which clientelism cannot develop or pass unnoticed. For the horizontal measurement, the value of the grade on the scale was not as important in itself, so much as its divergence from the average value of all grades awarded by all the experts in all the subgroups in that country. Based on this divergence (positive or negative) from the mean values for that country, the risk level for that country can be established, and this is shown in a particular colour. Risks shown in dark red represent a high risk, while dark green represents a low risk of the occurrence of clientelism in that subgroup in that country. According to the figure, the highest risk of the occurrence of clientelism for all countries is found in subgroup SG1 – Market, grants and advertising. In all countries, in this category, both the data gathered and the expert interpretations, i.e. the weighted data, suggest the presence of clientelist practices, and weak or no deterrents at all to clientelism. Along with what has already been mentioned, there was a particularly problematic institutional framework in Croatia and Serbia according to measurement data in 2015, and this regulated the work of the media, or rather their exposure to clientelist practices, pressures, politicisation, and unjust influence. More detailed explanations, presentation of the measured

data and expert interpretations of individual data and categories are given later in the text.

Table 1 Weighted horizontal measurement

	SG1	SG2	SG3	SG4	SG5	SG1-SG5 E AVG
Croatia	-0.18	-0.60	-0.20	-0.42	-0.35	-0.35
Bosnia and Herzegovina	-0.67	-0.30	-0.87	-1.00	-0.60	-0.69
Serbia	-0.67	-1.00	-0.82	-1.00	-1.00	-0.90
Montenegro	0.57	0.52	0.03	-0.32	-0.07	0.15
The former Yugoslav Republic of Macedonia	-0.02	-0.05	-0.17	-0.68	-0.75	-0.33

Vertically weighted measurement

The vertically weighted measurement, like the horizontal, serves to determine by subgroups the level of risk of the occurrence of clientelism in individual areas, and consequently indicates priority areas where special attention should be paid to the creation of public media policies. From the table, it is clear that in general, most risks are found in the area of social capacity to determine media reality, or rather to detect and oppose clientelism. When speaking of social capacity, we mean the sum of capacities of all sectors which comprise the media eco-system, from the political system, state and state institutions, the private sector, civil society, and the media themselves, i.e. media professionals. From the table, it is clear that the capacity of the societies observed to oppose clientelism is weak, or non-existent, and apart from Croatia, building this capacity in all countries must be a priority in creating new media policies. One critical point in Croatia is actual practice in adopting public media policies and implementing them, i.e. the exposure of the system which regulates media space to clientelism. Another critical point in Croatia is evident in measurement of the capacity of the state to understand the situation in the media regarding the declared existence of data on deterrents to clientelist practice and the effectiveness of these deterrents in actual situations and cases. As with horizontal measurement, the data pursuant to which the index was measured, and their interpretation, are given further on in the text.

Table 2 Weighted vertical measurement

	T1	T2	T3	T4	T1-T2 E AVG
Croatia	0.07	-0.20	-0.42	-0.12	-0.17
Bosnia and Herzegovina	-0.93	-0.93	-1.00	-0.83	-0.93
Serbia	-1.00	-0.50	-0.08	-0.83	-0.60
Montenegro	0.30	0.30	0.23	0.05	0.22
the former Yugoslav Republic of Macedonia	0.43	0.17	0.90	0.23	0.43

Overview of data gathered

The processes within which media laws are passed are still insufficiently transparent or inclusive. In Bosnia and Herzegovina and Macedonia, there is no obligation to hold consultations with interested public parties on procedures for adopting laws, or other regulations and acts. In most countries the open access principle does not exist (apart from on paper in Croatia and Montenegro) when selecting the members of working groups to produce draft laws, while integrity policies in the selection process have not been adopted in any of these countries, as is evident from the fact that neither are there any policies prohibiting undue influence on the members of working groups. Montenegro is the only country to have defined standard operating procedures for appointing members of working groups, along with a code of ethics. On the other hand, bodies concerned with assessing draft laws and their compatibility with the existing legal structure have been established in all the countries apart from Montenegro. Corruption proofing of draft laws is not carried out in any country.

In 2015 in Croatia and Bosnia and Herzegovina, there was one amendment to the law, in Serbia, three, in Romania, four, but none at all in Macedonia and Montenegro.¹² Only in Croatia is there any information available about the duration of public debate, in relation to amendments to the Penal Code, when the debate is open for 32 days. However, from reports of consultations held, it is not clear how many suggestions and comments were received during the debate

¹² Confirmed by consulting the Internet pages of the National Assembly of the Republic of Srpska (<http://www.narodnaskupstinars.net/>), the Parliament of the Federation of Bosnia and Herzegovina (<https://predstavnickidom-pfbih.gov.ba/hr/>); the Parliamentary Assembly of Bosnia and Herzegovina (<https://www.parlament.ba/>); and the Committee on Political System, Judiciary and Administration of the Parliament of Montenegro.

period, nor which were accepted and which rejected.

The institutions competent for the media sector publish decisions and rulings in a fairly transparent manner, most frequently in the form of annual work reports. However, it is important to stress that there is still no practice of systematically publishing changes in the administrative structures of public institutions, but that this information can be obtained by submitting a request for access to information, which is permitted in all the countries except Serbia and Macedonia. Next, all such institutions may in one way or another influence the work of a media provider, so the question arises regarding the right to appeal, i.e. second-instance decision-making, which is unfortunately not permitted in any of the bodies or countries analysed. Another matter for concern is the fact that none of the countries (with the exception of Romania, to a certain degree) has established internal mechanisms for internal accountability within institutions, and external control mechanisms are also limited.

Media ownership transparency and general transparency regarding the media market and operations are insufficiently developed or aligned with the technological potential at the disposal of countries or societies today. An entire chapter is dedicated to media ownership at the end of this report, so we will not dwell upon it here. However, in speaking of media market transparency, and media operations (with mild reserve in the case of Serbia), none of these countries has established a comprehensive media register allowing the public an overview or insight into each segment of the media market, whether by media type or ownership type. Information on media ownership is still scattered throughout registers and databases at the whim of the various bodies competent for particular media types. For example, information on media proprietors in Croatia was obtained from the Financial Agency (FINA).¹³ Data on the number of printed media in Bosnia and Herzegovina were obtained from the Press Council¹⁴ and on the number of electronic media from the Regulatory Agency for Communications¹⁵. Data on the number of media in Serbia were obtained from the Media Register¹⁶, in Montenegro from the Electronic Media Agency¹⁷, and

¹³ FINA keeps a comprehensive register of business subjects registered in Croatia, which can be accessed on demand and which allows a filtered search of the data according to registered activities. For our purposes, the following activities were of relevance: publishing newspapers, publishing magazines and periodicals, broadcasting radio programmes, broadcasting television programmes, and internet portals.

¹⁴ Available at: http://vzs.ba/index.php?option=com_content&view=category&id=5&Itemid=8.

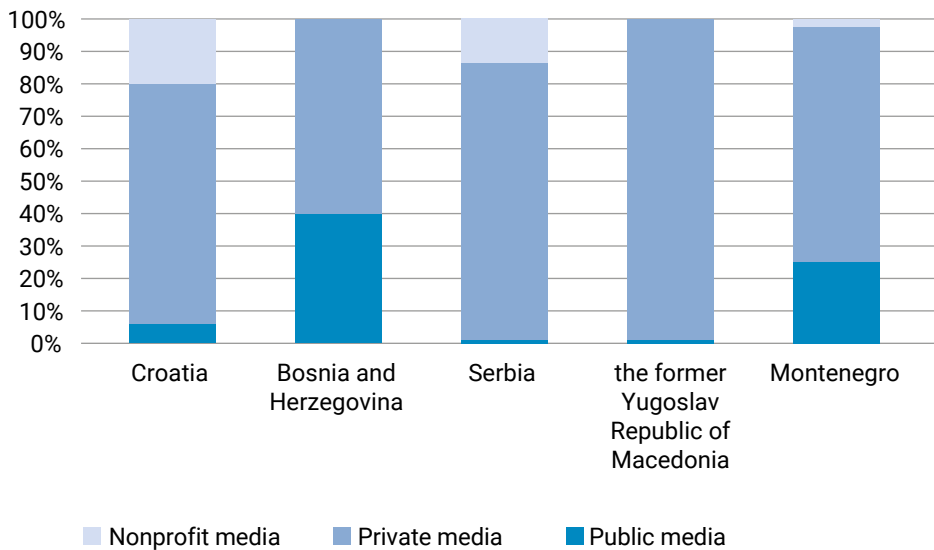
¹⁵ Available at: <http://rak.ba/bos/index.php?uid=1273787112>.

¹⁶ Kept by the Agency for Economic Registers, established pursuant to the Act on Public Information and Media. Available at: <http://www.rra.org.rs/uploads/useruploads/PDF/1615-Zakon%20o%20javnom%20informisanju%20i%20medijima.pdf>.

¹⁷ Keeps records of ownership transparency of audio-visual media providers.

in Macedonia from the Agency for Audio and Audiovisual Media Services.¹⁸ It should be mentioned that in neither Montenegro nor Macedonia are there any data on the number of online media or non-profit media. The exact number of media in Romania is impossible to ascertain, but is estimated at around 3,000 printed and 1,500 electronic media.¹⁹

Figure 4 Media structure by type of media ownership, 2015²⁰



The data for business operations are similar: information on public media revenues and profits or losses are available in most of the countries apart from Romania and with certain restrictions in Bosnia and Herzegovina²¹, while in all countries questions may be asked about the quality of auditing the work of public services.

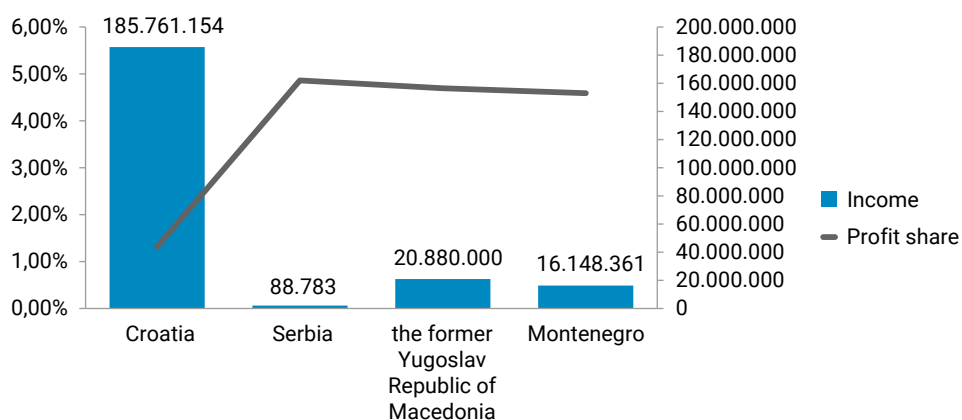
¹⁸ TV, radio and printed media; available at: <http://www.avmu.mk/>.

¹⁹ Preoteasa, M. (2004) *Media ownership and its impact on media independence and pluralism in Romania*. pp. 404-424.

²⁰ Sources: FINA for Croatia; Regulatory Agency for Communications for B&H; Agency for Economic Registers for Serbia; AVMU for Macedonia; Electronic Media Agency for Montenegro

²¹ In Bosnia and Herzegovina, information on revenues and profits or losses were received only from the Radio-Television of the Federation of Bosnia and Herzegovina (FTV). The same information, however, was not received from the Radio and Television of Bosnia and Herzegovin (BHRT) nor the Radio Television of Republika Srpska (RTRS).

Figure 5 Revenues and profit shares in revenues of public media services, in EUR, 2015²²



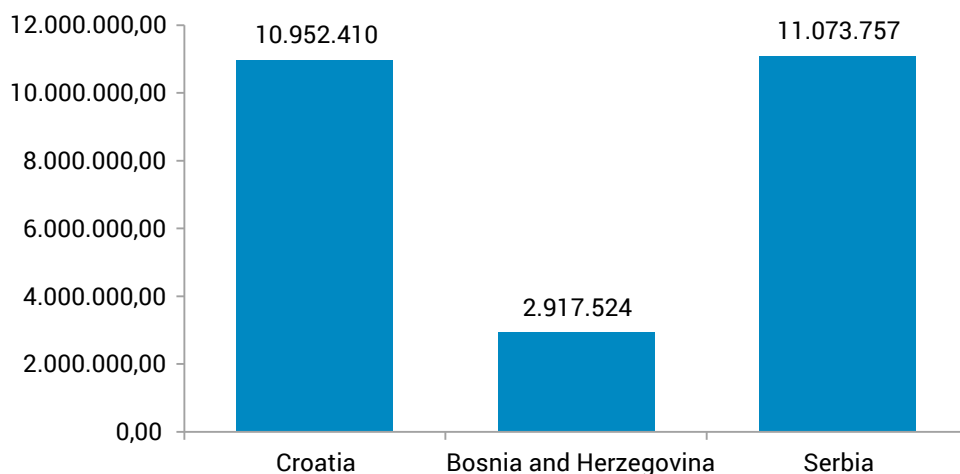
Publicly accessible, unified financial indicators of non-profit media are still unknown in all the countries covered by these measurements. The situation is not much different regarding private media. In fact, all attempts to access the business results of privately-owned media proved fruitless in most countries apart from Croatia, and to some extent in Macedonia, in which indicators for television and radio stations were available.

In 2015, around 200 media providers in Croatia and almost 800 in Serbia received state media subvention. The total value of this financing in Croatia was 10.9 million euros, and in Serbia, 11.1 million euros. In Bosnia and Herzegovina state media subvention was also allocated in the amount of 2.9 million euros²³, but the number of media recipients is unknown.

²² Sources: FINA for Croatia, Internet pages of the Government of Serbia and other ministries for Serbia, AVMU for Macedonia, Monstat Statistical Office of Montenegro.

²³ The amount is calculated according to the request to access information replies. However, it should be noted that not all of our requests were answered, so the amount does not include comprehensive data on state media subvention.

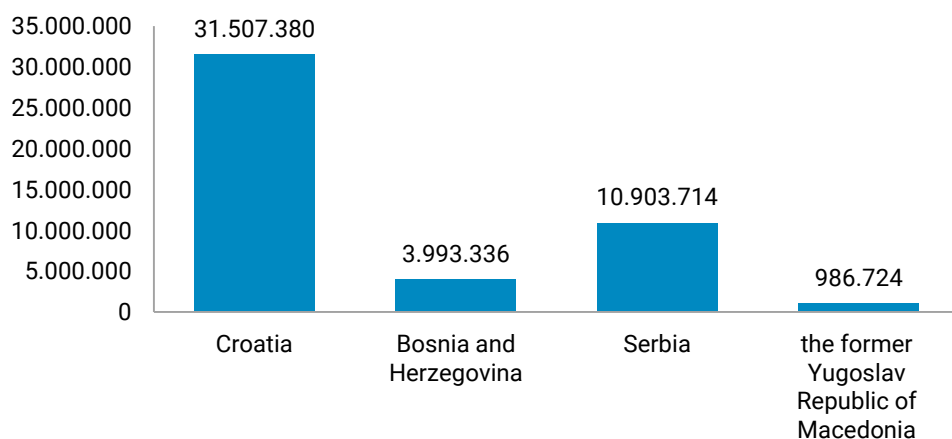
Figure 6 Amounts of state media subvention, in EUR, 2015²⁴



In addition, other funds were allocated from state budgets relating to promotional and publicity services. In Croatia, the amount was 31.5 million euros, in Bosnia, 3.9 million euros, in Serbia, 10.9 million euros, and in Macedonia, just under 1 million euros. Information on the amounts allocated for the media from the state budgets of Montenegro and Romania were not available.

²⁴ Sources: Electronic Media Agency and Ministry of Culture, for Croatia; Provincial Secretariat for Culture and Public Information and the Republic's Ministry of Culture and Information, for Serbia; responses to Requests for Access to Information at national and local levels in Bosnia and Herzegovina, Serbia and Macedonia.

