



EU ENLARGEMENT PACKAGE

2018 FREEDOM OF EXPRESSION - INFORMATION SOCIETY AND MEDIA



*Enlargement
Negotiations*

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¹[Albania 2018 Report](#), SWD(2018) 151 final (pp. 27-28, 62-63)

²[Bosnia and Herzegovina 2018 Report](#), SWD(2018) 155 final (pp. 17-18)

³[The former Yugoslav Republic of Macedonia 2018 Report](#), SWD(2018) 154 final (pp. 27-28, 62-63)

⁴[Kosovo 2018 Report](#), SWD(2018) 156 final (pp. 22-23, 73-74)

⁵[Montenegro 2018 Report](#), SWD(2018) 150 final (pp. 25-27, 60-61)

⁶[Serbia 2018 Report](#), SWD(2018) 154 final (pp. 25-26, 62-63)

*This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

FREEDOM OF EXPRESSION

As regards the **freedom of expression**, Albania has some level of preparation/is moderately prepared. There has been some progress in strengthening the independence of the regulatory authority and public broadcaster but transparency of state advertising in the media remains to be enhanced.

The country has **some level of preparation/is moderately prepared** in the area of freedom of expression. There has been **some progress** in strengthening the independence of the regulatory authority and the public broadcaster. The overall legislative environment is conducive to the exercise of freedom of expression, but implementation remains a challenge. Legislation on public advertising, intended to improve transparency in line with international best practices, needs to be introduced.

In the coming year, Albania should in particular:

- bring ownership limitations for national operators into line with international standards;
- introduce legislation in line with international best practice on public advertising to increase transparency;
- enforce implementation of the Labour Code and strengthen the protection of Albanian journalists' labour and social rights.

Intimidation of journalists

Physical assaults on journalists remain very rare. A case was reported in March 2017 and was swiftly condemned by the authorities. Investigations were launched and led to the perpetrator's arrest. The case reached appeal level and is still ongoing. A TV programme was closed down and two journalists were dismissed following an investigative story involving a local official in October 2016, no official complaints were submitted. Three defamation court cases against nine journalists were registered. Cases are still ongoing and no convictions have been issued so far.

The authorities are expected to pursue zero tolerance of threats or attacks against media, and refrain from making statements that may create an environment not conducive to freedom of expression.

Legislative environment

The Constitution and relevant laws are in line with international human rights law. They guarantee individual liberties including the right to privacy, freedom of expression and sanctions against incitement to hatred. **Defamation** remains a criminal offence, although prison sentences are not allowed. However, journalists are at risk of large fines and damages. The rules on **hate speech** are in line with international standards. Five cases of hate speech were registered and two complaints were submitted to the Commissioner for the Protection against Discrimination on the grounds of gender identity and sexual orientation. Albania still needs to introduce legislation strengthening transparency in public advertising.

Access to information about procurement contracts, audits and salaries of officials should be

strengthened. Decisions of the Commissioner for the Right to Information are non binding on public administration officials.

Implementation of legislation/institutions

The Audiovisual Media Authority (AMA) approved its 2017-2019 strategic action plan in March 2017. AMA has doubled its revenue and changed its structure to focus more strongly on supervisory and inspection activities to identify illegal broadcasting. The digital switchover has entered the final stage of implementation.

Public service broadcaster

The public broadcaster RTSH has a new internal structure reflecting the digital switchover process. RTSH has developed and approved editorial principles to guard against political interference. The OSCE/ODIHR report on the June parliamentary elections stated that RTSH showed a balanced approach to campaign reporting. However, RTSH needs to ensure its financial sustainability.

Economic factors

Audiovisual media ownership and the transparency of media funding and public advertising remain key issues. The editorial direction of private media continues to be strongly influenced by political and business interests. Media funding remains key to improving media freedom, especially given new challenges such as ‘fake news’ and third-party influence. Among others, self-censorship and the precarious nature of employment for journalists remain issues of strong concern.

Internet

The government does not restrict internet access or censor online content. Self-regulation for the media sector has to be encouraged.

Social dialogue/social conditions

Job security for journalists needs to be strengthened. Media owners do not formalise work contracts and the Labour Code needs to be properly implemented for journalists.

INFORMATION SOCIETY AND MEDIA

Albania is **moderately prepared** in the field of information society and audiovisual media. **Some progress** was made on the digital agenda action plan and e-government services. The Audiovisual Media Authority (AMA) approved its strategic action plan for 2017-2019 and the public broadcaster its new statute.

In the coming year, Albania should in particular:

- finalise the delayed digital switchover process, free the digital dividend and revise the national broadband plan with clear objectives and targets;
- take further steps to draft and approve the necessary amendments to the Law on Electronic Communication, in alignment with the acquis;
- implement the European emergency number 112 over a wider geographical area.

On **electronic communications and information and communications technologies**, progress was made in implementing the single European emergency number 112 as envisaged in the 2015-2020 public order strategy and the 2015-2017 action plan. Further funding is needed to extend the 112 number to the whole country. Judicial bodies received training on how to enforce the Law on Electronic Communications. Further training was provided on the modules and importance of competition advocacy as a tool for addressing anti-competitive regulation and enforcing decisions by the Authority of Postal and Electronic Research. Fixed internet penetration is low: approximately 30 % of households are connected. There is a huge gap between urban and rural areas. Rural areas represent 40% of the population but only 1% out of this is connected to the internet. Mobile internet penetration is around 80%.

