

ARTICLE¹⁹

Media Freedom and Safety of Journalists in Serbia

Media Freedom Rapid Response Mission Report

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Introduction

The Media Freedom Rapid Response (MFRR) conducted an online international mission from 28 January to 2 February 2021 to assess the state of media freedom and the safety of journalists in Serbia. The mission was led by ARTICLE 19 in cooperation with the Independent Journalists' Association of Serbia (NUNS). They were joined by partners of the MFRR – the International Press Institute, the European Centre for Press and Media Freedom, the European Federation of Journalists, Free Press Unlimited, and the Osservatorio Balcani e Caucaso Transeuropa – and also by the Center for Human Rights – American Bar Association and the South East Europe Media Organisation.

The mission was initially planned to be undertaken in person but was switched online due to travel restrictions and health considerations related to the COVID-19 pandemic. During the mission, the MFRR met with different groups, including media and journalists' association members of the media coalition in Serbia; a group of independent journalists; the Standing Working Group for Safety of Journalists; national institutions member of the new working group on the implementation of the Media Strategy Action Plan; the Ombudsman; selected international organisations; and the Deputy Minister of Culture and Information. The MFRR requested a meeting with Prime Minister Ana Brnabić; however, no response was received. We appreciated the opportunity to have frank and open conversations with officials and to share our concerns about the situation of press and media freedom in Serbia, a member of the Council of Europe and candidate country for the European Union.

This report summarises the findings of the mission and provides a set of recommendations to key stakeholders to address some urgent concerns outlined in the text.

Key findings

- The safety of journalists has become an increasing concern in Serbia. The COVID-19 pandemic has exacerbated an already difficult situation. Those involved in attacks against journalists and media workers include public officials and the police. Key cases of concern include police brutality against demonstrators and journalists during the July 2020 protests and the arrest of journalist Ana Lalić for reporting on inadequate medical equipment in Novi Sad's hospital. Also of concern is the case of intimidation of journalist Bojana Pavlović, who was harassed by unknown individuals and left unprotected by police after taking a photo of Danilo Vucić (son of President Aleksandar Vucić) in the company of an alleged criminal.
- Concerns over journalists' protection predate the COVID-19 outbreak. The 2018 arson attack against the home of journalist Milan Jovanović represents a key case in this regard, which was concluded in 2021 with the conviction and sentencing of the former Mayor of Grocka Dragoljub Simonović and two other defendants.
- Historical cases of journalists' murders in Serbia remain unresolved. The Commission for the Investigation of Murders of Journalists includes the killings of journalists Slavko Ćuruvija, Milan Pantić, and Dada Vujasinović as priority cases for the police to investigate and resolve. In Ćuruvija's case, a re-trial started in September 2020, overturning the 2019 convictions of four former Serbian State Security Officers involved in the journalist's killing. The Serbian Government should improve cooperation with relevant authorities to shed light on the killing of a group of 15 Serbian and Albanian journalists and two German reporters in Kosovo between 1999 and 2001.
- Of particular concern are cases of politicians or public officials openly threatening journalists, targeting and defining them as "enemies of the state" or "traitors".¹ These acts can be seen to condone and encourage threats, coordinated online harassment or even physical violence. For instance, a recent smear campaign run by pro-government tabloids against the independent investigative outlet KRIK falsely claimed a collaboration of KRIK with a criminal organisation.²
- Online harassment and smear campaigns are of growing concern for the safety of journalists. Online harassment generates deep insecurity and uncertainty amongst journalists, who may self-censor and fear for their safety in the absence of adequate protection from the state. Women journalists are targeted by specific forms of online harassment of a sexual nature or have threats made against their family members.
- A heavily polarised media landscape between pro-government tabloids and independent media mirrors a divided political landscape. After a boycott during the latest elections and in the absence of parliamentary opposition to the current ruling party, independent media are often perceived as political opponents, with some being banned from attending events of public importance.³
- A serious lack of transparency and regulation in the system for allocating public funding results in disproportionate financial support being directed towards pro-government media, while independent and critical media are drained of much-needed resources. This takes place in a context in which the Regulatory Body for Electronic Media is highly politicised and makes little use of the powers granted by law. Furthermore, decisions of the Press Council, a self-regulatory body for the press, are often either ignored or remain unimplemented.

