

Base-line for Media Legislation Monitoring

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Trade Union of Media of Montenegro & Civic Alliance

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Introduction

Trade Union of Media of Montenegro (TUMM) represents the interests of almost half or about 600 employees in the Montenegrin media, and the problems we have identified are the result of an extensive research and consultations on our membership from national public broadcaster, private media and also local public broadcasters.

The main problems in the Montenegrin media are the polarized media scene, weak self-regulatory mechanisms, poor socio-economic conditions, pressures and threats that employees face, and censorship and self-censorship.

The salaries of media employees are still below the national average. In a situation where they depend on the will of the owner, regardless of whether it is a private individual, the national authorities or local government, journalists are subject to pressure, which ultimately results in the absence of impartial reporting. Our research shows that there are "lists" of desirable interlocutors, and that they differ from media to media. The relevance of the interlocutors is determined in accordance with the editorial policy, not with the professional background. In this way, journalists are limited and channel their work in accordance with the will of the owner and / or editor.

The media / journalists are still often sued for violations of personal rights (honour and reputation), and this mechanism is used in a worrying number of cases for confrontations between opposing media. Un-investigated attacks on journalists are also a problem, and the most serious cases of attacks remain unsolved. During 2020, a significant number of attacks, arrests and threats were registered, and threats via social networks or electronic communication are becoming more frequent.

Given all these working conditions, colleagues in most media work in an atmosphere that is not conducive to the practice of investigative and analytical journalism.

Media regulation

Media scene in Montenegro is regulated by Media Law, Law on Electronic Media, Law on National public broadcaster RTCG, Law on Free Access to Information, and other that tackle relation in media sector and work of journalists, like Law on Authors and Other Rights and Law on Publishing.

It is necessary to work on the improvement of existing and adoption of new media laws, primarily the Law on Audio-visual Media Services, but also the Law on Media and the Law on Public Broadcaster - RTCG.

During 2020, the state provided a certain level of financial assistance to the media (about 2.5 million direct, indirect assistance and credit line), which we consider satisfactory measures in relation to the crisis. However, what we insist on is that the benefits of this assistance are felt by media employees, who have borne the brunt of the crisis, which has not been the case so far. New Media Law introduces Fund for promotion of media pluralism, and new Government announced that it will be fully functioning till the end of the year. Also, provision that only self-regulation body with 3 years of existence can be eligible for applying to the fund is very problematic.

We are closely monitoring to the process of establishing of the Fund, and we are ready to give preposition if needed.

In order to do so, we are planning series of meeting with representatives of authorities responsible for implementing this new practice, in first line Ministry of public administration, digital society and media, but also Agency for electronic media.

New Media Law, also, doesn't give best solution for regulating media scene in Montenegro. For example, digital media - portals are still a rather unregulated area, which leads to the existence of media that publish content that is rich in hate speech and fake news, and according to the existing legal solutions, responsible persons cannot be reached.

Law on National Public Broadcaster – Radio Television of Montenegro requires additional analytical approach, related to the relevant European practice. We insist on building atmosphere where our colleagues will be free to work professionally, not depending on frequent changes of management.

We also insist on resolving the status of local public broadcasters, which are financially unsustainable because they depend on the will of the current government at the local level, which is why we have proposed changes to the Law on electronic media.

In addition, the Law on Audio-visual Media Services should offer a solution to regulate the status of local public broadcasters, whose employees have been brought to the brink of extinction. There are currently 14 of them and the process

of establishing new ones is underway (RTV Podgorica and RTV Kolašin). By all parameters, local public broadcasters are media that have been in the most difficult position of all in Montenegro for decades. In some of them, salaries have been late for years, the debt for taxes and contributions has reached alarming figures in some, and if regulations had been enforced consistently, many would have gone bankrupt long ago. In addition, thanks to the current legal solutions, these media are directly dependent on the political sets in power in local self-governments, which are their founders and the most important financiers, and are prevented from reporting objectively and professionally.

In order to enable the strengthening of investigative and analytical journalism in Montenegro, it is necessary to amend the Law on Free Access to Information, in order to reduce the current range of information that is considered secret.

Also, the Law on Copyright and Related Rights must treat journalism in the future. This is not the case right now.

Beside all this, we also hope that in the near future we will succeed in finding the understanding of media owners to improve the conditions in which media workers work, and that we will soon resume negotiations on the Branch Collective Agreement for this activity.

All of this is a major problem for strengthening media freedom in Montenegro, which has been a sore point for years where there has been no progress in European Commission reports.

Recommendations:

I Law on Media

PROPOSAL 1

In Article 6, the third paragraph is added as follows:

"Media content will not be considered: platforms such as Internet forums, social networks and other platforms that allow free exchange of information, ideas and opinions of its members, or any other independent electronic publication, such as blogs, websites and similar electronic presentations, unless they are not entered in the Media Record.

Justification for proposal 1:

In the era of technology development, there is a tendency to legitimize social networks, blogs and other similar platforms such as websites of NGOs and other organizations, which cannot be put in the same position with traditional media for at least two reasons: information placed through them is not they contain the basic journalistic principle of objectivity, and also, the state does not have mechanisms to regulate them in any way, in cases when it is necessary under this law. Therefore, we believe that it is very important to specify that these are not the media, so that there would be no harmful consequences for the overall media and social environment, if that were taken for granted.