In the area of **information society services**, the cross-sectoral strategy on Albania's digital agenda for 2015-2020 and the plan for broadband development are being implemented. The Law on Cyber Security was adopted in February 2017 and is partly aligned with the Directive on security of network and information systems. In the framework of the European Commission's mapping of 'digital innovation hubs', three eligible hubs have been registered. There is a need to develop a national cybersecurity strategy.

Some good progress was made in electronic communications with the approval of the law on the development of high-speed electronic communication networks and the provision of the right of way. The law fully complies with the acquis.

In the field of **audiovisual policy**, in March 2017, following public consultation with various stakeholders, the AMA adopted its strategic action plan for 2017-2019. During the reporting period the public broadcaster, RTSH, approved a new Statute with a new internal structure reflecting the digital switchover process. The digital switchover still has to be finalised and the digital dividend to be freed. Due to obsolete technology, AMA is still not able to adequately exercise monitoring duties, a challenge which becomes more difficult with the digital switchover process. Debt collection from old fees of broadcasting operators has significantly increased reaching an 87 % rate.

BOSNIA AND HERZEGOVINA

FREEDOM OF EXPRESSION

As regards the **freedom of expression**, political pressure and intimidation of journalists continued, including physical and verbal attacks.

There is **some level of preparation** on freedom of expression. However, **no progress** was achieved in this area and no progress was made in addressing last year's recommendations. The financial stability of the public broadcasting system was neither fully nor sustainably addressed. Political pressure and intimidation towards journalists, including physical and verbal attacks, continued during the reporting period without a systemic institutional follow up. Authorities made no attempt to address the lack of transparency of media ownership.

In the coming year, Bosnia and Herzegovina should in particular:

- ensure sufficient protection of journalists and an appropriate law enforcement response to cases of threats to journalists;
- finalise the reform of the public broadcasting system, including securing the funding of public broadcasters, harmonising relevant entity broadcasting legislation with the state-level law, and securing political neutrality of the steering boards;
- adopt appropriate legislation on media ownership transparency, including for online media.

Intimidation of journalists

Political and financial pressure on the media continued. Cases involving intimidation and threats to journalists (including those reporting on the ICTY decision on Plić and others), verbal and physical attacks, hacking of websites, political, institutional and economic pressure and defamation continued to be reported. Authorities do not collect data on threats and attacks against journalists and media workers, and swift investigations and prosecution of perpetrators is not always ensured. The authorities are expected to act swiftly and demonstrate zero tolerance for threats or attacks against media, and should refrain from making statements that may create an environment not conducive to freedom of expression.

Legislative environment

Legal provisions guaranteeing freedom of expression are in place. However, political and ethnic lines continue to divide the public sphere and drive the development of legislative proposals in the media sector.

Implementation of legislation/institutions

The political and institutional independence of the Communications Regulatory Agency was strengthened by legislative amendments. Its financial independence continues to be an issue of concern. The Agency's political neutrality, independence and its public perception as a neutral body have yet to be ensured.

There were shortcomings in the implementation of the freedom of access to information act, in particular on remedies when access is denied. The institutions do not run the test of public interest before limiting the right to access to information, interpreting the legal provisions in a way that protects private rather than public interests.

Public service broadcaster

The independence of the three public service broadcasters within the country's public broadcasting system has yet to be ensured. The public broadcasters in the two entities continued to be exposed to political influence, particularly via their politically-controlled steering boards; worrying cases of self-censorship have been reported also in the state-level public service broadcaster. Entity-level legislation on public service broadcasters remains to be harmonised with the state-level law on Public Broadcasting Service.

The financing of the state-level public service broadcaster remains unsustainable. Due to political obstruction, the steering board failed to establish a functional Public Broadcasting Service corporation, as provided by the law.

Economic factors

Transparency of media ownership has yet to be fully achieved and the accessibility to full information is yet to be secured due to problematic legal provisions hampering systematic insight into ownership structures. The country still lacks a law on media ownership transparency. Public broadcasters that are not part of the public broadcasting system are financed from municipal and cantonal budgets and remain under strong political influence. Legislation addressing State aid and competition includes provisions that seriously hinder the broadcasters' independence and ability to operate. At entity level, Republika Srpska has a legal possibility to fund both public and private media. Lack of transparency and clear criteria in the distribution of subsidies are a serious concern. Media integrity is also harmed by the advertising practices of public companies and advertising agencies linked to political parties.

Professional organisations and conditions

The Bosnia and Herzegovina Journalists' Association is the most active civil society organisation in the field of freedom of expression, the freedom of the media, the protection of journalists and media integrity.

The **freedom of assembly and association** is enshrined in the constitutions and legislation at different levels of government in the country. Although these rights were generally upheld, the legislation across Bosnia and Herzegovina still needs to be harmonised with international standards. Some incidents have also raised concerns. A protest march by LGBTI organisations in Sarajevo on 17 May 2017 had to be cancelled due to delays of the administrative authorities in issuing due permits. An environmental demonstration was broken by riot police in August 2017 near Vitez. Cases of attacks and intimidation against human rights activists continued to be reported.

