



EU ENLARGEMENT PACKAGE

2019

FREEDOM OF EXPRESSION - INFORMATION SOCIETY AND MEDIA



*Enlargement
Negotiations*

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¹**Albania 2019 Report**, SWD(2019) 215 final (pp. 25-27, 65-66)

²**Bosnia and Herzegovina Analytical Report**, SWD(2019) 222 final (pp. 46-47, 106-109)

³**Kosovo 2019 Report**, SWD(2019) 216 final (pp. 25-27, 84-85)

⁴**Montenegro 2019 Report**, SWD(2019) 217 final (pp. 26-28, 65-66)

⁵**North Macedonia 2019 Report**, SWD(2019) 218 final (pp. 26-29, 66-68)

⁶**Serbia 2018 Report**, SWD(2019) 219 final (pp. 24-27, 65-67)

*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

The country has **some level of preparation** / is **moderately prepared** in the area of freedom of expression. There was **limited progress** over the reporting period. Threats and intimidating language against journalists have increased, although these acts have been systematically condemned. There have been some convictions on past and current cases. During the reporting period, financial resources and staff levels at the audio-visual media regulator were reinforced. The new Code of Ethics for journalists was launched in March 2018 and incorporates ethical guidelines for online media. The overall legislative environment is conducive to the exercise of freedom of expression, but implementation of this legislation remains a challenge. Ownership of audio-visual media and the transparency of media funding and public advertising remain key issues. Self-regulation in online media needs to be ensured. Legislation on public advertising needs to be introduced to improve transparency in line with international best practices.

In the coming year, Albania should in particular:

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

Intimidation of journalists

During the reporting period, there were two cases of **physical assaults** against journalists, reported respectively in June and September 2018. In addition, in August bullets were fired on the parental home of an investigative journalist, while a television programme moderator received a threat in December. Media associations and public authorities resolutely condemned these attacks. Investigations were launched, but there have been no arrests on these cases so far.

In May, a politician was convicted in relation to a defamation case involving a journalist, while a first instance court dismissed a defamation case against two investigative journalists. A total of 13 cases in which journalists or newspapers were parties in the judicial process were registered in first instance courts in 2018 with 10 first instance court rulings. In addition, there were 7 cases registered in appeal courts in 2018 with 1 ruling. Albania should further strengthen its efforts to ensure a policy of zero tolerance for intimidation of journalists and threats against the media, including in political discourse.

Legislative environment

The Constitution and relevant laws are in line with international human rights law. They guarantee individual liberties, including the right to privacy and freedom of expression. They also include sanctions against incitement to hatred. **Defamation** remains a criminal offence, although it does not carry a prison sentence. However, journalists convicted of defamation are at risk of fines. In December 2018, the government announced a package of amendments to the Law on Audiovisual Media and the Law on Electronic Communications, and a public consultation on these amendments was held in January 2019. It is important that the opinions of the relevant stakeholders, including the media sector, are taken into account before any new measure is adopted. Specific concerns have also been raised by the international community. Among others, these concerns included the scope of the definition of electronic publication, the extent of the domain registration obligation, and the implications of failure to register. The package of amendments is currently being reviewed for alignment with the EU acquis and European standards. 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 Audio-visual Media Authority (AMA), the regulatory authority in the field of audio and visual broadcasting services, approved its 2017-19 strategic action plan in March 2017. The funding of the AMA has been doubled, and it has changed its structure to focus more strongly on supervisory and inspection activities to identify illegal broadcasting. The AMA's activities are subject to parliamentary oversight by the Committee on Education and Public Information Means.

The new deadline set by the AMA for the **digital switchover** process is September 2019. The infrastructure to access digital broadcasting is generally already in place. However, the AMA has postponed the deadline of the digital switchover in Tirana and Durrës due to the scarcity of DVB-T2 digital decoders on the market and the associated public discontent. These events indicated a shortcoming in the AMA's role in the management of the process as well as a lack of public awareness about the digital switchover.

Public service broadcaster

The public broadcaster RTSH has a new internal structure that reflects the digital switchover process. RTSH has developed and approved editorial principles to guard against political interference. RTSH still needs to ensure its financial sustainability.

In June 2018, private broadcasters pushed for changes to the Audio-visual Media Law, which would have allowed for part of the TV licence fee to be diverted from the public broadcaster to private TV channels. The proposed amendments were opposed by international actors, the public broadcaster, and media organisations. The initiative was rejected by the government.

Economic factors

Oversaturation of the media landscape and opaque media ownership create concerns about fair competition for independent media organisations. The editorial direction of private media continues to be the subject of political and business interests. Media funding remains key to improving media freedom, especially given new challenges such as **fake news** and third-party influence.

Self-censorship and the precarious nature of employment for journalists remain issues of concern.

Internet

In October 2018, the regulatory Authority for Electronic and Postal Communications (AKEP) warned that 44 online portals would be shut down if they were not registered within 72 hours with the National Business Centre and if they failed to publish their respective tax number/business registration number. As mentioned above, the recently proposed amendments to the media law legal framework include the obligation of online media registration, the scope of which remains to be clarified.

Professional organisations and working 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. A recent survey supported by the EU indicates that employment in the media sector continues to be problematic, with one third of respondents stressing that they do not currently have a work contract. More than half of the respondents claimed that the salary they received was lower than the average salary in the public sector and the same proportion complained of delays in receiving their salaries in a timely manner. Delays that last for several months are regularly reported. The AMA, together with the Parliamentary Media Committee, is pressuring the authorities to properly implement the Labour Code for journalists. However, institutional steps to ensure this implementation need to be more concrete.

INFORMATION SOCIETY AND MEDIA

Albania is moderately prepared in the field of information society and audio-visual media. Some progress was made on the digital agenda strategy and e-government services. No progress was achieved in the finalisation of the digital switchover, which remains to be finalised, along with the revision of the national broadband plan with clear objectives and targets, as well as in implementing the European emergency number 112, as already recommended in the 2018 report.

In the coming year, Albania should in particular:

- adopt the necessary amendments to the Law on Electronic Communication, in alignment with the new European Electronic Communications Code, and prepare an action plan for the digital agenda.

On **electronic communications and information and communications technologies (ICT)**, little progress was made in implementing the single European emergency number 112 as planned in the 2015-2020 public order strategy. The unified 112 emergency number currently operates only in the region of Tirana and further efforts are required to extend it to the whole country. A new organisational structure for the Authority for Postal and Electronic Research has been approved with an increase of staff from 73 to 85 employees (74 are already employed). Fixed internet broadband penetration is low, with approximately 38% of households being connected. There is a huge gap in fixed internet-broadband penetration between urban and rural areas. Rural areas account for 40% of the population but only 1% out of this is connected to the internet. The mobile penetration rate reached 68% compared to 72% at the end of 2017. In 2018 the number of active users of mobile broadband was about 1.8 million, which results in an annual decrease of about 10.9%. The volume of data usage during 2018 has increased by 30% compared with 2017.