PROPOSAL 2:

In Article 9, the second paragraph: "The application for entry in the Register shall be submitted by the founder or an authorized person" shall be amended to read as follows:

"The application for entry in the Register shall be submitted by the founder or an authorized person, no later than 30 days from the day of establishment."

Justification for proposal 2:

We believe that the existing wording is broad and leaves room for avoiding this obligation. By introducing a reasonable period of 30 days from the establishment, we believe that an updated database of active media in the country will be provided.

"

PROPOSAL 3

In Article 9, the fourth paragraph is amended to read as follows:

"Media records are public and are published on the website of the ministry in charge of the media."

Justification for proposal 3:

We believe that this practice will enable greater transparency of the media market and easier access to information, where the records would be a public database. A

positive example is the electronic media database maintained and updated by the Electronic Media Agency.

PROPOSAL 4:

Article 18, paragraph 2 "Council of the Agency for Electronic Media 60% of funds, which are directed to the sub-fund for electronic commercial and non-profit media", is amended to read as follows:

"Independent Commission, formed by the Agency for Electronic Media 60% of the funds, which are directed to the sub-fund for electronic commercial and non-profit media."

Justification for proposal 4:

The proposal that the Council of the Agency for Electronic Media distribute 60% of the funds, which are directed to the sub-fund for electronic commercial and non-profit media, introduces unnecessary arbitrariness and enables political influence on the distribution of money to the media. Namely, the Council of the Agency for Electronic Media is an independent body of an independent agency, but its members are still elected and dismissed by the votes of politicians in parliament. This provision has also been criticized in the comments of the Council of Europe, and we believe that it can bring political interference in the work of the media, regardless of the composition of the AEM Council. Therefore, we believe that it is necessary to take over the same principle as for print and online media, ie that for electronic media the distribution of funds is done by an independent commission.

PROPOSAL 5:

Article 19 is deleted.

Justification for proposal 5:

We believe that the Fund for Encouraging Pluralism and Diversity of the Media, ie the state that allocates funds for that Fund in accordance with the GDP of Montenegro, should not finance self-regulation because self-regulation is an internal matter of the media, and thus its financing.

PROPOSAL 6:

In Article 20, in the first paragraph after item 16, a new one is added and reads:

„17. Education on labor rights and promotion of their protection "

Justification for proposal 6:

We believe that it is extremely important to send a message from the institutional level about the importance of protecting labor rights. Education on labor rights is a necessary precondition for their adequate application, and the media have an immeasurable contribution to that. Therefore, we believe that the media should be encouraged to deal with these topics, which are currently very rarely covered by the media.

PROPOSAL 7:

Paragraph 3 of Article 24 "For the damage caused by publishing untrue, incomplete or other media content, the founder, editor-in-chief and the journalist shall be jointly and severally liable if it is proven that they acted contrary to due journalistic attention." is amended to read as follows:

"For the damage done by publishing untrue, incomplete or other media content, the founder and editor-in-chief are liable if it is proven that they acted contrary to the due journalistic attention."

After this, a new paragraph is added:

"If the founder or editor-in-chief considers that the editor for certain publications or columns and the journalist or author who is not a journalist are responsible for the damage done in terms of Article 24 of this Law, the founder or editor-in-chief may open compensation from these persons in accordance with general rules for damages under the Law on Obligations. "

Justification for proposal 7:

We believe that such a broad definition of joint and several liability is completely unnecessary and that it is completely unjustified that the office The columnist or journalist is responsible because the editor-in-chief is obliged to have an insight into the entire published content, even the one that causes possible damage. Also, the founder and the editor-in-chief in practice appoint column editors, while the editor-in-chief must always keep in mind the quality and professional characteristics of his journalists, and thus know - whether they can harm their texts. However, due to the huge content in some media and the real impossibility of the editor-in-chief, as just one person, to control everything in detail, we suggest adding a new position that would leave them the opportunity to compensate for column editors or journalists, if it is indisputable they are guilty by their professional conduct of the damage done in terms of Article 24 of this Law.

PROPOSAL 8:

After Article 25, a new article is added to read:

"The media has an editor-in-chief.

The editor-in-chief is a person who freely and independently edits media content and is responsible for published media content.

A person who meets the conditions prescribed by the media statute may be appointed editor-in-chief of the media.

The editor-in-chief referred to in paragraph 2 of this Article shall be appointed and dismissed by the founder of the media, in accordance with a special act of the media.

A special act of the media regulates the issues of defining editorial policy, participation of journalists in the procedure of appointing and dismissing the editor-in-chief, freedom of work and responsibility of journalists, and conditions and procedure under which the editor-in-chief and editors have the right to resign with fair severance pay. the management structure of the media that leads to a significant change in the program basis or program content of that media (the so-called conscience clause).

The act referred to in paragraph 5 of this Article shall be adopted with the prior consent of the majority of the total number of media journalists within 90 days from the day of the establishment of the media and entry in the Register.

The founder is obliged to submit the act referred to in paragraph 5 of this Article to the state body in charge of the Records within 120 days from the day of the establishment of the media and entry in the Records.

Justification for proposal 8:

There are no mechanisms in Montenegrin regulations to protect journalists and editors from the influence of media owners. There is no obligation for the owners and journalists to sign the relevant act to ensure that the owners do not interfere in the editing of media content. Combined with unenviable financial position, low earnings, limited career opportunities, journalists and editors often agree to the influence of the ownership structure on the editing of media content. Also, research by the Montenegrin Media Union in the last three years, as well as other research, has shown that censorship and self-censorship are present in the Montenegrin media, which is a huge obstacle to raising professional standards.

