



**MEDIA FREEDOM
RAPID RESPONSE**

BOSNIA AND HERZEGOVINA:

Media freedom in survival mode



BOSNIA AND HERZEGOVINA: MEDIA FREEDOM IN SURVIVAL MODE

This report was prepared by the partner organisations of the Media Freedom Rapid Response (MFRR), with contributions from:

- ARTICLE 19 Europe
- European Centre for Press and Media Freedom (ECPMF)
- European Federation of Journalists (EFJ)
- Free Press Unlimited (FPU)
- International Press Institute (IPI)

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TABLE OF CONTENTS

Introduction	4
Package of restrictive laws	5
Safety of journalists	11
Public service media and regulatory framework	15
Conclusions	18
Recommendations	19
Annex 1: List of meetings	22

INTRODUCTION

On 15 December 2022, the European Council granted Bosnia and Herzegovina candidate status for EU membership. While Russia's invasion of Ukraine in February 2022 accelerated the EU enlargement process, Bosnia and Herzegovina has yet to improve its environment for the media to continue on its path towards potential EU accession, as limited progress has been made since submitting its application in 2016.

In its [report](#) published in November 2023, the European Commission expressed concerns about the key priority of freedom of expression, freedom of the media as well as the protection of journalists. It points out a “backsliding” in media freedom noting that legislative and political pressure have increased and intimidation and harassment towards journalists continued without appropriate institutional follow-up.

The international press freedom mission to BiH in September 2023 broadly confirmed these observations. Overall, journalists in the country continue to operate in a suffocating environment and poor working conditions. The situation is particularly alarming in Republika Srpska (RS), Bosnia's Serb entity, where President Milorad Dodik is steadily tightening the screws on independent media, using hostile rhetoric to denigrate journalists and stigmatise critical reporting.

What prompted the mission to Bosnia and Herzegovina was the reintroduction of criminal penalties for defamation in August 2023 in Republika Srpska, which caused an outcry among media freedom and journalists' organisations. More problematic legislation was discussed in RS around the same time, including the so-called “foreign agent” law and a media law, although the content of the latter is yet to be revealed. Meanwhile in the Sarajevo canton, a proposal of a regulation that would allow sanctions for the dissemination of “fake news” is currently pending. The ongoing financial crisis in the country's public service broadcasters was also closely scrutinised.

These issues were discussed in detail with the partners of the Media Freedom Rapid Response (MFRR) and the different stakeholders (see the list in Annex 1) met during the delegation's visit to Bosnia and Herzegovina. This report presents the main findings of the mission in three key areas: the legislative initiatives, the safety of journalists, and the public service media. It then outlines a set of recommendations to national and entity-level authorities and the international community.

The mission 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 Journalist Association. The delegation started its visit in Banja Luka on 22-23 October 2023 before travelling to Sarajevo on 23-24 October.

KEY THEMATIC FINDINGS

PACKAGE OF RESTRICTIVE LAWS

In the course of the mission, the question of highly problematic legislative initiatives at the different levels of government in Bosnia and Herzegovina emerged repeatedly in the discussions with civil society, government representatives, and the international community present in the country. The delegation examined a particularly alarming package of laws in Republika Srpska, consisting of re-criminalisation of defamation, a draft law on an NGO registry modelled on ‘foreign agents’ legislation, and a pending proposal of a new media law. The situation with freedom of expression in other parts of the country has also been marred by problematic initiatives, as discussed below.

RECRIMINALISATION OF DEFAMATION

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. Journalists and civil society representatives whom the delegation met in Banja Luka were unequivocal about their negative reaction to the law which they described as a measure to stifle dissent and limit the opportunities for an open and public debate on issues of public interest. The United Nations, the OSCE, the Council of Europe, and the European Union [jointly](#) condemned the recriminalisation of defamation as *“a regrettable and undeniable major step backwards in the protection of fundamental rights”*.

In this context, it is useful to recall that international human rights law recognises that free expression may be limited to protect reputations of individuals. However, defamation laws, like all restrictions, must be proportionate to the harm caused to the reputation and cannot go beyond what is necessary in the particular circumstances. The mission strongly asserts that any law criminalising defamation is, in and of itself, a violation of the right to freedom of expression. Not only are criminal defamation laws outmoded and unduly harsh, they are also unnecessary and disproportionate measures to protect the reputation of others. Criminal sanctions, or even the threat of such sanctions, produce a considerable chilling effect on the free flow of information and ideas. In fact, alternative remedies such as the publication of a retraction, apology, or correction and the right of reply, constitute a much better response to an unjustified attack on one’s reputation. Self-regulatory mechanisms, such as media and press councils, are also designed to receive complaints of alleged breaches of journalistic codes. In any event, where appropriate, civil libel laws are adequate and sufficient means to address the harms caused by defamatory statements. Civil laws [must also be carefully balanced](#) to provide sufficient safeguards against abuse, including to prevent strategic lawsuits against public participation (SLAPPs).

