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Background Paper
**Media Freedom in the
Western Balkans**

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Media Freedom in the Western Balkans¹

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Executive Summary

Recent assessments of the situation concerning media freedom in the Balkans have been sobering. The region is brewing with incidents of media freedom violations, which bring under attack not just the basic right to freedom of expression, but also the state of democracy in the region. In addition, some of the same problems that existed a decade or so ago are still haunting the Balkans: political pressure, illegal state subsidies – often in the form of state advertising, reinforced by the economic crisis – professional weakness, and a lack of security for journalists. Although the legal frameworks are essentially in place throughout the region and have mostly been brought up to date with the assistance of international organisations, political elites in the Balkan countries are effectively resisting the implementation of adopted strategies and laws guaranteeing media freedom. Dunja Mijatović, OSCE Representative on Freedom of the Media, declared recently that the state of media freedom in the Balkans today is worse than after the 1990s wars. Her assessment is in line with the findings of this year's *Reporters without Borders* World Press Freedom Index and the *Freedom House* Freedom Press Report, both of which highlight a sweeping deterioration of global press and a massive decrease of media freedom in the Balkan countries. Johannes Hahn, the Commissioner for the European Neighbourhood and Enlargement Negotiations, recently claimed that he needed proof—in the case of Serbia—in order to react to alleged media freedom violations. The aim of this analysis is to identify regional patterns and mechanisms of government control and pressure, as well as to offer potential benchmarks on how to effectively assess media freedom in EU accession countries.

1. Introduction

Freedom of expression is a fundamental right of every human being. It is guaranteed by Article 19 of the Universal Declaration of Human Rights, and defined in the International Covenant on Civil and Political Rights as the “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”¹ Freedom of expression is often interchangeably used with the term media freedom, or freedom of the press. This comes as no surprise since diverse and impartial media are in fact crucial promoters, but also protectors, of freedom of expression. There can be no freedom of expression without free media. In addition to media freedom, freedom of expression includes a range of other aspects, focusing notably on holding, receiving and imparting ideas or information. Thus, the freedom of expression includes other less formal channels of communication, ranging from discussions and debates in public spaces to social media. However, media remain at the core of the freedom of expression. Without them, it is impossible to build or sustain a democratic system of government.

While formally enshrined in international law and national legislation, freedom of expression is far from guaranteed in the wider Europe and in the Western Balkans due to informal restrictions on media freedom. In established democracies, challenges to the freedom of expression arise in the form of restrictions in response to terrorist and other security threats, the lack of pluralism of media ownership or limitations imposed in the context of hate speech. On the other hand, the challenges that unconsolidated democracies face in this regard are more significant and pose greater risks. With unconsolidated institutions, unlimited formal freedom of expression can lead to nationalist mobilization and hate speech penetrating the media and public discourse.² Similarly, the absence of controls and checks on the

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- 1 United Nations. 1948. *Universal Declaration of Human Rights*, Article 19, General Assembly Resolution 217 A (III). Available at <http://www.ohchr.org/EN/UDHR/Pages/Introduction.aspx>.
 - 2 J. Snyder and K. Ballentine. 1997. “Nationalism in the Marketplace of Ideas,” in Michael E. Brown (ed.), *Nationalism and Ethnic Conflict*, (Cambridge, Ma. & London: MIT Press).

freedom of expression can lead to an erosion of democracy as citizens lack access to reliable information to make informed decisions at elections. In unconsolidated democracies, other independent and critical institutions often might also severely restrict the possibility of government criticism, checks and balances and the consolidation of democracy. Thus, while breaks in the freedom of expression can occur in consolidated democracies, their consequences are more severe in fragile democracies like the ones in the Balkans.

Western Balkan countries lag behind other European states, in particular behind most members of the EU, in the process of democracy consolidation. Freedom House's annual index on Freedom of the Press, the authoritative source of information regarding global media freedom, concluded in its latest report published in 2014³ that the press in the Western Balkans is "partly free."⁴ Strikingly, press freedom in the region, according to the Freedom House, has declined for the sixth year in a row, with setbacks registered in the legal, political and economic environments. While indices can be useful in highlighting certain trends, "they're less useful for telling you why reality is the way it is,"⁵ as Tom Carothers has noted.