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

FREEDOM OF EXPRESSION

As regards **freedom of expression**, the country has achieved some level of preparation and made good progress, notably through an improved climate for the media and decreased pressure on journalists. The country needs to address remaining challenges, including reform of the public broadcaster.

The country has some level of preparation in the area of freedom of expression and there was good progress since mid-2017. The legislative framework is broadly aligned with both the acquis and international standards. Amendments to the Law on Audio and Audio-Visual Media Services were prepared in consultation with relevant stakeholders. There is an improved climate for media and journalists are more ready to criticise misbehaviour of officials and censorship. Challenges remain in the sector, and there must be zero tolerance towards physical and verbal abuse or threats against journalists. The public broadcaster in particular needs to be reformed and its independence strengthened. The country has partly addressed the recommendations from the 2016 report, notably by abolishing government advertising and decreased pressure on journalists and media outlets, which allowed for more balanced reporting. In the coming year, the country should, in particular:

- continue its reforms of the public broadcaster, strengthening its independence;
- take measures to support the promotion of objective reporting and diversity of viewpoints in the mainstream media, encouraging professional conduct of all media stakeholders;
- ensure the appropriate follow-up by law enforcement and judicial authorities of all instances of violence against journalists.

The situation and the political climate for media improved in the second half of 2017. The government made efforts to be more transparent and journalists are now granted access to information and documents free of charge (“Urgent Reform Priority”). The new government made supportive statements during the October 2017 local elections. This needs to be followed up through measures promoting an enabling environment for freedom of expression.

Intimidation of journalists

There has been a decrease in pressure on journalists with the improved political climate. The government has concluded an agreement with an association of journalists to conduct follow-up investigations on attacks against them in December 2017. However, registration of attacks on journalists remains inadequate and very few investigations have been launched. It is essential that the authorities demonstrate zero tolerance towards all incidents of physical and verbal abuse or threats against journalists and that these are effectively followed up by the police and Public Prosecutor’s Office. There were 21 new reported cases of intimidation of journalists and 13 court proceedings involving journalists.

Several journalists were among those injured during the violent incidents in Parliament on 27 April. The Agency for Audio and Audio-visual Media Services noted unprofessional reporting by

the public service broadcaster and a private national television channel with regard to these incidents.

Legislative environment

Amendments to the Law on Audio and Audio-Visual Media Services adopted by the government in February 2018 following extensive stakeholder consultations are in Parliamentary procedure. However, some stakeholders have expressed their dissatisfaction with some of the amendments to the Law, for instance regarding funding from the state budget. The legal framework on hate speech is generally in line with international standards, but its implementation needs to be improved and online hate speech remains unregulated. Plans to amend the defamation legislation to bring fines down to a symbolic value are included in the action plan of the judicial reform strategy.

Implementation of legislation/institutions

The Agency for Audio and Audio-visual Media Services has been exercising its supervisory role more efficiently, including in the electoral context. The Agency initiated procedures for unbalanced reporting and violation of limits on paid political advertising.

The quality of reporting by some private TV improved, however, low professional standards persisted at some media outlets, undermining objective reporting. The monitoring by the Council of media ethics shows that further work is needed to improve respect for ethical standards. Investigative reporting remained limited. There is a decreasing trend in defamation cases being brought against journalists with 13 new lawsuits registered in 2017.

Public service broadcaster

The coverage of the electoral campaigns by the public service broadcaster (MRT) was more balanced than in the past and contestants were provided with free air-time. MRT adopted a code of ethics. Additional efforts are needed to improve MRT's independence and objectivity of reporting. A long-term strategy is also needed to ensure its financial sustainability.

A new system was adopted for financing the public broadcaster, the regulator and the broadcasting public enterprise. The broadcasting fee was replaced with a direct contribution from the State budget, amounting to 0.5 %. This percentage is foreseen to increase with the amendments to the Law on Audio and Audio-Visual Media Services. The implementation of reforms needs continuous attention to prevent direct or indirect undue political influence that would undermine independence and to ensure a stable, predictable and sustainable provision of funds.

Economic factors

The media regulator and other institutions do not have the capacity to identify and prevent collusion between media owners and political figures. This collusion influences editorial lines.

The new government put an end to government advertising in the form of commercial advertisements on commercial broadcasters (except on social media and at the local level) in August 2017, following the previous moratorium in place since July 2015. To achieve one of the "Urgent Reform Priorities", the new government also published figures on government advertising expenditure from 2008-2015, albeit with some data missing. The extent to which government advertising had been a tool to exercise influence over broadcasters and to which the previous system had been distorting the market was reflected in the market's reaction to the loss of this revenue source, which has already had a financial impact in the broadcasting sector and has led private media to seek to measure viewership due to the need to compete

for listeners and advertising.

The number of print media outlets has decreased drastically in 2017 compared to 2016. After the closure of Media Print company, there are now 6 daily newspapers in the print media market, including 2 in Albanian.

Internet

Legislation prohibits internet service providers from controlling internet traffic, except to protect network connections against overload. This legislation is being applied in practice.

Political polarisation is mirrored in online media, where most hate speech and violations of the journalistic code of ethics have been noted. According to the Council of Media Ethics, most violations, including fake news and unprofessional reporting, take place online.