Figure 7 Amounts of financing from state budgets (promotion and publicity), in EUR, 2015²⁵



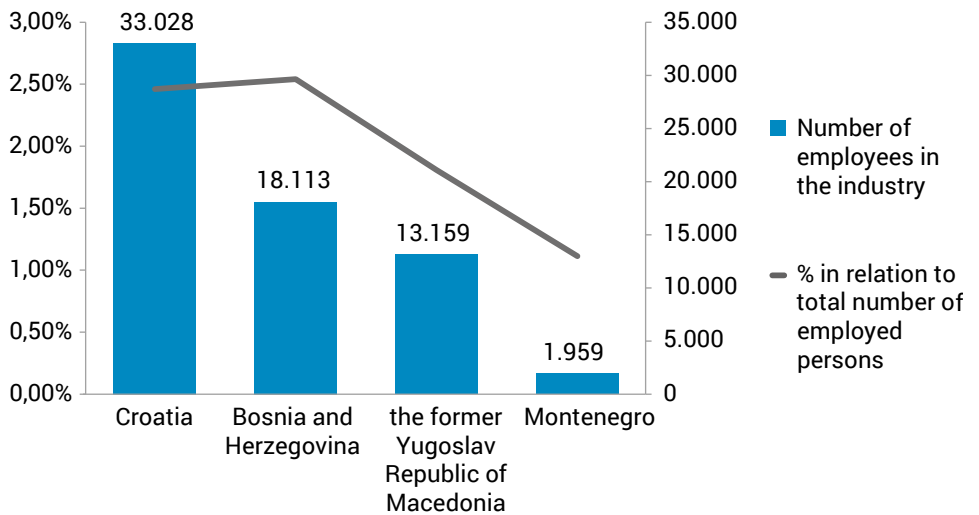
An essential element of the media market is advertising. In Croatia, total revenues of advertising agencies in 2015 amounted to 511.2 million euros, while their profits were 21.3 million euros. In Macedonia, 24 advertising agencies generated 528,000 euros in revenues and 23,100 euros in profits.²⁶ The top ten advertising agencies in Romania had revenues of 72.1 million euros and achieved profits of 2.1 million euros in 2015.

²⁵ Sources: State Budget of the Republic of Croatia, and responses to Requests for Access to Information from various bodies at national and local levels in Bosnia and Herzegovina, Serbia and Macedonia.

²⁶ Financial report available at: <http://mrt.com.mk>

The number of those employed in the media cannot be established accurately in any of these countries. The closest statistical category relates to legal persons engaged in 'Information and Communications', which refers to a great extent to media activities, and is accessible in all countries except Romania and Serbia, where there is a different methodology for systematising data on activities, which was not considered relevant. However, these data should be taken with reserve, since they do not refer to the number of journalists employed, but the total number of all employees in the 'Information and Communications' industry.

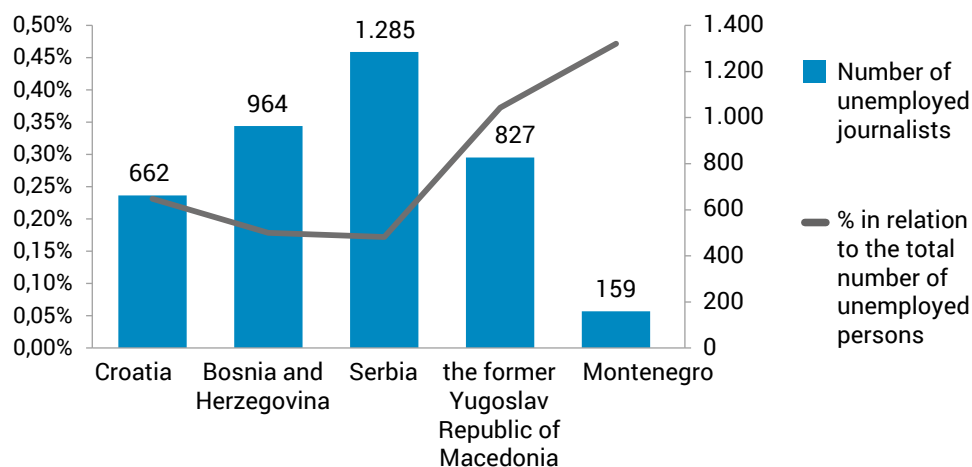
Figure 8 Numbers of those employees in the 'Information and Communications' industry and percentage in relation to the total number of employed persons in the country, 2015²⁷



²⁷ Sources: Croatian Bureau of Statistics; Federal Employment Institute and Employment Institute of the Republic of Srpska for B&H; State Statistical Office in Macedonia; Monstat Statistical Office of Montenegro and Employment Institute for Montenegro.

In 2015, the industry employed 33,028 people in Croatia, 18,113 in Bosnia and Herzegovina, 13,159 in Macedonia, and 1,959 in Montenegro. Also in 2015, there were 662 unemployed journalists in Croatia, 964 in Bosnia and Herzegovina, 827 in Macedonia, and 159 in Montenegro. If these figures are viewed in relation to the number of those employed in the same year, then unemployed journalists comprised 0.5% of the unemployed in Montenegro, followed by their Macedonian colleagues (0.4%). In Croatia, the percentage is somewhat lower (0.25%) while in Bosnia and Herzegovina and Serbia, it is 0.2%. In most of the countries apart from Macedonia and Montenegro, average salaries in the industry are higher than the national average.

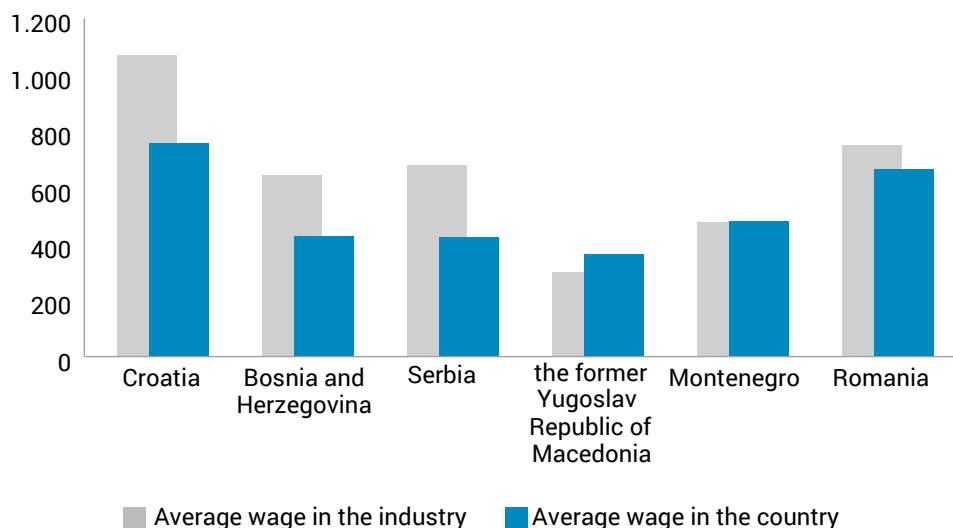
Figure 9 Number of unemployed journalists in relation to total numbers of unemployed persons nationally, 2015²⁸



²⁸ Sources: Croatian Employment Institute; Federal Employment Institute and Employment Institute of Republika Srpska, for B&H; State Statistical Office in Macedonia; Monstat Statistical Office of Montenegro and Employment Institute for Montenegro.

The highest average wage is in Croatia (1.069 euros²⁹ - where the average national wage is 758 euros), and the lowest in the industry and in the country generally is in Macedonia³⁰ (300 euros – where the national average is 362 euros).

Figure 10 Average net wage in the ‘Information and Communications’ industry, in relation to average net wage in the country, in EUR, 2015³¹



Romania and Montenegro each have six professional associations, while there are five in Bosnia and Herzegovina, three in Serbia, and two each in Croatia and Macedonia. Most of them provide assistance for members as necessary as part of their remit, i.e. when labour and other rights are threatened. The effectiveness of such assistance is difficult to estimate, since most of these associations are not systematic in reporting on their own work, activities, and decisions.

²⁹ Croatian Bureau of Statistics

³⁰ State Statistical Office of the Republic of Macedonia

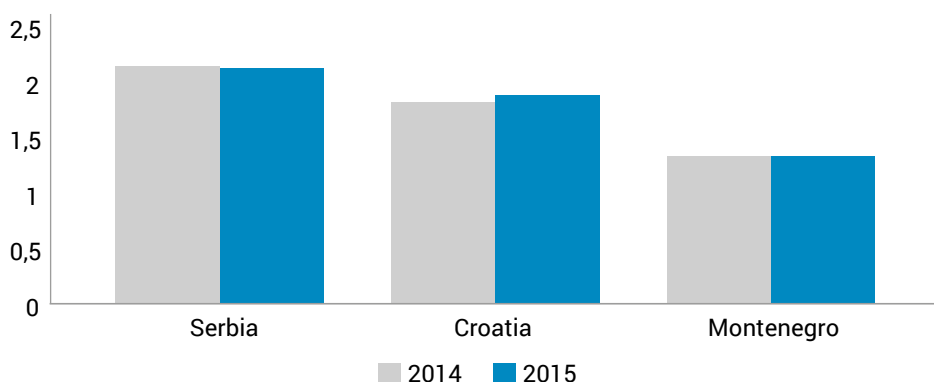
³¹ Sources: Croatian Bureau of Statistics; Statistical Office of the Republic Serbia; State Statistical Office of the Republic of Macedonia; Monstat Statistical Office Montenegro.

Trends 2014-2015

The number of laws which regulate the media sector has remained the same in most countries, but in Romania, two new acts were passed in 2015. Specifically, an emergency ordinance was adopted on state subvention for television stations, along with an ordinance on prohibiting discount rates for advertising. In addition, a new regulatory institution was introduced in Romania, which is competent to manage the national cultural fund, in connection with the ordinance on state subvention mentioned above. The total number of amendments in media legislation increased, when all countries are considered, which indicates increased intervention by the state in the media sector in relation to the previous 2014 measurement. Although public debates on draft laws were not held in most countries, one was held in Croatia, in which six parties participated. However, the negative trend in relation to the previous measurement, in the case of Croatia, was reflected in the fact that on this occasion, the report on the public debate conducted neither showed the proposals which were submitted, nor state which of them were accepted.

In most countries, apart from Bosnia and Herzegovina and Romania, there was a fall in the number of decisions issued by regulatory bodies in relation to the previous measurement. The number of appointments and dismissals in 2015 was on the rise in all countries (apart from Serbia and Macedonia, for which data were unavailable). In Croatia, there were actually nine new appointments in 2015, which may be linked to the fact that it was a pre-election year.

Figure 11 Total number of media (public, non-profit and private) per 10,000 population, 2014-2015³²

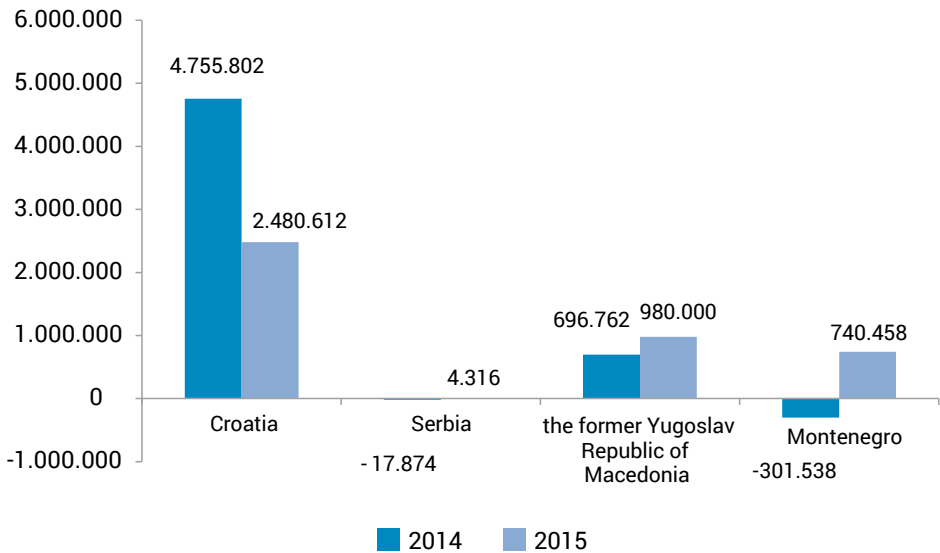


³² Sources: Serbian Media Registry; Electronic Media Agency of the Republic of Croatia; Electronic Media Agency of Montenegro.

In Serbia, there was a noticeably significant fall in the total number of public media in 2015, which was expected, given the privatisation process. The number of non-profit media, on the other hand, grew significantly in Croatia, by as much as 300%, while the number of private press media and radio stations fell considerably (by 12% and 16% respectively). At the same time, the number of private online media in Croatia grew. In terms of radio stations, a negative trend similar to that in Croatia was recorded by private radio stations in Macedonia.

In Croatia, revenues from public television stations grew in 2015 by 7 million euros, but profits at the end of the year fell significantly by about 50%. Here, we should emphasise that television station revenues comprise almost 90% of all public media revenues. In Montenegro, the total revenues of public television stations grew, as did their end of year profits, while in Serbia, revenues fell, though they emerged from losses and in 2015, in fact, recorded slight profits – again the result of privatisation.

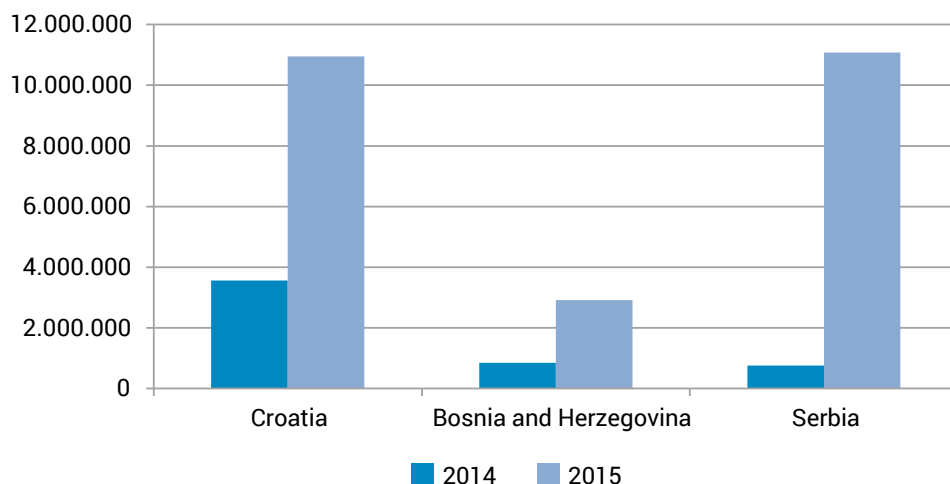
Figure 12 Total profits/losses by public television stations, in EUR, 2014-2015



Regarding private media, total revenues in Croatia fell significantly by 11.5%. However, in spite of diminished revenues, losses were reduced in comparison to 2014. There was a particular problem in the printed media, whose revenues fell by 50 million euros, i.e. by 27% in relation to 2014. On the other hand, television station revenues increased by 7 million euros, and losses were reduced by about 60%. Privately owned television stations in Macedonia continued to enjoy revenues at the same rate as the previous year, at about 26.5 million euros, however it is a fact that in 2015, the losses recorded were warnings of a negative trend. Radio stations in Macedonia recorded a similar trend – revenues were up, but profits were significantly down. Online media in Croatia recorded the best economic indicators and trend – revenues were up by 3.5 million euros, and profits rose significantly by about 300,000 euros.