The multiple transformations undertaken by the region since the 1990s have also included the need for reconstruction of media systems. However, this was not a gradual and continuous process from authoritarian-restricted media to a pluralist media landscape. While the legal framework securing the freedom of expression came into place fairly quickly, the media system still falls short of enabling the freedom of expression in most countries. Furthermore, as noted above, there has been considerable backsliding across the region. The first decade after the fall of communism was characterized in most countries of the Western Balkans by incomplete transitions, with

3 Freedom House. 2014. Freedom of the Press: 2014.

4 Freedom House's ratings and assessments reflect media laws, governments' actions and policies and behaviour of the press. Each country receives a numerical rating from 0 (free) to 100 (not free) based on which countries are distinguished between free, partly free and not free.

5 T. Carothers. 2009. Democracy Assistance without a Plan, *Development and Transition*, no. 12:11 quoted in C L. J. Cohen and J. R. Lampe. 2011. *Embracing Democracy in the Western Balkans: From Post-conflict Struggles toward European Integration* (Washington D. C.: Woodrow Wilson Center Press):13.

semi-authoritarian leaders maintaining power and freedom of expression limited. While an anarchic pluralism of the media emerged, this diversity often covered government dominance and low levels of professionalism, which did not match diversity with quality. During the second decade of the transformation, we can observe an increase in international media ownership, general democratization and an overall reduction in hate-speech and direct government intervention. However, over the past decade, in part linked to the global economic crisis, we can observe a decline, based on shrinking market shares for media, coupled with a return of government influence manifested in direct pressure or emerging self-censorship, retreating international ownership and democratic erosion in a number of countries. Social media have made controls of the legitimate limitations to the freedom of expression, such as hate speech, more difficult, but traditional media often openly flout restrictions on hate speech. The challenges faced in regard to freedom of expression are an integral part of the wider crisis of democracy, which has expressed itself in the backsliding of democratic institutions and practices in the Western Balkans in particular.

2. Historical Legacies of Media Control

At the broadest level, legacies can be defined as “inherited aspects of the past relevant to the present.”⁶ While it remains difficult to accurately predict to which degree legacies could matter, it can be argued that “fundamental cultural predispositions play an important role in democratization and, possibly, shape the relationship between [candidate] countries and the EU as well.”⁷ Furthermore, institutional patterns and legacies (both in regard to formal and informal institutions) set particular patterns that are hard to overcome, as historical institutionalism suggests. It is therefore prudent to briefly elaborate on the history of media freedom in the Western Balkans by describing its three developmental phases, namely the socialist, the authoritarian and the phase following the second democratic revolution in 2000.

A. Socialism

The analysis of the media during communist Yugoslavia follows the dynamics of the country’s structural reorganization and decentralization based on the gradual progress of the economy. Namely, just like the country itself, the press was “dramatically decentralized,” while all efforts to achieve a “unified information system”⁸ proved unsuccessful. This in turn resulted in unintentional press liberalization. As Ramet writes, “journalists repeatedly discovered in communist Yugoslavia, if it proved impossible to publish something in one periodical outlet, regardless of the reason, it might be a simple matter to get it published in a different periodical.”⁹ Although, unlike other communist countries, Yugoslavia did not have a formally

6 A. M. Cirtautas and F. Schimmelfennig, *Europeanization Before and After Accession: Conditionality, Legacies and Compliance*, cit.: 426.

7 F. Schimmelfennig and H. Scholtz, *Legacies and Leverage: EU Political Conditionality and Democracy Promotion in Historical Perspective*, cit: 457.

8 S.P. Ramet. 1996. *Balkan Babel: the Disintegration of Yugoslavia from the Death of Tito to Ethnic War* (Boulder: Westview Press): 63.

9 Ibid.

instituted system of censorship, there were numerous methods through which political authorities could *de facto* suppress unwelcome activity. These included the system of controlling editorial appointments, pre- and post-publication censorship carried out by the Office of the State Prosecutor, and news bans announced by the State Secretariat for Information. Despite an “absolute control of media”¹⁰ exercised by the League of Communists in practice, censorship was exercised mostly against the mainstream and religious media, while other press, in particular the youth press, enjoyed relatively more autonomy. The fragmentation and absence of formal censorship meant that much of the control occurred through self-censorship and state (officially social) ownership, rather than outright intervention. In the 1980s, the Yugoslav press gradually acquired greater freedom, only to be curtailed by the emerging nationalist and authoritarian politics starting in the late 1980s in Serbia.¹¹