Professional organisations/professional conditions

There was no improvement in the union protection or labour conditions of journalists. As a result, journalists still practice self-censorship. Negotiations on signing a collective union agreement are at an early stage. Journalists continued working under temporary contracts.

(See also Chapter 10 — Information society and media)

Freedom of association and freedom of assembly are both guaranteed by the constitution. The Law on Assemblies sets out what constitutes a public assembly, and when a public assembly can be restricted or stopped. This law also stipulates obligations for organisers of assemblies and sanctions for noncompliance with these obligations. On freedom of association, the Law on Associations and Foundations (last amended in 2011) lays down the conditions for freedom of association, and it does not contain undue restrictions. Following the previous period of intense pressure on civil society, there was substantial improvement and the overall situation can be deemed as satisfactory. Amendments to the Law on Police that prohibit the use of rubber bullets and stun guns have been adopted. However, a serious legal shortcoming remains as the Criminal Code offence of 'participating in a crowd which commits a crime' is still applicable without safeguards. In the reporting period, protests have been largely peaceful but hate speech against political figures was common. Several Members of Parliament were injured in the violent incidents in Parliament on 27 April 2017. A total of 28 people, including 5 MPs, are indicted for 'terrorist endangering of the constitutional order' pursuant to Article 313 of the Criminal Code for these incidents.

INFORMATION SOCIETY AND MEDIA

The former Yugoslav Republic of Macedonia is moderately prepared in the field of electronic communications and the information society. No progress was made during the reporting period.

As the 2016 recommendations have largely not been implemented, in the coming year, the country should in particular:

→ prepare a Long-term Information Communication Technology (ICT) Strategy and a National Cybersecurity Strategy;

→ strengthen the independence and capacity of the media regulator and the public service broadcaster;

→ complete the action plan for the implementation of the introduction of the 112 emergency number, and allocate the necessary financial resources.

In the area of **electronic communications and information and communications technologies**, the fixed broadband penetration remained at almost 18 % of the population, while mobile broadband, including 2G/3G/4G, reached 60 %. Expansion of the 4G mobile network continued. Prices for regional roaming services further decreased on 1 July 2017 in line with the 2014 agreement with Bosnia and Herzegovina, Montenegro and Serbia. In November 2017, the country signed a memorandum of understanding with Bulgaria encouraging mobile operators to sign mutual agreements to reduce roaming charges. A broadband strategy has not yet been prepared.

The European emergency number 112 has not yet been introduced. Investments in developing electronic communications increased. Public consultation procedures with operators continued satisfactorily, but concerns remain about the regulator's ability to act independently. The use of Agency for Electronic Communications funds, previously abused for political purposes, should be limited to regulatory and monitoring activities in the field of electronic communications.

As regards the **information society**, a long-term digital agenda and a separate digital skills strategy have not yet been developed. The new Education Strategy includes digital literacy among its priorities. A national cybersecurity strategy has not been yet developed or the resources found for its implementation. Application of electronic signature is limited to a few institutions providing services to businesses. The interoperability system is used by only a few (four) institutions, despite the equipment and software having been provided. E-government is at an early stage of preparation. Barriers to e-commerce still have to be removed, including customs duties and VAT on imports for small value items.

In the field of **audio-visual policy**, the regulator continued to be proactive in reminding media outlets of their legal obligations and enhancing its cooperation with civil society organisations. In several cases, the regulator and media association continued to report inflammatory, discriminatory and hate speech, as well as unprofessional journalistic reporting. On behalf of the ad hoc body for media monitoring of the 2016 parliamentary elections' campaign, pursuant to the Przino Agreement, the media regulator submitted 68 cases to courts. Courts demonstrated an inconsistent reading of laws and delayed verdicts.

The media regulator initiated a network for media literacy involving state and non-state actors. Development of a more systematic approach and cooperation among the stakeholders on media and digital literacy is needed.

Concerns over the public service broadcaster's lack of editorial and financial independence remained. As of October 2016, Macedonian Radio and Television is no longer funded by broadcasting fees but from the state budget. Delays in transfers from the budget to the public service broadcaster, the Agency for audio and audio-visual media services and the public enterprise for broadcasting, should be avoided. The country participates in the Media sub programme of 'Creative Europe', with the National Film Fund as national contact point.

FREEDOM OF EXPRESSION

Kosovo has some level of preparation in the area of **freedom of expression**, which is enshrined in the constitution. Kosovo benefits from a pluralistic and lively media environment. However, threats and attacks against journalists have continued. The Assembly showed limited commitment to finding a solution for sustainable funding of the public broadcaster, leaving it vulnerable to political pressure.

Kosovo has **some level of preparation** in the area of freedom of expression. There has been **no progress** in this area over the reporting period. Freedom of expression is enshrined in the Constitution and Kosovo benefits from a pluralistic and lively media environment. However, threats and attacks against journalists have continued and developments on other issues have mainly stagnated. The Assembly showed limited commitment to finding a solution for sustainable funding of the public broadcaster, leaving it vulnerable to political pressure and influence. There were no legislative developments on the regulation of media ownership and transparency. Media started publishing the impressum (publisher data). The implementation of legislation remains a challenge, in particular the law on the public broadcaster. Kosovo has done little to address the 2016 recommendations.