During our meetings with the authorities in Republika Srpska, the representatives of the latter recognised that, while the text of the amendments does not directly impose sanctions beyond financial penalties, the non-payment of the fines can ultimately culminate in imprisonment. The possibility of imposing a custodial punishment, even if not immediate, is a serious attack on the right to freedom of expression in Republika Srpska. The UN Human Rights Committee was clear in its [General Comment No. 34](#) on article 19 of the International Covenant on Civil and Political Rights, which is binding for Bosnia and Herzegovina, when it stated that “imprisonment is never an appropriate penalty” for defamation. The Human Rights Committee also strongly supports and encourages decriminalisation of defamation in countries where penal laws of that nature still exist, including in the Western Balkans. For example, the Committee [endorsed](#) the decriminalisation of defamation and insult in North Macedonia as “*steps in the right direction towards ensuring freedom of opinion and expression particularly of journalists and publishers*”.

Although since the initial proposal the amendments were redrafted with reduced amounts of fines and several defences added against the charge of defamation, including a defence of professional journalistic work, the key issue is that the amendments do not provide for a public interest defence. A matter of “great public interest” can present itself in numerous other forms of human expression, outside the scope of professional activities enumerated in the Amendments. For example, an allegedly defamatory commentary by a user of a social media platform regarding a serving politician (or other public figure with no formal position in the government) could certainly also incur great public interest. Such statements risk exclusion from the narrow scope of the defences provided by the law.

Further, interlocutors from the government in RS whom the delegation met during the mission seem to endorse a worryingly narrow definition of what constitutes journalistic work. In December 2023, 30 criminal investigations in defamation cases had already been opened in RS, including at least one against a blogger. Journalism is a function that can be performed by any person, regardless of official status or state recognition.

As the Human Rights Committee stated in General Comment No. 34, journalism is “*a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere*”. In Republika Srpska, where space for free independent journalism is already limited, many actors, including NGOs, activists, and bloggers, are certainly performing a journalistic function by observing, reporting, analysing, and documenting events and policy developments and publishing information on issues of public interest. These actors, as well as regular citizens, should be able to express their views freely, inform the public, publicise their work, and engage in a healthy debate on issues of public interest, such as corruption allegations, human rights and criminal justice issues, elections, and professional and personal profiles of politicians. The risk of criminal charges for defamation curbs the willingness to exercise these elements of one’s right to freedom of expression which is essential in a democratic society.

In view of the above, the delegation insists that the re-criminalisation of defamation in Republika Srpska should be immediately reversed and all pending prosecutions discontinued. In the meantime, it is noted that 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 the right to freedom of expression. Our organisations are ready to contribute to such an assessment in partnership with local journalist associations.

FOREIGN AGENTS LAW

Secondly, a draft law titled ‘On the Special Registry and Publicity of the Work of Non-Profit Organisations’, which has been colloquially referred to by the media and NGO community in RS as the ‘foreign agents law’, was adopted in the first reading. From the start, it is important to recognise that numerous media outlets in RS are registered as NGOs, for a variety of historical, regulatory, and practical reasons. As such, the law directly affects the media community. The law follows the pattern of ‘foreign agents’ legislation adopted in countries with highly problematic human rights records, including its extreme version which is currently applied in Russia where it has led to catastrophic effects for the media environment and civic space and was recognised by the European Court of Human Rights to be a systematic [violation](#) of the right to freedom of association. The European Commission, in its [recent progress report](#) assessing the implementation by Bosnia and Herzegovina of the steps required for opening EU accession negotiations, referred to this legislative initiative as “*undermin[ing] the effective functioning of democracy and [...] marking another regrettable and undeniable major step backwards*”.

The draft law regulates the permissible function and activities of NGOs who receive foreign funding, and subjects them to special registration and periodic reporting requirements. The text of the draft law that was made available to the delegation suggests that the regulation establishes no minimum threshold of ‘foreign funding’. As such, NGOs would be required to regularly report on the sum and donor of the smallest contributions that they receive, which in itself imposes an onerous requirement that interferes with the daily work of civil society organisations. In practice, it is not always possible to track the elaborate details of individual contributions, particularly when these are small donations collected, for example, during a crowdfunding campaign. Without a doubt, the stringent requirement of reporting on all received funds twice a year constitutes a disproportionate regulatory burden that would prevent NGOs, including media outlets registered as NGOs, from conducting their normal activities. The reporting requirements for ‘foreign funded’ NGOs would represent a double-burden, as they would apply in parallel to the general regulations for all NGOs, which already require the submission of reports to the Ministry of Justice and detailed financial information to the tax authorities.

NGOs would also be obliged to register in a dedicated Registry. The latter largely duplicates the registration system that already exists under the national legislation for all associations and foundations, thus raising questions as to the policy objective of this double-burden registration process. There is also significant uncertainty as to what information will be required from NGOs in this new registration framework, which infringes the principle of legal certainty and foreseeability. This separate legal regime imposed on NGOs which receive foreign funding subjects them to additional inspections which is not the case for other NGOs, thus creating a discriminatory distinction between different groups of NGOs. The draft law provides for sanctions in case of non-compliance with registration requirements and failure to provide ill-defined ‘information’ on the activities of NGOs.

Although the draft law does not go as far as to impose the requirement of displaying a ‘foreign agent’ label on the NGOs’ materials, it does oblige them to mark their materials with an ‘NPO’ label, meaning ‘non-for-profit organisation’. Despite the seemingly less controversial label, the marking can also produce a stigmatising and deterrent effect in a context where foreign funding is regarded at best with hostility and suspicion.