- Preliminary findings of an upcoming research conducted in 2020 by ARTICLE 19, the Center for Human Rights – American Bar Association and NUNS highlight numerous concerns about the Serbian legislative framework and the judiciary’s failure to comply with international freedom of expression law and standards. These laws are used by public officials, politicians and other public figures to initiate lawsuits against journalists in retaliation for their work on reporting and commenting on matters of public concern. The two laws are the Law on Public Information and Media (Media Law) and the Law on Obligations.
- The framework for the protection of journalists is articulated through a number of mechanisms established to react and respond to growing concerns over journalists’ safety. A Standing Working Group for Safety of Journalists, composed of media associations, the public prosecutor, and police, was established in December 2016 to deal with individual cases of attacks against journalists. A Commission for the Investigation of Murders of Journalists was set up in 2012 to lead to the resolution of historical killings of journalists that took place during the 1990s wars. In May 2020, the Ombudsman signed a memorandum for the establishment of a platform to record cases of attacks against journalists and media workers and to push for a response by responsible institutions. In December 2020, the government established two new working groups on the implementation of the Media Strategy Action Plan and for the security and protection of journalists. The effectiveness of these two more recent mechanisms is yet to be evaluated and is dependent on a strong political will to protect journalists. The lack of this political will is the cause of the withdrawal of five civil society organisations out of nine members of the recently established Working Group for the Security and Protection of Journalists, in response to the government’s failure to condemn a smear campaign against KRIK.
- Journalists working in smaller towns or remote areas are even more vulnerable than their colleagues in Belgrade or Novi Sad, as they are not adequately able to recognise pressures against their work and are less encouraged to report cases to police. The lack of specific attention by the government to the situation of local journalists at risk is an aspect that must be urgently addressed.
- Journalists place low trust in the police and the justice system. It is common for journalists to not report to police cases of targeted attacks due to a lack of trust that the attacks will be independently and effectively investigated. Access to justice for journalists targeted with threats or harassment is not consistent: sometimes the police and prosecution do not investigate these acts, or they claim alleged lack of resources to investigate violent attacks or online threats against journalists. Equally, the judiciary often dismisses cases of violence or intimidation against journalists allegedly for lack of evidence or intent to harm.
- Access to information in Serbia is hampered by a tendency to centralise information of public importance in the hands of the government. This was particularly evident during the initial outbreak of the pandemic, when the government passed a regulation (later revoked) aimed at centralising information related to COVID-19 in the Office of the Prime Minister; cases of independent journalists being denied access to official press conferences were also reported. Compliance by public institutions with freedom of information requests remains a concern: the MFRR noted that when these are not granted by public agencies, the decisions of the Access to Information Commissioner are rarely enforced and fines against certain agencies are usually low and do not act as a deterrent. Furthermore, the functioning of the mechanism for enforcement of the Commissioner’s decisions remains unclear. Independent journalists tend to increasingly rely on whistleblowers, who are also labelled as “traitors” by public authorities.

- While the mission has noted a relatively small number of positive state initiatives prompted by international pressures, such as the adoption of a media strategy and action plan, these are outnumbered by numerous areas of concern in the fields of media freedom and safety of journalists that must be urgently addressed by the government. Strong political will to address obstacles to the safety of journalists and media freedom and, most importantly, implementation of commitments by the government are urgent requirements that must be guaranteed and addressed for Serbia to follow the path towards full democracy and EU accession.

Mission report: Key issues

Safety of journalists: Physical and verbal attacks, smear campaigns, online harassment, and legal threats against journalists

The safety of journalists has become a serious concern in Serbia. In 2020 alone, the MFRR consortium registered a total of 37 cases of threats, harassment, or physical violence against journalists in Serbia.⁴ This worrying situation has also been documented by national media organisations and journalists: according to statistics from NUNS, in 2020 a total of 72 journalists were the target of various forms of attacks to their safety, including threats, violence, and online harassment.⁵ It is important to analyse these numbers in light of the heavily polarised media landscape in Serbia, where independent media represent a narrow minority of all media outlets. In this context, the impact of these incidents, usually taking place against those journalists who report sensitive issues of public concern, is even more pervasive and sheds light on the complexity of the problem.

In 2020, attacks on the safety of journalists in the context of the COVID-19 pandemic included **Ana Lalić**, who was the first journalist in Europe to be arrested and investigated by police for spreading ‘panic’ among the population after her reporting in Novi Sad questioning the adequacy of a local hospital’s supplies to respond to the surge of the virus. Her house was raided by police officers and some equipment was confiscated.⁶ On 1 April 2020, Lalić was placed in detention on suspicion of publishing an article allegedly causing panic and disorder in the public and was subsequently released in the morning of 2 April after being interrogated by police officers.