In Croatia and Serbia, the number of media which are beneficiaries of state support is growing. In Croatia, the number rose in from 190 in 2014 to 212 in 2015, which in Serbia, growth was even greater, from 248 in 2014 to 794 in 2015. At the same time, the total number of state media subventions increased considerably; by about 300% in Croatia and 1,000% in Serbia. There was a similar trend in Bosnia and Herzegovina. The results of these trends are reflected in the proportion of the media (in relation to the total number) which are beneficiaries of state support. In Croatia, for example, the proportion has risen from 24.6% to 26%, while the value of subventions in total revenues has grown from 0.4% to 2.2%. However, at the same time, there has been a significant fall in the number of public tenders – from seven in 2014 to four in 2015 in Croatia. However, the number of media who receive financing from tenders has multiplied almost three times. The average value of financing per tender per media representative has fallen from 14,500 euros to 12,500 euros.

Figure 13 Levels of state support for the media, in EUR, 2014-2015³³



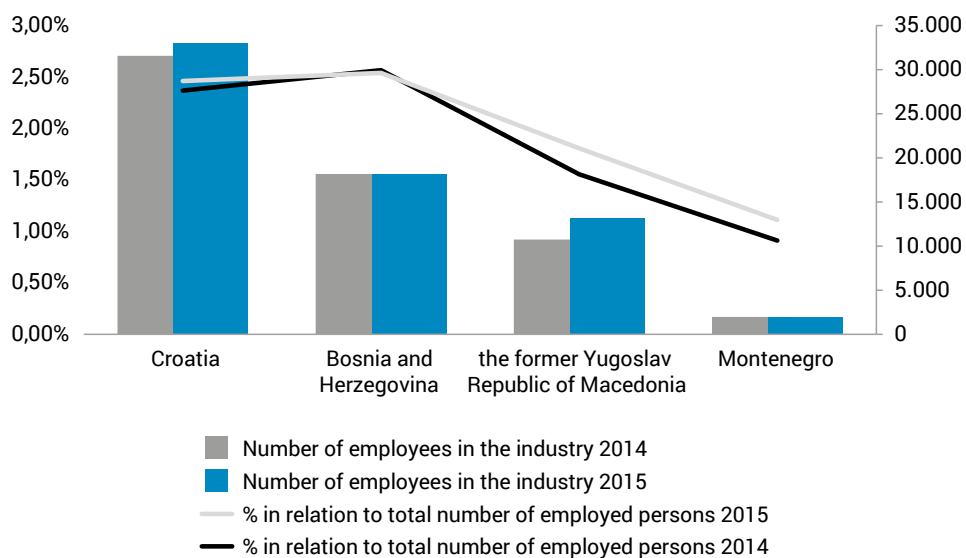
On the other hand, the level of finance from the budget for promotion and information has grown in Croatia by 1.5 million euros, and as a result, the proportion of these funds in total media revenues has grown, from 4.02% in 2014 to 6.3% in 2015.

The revenues of advertising agencies in Croatia rose in 2015 by 18% (from 431 million euros to 522 million euros), but an even greater rise was recorded by the top ten advertising agencies in Romania - almost 50 million euros. Profits also rose – in Croatia, by almost 7 million euros in comparison to 2014, or 43%.

In comparison to 2014, the number of people employed in the Information and Communications industry in Croatia and Macedonia was on the rise. In terms of the total number of employed persons in these countries, the proportion of those employed in this industry in 2014 was 2.37% in Croatia and 1.56% in Macedonia, while in 2015, it rose to 2.46% in Croatia and 1.81% in Macedonia.

³³ Sources: Electronic Media Agency and Ministry of Culture, for Croatia; Provincial Secretariat for Culture and Public Information and the Republic's Ministry of Culture and Information, for Serbia; responses to Requests for Access to Information from various state institutions in Bosnia and Herzegovina.

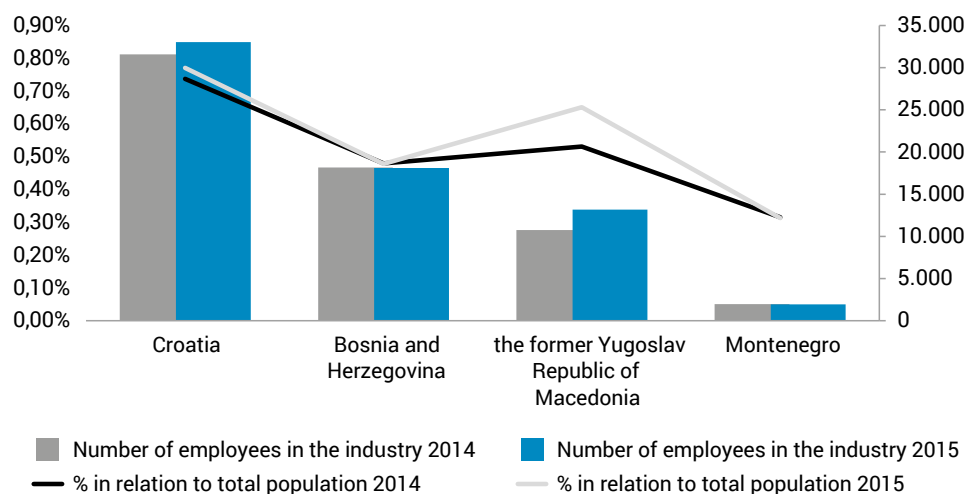
Figure 14 Number employed in the media industry and their proportion in relation to total number of those employed in the country, 2014-2015³⁴



³⁴ Sources: Croatia Bureau of Statistics; Federal Employment Institute and Employment Agency of Republika Srpska, for B&H, State Bureau of Statistics in Macedonia; Monstate Bureau of Statistics for Montenegro.

If we compare data on those employed in the industry with the total population, in 2015 they represented 0.77% of the total population of Croatia, 0.48% of the total population of Bosnia and Herzegovina, and 0.31% of the total population of Montenegro. In relation to the previous year, Macedonia reported a significant positive trend, according to which those employed in the industry represented 0.53% of the total population, while this figure rose to 0.65% in 2015.

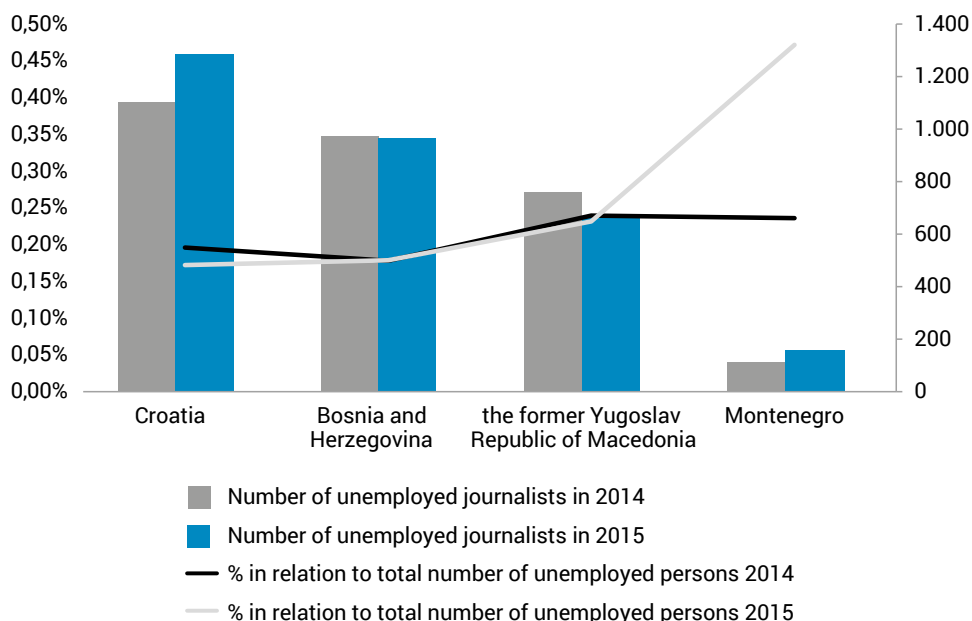
Figure 15 Number employed in the media industry and their proportion in relation to the total population of the state, 2014-2015³⁵



³⁵ Sources: Croatia Bureau of Statistics; Federal Employment Institute and Employment Agency of Republika Srpska, for B&H, State Bureau of Statistics in Macedonia; Monstate Bureau of Statistics for Montenegro.

In 2015, the number of journalists in employment fell in Croatia by 13%, while in Bosnia and Herzegovina, it was almost imperceptible. On the other hand, the number of unemployed rose in Serbia by 16.5%, while in Montenegro, it was 42% higher than in 2014.

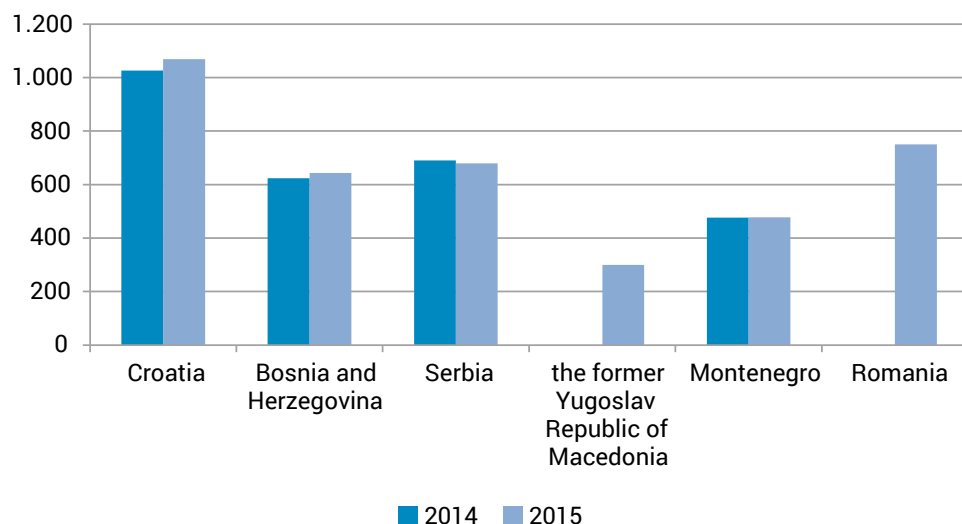
Figure 16 Number of unemployed journalists in relation to total unemployment figures by country, 2014-2015³⁶



³⁶ Sources: Republican Bureau of Statistics, for Serbia; Federal Employment Institute and Employment Agency of Republika Srpska, for B&H; Croatian Bureau of Statistics; Monstate Bureau of Statistics for Montenegro.

In Montenegro, the number of journalists who were union members also fell, by 17%. The average monthly salary in the industry in Bosnia and Herzegovina rose by 20 euros in relation to 2014, while in Serbia, it fell by 11 euros. Interestingly, in the former Yugoslav Republic of Macedonia and Montenegro, the level of the average salary nationwide was higher than the average salary in the industry.

Figure 17 Average net salaries in the media industry, in EUR, 2014-2015³⁷



There was a decline in the number of members of professional associations, including in Croatia, even though a new association was established there. The number of assistance initiatives provided by professional associations in 2015 also fell in most of the countries, except in Bosnia and Herzegovina. At the same time, there was a noticeable decline in the quality and recording (if any) of activities and assistance provided by professional associations. However, the most significant information in relation to 2014, which was only available for Croatia, highlighted the dramatic decline in the overall number of people employed in the media. In the public media, the number of employees fell by 35% in 2015, and in the private media, by 60%. In addition, 21% of the total work force employed in the media was working in enterprises which functioned with losses.

³⁷ Sources: Republican Bureau of Statistics, for Serbia; Federal Employment Institute and Employment Agency of Republika Srpska, for B&H; Croatian Bureau of Statistics; Monstate Bureau of Statistics for Montenegro.

**DATA
INTERPRETATION**

DATA INTERPRETATION

As mentioned earlier, the data gathered were interpreted by experts during the weighting process, or rather the indexing of individual categories. In each country, experts considered each of the five subgroups (SG1 – SG5) measured by the index, assessing how much, and indeed how the state of affairs they found (measured), according to data gathered from primary sources, affected the prevention of clientelism in the media. For each subgroup, the experts assessed all levels of the data gathered (from declarative data in regulatory acts to data in which the values given, or instruments of the state tested via data collection from primary sources on the functioning of all levels of the media industry, from legislative and regulatory bodies to economic operators participating in the media market, and institutions/organisations charged with supervising the business operations or functioning of the media). In the vertical (control) data assessment, the experts evaluated each country according to previously given criteria for four levels (T1 – T4), assessing the capacity of the state or society to detect or prevent (or even sanction) clientelism in the media. For each country, the experts had access to around 350 different data vital to and understanding and assessment of the situation in the media, and on the basis of their examination and analysis, defined priority recommendations for each country, i.e. issues which needed to be addressed urgently. The participants in the expert groups in the different countries did not know each other and did not have access to each other's assessments.

Croatia

Legislative framework

For the Republic of Croatia, the experts agreed that a regulatory (i.e. legislative) framework which governs the functioning of the media exists, and that certain provisos (such as the proviso on public and publically accessible consultation with interested segments of the public) should be sufficient to prevent clientelism. However, the experts thought that the regulatory framework was often absent, or manipulated by those liable, and that in certain cases, laws regulating media space were simply “ignored as though they did not exist (E1)”. The regulatory framework (including laws, sublegal acts and public policies), or its adoption process, was exposed to “the influence of the narrow interests of political parties (E2)”. According to the expert interpretation of the state of affairs, it was evident that control mechanisms which should have prevented the influence of clientelism on the decision-making process regarding the regulatory framework governing the media were weak, i.e. inadequate to oppose clientelism in these processes. From

the data it was evident that “the process of reporting on the adoption procedure of regulatory acts is inadequate (E3)”, and that it therefore allowed unjustifiable, non-transparent political influence to be exerted on decision-making, while it was also evident that the process was exposed to the risk of “unjustifiable influence by various private lobbies (E3)”. No analysis of debates conducted was carried out, nor were any potential protective mechanisms employed in these processes (such as corruption proofing). Finally, the experts agreed that part of the problem may have arisen from the inconsistency of certain regulatory acts, particularly at the level of laws, and from “the insufficient activity of the profession, even in situations when the law provides for the exercise of certain rights (E1)”.

Institutional framework

The experts agreed that the key problem of the institutional framework charged with ensuring implementation of the law or regulatory acts and public policies lay in the politicising of the system, or its direct reliance on prevalent political discourse. The way in which the system is organised or functions in practice resulted as a rule in clientelist practice, as the experts explained, stating explicitly that “the institutional framework as such does not function, since it is absolutely under the influence of politics and directly linked to political functions, so that with each election, if there is a change of government, everything that went before is erased; if the left comes to power, we will get this and this, but if the right comes to power, we will get rid of that and that (E2)”. The experts claimed that the semblance of order in institutions and procedures existed, and that formal procedures were often satisfied, but that the basic principles of the rule of law and application of universal principles in decision-making were lacking. In the example of “institutions which in similar or identical cases render different decisions, immediately indicating there is a problem in standardising systems (E3)”, the experts noted inconsistency in institutions in terms of decision-making, i.e. the risk of clientelist practices. In this, they explicitly referred to the problem of the “understaffing of the Electronic Media Agency, particularly its legal service, which is itself unaware of holes in the legislation (E1)”. The institutional framework governing media space, particularly given the strength of the institutional framework which in certain situations has paralegal powers (e.g. granting concessions or prohibiting the work of certain media, approving entries in the media register, and even allocating financial support), was left with no high quality accountability mechanism. So, the fact that there was no institution for lodging complaints against the Electronic Media Agency, for example, actually fell outside the constitutional order of the Republic of Croatia. The data shown and the media reality according to the experts suggested that it is “difficult to achieve the political independence of such a body, particularly in our political

reality, when the composition of such bodies is determined by the Croatian Parliament (E1)". On the other hand, neither was there any basic mechanism to prevent conflicts of interest at lower levels of decision-making in these bodies (e.g. entry in the register, allocating financial support). The effect of these shortcomings, according to the experts' opinions, was seen in terms of the risk of clientelism in insufficiently transparent decision-making, particular in relation to the people who made individual decisions or exerted influence on decision-making in institutions, their professional or private interests, and whether these interests conflicted with, or affected in any way the impartiality of decision-making. According to the experts' opinion, ordinary citizens are unable to keep up with the scheme of interests which is important in assessing the quality of work of the institutional framework, i.e. in assessing the system's resistance to clientelist practices, so that when decisions and underlying motives are at least superficially questioned by experts, "it is evident that the people in these bodies are guided in their voting by private interests, i.e. they vote in relation to their own preferences and affiliation to interest groups (E3)".