B. 1990s

Towards the end of the decade, the region underwent a political transformation that concluded single-party rule. While the introduction of the multiparty political system and subsequent disintegration of the SFRY resulted in the evaporation of the single party control over the media, this did not mean the end of political interference, as one can in fact note a tightening of political control. New authorities moved quickly to gain control over the press. They replaced the editors of the Public Television Broadcasters and of key print media, such as for example *Politika*, *Politika ekspres*, *Start*, *Duga*, *Intervju*, and a number of smaller media outlets. In effect, the authorities managed to secure “subservience and unanimity of viewpoint on the part of press.”¹² By misusing the power of the media to influence the public opinion, public authorities in Yugoslav successor states made the press an essential tool in igniting and conducting the wars of the 1990s.¹³ Throughout the 1990s,

10 D. Jović. 2008. *Yugoslavia: The State that Withered Away* (West Lafayette: Purdue University Press): 132.

11 Lj. Spaskovska. 2014. Death to Fascism, Freedom to Expression – the Post-Yugoslav Media and Freedom of Speech, *Open Democracy*.

12 Ramet. *Balkan Babel*: 69.

13 See in M. Thompson. 1999. *Forging War: The Media in Serbia, Croatia and Bosnia-Herzegovina* (Luton: University of Luton Press); K. Kurspahić. 2003. *Prime Time Crime: Balkan Media in War and Peace* (Washington, DC: USIP).

journalists operated under conditions of physical and economic insecurity.¹⁴ Through privatization to cronies and the establishment of regime-friendly private media, the governments of the region secured control and positive reporting beyond the media. This media landscape presented a picture that formally was pluralist, but remained government-controlled.

In the years before the ‘second democratic revolution’ that led to the downfall of Milošević in Serbia and Tudjman in Croatia, despite the overwhelming financial assistance for the independent media by the international community, the only possibility to receive objective information was via a few print and electronic media, often with limited reach to the urban centres,¹⁵ and the scarce internet media.¹⁶

C. 2nd Wave of Democratization

The second wave of democratization of the late 1990s and early 2000s at first promised greater freedom of the media, but many changes remained partial and incomplete. Despite the apparent improvement in comparison to the authoritarian era,¹⁷ media policies did not change substantively. Namely, even under a democratic government, the media sector in the Western Balkans continued to experience the influence of the new political elite. While the new governments were more oriented towards political reform and lacked the wide-ranging control over the media, they often used mechanisms of control of their authoritarian predecessors. Furthermore, the economic vulnerability of independent journalists provided opportunity for business interference in the media, including the influence exercised by

14 See for example in D. Mašić. 2006. *Serbia's Ripples: the Story of B92*. (Belgrade: Samizdat B92).

15 Belgrade-based *Danas* daily and *Vreme* weekly magazine had to be printed in Montenegro after none of the Serbian publishing houses accepted the risk of printing them.

16 C. R. Tunnard. 2003. “From State Controlled Media to the Anarchy of the Internet: The Changing Influence of Communications and Information in Serbia in the 1990s,” *Journal of South East European and Black Sea Studies* 3, no. 2 (2003).

17 Between 2002 and 2005, the Government of the Republic of Serbia adopted the Law on Radiodifusion, the Law on Public Information, the Law on Telecommunications, and the Law on Advertising. The Republic Radiodifusion Agency was established in 2003, as the process of transforming the state broadcaster into a public broadcasting system commenced.

the representatives of foreign capital.¹⁸ This has made it more difficult to clearly point out examples of political influence, for example in censorship of the influential radio show *Peščanik*, known for critical views on the government's policies. Veran Matić, former director of *B92*, commented that “there are a lot more ways to apply pressure, to restrict freedom, and the more sophisticated they become, it is impossible to notice them at once.”¹⁹ In addition, media often continued to promote nationalist positions and at times became instrumental in the incitement of violence, such as in inciting mass violence in 2004 in Kosovo.

In conclusion, the old media culture, although without connection to the former political system, remains alive and continues to influence contemporary media politics in the Western Balkans. As Ramet correctly suggests, during the era of communism, journalists were “instructed to serve as a meaningful subject force in a society [...] and to be decisive in a struggle against counterrevolutionary ideology.”²⁰ Being already trained to promote party ideology, media were easily reprogrammed by the authoritarian regimes to abandon the ‘brotherhood and unity’ ideology in order to amplify nationalistic myths that led directly to the escalation of violent armed conflicts in the 1990s. Finally, the promise of the second democratic revolution failed to change the established pattern of political influence. Consequently, as we witness today, gradual harmonization of media-related norms with EU standards remains a challenge in the region, even if the formal structures are largely in place.