Another case of concern is KRIK’s journalist **Bojana Pavlović** who, in June 2020, was left unprotected by police after she took photos of Danilo Vucić, son of President Aleksandar Vucić, in the company of a man suspected to be a member of a criminal gang. The police first asked her to delete the photos and later left her without protection when a group of men approached and intimidated her. In July 2020, protests erupted in Belgrade against the government’s measures to contain the spread of COVID-19; the streets of the capital were the scene of a violent repression of demonstrators by police. Journalists covering the events were the target of brutal attacks by police officers and groups of protesters: the MFRR has documented that a total of 28 journalists and media workers were targeted by law enforcement agents or demonstrators during the **July 2020 protests** (9 journalists were targeted by police and 19 journalists were targeted by protesters).⁷ Media associations and civil society have criticised the slow investigation of cases and lack of clarity on their progress. During the mission, the Ministry of Interior provided assurances to the MFRR that the reported cases are currently being investigated through an independent control mechanism tasked with examining cases in which police may have overstepped its authority. Such cases may also be investigated through the justice system in Serbia.

The deterioration of journalists’ safety long precedes the start of the pandemic: in December 2018, Zig Info’s journalist **Milan Jovanović** was the victim of an arson attack against his house after investigating cases of corruption of local public officials. The police started an investigation to identify the offenders in 2019; the trial was concluded on 23 February 2021 with a prison sentence for the three perpetrators of the attack, including the former Mayor of Grocka. In the final hearing, the judge on the case reprimanded the defence team’s attitude who tried to frequently obstruct the work of the court by requesting numerous postponements of the hearing aiming for impunity in these crimes.

FOCUS: Police brutality against journalists during the July 2020 protests

In July 2020, the streets of Belgrade were the scene of police brutality against journalists reporting on the protests against the government's measures to contain COVID-19. The MFRR,⁸ NUNS, and other international and national organisations strongly condemned the repression and called for thorough investigations into violence perpetrated by police officers against journalists and protesters. It was noted that during the MFRR mission the Ministry of Interior refused to accept the term 'brutality' when describing the police's action during these events. The Assistant Director of Police, however, confirmed that an investigation to ascertain potential responsibilities of police officers who may have overstepped their authority has started, though no further information was made available on the progress and the timescale for the completion of these investigations. Furthermore, police rejected the claim that they exceeded their authority during the protests and held that in those specific instances in which violence took place, there was no deliberate hurting of demonstrators or journalists. Police also criticised journalists for not being easily identifiable by wearing press vests during the demonstrations; nevertheless, media workers do not have an obligation to be identified and the protection from police violence during protest is not contingent upon identification. Recognisable press insignia are a measure to make it easier for law enforcement to identify journalists and media workers and act accordingly, but their absence should not be an excuse to attack. Furthermore, in a climate of total distrust, media officers were not comfortable wearing press vests for fear of being further demonised and targeted by police.



Milos Miskov, photoreporter injured during the July 2020 protests in Belgrade. (Photo credit: Beta News Agency)

The MFRR is also deeply concerned by a series of historic unresolved cases of murders of journalists, proceedings of which are either still ongoing or have not even been initiated. Over 35 journalists have been killed or disappeared in the territory of Serbia since 1999.⁹

The Commission for the Investigation of Murders of Journalists was established in 2012 in order to bring journalists and state authorities together to reach better results in investigating the murders of journalists Slavko Ćuruvija (1999) and Milan Pantić (2001), and the circumstances surrounding the death of Dada Vujasinović (1994), as well as the murder of 16 employees of Radio Television Serbia who lost their lives during the NATO bombing in 1999. In 2018, the scope was expanded to murders of journalists in the conflicts in the Socialist Federal Republic of Yugoslavia from 1991 to 1995 and in the kidnappings and murders of journalists in Kosovo and Metohija from 1 January 1998 to 31 December 2000. As a part of this expansion, responsible officers were appointed to join the Commission from the War Crimes Prosecutor's Office and the War Crimes Unit of the Ministry of Interior of the Republic of Serbia. The impression from many stakeholders interviewed during the mission is that justice in these cases is purposely delayed because of a lack of political will from the government to end impunity for these crimes.

Recent developments in the legal proceedings in relation to the murder of journalist **Slavko Ćuruvija** are of concern: after an initial conviction was pronounced against four former Serbian State Security Officers involved in the killing of the journalist, on 7 September 2020 the Belgrade Appeals Court announced that it had accepted the request of both the prosecution and defence and overturned the 2019 first-instance verdict on the grounds that the first-instance court accused unidentified persons in that case. The re-trial started amid continuous postponements of the hearings. Meanwhile, it is concerning that two of the accused have been placed under house arrest and the whereabouts of a third remains unknown.

Other cases of journalists' murders from the 1990s are still ongoing: these include the murders of **Milan Pantić** and **Dada Vujasinović**, whose proceedings have been open for over 20 years, amidst slow investigations and poor collection of evidence. A group of **17 Serbian and Albanian journalists** were killed in Kosovo between 1999 and 2001; their investigations either never started or were treated as generic killings or kidnappings, without focusing on special protection that should be granted to journalists' cases. Justice must be ensured in these cases with active cooperation of international organisations.