This solution was taken from the media laws of Slovenia and Croatia. Both states recognize in their legislation the minimum standard of media statutes (in this case a special media act, which is a different document from the statute as an act necessary for the establishment of any company, although these provisions can be found in the statute, if they do not represent a "business barrier"). claim the owners of the media) with which a certain level of journalistic autonomy in relation to the employer should be ensured through participation in the election or dismissal of the editor-in-chief and the so-called the right to a "conscience clause" which gives editors the right to, with fair severance pay, leave a medium that has substantially changed its editorial policy. International journalists' associations take these laws as the highest standards that need to be introduced into national legislation in order to protect media integrity.

PROPOSAL 9:

Article 26, paragraph 1: "Internet publication is a medium whose content is disseminated via the Internet, and which cannot be considered an audiovisual media service under the law governing the field of audiovisual media services" is amended to read as follows:

"An online publication is a medium whose main goal is to inform citizens, and whose content is disseminated via the Internet, and which cannot be considered an audiovisual media service under the law governing the field of audiovisual media services."

The following paragraph 2 is added:

"For the purposes of this law, the website of non-governmental and other civil society organizations, which will not be obliged to access the registration, will not be considered an Internet publication."

Justification for proposal 9:

The definition set in this way does not favor the final solution of the problem of increasing the establishment of portals by non-governmental and other organizations and their registration in the group of "informative" portals, which SMCG has been warning about for many years. Therefore, we believe that the definition should separate media aimed at informing citizens from the web platforms of certain organizations, which are registered as online publications, and do not really represent the media in the true sense of the word.

PROPOSAL 10:

Article 27, paragraph one: "Media content that has changed its meaning in the process of editorial processing may not be published under the name of a journalist without his or her consent. anka "is amended to read as follows:

"Media content that has changed its meaning in the process of editorial processing may not be published under the name of the author without his consent."

Justification for proposal 10:

The protection of the integrity of media employees should be extended to other workers, not just journalists, so that this broad wording also applies to cameramen, photojournalists, editors and others who participate in the creation of media content.

In this regard, paragraph 3 is amended to read as follows:

"If the media content referred to in paragraph 1 of this Article has damaged the author's reputation, the author may claim damages."

PROPOSAL 11:

Article 28, paragraph 1 is amended to read as follows:

"Employees in the media have the right to refuse to prepare, write or participate in the shaping of media content that is contrary to the law and the Code, with a written explanation to the editor-in-chief."

Justification for proposal 11:

As well as the explanation of the previous proposal, we believe that the existing protection should be extended to other employees in the media who participate in the creation of media content.

Regarding the proposed change, it is necessary to change paragraph 3, so that it also applies to employees in the media, not just journalists. This is especially so because the subsequent processing of a photograph or video material can, except in the author's sense, send a message or information and thus damage the entire article, whether newspaper or television. If, for example, certain persons were removed from a photograph or video material (intentionally cut) in addition to censorship, readers and viewers would be misled about a particular event, which is a case that often happens in our media.

PROPOSAL 12:

After Article 28, a new Article 29 is added, which reads:

"Employees in the media cannot be terminated, their salaries reduced, their status in the newsroom changed or their responsibility established due to an attitude or opinion expressed in accordance with professional standards and program rules."

Justification for proposal 12:

The existing provision has been transposed from the Law on the National Public Broadcaster RTCG. Such a guarantee must be provided to employees in private media and local public broadcasters, especially having in mind several attempts by some private media to impose restrictions on the use of social networks by employees in expressing their views. It is necessary to ensure a certain degree of integrity for employees in private media, and to enable them to have the right to express their views on all events, phenomena, persons, objects and activities, and therefore their employment contract cannot be terminated, be reduced salary,

degrade the position in the newsroom. If the employer initiates such proceedings, the burden of proof must be on the employer.

PROPOSAL 13:

Article 30 to supplement and specify the criteria for the disclosure of journalistic sources in accordance with the recommendations of the Council of Europe.

Justification for proposal 13:

The expert review of the draft Law on Audiovisual Media Services and the assessment of compliance with the draft Law on AVMU, the Law on Media and the Law on National Public Broadcaster (RTCG) of 19 April 2021 states that "the text should clarify that disclosure obligations should not it should depend only on the request of the state prosecutor, but should be accompanied by preventive judicial control.

PROPOSAL 14:

After Article 48, a new article is added as follows:

A journalist has the right to legal and material assistance from an employer in protection against violence, threats, insults and other negative consequences due to the practice of journalism on the basis of professional standards.

In order to provide effective protection referred to in paragraph 1 of this Article, the employer is obliged to hire a legal representative at his own expense.

In the case of a lawsuit filed against a journalist for an article, photograph, caricature, article, etc., published by the employer, the employer is obliged to hire a legal representative at his own expense, as well as to reimburse the costs in case of losing the lawsuit. Justification for proposal 14:

We believe that through the amendments to the Law on Media it is necessary to clearly prescribe the obligation for the founder to cover the costs of court proceedings related to journalistic work (based on respect for professional standards) and when it comes to journalistic texts made by a journalist within his duties and based on the decision of the editor. This is all the more so as journalists in Montenegro are often the target of violence, threats and insults, as well as lawsuits seeking compensation for their articles. Therefore, they have to hire lawyers, which is a big expense, bearing in mind that research shows that the salary of a journalist in Montenegro is lower than the average in the country.