Next, this study will identify key features that define the current weaknesses of the media structure of the Western Balkans.

18 Media Ownership and Its Impact on Media Independence and Pluralism (Ljubljana: The Peace Institute and the Institute for Contemporary Social and Political Studies, 2004).

19 V. Matić, “B92, Twenty Years Later,” *Vreme*, May 22, 2009.

20 Ramet. *Balkan Babel*: 64.

Features of the Crisis of Media Freedom

A. Abuse of the Legal System for Media Control

While the new normative framework regulating the media sphere in the region is widely praised by both domestic and international experts alike, the problem of its (non)implementation remains a prevalent obstruction towards its positive assessment. A rather positive development is certainly the decriminalization of libel and the confining of the responsibility of journalists for defamation to civil procedure and monetary compensation. Nonetheless, criminal law remains a significant potential pressure mechanism on the media, namely, through using the open-ended concepts such as incitement to hatred or security-related standards. A good example of the continuous use of criminal law to limit media freedoms in the Balkans is a well-known case from BiH; after the general elections in 2014, a major news website, *klix.ba*, published an audio recording of the corruptive affairs of former Prime Minister of Republika Srpska Željka Cvijanović. After the audio leaked, the journalists were subjected to police interrogation and to pressures involving threats of criminal charges for publishing unauthorized material. Finally, the police entered the offices of *Klix* (in Sarajevo) at the end of 2014, confiscating digital material, documents and equipment. Similarly, the newspaper *Nova Makedonija* published investigative stories in relation to the suspicious death of Nikola Mladenov, the owner of the magazine *Fokus*, blaming the authorities for a slow and non-transparent investigative process. This led to criminal charges against the authors for allegedly disclosing the name of a protected witness from a case-related trial that took place in 2008.

The key challenges in this field are related to legal regulation of libel and the practice of its adjudication in accordance with civil procedure law. Monetary implications for defamation are still significant for journalists and media outlets, with requests for damages reaching as high as several hundred thousand euros, amounts that threaten the very existence of the media. In Montenegro, for example, damages imposed by the courts for alleged psychological trauma range between several thousand and tens of thousands of

euros. In this sense, the decriminalization of libel, while eliminating criminal responsibility, often goes hand in hand with an actual increase in the amount that courts determine journalists and the media must pay in individual cases. In Montenegro, an initiative to re-criminalize defamation was launched,²¹ but in the end, the MPs voted against proposed amendments.

In addition, judges remain unaccustomed to instrument key international legal documents relating to freedom of speech, as well as the practice developed by the European Court of Human Rights. It thus happens that, as in the case of Slobodan Marković in Serbia, journalists are held responsible for satirical articles reflecting public officials. Furthermore, it is often unclear what standards judges apply to determine the amount of suffering or emotional distress inflicted on the plaintiff, as these are seldom made explicit. Another problem in this regard is that emotional distress is sometimes assessed by the courts even years after the publication of the media content in question.

The key principles of the Declaration on Freedom of Political Debate in the Media, in particular when it comes to “the right of the media to disseminate negative information and critical opinions concerning political figures and public officials,”²² are not internalized and widely implemented in the Balkans. Often, recourse is made to courts, although less severe options for redress, namely, the publication of corrections and respecting the right to reply, are also available. For example, out of the 242 libel cases before the Higher Court in Belgrade in 2011, plaintiffs demanded that a correction or a reply be published in only 7 per cent of them.²³ In addition, the possibility of prior mediation in professional organisations such as the Press Council in BiH is generally underused. These facts are indicative of a trend that various actors, public figures in particular, often use libel laws as a means to discipline journalists, and even to jeopardize survival of media outlets,

21 Defamation was completely decriminalized in 2013.

22 Council of Europe, Committee of Ministers. 2004. Declaration on freedom of political debate in the media. Available at <https://wcd.coe.int/ViewDoc.jsp?id=118995>.