Furthermore, cases of politicians or public officials openly threatening journalists, targeting and defining them as "enemies of the state" or "traitors" are of particular concern.¹⁰ Whilst this phenomenon may be the consequence of the absence of political opposition in parliament, the perception of investigative journalists as political opponents and enemies is highly concerning. A prevalent culture of framing independent media as a hostile force and failing to accept the role of journalists as public watchdogs derives from the 1990s but has continued since the transition to democracy as Serbia still grapples with this element from its recent past.

Verbal threats against journalists by politicians are usually followed by smear campaigns offline and online, targeting both journalists' public and private lives. **Online harassment** contributes to a sense of a deep unsafe feeling amongst journalists, who may self-censor out of fear for their safety in the absence of adequate protection from the state. Women journalists are targeted by online harassment of a sexual nature and threats made to their family members. A recent report by NUNS¹¹ highlighted that online harassment of journalists in Serbia has exponentially increased in the past years, with women being the most targeted by these types of threats. It has also been noted that the majority of online threats are orchestrated during times of elections. The MFRR and national media associations find the police's response to these cases inadequate, when they claim that most of the time they do not have capacity to identify the suspects behind anonymous

threats. This is concerning when compared to cases of online threats against public officials, in which offenders are quickly identified and prosecuted.¹²

During the mission, it has been reported that **local journalists** working outside the main cities of Belgrade and Novi Sad are facing even higher risks to their safety, with additional pressures from their own political structures if they represent small minorities and do not speak Serbian. Journalists in these categories are more vulnerable as they are less aware of the protections that should be granted to their safety and are less inclined to report dangers to their safety to the police.

Polarisation of the media landscape in Serbia

The Serbian media landscape is radically divided between independent and pro-government media, which mirrors a cleavage in the societal and political landscape in the country, with a much lower number of independent journalists who report on public interest issues. Media freedom is further deteriorated by a general attitude by Serbian ruling politicians, especially at local level, of engaging only with media and journalists who support their political agenda, avoiding criticism from independent journalists in order to maintain their credibility in the public eye. Independent media are often denied access to interview these politicians and therefore cannot provide a full account of their perspectives. COVID-19 has exacerbated this divide: especially during the early stages of the pandemic outbreak, when politicians and scientific experts linked to the ruling party spoke mostly with pro-government outlets, discriminating across the whole range of media working in the country.

Similarly, there have been incidents in which information at the local level was not distributed in an equal manner among all media outlets; these cases were particularly raised by journalists in Kragujevac, Krusevac, and Brus in relation to the information on the spread of COVID-19 in those areas.¹³ Public verbal attacks and demonisation of independent media (accused of creating “fake news”, of producing propaganda, of not being “normal”) perpetrated by the political leadership both at national and local level are frequent. These take place in a context of virtual absence of any political opposition to the ruling party in parliament after a boycott of opposition parties at the latest elections.¹⁴

Attacks against independent media and journalists are also perpetrated through a system of smear campaigns either through pro-government tabloids or through online accounts from anonymous sources.¹⁵ These are orchestrated to discredit or harass journalists who report on contentious issues, such as corruption scandals or collusion with criminal organisations. While the Press Council has often documented breaches of the journalistic ethics code by pro-government tabloids, in most cases the perpetrators are not sanctioned. As a result, the public is left anaesthetised by continuous aggressive rhetoric against independent journalists by pro-government media, with the majority of citizens being unequipped to critically analyse the information given and unexposed to a plurality of perspectives. Furthermore, top officials and high-level political figures,¹⁶ including President Vucić,¹⁷ are slow to condemn public attacks against the media,¹⁸ which only emboldens greater hostility against the press.

Media freedom in Serbia is also jeopardised by an uneven allocation of public funding favouring pro-government media, alongside the de-regulation of public advertising at the detriment of independent outlets.¹⁹ The MFRR noted with concern cases of state interference in the media market with provision of public funds to outlets breaching ethical principles of journalism. State interference in media ownership is also a cause for concern: the recent publication of a leaked document by independent outlet N1 over the commercial agreement between the public owned company Telekom and Telenor Serbia revealed that the intent of the commercial merge was

allegedly to 'destroy' SBB United Group's Serbian cable television, owner of the two cable television channels N1 and NOVA S. As a response to this publication, Telenor filed a lawsuit against N1, requesting 113,235,628 RSD (USD1,140,394), corresponding to almost 1 million euros in damages.²⁰