As the recommendations of the 2016 report have not been addressed, they remain valid. In the coming year Kosovo should in particular:

- ensure that cases of physical attacks against journalists and other forms of pressure are promptly investigated and ruled on by a judge;
- ensure a sustainable financial solution for the public broadcaster;
- implement measures to provide for transparent information on media ownership.

Intimidation of journalists

The number of threats and attacks against journalists has increased. According to the Association of Journalists of Kosovo, in 2017 alone 24 incidents were reported, twice the number compared to the previous reporting period. Among the cases, 2 editors-in-chief have received death threats and a journalist who was physically attacked was on a later occasion threatened by a member of parliament. Authorities have opened investigations into all these cases but in general, these investigations are slow and there were only 2 final convictions in 2017 regarding threats and attacks in previous years. A more systematic response, including prompt investigation and a timely judgment, is needed to strengthen the protection of journalists. There must be zero tolerance for threats or attacks against media.

Legislative environment

Freedom of expression and the media are constitutionally guaranteed, and legislation on libel, hate speech and defamation is in line with the European Court of Human Rights case-law. However, the legislative and institutional framework in this area remains fragmented and ineffective. The right of journalists to conscientious objection and the public's right to reply and correction remain unregulated. Police, prosecutors and judges need proper training in the

standards established by the Council of Europe and the European Court of Human Rights for dealing with journalistic sources and materials. The right of access to public information is undermined by the authorities' fragmented implementation of relevant legislation.

Implementation of legislation/institutions

Effective implementation of legislation remains a challenge, notably the law on the public broadcaster. Ensuring ethical standards is also proving difficult. The Independent Media Commission has still not started to make preparations for the digital switchover. It monitors the content of audio-visual media but lags behind in initiating cases and implementing fines for legal breaches. It is facing difficulties in meeting its financial obligations, including capital investment.

Neither the Independent Media Commission nor the Press Council of Kosovo monitors freedom of expression online. Although this creates an unhindered environment for online media, it also undermines the privacy of individuals, leading to many cases of alleged hate speech, libel and defamation. Such cases need to be thoroughly followed up.

Public service broadcaster

The public broadcaster, Radio Television of Kosovo (RTK), remains directly state-funded. This continues to undermine its independence, weakens its long-term sustainability and leaves it prone to political influence. The Assembly has yet to find a sustainable financing solution for the RTK, with the legal deadline having expired in April 2015. In October 2017, the Assembly indicated its intention to adopt a completely new law on the RTK, following a European model, though plans remain unclear. A solution for the premises of the public broadcaster is yet to be found. The RTK Board is complete, but its performance needs to be improved. The number of employees has increased through the years, with recruitment procedures being criticised by the trade unions as non-transparent.

Economic factors

Media outlets are generally not economically sustainable. Information on media ownership structures, in particular for online media, remains unclear and often fictitious, as most media do not provide information on their finances or real ownership. The fact that media started publishing the impressum (publisher data) in early 2017 is nevertheless a positive development. The lack of a strong private advertising industry makes private broadcasters dependent on other sources of funding, and few are able to operate without strong links to political and business interest groups.

Professional organisations/professional conditions

Associations of journalists in Kosovo have been active in condemning incidents and threats against journalists. They have also increased cooperation with the Kosovo Police and Prosecution services on following up on these cases. Their involvement in discussing legislative initiatives on media issues remains limited. The journalist associations largely remain divided along ethnic lines and are considered weak. Journalists often work without contracts, which makes them vulnerable to corruption and prone to self-censorship. Protection of professional standards in journalism is governed by codes of ethics, but neither the Independent Media Commission nor the Press Council has brought any cases for breach of the code.

INFORMATION SOCIETY AND MEDIA

Kosovo has **some level of preparation** in this area. The legislative framework is mostly in place but there was **no progress** on implementation. In particular, the Assembly has still not ensured the financial independence of the public broadcaster. As in previous years, the Independent Media Commission did not move forward with the process of switching from analogue to digital television.

As last report's recommendations have not been followed up, in the coming year Kosovo should in particular:

- ensure telecoms and media regulators are given adequate resources to fulfil their mandates independently and develop a solution for sustainable funding of the public service broadcaster;
- ensure full implementation of the European emergency number 112;
- urgently implement the digital switchover.

On **electronic communications and information and communication technologies**, there has been no improvement in the financial and organisational independence of the Regulatory Authority of Electronic and Postal Communications. The Kosovo Agency of Statistics has for the first time published data on the use of ICT. According to the survey, 88.8 % of households had access to internet of which 83.6 % accessed internet through fixed connections whereas 24.6 % through mobile connections. Data from the regulatory authority show that mobile telephone penetration has reached over 112 % whereas fixed telephony line penetration per household is 23 %. Although the Computer Security and Incident Response Team was set up in 2014, it still lacks sufficient and trained staff. Kosovo has started to introduce the European emergency number 112, and the regulatory authority cooperates with all stakeholders responsible for operating it. In February 2017, the regulator provided geographic data of mobile stations (2G, 3G and 4G) to the Emergency Management Agency.

Kosovo was assigned the 383 dialling code in December 2016, in accordance with the action plan agreed in the Belgrade-Pristina Dialogue. The previous calling codes will cease working in June 2018.