Media ownership and transparency

In relation to media ownership, the experts agreed that there was declarative will on the part of the authorities, seen in norms described in the regulatory framework requiring media ownership to be transparent. However, the implementation of these regulations, and the functioning of the institutions which should be competent to implement them, was considered dubious by the experts. In fact, according to the data given, it was clear, according to the experts' opinion, that the veracity of data on ownership varied from one media proprietor to another. So, for some media, the proprietors were clearly visible and declared, while for others, they were not (/E2). However, the experts raised questions about the veracity or consolidation of data on actual media proprietors. According to the experts, "there are certain formal obligations for publishers of printed and electronic media to declare any changes in ownership, but not enough is being done on reporting the connections between owners and other economic subjects, interests, or private persons (E3)". Examples of poorly resolved issues of recording media ownership ranged from the absence of any real insight into the business operation of an internet portal, to keeping a register of printed media, or rather their ownership, in the register of the Croatian Chamber of Economy, a subject which does not wish to fulfil this function and is not in a position to do so properly. So we find ourselves in a situation where although there are legal obligations to declare ownership, and sanctions prescribed for false depiction, or the failure to declare media ownership, "up to now, no sanctions have actually been imposed in this regard (E3)". Discrepancy in the experts' opinion was only obvious in the

ownership picture declared by non-profit media. In fact, one opinion was that ownership of non-profit media, or interest connections through it (members of an association who are also proprietors of portals and their interest connections, particularly political) were not visible to the public, so that in the case of most non-profit media, it could not be ascertained whose interests they represented via their ownership or management structure. On the other hand, another opinion stated that non-profit media, despite all their weaknesses, were more transparent and higher in quality in relation to most publishers/broadcasters working in the commercial sector. Finally, the experts considered the most recent trends in which certain media were literally handed on a plate to entrepreneurs, and the situation with Novi List, whose proprietor remains unknown, despite exposing this issue in the political and public arenas.

Media market

The experts in the Republic of Croatia thought that the category of the media market, along with categories covering the functioning of the institutional framework, represented the highest risk in terms of exposure to clientelist practices. Data gathered through research within the framework of the index for Croatia pointed to an unenviable declining trend in the media market, reduction in the number of media (apart from internet portals), reduction in the number of those employed in the media industry, and losses by private media in 2015 compared with 2014. All this indicates that the media are becoming increasingly exposed to unethical political and economic pressures, i.e. clientelist demands. In the first part of the commentary, the experts considered direct political pressure, seen in direct pressure when the body of public authority was a media proprietor or co-proprietor, and then in cases of private media, via various grants, marketing packages, and other financial arrangements by politically guided subjects, whether at the national or local level. In this respect, arrangements in which the media had a part, according to the experts, came closest to the phenomenon of hidden advertising. This means that instead of a donation, or commercial agreement, “a positive image is circulated in the local and national media pertaining to a county prefect, mayor, or minister..., while this financial or interest-derived relationship is often concealed (E3).” This debatable practice is increasingly hard to detect, according to the experts’ opinions, and financial packages are often clinched with public companies and other institutions whereby a politician who is rewarded by having his media image presented in a positive way cannot be held directly accountable, though through the appointments and employment system, he may actually control external contracting, including marketing. Although this practice was detected and tried in the Sanader case (Fimi Media – author’s note), the experts considered it was

still widespread. Along with hidden advertising aimed at promoting politicians, some centres of economic and financial power did not go unnoticed. The experts looked at contentious publications of identical headlines in three different media (the Vlahović case – author's note), which suggested the existence of “widespread practices of hidden advertising, which is unlawful, but which has not been sanctioned so far (E2, E3)”. Another problem is the concentration of advertising capital indicated by the data gathered. In 2015, advertising agency revenues exceeded media revenues for the first time, at just over 511 million euros. In this, the UNEX Agency predominated, with its spin-off company AGROKOR (i.e. Ivica Todorčić), which generated the largest revenues on the advertising market in Croatia in 2015 (45 million euros, or 10% of the market). The trend towards concentrations of advertising capital was considered by the experts as “exceptionally worrying, alarming and dangerous (E3)”. Although the influence of this trend on media functioning can be considered at several levels, the experts concluded it involved “a pyramid structure, in which most advertising capital is held by companies linked to huge systems such as Agrokor, or agencies whose real or hidden proprietors are politicians or their nepotistic networks (E3)”. According to the experts' opinion, the actual proprietors of advertising agencies, and their clients, have a distinct influence on media functioning, including the quality of information and censorship in media space. Concentrated media capital, as a rule, determines the image which the media must spread about the greatest stakeholders in or clients of certain advertising agencies. Where there are deviations or discrepancies on the part of the media from this tacit agreement, media proprietors or management tend to make discreet suggestions about withdrawing, pausing, or cancelling advertising agreements, which the proprietor then conveys to the editors or journalists. This is seen in the public broadcasting service as “affecting editors, or even senior directors, who then intervene in the programme contents of the public television network (HRT), or, for example, one of the proprietors of the Index portal vets content, including and excluding news and reports (E2)”. The experts assessed the existence of the Fund for Media Pluralism positively, because the data showed that in 2015, the state distributed significant funds for the purpose of maintaining media diversity, which was particularly important for the local media scene and the survival of non-profit media. However, according to the experts' opinion, the positive practice of financing media from public funds was shaken in a series of situations involving non-transparent criteria and problems of inconsistency in the allocation of funds by the competent bodies, or rather problems concerning the interest links of those allocating the funds and the beneficiaries. The lack of adequate external supervision or control of funds distributed to the media by the state led to paradoxical situations, in which “the EMA, for example, was sent false reports on radio programmes which were never broadcast (E3)”, though the EMA never requested the return of funds given to the media concerned. On the other hand,

the experts thought that the system for financing non-profit media was “a good idea which had gone awry in practice, thus representing a risk in terms of clientelist practice (E3, E2)”. The experts’ stance on this issue, and on the issue of the institutional framework, was that political changes lead to changes in the media debate, which are outlined in the axiom: “they used to belong to you, but now they belong to us”. Most events and trends in the media industry in the Republic of Croatia can be reduced to this discourse, which of course represents the basic principle of clientelism. This is another problem which the experts pointed out, but which was not directly obvious in from data gathered for the index. In fact, according to their opinion, the trend of compensation in relation to advertisers or advertising agencies and media puts the media an unenviable situation where advertising space is sold for peanuts, and in return, instead of the capital they need to function, they receive material compensation, which they often do not know what to do with, and end up passing on to their staff in the form of gift vouchers. Agrokor was again criticised for this. The experts claimed it had a compensation department (E2/E3) dedicated to this alone, which resulted “without caricaturing the situation, in reality the relationship of the advertiser and the media seems to be that they advertise through us, and we get Christmas bonuses of 200 kunas (E2)”. Along with all the above, market circumstances and worrying trends in the media and advertising industries affect how journalists perform, so a common feature is sponsored travel for journalists. On such trips, generally to exotic destinations, journalists are expected to write favourably about their benefactor, and even when no agreed of amount of monetary compensation is involved, these arrangements have a considerable influence on journalists’ self-censorship. According to the experts, the financial crisis and crisis in the industry can be seen clearly in these situations, affecting journalists’ ethics, and journalists also frequently agree to write positive reports about certain topics or subjects in return for material benefits. The essence of the current market situation is summed up in this statement. “Journalists’ rights are useless, and in such circumstances, they are forced to act unethically (E1)”. All in all, market indicators and expert reviews of the data gathered suggest that all the weaknesses of media governance in the Republic of Croatia are found in this very category, and that the process of resolving the accumulated problems must begin immediately.

Fundamental rights and media freedoms

In analysing the segment of basic rights and media freedoms, the experts suggested that in future, this category should be divided into several subcategories, in order to gain a more detailed overview of the state of affairs regarding both aspects (E1). The experts thought that the situation in the media,

i.e. the situation of journalists' basic rights, was simply a reflection of the social situation, that is, that although as a rule "it is expected that there will be a higher quality of human and labour rights in this industry, and a higher level of education among the work force, these expectations are unfortunately not true (E3)." The experts agreed that both professional associations endeavoured to help their members, but the "hierarchical, centralised model of professional association often means that the closer one is to Zagreb, the higher the level of protection (E2/E3)". In the Croatian Journalists' Association, great progress has been made through "the founding of a Centre for Protecting the Freedom of Expression, in which fifteen lawyers have provided support for journalists who find themselves involved in court cases (E2)".

However, the experts expressed reserve regarding measuring the effectiveness of this body, since the system is in its infancy, and raised the issue of how much effort the lawyers would have invested in pro-bono cases. This also raised the issue of effective legislative and institutional protection for journalists, which lags behind the actual situation, given the rise in the number of attacks of journalists which are still unresolved. The experts agreed that sanctioning journalists for verbal offences, particularly in cases linked with Croatian Radio and Television, represented a key risk of clientelist practice, because it could affect journalists' work and production – the information which citizens consume. The so-called 'telephone' influence of politics on the management bodies of Croatian Radio and Television was another problem noted in monitoring basic rights and media freedoms in the previous year. This is not being addressed seriously, since there are obviously no legal provisions for this kind of anomaly, nor institutions which would deal with it in a proper manner (E2/E3). A large number of journalists work in a part of the industry which is obsolescent (media which are recording significant drops in revenue and huge losses – author's note), and this fact alone brings their basic rights and the quality of their work into question. As in other segments covered by the index, the issue here relates to capacity and the political will to order the situation in the media, i.e. the will to liberate the media from the firm grip of politics and advertisers who want to control them, or rather adapt the final media product to their private interests.

Recommendations

"All information about the media should be made available in one place, so that politicians can base their decisions on facts and stop dealing in stereotypes (E1)". This recommendation includes all the priorities mentioned by individual experts. In fact, from an overview of the data and experts' interpretation, it is obvious that in spite of the best developed system (in comparison with the other countries observed), the system for data gathering and management in

relation to media space is far from that expected or required. The fragmentation discovered, or rather the lack of consistency, and the lack of information or access to it in some segments (for example the issue of real ownership – author's note), vitally affect the capacity of the state to organise the media scene properly and react appropriately to problems which concern the media. At the same time, in considering the type of state intervention in data management which is needed, the experts agreed that "complete transparency of media ownership is the first priority, which all future policies governing media space must address (E1/E2/E3)". Another priority the experts agreed on was the functioning of the public broadcaster, Croatian Radio and Television, and other media in public ownership. The political culture in which "the winner of elections gets the public media as the spoils must be changed urgently." (E2/E3) Demotions, rotations and dismissals, and changes in editorial policy in the public media, must be based on professional criteria, long-term business strategies and universal principles, rather than on affiliation to political parties or professional associations close to some of the parties involved. Therefore, the creation of a system of internal and external control, which would detect and be obliged to prevent such practices, is urgently needed and should be achieved in the first future intervention in media policies. The third priority relates to the establishment of good oversight and management of financial support for the media from the state. Comprehensive registers of media ownership, financial and material support allocated to them, grants, and the declared interests of those involved in decision-making on media policies, support, or grants, must be organised and established in accordance with the state's technological capabilities, i.e. be available in real time to all interested citizens. The criteria for making grants to the media must be based on universal principles, and the system of legal protection in making grants, in relation to all decisions of the regulator, must be established in accordance with the constitutional order of the Republic of Croatia. Marketing capital which is placed in the media and advertising agencies by public companies, public institutions and political parties must be visible to control mechanisms, while information must be available to the public in real time. The experts agreed that the number of problems linked to the functioning of the media was high, and that some affect the very existence of the media, while others represent risks of deviation in media functioning, of which clientelism is one of the most dangerous, so that it is apparently difficult to decide where to start. Therefore the priorities proposed in this year's report are those which should be ensured, so that all other interventions in media space can be established on solid foundations.

Romania

Legislative framework

The main legislative act regulating the media is the Audiovisual Act no. 504/2002. The functioning of media outlets is also regulated by other laws, regarding access to information, the organization and functioning of the Romanian Society of Radio Broadcasting and Romanian Society of Television Broadcasting (Law 41/1994), the Rompres National Press Agency (Law 19/2003), electoral legislation, and legislation against discrimination, hate speech etc.

The Audiovisual Act no. 504/2002 was modified in 2015 by two emergency ordinances issued by the government, and a law. Most of the legislative modifications were not debated transparently, as emergency ordinances do not follow the usual legislative process. One of the panellists believes that despite the legal obligation for transparency, such policies (when formulated) are not widely debated in a transparent manner. Moreover, there were cases of legislation adopted to benefit specific beneficiaries close to the government.

Several other modifications were included in the legislation, of which some may encourage clientelism. One example is the newly introduced law on state aid. In 2015, the state opened the first state aid scheme to support operators that produce public interest programmes with educational, cultural or informative content. According to Emergency Ordinance 18/2015, the budget was 15 million euros and should have been distributed between 1 July 2015 and 31 December 2016. The initial law stated that the 12 most important market operators should receive the funds; after protests, this regulation was rescinded. One media expert considers that media policy formulation is rather reactive and, in some cases promotes clientelism – as in the case of state aid for the biggest TV stations.

The legislation does not contain enough safeguards against clientelism. There is no specific law to prevent clientelist influence, but some legal provisions of the Audiovisual Act prevent political/business involvement in TV and radio programmes in the form of non-transparent advertising, propaganda etc., as another panellist concluded.

Another of the experts' conclusions is that the influence of clientelism is not being dealt with by the legal and policy framework in Romania. The only remotely relevant provision is in the Audiovisual Act, which limits the "influence" a person can have on news and current affairs programmes (weighting shares held by the person and audience ratings of the informative programmes of the respective medium).

Institutional framework

The National Audiovisual Council of Romania (Consiliul Național al Audiovizualului) is the body that controls the management of licences and applies the law. The members of the body are appointed by Parliament and are under the supervision of the relevant parliamentary commission. Parliamentary control is carried out through debating annual activity and budgetary reports by 15 April each year.

The NAC is viewed as a politicized institution, as the votes of members often represent the interests of the political parties. Political polarization is also reflected in the lack of interest on the part of council members in participating in meetings. In 2016 alone, 17 meetings could not be held legally as there was no quorum.

According to one of the panellists, the National Audiovisual Council is highly politicised and cannot fulfil its mission of detecting efficiently clientelism in broadcasting; there is no institution in Romania that controls media clientelism.

Laura Georgescu, the president of the body, is under investigation for favouring a television station that belongs to a local politician (who has been convicted meanwhile for bribes and illegal party financing). Law 311/2015 modified the legislation and permits Parliament to replace the president of the council. This measure is seen as clientelist and as a possible mechanism for more visible political interference. The law also seems to target a specific person and does not have the general logic of a normative act.

Reports were sent to Parliament, but the management of the institution has not been changed. The NAC is regarded by public opinion as an institution that does not function properly. In 2016, when there were two rounds of elections, it was proved that the NAC was unable to react properly to derailment attempts by media outlets.

Pressure and accusations of political influence have occurred in both national radio and TV stations. One of the experts considers that public television and radio are politicized and close to bankruptcy, but all proposals by civil society aimed at saving public broadcasting have been rejected by politicians.

The President-Director of TVR (national television) has publicly claimed that pressure was applied to him by the governing party. Stelian Tănase complained in September 2015 that he was ordered by the Deputy Prime Minister, Gabriel Oprea, to stop broadcasting news about an accusation of plagiarism.

As for public radio, media unions have criticized illegalities and abuses of the management of the institution, including censorship and unlawful dismissals. Several journalists have been under investigation by the ethics commission for acting as whistleblowers. Moreover, several petitions have been sent to

Parliament and the President reporting abuse and clientelist practice by the General Manager, Ovidiu Miculescu.