It is also important to note that the aim of ensuring public disclosure of foreign funding is not a legitimate ground for interference with freedoms of expression and association. The proclaimed objective of transparency has to be immediately linked to a legitimate aim recognised in international human rights law, such as the protection of the rights of others or public order. In this sense, regulatory frameworks on taxation, prevention of money laundering, terrorism financing, and banking operations are a much better response to tackling potential issues of misuse of funds or other criminal activities and should not be replaced with imposing new burdensome public disclosure, registration, and reporting requirements on NGOs.

A particularly concerning provision, as was pointed out by the Venice Commission and the OSCE Office of Democratic Institutions and Human Rights in their [Joint Opinion](#) on the law, prohibits this category of NGOs to conduct ill-defined 'political activities'. Unlike the 2001 Law on Associations and Foundations which prohibits the participation of NGOs in election campaigns and political financing, the foreign agents law is a lot broader and could potentially encompass any type of policy-related advocacy, reporting, and analysis of political events, and a wide range of publications on issues of public interest. Thus, it would effectively ban legitimate journalistic work and undermine the 'public watchdog' function of the media and the wider civil society under the guise of countering the influence of foreign actors. Furthermore, the implementation of this provision would violate the right of the general public to receive information on matters of public interest which is also an element of the right to freedom of information protected by international law. This overbroad ban clearly goes beyond the standards of legality and proportionality and would not withstand the scrutiny of the European Court of Human Rights which previously [criticised](#) the inherent vagueness and arbitrariness of the term 'political' when used for imposing restrictions on NGO activities.

Non-compliance with the various reporting, public disclosure, and registration requirements can lead to the imposition of significant fines, in violation of the test of proportionality. NGOs with a small funding base, in particular, will suffer from the fines. Additionally, the draft law provides for an overbroad ground for banning the activities of an NGO for violating the provisions of that law and acting "*as an agent of foreign influence at the detriment of the individual and other rights of citizens*". The exceptional measure of banning an NGO can never be justified by such a vaguely formulated objective and such a low legal threshold. The very risk of the imposition of fines and bans of activities will inevitably produce a chilling effect on the activities of NGOs, including those that perform journalistic functions, and thus will lead to the shrinkage of civic space in a context where a sizeable proportion of civil society organisations depend on the project financing by embassies and international institutions.

MEDIA LAW

The MFRR delegation also learned about the initiative to create a new "media law" in Republika Srpska. Little is known about the specific content or objectives of the proposal, which is being prepared in a non-transparent manner. The atmosphere of secrecy is alarming and a wrong approach for creating any kind of media regulation. Any kind of regulation in this area needs to be created with a meaningful participation of human rights organisations and the media, accompanied by public consultations and which are to be conducted in a transparent manner.

As some accounts gathered during the mission suggest, the semi-official working group in charge of the proposal is exploring such damaging options as restricting the ability of media outlets to register as NGOs and creating an exhaustive list of 'officially recognised' media and journalists. The law, therefore, might essentially create a system for the certification of journalists that will allow the government to decide who is recognised as a journalist and, thus, can benefit from certain protections, for example, from the journalist work exception provided in the law on defamation. The information learned about the media law raises particular concern as to its potentially devastating effect on freedom of expression in the view of the two other laws discussed above. It appears that the three instruments would work in tandem to establish a much greater state control over media operations in the country. The three laws would, if all ultimately passed, grant the government the tools to police the media space and suppress any dissenting or critical opinions expressed in public, including on social media.

Finally, it is important to note that the application of the restrictive package of laws risks to transgress the administrative boundary of Republika Srpska and affect the media, civil society, and ordinary citizens in other parts of Bosnia and Herzegovina. The vagueness of many provisions creates an environment of legal uncertainty that will inevitably push journalists, human rights defenders, and many others all over the the country to be overly cautious about their activities, thus producing a powerful chilling effect on the legitimate work of the media and civil society organisations and on the readiness of ordinary citizens to engage in matters of public interest.

'FAKE NEWS' REGULATIONS

Although the examination of the situation in Republika Srpska revealed a particular troublesome legal framework, as described in detail above, media freedom in other parts of the country has also been marred by dangerous initiatives. Notably, at the level of Sarajevo Canton, a proposal, which is presented as a public order regulation, envisages penalisation of 'fake news'. Information collected during the MFRR mission indicates that the draft remains pending at the dedicated working group despite the backlash from civil society and the international community. Reportedly, it envisages the imposition of sizable fines for disseminating 'false news' with application to both ordinary citizens and legal entities, including the media. According to [reports](#), some of the other regional governments in the country already have similar regulatory acts, also framed as 'laws on public order', which allow them to impose sanctions for disseminating 'false information' and carry significant risks of abuse and censorship. Adopting a 'fake news' regulation by the Sarajevo Canton risks causing a snowball effect in the rest of the country which may follow the example of the capital.

International human rights law does not allow prohibiting or sanctioning speech based on its perceived falsehood. It is key to strictly link any restrictions of information to a clear legitimate aim recognised in international human rights law: protection of the rights or reputations of others, national security, public order, public health, or morals. All of these legitimate aims must be interpreted narrowly, as a matter of principle, and none of them allows for the restriction of an expression simply based on the allegation that it includes untrue information. The generic mention of 'public order' in a 'fake news' regulation is not sufficient. Instead, the regulator should focus on the intended and actual effect of dis-, mis- information, other manipulation, propaganda, hate speech, etc. Penalties will only be justified if they are strictly proportionate to the concrete harm and if they are the least intrusive means to achieve a legitimate aim.