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. A new action plan for information society services for 2018-2020 needs to be approved. Revision of the national broadband plan is scheduled to be completed by the end of 2019. Authorities took part in the preparations of the Regional Roaming Agreement and signed the agreement in April 2019. The Law on cyber security was adopted in February 2017 and is partly aligned with the Directive on security of network and information systems. The Decision of Council of Ministers "On approval of the list of critical information infrastructures" was approved in 2018 together with the necessary secondary legislation. As part of the European Commission's mapping of 'digital innovation hubs', out of 3 eligible hubs that were registered, 2 are still operational while 1 has been deactivated due to institutional restructuring. The national cybersecurity strategy still needs to be adopted.

In order to monitor progress made by Albania towards the compliance with the European Union rules for electronic communications and information society services and convergence with the internal market, as well as the alignment with the Digital Agenda for the Western Balkans, the country needs to improve the collection of statistical data on digital performance and digital competitiveness.

In the field of **audio-visual policy**, the digital switchover continues to be postponed with a new deadline set by Audio-visual Media Authority (AMA) of September 2019. The infrastructure to access digital broadcasting is mostly in place already. However, the AMA has postponed the deadline for the digital switchover in the major districts of Tirana and Durres due to the scarcity of DVB-T2 digital decoders in the market and the associated public discontent. These events indicated shortcomings in the AMA's management of the process and lack of public awareness about the digital switchover. The so-called digital dividend (high quality radio spectrum that was formerly used by analogue broadcasters) DD 1 is now freed from analogue broadcasters. However, digital broadcasters still occupy the frequency. AMA must ensure that the digital dividend is de facto freed from other uses. This will enable the government to put on sale the freed frequencies to broadband services and thus generate income. During the reporting period, the AMA's financial and human capacities were reinforced.

FREEDOM OF EXPRESSION

There is some level of preparation on freedom of expression. The legislative framework on media freedom, including hate speech, defamation and access to information needs to be applied effectively and be further aligned with the EU and international standards. The law on the public broadcasting system has not been implemented and entity-level legislation is not harmonised with it. The financial situation of public broadcasters is not sustainable and they are subject to political influence. Violence, threats and political pressure against journalists are a cause for concern, with a worrying trend of self-censorship due to the lack of systemic institutional follow-up.

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

- ensure protection of journalists and a systematic institutional follow-up of threats and violence against them;
- ensure the financial sustainability and political independence of public broadcasters, and harmonise entity legislation with the state-level law on the public broadcasting system;
- adopt legislation on media ownership transparency and criteria on public advertising.

Freedom of expression, including media freedom, is guaranteed by the Constitution and by law. The media landscape, although comprising a relatively large number of media outlets, does not reflect real diversity and pluralism and is segmented on the basis of ethnic, business and political affiliation.

Intimidation of journalists

Political pressure and intimidation against journalists are a cause for concern; physical and verbal attacks take place without systematic institutional response and effective protective measures. The authorities often downplay the intimidation of journalists, and their reaction, including public condemnation, is weak. Data on threats and attacks against journalists and media workers is collected by professional organisations but not by public institutions. The BH Novinari association's free media help line recorded 58 cases of violation of journalists' rights in 2018, including 6 cases of physical assault, 17 threats, and 9 cases of political pressure. One case of assault on a journalist reporting on the 'Justice for David' demonstrations in Banja Luka is under investigation as attempted murder. In two occasions, a high-level political leader verbally attacked independent journalists in public. In 2018, the Ombudsman's office received nine complaints. There was no progress in 2018 in the investigation and prosecution of past attacks against journalists, and no convictions.

The police and the judiciary need to ensure impartial, prompt, thorough, independent and effective investigations and prosecutions in cases of threats and violence against journalists and media workers. Journalists under threat need to be ensured adequate police protection. The authorities are expected to act swiftly and 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

Defamation has been decriminalised since 2002, but politicians often use civil suits to intimidate journalists. Courts should ensure expedient processing of defamation cases and consistency of case-law on damage awards, as the abuse of defamation lawsuits risks having a chilling effect on freedom of expression and pushing journalists towards self-censorship. The legislation on hate speech needs to be fully aligned with the ECtHR case-law and the EU acquis, as it currently only provides for a criminal offence of incitement to religious and national hatred and intolerance. Legislation on freedom of access to information at state and entity level needs to be harmonised across the country and aligned with international and European standards.

Implementation of legislation/institutions

The laws on freedom of access to information are only partially respected, in particular as regards statutory deadlines for replying to public information requests, the completeness of information provided, and the use of a comprehensive public interest test to justify a refusal to grant access to information. Legal provisions on data protection and on access to information are interpreted in a way that protects private rather than public interests.

The Communications Regulatory Agency (CRA) has the power to regulate the audio-visual media market, and enjoys political and institutional independence, but not full financial independence. Bosnia and Herzegovina needs to improve the procedure to appoint its management to ensure transparency and openness, and to provide sufficient safeguards against any political and economic interference. (Also see Chapter 10 - Information society and media).

The Press Council operates as a self-regulatory membership-based body for both online and printed media outlets across the country. The Press Council issues recommendations and has no power to impose fines on media outlets. It plays an important role in improving the media quality and ensuring that media outlets comply with professional standards. Since 1999 the Press Council has issued the press and online media code of Bosnia and Herzegovina; all major media outlets have committed to comply with the code.

Public service broadcaster

The 2003 Law on the public broadcasting system is only partially enforced, and entity laws on broadcasting are not in line with it. Therefore, the three public service broadcasters are exposed to political influence, in particular through politically controlled steering boards, with a worrying trend of self-censorship.

Bosnia and Herzegovina does not have an adequate and harmonised RTV fee collection model, as provided for by the law. Entity broadcasters also have substantial unpaid debts towards the state-level broadcaster, which are subject to long court cases. These issues threaten the financial independence and sustainability of the public broadcasting system.

Bosnia and Herzegovina needs to fully implement the law on the public broadcasting system, strengthen the political and financial independence of public broadcasters, and proceed with the digitalisation process. (Also see Chapter 10 - Information society and media).

Economic factors

Bosnia and Herzegovina needs to adopt legislation on **media ownership transparency** and establish a detailed register of media ownership to enable systematic insight into ownership structures, thus preventing the risk of hidden media concentration. **Local public broadcasters**, which are not within the public broadcasting system, receive funds from local government budgets and are often under strong political pressure and influence. There is a need to increase transparency on the work of **marketing companies**, often linked to political parties and on advertisements by public agencies and publicly-owned companies. Bosnia and Herzegovina should adopt legislation on advertising in the media. The lack of transparency and clear criteria in the distribution of subsidies are a matter of concern. Job security for journalists is very limited, as many are employed on short-term contracts or work as freelancers. This makes them vulnerable to undue influence from editors or owners, as journalists do not have adequate guarantees against dismissals or disciplinary measures.

