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ARTICLE 19 (Author)

Bosnia and Herzegovina: Media freedom in survival mode

Following a press freedom mission to Bosnia and Herzegovina from 22 to 25 October 2023, the partner organisations of the Media Freedom Rapid Response (MFRR) warn that media freedom in the country is in decline against a backdrop of new restrictive laws, hostile rhetoric and denigration of journalists by public officials, and ongoing systemic challenges to the independence of public service media.

While the country had long experienced a stagnation in its progress for freedom of the media and freedom of expression, the situation has seen an overall decline, even as the country was granted candidate status for accession to the European Union (EU) in December 2022. The MFRR organisations express their greatest solidarity with the journalists and media outlets who are working in a suffocating environment and poor working conditions.

During the three-day mission, the delegation met with a number of political and media stakeholders both in Banja Luka, Republika Srpska (RS), and in Sarajevo. We regret that RS President Milorad Dodik did not respond to our requests for a meeting.

Package of restrictive laws

The delegation closely examined the package of restrictive laws that have been passed or are currently in development or discussions in RS, where entity president Dodik is steadily tightening the screws on independent media and civil society organisations.

Firstly, the recent recriminalisation of defamation, passed by the Republika Srpska National Assembly in July 2023, made defamation a criminal offence, with penalties including fines equivalent to 3,000 euros. While this legislation is modelled on similar problematic laws from

around Europe, its impact in RS is exacerbated by broader lack of independence of the judiciary and prosecutors. Although the final text of the law was an improvement on the initial draft, the end result remains in violation of international human rights standards. The delegation welcomes the commitment given by the president of the RS National Assembly to conduct a review of the law one year after its passing to assess its impact on journalists. Our organisations are ready to contribute to such an assessment in partnership with local journalist associations.

A second so-called 'foreign agent' law has passed the first vote within the National Assembly. If ultimately adopted, the legislation would require non-profit organisations funded from abroad and active in the Bosnian Serb entity to register and report on their work. Media non-governmental organisations (NGOs), which enjoy greater independence under this status, are targeted by this legislation, which is designed to stigmatise and further burden them with financial and administrative reporting.

The delegation was informed of a third legal initiative to develop a new media law in RS, which is being conducted in a non-transparent process with no proper structure or appointment procedure for the working group, posing questions over its legitimacy. Information passed to the delegation suggests this law would in particular restrict media outlets from registering as NGOs.

This package of interlinked legislation is aimed at further stifling the space for critical reporting and is contributing to a wider atmosphere of pressure and isolation amongst the journalistic community in Republika Srpska. When viewed together, the laws pose an existential threat to the future of independent journalism in RS.

At the Sarajevo canton level meanwhile, a new draft law 'on Public Order and Peace' would empower the police to sanction anyone spreading 'fake news', including online. This law expands the definition of a public place to the internet. We urge the authorities to withdraw this dangerous piece of legislation, which includes vague definitions that would leave the door wide open to abuses and seriously undermine freedom of expression.

Safety of journalists

Regarding the safety of journalists, the mission met with several journalists who have been attacked because of their work, in both Banja Luka and Sarajevo. Many of the investigations into these attacks have still not been completed, mirroring a wider trend. According to the BH Journalists Association, only 25% of the cases involving journalists in the whole of BH have been investigated and the rate of prosecutions remains problematic.

While physical attacks are relatively rare, verbal attacks and insults directed towards journalists by prominent politicians remain a concern. This hostility and harsh rhetoric against journalists sends a signal to the public that journalists are legitimate targets of violence and scapegoats.

The Free Media Help Line of the BH Journalists Association has had a positive impact, and the establishment of contact points within all police and prosecutors offices is a welcome step forward. However, ultimately there is a continued lack of systematic and integrated institutional follow-up for all cases. The establishment of a standing working group for the safety of journalists is the next step for creating an integrated institutional response, and we welcome the commitment from the Main Prosecutor in Canton Sarajevo to participate in such a body.

Regulatory framework and public service media

The public broadcaster, Radio and Television of Bosnia and Herzegovina (BHRT), remains locked in a period of perennial crisis due to blocked access to legally-mandated licence-fee funding and the lack of a sustainable funding model, undermining its institutional stability and independence. The appointment of a new director general continues to be blocked, along with the appointment of a new management council.

The independence of the national Communication Regulatory Agency continues to be undermined by the politicised appointments of its director and the non-appointment of its management council. The Agency's selective approach to regulatory actions has raised concerns, though these problematic decisions remain rare.

The legal framework for freedom of access to information has been weakened due to recent legislative changes, providing public authorities with more opportunities to deny the release of data, adding onerous new hurdles for journalists, and undermining transparency. Overall the media market remains highly fragmented and real media pluralism is weak.

The crucial role of international community

Journalists and representatives from civil society organisations who we met during the mission expect more from the international community. The mission heard repeated concerns that in the process of ticking boxes for the progress of the country towards accession to the EU, media freedom risks being overlooked for considerations such as stability and security.

Given the fears that the situation in Republika Srpska will spill over to the Federation of Bosnia and Herzegovina, we urge international organisations to unify positions, use their diplomatic leverage to defend media freedom in the whole country, and always stand in solidarity with journalists and media outlets. We call on the EU delegation to make media freedom and freedom of expression a high priority in the accession negotiations.

The delegation was composed of ARTICLE 19 Europe, the European Federation of Journalists (EFJ), Free Press Unlimited (FPU), the International Press Institute (IPI), the Osservatorio Balcani Caucaso Transeuropa (OBCT), as well as South East Europe Media Organisation (SEEMO), and was supported by the journalists' association BH Novinari.

A full report including detailed findings and recommendations will be published in the coming weeks.

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Austrian Red Cross Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD)	Wiedner Hauptstraße 32, 1041 Wien T +43 1 589 00 583 F +43 1 589 00 589 info@ecoi.net	Contact Imprint & Disclaimer F.A.Q. Data Protection Notice
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