If adopted, the 'fake news' proposal would grant unchecked powers to the police to assess the veracity of free expressions, including reporting by the media. The fear of prosecution would inevitably lead to self-censorship on the part of journalists and would restrict the space for a debate on issues of public interest. The devastating effect of 'fake news' regulations on media freedoms is well [documented](#). These types of laws are easily abused by governments to stifle investigative journalism and criticism of the authorities. The MFRR partners urge the immediate and definitive revocation of any kind of fake news regulations at any level of government in Bosnia.

OTHER WORRISOME DEVELOPMENTS

Regrettably, the mission also learned about certain problematic legislative developments at the state level. Namely, according to the [reports](#) the delegation gathered, the recently adopted law on freedom of access to information established a regulatory regime which provides for a number of exceptions to disclosure of information on matters of public interest. Additionally, as the European Commission [pointed out](#) in its progress report, while the law contributed to fostering a more proactive disclosure of public information, the legal regime on access to information is still marred by lack of an independent appeal mechanism and the prioritisation of private rather than public interest. Dismantling barriers to access to publicly relevant information is essential for expanding the possibilities to exercise one's right to participate in public affairs and the ability of journalists to perform their public watchdog function in a democratic society.

Separately, the mission became aware of the initiative to create a new NGO law at the Federation level, which may also affect media outlets registered as NGOs. This proposal and any other initiatives that touch upon the essential elements of a vibrant and empowered civil society have to build an inclusive and transparent public process around them. Above all, the initiatives should not be used to obstruct media and NGO work by creating excessive administrative requirements such as duplicating reporting or registration rules. Instead, new regulation, if assessed as necessary, should focus on the issues that can contribute to fostering a more pluralistic, transparent and accessible media and NGO environment. Among other matters, our interlocutors from Bosnian civil society pointed out the need to improve transparency of media ownership and ensure adequate capacity and financial resources of the public broadcaster.

SAFETY OF JOURNALISTS

A LEGACY OF IMPUNITY

The safety of journalists in Bosnia and Herzegovina is negatively affected by the complexity of governance and politics of the country, which continues to deal with the challenging legacy of the 1992-1995 conflict. The dominating narrative of each ethnic group, fuelled and amplified by the relevant political elites, portrays itself as the victim of international crimes during the conflict and the other groups as the perpetrators. Such narratives have continued unabated during the past years. The legacy of impunity for crimes against journalists is particularly concerning. BH Journalists has a database of 80 journalists and other media professionals murdered or killed in Bosnia-Herzegovina during the 1992-95 war. To date, not a single case has been investigated.

An example is the case of Zeljko Kopanja, which has not yet been solved. Kopanja was a Bosnian Serb journalist and editor of the Banja Luka-based *Nezavisne Novine*. In 1999, he broke stories on crimes committed by the army of Republika Srpska against innocent Bosniak civilians. The articles sent shockwaves across the whole society in Bosnia and Herzegovina. Months later, Kopanja was targeted in a car bomb explosion that led to him losing both legs. The investigation was never concluded and the perpetrators have not been found.

In 2018, Vladimir Kovačević, a Banja Luka correspondent for BNTV, was beaten with metal bars and inflicted severe head injuries as he was returning home from work. In March 2020, two persons were sentenced by the Supreme Court of the Republika Srpska to four and five years in prison for attempted murder, but the masterminds were never investigated.

Many journalists, particularly those working in RS, do not feel sufficiently protected when doing their work and [do not trust the police for protection](#). One of the journalists interviewed in the course of the mission openly stated that “the government will not stop before it cripples all journalists and media. They will not refrain from using any resource [against journalists], the only thing that matters to them is to silence us”. At the time of the mission, no journalist was under police protection.

CURRENT SITUATION

Journalists in Bosnia and Herzegovina work in a climate of insecurity, which is impacted by the legacy of impunity. In 2022, 31 attacks on journalists were registered by the regional network of journalists' organisations [Safe Journalists](#). Of these cases, 29 were classified as threats and pressure on journalists and media and two were physical attacks on journalists. This amounts to an increase of 40% of attacks in 2022 compared to 2021. A large proportion of the verbal attacks occurred online on social media platforms and many concern female journalists.

The trend in 2023 continues to be problematic. By June 2023, the Safe Journalists platform recorded a total of 15 attacks or threats to journalists. The number of physical attacks on journalists increased slightly compared to the previous year, with at least four direct attacks against the physical integrity or property of journalists recorded. However, serious physical attacks which cause major injuries to journalists remain relatively rare.

Of particular concern were the attacks conducted in Banja Luka in March 2023 during the attempts at organising the LGBT march. Two journalists and one activist [were attacked by a group of hooligans](#). The attack occurred after the authorities had denied the authorisation for the LGBT parade. A group of activists gathered outside a building to protest. Roughly thirty hooligans wearing masks and carrying sticks ambushed them. The police were unable to provide security and even allegedly [stood by](#) while the journalists were attacked.

More incidents occurred in the course of 2023. In Mostar, the owner of the webportal [Hercegovina.info](#), Marija Cosic, on two occasions in the span of two months had the [four tires of her car slashed](#) in an alleged act of intimidation.

In the northern district of Brcko, the owner of the webportal Times.ba, Mirza Dervišević, who has been denouncing criminal activities in Brcko suffered a serious attack by an unknown person. While returning from a cafe, in the company of his mother [he was attacked](#) by a masked man and hit with brass knuckles on the head and face. He required medical assistance and nine stitches were applied.