Internet

Freedom of expression online is not specifically regulated, except in the Republika Srpska entity Law on public peace and order, which includes social media in the definition of public place in which public order violations can be committed. There is a high degree of online hate speech; criminal prosecution is based on the offence of inciting religious, ethnic and national hatred by means of internet or social networks. Online media outlets self-regulate via the Press Council, which handles complaints from the public.

Professional organisations and working conditions

Journalism in Bosnia and Herzegovina is a precarious profession, with low wages and little job security and it is therefore prone to self-censorship. A significant number of journalists work without adequate contracts. The employment rights provided for by the entity-level labour laws are often not respected. There is no structured dialogue between the authorities and the media community on the working conditions of journalists. Trade unions for journalists are multiple but weak and with little recognition or independence; unionisation is low, and there are no branch collective agreements for media workers. The BH Novinari association and the Banja Luka club of journalists play an important role in the protection of journalists and media integrity.

INFORMATION SOCIETY AND MEDIA

Bosnia and Herzegovina is at an early stage of preparations in the area of information society and media. The legislative and strategic framework are incomplete.

Bosnia and Herzegovina is not meeting its obligations under the SAA, as the legislation in the area is not in place and aligned with the acquis. Bosnia and Herzegovina needs to introduce the European emergency number 112, the e-signature system, and a network of Computer Security Incident Response Teams. Public institutions have to establish registers to provide electronic services. The financial independence of the Communication Regulatory Agency and the procedure to appoint its management have to be improved. Bosnia and Herzegovina needs to fully implement the law on the public broadcasting system, strengthen the political and financial independence of public broadcasters, and proceed with the digitalisation process.

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

- adopt a Law on electronic communications and electronic media in line with the acquis;
- finalise the digital broadcasting switchover;
- adopt a framework strategy for access to the broadband network.

The SAA provides that Bosnia and Herzegovina and EU Member States shall cooperate with a view to further developing the information society, including preparing society as a whole for digitalisation, attracting investments and ensuring the interoperability of networks and services.

According to the constitutional and legal framework, the competences in the area of information society and media rest predominantly with the state level, which adopts legislation on inter alia the public broadcasting system, communications e-signature, e-Commerce. The two entities and Brčko District also have competences on certain matters covered by this chapter, while the cantonal competences are limited to local broadcasting, cinematography and film heritage.

The main actors at the state level are the Ministry of Communication and Transport with its Office of Supervision and Accreditation of Certifiers and the Communications Regulatory Agency. At entity level, certain matters falling outside the scope of the state-level competences are dealt with by the Ministry of Transport and Communications in the Federation entity, and by the Ministry of Transport and Communications and the Ministry of Scientific-Technological Development, Higher Education and Information Society in the Republika Srpska entity.

The Republika Srpska entity contests the competence of the state level to legislate countrywide and execute necessary functions in the area of information society services, including on matters related to ensuring an interoperable e-signature system and the state-level authority carrying out the necessary supervision and accreditation of the countrywide use of e-signature.

Regarding **electronic communications** and **information and communication technology**, a Law on Communications was adopted in 2003. The SAA sets Bosnia and Herzegovina's objective to adopt a new law on electronic communications and electronic media aligned with the EU acquis in this sector one year after the entry into force. Legislation enabling the liberalisation of the telecommunications and electronic media sector is not in place. The European emergency number 112, which should be operational throughout the country, is not in place.

In the field of the telecommunications market, 3 incumbent operators provide both fixed and mobile telephony, 11 alternative operators provide voice services in fixed telephony and 5 provide mobile services. The coverage of fixed telephony is 21.5%. For mobile telephony, there are 3 licensed incumbent operators and 5 providers of mobile services. The number of users of mobile services is 3,404,085 (97.42% penetration rate). There are 70 internet providers and 3,064,072 internet users (86.77% penetration rate). The penetration of broadband internet is 19.83%. As regards roaming tariff policies, the Communications Regulatory Agency has implemented the regional roaming agreement since 2014, which has resulted in roaming charges falling by up to 30%. Bosnia and Herzegovina signed the new regional roaming agreement in Belgrade in April 2019, enabling Roam like at Home (RLAH) as of July 2021.

A policy on the electronic communication sectors for 2017–2021 and the accompanying implementation action plan are in place. This policy is a prerequisite for the development of the regulatory framework in the area of radio frequency. The basic technical requirements for implementing the long-term evolution system in all envisaged European plans intended for networks of mobile operators are also in place. The country has introduced the 4G network but does not have a broadband strategy.

In the field of **information society services**, the 2017–2021 policy for development of the information society of Bosnia and Herzegovina is in place. The policy is aligned with the strategic pillars of the information and communication technologies from the digital agenda for Europe. Efforts should be made to further align this policy with the EU digital single market strategy as well as the Digital Agenda for the Western Balkans. Bosnia and Herzegovina does not have a countrywide strategy or action plan for the development of information society.

In order to monitor the progress made towards the compliance with EU rules for electronic communications and information society services and the convergence with the internal market, as well as the alignment with the Digital Agenda for the Western Balkans, the country needs to improve the collection of statistical data on digital performance and digital competitiveness.

The state-level Law on electronic legal and business traffic (e-commerce law) is in place, and is aligned to a great extent with the Electronic Commerce Directive. The Inspectors Office established within the Ministry of Communications and Transport of Bosnia and Herzegovina is in charge of supervising its implementation. No inspector has been nominated to carry on the inspection and supervision since the law is not being implemented in the absence of a framework for the electronic signature.

The Office for Supervision and Accreditation of Certifiers has been established within the Ministry of Communication and Transport of Bosnia and Herzegovina. The country needs to adopt legislation on electronic identification and trust services for electronic transactions in compliance with the acquis. Bosnia and Herzegovina has to adopt a national strategy on the security of networks and information systems and to designate a countrywide single point of contact responsible for coordination and cross-border cooperation. The country needs to establish Computer Security Incident Response Teams (CSIRT) network that will facilitate strategic cooperation and the exchange of information.

As regards the interoperability of networks and services, the legal framework required for the interoperability and ensuring the foundation of interoperable networks and services between

public administration institutions is in place. The country has to enable provision of electronic services, which is preconditioned with the introduction of interoperable e-signature system throughout the country. Public registries, though existent in some areas, are not necessarily interoperable. With regard to **audio-visual policy**, the Law on Communication establishes the Communications Regulatory Agency (CRA) as the regulator of the market for audio-visual media services and broadcasting. The Agency licenses and monitors radio and television broadcasting, including networks and has the power to regulate the media market. The Agency enjoys political and institutional independence. Its financial independence has been improved but is not yet fully ensured. Its director is appointed by the Council of Ministers and its seven-member Council by the Parliamentary assembly, with consideration of ethnic and gender balance. The members of the CRA Council are currently all men. The CRA Council decides by consensus or by simple majority with a quorum of four members present and voting. Bosnia and Herzegovina needs to improve the procedure to appoint the CRA management to ensure its transparency and openness, and to provide sufficient safeguards against any political and economic interference.