PROPOSAL 15

In Article 62, first paragraph, a new item 1 is added, which reads:

"1) the founder of the media if, in accordance with this Law, he does not register with the competent authority within the prescribed period;"

Justification for proposal 15:

In accordance with the proposal 2, which we believe that the obligation of the media to access the records with the competent authority should be specified, it is necessary to prescribe the penal provisions that would apply if not deaf to the legal obligation. This is especially important because we have had media in Montenegro for years that are not registered with the competent authorities. Therefore, they are outside the law and are not subject to any liability for violating professional standards, spreading hate speech or other offenses.

- **II Law on audiovisual media services**

PROPOSAL 1

Article 28 of the Draft Law on AVMU should be amended so that paragraph 2 reads:
"The Assembly, acting by a qualified majority, shall decide at the same time on the entire draft list for the appointment of members of the Agency's Council."

Justification of the proposal 1

Although the existing solution in the Draft Law offers the possibility of democratic and transparent appointment of members of regulatory bodies (which is an obligation arising from several recommendations of the Committee of Ministers of the Council of Europe), we believe that the introduction of qualified majority in the Assembly would further strengthen this possibility. A qualified majority in Parliament would guarantee that the election of members of the regulatory bodies does not depend only on the will of the political majority, but that it is based on a broader consensus.

PROPOSAL 2

In Article 33, after paragraph 3, a new paragraph should be added regarding the judicial review of the justification of the decision to dismiss members of the Council.
"The validity of decisions on dismissal of members of the Council may be determined before the competent court."

Justification of the proposal 2

Experience so far has shown that numerous dismissals of members of governing bodies have not been done according to clear criteria and in compliance with the law, and some of the decisions on dismissal have been assessed by the courts as illegal. Such a practice is harmful and allows for revenge against council members. Therefore, by explicitly envisaging judicial control, it would be reduced to a minimum.

PROPOSAL 3

Article 39, which refers to the dismissal of the Director of the Agency for Electronic Media, should also be amended by adding a new one after paragraph 2, which reads:

"The validity of decisions on dismissal of the Director of the Agency may be determined before the competent court."

Justification for proposal 3:

The practice of dismissing members of the Council was the reason for envisaging a similar principle in terms of judicial control when it comes to the dismissal of the director of the Agency. In this way, additional control of the correctness of decisions would be enabled and the possibility of abuse would be reduced to a minimum.

PROPOSAL 4

Article 73 relating to the obligations of non-profit broadcasters should be amended to take into account the specificity of these media. This applies in particular to paragraph 5, which should be deleted.

Justification for proposal 4:

The draft law on AVMU envisages great restrictions for non-profit media, which due to their specificity cannot be classified in any other type of media, and especially not in local public broadcasters. Namely, public broadcasters are obliged to represent the interests of the wider community and to work in the public interest, while non-profit media are actually community media, and therefore have no obligation to work in the interest of the general public. It is clear from the proposed solutions that these media establish certain interest groups, and we therefore propose deleting this paragraph, which provides additional restrictions for non-profit media. Given that there are a small number of non-profit media in Montenegro, whose fate is uncertain, we suggest that we consider reducing the share of our own production, which is mandatory for these media.

PROPOSAL 5

Article 78, paragraph 2 of the Draft, in the part related to the obligations before the establishment of the public broadcaster, should be supplemented with a new indent 2.

"2) prepare and submit a study on the long-term sustainability of the media;"

Justification for proposal 5:

Apart from the inappropriate influence of local authorities on the editorial policies of public broadcasters, in Montenegro it has been shown that there is a trend of establishing local media that are initially unsustainable. For example, some municipalities have tried to establish televisions with the same budget, in addition to the existing debt-ridden radio broadcaster. We believe that by introducing the obligation to prepare a study, municipalities would not be able to establish media if this is not justified. The study would refer to the financial, program, personnel and technical sustainability of the media.

PROPOSAL 6

In Article 80, a new paragraph 4 is added, which reads:

"The minimum amount of funds necessary for performing the activities of a national and local public broadcaster and performing a public function prescribed in Article 75 of this Law shall be determined by the law governing the activities of the national public broadcaster or the decision to establish a local public broadcaster."

Justification for proposal 6:

We believe that this standardization would lead to greater security and financial sustainability of local public broadcasters, but also the national public service. By transposing these provisions into the Law on RTCG, but also into decisions on the

establishment of local public broadcasters, it would provide additional guarantees that these provisions will be respected.

PROPOSAL 7

Article 81 of the Draft Law on Audiovisual Media Services should be supplemented by paragraph 13.

"The Council of the Agency is obliged to control the fulfillment of contractual obligations by the local self-government, which is the founder of the local public broadcaster.

The council can issue a warning to the local self-government if it does not fulfill its contractual obligations "

Justification for proposal 7:

Existing legal solutions offer an exhaustive list of obligations that local public broadcasters are obliged to fulfill after and before signing the contract. However, the previous solutions, as well as this document, do not provide for control mechanisms for compliance with contractual obligations by local governments. Namely, the existing solutions leave room for abuse and "us hunting "of local public broadcasters by municipalities, as there are no sanctions if municipalities do not allocate the planned amount of money, or if they do not pay the money on time. If we take into account the financial dependence of these media, as well as the economic and social position of their employees, it is clear that such a provision must be introduced in the new legal solution.