These trends send a worrying signal. It is even more concerning that only 25% of those cases have been investigated, according to the BH Journalists Association. Prosecution rates are comparably low, contributing to the climate of impunity for attacks on journalists. Mission stakeholders all emphasised the lack of appropriate institutional follow-up to threats against journalists as an issue. While the recent training provided to police officers to handle cases involving attacks on journalists are positive, this has yet to translate into more thorough investigations and convictions. In Republika Srpska, most unsolved cases are linked to cyber attacks, while 50% of cases are resolved by prosecution, according to the Ministry of Justice.

THE ROLE OF POLITICIANS

Politicians in BiH very rarely condemn attacks and threats on journalists and media houses. On the contrary, politicians themselves are often directly responsible for threatening and pressuring journalists. On 24 February, the Minister of Foreign Affairs Konakovic, explicitly [singled out a journalist](#) during an interview and accused him of fabricating stories.

On the same day, the President of Republika Srpska, Milorad Dodik, openly attacked the journalists of the local television station BNTV in a public conference. Following a question from the journalist, Dodik answered that whenever he sees that journalist, he is immediately aware of a scam ongoing and suggested that she should be nicknamed [“scam”](#). This prompted a reaction from other journalists and he replied to them inviting them to leave and vent their frustrations elsewhere.

In a recent episode, on 16 November a journalist working for N1 television, Snjezana Mitrovic, asked President Dodik about his connections with a number of persons arrested by the police in a drug trafficking operation. Dodik [reacted violently and accused her and the N1 TV of trying to destroy Republika Srpska](#). He then told her: “Do you think we don’t have a service that follows what you are doing?” He later called the journalist on the phone and continued to insult and curse her, stating that he was unhappy at how N1 had reported about the episode. This most recent incident drew [further condemnation](#) from media organisations.

As reported in the [Western Balkans Journalists' Safety Index](#), to date, no single politician has been sanctioned because of their verbal attacks, threats, or pressures against journalists and media. The impunity of politicians for their assaults on journalists and media is therefore a constant trend in the media scene in Bosnia and Herzegovina.

This impunity, coupled with the constant hostility towards journalists sends a worrying signal that journalists are a legitimate target of violence and this can only further encourage violence by private individuals.

SUPPORT MECHANISMS

“Journalists are one of the most vulnerable groups in Bosnia and Herzegovina”, notes Borka Rudić, Secretary General of BH Journalists Association. “Their safety is important so that they can professionally, objectively, and independently perform their work as guardians of democracy, and as a link between public authorities and the citizens. For this reason, BH Journalists Association and the Free Media Help Line are strongly committed to preventing impunity for attacks on journalists.”

The journalists' association keeps encouraging journalists and other media professionals to use the Free Media Help Line tools, especially the free services of a network of lawyers working for the [Helpline](#). From the beginning of 2023 until now, there are 36 cases of verbal violence, threats (online), and misogynistic insults against female journalists in the database. None of these cases have been prosecuted, although the BiH Prosecutor's Office announced the indictment against a person who lives in Luxembourg (a refugee from BiH) and is connected to the SDA party.

It remains essential that civil society organisations, key local institutions, including the Human Rights Ombudsman, and international organisations work with the media and media workers continuously to improve the position and protection of journalists in BiH. The OSCE Mission to Bosnia and Herzegovina in 2021 issued [Guidelines for Co-operation Between Police and Media](#). These guidelines recognise that during the performance of their professional tasks and in the interest of the public, the police and the media should create responsible, professional, and partnership relations and practices based on understanding, trust, and a proactive approach. These guidelines, although not binding, represent the most important standards stemming from international documents and domestic legal framework. For the time being, they remain the only document of this kind.

In Canton Sarajevo, the Public Prosecutor's Office was the first to recognise attacks on journalists as a priority and appointed a contact person to liaise with journalists associations. The Public Prosecutor's Office also instructed prosecutors and police officers on how to find evidence of threats to counter the previous trend when cases were dismissed for lack of evidence.

Besides Canton Sarajevo, the establishment of contact points within other police and prosecutors offices is occurring in a few other Cantons. The mission was also told by RS authorities that similar contact points had been established in the entity. These and the creation of a national registry of attacks on journalists are to be considered as positive steps. A proposed national working group for the safety of journalists – which would bring together national and entity-level police, prosecutors, journalists associations, and others to track cases – has yet to be established. Meetings of these different entity and national-level bodies facilitated by international organisations have yet to translate into a formal working group. Similarly there are some proposed amendments to the criminal code to grant better protection to journalists. While there is consensus about moving in that direction, such amendments have not yet been adopted. Authorities in the Federation remain largely open to the idea, but the potential cooperation runs contrary to the current political agenda in Republika Srpska.