Although transparency in funding allocation has improved in the past 10 years at national level through the work of the Ministry of Culture and Information and civil society initiatives,²¹ it continues to score very low at the local level, where public funding commissions often lack independence from the political leadership and fund outlets running smear campaigns and spreading hate speech. In this scenario, coupled with precarious contracts for journalists, smaller independent outlets are often left with little financial resources and have no choice but to support government lines to survive. Censorship and self-censorship have, consequently, become very common practices among independent journalists. The 2020 Media Strategy aims to address these issues, although it is yet to be seen how these remedies will be implemented going forward.²²

Throughout the mission, the MFRR observed an extremely low level of trust by journalists in the political will of the Serbian Government to solve these problems. The Regulatory Body for Electronic Media (REM) is highly politicised and ineffective: findings from the mission highlight that the latest changes to the composition of REM only produced superficial results aimed at improving its image in the eyes of international partners; in fact, their decisions seem to be often disregarded and rarely implemented. Furthermore, international reports highlighted the important role that REM should also play in ensuring ethnic diversity is reflected in the media but, according to research, this seems to be deprioritised.²³ Decisions by the Press Council are also often either ignored or remain unimplemented.

In light of these findings, international organisations are called to push the government to ensure that media freedom and journalists' safety are fully ensured and protected in Serbia.

Abusive lawsuits: Legal threats against journalists

Preliminary findings of an upcoming research report conducted in 2020 by ARTICLE 19, the American Bar Association, and NUNS highlight numerous concerns about the use of Serbia's legislative framework to initiate legal proceedings against journalists in retaliation for their work on matters of public concern. Initial findings show that the international standards protecting freedom of expression, including guarantees provided by the European Convention of Human Rights, are inconsistently applied by courts. In the majority of the 32 cases analysed in the report, public officials and politicians are the plaintiffs bringing cases against the media and journalists claiming harm in the form of mental anguish. These lawsuits are brought disregarding that politicians and public figures should tolerate higher levels of intrusion and criticism due to their position.

The Law on Obligations has been used against journalists from unregistered media. In these cases, where burden of proof is placed on the defendant, the plaintiff can claim damages for a broad category of opinions and provocative expressions that fail to meet both the necessity and severity thresholds required for limitations on the basis of protection of reputation. Sanctions can be imposed upon opinions categorised as offensive by plaintiffs that aim to silence criticism or opposition. This problem stems from Serbian courts' interpretation of 'harm to honour', which goes far beyond the permissible restrictions on the right to freedom of expression.

Courts fail to provide clarity on the test and criteria to determine damages. Their assessment seems to be based on the claimed mental anguish of the plaintiff rather than on a determination

of specific substantial harm to reputation based on false statement of facts. The outcomes of the cases vary depending on the points raised above. However, journalists and media have been ordered to pay awards to politicians or public officials under a judicial assessment that fails to consider the above mentioned defences consistent with the regional and international freedom of expression standards, and to recognise the importance of the role and function of journalistic freedom of expression.

The Law on Public Information and Media (Media Law) and the Law on Obligations fail to fully comply with international freedom of expression standards. The preliminary findings show that these laws are inconsistently and restrictively applied by Serbian courts in lawsuits against journalists and media on the basis of claims for protection of reputation, honour, and dignity. While the Media Law provides some safeguards against misuse, such as the requirement of burden of proof for the plaintiff and the public interest defence, the inconsistent and restrictive interpretation of the courts is threefold:

1. The law does not stipulate mandatory requirements for registration of media or journalists; although this is consistent with international human rights law, the interpretation of this issue requires registration. The courts' approach to this issue is contradictory. The Court of Appeals has held that the media needs to be registered in order to benefit from the protections under the Media Law, while other courts have stated the opposite. Hence, unregistered media could be sued under the Law on Obligations which places the burden of proof on the defendant.
2. The safeguard of burden of proof for the plaintiff is rendered ineffective in cases where courts have determined that the plaintiff cannot prove a negative claim, placing the burden on the defendant to prove the falsity of the statement.
3. Freedom of expression considerations, public interest defences, and standards on greater tolerance of criticism from public officials and politicians are applied inconsistently. Courts seem to prioritise 'mental anguish' as a harm caused by a statement or publication – often unsupported by a specific harm to reputation caused by a false statement of fact – rather than applying the standard of substantial harm and properly balancing the rights to journalistic freedom of expression with the protection of reputation.

Policy framework for the protection of journalists and justice system

On a formal level, the safety of journalists is a stated priority for the Serbian Government, which has established a number of mechanisms to this end and recently adopted a media strategy and a related action plan aimed at 'creating an environment conducive for the work of journalists and media professionals'.²⁴ In this context, it was noted that the involvement of media associations in the process of drafting the Media Strategy has been pivotal to implementing policy documents. The MFRR mission highlighted the high level of influence carried by the EU in driving this process forward and its role in supporting the government to make these commitments a success, not just at a formal level but also in practice.