PROPOSAL 8 and explanation of the proposal:

Article 81 should be harmonized with the Law on National Public Broadcaster of Radio and Television of Montenegro, given that the Law on RTCG does not mention the contract for the provision of public services.

PROPOSAL 9

After Article 87, a new heading "Publicity of Public Broadcasters" and a new Article 87a are added, which reads:

"The publicity of the work of public broadcasters is ensured by:

- publishing the minutes from the council sessions on the internet presentation of the public broadcaster;
- publishing work reports and financial reports at least once a year on the website of the public broadcaster;

Sessions of the public broadcasters' council are open to the public, unless the council decides otherwise by a two-thirds majority of the total number of members.

"

Special forms or decisions made by the Parliament of Montenegro and local self-government units may prescribe other forms that ensure the publicity of the work of public broadcasters.

Justification for proposal 9:

The practice of local public broadcasters so far has shown that these bodies are usually non-transparent, do not publish even basic information about their work, and that employees are often faced with a lack of information that directly affects them. The introduction of a special article of the law which would impose

obligations on councils to publish reports and other information on the work, would also guarantee the transparency of the work of these bodies. Given that in the existing Draft there is an obligation to audit the revenues and expenditures of broadcasters (Article 89), this article should be harmonized with the proposal from this document.

PROPOSAL 10

Article 170 should introduce new attitudes regarding non-compliance with legal obligations by local public broadcasters and local governments. For each of these offenses, the amount of the penalty should be assessed:

- "If the councils do not publish the minutes from their sessions on the internet presentation of the public broadcaster;
- If the municipalities do not harmonize the decisions on the establishment of local public broadcasters within 6 months from the day this law enters into force;
- If municipalities do not determine in their decisions the minimum annual amount for financing the work of local public broadcasters;

"If municipalities, despite setting a minimum annual amount, do not transfer that amount to local public broadcasters by the end of the year, except in justified cases."

Justification for proposal 10:

We believe that prescribing penalties for these violations would improve the position of local public broadcasters and ensure better compliance with legal obligations.

PROPOSAL 11

In Article 171, a new paragraph 2 is added, which reads:

"Local self-government units are obliged to harmonize decisions on the establishment of public broadcasters with this law within six months from the day this law enters into force."

Justification for proposal 11:

This provision is necessary to ensure compliance with the law by municipalities, but also to improve the situation in the field of local public broadcasters.

III Law on RTCG

PROPOSAL 1

It is proposed to amend Article 16 (independence of journalists) so that it reads:

"Journalists and other employees who participate in creating programs in RTCG are independent in their work and act in the public interest.

Journalists and other employees who participate in the creation of the program in RTCG cannot be terminated, reduced salaries, change the status in the newsroom or determine responsibility for the attitude or opinion expressed in accordance with professional standards and program rules.

Journalists and other employees who participate in the creation of programs in RTCG for their regular work with the primary employer cannot receive compensation from other legal entities and individuals. "

Justification for proposal 1:

The changes were proposed in order to extend the existing protection, which currently applies only to journalists, to all employees who participate in the creation of programs in RTCG (cameramen, editors, speakers).

PROPOSAL 2:

Article 25, which deals with the competences of the Council, specifies in paragraph 13 that the Council "appoints and dismisses the Commission for Program Content in the Albanian Language and Languages of Other Members of Minority Peoples and Other Minority National Communities".

We believe that precise criteria for the formation and functioning of the said Commission should be defined.

PROPOSAL 3:

Article 29, which defines a conflict of interest, should be reconsidered because, except for the election of members of the Council, it is very difficult to apply. The article also applies to the Director General, the Directors of Radio and Television and the Ombudsman.

We believe that it is necessary to prescribe that in the documentation when applying for the competition for the General Director, the Director of Radio and Television, as well as the Ombudsman, it is obligatory to submit a certificate of non-conflict of interest.

Justification for proposal 3:

The problem with the existing provision is that the candidate himself must be aware, that is. to check whether there is a conflict of interest and in relation to whether or not to submit a candidacy. It happened that the candidates in the competition were in a conflict of interest, because that kind of confirmation was not required in the competition documentation (which is not the case for the members of the Council). We also think that this article is too rigorous and excludes a huge number of people. Nine members of the Council, three directors and an ombudsman - no close relatives may be appointed to any position by the Government, the Assembly or the President. If other required conditions are added to that, we will end up in a situation where after two terms there are no people who meet all the criteria and there will be no one to apply for those positions.

PROPOSAL 4:

A new paragraph is added to Article 31 to read as follows:

"The proposers referred to in paragraphs 4 and 7 shall be elected on a rotating basis, so that the same representative is not represented in the two successive convocations of the Council, with a full mandate."

Justification for proposal 4:

In order to avoid the possibility of abuse or different interpretations of the Law, I think that points 4 and 7 should specify how the election of representatives of trade unions and employers' associations is done. The proposal is to follow the principle of rotation, one mandate for one organization, and that after each change in the law, one should not start from scratch, but maintain continuity there.

PROPOSAL 5:

Also, paragraph 6 of the same article should be deleted or reformulated.