PUBLIC SERVICE MEDIA AND REGULATORY FRAMEWORK

PUBLIC BROADCASTING

The national public broadcaster Radiotelevizija Bosne i Hercegovine (BHRT) remains locked in a period of perennial crisis and on the brink of collapse. Although the broadcaster narrowly avoided financial ruin in April 2022 due to a rescue package, its future is still deeply uncertain. The principal reason for this economic precariousness within BHRT continues to be the deliberate withholding of money from the licence fee by Republika Srpska's regional public broadcaster, Radio Televizija Republike Srpske (RTRS). This withholding of the legally-mandated funding continues to deprive the national broadcaster of more than €30 million in much needed resources. In doing so, RTRS remains in clear violation of the 2005 public broadcasting law. This calculated policy of economic suffocation has meant BHRT has built-up substantial debts to continue its operations. As a result, salaries have gone unpaid for long periods, psychological pressure on its overworked staff is immense, and many have quit to find jobs elsewhere. Those who remain face stress and chronic challenges regarding preparation and production of reports. The mission heard from journalists and editors working at BHRT who at some points were left to cover the work of multiple positions and work simultaneously as reporters, camera operators, producers and fact-checkers. Staff are in dire need of support and financial resources to keep the day-to-day news operations afloat. These pressures are severely undermining BHRT's institutional stability and independence. If the broadcaster were to collapse, Bosnia and Herzegovina would be left as the only EU candidate country without a functional public broadcaster. The impact on the media landscape and citizens' access to information would be significant. The situation is relatively more stable at the Sarajevo-based Federalna Televizija (FTV) – the public broadcaster of the country's other entity. However, financial challenges persist and neither the positions of members of the steering committee nor the FTV director have been filled.

In the Republika Srpska entity meanwhile, major political pressures and interference at RTRS continue and the broadcaster lacks editorial independence. The main source of these pressures come from the ruling Serbian Independence Party (SNSD) and their politicised appointments to the broadcaster's oversight bodies. The clear political biases and connections of individuals appointed to this body, in addition to the nature of its management of the broadcaster, means that RTRS can be considered a captured public broadcaster, in which political or ethnic interests are served rather than the public interest. Incidents of censorship are reported to be common, editorial independence is weak, and watchdog journalism properly scrutinising the policies of the entity authorities is sorely lacking. Instead, disinformation about Russia's war on Ukraine is commonplace and the Kremlin's talking points are disseminated in both news and current affairs content. Biased reporting amidst elections at the entity and national level is of particular concern. Self-censorship amongst the journalists working at RTRS is understood to be high. While the economic situation at RTRS is somewhat more stable than its national counterpart, due to its illegal withholding of licence fee money, the broadcaster suffers from multiple threats to its independence. Overall, no legal or political remedies to solve the issues at the country's broadcasters appear imminent. Unless consensus is found and a breakthrough can be made, it is feared that the public service broadcasting in Bosnia and Herzegovina will continue down the slow path to collapse.

REGULATORY FRAMEWORK

The framework for media regulation in Bosnia and Herzegovina remains largely in line with EU standards, though implementation of laws and regulations remains patchy. Developments in aligning legislation with EU law stalled years ago and no legislative progress appears imminent, contributing to a wider national picture of stagnation on media freedom at the national level. The independence of the national Communication Regulatory Agency (CRA) continues to be undermined by the politicised appointments of its director and the non-appointment of its management council. Figures to the board were last appointed in 2017 and no new appointments have taken place within the body's current or previous mandate. The selective or discriminatory approach of regulatory actions by the CRA have raised some concerns, though problematic decisions on licencing or administrative fines remain rare. An exception was the decision in 2022 of the CRA director Draško Milinović to issue a fine against Face TV and its owner and editor Senad Hadžifejzović, which drew accusations that similar breaches of journalistic ethics by media were not met with the same regulatory punishment. The CRA's financial stability remains in doubt and lacks the resources to fully carry out its regulatory mission. Perceptions of bias and the lack of independence amongst certain board members are present. These developments are highly regrettable considering that the CRA used to be a model for regulatory institutions in the region and Europe.

Fully transparent media ownership remains lacking in Bosnia and Herzegovina. The BH Journalists Association continues to call for a new law to bolster media ownership transparency, including of beneficial ownership, to help address the proliferation of obscurely owned blogs and websites which publish disinformation and defamatory content. The association has also proposed a new law to regulate the transparency of public advertising campaigns in media, which have often been distorted into a form of clientelism. The criteria for the allocation of these advertising campaigns is not clear, opening the door for revenue to media from these contracts to act as an indirect form of state subsidisation of positive coverage. This method for influencing media coverage is a challenge both in BiH and the wider Western Balkans region. Laws to limit the abuse of media and state advertising have been proposed for years and recommended by the EU, though no progress has been made due to a lack of national political consensus.

PLURALISM AND INDEPENDENT JOURNALISM

Although the media market in Bosnia and Herzegovina is densely populated, the market is fragmented and real media pluralism is weak. Given the country's population, there are a large number of media outlets in the private print, online, television, and radio markets. Mirroring a challenge across the region and beyond, many media in BiH are overly reliant on public financing to stay afloat economically, which can lead to pressures on public interest journalism from vested interests. This issue is even more pronounced at the local level, where funding for local TV and radio channels comes predominantly from local municipalities and cantons. In a politicised advertising sector, editorial pressures from larger advertisers remains a challenge and some editors are under pressure to avoid watchdog reporting on certain political figures, powerful companies, or sensitive topics. Close connections between political and business elites exacerbates this issue and leads to perceived biases in some media outlet's reporting and objectivity. Weak labour protections of individual journalists, low unionisation, and the lack of strong firewalls between editorial teams and both advertising offices and media owners means that many journalists do not feel confident in speaking out and challenging decisions that infringe on editorial freedoms. Many media continue to operate as non-profit organisations and NGOs and are reliant on grants and funding opportunities from international donors and organisations, though this funding is dispersed on a short-term basis, limiting the ability of these media to make long-term plans for the future.