Bosnia and Herzegovina needs to adopt a law of electronic communications and electronic media in line with the Audio-Visual Media Services Directive, as well as legislation on media ownership transparency, including a register to enable insight into ownership structures. The 2003 Law on the public broadcasting system is only partially implemented, and entity laws on broadcasting legislation are not in line with it. Therefore, the three public service broadcasters are exposed to political influence, in particular through politically controlled steering boards, with a worrying trend of self-censorship.

The entities collect the radio and TV fees differently (directly and via post in the Republika Srpska entity, and via electricity bills in some areas of the Federation entity); the legal provisions requiring that fees are collected in a single account are not respected. Entity-level broadcasters also have substantial unpaid debts towards the state-level broadcaster, which are subject to long court cases. These issues threaten the financial independence and sustainability of the public broadcasting system. A sustainable solution needs to be found.

The law provides for a public broadcasting system corporation as a joint body for all three public broadcasters. This corporation would work as network operator tasked with ensuring coordination in using and managing technical resources of the transmission and broadcasting infrastructure. Such a corporation has never been established.

Bosnia and Herzegovina operates exclusively through analogue technology. The country missed the June 2015 international deadline for the digital switchover set by the Geneva agreement GE-06. Only the first phase of the digitalisation process has been completed, out of three. The lack of digital switchover jeopardises the operation of certain radio frequency transmitter both locally and regionally.

The country does not have a list of important events to be transmitted by the public broadcasting system. The financing of local public broadcasters from the public budget also needs to be brought into line with the acquis as it amounts to State aid and provides opportunities for political pressure and influence.

FREEDOM OF EXPRESSION

Kosovo **has some level of preparation** regarding freedom of expression, which is enshrined in the Constitution, and benefits from a pluralistic and lively media environment. There was **limited progress** in this area over the reporting period. The rule of law institutions have increased the follow-up to threats and attacks against journalists. The number of incidents has decreased. There are particular concerns regarding freedom of expression in the north of Kosovo, including self-censorship. In spite of some efforts by the Assembly, a sustainable solution for the funding of the public broadcaster remains to be adopted. The broadcaster remains vulnerable to political pressure and influence. The audio-visual sector in Kosovo is characterised by a lack of data and the existing legislation needs to be updated and implemented. There were no legislative developments on the regulation of media ownership and transparency.

In the coming year, Kosovo should in particular:

- further improve the cooperation within and response of the responsible institutions to physical attacks against journalists, and other forms of pressure;
- ensure sustainable funding for the public broadcaster in a manner which preserves its independence;
- review the Law on the Independent Media Commission to update its competences, including regarding the online audio-visual media services covered by the 2010 Audiovisual Media Services Directive;
- increase the availability of data on the audio-visual market, in particular as regards media ownership.

Intimidation of journalists

The number of threats and attacks against journalists has decreased. According to the Association of Journalists of Kosovo, 16 incidents were reported in 2018, down from 24 in 2017. There has been a more systematic response from rule of law authorities, with the help of coordinators in the police, prosecution and courts. However, 2018 saw only one indictment and three convictions regarding threats and attacks against journalists. Adjudication of cases remains generally slow.

Legislative environment

Freedom of expression and the media are constitutionally guaranteed and legislation on libel, hate speech and defamation is in line with European Court of Human Rights case-law. The Law on the Independent Media Commission led to the creation of an independent regulator and authorities have provided it with sufficient regulatory, monitoring and enforcement powers to ensure that internal and external media pluralism is safeguarded. However, such legislation does not cover media available online. The newly adopted whistle-blower legislation strengthens the protection of journalistic sources. The public's right to reply and correction remains unregulated. The new Law on access to public documents has not yet been adopted.

Implementation of legislation/institutions

The effective implementation of legislation remains a key challenge for the Kosovo audio-visual sector. The Independent Media Commission (IMC) has not carried out any market analysis in the last years and lags behind in initiating cases and implementing fines for legal breaches. The government has not approved IMC's draft strategy for the digital switchover. Newspapers and broadcasters who switched to the online world are no longer monitored. The Press Council follows the online press by reacting to complaints, but it does not have the necessary resources to carry out investigations or market analyses. The Independent Media Commission does not have the power to license and monitor audio-visual media services online (e.g. video on demand, catch-up TV and WebTV), which were already covered by the Audiovisual Media Services Directive adopted in 2010. Although this creates an unhindered environment for online media, it also undermines the privacy of individuals, leading to cases of alleged hate speech, libel and defamation. The right of access to public information is undermined by the authorities' fragmented implementation of relevant legislation. The government should be more actively involved in policy development in the media sector.

Public service broadcaster

The Assembly has drafted a new Law on the public broadcaster, including a potential solution for sustainable funding for Radio Television of Kosovo (RTK). To date, the broadcaster remains directly state-funded, with its budget determined annually by the Assembly. This undermines its independence, weakens its long-term sustainability and leaves it prone to political influence. Trade unions allege a lack of transparency in its recruitment procedures.

Economic factors

Media outlets are generally not economically sustainable. The lack of an audience measurement system and of a strong private advertising industry means that private broadcasters depend on other sources of funding and few are able to operate without strong links to political and business interest groups.

A lack of data is another big challenge for Kosovo: 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. There are no data on audiences or the distribution of advertising funds or funds provided to broadcasters by either central or local government. Consequently, there is neither transparency nor fair distribution of the sources of financing among the media outlets and no way of knowing whether they are concentrated in the hands of few people which could jeopardise freedom of expression.

Professional organisations/professional conditions

Associations of journalists in Kosovo have been active in condemning incidents and threats against journalists. They have also increased their cooperation with the Kosovo Police and prosecution services on following up on these cases. However, their involvement in discussing legislative initiatives on media issues remains limited. Journalists' associations remain largely divided along ethnic lines and are considered weak. Journalists often work without contracts, which makes them vulnerable to corruption and prone to self-censorship.

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. A sustainable solution for the funding of the public broadcaster remains to be adopted. As in previous years, the Independent Media Commission did not move forward with the process of switching from analogue to digital television. A majority of last report's recommendations have not been followed up.

In the coming year Kosovo should in particular:

- ensure that telecoms and media regulators are given adequate resources to fulfil their mandates independently and develop a solution for the sustainable funding of the public service broadcaster;
- free the first digital dividend / liberate frequencies;
- revise the Law on the Independent Media Commission so as to increase the availability of data on the audio-visual sector and extend the regulator's regulatory, monitoring and enforcement powers.

On **electronic communications and information and communication technologies (ICT)**, 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 published data on the use of ICT. According to the survey, 93.2% of households had access to the internet, a 4.4 pps increase from the previous year. Some 90.2% accessed the internet through fixed connections, a 6.6 pps increase from the previous year, whereas the number accessing the internet through mobile connections remained the same, at 24.6 %.