Justification for proposal 5:

Paragraph 6 of Article 31 prescribes that proposals be considered according to the order of the proposers, which, as it turned out during the current election of a member from the ranks of employers, is wrong because the Chamber of Commerce was the first to be registered.

PROPOSAL 6:

Article 57 is amended to read as follows:

“The Ombudsman may be an established media expert with at least ten years of work experience in the field of media and media science, who is a citizen of Montenegro, resides in Montenegro and has at least VII-1 level of education qualifications.

A person who cannot be a member of the Council under this Law may not be appointed Ombudsman.

The provision of Article 29, paragraph 1, item 3 of this Law shall not apply to candidates for the appointment of the Ombudsman.

The employment status (employment relationship or rights from work and on the basis of work) of the Ombudsman, if a person already employed in RTCG is selected, is suspended during the term of office. ”

Justification for proposal 6:

It is necessary to change the criteria for the election of the Ombudsman, as the existing ones have already proved problematic in practice. We think it is necessary to expand the areas from which potential candidates can come by prescribing the necessary work experience in the field of media or media science, which would include proven experts in media science, including ethics. In that way, the criteria could be met by scientists and experts who did not necessarily have journalistic experience. The problem in the application was caused by the lack of specification of the working status of the Ombudsman, if he is elected from among the employees of RTCG.

We believe that it is necessary to prescribe the institute of suspension of employment during the term of office, during which the employer may hire another person to perform these tasks, until the return or expiration of the term of office of the Ombudsman.

PROPOSAL 7:

Article 67 stipulates that the appointment of the Council entails the dismissal of Ms. neral director, which we believe should be deleted because the application of this article has created numerous problems in financial and organizational terms. Also, the deadline for announcing the competition for the General Director of 8 days from the establishment of the Council is too short and it should be extended.

Justification for proposal 7:

The General Director who finds himself in that position at the moment of amending the Law and appointing the Council was damaged, his mandate was shortened, he was interrupted in the implementation of plans and projects he committed to and is implementing, and the law did not specify how such a situation can be resolved. .

The economic consequences of this provision need not be specifically mentioned. In addition, the deadline of 8 days for announcing the competition is incredibly short because the Council has to wait for the constitutive session to start working, and in the latter case it was scheduled on the sixth day from the day the Council members were appointed.

IV Free Access to Information Law

After the Law on Free Access to Information was adopted in 2017, which significantly limited the possibility for the media and journalists to access important information, the previous government tried to adopt new amendments to this Law in 2020. However, this did not happen, mostly because due to the coronary virus pandemic and the appeal of international and domestic organizations and the media, the Ministry of Public Administration gave up public hearings that will await the new government.

The proposed changes are a target for criticism because they imply that information on a very important security sector can no longer be obtained through requests for free access to information, and they also suggest making the role of the Agency for Personal Data Protection and Free Access to Information meaningless.

When working on changes to the existing law, it is necessary to take into account the needs of the media community, and to influence the reduction of the scope of information that is considered an official secret.

V Criminal Law

Trade Union of Media of Montenegro, together with the Action for Human Rights (HRA), which initiated these changes, proposed a number of amendments to the Criminal Code, which would better protect journalists. The proposal was to introduce new criminal offenses of Assault on Journalists in the Performance of Professional Tasks and Prevention of Journalists in the Performance of Professional Tasks, as well as to supplement the existing criminal offenses of Aggravated Murder and Serious Bodily Injury. The introduction of new crimes would increase the protection of journalists and enable journalists to engage in investigative journalism.

The proposed legal solutions are:

(1) Whoever, by force or threat of direct use of force, prevents a journalist from performing professional tasks or in connection with the performance of professional tasks undertaken within his powers or in the same way forces him to perform a professional task, shall be punished by imprisonment for three months to three years.

(2) If during the commission of the act referred to in paragraph 1 of this Article the perpetrator insults or abuses the journalist or inflicts light bodily injury or threatens to use a weapon, he shall be punished by imprisonment for a term between three months and five years.

(3) If the act referred to in paragraph 1 of this Article is committed in a group or in an organized manner, or is committed by an official in the performance of service, the

perpetrator shall be punished by imprisonment for a term between six months and five years.

(4) For an attempt to commit an act referred to in para. 1, 2 and 3 of this Article shall be punished.

During 2021 this initiative is accepted by 7 other NGOs and during the consultations with the parliament parties it was initiated that the procedure of amandmandes of Criminal Law will be started. In fall 2021 also Ministry of Justice shower interest in changes of the Criminal law so fuuther consultations were organized, which were finales in december 2021, when all MPs, from position and opposition supported, so new revised criminal Law was adopted. It garantee more protection for media workers as it proscribes thougher punishements for all crimes against journalists.

VI Law on copyrights

The main objection to the Copyright and Related Rights Act is that Article 4, which lists the types of protected works, does not explicitly list journalistic works. Also, the Act does not in any way regulate the relationship of copyright in journalistic works and does not address the issue of transmission of various content via the Internet, many of which originate from the media. We believe that it would be good to announce to the media the obligation to have a visible label in their content / program that would provide information so that the content can be submitted under the conditions of transmission. The issue of control over the transmission of content on the Internet and the question of whether the competence of the Intellectual Property Office should be innovated in this part also remained unresolved.