On the **information society**, adequate budgetary resources need to be made available to implement Kosovo's cybersecurity strategy and action plan for 2016-2019.

On **audiovisual policy**, the Independent Media Commission again failed to make any substantial progress in implementing the digital switchover, even though the International Telecommunications Union deadline expired in June 2015. No funds have been allocated or identified to implement the process. As media regulator, the Media Commission needs to be given adequate staffing and funding to operate independently. Kosovo needs to speed up its efforts and ensure that the digital switchover is carried out in full transparency and in line with EU standards. The public service broadcaster RTK remains directly state-funded, which undermines its editorial independence. The Assembly's failure to act on RTK's financial dependency is particularly worrying, as this weakens its long-term sustainability and diminishes its capacity to carry out its public service remit.

FREEDOM OF EXPRESSION

Montenegro has achieved some level of preparation on **freedom of expression**, but no progress was made in the reporting period. There have been no notable developments regarding investigations into old cases of violence against journalists. Recent political interference in the national public broadcaster Council and the Agency for Electronic Media are a matter of serious concern. The media scene remains highly polarised and challenges in understanding the role of free media persists. The number of defamation cases remains high, also due to weak self-regulatory mechanisms.

Montenegro has some level of preparation on freedom of expression. No progress was made in the reporting period. There have been no notable developments on investigations into old cases of violence against journalists. Political interference in the national public broadcaster (RTCG) and the Agency for Electronic Media (AEM) are a matter of serious concern. The media scene remains highly polarised and challenges persist in understanding the role of free media. The number of defamation cases remains high, also due to weak self-regulatory mechanisms. Training of the judiciary on ECtHR case-law on freedom of expression needs to continue. In addressing the shortcomings, Montenegro should in particular:

- clearly step up and prioritise efforts to investigate cases of attacks against journalists;
- ensure the financial and editorial independence of RTCG and AEM, as well as of their governing bodies and of all other media outlets;
- strengthen the capacity of self-regulatory bodies.

Intimidation of journalists

On **freedom of expression**, progress on addressing violence against journalists and media remains very limited, especially in dealing with old unsolved cases. Seven cases of attacks on journalists took place in 2017. Three of these cases resulted in misdemeanour proceedings, while in one case the authorities found no elements of criminal or minor offences. Criminal investigations into old cases, including the 2004 murder of an editor-in-chief, continue to be ineffective and the authorities have so far failed to step up and prioritise efforts to solve these cases. In October 2017, a first-instance court awarded compensation to a journalist for lack of effective investigation into an attempt on his life in 2007. In the same case, in November 2017 the Constitutional Court awarded the journalist additional compensation. Protection offered to the same journalist was withdrawn based on the assessment that the threat was no longer imminent. There have also been reports of undue pressure on journalists by law-enforcement to disclose their sources.

The ad hoc commission monitoring violence against media, which was re-established in September 2016, has so far produced three reports focusing on more recent cases, identifying a number of shortcomings and delays in investigations. The commission's recommendations, which were endorsed by the government, need to be fully implemented. Efforts should be stepped up to prosecute these cases effectively, also so as to avoid the application of the statute of limitations. The authorities are expected to demonstrate zero tolerance for threats

or attacks against the media, and should refrain from making statements that may create an environment not conducive to freedom of expression.

Legislative environment

The new Law on RTCG came into force in September 2017 providing for a yearly financial allocation to RTCG amounting to 0.3 % of GDP. Amendments to the Law on electronic media aimed at further alignment with the EU acquis were adopted. Montenegro needs to review its laws governing or affecting the media sector in a thorough, coherent and coordinated manner, in order to ensure their alignment with EU acquis and international media freedom standards.

Implementation of legislation/Institutions

The still relatively high number of defamation cases points to weak self-regulatory mechanisms. There is still no uniform approach to sanctions, suggesting that ECtHR case-law is not yet sufficiently known. Self-regulatory bodies continue to reflect the overall polarisation of the media scene in Montenegro. Effective and uniform application of the revised code of ethics of journalists has yet to be achieved. Dialogue between various self-regulatory mechanisms should be further enhanced to improve professional standards in media reporting.

While no new cases of blocking internet services have occurred in 2017, there has been no administrative or judicial follow-up of the cases of blocking freeware and cross-platform instant messaging services on election day in October 2016, which suggests the fragility of freedom of expression online.

Public service broadcaster

Initial positive developments on RTCG's editorial independence and professionalism were challenged by instances of undue political interference and political pressure on its Council. Several members of the RTCG Council were dismissed and replaced by the Parliament in late 2017 and early 2018. In its new composition, the RTCG Council voted out its chair, replacing him with one of the newly appointed members. Concerns about political pressure also surrounded the delayed signature of the government's agreement with RTCG on the provision of public broadcasting services and the approval of the collective agreement regulating the work of its employees.

Economic factors

Concerns about transparency and non-discrimination in state advertising persist. Following a ruling of the Constitutional Court, the State is no longer allowed to provide funds to commercial broadcasters, as it did in the past via AEM. The fact that many media outlets are not financially sustainable has a negative impact on the quality of reporting and professionalism.