In December 2016, a Standing Working Group for Safety of Journalists was established comprising public prosecutors, police, and journalists' associations, and the Organization for Security and Co-operation in Europe holds observer status. The aim of the group is to fast-track the investigation and prosecution of cases of attacks against journalists and increase cooperation between public institutions and media associations in the identification of cases against journalists and their resolution. Examples of good progress achieved by this working group are the increased number of contact points available to deal with specific cases of attacks against journalists, as

well as the inclusion of additional criminal provisions that the working group is in charge of (these increased from 3 to 25 since the inception of the working group up to December 2020).

In addition to the work of this mechanism, a Commission for the Investigation of Murders of Journalists was set up in 2012 by the Serbian Government to push the investigation of historical cases of killings of journalists that were still unresolved. More recently, in May 2020 the Ombudsman signed a memorandum for the establishment of a platform to record cases of harassment, violence, and other attacks or pressures against the safety of journalists and other media workers²⁵ and push for a response by responsible institutions. The goals of this platform are to establish records, monitor trends, identify institutions in charge of their resolution, and suggest legal amendments to address the identified gaps. The work of the Ombudsman, however, has been strongly criticised over the accuracy of its reporting and delays in taking up cases of attacks against journalists; the MFRR also noted that this work has been questioned before the Global Alliance of National Human Rights Institutions.²⁶

In December 2020, the Serbian Government set up two new working groups: (1) the working group for monitoring the implementation of the Media Strategy Action Plan aims to make the strategy an operational document by reviewing national legislation and increasing the collaboration between public institutions and media associations in its implementation, and (2) the Working Group for the Security and Protection of Journalists has the objective of reviewing and amending laws related to safety of journalists. Both working groups are composed of government representatives, journalists' associations, and the EU as observer, and are chaired by Prime Minister Ana Brnabić.

An SOS phone line for journalists in Serbia whose safety is jeopardised was set up in March 2021 by the Working Group for the Security and Protection of Journalists. This phone line is open 24 hours a day for journalists in Serbia to receive legal advice and information on how to report their cases to authorities.²⁷

During the mission, some interlocutors described these initiatives as useful mechanisms for civil society to establish a direct link with policy makers and raise their proposals on legal reform to increase the protection of journalistic work. However, others are sceptical of the actual efficacy of additional working groups, if not supported by political will to change the existing situation on the ground. It is extremely concerning that five civil society organisations out of nine members of the new Working Group for the Security and Protection of Journalists have already withdrawn their participation in the group just three months after its establishment, following the absence of a response from the government to the recent claims accusing the independent investigative outlet KRIK of collaborating with a criminal organisation.²⁸ The withdrawal of these groups calls into question the sustainability of this mechanism, as well as the true commitment of the government to investigate all cases of threats against journalists in the country.

It was also noted during the mission that recent state initiatives to improve journalists' safety have been put in place by the Office of the Prime Minister following pressure from the EU to dramatically improve the situation of media freedom and safety of journalists in the country.

The Media Strategy has also been criticised by some media actors as being a superficial attempt to please international partners, especially the EU, in the lead up to the EU integration process. These efforts follow the latest EU progress report on Serbia, in which the EU registered 'no progress' under the category of freedom of expression.²⁹ From interviews with top government officials during the mission, it was noted that the EU integration process is tightly dependent on substantial improvement under Chapter 23 on human rights. The MFRR recommends the two recently established working groups to respond to all threats against journalists and to publish

frequent reports on the progress of their work. The MFRR will also continue to monitor the effectiveness of these mechanisms.

Despite the existence of formal mechanisms to enhance cooperation between government and civil society in the area of journalists' safety, the MFRR noted some key areas of concern during the mission which constitute obstacles to their effective operation and resolution. First, numbers of attacks or threats against journalists are registered in a divergent way by the public authorities and media associations. Throughout the mission, it was clear that this discrepancy is the consequence of using different criteria when compiling statistics of attacks against journalists: while the state authorities focus solely on acts that are offences by law, media associations include other type of threats, such as online threats, smear campaigns, and other threats to media freedom which do not constitute criminal offences in the Penal Code. To address this problem, the MFRR therefore calls for the establishment of a prevention unit within the formal mechanisms for journalists' safety and encourages the newly established Working Group on Security and Protection of Journalists to prioritise these issues.