The mid-term targets of the 2013-2020 Digital Agenda for Kosovo have been fully achieved and the strategy is being implemented. The telecom regulator postponed implementation of the +383 dialling code to January 2019 at the request of operators but the transition was only partially implemented by the deadline. The regulator is fining each operator EUR 10,000 for each month of delay following the January deadline. The regulator has reviewed pricing policies for frequency allocation and this has resulted in a 30 % price drop for the currently allocated frequencies for mobile telephony services. The regulator is also currently reviewing pricing policies for new frequency allocations and annual regulatory fees. Authorities took part in the preparations of the Regional Roaming Agreement and signed the agreement in April 2019.

As regards the information society, several legal initiatives are ongoing. Kosovo is currently working on alignment with the Electronic Identification, Authentication and Trust Services Regulation, the Directive on the Security of Network and Information Systems and the Broadband Cost Reduction Directive. The computer security incident response team, set up in 2014, is still understaffed. Modernisation of the public administration is a key element for successful digitalisation. Kosovo should put more effort in implementation of e-government frameworks and services.

On **audio-visual 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. The Law on the Independent Media Commission provides

it with sufficient regulatory, monitoring and enforcement powers to foster the pluralism and competitiveness of the market but it has not carried out any market analysis for years and does not sanction broadcasters efficiently for failure to comply with the law. This is partly due to a lack of data on the distribution of the advertising funds, the audience and the ownership structure of the TV and radio channels and the media outlets. The creation of the Media Registry could provide the regulator with the requisite data to carry out proper market analysis. The revision of the Law on the Independent Media Commission should extend its regulatory powers to audio-visual media services available online (e.g. video on demand, catch-up TV and webTV), which are covered by the audio-visual media services Directive. In addition, the Independent Media Commission needs 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, Radio Television of Kosovo (RTK), remains directly state-funded, with its budget determined annually by the Assembly. This undermines its editorial independence, weakens its long-term sustainability and leaves it prone to political influence. The Assembly has drafted a new Law on the public broadcaster, including a potential solution for sustainable funding for RTK.

FREEDOM OF EXPRESSION

Montenegro has achieved some level of preparation on freedom of expression. No progress was made in the reporting period and previous recommendations are yet to be addressed. There have been some developments on the investigation into the May 2018 shooting of an investigative journalist, while important old cases of attacks against journalists remain unresolved. Continued political interference in the national public broadcaster (RTCG) and the Agency for Electronic Media (AEM) remains a matter of serious concern. The media scene continues to be highly polarised and challenges persist in understanding the role of free media. Self-regulatory mechanisms remain weak. Training of the judiciary on ECtHR case law on freedom of expression needs to continue.

In addressing the shortcomings, Montenegro should in particular:

- significantly 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;
- support the establishment of effective self-regulatory mechanisms.

Intimidation of journalists

Progress in addressing violence against journalists and media is still very limited, with old cases remaining unsolved. Four attacks were registered by the authorities in 2018; in three of these, convicting judgements were issued against four individuals for endangering the safety of the journalists concerned. In addition, cyber-attacks against media outlets were reported. The most serious attack, qualified as an attempted murder, took place in May 2018 against the investigative journalist Olivera Lakić. The government has issued strong statements in support of investigating cases of violence against journalists. However, while the investigation into the May 2018 attack has shown initial results, the authorities have failed to show intensified efforts to solve old cases, including the 2004 murder of an editor-in-chief. Protection has been offered to two journalists. The first-instance verdict against a crime journalist on charges of creating a criminal organisation and trafficking of narcotics raises concerns as to journalists' ability to perform their duties professionally and without fear of legal repercussions. There are still reports of undue pressure on journalists by law-enforcement officials to disclose their sources.

The ad hoc commission for monitoring violence against media has since September 2016 produced five reports focusing on both recent and old cases, identifying a number of shortcomings including delays in investigations. The commission has been given access to documents with un-redacted names, but difficulties in obtaining timely and complete information from the authorities persist. The commission's recommendations are yet to be fully implemented by state authorities and its 2019 budget is yet to be approved by the government. Further efforts

are needed to prosecute the cases effectively and without delay, also in order to avoid the application of the statute of limitations. 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

Plans to amend the Law on state symbols, prepared in the absence of public consultations, and to introduce fines for not standing when the national anthem is played triggered a discussion on conditions conducive to the effective exercise of freedom of expression. While regulating these issues is a prerogative for the State, it is important that the legal framework does not infringe upon the right to freedom of expression.

Laws on media, the public broadcaster RTCG and on electronic media are scheduled for adoption in 2019. These laws need to address the recommendations set out in the media sector inquiry and be complemented by a comprehensive media strategy. All laws governing or affecting the media sector should be prepared in an inclusive, coherent and coordinated manner, and alignment with the EU acquis and international standards ensured. Montenegro needs to ensure that its legislative framework provides an enabling environment for freedom of expression, based on transparency of media funding and ownership, integrity and pluralism.

Implementation of legislation/Institutions

Self-regulatory bodies continued to reflect the overall polarisation of the media scene in Montenegro and one of them suspended its activities in August 2018. As a result, some media outlets no longer have a complaint mechanism in place. There is still no uniform approach to sanctions, suggesting that ECtHR case-law and other standards are not yet sufficiently known. Efforts need to be stepped up to establish effective self-regulatory mechanisms, with a view to improving professional standards in media reporting and creating a climate where freedom of expression cannot be abused. Effective and even application of the revised code of ethics of journalists is yet to be achieved.

Public service broadcaster

The replacement of the public broadcaster RTCG's Council members, and subsequently of its management, has fuelled further concerns about undue political interference and pressure on the RTCG. So far, in four of these cases domestic courts found that dismissals were not in accordance with the law. The editorial independence and professional standards of the RTCG need to be restored, and the RTCG Council shielded from undue influence and political pressure, including during the selection of its members. The contract on provision of public services between the government and RTCG was signed in March 2018, according to which the government is required to monitor the implementation of the financial commitments. The issue of funding should remain separate from that of service provision, and oversight of programming output should be entrusted to an independent body, in line with European standards. The collective agreement regulating the work of RTCG employees has still not been signed, adding to uncertainty among its employees.

Economic factors

Concerns about transparency and non-discrimination in state advertising persist. The fact that many media outlets are not financially sustainable has a negative impact on the quality of reporting and professionalism. Montenegro should ensure that informal pressure on editorial policy is not exerted through the distribution of advertising funds, including from public companies, as well as through project co-funding from local budgets. The sustainability of media should be addressed in the forthcoming media law.

Professional organisations and working conditions

Journalists are jointly represented in Montenegro's media trade union. Two associations aimed at fostering and promoting professional journalism across the polarised media scene also exist, but still need to reach their full potential. The economic situation of journalists remains precarious, particularly due to job insecurity and low salaries, putting them at risk of editorial interference and possible self-censorship. There is still no structured dialogue between the government and the media community on the working conditions of journalists.