INFORMATION SOCIETY AND MEDIA

Montenegro continues to be **moderately prepared** in the area of information society and media. **No progress** was made during the reporting period and the previous recommendations were not fulfilled. While funding of the public service broadcaster services RTCG is now bound to the GDP, its editorial independence was challenged by disputed dismissals of members of its Council. The capacity of the Agency for electronic communications and postal services (EKIP) and the Agency for electronic media (AEM) needs to be strengthened.

In the coming year, Montenegro should in particular:

- provide the media regulators and the public service broadcaster with sufficient resources for their independent functioning, and shield them from undue political interference;
- grant AEM a mechanism for imposing penalties, i.e. the possibility to fine media outlets that violate the ethical standards laid down in the Law on electronic media;
- establish a track record to demonstrate administrative capacity to enforce the acquis for electronic communications, information society services and audio-visual media services, including as regards regulatory independence.

The Law on electronic communications regulates the **electronic communications and information and communication technologies** sector. It was adopted in 2017 to ensure the independence of the regulatory authority and to cover roaming. The Ministry for Telecommunications and Information Society (MfTaIS) has ceased to exist, with responsibility for this area transferred to the Ministry of Economy. As a result, the whole institutional set-up had to be reconfigured, with a new rulebook on the internal organisation of the Ministry of Economy adopted in May 2017.

Repeated legal proceedings launched by telecommunication operators against EKIP decisions to lower regional roaming rates with Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Serbia are ongoing.

The European emergency number 112 has been implemented and is functioning.

On information society, the newly established Ministry for Public Administration took over responsibility from the former MfTaIS. A new multiannual strategy, based on the Digital agenda for Europe and the Digital single market strategy, was adopted. It addresses issues such as accessibility of broadband services, cyber security, digital business, eHealth and e education.

On **audio-visual policy**, the Agency for electronic media continues to exercise its mandate in a professional manner. However, the Agency's independence has been called into question due to its uneven implementation of sanctions for breaches of the code of ethics of journalists and its performance in monitoring the media in the run-up to elections. Legal provisions and its operational capacity for electronic media monitoring should be strengthened.

Amendments to the laws on electronic media and on the national public broadcaster (RTCG) came into force on 1 September 2017. They regulate the financing of the public broadcaster through a contract between the RTCG and the government. The law also foresees separate accounting for the RTCG, with a clear distinction between commercial and public funds. The RTCG budget for 2018 has been increased slightly from EUR 17.9 to 18.6 million. Stable financial resources need to be ensured, and editorial independence and professionalism standards further improved. Recent dismissals in the RTCG and AEM Councils raised serious concerns about their representativeness and independence, which need to be protected against undue influence and political pressure from any side.

FREEDOM OF EXPRESSION

While Serbia has some level of preparation, no progress was made on **freedom of expression**, a matter of increasing concern.

Serbia has **some level of preparation** concerning freedom of expression. However, there was **no progress** over the reporting period and this lack of progress is increasingly a matter of concern. The overall environment is still not conducive to the exercise of this right. Cases of threats, intimidation and violence against journalists are still a concern, while investigations and final convictions remain rare. Serbian authorities need to react promptly to and publicly condemn hate speech and threats against journalists. Legislation on the media still needs to be fully implemented. Serbia's legal framework needs to provide for greater transparency of ownership and funding of media outlets. Co-financing of media content to meet public interest obligations needs to be implemented in line with the legislative framework. This requires transparent and fair procedures without interference by the state administration, especially at local level.

In addressing the shortcomings outlined here, Serbia should in particular:

- create an enabling environment in which freedom of expression can be exercised without hindrance, and ensure that threats, physical assaults, the instigation of violence, and cases of invasion of privacy against journalists and bloggers are properly followed up by law enforcement and the judicial authorities, and publicly condemned by government officials;
- ensure the full implementation of media laws and strengthen the independence of the Regulatory Body for Electronic Media;
- adopt the new strategy for the development of a public information system, in a transparent and inclusive manner;
- ensure adequate funding of public broadcasting services, and transparent and equitable co funding for media content serving the public interest.

As regards *intimidation of journalists*, cases of threats, intimidation and violence against journalists remain a concern. There are numerous credible reports of verbal, physical attacks and attacks against property of journalists. In this respect, Serbia needs to elaborate guidelines clarifying their classification as criminal or other type of offences and closely monitor their follow-up by the law enforcement authorities. While several cases have been solved and some criminal charges have been filed, convictions are still rare. Serious efforts are needed to identify and prosecute those suspected of violating internet freedoms. A Memorandum of Understanding signed between journalists' organisations, the Prosecutor's Office and the Ministry of the Interior aimed at providing greater security for journalists at work has yet to lead to more efficient legal treatment of cases and ensure access to justice. The commission

tasked with looking into three unresolved cases of murdered journalists from 1999 and 2001 has made progress in completing an investigation of one of these, for which the indictment is still pending. The trial for the murder of one media publisher is still ongoing while the third case is still being looked into by the commission.

There have been no significant changes to the legislative environment during the reporting period. The adoption of a new strategy for the development of a public information system through inclusive consultation with stakeholders is still pending.