Furthermore, the Law does not deal with new forms of journalistic expression (for example, podcasts and similar digital forms), so it is necessary to amend Article 102 on audiovisual works.

For example, the Croatian Copyright and Related Rights Act pays special attention to journalistic work and regulates the relationship between the author of the work and the employer, if they arose in the employment relationship.



| Media Legislation monitoring expert - Advocacy PLAN 2021 | | | | |
|---|--|--|--|---|
| Month | Institution | Subject | Position of stakeholder | Name and surname |
| February | Government | Proposal on improvement of Plan of work of Government | Sector for Coordination of Government Strategies | Almedina Vukić Martinović |
| March | Ministry of public administration, digital society and media | Reflection on Montenegrin media scene | Minister | Tamara Srzentic |
| March | Ministry of public administration, digital society and media | Proposal of member of Working group for Strategy of media sector | Minister | Tamara Srzentic |
| <i>March</i> | Ministry of interior affairs | Reforming the Commission for attack on journalists | Minister | Sergej Sekulovic |
| <i>March</i> | European Commission's DG NEAR Montenegro Unit | Constructive meeting on freedom of expression | | Maja Smrkolj, Phillip Lahne, Vuk Vujnović |
| <i>March</i> | Ministry of public administration, digital society and media | Meeting on reform of media laws | Minister | Tamara Srzentic |
| <i>March</i> | European federation of journalists | Introduction media situation in Montenegro | EFJ | Representatives of European Journalists' |

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|------------------|--|---|---|--|
| | | | | organisations |
| <i>March</i> | Parliament | Freedom of expression reflections | President | Aleksa Bečić |
| <i>April</i> | Ministry of public administration, digital society and media | Proposal to Media strategy | Minister | Tamara Srzentić |
| <i>April</i> | Government of Montenegro | Media legislation and Criminal code improvements | Councils of Vice-presidents | Filip Adžić, Miloš Pavičević |
| <i>April</i> | Agency for Electronic media | Implementation of Media Law | Director | Goran Vuković |
| <i>April</i> | Agency for Electronic media | Amendments on Rulebook for Media Pluralism Fund | Director | Goran Vuković |
| <i>May</i> | Media community consultations | Media legislation | Journalists from different media | Public Service, Private media, Local media |
| <i>June</i> | Civil society organisations | Criminal Code Amendment Initiative | 9 CSO | SMCG, Human Rights Action, Civic Alliance, Montenegro Media Institute, Association of Professional Journalists, Association of journalists, Centre for civic education, 35mm, Media centre |
| <i>July</i> | Political parties | Consultation with representatives of all parliament parties | Position and opposition political parties | DF; DCG; URA; DPS; SDP; SD; DEMOS |
| <i>September</i> | Ministry of public administration, digital society and media | Participation in media legislation reform, sending amendments to Media Law, Law on RTCG, and proposal of Law on AVMS – 34 proposals | Cabinet | |
| <i>September</i> | Ministry of Justice | Criminal Code Change Initiative | State Secretary | Boris Maric |
| <i>October</i> | Ministry of public administration, digital society and media | Amendments on Rulebook for Media Pluralism Fund | Cabinet | |
| <i>October</i> | Regional partners | Consultation with partner organisations | 6 partner organisations | NUNS, BH Novinari, |

| | | | | |
|-----------------|--------------------------------------|--|---|---|
| | | from WB region | | AGK, AJM, HND |
| <i>November</i> | European Federation of Journalists | Labour Rights Working Group Meeting | EFJ affiliates | Predident of the EFJ, Members of LAREG group |
| <i>November</i> | Regional media workers organisations | Signing the Declaration for better cooperation of Parliaments and CSOs | Presidents and representatives of Parliaments of Serbia, Montenegro, Bosnia and Herzegovina and North Macedonia | The President of the Assembly of RNM, Mr. Talat Xhaferi - The President of AJM, Mr. Mladen Chadikovski - President of the Assembly of R. Montenegro, Mr. Aleksa Bechikj - Vice President of the Assembly of the Republic of Serbia, Radovan Tvrdishikj - Representative of the Assembly of BiH, Lazar Prodanovikj |

Social media campaign

The need to conduct a special campaign on social networks within the project "Support to Media Freedoms and Journalistic Standards" is reflected primarily in the assessment of the level of media freedom in Montenegro as well as issues directly related to it. Numerous studies conducted by both international and domestic organizations have highlighted the need to address issues such as the safety of journalists, ethical reporting, media self-regulation, human rights and freedom of expression. Poor grades in the reports, but also the social reality that we encounter every day are the reason for dealing with this topic by the Trade Union of Media of Montenegro and the Civic Alliance.

In order to carry out all the planned activities within this project as successfully as possible and as close as possible to the general public, we assessed that it is necessary to conduct a campaign on social networks. We believe, and certain research has confirmed this, that social networks have become an indispensable segment of social life. Content that is shared on social platforms easily reaches all their users and is extremely suitable for informing and educating on important topics. This is exactly where we see great potential.