The on-line media are not regulated and no institutional setting exists to control them. According to one expert, there is no institutional system for detecting clientelism in the printed and online media.

Fundamental rights and media freedoms

The rights of journalists are covered by the Constitution and relevant legislation. In 2015, some of the most important modifications aimed at limiting freedom of speech were the law on defamation and the laws on cybernetic security. The law on defamation was promoted by the current president of the Social Democrat Party, Liviu Dragnea. The purpose of the law was to sanction any act or statement that would create a state in which a group was deemed inferior based on criteria such as gender, religion, or age, but also political affiliation. The law was vigorously debated and harshly criticized; it was adopted by the Senate in October 2015 and is being debated in the Chamber of Deputies. Several civil society organizations protested against the decision and asked members of Parliament to vote against it.

There are constitutional rights to protect freedoms, European and universal charters adopted by Romania as a member of the EU, protecting fundamental rights, and there are codes of ethics for journalism. The efficiency of the professional and ethical codes in preventing clientelism is however low, according to one expert.

After libel and calumny were removed from the Penal Code a few years ago, following harsh criticism from the media and civil society, in 2015, Parliament debated the reintroduction of these two regulations in the legislation.

The legislation that allows journalists to access public information is Law 544/2001. The media are treated differently from other clients in the sense that information should be provided for them much more quickly, within 24 hours at most. However, in practice, journalists are not always granted information on data that may be sensitive for the government or politicians. One pertinent example was connected to the doctoral theses. The Ministry of Education refused to make public the list of doctoral candidates involved and said it was a “secret document”. Similar examples have been found in recent years, as sanctions are rather mild.

Codes of ethics are rather rare and do not function properly. One expert stated that there had been attempts to introduce into the journalists’ code of ethics provisions dealing with avoiding clientelism (conflicts of interest, bribery, etc.). They were received with reluctance (conflicts of interest) and implemented patchily. There is

no sustained, consistent rejection of clientelism by the journalism corps.

Media ownership and transparency

Media ownership can be verified from public sources. The Commercial Registry contains information about the administrators or shareholders of companies, but searching may be difficult. As one of the panellists puts it, “No ownership information is available to print (except for the Commercial Register, if you know where to look)”. The NAC provides information about the ownership of radio and television companies. No information is provided for on-line media; but ownership of the most important platforms can be traced.

Except for data on the ownership of broadcasting companies, no other data on media ownership is collected by the state.

Companies at both the central and local levels are tied to political parties or have owners who are under investigation. EFOR published a case-study referring to media ownership and financing in Gorj County. The study shows that ownership is strongly politicized and media outlets represent the interests of different local interest groups. The number of media outlets is higher than the real needs of the county, and they are used to promote the interests of the local parties. Also, state-owned companies are a source of financing local media, through public contracts.

According to one expert, the Romanian media are characterized by deep, corrupt relationships between media moguls and politicians who are often the owners of media companies. News networks serve (not transparently, presumably) their owner’s interests.

Media market

Our quantitative data shows that most of the big players in the media market have registered losses and reductions in employment. The figures of 2015 and 2016 published by the Ministry of Finance show that most of the big media companies have experienced losses and are not profitable. Therefore, they depend on investments by owners.

One expert considers that the media market is not functioning as such because it is rarely about the media themselves. Owners use the media as instruments to gain power and money.

Press agencies are no longer a major source of information, due to lack of funds from subscriptions, while journalists use social media intensively to produce

news. In 2015, Mediafax, one of the main news agencies, encountered legal issues, as its owner had been under investigation for tax evasion related to journalists' salaries.

The big advertising companies prefer national media outlets. Printed media are less and less common, as a large number of newspapers have been shut down or transformed into an online version. Publicity investments in the printed media have also declined in the last years, according to the Media Fact Book.

Local media are frequently financed through publicity funds from the local budgets of municipalities. Most of the money is given directly, as the procurement legislation states that procurement of less than 30,000 euros can be done directly, without strict procedures. The contracts are rather discretionary, without clear requirements or success indicators. State-owned companies are also a source of funds for clientelist media through paid publicity.

Data on the media sector is gathered mostly from private companies and is available simply for payment. As one of the experts states, "Most data on the media sector comes from private operators, some is released publicly (via reports or press releases), but raw data is not available. Data on audiences and circulation is available via private sources. Detailed data is available for a price."

Conclusions

According to the experts we consulted, the institutional fragility remains one of the main barriers to the development of a professional, non-clientelist media. The national TV and radio stations are constantly under political pressure (through management and financial shortcomings), while the National Audiovisual Council has been constantly criticized for its biased positions and lack of intervention in media outlet derailments. The experts conclude that there is a need for the stronger involvement of the NAC in the sanctioning of behaviour that encourages clientelism and marked divergence from democratic principles; a less politicized board could transform the Council into a better performing institution. The same issues occur in relation to the national media TV and radio stations, especially considering the weak power of the unions representing journalists. Moreover, recently, the financing of public media has become a subject for protests, as the governing party was accused of cutting financing through public subscription and introducing funds from the state budget alone.

Legislation is generally modified without following transparency rules and legislative procedures, through emergency ordinances. As the experts have shown, there is a clear need for transparency and consultation involving all stakeholders. Repeated protests by civil society against limiting or clientelist pieces of legislation have underlined this need.

Moreover, the strong influence of media owners on editorial content remains a significant issue, both at the central and local levels. Research published recently on Gorj County as a case study shows that politicians are deeply involved in the financing of the media in order to promote their interests. Moreover, a high number of media outlets are constantly financed from the local publicity budgets. The lack of training programmes and civil society/union support for local journalists has led to a low level of professionalism, and abuse by media outlet owners. The rise of independent media channels, financed through grants or crowdfunding, increasingly represents an alternative source of public information, even though their sustainability from the financing point of view may be fragile.

Bosnia and Herzegovina

Legal framework

The experts stated that the legal framework for the media is good in Bosnia and Herzegovina and that it was the first country in this region to decriminalize defamation, and also passed the Law on Free Access to Information (OG 28/00), but that the key problem was wrong or incorrect implementation of these laws, jeopardizing journalists and associate media representatives. Poor implementation of the Law against Defamation³⁸ and Law on Free Access to Information were given as examples. Despite the legal deadline of 15 days for providing information, journalists often fail to receive requested information and there has been no proactive approach of posting or publishing information about public institutions, including public bodies and state-owned companies. As far as the Law on Protection against Defamation is concerned, its provisions have been abused in terms of bypassing mediation, resulting in all cases being legally processed, which in the end presented media representatives with numerous problems, since they were consequently exposed to pressure. This basically encouraged everyone to sue or press charges against media representatives. Also, verdicts were passed easily (again) against media representatives and fines were rather excessively high, thus violating the provisions of the Law on Protection against Defamation. According to this, in delivering a verdict the Court would, be obliged to take all aspects of the situation into serious consideration, primarily the level of fines imposed against journalists, which might present journalists with serious financial problems or even result in the cessation and closure of media houses. This kind of legal implementation led to the closure of the printed edition of *Slobodna Bosna*, a weekly magazine. The experts stated that

³⁸ Law on Protection against Defamation of the Federation of BiH (*Official Gazette of the Federation of BiH*, Number 19/03 and 73/05), Law on Protection against Defamation of the Republic of Srpska, Law on Protection against Defamation of Brcko District

legal framework did not cover major problems, unlike subsystems deriving from media laws under direct political control.

“The state seems biased and also manufactures ethnic media policies. This is the area where they dominate (E3)”. Also, experts emphasized that during the process of adopting laws, there was no mechanism to prevent the occurrence of clientelism – undue influence and impact on the legal framework. “It is difficult to speak about transparency and the introduction of certain policies under given circumstances, where there had been no significance initiatives at the level of politics for years”.

In rare initiatives filed for altering policies regarding media and during the recent period, it was obvious that the media had been guided by particular interests, instead of opinions provided by experts, including the general public interest. In certain situations, public debates were formally opened, but were not substantially structured; or debates were open to public debate during the summer holiday period and the duration of these debates was rather too short. The fact that the Law on Public Peace and Order of the Republic of Srpska covered social media, regardless of objections by the local/national or international public, best demonstrated and indicated the lack and shortage of responsibility by decision-makers, in relation to expert opinion and that of the general public (E1)”. The experts emphasized that governing authorities had never considered media market regulation as a top priority and that they dealt with the media only when they could gain clear benefits from it. They (the experts) cited the case of the public service broadcaster of BiH which, due to its inability to resolve the problem of the fee collection issue, was about to terminate its broadcasting programme and consequently shut down completely. “There is absolutely no political will to resolve this problem. Politicians only cared about the media in such situations, since they had used the public service broadcaster for self-promotion and to distribute photos of themselves. They were not interested in media problems in other situations or under other circumstances (E2).”

“Any omission of law adoption was, to some extent, a kind of clientelism. There were no appropriate media policies, whilst purely formal mechanisms were completely disregarded and disrespected. The public service broadcaster confirmed this, as there were no solutions to problems which affected public service broadcasters and, insofar as public service broadcasters were abused, political goals were agitated and planned (E1)”.

Institutional framework

According to the experts, the institutional framework established to implement the law, including legal acts, was under frequent political influence. The experts

cited the example of open conflict between political elites for managing positions at the Communication Regulatory Agency of BiH (CRA), constantly obstructing the work of the Agency and its full capacities. The experts agreed that the institutional framework was greatly exposed to clientelism-based practices and they also stated that politically biased individuals had been appointed to key positions ; people who would eventually work and act pursuant to programmes and plans defined by their political parties.

“The selection of key figures from the political media field has been under direct political influence. No experts have been appointed to key positions in media or media institutions (E1)”.

They emphasized that changes in governing structures were obvious and visible, because dismissals of previously appointed managers (and the appointment of new persons), always occurred after an election period, that is, after the new governing authorities appointed new persons, which generally indicated the existence of political clientelism.”There have been direct links and ties between the managing directors of media houses and boards of directors and politics (E2)”. The experts also claimed that Bosnia and Herzegovina, taking a wider time period into consideration, had made significant steps forward, in terms of institutions and legislation, although everything was still in hands of political elites. “Institutions cannot liberate themselves from political influence and cannot make sound decisions. Politics govern and run the media via the members of board of directors appointed in media houses and other associated bodies. (E3).

Media ownership and transparency

The experts agreed that adopting a law on ownership transparency in the media is essential in BiH. They claimed that there were no comprehensive media registers containing data (information) regarding (and including) monitoring sources of capital and unexposed (hidden) owners, which together may lead to the emergence of clientelism in the media. “There are no easily available registers regarding media ownership and there are no regulations for media regarding this specific issue. Information is provided through municipal and county courts and the CRA has a register for electronic media³⁹, but there is no universal, single register (E1)”. They claimed that ownership transparency reflected on public interest and that citizens needed to know who was behind certain media houses and what their aims were.

“The case of the daily newspaper *Faktor* (now a local web site), confirms this example. Capital was invested from abroad and unknown individuals employed

³⁹ <http://rak.ba/bos/index.php?uid=1267325759>

a number of journalists, but after certain time, the investors decided to close down this newspaper. They seem to have come to support a particular political party, since we have no information about their origins or plans (E2)". Political elites have never showed any interest in regulating this particular field which, according to the experts, would mean conformity with the situation in which the people backing and supporting a certain media house would remain unknown. Regulation of media ownership is important for the prevention of media concentration, including the prevention of media pluralism and information.

"This field is crucial and the non-transparency of media ownership produces clientelism. It is necessary to regulate this area at the state level, including the passing of a law on media ownership (E3)". The experts also emphasized the problem of the non-transparency of online media ownership. They emphasized that there were no standards regarding information released regarding the ownership structure of online media houses posted on their official web pages, while many online media houses were not actually legally registered, which made the process of identifying the real owners even more difficult.

Media market

The experts agreed that in the media market field, advertising and grant distributions to media houses, including budget financing, was rather unregulated and non-transparent, creating a great potential for clientelism. Research conducted as part of the Clientelism Index in BiH showed that media financing processes, with money being distributed and allocated from public budget sources, had proved non-transparent, and that during the process of budget funds distribution, no official authority seemed concerned about the public interest or programme development of the media house (the receiver); instead, budget funds were allocated to media houses without prior public debate and clearly defined criteria. In state and entity institutions, particularly ministries, advertising and media services feature in different acts and it is thus difficult to acquire specific information regarding the amount of money such media houses receive from the above-mentioned institutions. The budgets of these institutions often do not precisely define the amount of money planned and drafted for media services provided. It is difficult to get any information regarding this issue; media houses do not display this information on their official web sites, as there are no business reports on their web sites either, and audit reports are not easily accessible. "Money has been distributed, dispersed and allocated in a rather non-transparent manner, with no public interest test taken into consideration, which once again provides room for corruption and additional abuse. Information regarding the

media market is indeed poor and rarely available. According to the CRMA⁴⁰, around BAM 30 million is annually planned and allocated for further distribution to media houses, with the public completely unaware of this fact (E1)".

"There is no transparency in money distribution because funds are distributed, dispersed and allocated with absolutely no criteria whatsoever. Politicians use public goods to reward certain media houses (E2)". There is no Law on Advertising in BiH and because of this, all media houses experience difficulties in all aspects of their work.

Big companies and advertisers have shown little trust in an unregulated media market, thus bypassing Bosnia as a business market. They prefer to enter the BiH market through media and marketing agencies in neighboring countries and this consequently leaves media houses in BiH more dependent on financing from public budget sources, which once again provides a route for the emergence of clientelism. Independent editorial policies are being jeopardized and are directly dependent on political bodies, whereas they should be able to report on them in a critical manner. "Municipalities and assemblies finance media houses, and this is exactly how the process of political manipulation commences (E3)". Apart from the regular financing of public media houses, other media houses are provided with non-refundable financial grants, with no prior, clearly defined criteria and often with no public tenders for allocations of these grants.

Fundamental rights and media freedoms

According to the experts in BiH, there are constitutional guarantees and media laws which formally guarantee media freedoms, although the mechanisms for judiciary and legal protection, in cases of pressure exerted against journalists, are not developed sufficiently, so the proponents often end up being legally unpunished⁴¹. Freedom of expression has been limited in reality, with a vast number of cases in which journalists were exposed to pressure, including death threats and brutal physical assaults and attacks.

The number of verdicts in favour of journalists and media representatives, pursuant to defamation-based charges against them, is increasing. There are also many cases of pressure on journalists (exerted by media owners), where they have been warned not to make reports based on criticism of political and

⁴⁰ Podaci Centra za razvoj medija i analize, CRMA, još neobjavljena analiza
Information provided by the Centre for Media Development and Analysis, CRMA, the analysis is yet to be published

⁴¹ According to information provided by Free Media Help Line, between 2006 and 2017, there were over 500 cases of pressure and assaults against journalists, of which only 22% were legally processed

economically powerful centres.

“The socio-economic status of journalists has been vastly degraded, so many journalists have been exposed to a variety of pressures. The availability of information in industry, the status of journalists and media freedoms and liberties in general have not been systematically assured; instead, they depend on the involvement of the civil sector and how it collects and releases such information (E1)”. An additional, important factor, demonstrating pressure on journalists’ rights and freedoms, is the economic degrading of journalism in general, including low, irregular salaries and monthly wages, working with no contracts, unpaid overtime etc. “Journalists cannot earn enough money to assure regular, normal work. Journalists earn between BAM 400 and 500 per month, which is certainly insufficient for the worthy, independent work they should perform (E2)”.

The experts also mentioned another problem - the lack of competent legal provisions covering the criminal law at the entity and state levels, which would provide adequate protection for journalists, since the conditions under which they work and operate at present are indeed unacceptable (E3)”.

Recommendations

The experts emphasized that a serious media strategy is required at the state level in order to regulate the media market, and to make it more transparent, including the protection of journalism as a professional occupation from further degradation and underestimation. “It is necessary to pass certain laws regarding advertising and ownership transparency in the media.