INFORMATION SOCIETY AND MEDIA

Montenegro remains moderately prepared in the area of information society and media. There was no progress during the reporting period and the previous recommendations have not been implemented. A new set of media laws, aimed at strengthening the responsibilities of the regulatory authorities for electronic communication and electronic media is in the consultation phase. The regulatory authorities' capacity and independence will need improvement to implement the new media laws.

In the coming year, Montenegro should in particular:

- create the conditions for the media regulators and public service broadcaster to operate free from undue political interference and in line with professional standards;
- grant the Agency for Electronic Media (AEM) powers to impose a complete set of measures, including warnings, fines, suspensions and revocation of licences ensuring proportionality and effectiveness;
- establish a track record to demonstrate administrative capacity to enforce the EU acquis for electronic communications, information society services and audio-visual media services, including as regards regulatory independence.

The **electronic communications and information and communication technologies** sector is regulated by the Law on electronic communications. The Ministry of Economy's General Directorate for Electronic Communications, Postal Services and Radio Spectrum is responsible for this area. Mapping of the national broadband infrastructure continued with a view to reducing broadband deployment costs, as recommended by the Economic Reform Programme (ERP).

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

Information society is under the responsibility of the Ministry for Public Administration. The 2018-2020 action plan implementing information society development strategy was adopted. It is based on the Digital agenda for Europe and the Digital single market strategy and identifies key steps to achieve necessary standards such as accessibility of broadband services, cyber security, digital business, eHealth and e-education. The 2018 action plan for the implementation of the cyber security strategy 2018-2021 was also adopted. A Council for Information Security is in place, in accordance with the EU Network and Information Security Directive (NIS). Legal provisions on electronic identification and electronic signature were further detailed in line with the electronic identification and trust services (eIDAS) Regulation. The e-government portal currently supports 527 electronic services under the competence of 50 institutions, among which 191 services for natural persons, 313 services for legal persons and 23 services for the public administration. Authorities took part in the preparations of the Regional Roaming Agreement and signed the agreement in April 2019.

On audio-visual policy, AEM, the regulatory agency for electronic media continues to exercise its mandate in a professional manner. The Agency is responsible for overseeing the media during elections, although by law this should be done by an ad-hoc parliamentary committee, thus creating an overlapping jurisdiction. During elections, candidates lodging media-related complaints to the broadcasters can appeal against their decisions directly to the AEM, which has to respond within 24 hours. However, AEM lacks the authority to impose appropriate sanctions, as it is limited to issuing either warnings or suspending licences. Related legal provisions and AEM operational capacities should be strengthened. The AEM should be the only body responsible for supervising broadcasters during elections.

A new set of media laws has been drafted, including on electronic media and the national public broadcaster. The Law on public broadcaster is expected to continue to regulate the financing of the public broadcaster Radio Televizija Crne Gore (RTCG) through a contract between it and the government. The State currently allocates 0.3% of GDP for RTCG, while additional revenues are generated from marketing activities. The Law lays down a clear distinction between commercial and public funds, with the assessment that the latter make up 90% of the revenues. RTCG's budget for 2019 is expected to further increase due to the projected GDP growth. Stable financial resources need to be ensured, and editorial independence and professional standards restored. Dismissals from the RTCG and AEM councils raised serious concerns about their representativeness, independence and ability to operate without undue influence and political pressure.

FREEDOM OF EXPRESSION

The country has **some level of preparation / is moderately prepared** in the area of freedom of expression and made **good progress**. The climate for media freedom and freedom of expression has improved. Open political debate and critical media reporting continued. Further self-regulation efforts are required to improve professional standards and the quality of journalism. The ban on government advertising was respected. Sustained efforts are needed to improve the independence, professional standards and financial sustainability of the public broadcaster. It is essential that the authorities continue to promote freedom of expression. Amendments to the Law on Audio and Audiovisual Media Services have been adopted and their implementation will require strong political commitment to guarantee professionalism, respect for the principles of transparency, merit-based appointments and equitable representation. The financial sustainability of private media and working conditions of journalists remain a challenge. The country has addressed some of the recommendations from the 2018 report, notably by creating a climate that is favourable for expressing pluralistic viewpoints.

In the coming year, the country should, in particular:

- continue supporting media pluralism, promoting professionalism, objective reporting and investigative journalism. Build resilience to effectively combat disinformation;
- continue reforming the public broadcaster, ensuring its financial viability and independence;
- continue paying attention to the swift and effective follow-up by law enforcement and judicial authorities of all instances of physical and verbal violence against journalists.

The overall situation and political climate for media continued to improve. The government intensified its efforts to support media through legislative changes and by providing financial subsidies for print media. The open dialogue and increased transparency of institutions is acknowledged by professional organisations. Challenges remain however and additional measures are needed to support freedom of expression.

Intimidation of journalists

Since March 2018, there were five new cases of intimidation of journalists, marking a decrease from the previous year. The Ministry of the Interior started to cooperate with the Association of Journalists to establish accountability for incidents of physical and verbal abuse or threats against journalists. However, there were two incidents of statements against the media being made by high government officials. Politicians and public officials still need to demonstrate a higher level of tolerance towards criticism and promote freedom of expression. Procedures for police conduct towards journalists and registration of attacks need to be improved. Law enforcement authorities and the Public Prosecutor's Office need to effectively follow-up all incidents against journalists. Old cases of the most serious physical attacks against journalists (13) have not been resolved due to unprofessional conduct in the investigations.

Legislative environment

The Law on Audio and Audiovisual Media Services was amended in December 2018 and February 2019. The law is now in general accordance with European and international standards on audiovisual media. Some stakeholders criticised the opacity of the process and absence of public consultation on last minute changes to the law. In view of changing market realities, the legislative framework will nonetheless need to be further aligned with the new Audio-visual Media Services Directive. Hate speech is illegal both online and offline. Preliminary steps have been taken to reduce fines for defamation to a symbolic amount which is expected to improve the sense of balance between freedom of expression and protection of reputation.

Implementation of legislation/institutions

The Agency for Audio and Audiovisual Media Services has been exercising its supervisory role, including during the referendum and the presidential elections. Due to ambiguities in the legal framework, the State Election Commission and the media regulator each presented contradictory instructions on the access of referendum stakeholders to paid advertising. As part of the media monitoring during the referendum, the Agency initiated five misdemeanour procedures notably for misuse of paid public propaganda and disrespecting deadlines.

The number of investigative articles rose from 0.8% in 2017 to 2% in 2018 but the quality of reporting and respect for professional standards need further improvement. The Public Prosecutor's Office opened an investigation against a journalist on the grounds of hate speech. In 2018, the Council of Media Ethics received 68 complaints for disrespect of ethical standards, notably online (76.5%). Since March 2018, 12 new lawsuits on defamation were registered against journalists.