As regards implementation of the legislative framework, the independence of the Regulatory Body for Electronic Media (REM) needs to be strengthened to allow it to safeguard media pluralism. It will also allow it to carry out its tasks in reacting to programme changes eroding editorial content and programme composition, as stipulated in the frequency licences, by giving it the power to issue commensurate fines. The REM failed to address imbalances in media coverage of the 2016 presidential campaign. Co-financing needs to be implemented in line with the legislative framework, using transparent and fair procedures and without interference by the state, especially at local level. Hate speech and discriminatory terminology is often tolerated in the media and is rarely tackled by regulatory authorities or prosecutors. The Press Council has recorded an increase of breaches of the Journalistic Code of Professional Conduct in print media (approximately 7 % rise in 2017). Political and economic influences over media result in widespread self-censorship. Statements by high ranking state officials on the investigative work of journalists have not been conducive to creating an environment where freedom of expression can be exercised without hindrance. Serbian authorities need to provide active support to independent bodies, human rights defenders and independent journalists, and promptly react to and publicly condemn hate speech and threats.

Funding available for the two *public service broadcasters* is insufficient. The temporary nature of the funding model – a combination of subscription fees, budget subsidies and commercial contributions – leaves them vulnerable to political influence. Public services should more actively engage in opening their programmes to a plurality of views and promoting public dialogue. Public broadcasting services in minority languages need to be strengthened, especially as regards the Radio Television of Serbia (RTS).

As regards *economic factors*, lack of transparency in ownership structures and financing from state resources, especially at local level, continue to be a feature of the media environment since the privatisation of the state media. Political and economic influence over media continues to be a source of concern. Serbian authorities should ensure that informal pressure on editorial policy is not exerted through the distribution of advertising funds, including from public companies, as well as project co-funding from local budgets. Co-funding of media content serving public interest should be brought into line with existing legislation and criteria, and implemented in a fair and transparent way which is not detrimental to market equality.

There are three main professional associations in Serbia. Journalists have little job security and the editorial environment, which favours ‘tabloidisation’, is not conducive to improving journalistic standards. The overall media environment encourages self-censorship. Journalists’ job security should be enhanced and press associations need to strengthen their role in trade union and employment matters.

INFORMATION SOCIETY AND MEDIA

Serbia is **moderately prepared** in the field of information society and media. **No progress** can be reported over the past year, regarding the implementation of the previous recommendations. In the coming year, Serbia should in particular:

- finalise the harmonisation of the legislative framework in electronic communications with the 2009 EU regulatory framework;
- ensure the financial and operational independence of the two regulators, namely RATEL – for electronic communication and postal services and REM – for electronic media;
- take effective measures to improve market operators' access to telecommunication infrastructure, in particular to ducts, antennas and fibre optic infrastructure;
- develop a national strategy on cybersecurity.

There was some progress in the field of **electronic communications and information and communication technologies**, with the adoption of a law on e-document, e-identification and trust services in e-business, in line with the acquis. A law on electronic communications aimed at alignment with the 2009 EU regulatory framework, as well as a law on broadband and the Next Generation Networks Strategy until 2023, based on the Digital Agenda, have yet to be adopted. The country's broadband coverage remains low. The administrative capacity of the Ministry of Trade, Tourism and Telecommunications on these issues continues to be inadequate.

The European emergency number 112 has not yet been implemented and its permanent financing has still to be ensured.

RATEL's financial and operational independence remains limited. Its administrative capacity improved slightly; however, further strengthening is needed. Competitive safeguards have yet to be fully implemented. Access to infrastructure is regulated, however the implementation is not effective and, in practice, operators have difficulties in accessing ducts, fibre optic cables and antennas.

In the field of **information society**, progress was made with the establishment of an office for IT and e-government with horizontal tasks and reporting to the Prime Minister. Progress was also made with the adoption of the law on e-government and with the further introduction and development of e-services, including at the National eGovernment Portal. Full harmonisation of the law on information security with the Directive on network and information systems is pending. 49 % of companies are currently active through e-business.

No progress has been made **audio-visual policy**.

The media department of the Ministry of Culture is in charge of developing the public information system. Two independent regulatory bodies – the Republic Agency for Electronic Communications and Postal Services (RATEL) and the Regulatory Authority for Electronic Media (REM) – regulate the electronic media sphere.

A registry of media services was established. A rulebook on the procedure for issuing an

authorisation for the provision of media services on demand and guidelines for identifying media services on demand were adopted in 2017. However, the media services registry does not currently have any records of on-demand media service providers.

REM's Council still operates with six out of nine members, which however is a sufficient quorum for decision-making. While REM is legally and financially independent, politicization, in particular through the appointment of its Council members, persists.

The REM needs to adopt a new strategy for developing radio and audio-visual media services. REM continues to fail to monitor broadcasters effectively. In the 2016 and 2017 monitoring reports, REM assessed that none of the commercial stations met all programme content obligations under the law on electronic media, but issued no sanctions, which raises questions as to the institution's effectiveness in enforcing the market rules.

The stability and predictability of the legislation establishing sources of financing for the public service broadcasters needs to be strengthened.

No measures have been taken by the government to systematically include media literacy in the educational system. The Ministry of Culture and Information has been playing a proactive role in the area of promoting and supporting media literacy initiatives, but on the project level.

EU Enlargement Package 2018
Freedom of expression – Information society and media

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