The process of budget funds distribution must also be more transparent and adequate procedures must be created for these procedures. The fragmentation of the administrative structure is yet another reason supporting this argument, since it may and often does result in institutional irresponsibility, as far as the availability of media information is concerned. Therefore, it is necessary to systematise media information, so it is accurate and easily accessed. This recommendation is that new legal provisions should provide journalists with better protection from the autocracy of media house owners and ensure a better work-related legal status for all journalists, including protection during professional assignments. Media ownership transparency is highlighted here (E1E2E3). “It is necessary to create procedures for the distribution and allocation of budget funds and to create transparent view of this kind of public money distribution. This information must be made public in order to prevent clientelism – based occurrences.

Also, it would be required to create procedures and rules for distribution and dispersion of budget funds, in terms of announcing public tenders, so making

access to these procedures more transparent (E1E2E3)". As far as the crisis of the public RTV Service is concerned, it was stated that the governing authorities needed to find urgent solutions for financing the public RTV Service. Politics needed to be separated from this issue and the deadline for finding an appropriate solution for financing the public RTV Service should result in the survival of public service broadcasters. Managing positions in institutions such as the CRA were also regarded as crucial for the media, including all boards of directors of public broadcasters and local public media houses. Instead of politically biased individuals who were almost always appointed to these positions, experts in the field, with the appropriate experience and knowledge for such positions, should be appointed.

The judiciary system and other competent institutions should be more active in terms of providing journalists with appropriate protection and they should also stop the practice of not punishing or fining those that assault and attack journalists in BiH.

Serbia

Legislative framework

The experts agreed that formally, Serbia has a good legal framework to regulate the media field, but the problem is that laws are not being applied. This enables and opens the path to clientelist influence. It was noted that most of the major legislative measures adopted within the set of media laws in August 2014 are still not being applied in practice.

The experts believe that the reform of the media system in Serbia has failed, and that the law provided for the privatization of the media has in practice proved to be "scandalous". This is because privatization has enabled concentrations of ownership by political persons who are close to the ruling regime, and because the government has not withdrawn from media ownership in some cases, as prescribed by law. As an example, they cited the Tanjug State news agency that is still financed by the state, even after unsuccessful privatization, and after it formally ceased to exist on 31 October 2015.

The experts also pointed out that in the legally prescribed Media Register, there is no comprehensive information on media ownership or allocated funds. Problems with overall access to information in the Register are also mentioned as a major issue.

Also, the process of allocation of government funds to the media, prescribed by law and implemented through tenders, has proved problematic, especially at the local government level, because the members of Commissions for the allocation

of funds have usually been elected from unrepresentative media associations, local officials and politically similar entities. The experts noted that this situation made the process of the competition during these tenders “pointless”, because the Commissions did not rate proposed projects based on quality, but on media political affiliation.

The experts stated that laws were also violated by failing to prepare a new Media Strategy for the period 2016 to 2020, which should have been completed in July 2016, and that its postponement was the result of direct political influence.

Institutional framework

Regarding the institutional framework, the experts noted that the greatest problem in Serbia is the dysfunctional Regulatory Body for Electronic Media (REM), which, according to the experts, has proved to be “extremely corrupt and subject to pressure” in practice.

The REM ignores public interest for the sake of political interests; they ignore hate speech in the media, corruption, nepotism, and the abuse of national frequencies for political and private purposes. One issue was the absence of a report monitoring the coverage of media in the 2016pre-election campaign, and the representation of political parties in the media during that period, which should have been performed mandatorily by the REM.

Another problem occurred during the election of the REM Council members . Although the law provides that members shall be elected from among experts, and their expertise and superior public interest were listed as priorities, practice has shown that the ruling government majority directly influenced the selection of REM Council members, thus this body became “politically desirable” and subject to manipulation, according to the experts.

Regarding the institutional framework, the experts noted that the Ministry of Culture and Information is also failing to do its job, because it has not started the process of adopting a new Media Strategy and there is a lack of will to solve problems that are crucial to the media scene in Serbia.

Media ownership and transparency

Regarding media ownership, it was noted that, the public still does not know who the real owners are of most of the media in Serbia, and the problem remains unresolved even after the adoption of new media laws in 2014. Experts believe that it was exacerbated during the process of privatization, because the real owners were disguised during the acquisition of previously state-owned media. There is a vivid

example of this at the local level, where local media were bought by “a suspicious entrepreneur connected to the government”, such as Radojica Milosavljević who now owns 14 television outlets, and who openly admits that he represents the interests of one party. The experts noted that this information was not based simply on personal impressions. Qualitative data were confirmed by research into privatization processes carried out by several organisations in Serbia (Slavko Ćuruvija Fund, BIRODI).

The experts drew attention to the unresolved question of the ownership of the daily newspapers *Vecernje Novosti* and *Politika*, the accumulation of capital in relation to big media companies such as TV Prva and Television B92, and that government still has no answer to the question about what will happen to the Tanjug news agency.

The public media services are also rated as non-transparent, especially in terms of the level and distribution of the revenues raised by subscriptions. Another problem regarding two public media service is state budget financing, which has been prolonged until the end of 2017.

The experts noted that there is no transparency in the work of advertising agencies. There is no register of advertising agencies showing the total number on the market, because the current Business Register only shows the names of business companies without recording evidence of their activity as advertisers.

Media market

As for the media market, the experts believe there is unfair competition on the media market in Serbia, no uniform market conditions, the large houses take most of the funds, and local media are struggling to survive. They also note that economically powerful individuals are subject to strong political influence and there is a vicious circle that affects the media through their money.

A huge problem in Serbia is budgetary funding, because it is not transparent in the sense of forming independent commissions responsible for evaluating the quality of projects to be financed from state budget funds. The lack of an objective system leads to unequal conditions for participants in state tenders, overlooks media outlets with tradition and respect for journalism ethics, and jeopardises freedom of speech.

The experts also point out that no one knows the actual circulation of print media in Serbia, because some produce fake figures to increase their value on market. The Media Association has tried for some time to establish a system to address this problem, but they have encountered many difficulties. Unfair competition is rife among news agencies too. The Tanjug news agency is still present on the

market, receiving funds from the government, while two private news agencies, Beta and Fonet, are disadvantaged by this unfair competition.

Fundamental rights and media freedoms

The main conclusion regarding media freedoms is that they do not exist in Serbia. The experts agreed that media freedoms cannot be positively evaluated as long as there is oppression of journalists and others who criticize the government. The latter are often branded as traitors on the front pages of tabloids like *Informer*. "People who are not free to do their job cannot be ethical; they can only be subject to corruption," the experts agreed.

It was noted that there is direct and indirect pressure on the media and journalists, who are unprotected and whose rights are threatened. The exact number of journalists employed is unknown; most work under foreign legal contracts, and many are part-timers on minimum wages. One example is Brankica Stankovic, who continues to live under police protection. Attacks are carried out regularly on independent newsrooms such as KRIK, CINS, BIRN, VOICE, Cenzolovka, and Istinomer.. Almost all journalists are under threat, not just portals and independent media focusing on investigative journalism. Individual journalists are attacked as a way of sending a message to others. Such threats are one of the reasons for widespread self-censorship among journalists. The experts noted the insulting attitude of officials towards journalists, especially women journalists, who are treated as inferior beings. A drastic example of was a comment made by former Minister Bratislav Gasic to a woman journalist. He said he loved journalists who got down on their knees quickly. This led to wide protests by journalists throughout Serbia during early 2015.

As a positive example, the experts pointed to the work of the self-regulatory Press Council, which received a positive assessment from the European Commission. They also assessed as positive the commitment of the movement 'Support RTV' to maintain professionalism and journalist freedom in public media services. A group of journalists within this informal movement organized several protests, street campaigns and debates in Novi Sad after the sweeping political dismissals of editors and journalists in the Radio Television of Vojvodina (RTV) public media service. These political changes occurred just a few weeks after the elections held in 2016, when government of Vojvodina was completely replaced.

Montenegro

Legislative framework

The experts agreed there were adequate laws, aligned with international standards, to regulate the functioning of the media in Montenegro. These laws were adopted at the beginning of 2000 with the aim of protecting the media absolutely from clientelism. According to the experts' interpretation, the legislative framework is completely fit for purpose, but implementation is still patchy. This is not due to bad legislation – the legal provisions are clearly defined – but due to a lack of application. The way to deal with this problem, according to the experts, would be to mount a public campaign. The problem is that the media scene in Montenegro is divided, and both sides avoid the issue. Any law adopted in Montenegro is published in the official gazette and is accessible on the internet, but the question is whether anybody is prepared to engage with the issue.

Institutional framework

The experts assessed that political pressure was present from both sides – the party in power and the opposition. They stated that it could be interpreted as the editorial policy of a certain media house.

If a certain media house advocates a certain political line, conditionally speaking, it is legitimate, even if it is subject to a certain kind of influence, as long as it remains within professional boundaries, i.e. serves the public interest. The experts agreed that the media were “most often themselves to blame for what happens to them”.

The institutional framework (the independent regulator - the Electronic Media Agency, the withdrawal of the state from managing the media, support for media self-regulation, accepting the principles of the European Court of Human Rights, etc.), has ensured the adoption of media laws on paper. In practice, in the context in which they function, the media are subject to clientelist practices, as in the rest of the region.

The experts thought that the number of defamation cases brought was still high, indicating a weak self-regulation mechanism, and general misunderstanding regarding the role of the media on the part of institutions and bodies involved in media policies. One positive step forward is the revised Journalists' Code of Montenegro, which addresses online comments, hate speech in public places, and slander and libel, for the first time. Particular progress has been achieved in this respect by the fact that opposing media groups participated in its production (all the members of the Media Council for Self-regulation on the one hand, and

Vijesti and *Dan* on the other). The process was chaired by the OSCE Representative for Media Freedoms and Office of the European Council.

One problem that remains is the fact that the Electronic Media Agency does not monitor the work of the printed media online, and Montenegro is specific in the region at the level of the printed media. In fact, most instances of violation of the principle of free speech, ignoring the code of ethics, proscribed media concentration, conflict of ownership interest, and clientelist practice, are most obvious in the printed and online media, for which not a single institution has been given systematic oversight. The October opposition protests highlighted again the weakness, bias and ineffectiveness of institutions in protecting the media profession and also the public. According to the experts, the sanctions issued for criminal offences and misdemeanours committed during the opposition protests were again politically motivated and regarded by both sides as a struggle against others with different political views. (During the protests, the main targets of the hooligans were the pro-government media, but so far, no-one has been tried for attacking and throwing stones at the television building. After the protests, the independent media were targeted and the courts sentenced offenders to jail for using social media to issue death threats against the director of TV *Vijesti*.) The 'two sides' problem in Montenegro has become more complex with the arrival of new parties, coalition, and 'media parties' in the Montenegrin government (there was a provisional government from March to October 2016), because "each party protects its own people, particularly the media", according to the experts' comments.

Another problem which the experts noted was the politically directed appointment of the new management of the public service broadcaster, which has been informally run in recent time by the SDP opposition party.

There were many particulars which proved problematic, to say the least, during 2016, regarding the protection of the democratic principles by which the media function.

The experts agreed that the capriciousness of institutions will not be resolved until they establish bodies which will be systematically independent in their work, with the mandate to monitor, review, and react to the complaint process regarding the work of institutions charged with protecting free speech and the media in Montenegro.

Media ownership and transparency

Insufficient media ownership transparency, inadequately applied anti-monopoly measures and inefficient rules regarding media concentrations have resulted in the created of groupings which distinctly polarise the media scene in Montenegro.

They either provide public support or opposition within the country, and as a rule serve political centres of power, for the propagation of priorities and discrediting of opponents, often ignoring professional standards and the public interest. Non-transparent media ownership continues to exacerbate the problem of degrading professional journalism. Media owners who have access to foreign capital tend to further pro-governmental editorial policies. Media owners who have access to domestic capital (the origin of which is generally unknown) also play an active role in the banking sector, fostering the editorial policies of the opposition. The experts agreed that in certain media, ownership is clear and made public, while it is not in others. It is difficult to trace ownership in certain media, or discover who the real owners are, and the experts supported this argument by claiming that many media with companies and affiliates in Montenegro do not have clear, transparent ownership structures, so it is impossible to ascertain who stands behind them. The experts noted that it is often the case that large amounts of money are directed to precisely such media.

In their opinion, a great deal of information is accessible, since there are legal requirements for the media to publish information on ownership every year, and the law prescribes the obligation to publish their revenues and make this information available. Publishing financial reports has contributed to transparency on the media market. However, the drawback is that, in spite of laws which clearly regulate this area, circulation figures are often withheld. The experts cautioned that there are legal provisions, dating back fifteen years, which oblige the owners of daily newspapers to state circulation figures in their legal disclosure notices on a daily basis. The Printed Media Register kept by the Ministry of Culture is not accessible to the public, and regarding publishers, information can be accessed via a search of the database of the Central Register of Economic Subjects at the Tax Administration (CRPS).

One expert cited as an example the public service provider. He explained that its management structure is selected independently, in a way which protects it from clientelist influence, but on the other hand, it completely depends financially on local public administrations, on municipalities which provide its budget in full. The expert identified this as a danger area. On the one hand, administrative structures are protected from influence, yet they provide direct budget financing, nationally and locally, and this provides opportunities for clientelist influences.

In terms of the public service provider, the expert goes on to judge that council members are chosen independently, but that no-one can guarantee they will be independent in their actions. But this is possible, the experts agree.

Finally, there is no institution which keeps a register of online media, which means media concentrations and conflicting ownership scenarios are even more likely to occur. To address these issues, amendments to the law are required.

Media market

According to the 2015 official data of the Electronic Media Agency, there were 18 TV stations, 52 radio stations, four daily newspapers and one weekly newspaper in Montenegro. The only Montenegrin news agency is MINA, which is owned privately. There is no official, comprehensive list of portals or electronic publications.

In terms of state involvement in financing the media, no data are available, and the official statistics, like the budgets of local bodies of self-government allocated to the media, are completely unknown to the public.

What is available and transparent, and can be ascertained from the 2015 Report of the Government Commission on Monitoring Public Aid, relates to the RTCG.

In the report by the Government Commission, it is stated that in the area of “information culture and sport”, which includes the media, 3,965 million euros were allocated, representing 16.96% of total state aid in 2015. The information relating exclusively to the media referred to financial support for the RTCG public broadcaster, which was granted 378,500 euros in 2015 by the Ministry of Culture of Montenegro. There is no information in the Report of the Government Commission regarding allocations of state aid to other media.

The experts we talked to agreed that in this area, conditions favour the development of clientelism, which is difficult to suppress. In their estimation, the solution lies primarily in changing attitudes among the Montenegrin population.

Clientelist practice is fostered by a lack of respect for the only self-regulating body, according to the experts, along with the fact that a large number of media are present on a small market, with obvious unfair competition, and the fact that in Montenegro, the media scene is polarised and gravitates towards ownership interests, as is obvious in editorial policies.

The experts agreed that formally, many issues are regulated appropriately, but that in practice, they are not applied.

As an example of political clientelism in Montenegro, it is obvious from data provided by the Republic's Commission on Political Party Spending on Media Campaigns, in the run-up to local elections held in 2014, the extent to which the media served politics, and the extent to which they served the public interest.

According to this information, Vijesti garnered most income from the opposition parties, while the DPS invested most in TV PinkM and TV Prva.

A pattern of clientelist practice was also obvious in the latest elections held in Montenegro, in October last year, when Russian businessmen were implicated

in political events. The experts to whom we spoke estimated that these people undermined support for opposition parties through their businesses.