Public service broadcaster

The reform of the public service broadcaster is at an early stage. As provided for by the Law on Audio and Audiovisual Media Services, funding for the public broadcaster, the regulator and the broadcasting public enterprise from the state budget will increase to 0.8% after the budget rebalance. The financial sustainability of the public broadcaster needs to be ensured. Upholding the public broadcaster's independence and preventing undue political influence needs continuous attention. Additional efforts are required to improve the quality and objectivity of its reporting, to improve procedures and to modernise its technical equipment. A longer-term strategic reform needs to be developed in consultation with stakeholders.

Economic factors

The media agency increased its efforts to disclose the possible existence of illegal media concentration. It is essential to further strengthen the capacity of the regulator to identify collusion between media and politics which impedes editorial independence. The economic impact of rapid technological developments on the audio-visual media market needs to be evaluated by the authorities when preparing new legislation.

Government advertising on commercial channels is banned. Media stakeholders expressed concerns that legal changes permitting public funding of the referendum campaign via media advertisements risked repeating influence of political parties on editorial lines. There are six daily newspapers, including two in Albanian language. Following the recommendations of the Senior Experts' Group on systemic Rule of Law issues in 2017, the authorities allocated approximately EUR 700 000 to support the print media.

Internet

The legislation prohibiting internet service providers from controlling internet traffic continued to be applied. Online media remains unregulated. Disinformation, hate speech, disrespect of professional standards and violations of intellectual property rights are frequent in online media. The authorities need to take measures to effectively combat disinformation. Self-regulatory principles and ownership transparency are needed to increase the respect for ethics and professionalism in online media.

Professional organisations and professional conditions

There was no progress on improving the labour and social rights of journalists whose working conditions are very poor. Consequently, journalists still practice self-censorship. Lengthy negotiations led by the independent union of journalists and media workers did not result in any collective union agreement with any media outlet. Union members are part of working groups working on updating relevant laws.

INFORMATION SOCIETY AND MEDIA

The country is moderately prepared in the field of electronic communications and information society. Some progress was made during the reporting period as the country amended the Law on Audio and Audio-visual Media Services, prepared a national cybersecurity strategy, started preparations for the 112 emergency number and aligned electronic identification, authentication and trust services with the acquis.

As some of the 2018 recommendations have not been implemented, in the coming year the country should in particular:

- prepare a long-term information and communication technology (ICT) strategy;
- strengthen the independence and capacity of the media regulator and the public service broadcaster;
- continue to implement the action plan for introducing the 112 emergency number and allocate the necessary financial resources.

As part of the Digital Agenda, the country completed the mapping of the national broadband of existing electronic communication networks built with public funds and of 'next generation' access networks by commercial operators. The 2019-2023 broadband strategy has undergone wide public consultation and the adoption is in the final phase. The government adopted

the 2018-2022 national cybersecurity strategy in July 2018 and the related action plan in December 2018. Authorities took part in negotiating the Regional Roaming Agreement and signed the agreement in April 2019. In addition, preparations began for introducing the European emergency number 112.

In **electronic communications and information and communications technologies (ICT)**, the fixed broadband penetration slightly increased to 19.46% (>30Mbps is 3.8% and for the >100Mbps around 0.16% of the population). Mobile broadband, including 2G/3G/4G, decreased to 61%. Investments in developing electronic communications increased. Public consultation procedures with operators intensified during the preparation of the amendments to the Law on Audio and Audio-visual Media Services.

Regarding **information society**, the strategy on the development of digital skills has not yet been developed, while the new education strategy includes digital literacy among its priorities. The application of electronic signatures is limited to a few institutions that provide services to businesses. The interoperability system is only used by some institutions despite the equipment and software having been installed. E-government is at an early stage of preparation. Since modernisation of the public administrations is a key element for successful digitalisation, North Macedonia should put more effort in implementation of e-government frameworks and services. E-commerce has increased by 62% in 2018. However, existing barriers to e-commerce have not been removed, including customs duties and VAT on imports for small value items.

On **audio-visual policy**, the Law on Audio and Audio-Visual Media Services was amended in December 2018 and February 2019, with the aim to bring it closer to the EU acquis. The media regulator has continued its proactive approach to reporting inflammatory or discriminatory language and hate speech, as well as unprofessional journalistic reporting. Cooperation with civil society, media and state actors to promote media literacy intensified. Developing a more systematic approach to media and digital literacy remains a priority. The regulator monitored ownership transparency of media outlets, reminding media outlets of their legal obligations. However, further strengthening the regulator's capacity and increasing inter-institutional cooperation on disclosing hidden media ownership and illegal media concentration is needed.

On the media reporting during the September 2018 referendum, discrepancies were noted in various legal acts, such as the Law on Referendum and Electoral Code. This led to a different reading by the State Election Commission and by the media regulator on the access of referendum stakeholders to paid advertising.

Concerns remained over the public service broadcaster's reforms. Strengthening its independence and ensuring effective operations and management continues to be a priority. The audio-visual sector started benefiting from the country's participation in the media sub-programme of 'Creative Europe', with eight projects supported.

FREEDOM OF EXPRESSION

Serbia has some level of preparation concerning freedom of expression. However, there was no progress made over the reporting period. This lack of progress is now a matter of serious concern. A working group composed of both media associations and public officials submitted a draft strategy for the development of a public information system (the media strategy) to the government in December 2018; a consultation process has so far been conducted in a transparent and inclusive manner. With regard to the Commission's recommendations in the 2018 report, the overall environment is still not conducive to the exercise of freedom of expression. Cases of threats, intimidation and violence against journalists are still a concern. While several cases have been solved and some criminal charges filed, investigations and final convictions remain rare overall. The first ever sentence in a case involving the murder of a journalist was pronounced, in first instance, in April 2019. The Serbian authorities need to react promptly to and publicly condemn hate speech and threats against journalists. Legislation on the media sector still needs to be fully implemented. Serbia's legal framework needs to provide for more stringent criteria regarding 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 and swiftly followed up by law enforcement and the judicial authorities, as well as publicly condemned by government officials;
- ensure the full implementation of media laws, and strengthen the independence of the Regulatory Body for Electronic Media and boost its capacity to work proactively;
- adopt and implement a new media strategy, in a transparent and inclusive manner;
- ensure suitable funding of public broadcasting services, transparent and equitable co-funding for media content serving the public interest, and increased transparency in media ownership and advertising.

A working group composed of both media associations and public officials submitted a draft media strategy to the government in December 2018; a consultation process has so far been conducted in a transparent and inclusive manner. Results have yet to be achieved on the thirteen most pressing issues for media freedom identified by media associations gathered in the 'Team for Dialogue'.