Overall, public interest journalism in Bosnia and Herzegovina is being conducted by dogged journalists and media outlets, in both entities, who work in challenging conditions. Many media have risen admirably to the challenges of reporting on the country's complex set of political, economic, and ethnic challenges, and hard-hitting journalism on issues of crime and corruption continues. Due to many of the shared pressures, there is a healthy sense of solidarity between independent journalists in the country in the face of hardship. However, this unity is also too often divided down ethnic lines. Continued professional reporting in the television market by stations including N1 and Al Jazeera Balkans offers citizens high quality information. The online media market also includes a number of independent media houses. Investigative journalism, though underfunded, is being conducted by media like the Centre for Investigative Journalism and others. Yet overall, the media market remains fragmented, polarised and financially imperilled. Working conditions of journalists remain weak, exposing them to additional pressures from publishers or media owners.

CONCLUSIONS

Bosnia and Herzegovina is currently facing a number of internal and external challenges that are having a major impact on media freedom and the exercise of independent journalism. Long-standing issues concerning the national public broadcaster, the fragmentation and financially weak media market, as well as the low rate of prosecutions of those who threaten the media, remain unsolved. After decades of transformation in the post-conflict era, progress has slowed to a halt and in some aspects has even gone into reverse, with worrying implications for democracy more widely.

The country's accession process to the European Union has coincided with a serious backsliding in media freedom in Republika Srpska in particular. Concerningly, the gap between levels of press freedom in the two entities continues to widen. The new legislative initiatives at both RS and Federation level represent negative attempts to stifle independent and watchdog reporting. Despite the momentum given to Bosnia and Herzegovina by the granting of EU candidate status in December 2022, the reality is that the reform process regarding media freedom has not made progress in recent years, and in some issues has gone into reverse. International pressure and EU guided reform recommendations have so far not been successful in steering significant positive changes, and instead the stagnation in media freedom progress has deepened.

The role of international organisations, in particular the European Union, the Organisation for Security and Co-operation in Europe (OSCE) and the Council of Europe, or the role of embassies was largely discussed by journalists and civil society organisations representatives, who expect stronger pressure and more coordinated reactions from them. Potential accession to the EU is still regarded as the strongest tool for leveraging progress on media freedom and freedom of expression. Continued international support and funding will be vital for developing media freedom in BiH. However, the delegation also heard repeated concerns that media freedom risks being overlooked for considerations such as stability and security.

To conclude, the delegation observed that media freedom in Bosnia and Herzegovina is currently in survival mode. Although the situation at the entity level is increasingly divergent, there are reasonable fears that negative trends or legal developments in Republika Srpska could spill over to the Federation. Reforms in line with EU recommendations at the national level will take considerable political will and consensus building, which at present faces major political challenges. Nevertheless, progress on media freedom remains vital for democratic development and EU accession in Bosnia and Herzegovina and there are many within the country who remain strongly committed to achieving both, offering hope for the future. In light of these findings, the MFRR urges the local, national and international policy-makers to take the following steps.

RECOMMENDATIONS

SPECIFIC RECOMMENDATIONS TO REPUBLIKA SRPSKA AUTHORITIES:

- Immediately repeal the legislative provisions that re-criminalised defamation in Republika Srpska;
- Discontinue all criminal cases against media, journalists or bloggers that have been initiated on the basis of the criminal defamation law;
- Prioritise media self-regulation in addressing defamation concerns, particularly the right of reply and correction, and ensure that civil defamation laws contain safeguards against SLAPPs and other abuses;
- End all intimidating practices against journalists and media actors by public officials, including verbal attacks, smears, harassment and threats
- Publicly condemn, investigate and effectively prosecute all criminal attacks on journalists and media outlets;
- Immediately and definitively withdraw the “foreign agent” draft legislation and refrain from imposing any discriminatory regulatory requirements for civil society organisations or media based on the origin of the funding that they receive;
- Ensure an inclusive, transparent and human rights rooted process in the drafting of the pending media law
- End all interference with the RTRS's editorial policy, so that journalists and editors are free to work in the interest of the public in the Republic of Srpska and apply the recommendations of the Council of Europe on the obligations of public broadcasting and the availability of accurate, objective, plural and balanced information;
- In line with existing legislation on the Public Broadcasting System to Bosnia and Herzegovina, take appropriate steps to ensure that RTRS pays its fair and legally mandated contribution to the public broadcaster at state level BHRT.

RECOMMENDATIONS TO STATE, ENTITY AND DISTRICT AUTHORITIES:

- Immediately and definitively revoke any kind of regulation of journalistic reporting or other expressions based on their perceived veracity, including ‘fake news’ regulations, at any level of government in Bosnia;
- Ensure an inclusive, transparent, and human rights based approach in the development of any legislative initiatives that concern the rights to freedom of expression and freedom of information at any level of government in Bosnia;
- Promote proactive disclosure of government-held information and ensure a viable system of requests for information of public interest with narrowly construed exceptions and an effective appeal mechanism;