Furthermore, official statistics only include cases that are reported to the police or for which charges are filed before the court, while journalists' associations also include those cases that have not been officially reported, often due to fear or distrust by journalists in the work of the police or of judicial bodies. Consistent recording of cases is dependent on which definition of 'journalist' is adopted, with public officials defining journalists as registered media only, and media associations including a full range of media actors beyond their official registration. Media associations have stressed that they will continue monitoring the incidents against journalists in accordance with the comprehensive systems and criteria that they have developed and adopted.

Finally, the MFRR also noted that official statistics provided by the prosecutor's office fail to disaggregate data by the gender of the person offended, making it difficult to identify pertinent trends and respond with appropriate measures to the specific types of gendered threats, notably online threats against women. To this end, the MFRR will closely monitor any progress in streamlining the monitoring of cases of attacks against journalists and will evaluate the criteria used in this recollection.

The MFRR also noted that access to justice for journalists targeted with threats or harassment is not consistent. Low cooperation and frequent reticence by the police when sharing information on the progress of cases against journalists leads to distrust of the police by journalists, who consequently do not always report cases to the authorities. Online threats against journalists and media workers are usually not investigated and there is little hope from the media community of registering any progress in this area. Law enforcement officials fail to consider some attacks against journalists sufficiently serious to start investigations. Even in serious cases of harassment such as threats to life, prosecutors often do not start investigations *ex officio* or dismiss the complaints raised because of lack of sufficiently verifiable evidence. The mission's findings also indicated that at the judicial level there is a gap in fully applying international freedom of expression law and standards that grant journalists a higher level of protection in relation to their function of "public watchdogs",³⁰ possibly due to lack of capacity and specific knowledge, or to historical attitudes and practices towards independent media. For example, it has been reported that although threats against journalists can be prosecuted under civil or criminal law, judges often do not find a factual basis for starting investigations in these cases or interpret them as lacking sufficient evidence of the intent. This is coupled with a high level of impunity in cases of violence against journalists, encouraging perpetrators to continue using incendiary rhetoric by the ruling party against independent media working in the public interest, which paves the way for other actors in the public scene to continue attacks, humiliation, or harassment against the media. Indeed, according to recent statistics, only 10% of cases of violence against journalists reaches

a final verdict, usually with either suspended convictions or with very light punishments, such as house arrest.³¹ Finally, some journalists and associations share the impression that justice in these cases is purposely delayed because of lack of political will, as exemplified by the fact that historical cases of murders against journalists still remain unresolved.

Access to official information by journalists

Journalists' access to official sources of information has shrunk in Serbia in recent years. During the initial outbreak of the COVID-19 pandemic, the Office of the Prime Minister introduced a regulation that centralised all COVID-19 related information through its office and controlled access of media to official press conferences.³² The effect of such centralisation of information was even more severe at local level, where journalists in the towns of Vojvodina and Senta could not receive any official information from local authorities. After strong criticism of this measure from the international community, the regulation was quickly revoked by the Prime Minister.³³

Commitments to improve access to official information have also been included in the Media Strategy Action Plan. Amendments to the Law on Access to Information of Public Importance were announced in early 2021 under an ad hoc working group tasked with drafting the reform of the law. The Ministry of Culture and Information has informed the MFRR that the legislative process will include a public debate with media associations and an option to send objections and suggestions through the website of the Ministry. Before adoption by parliament and enactment, the government will also consult the EU to harmonise the new law with the wider legal framework and ensure its quality.

The MFRR also raises concerns in relation to freedom of information requests. In Serbia, when a government's agency does not disclose information in response to a request, this can be appealed to the Commissioner on Information of Public Importance. However, the MFRR noted that the Commissioner's decisions are rarely enforced; and although in these instances the Commissioner can levy a fine against the agency, requests for enforcement are rarely met and the process remains unclear. Furthermore, during the state of emergency in 2020, Serbia was among other countries in Europe that extended the deadlines for freedom of information requests, making it more difficult for journalists to gather public health data.³⁴

Independent journalists are often denied access to official sources and increasingly rely on the growing number of whistleblowers, who are also subject to verbal harassment from some politicians, who label them as "traitors". Furthermore, electronic communications and video surveillance have been observed as an emerging trend, jeopardising the privacy of journalists and their sources.

FOCUS: Whistleblower Aleksandar Obradović

Aleksandar Obradović is a former staff of the state-owned arms factory Krusik in Valjevo. He revealed information on how the private company GIM, linked to Branko Stefanović, father of the former Minister of Interior Nebojsa Stefanović, purchased cut-price arms from Krusik.³⁵ After leaking these documents, Obradović was arrested on 18 September 2019 at his office on suspicion of revealing a trade secret. He was initially detained and then remanded in house detention and finally released. While his case is still under investigation, the prosecution has yet to initiate an investigation into the information regarding the business of the Krusik factory.