Fundamental rights and media freedoms

In analysing the area of basic rights and media freedoms, the experts considered that the rights of journalists are inseparable from basic human rights, from each person's right to carry out their work as necessary, and the right not to be harassed or prevented from doing their work. In Montenegro, they thought that journalists faced such obstacles daily. Ethics and media freedom, along with basic human rights, have foundered in Montenegro, according to these experts, because nobody considers themselves referential in their work. This has nothing to do with the state, as standards have been clearly prescribed, but has to do with the extent to which a journalist works ethically or not. An extremely important consideration, according to the experts, was whether the journalists' code of ethics was respected.

All the experts agreed that media freedoms, ethics and rights are occasionally abused in the interests of clientelist, or financial and political centres of gravity. It is as though the abuse of freedoms and ethics is permissible if it allows a certain interest to be achieved through the media.

There are self-regulatory bodies, which have no powers of sanction, only the ability to appeal to journalists' better natures. The problem, experts explain, is that the media in Montenegro are divided among themselves.

The experts explain that a self-regulatory body has influence in ruling on whether or not the code of ethics has been violated, but its influence is not comprehensive, as a large proportion of the media community refuses to get involved on a joint basis.

The experts assessed that it would be preferable to have a single media community united around a single self-regulatory body, to monitor the application of the code of ethics. In practice, they agreed, this was ineffective and unachievable.

When clientelist interests are strong, no one body can prevent them, nor any system of self-regulation, because there are no sanctions. When clientelist influences are not too strong, ethics may help, as may bodies concerned with international standards, because appeals to journalists' consciences, urging them to act professional, and to the media to adopt appropriate ethical standards, may go some way to deter clientelist influences.

The former Yugoslav Republic of Macedonia

Legislative framework

The experts agreed that the legislative framework of the former Yugoslav Republic of Macedonia governing the media has the capacity to detect, govern and prevent clientelist practices. “It would work perfectly,” they say (E1) “if a proper accountability mechanism for various segments of implementation was in place”. The lack of an accountability mechanism when selecting candidates for various bodies for example, combined with the “general intention of the former government to create parallel bodies in many spheres” (E2) creates room for ‘the well-designed framework’ to be destabilized.

As an example, the creation of the parallel journalists’ association in Macedonia (hailed as a pro-government, artificial association) was highlighted, along with an ad-hoc body based on its members (Association of Journalists of Macedonia, 2016). That led to the situation in which journalists’ associations now have an equal number of members in law-making bodies.

The practice of creating parallel companies in various market spheres such as infrastructure, advertising, publishing, healthcare etc, “to win public tenders and afterwards support narrow political party agendas through public money” (E2), now threatens to be applied widely to the processes of adoption of regulatory acts. Members that gained access to decision-making bodies in this way are in positions to defend the interests of the ruling party, instead of promoting an anti-clientelist agenda. Thus, the control mechanisms which should prevent the influence of clientelism on the decision-making process regarding the regulatory framework governing the media are weakened, i.e. are insufficient in opposing clientelism in these processes and fighting corruption.

Under IPA 2007, the Government adopted a Code of Good Practice for the participation of civil society in the policy-making process. However, the process of policy-making remains insufficiently inclusive, while the analysis of the quality of debates carried out also remains limited. In terms of applying potential protective mechanisms in these processes, there is a lack of protective mechanisms (such as corruption proofing). Finally, the experts agreed that part of the problem may arise from the inconsistency of certain regulatory acts, particularly at the level of laws, and from “the insufficient activity of the profession, even in situations when the law provides for the exercise of certain rights (E1)”.

Institutional framework

The experts agree that Macedonia has a convincing institutional framework which is strong enough to enable implementation of the law, regulatory acts and public policies. However, this refers to its actual constitution. As highlighted while explaining the context of the legal framework, the key problem in the optimal functioning of the institutional framework is the fact that it is subject to strong political influences that result in detours in terms of implementing its envisaged functions.

The capacity to promote the successful functioning of the institutional framework originates in the synergetic influence created by strategies that enable politically influenced members of various legal and regulatory implementing bodies to push forward the current political agendas. Data collected within the MCI research found a strong connection between the composition of institutional bodies and the ruling political orientation.

Introducing resources to weaken the structure behind institutional capacities by employing tactics such as establishing parallel entities, whose members are later entitled to vote according to the established legal framework, influences implementation of anti-clientelist practices negatively and powerfully. Thus, satisfying formal procedures continues to predominate, along with the impression that the institutional order is in place, while basic principles of the rule of law, decision-making and accountability are absent.

In a recent evaluation of the independent regulatory bodies in Macedonia, the Agency for Audio and Audiovisual Media Services exerted a high degree of transparency in relation to decisions, rules, conduct, control of regulated subjects and feedback (Tomic et al., 2015).

Media ownership and transparency

“We have media established in Belize. We have advantageous ownership in practice, where one person is the owner on paper, but the actual owner is obvious and well known to the wider Macedonian public. The Agency has no power to regulate this sphere. We are not investigators and we cannot see or track potential advantageous ownership practices,” they say (E2).

After the www.mediapedia.mk project, a database created by tracking ownership of media in Macedonia, the issue of media ownership and transparency gained a higher public profile, though not regarding all aspects. It was perceived primarily from the business perspective, though for the wider population, owning the media translates into an attempt to create advertising space for a product or service already provided by other businesses.

While this might be the common public perception of the issue, experts unanimously agree that political influence is only one of the final goals. The cited website provides basic data that are also publicly available in regard to declarative ownership but goes further, by exposing real ownership entities or individuals and their potential interests in owning media.

“Three anonymous individuals, businessman who cannot be connected to any of the political parties, bought ten regional TV stations on the same day. Suddenly, advertising budgets flowed into these media with newly-established ownership, in exactly the same amounts of payment instalments” (E2). Even though the Law on Audio and Audiovisual Media Services regulates media concentration, there is no visible intention to assess and evaluate more complex connections between media owners and their businesses, and/or other interests.

Media market

The importance of this category in the context of media clientelism has become obvious in the last decade in Macedonia. Government advertising is considered indirect state control over content produced by the media. The Government of the former Yugoslav Republic of Macedonia has poured enormous amounts of money into media through advertising various social campaigns. It has affected both journalistic standards and the quality of information provided. According to data provided by the Agency for Audio and Audiovisual Media Services (former the Broadcasting Council), related to the proportion of state advertising in gross terms for advertising in the television sector, it held first place in 2012, second place in 2008, fourth in 2011, and fifth in 2009. As from 2014, such data are missing from the reports.

The decline in media freedoms relating to media clientelist practices is visible in all reports referring to the country. According to the latest 2016 World Press Freedom Index, Macedonia was in low 118th place, descending 76 places in comparison with 2008, which is rather dramatic and ranks Macedonia among the lowest in Europe in terms of media freedoms. This indicates the conclusion that the media were the subjects of considerable influence wielded by political and economical clientelist demand. Whenever bomb threats were received, the opposition party published alleged recordings of telephone communications in which editors and media owners were shown to have received orders from the ruling political party, not to mention their predisposition to promote certain political agendas or discredit political opponents.

Various models of influence were recognized by the experts, ranging from direct influence on media exerted by politically biased owners, co-owners or beneficial owners, through huge amounts of money transferred, to selected media in many

communication campaigns and specially commissioned TV productions, mostly documentaries and advertisements that promoted “national interests”. New sources of funds and new bodies to distribute them are recognized as tools in clientelist practices.

“A law to support domestic production has been established which obliges TV stations to ensure 10% of their broadcasting is original content. Similarly, a fund to support authentic, domestic TV production has been established within the Ministry of Informational Sciences and Administration. The seven-member committee has only two professional members and it distributes funds almost exclusively to the biggest TV stations, citing their high viewer coverage.” (E2).

Advertising government campaigns costs millions of euro. To date, the only report in which the government released information about the amount of public money spent on advertising was in 2014, when data for the period between 2012 and the end of the first quarter were published. Based on this report, the government spent about €18 million on 27 government media campaigns, €6.6 million in 2012, €7.2 million in 2013 and about €4 million in the first six months of 2014.

On the side of the media, the law prescribes an obligation regarding the transparency of their finances. However, they are all obliged by law to report to the regulatory body, for the annual analysis of the media market in Macedonia. However, it remains unclear how much of their income is provided through governmental funding. So, basic transparency exists, but it provides no real information about the situation on the ground. Additional mechanisms are needed, with the enforcement of existing ones, aimed at addressing the crux of the challenges on the media market.

The experts’ evaluations of data gathered through this research gravitated around the impression that the state is active in collecting data. However, the state is insufficiently transparent in sharing data. This further affects the level at which society is informed, and consequently its capacity to evaluate the media reality in the country.

Fundamental rights and media freedoms

“Compared with the situation ten years ago, it is indeed much better now. We have an active association, journalists’ union, and legal support for journalists. However, there are also imprisoned journalists, journalists who pay huge fines through the court, and tacit phenomenon such self-censorship caused by pressures at several levels” (E1)

“Journalists’ rights, in general, do not differ much from general workers rights in Macedonia. And we have the same problems when insisting on respect of basic

workers' rights". (E2)

The current social scene shapes the situation regarding media freedoms and basic rights of workers in the industry. Like many other industries, a large number of journalists work in media that are old-fashioned, with little potential for competing on the open market.

At the moment, the total number of registered TV stations is 45, while according to the last reports of 2015 and 2016, 9 local TV stations lost their broadcasting licenses. The total number of registered radio stations is 65, while during 2015 and 2016, 8 local radio stations lost their broadcasting licenses. There is a growing number of electronically based media, but the exact number is unknown. Thus, within this huge competitive context, in which the largest media are favoured by political and economic operators, the management and ownership structures of smaller media are fighting to continue, or survive at all.

They ply their employees, journalists or technical staff, with multitasking job descriptions while using editorial agendas which provide the main potential fund, usually— government promotional and production funds. Professional values are marginalised on these agendas, because the media have been seized by politicians and advertisers powerful enough to impose their priorities.

On the other hand, journalists working for media who rank well with political and economic operators are under the direct influence of their owners and editors. In pursuing their agendas and the agendas of their powerful beneficiaries, they buy their economical freedom, sacrificing professional standards and personal ethics.

Journalists who belong to another "tribe" than the pro-government one are under permanent scrutiny. Looking at the many court cases resolved in favour of those who sued for slander or other offences, cases of imprisoned journalists, they employ bold self-censorship mechanisms to keep their professions and families safe.

Recommendations

Two directions are obvious for the successful shaping of the future media landscape of a free society. The first direction determines the obligations the system should employ to establish and govern successfully the mechanism of the relationship between media function and its correlations with political and economical sources of power.

In this regard, prompt data management should be employed. Information about the media, including ownership and financial data, should be available in one place. The data presented in this research and examples provided by the experts

suggest that eventual kinks in the system allow for strategies that can and will be exploited by the centres of political and economical power to promote their agendas of interest regarding the media.

In the context of the data provided by this research for Macedonia, the first priority in this regard is the establishment of a transparent register of media ownership, followed by complete transparency in allocating state funds to the media, independently of the funds provision model. Oversight and management of financial support thus provided, including a model and criteria for the creation of bodies to allocate funds, along with criteria and models for the accountability of such bodies while making decisions based on universal principles, are essential.

The creation of a system of control to regulate the functioning of the national broadcaster (MRTV) is also urgently needed, to prevent rotations, dismissals and editorial changes based on the political affiliations of the ruling political coalitions. This is particularly relevant to the current political situation in Macedonia, in which all variations, including frequent new electoral processes, may be in place in the years to come. The idea of applying more rigid obligations regarding financial transparency to entities other than media and public institutions, such as advertising agencies, primarily,, would enable different types of market capital in the industry to become more visible to control mechanisms. The data suggest that there are many problems linked to media functioning and that most of them, especially those cited, have an enormous impact on the media scene and the potential for clientelist practices.

The above examples of creativity and persistence in overcoming institutional and legal mechanisms on the part of centres of political and economical power, prove the need for strict, comprehensive, dynamic instruments to combat them .

**THE CHALLENGE
OF PLURALISM:
(NON)
TRANSPARENT
MEDIA OWNERSHIP**

THE CHALLENGE OF PLURALISM: (NON)TRANSPARENT MEDIA OWNERSHIP

Pluralism in the media is a basic democratic value, or a constituent principle of democracy, which should be applauded, built up, strengthened and developed.⁴² We might say there is a wide consensus regarding this issue, though ideas on what media pluralism ought to mean, and how it should be implemented, differ widely.⁴³ One of the challenges which scholarship encounters in the process of placing this phenomenon in the framework of political and social theory is, of course, differentiating between the concepts of pluralism and diversity. In political and analytical discourse, the concepts of media pluralism and media diversity are used more or less synonymously. This leads to confusion in distinguishing between them, or even to a hierarchical relationship between the two concepts.⁴⁴ Karppinen makes the distinction so that the concept of media diversity is linked to an empirical, while pluralism is linked to a diffuse social value, used as a basic point of orientation. Although there is a danger of simplifying the reduction of conceptual differences, it follows that pluralism is regulated in a standardised manner, while diversity is only evident in exit values, or measures of media reality (existence or non-existence, numbers and indicators), which arise from the norms established.

Media pluralism is protected primarily by limiting concentrations of media and the extent to which they are subsidised.⁴⁵ Media concentration signals a market shift, in which the number of media outlets, at least those which are directly or indirectly controlled, is reduced.⁴⁶ As a rule this refers to media owners, and Peruško draws a distinction between two types; horizontal and vertical concentrations.⁴⁷ A horizontal concentration relates to 'controlling media of the same type, which are mutually competitive, but also to the ownership of different media concerns'. Vertical concentration implies control over the 'entire process of media production and distribution, and also control of the same type of media

⁴² Mouffe, C. (2000) *The democratic paradox*. p. 104-105. Verso: London, New York.

⁴³ Czepek, A., Hellwig, M., Nowak, E. (2009) *Press Freedom and Pluralism in Europe: Concepts and Conditions*. p. 12. Malta: Gutenberg Press.

⁴⁴ Karppinen, K. (2006) *Against naïve pluralism in media politics: Some implications of the radical-pluralist approach to the public sphere*. p. 9.

⁴⁵ Peruško, Z. (2003) *Medijska koncentracija: izazov pluralizmu medija u Srednjoj i Istočnoj Europi*. p. 51. Medij. istraž. (god. 9, br. 1) 2003. (39-58).

⁴⁶ Kremenjak, S. (2008) *Nacrt Zakona o koncentraciji medijskog vlasništva: momenat da se spreče još jedne izmene medijskog zakona pred samo usvajanje*. p. 2.

⁴⁷ Peruško, Z. (2003) *Medijska koncentracija: izazov pluralizmu medija u Srednjoj i Istočnoj Europi*. p. 41-42. Medij. istraž. (god. 9, br. 1) 2003. (39-58).

at different spatial levels'.⁴⁸ The prerequisite for supervision, or rather preventing media concentration, is transparent media ownership.

Therefore, in this section, we analysed how the countries covered by our research⁴⁹ regulate transparency of media ownership and media concentration. Our interest was the extent to which media norms correspond to the need to protect media pluralism and media diversity. The basic premise which guided us was that public ownership of the media, which is one of the key tenets in protecting pluralism, has not been fully achieved.

Croatia

Public media ownership in Croatia is prescribed by the Media Act⁵⁰ and Electronic Media Act.⁵¹ Article 31 of the Media Act prescribes that stocks in a publisher who deals in public information must be made out to a name, and Article 32 states that “publishers are obliged, by 31 January of each calendar year, to submit to the Croatian Chamber of Economy data on the company and its seat, that is, the names, surnames and permanent residence of all legal and natural persons who have direct or indirect ownership of stocks or shares in that legal person, with the information on the percentage of stocks or shares”. The latest amendments to the Media Act (dated 2011) append paragraph 6 to Article 32, and state, “The concealing of the ownership structure of the publisher or the acquirer’s ownership of the stocks or shares in the publisher on the basis of any legal act shall be prohibited. The legal acts concealing the ownership structure of the publisher or the acquirer’s ownership of the stocks or shares in the publisher shall be null and void”. Legal persons who act contrary to these provisions will be penalised by fines ranging from one hundred thousand HRK to one million HRK (Article 59 paragraph 1). The responsible person in the legal person will also be fined for the same act, from ten thousand to one hundred thousand HRK (Article 59 paragraph 2), and if the violation is committed by a natural person, individual tradesman or vendor, the amount of the fine is set at between twenty thousand and one hundred thousand HRK (Article 59 paragraph 3). The provisions on limiting ownership are also applicable to foreign legal and natural persons. The Media Act prohibits any concentration of entrepreneurs on the market of the daily and/or weekly press distributing general information, if the market share of the participants in a particular concentration, after its implementation, exceeds 40% of all the sold copies of general information daily newspapers or weekly

⁴⁸ Ibid.