- Refrain from promulgating regulations that obstruct media and NGO work by creating excessive administrative requirements such as onerous reporting, registration, or public disclosure rules;
- Develop a national-level safety plan to advance media freedoms and protection of journalists, involving police and prosecutorial authorities, in cooperation with journalist associations, media groups and international organisations
- Publicly condemn, investigate, and prosecute any and all serious physical and verbal attacks on journalists and media outlets;
- Ensure an effective system of remedy and reparation for journalists who become victims of attacks;
- Uphold the fundamental principle that any regulation of the media should only be undertaken by bodies which are independent of the government, which are publicly accountable, and which operate transparently;
- Restore public trust in the media through providing support for professional and ethical reporting, especially with the introduction of media and information literacy in formal education and providing opportunities for training journalists on access to information, digital security or physical safety.
- Guarantee long-term and sustainable financing for the national and entity level public service broadcasters under the media law and provide professional support to journalists working within public media to cope with workplace stress;
- Guarantee editorial and institutional independence of PSM
- Ensure adequate financing for the Communication Regulatory Agency and strengthen the body's independence by guaranteeing independent and fair elections of its board members based on strict professional criteria and relevant experience, rather than political considerations;
- Work with the BH Journalists Association to develop and pass national law on media ownership, including stronger regulations on the transparency beneficial ownership and the prevention of undue media concentration;
- Implement a new law overseeing the allocation of public advertising and all other forms of state subsidies to public service, commercial, and community media on strict criteria, to ensure transparent and equitable distribution based on clear market principles rather than political affiliation;
- Bolster independent and watchdog journalism and local media, establish a public fund for pluralistic journalism, administered on an annual basis by an independent body on a grant-basis, with a public database detailing the allocation of funding for journalistic projects on the basis of transparent, fair and neutral criteria.

RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY:

- Closely coordinate and unify positions and strategies among international organisations based in Bosnia and Herzegovina to improve media freedom and journalists' safety;
- Systematically stand in solidarity with attacked journalists and media outlets and support remedy and reparation options for the victims of attacks;
- Provide deeper support to independent quality journalism in Bosnia, including through grants, training, and media literacy programmes;
- Robustly use diplomatic leverage to uphold media freedom and freedom of expression in the country;
- Make media freedom and freedom of expression a top priority in the EU accession negotiations.

ANNEX 1: LIST OF MEETINGS

BANJA LUKA

Siniša Vukelić, Editor-in-chief of the Capital online media outlet and president of the BHJA Journalist´s Club Banja Luka

Ljiljana Smiljanić, Al Jazeera Balkans correspondent and BHJA Steering Committee member

Sandra Gojković Arbutina, Editor-in-chief of the independent online media outlet Nezavisne Novine

Vanja Stokić, Editor-in-Chief of the online media outlet eTrafika

Aleksandar Trifunović, journalist of the Buka Magazin online media outlet

Nikola Morača, journalist of the EuroBlic newspaper and online media outlet SrpskaInfo

Ivana Korajlić, Executive Director of Transparency International Bosnia and Herzegovina

Aleksandar Žolja, director of the Helsinkis Citizen´s Assembly Banja Luka

Jelena Trivić, president of the People's front opposition party in Republika Srpska

Maja Dragojević, member of the Presidency of the Serbian Democratic party (SDS) opposition party in Republika Srpska

Nenad Stevandić, President of the National Assembly of the Republika Srpska

Igor Žunić, president of the club of the coalition party Alliance of Independent Social Democrats (SNSD) in the National Assembly of the Republika Srpska

Ognjen Nikić, Head of the Cabinet of the Minister of Justice of Republika Sprska Miloš Bukejlović

Mirna Miljanović - Šoja, Head of Informative Sector of the Minister of Interior Affairs
Siniša Karan

Aleksandar Jokić, lawyer

SARAJEVO

Selma Sijerčić, Program Management Specialist at the USA Embassy in Sarajevo

Almedina Karić, Program Manager at the International Republican Institute in Sarajevo

OSCE Mission to Bosnia and Herzegovina

Brian Aggeler, Head of the OSCE Mission in Bosnia and Herzegovina

Esther García Fransioli, Head of OSCE Department for Human Rights in Bosnia and Herzegovina

Zlatan Musić, Programme Officer at Media Freedom department at OSCE Mission to Bosnia and Herzegovina

Edin Forto, Minister of Communication and Traffic of Bosnia and Herzegovina

Duška Jurišić, Deputy Minister of Human Rights and Refugees of Bosnia and Herzegovina

EU delegation to Bosnia and Herzegovina

Ambassador Johann Sattler, Head of the Delegation of the European Union to Bosnia and Herzegovina and the European Union Special Representative in Bosnia and Herzegovina and his staff

Nikola Vučić, Editor at N1 TV television

Neda Tadić, Editor at the Radiotelevision of Bosnia and Herzegovina (BHT)

Semira Degermendžić, Editor of the Online Media Outlet Fokus

Fuad Kovačević, Member of the Steering Committee of the BH Journalists Association (BHJA)

Leila Bičakčić, Director of the Centre for investigative reporting

Jasminka Džumhur, Human Rights Ombudsperson of Bosnia and Herzegovina

Vanja Tihak Ibrahimbegović, Senior Project Officer at the Council of Europe Office in Sarajevo

Tijana Cvjetičanin, director of the Citizens' Association (CA) Zašto ne (Why not)

Azra Maslo, Programme Standards Coordinator at Communications Regulatory Agency

Sabina Sarajlija, Main Prosecutor in the Sarajevo Canton

Darko Martinčević, Prosecutor at the Sarajevo Canton Prosecutor's Office and Contact Person for journalist's safety



**MEDIA FREEDOM
RAPID RESPONSE**