Aleksandar Obradović, March 2021. (Photo credit: NUNS)

Conclusion

Journalists are the backbone of democracy and their role in society is essential to ensure accountability of power holders and for sharing information of public interest. If Serbia wants to follow the path towards full democracy and EU accession, a conducive environment for free and independent media has to be in place at formal level and its implementation must be guaranteed.

While the mission has noted a relatively small number of positive state initiatives prompted by international pressures, such as the adoption of a Media Strategy Action Plan, these are outnumbered by numerous areas of concern in the fields of media freedom and safety of journalists that require to be urgently addressed by the government. Minimal progress has been registered in relation to media freedom, which may even be defined as a regression in relation to access to information. Furthermore, the MFRR is highly concerned to observe cases in which public officials actively contribute to the polarisation of the media landscape, demonising independent media through direct verbal attacks or the use of pro-government tabloids. Despite the face-value commitment by the Serbian Government to the protection of journalists and media freedom through, for example, the establishment of a number of mechanisms aimed at improving safety of media workers, these are often not substantiated by a strong political will and action. Without the establishment of a meaningful collaboration with civil society and the enactment of strong actions to address journalists' lack of safety and the resolution of historic cases of journalists' killings, existing state efforts in these areas risk to simply represent a window-dressing exercise for the EU and other international partners.

A strong political will is necessary to ensure that all state commitments are met and to ensure the fulfilment of the full breadth of the right to freedom of expression in Serbia. The MFRR will continue monitoring the situation of safety of journalists and media freedom in Serbia and examine the government's actions in making its pledges a reality.

Urgent recommendations

In line with Serbia's obligations under international human rights law, we call on the Serbian Government to:

- Fully implement all international obligations related to freedom of expression and media freedom, including by respecting, promoting, and protecting the freedom to seek, receive, and impart information regardless of frontiers
- Bring Serbian laws, policies, and practices pertaining to media freedom fully in compliance with their international obligations and commitments, and to review and, where necessary, repeal or amend them so they do not limit the ability of journalists to perform their work independently and without undue interference
- Condemn publicly and unequivocally all attacks and violence against journalists
- Condemn publicly and unequivocally attacks on women journalists in relation to their work, such as sexual harassment, abuse, intimidation, threats, and violence, including through digital technologies
- Take effective measures to end impunity for crimes committed against journalists by ensuring accountability as a key element in preventing future attacks, including by ensuring that law enforcement agencies carry out swift, effective, and impartial investigations into acts of violence and threats against journalists in order to bring all those responsible to justice and to ensure that victims have access to appropriate remedies
- Renew and intensify efforts to resolve historic cases of murders of journalists by bringing perpetrators to justice
- Strengthen national data collection, analysis, and reporting on attacks and violence against journalists
- Ensure that the established mechanisms for journalists' protection are effective both at formal level and in practice
- Urge political leaders, public officials and/or authorities to refrain from intimidating, threatening, or condoning – and to unequivocally condemn – violence against journalists in order to reduce the risks or threats that journalists may face and avoid undermining trust in the credibility of journalists, as well as respect for the importance of independent journalism
- Reform policing of protests to ensure safety of demonstrators exercising their right to protest and of media workers reporting on protests
- Address the risks that journalists face at local level and ensure their access to protection frameworks
- Publish regular reports on the progress of the work of the two recently established working groups on the implementation of the Media Strategy Action Plan and on security and protection of journalists
- Ensure transparent and equitable co-funding for media content serving the public interest, and increased transparency in media ownership and advertising

- Ensure that all meetings of public bodies are open to the public and to all media
- Ensure that freedom of information requests based on legitimate grounds are granted by public authorities and that decisions or sanctions by the Commissioner on Access to Information are enforced
- Clarify what the mechanisms for enforcement of Commissioner's decisions are and make use of them in a consistent manner
- Actively promote respect for the right of access to information: authorities in leadership positions should publicly recognise the contribution of sources and whistleblowers sharing information of public relevance and condemn attacks against them

Recommendations to international organisations:

- Exert pressure on national institutions to guarantee journalists' safety and protection of whistleblowers
- Request action by national authorities in thoroughly investigating historic cases of journalists' murders and bring justice to victim
- Closely follow up the government's pledges as contained in the Media Strategy and the implementation of its action plan
- Publicly condemn all incidents of harassment and intimidation against journalists, especially when perpetrated by public authorities
- Exert pressure on national institutions to refrain police from acts of violence or intimidation against journalists, especially in the context of protests
- Support the Serbian Government to restore journalists' trust in national and local authorities by complying with international human rights obligations
- Publicly condemn all acts that hinder media freedom in Serbia
- Continue engaging with national and international civil society by supporting their work and following up on their concerns related to freedom of expression in Serbia

Endnotes

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