⁴⁹ Bosnia and Herzegovina, Montenegro, Croatia, Macedonia, Romania and Serbia.

⁵⁰ Official Gazette of the Republic of Croatia, 59/04, 84/11, 81/13

⁵¹ Official Gazette of the Republic of Croatia, 153/09, 84/11, 94/13, 136/13

magazines in the Republic of Croatia (Article 37 paragraph 1).⁵²

However, from the Act it is not clear which body is competent to supervise the implementation of public ownership provisions. In fact, according to the Media Act, the Croatian Chamber of Economy is not competent to issue fines or report violations, but is merely obliged to send a written warning, citing the sanctions which might be imposed if obligations are not met. Neither does evidence of how many violations have occurred and potential fines issued in relation to Article 59 of the Media Act lie within the competence of the Croatian Chamber of Economy.⁵³ On the other hand, the Ministry of Culture does not have this information at its disposal either, since according to the Media Act, it is not authorised to launch misdemeanour proceedings for violations envisaged by the Act.⁵⁴ By the time this publication was issued, we had not succeeded in establishing which body was competent for supervision of the implementation of the public ownership provisions in the Media Act.

In contrast, the Electronic Media Act, alongside public ownership provisions prescribed in a similar way to that defined in Article 32 of the Media Act, defines more closely the provisions on limiting concentrations of ownership and their supervision. In particular, Article 57 states that a radio or television broadcaster, as a media service provider, must report in writing any change in ownership structure to the Electronic Media Council. If the Council establishes that the change which has occurred has resulted in an impermissible concentration in the area of the media, it will issue an instruction for the ownership structure to be conformed within a certain deadline, in a manner that it is not contrary to the provisions of the Act. If the radio or television broadcaster fails to comply with the instruction, the Council will terminate its licence for satellite, internet, cable or other forms of transmitting audiovisual and/or radio programmes.

An impermissible concentration in the area of the electronic media, according to Article 54 of the Electronic Media Act, is considered to exist if:

- the television and/or radio broadcaster who has concession at the state level and a share exceeding 25% of the capital of another broadcaster who has the same kind of concession or a concession on the regional, county, city or municipality level, and vice versa,
- the television and/or radio broadcaster who has concession at the state level and a share exceeding 10% of the capital of publisher who publishes daily newspapers printed in more than 3,000 copies, and vice versa,

⁵² Publishers are obliged to submit notice of the intention to implement a concentration, on which matter the Agency for the Protection of Market Competition issues a decision in accordance with the regulations on protecting market competition (Article 36 of the Media Act).

⁵³ Memo from the Croatian Chamber of Economy, received 28 September 2016

⁵⁴ Memo from the Ministry of Culture, received 29 September 2016

- the television and/or radio broadcaster who has concession at the state level and a share exceeding 10% of the capital of a legal person who performs the activity of a newspaper agency, and vice versa,
- the television and/or radio broadcaster who has concession at the state level and simultaneously publishes daily newspapers printed in more than 3,000 copies,
- the television and/or radio broadcaster with a concession at the local or regional level of coverage and shares exceeding 30% of the capital of another such broadcaster with the concession at the local or regional level of coverage in the same area,
- the television and/or radio broadcaster who has a concession at the regional or local level of coverage and simultaneously publishes daily newspapers of local importance in the same or in the neighbouring area,
- the media service provider set out in Article 79 of this Act who simultaneously publishes daily newspapers printed in more than 3,000 copies,
- the media service provider set out in Article 79 of this Act who has a share exceeding 10% of the capital of a publisher who publishes daily newspapers printed in more than 3,000 copies, and vice versa.

Bosnia and Herzegovina

Public ownership and media concentration in Bosnia and Herzegovina are not really regulated.⁵⁵ The media are obliged, like all other business entities, to be registered in the Court Register, in the manner regulated by the Act on the Registration of Business Entities.⁵⁶ In accordance with this Act, data on the title of the legal person and/or name and surname of the natural person who is the owner of the business entity must be entered in the main register volume. Media ownership is directly regulated by the Act on Political Party Financing in Bosnia and Herzegovina⁵⁷, which prohibits political figures from acquiring ownership of electronic media. As far as electronic media are concerned, Article 22 of Rule 77/2015 on the Provision of Audiovisual Media Services regulates the issue of ownership; any change in the ownership of electronic media which affects more than five per cent must be approved in advance by the Communications Regulatory Agency of Bosnia and Herzegovina.

⁵⁵ Tešanović, N. (2014) *Balkanski medijski barometar Bosna i Hercegovina 2014*. p. 9.

⁵⁶ Petković, B., Bašić Hrvatin, S., Hodžić, S. (2014) *Značaj medijskog integriteta: Vraćanje medija i novinarstva u službu javnosti*. p. 86.

⁵⁷ Official Gazette of the Federation of Bosnia and Herzegovina, 95/12

The issue of media concentration in the period 2004-2006 was regulated by the Ordinance on the Communications Regulatory Agency on Prohibiting Ownership Concentration (which is no longer in force). Media concentration is now regulated only by the Competition Act in Bosnia and Herzegovina⁵⁸, which envisages the potential prohibition of a certain concentration of corporations or individuals, if these impair market competition significantly in Bosnia and Herzegovina or most of the country, particularly if such a concentration gives a company or individual a new or stronger leading position. However, the efficacy of the Competition Act is dubious, as the Council of Competition only acts on grievances, rather than strategically, in the sense of preventing concentrations from arising.⁵⁹

Serbia

In August 2014, three new media laws were enacted in Serbia: the Act on Public Information and the Media, the Electronic Media Act and the Public Services Act. In the context of the new regulation of media ownership, the most significant change relates to the privatisation of media established by the state, region, or unit of local self-management (local government).

The Act on Public Information and the Media⁶⁰ prescribes in Article 39 paragraph 1 point 8 that the following, among other things should be entered in the Media Register, kept by the Serbian Business Registers Agency: data on “legal and natural persons who directly or indirectly hold more than five percent of shares in the founding capital of a publisher, information on persons connected with them in the sense of the law regulating the legal position of commercial companies, and information on other publishers in which those persons hold more than five per cent of the founding capital”. The Act also proscribes the impairment of media pluralism and media concentration. In this sense, it is prohibited to merge “founding or management rights in two or more daily newspaper publishers who publish information from all areas of social life, whose total annual circulation exceeds 50% of the actual circulation of daily newspapers in the territory of the Republic of Serbia,” or “founding or management rights in two or more publishers who provide audio or audiovisual media services, whose total listener/viewer ratings exceed 35% of all listener/viewer ratings.”

The Electronic Media Act⁶¹ also prescribes provisions on public media ownership. Article 105 lists the obligations of media services providers to inform the

⁵⁸ Official Gazette of the Federation of Bosnia and Herzegovina, 48/05

⁵⁹ Petković, B., Bašić Hrvatin, S., Hodžić, S. (2014) *Značaj medijskog integriteta: Vraćanje medija i novinarstva u službu javnosti*. p. 86.

⁶⁰ Official Gazette of the Republic of Serbia, 83/2014, 58/2015 and 12/2106

⁶¹ Official Gazette of the Republic of Serbia, 3/2014 and 6/2016

Regulatory Authority for Electronic Media in advance of any change in their ownership structure.

Media concentration in the printed press is established by the ministry competent for public information operations, and in cases where the subject is a merger including at least one electronic medium, an independent regulatory body is the competent body. Both bodies, the Ministry and the Regulatory Authority for Electronic Media, act on reports received: they issue warnings to the broadcaster/media service provider about an impermissible concentration and set a deadline of six months for the situation to be rectified. If the broadcaster/media services provider does not act on the caution, the Ministry or Regulatory Authority can issue a decision to delete the medium from the Register.

Montenegro

The media in Montenegro are established by an act of establishment, freely and without the need for approval. All media are obliged to register in the Media Records, for which it is only necessary to provide information on the title of the medium and the seat of the founder(s).⁶² Regarding electronic media, the legislator has been more precise and has regulated public ownership and impermissible media concentration. According to Article 129 of the Electronic Media Act⁶³, publishers/broadcasters are obliged by 31 December of the current year to submit to the Electronic Media Agency data on natural and legal persons who have during the year held shares in the ownership structure, directly or indirectly. The Agency is then obliged to publish the gathered data in the Official Gazette of the Republic of Montenegro. In addition, the Agency keeps a public register of licences issued for providing audiovisual media services, and a register of electronic publications.

Article 132 of the Electronic Media Act defines an unlawful media concentration. In Montenegro, this implies situations in which a provider of audiovisual media services:

1. holding a licence for national coverage broadcasting:
 - 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,

⁶² Official Gazette of the Republic of Montenegro, 51/2002, 62/2002, 46/2010 and 40/2011

⁶³ Official Gazette of the Republic of Montenegro, 46/10, 53/11 and 6/2013

- 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;
2. except the national public broadcaster, broadcasts over the same area more than one television and one radio programme with the same or similar programme base;
 3. radio or television programme licensed for broadcasting with local or regional coverage:
 - holds more than 30% stake in the founding capital of another broadcaster with regional or local coverage over the same area
 - concurrently, over the same or in neighbouring areas, publishes local daily print media.

Similarly to the situation in Croatia and Serbia, if the Electronic Media Agency establishes, after issuing a broadcasting licence, that an impermissible media concentration has arisen, it will order the broadcaster, or provider of audiovisual media services, to rectify the identified irregularities within a period of three months. If the broadcaster fails to act in accordance with the order, the Agency will revoke the licence (Article 134 paragraph 3).

Any change in ownership structure must be notified in writing to the Agency, while a change of over ten per cent in shares must be approved by the Agency. It is interesting that Montenegro is the only country covered by this research which has regulated that a domestic legal person, co-owned by a foreign legal person, and registered in countries in which it is impossible to establish the origin of founding capital, cannot be eligible to provide audiovisual media services. If it is established that such a legal person enters the ownership structure after a licence is granted by the Agency, it will be revoked (Article 135 paragraphs 3 and 4).

Macedonia

In Macedonia, public media ownership is a legal obligation. Providers of audiovisual media services are obliged to publish information on founders or owners, and on financing origins. Any change in ownership structure must be notified to the Electronic Media Council, which keeps a register of electronic publications. At the same time, the media are obliged to publish/release information on changes

in their ownership structures through their own channels. Supervision of the implementation the provisions regarding public media ownership is performed by the Agency for Audio and Audiovisual Services, and the Media Act, which was adopted in December 2013, places printed media as well within the competence of the Agency, thus making them parties to the provisions on ownership transparency for the first time.⁶⁴

Article 39 of the Audio and Audiovisual Media Services Act⁶⁵ defines an illegal media concentration. It exists in situations when the broadcaster:

- participates in the foundation capital of another broadcaster with more than 50% of shares
- participates in the foundation capital of a publisher of print media that prints a daily newspaper or a news agency;
- participates in the foundation capital of an advertising and propaganda company;
- participates in the foundation capital of a market and public opinion research company;
- participates in the ownership structure of an audiovisual distribution company or a film production company;
- participates in the foundation capital of an electronic communications network operator that provides broadcasting and transmission of radio/television programmes;
- is simultaneously involved in broadcasting radio and television programme, with the exception of the Public Broadcasting Service;
- broadcasts radio or television programmes and publishes daily newspaper distributed on the territory where the radio or television programmes are broadcasted.

Romania

Media concentration in Romania is regulated by the Audiovisual Act (No. 504/2002) and the Market Competition Act (No. 21/1996). While the former relates exclusively to the television and radio station market, the latter is applicable to the entire market, including the printed media. An impermissible media concentration occurs in Romania when one media company acquires more than 30% of shares

⁶⁴ Trpevska, S., Micevski, I. (2014) *Media integrity matters: reclaiming public service values in media and journalism; Report on Macedonia*. p. 267-268

⁶⁵ Official Gazette of the Republic of Macedonia, no. 184, 26.12.2013

on the national media market. This provision, of course, does not apply to public radio and television. Next, the Act limits the number of media companies in which one founder may hold the majority of shares in ownership. Finally, the Act regulates public ownership, so that the electronic media are obliged to submit data on ownership to the regulatory body, and these data must be also published in the register of commercial companies. Transparency of media ownership is guaranteed by the Constitution (Article 30). However, the implementation of these provisions is another matter. In Romania, there is no mechanism to ensure that the laws regarding public ownership and media concentration are respected. Until now, not a single case has been recorded of sanctions being imposed against a media publisher/broadcaster for failing to respect the law, i.e. to publish the names of real owners.⁶⁶

Conclusion

The results of this short standard analysis of the regulation of media ownership transparency and media concentration show that all these countries, with the exception of Bosnia and Herzegovina, have included in their standards provisions on public media ownership and impermissible media concentration.

However, the contents of regulatory acts reveal that no normative distinction has been made between horizontal and vertical concentrations, as explained in Peruško.⁶⁷ Furthermore, it is not determined how, or in which part of the media market, concentrations are to be measured, which could lead to problems in mixed media markets (where there is public media ownership, apart from public service ownership, and private media ownership). For example, the regulatory framework does not necessarily imply that ownership of a certain percentage of the complete process of production and distribution would be prohibited. Only horizontal concentration would be prohibited on the markets in question, that is, if a certain publisher/broadcaster held more than a certain percentage of shares on a certain market. On the other hand, there is no universal consensus on horizontal media concentrations, or rather their prohibition, so standards vary from country to country, raising a number of further issues.

The main threat to pluralism in relation to media ownership is a high concentration of media ownership which may exert a direct influence on editorial independence, creating a 'bottle-neck' at the distribution level, etc.⁶⁸ For this reason, there is a

⁶⁶ Baya, A. (2007) *The concentration of media ownership in Romania: supporting or challenging pluralism and media freedom?* p. 31-32

⁶⁷ Peruško, Z. (2003) *Medijska koncentracija: izazov pluralizmu medija u Srednjoj i Istočnoj Europi*. p. 41-42. *Medij. istraž.* (god. 9, br. 1) 2003. (39-58).

⁶⁸ Iosifidis, P. (2010) *Pluralism, Media Mergers and European Merger Control*. p. 12-13

special focus on preventing horizontal concentration. However, even in this area, which is regulated by standards to a certain extent, there are several challenges. Regarding the issue of concentrations in the printed press or printed media, some countries have provisions which can be implemented to prevent media concentrations, while others have no particular regulatory provisions. Bosnia and Herzegovina, Montenegro and Macedonia have no general provisions relating exclusively to the printed media, while for example in Serbia, Croatia and Romania, the percentage of shares which is considered to be a concentration varies: in Croatia, it is 40%, in Serbia, 50%, and in Romania, 30%. The lack of consensus in principle regarding standard impermissible concentrations, i.e. the point at which the percentage shares of a particular owner represent a serious threat to pluralism, results in uncertainty on these markets regarding the protection of pluralism, or the protection of media diversity.

Finally, our analysis shows that, along with the problems which arise as a matter of course in relation to protecting pluralism (preventing impermissible concentrations), the standards do not relate to all media types. So, for example, the online media, i.e. the internet, is not covered at all by the standards cited in any of the countries analysed. Protection from concentrations in audiovisual broadcasting is established as a norm in most countries (with the exception of Bosnia and Herzegovina), but in the case of the printed media, there is no universal consensus, so there is room for deviation in the application and efficacy of legislation.

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