During the experience so far, we have realized that many issues related to media freedom have been neglected and that among the population, as well as media employees, there is not enough developed awareness of some important aspects that include the rights and obligations of journalists. Our campaign will go in exactly that direction. Through advertising on social networks, we aim to provide all the necessary information that will have a certain effect. In that sense, we will try to find out what the job of journalists really is, what is the scope of their work and what problems they face every day, what is their contribution to the community, how do they influence the creation of social atmosphere, what does ethical reporting mean, standards that must be adhered to, how human rights are violated. In addition, we will deal with current media legislation, poor legal solutions, ways in

which these problems can be overcome, as well as monitoring the implementation of current and future legal solutions. All this in order to raise awareness of the difficulty, responsibility and complexity of working in the media. In this way, we can positively contribute to the understanding of the journalistic vocation by citizens and point out the need to change their attitude towards journalists, ie the work they do, in order to avoid situations such as attacks on journalists and media organizations, targeting and belittling media workers. At the same time, in this way, we will make available to media workers all current information that is important for their professional engagement, but also remind them what are the professional and ethical standards in journalism. Finally, in this way, we will publicly advocate for media freedom.

In order for the campaign we will conduct to be recognizable and successful, after considering certain conceptual solutions, we decided to publish infographics and / or videos on social networks Facebook, Twitter and Instagram three times a week. Our posts will be recognizable both by the template and the accompanying hashtag.

When creating the template, a combination of green and white will be used, which are the official colors of the TUMM. The name of the project, the TUMM logo and the CA logo will be highlighted in the header. The footer will feature the logo of The Balkan Trust for Democracy Fund and the logo of the Norwegian Embassy. On the edges of the right and left side, there will be icons of journalists, photo reporters and cameramen, because the whole project concerns them. The TUMM and CA logos are shaded in the middle of the template. Font used for all material is Anonimus PRO.

Information that will be presented through infographics and videos will be taken from professional standards, media legislation, reports and evaluations of domestic and international organizations recognized in their work in the field of media, project activities such as reports and guidelines, current events in our field, a statement by the authorities concerning media freedom. All posts will be followed by a unique hashtag #BTDforMNE.

With regular monitoring of social network statistics, we will have an insight into trends, perspectives and reactions of followers to campaign messages, as well as the number, gender and age of those who reached those messages, and at the end of the project with social network statistics we published. Based on that, we will be able to evaluate the success of the conducted campaign.

The campaign on social media started with the beginning of the project implementation. A total of 160 posts had been published on social networks Facebook, Instagram and Twitter. The total reach of all posts was 72,798 users, which we believe we have significantly contributed to our messages reaching the target groups. This data clearly indicates the rise of the reach on social networks, so the more people come to our social media to get adequate information (Total reach on Facebook during 2020 was 71.240, and during 2021 111.549). In addition, we have organized two "sub-campaigns", one intended to promote the Guidelines and the results of the project. Data also show significant

growth in followers and reach during the whole year, so we have registered 90 new followers on Facebook and 142 on Twitter.

Conclusions

The last year was marked by serious and extensive work on mapping media legislation and identifying major shortcomings. The following were analyzed: the Law on Media, the Law on Radio Television of Montenegro, the Draft Law on Audiovisual Media Services, as well as the Law on Free Access to Information, the Criminal Code, the Law on Copyright and Related Rights, and other related acts.

During the year, we implemented a total of **21** advocacy activities, including numerous meetings with domestic and foreign stakeholders, consultations with civil society organizations, networking with regional organizations to strengthen advocacy, and participation in numerous public debates.

The results of these activities are, among other things, a joint initiative to amend the Criminal Code in order to strengthen criminal law protection of journalists, as well as the signing of the Declaration on Strengthening Cooperation between Parliaments and Journalists' Organizations in the Western Balkans. In the first document, we proposed stricter punishment for attacks on journalists, for which we received a green light, both from the proposer and the MP. The significance of the Declaration recently signed in Skopje is that it envisages continuity in co-operation between parliaments in the region and better co-operation with representatives of journalists' organizations and unions.

The result of consultations at the domestic and international level is as many as **49** proposals for amending media laws and bylaws.

Representatives of the Media Union are members of the Working Group for drafting the Media Strategy, as well as the working group for amending media legislation. From these positions, the Media Union will strive to improve the position of employees in the media, strengthen their independence in work, and thus improve the field of media freedom.

Thus, we had **15** amendments to the Law on Media, **11** proposals on the draft law on audiovisual media services, while there were **7** proposals on the Law on National Public Broadcaster - RTCG. We also participated in the public debate on the adoption of a Rulebooks on the allocation of funds from the Fund for Pluralism of Media Content, so we sent **8** proposals to the Regulations initiated by the Ministry of Public Administration, Digital Society and Media and the Agency for Electronic Media of Montenegro. The Electronic Media Agency accepted in full or in part four proposals, while the Ministry rejected all eight proposals.

Work is currently underway on a media strategy and legislation governing the media, so we hope to be successful in convincing legislators of the legitimacy of our demands.

Law on Media: we will insist on further strengthening the integrity and autonomy of media workers (transposition of good provisions from the Law on RTCG), by envisaging measures of protection against various influences, we will demand introduction of order in the procedure, we will demand that these records be made publicly available, and we continue to oppose the financing of self-regulation from the Pluralism Fund.

Law on RTCG: Strengthening the independence of employees in the Public Service, elaboration of existing articles that regulate it, specifying the election of members of the Council, precision of the Ombudsman's activities.

Law on AVMU: Support for the principles that guarantee the sustainability of local public broadcasters, consideration of changes in the election of the AEM Council, to introduce the obligation to submit studies on sustainability during the establishment of LJE, transparency of the Council.