Intimidation of journalists

Seven physical attacks and attacks against the property of journalists were recorded by the Serbian authorities during the reporting period. Some media associations reported that political, economic, and other pressures on journalists increased. In this respect, Serbia needs to categorise these crimes as criminal or as other types of offences and ensure appropriate investigation and adjudication. While several cases have been solved and some criminal charges filed, convictions remain rare overall. Serious efforts are needed to identify and prosecute those suspected of violating internet freedoms, as well as those using social media to intimidate and threaten journalists. The 2016 memorandum of understanding between journalists' organisations, the Prosecutor's Office and the Ministry of the Interior has yet to lead to more efficient legal treatment of cases and to ensure access to justice. Media associations suspended their participation in the standing working group on the safety of journalists for seven months due to the perceived lack of results; the working group resumed its activities in October 2018. The commission tasked with looking into three cases involving the murder of journalists from 1999 and 2001 has made progress in completing an investigation into one of these cases, for which the indictment is still pending. In another case, in April 2019, progress was also made with the pronouncing, at first instance, of the first ever sentence in a case involving the murder of a journalist. The third case is still being investigated by that commission.

Implementation of legislation/institutions

The independence of the Regulatory Body for Electronic Media needs to be strengthened to enable it to safeguard media pluralism. This would 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. Hate speech and discriminatory terminology are often used and tolerated in the media and are rarely tackled by regulatory authorities or prosecutors. The authorities need to promptly react to and publicly condemn hate speech and threats against independent bodies, human rights defenders and independent journalists. The Press Council continued to record an increase of breaches of the journalistic code of professional conduct in print media. Statements by high-ranking state officials on the daily and investigative work of journalists are preventing the creation of an environment where freedom of expression can be exercised without hindrance. The frequent refusal by public bodies to disclose information, or their administrative silence, following requests submitted under the Law on free access to information of public importance hinders the work of journalists.

Public service broadcaster

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 service broadcasters 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 Radio Television of Serbia.

Economic factors

Political and economic influence over the media continues to be a source of concern. 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. The reporting period was characterised by several acquisitions of media companies. The media register needs to be improved and monitored. The information contained in the register is limited, difficult to browse through, and does not provide the possibility of efficiently detecting who is able to influence the media, directly or indirectly. Claims have been made that fiscal inspections have been used disproportionately to exert economic pressure on certain media outlets. The Serbian authorities should ensure that informal pressure on editorial policy is not exerted through the distribution of advertising funds, including from public companies and in an overall context of decreasing advertising revenues, or through 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 that is not detrimental to market equality, especially at local level. This includes setting reasonable deadlines for the calls for proposals, selecting members of evaluation commissions in a transparent manner, taking due account of previous breaches of the journalists code of ethics when evaluating applicants, and monitoring the effective implementation of the awarded grants. Administrative courts have decided in favour of the plaintiffs in several cases involving irregularities in these calls.

Professional organisations and working conditions

Journalists have little job security and the editorial environment, which favours 'tabloidism', is not conducive to improving journalistic standards. Journalists' job security should be strengthened 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. **Some progress** was made in the past year, in particular regarding the Digital Single Market and in the area of information society and e-government. However, the recommendations of the previous report have not been met.

In the coming year, Serbia should in particular:

- harmonise its legislative framework in electronic communications with the 2009 EU regulatory framework;
- ensure financial and operational independence, of the regulators for electronic communication and postal services (RATEL) and for electronic media (REM);
- take measures to ensure implementation of competitive safeguards and facilitate market operator's access to telecommunication infrastructure (ducts, antennas, fibre optics and fixed telephony infrastructure).

In line with EU's **Digital Single Market** objectives, progress was made with the adoption in April 2018 of the next generation networks strategy until 2023, promoting cloud computing and the 'Internet of Things' as well as the development of 5G mobile systems. Serbia's digital economic growth is steady; however a more holistic and coherent approach to digitalisation, and effective coordination of stakeholders are recommended.

In the field of **electronic communications and information technology**, a law on electronic communications to align Serbian legislation with the 2009 EU regulatory framework has yet to be adopted. The financing of the telecom regulatory agency is still not in line with the EU acquis. Administrative and inspection capacity of the line ministry backslid, in particular when it comes to inspections. Staff turnover remains a concern. Authorities took part in the preparations of the Regional Roaming Agreement and signed the agreement in April 2019.

The European emergency number 112, along with its financing structure, has yet to be put into operation.

No progress can be reported regarding the strengthening of RATEL's financial and operational independence. Its administrative capacities have slightly improved; however a further increase is needed. Concerning implementation of **competitive safeguards**, RATEL has deregulated five and ex ante regulated four relevant markets, designating 'significant market providers' for call termination in fixed telephony, call termination in mobile telephony, broadband access and access to infrastructure. Difficulties with users-operators' access to infrastructure, cables, ducts, antennas and optical fibres persist, as well as restrictions imposed by the legislation in environmental and municipal planning, particularly at a local level. The 900 MHz radio-frequency bandwidth remains unassigned.

In the field of **information society services**, progress was made in strengthening the coordination role of the newly established Office for IT and e-government, which report to the Prime Minister. The Law on e-government was adopted and a new information system linking the six biggest databases in Serbia was established. Progress was made with the further introduction and development of e-services at the national e-government portal, the launching of an Open Data Portal and the enhanced interoperability of public registers providing for easier exchange of data and the upgrading of the data centre. In April 2018, the Law on electronic administration was adopted in order to present an umbrella regulation that governs the use of information technologies by the public administration, both at state and local self-government levels. Full harmonisation of the law on **information security** with the Directive on network and information systems is pending.

No progress was made in **audio-visual policy** in the reporting period. The Law on electronic media regulates media services for both commercial and public service media. The law defines the Regulatory Authority of Electronic Media (REM) as an independent regulatory body authorised to draft a strategy for the development of radio and audio-visual media services, issue licences for providing media services, monitor and penalise media service providers, draft secondary legislation and manage the Register of Media Services and the Record of On-Demand Media Service Providers. Since 2015, REM has delayed the adoption of a new strategy for the development of radio and audio-visual media services in line with the law. REM is also failing to effectively monitor and penalise broadcasters that do not meet all programme content obligations under the law.

The REM Council takes decisions on all issues related to the regulator's domain and has nine members. However, the Council still operates with only six members for more than 2 years and with an Acting President of the Board for 3 years.



The legislation establishing sources of financing for the public service broadcasters needs to be improved. The amendments to the Law on public media services and the Law on the temporary regulation of the collection of the fee for the public service media, adopted in December 2015 as a temporary solution, are still in place. These are causing further uncertainty over the editorial independence and stable financing of the public broadcasters Radio Television of Serbia and Radio Television of Vojvodina.

In 2018, RTS introduced five minutes of TV news in Albanian, which is a first step in fulfilling its obligation to produce and broadcast programme content intended for national minorities.

The Ministry of Culture and Media has been playing a proactive role in promoting and supporting media literacy initiatives. In an effort to systematically improve this area, the Ministry formed a working group tasked with developing a manual for the promotion and development of media literacy in pre-university education (pre-school, primary and secondary education).

EU Enlargement Package 2019
Freedom of expression – Information society and media

Directorate General for Neighbourhood and Enlargement Negotiations
Unit A2 – Inter-institutional Relations and Communication
Rue de la Loi 15, B-1049 Brussels
ec.europa.eu/neighbourhood-enlargement

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