23 See Jovanka Matić et al., *Serbian Media Scene vs European Standards: Report Based on Council of Europe's Indicators for Media in a Democracy*, p. 14, available at <http://mediaobservatory.net/sites/default/files/Serbian-Media-Scene-VS-European-Standards.pdf>.

especially when seen in the context of generally low levels of trust in the courts across the Balkans and a widespread perception of the judiciary system as being politically controlled. Examples include a series of lawsuits filed by Milo Djukanović, Montenegrin prime minister, against various journalists (e.g., against Željko Ivanović in 2009) and media outlets.²⁴ Court decisions in the case of lawsuits of the Social Democratic Party of Bosnia and Herzegovina against the weekly magazine *Slobodna Bosna* have also been criticized for undermining investigative journalism and the principle of protecting anonymous sources.²⁵

The high number of court cases related to media reporting generally fuels self-censorship among the journalists and in particular discourages investigative journalism, induces fear and exposes the journalists and media outlets to the risk of paying court taxes and incurring other expenses in often lengthy court proceedings.

B. Informal Pressure on Media

Even though important steps towards more free and independent media were achieved, attempts to control the media and political pressure remained in place, coupled with growing economic pressure on media outlets and the emergence of private media outlets controlled by the ‘new elites’ in the Balkans.

Following the global economic crisis that hit the region hard, tendencies of regression from the strict democratization course started to increase. While the EU integration processes in many countries in the region were facing serious obstacles, the regimes and political elites in respective countries

24 See for example Freedom House: Freedom in the World 2014: Montenegro, available at <https://freedomhouse.org/report/freedom-world/2014/morocco#.VXYok8-qqko>; for a good overview of earlier cases and tendencies across the region, see Mehmed Halilović, “Tužbe i presude za discipliniranje i(li) ohrabrivanje novinara”, August 2008, available at <http://www.media.ba/bs/etika-regulativa-novinarstvo-etika/tuzbe-i-presude-za-discipliniranje-ili-ohrabrivanje-novinar>.

25 A comprehensive analysis of this case by the BH Journalists’ Association is available at http://www.media.ba/mcsonline/files/shared/BH_novinari_kleveta_SI_Bosna_analiza_slucaja.pdf.

embarked on a more and more authoritarian approach to governance. The political elites over the last few years have intensified the amount of (attempted) control of media and press freedoms, aiming ultimately at a stronger control of society. In addition, external media assistance dried up, and foreign owners of media in the region largely withdrew their investments, as profits were meagre and declining with the economic crisis. This has accentuated the influence of political and economic interest groups within the countries. Nowadays, the majority of media outlets in the Western Balkans are considered to be closely connected with the centres of political and economic power, as confirmed by reports of Freedom House (Nations in Transit) or media reports like *World Press Freedom Index* published by Reporters without Borders. The latest *World Press Freedom Index* report even identified the Western Balkans, together with the EU, as the region with the sharpest decline in media freedom worldwide.

An interesting effect of an increased control of media in the last few years is the tendency of independent journalists and media outlets to relocate to online media. Independent media networks such as the *Balkan Investigative Reporting Network* (BIRN) or platforms like *Buka*, *Žurnal*, *Peščanik* were only able to retain their professional independence online.

There are several major modes of political pressure and control used by political actors. The first mode can be described as the culture of “*podobnost*” (eligibility). Here, “*podobnost*” is secured either through direct pressure from party command structures on editors-in-chief and owners to employ only politically “eligible” journalists or by marginalisation of “ineligible” reporters. The second one involves the usage of the judicial system by the government to maintain its grip on journalists, be it by the numerous lawsuits against journalists or by direct legal prosecution of journalists and sentences in violation of Article 10 of ECHR on media freedoms, as noted above. The third mode is the one where political actors or party communication officers directly contact the editors and thus control the reporting, as seen in the case of Serbian Prime Minister Aleksandar Vučić’s intervention with Olja Bećković, editor of the already closed *Utišak nedelje*. In such cases, the editors serve as ‘brokers’ in the clientelistic chain. And finally, the fourth mode is the direct pressure of political actors on journalists, which, in the case of journalists who do not follow instructions by political circles and

become too critical of the government, might even result in intimidation and personal assaults, again demonstrated by the Serbian prime minister against Tamara Spaić, an independent journalist.²⁶

C. Assaults and Intimidation against Media

Some of the most prominent cases of political pressure on media and media control are related to the Prime Minister of Serbia, Aleksandar Vučić. Following the floods in 2014, newly elected Prime Minister Vučić was accused of trying to tighten control of social media, users of which were quite harsh in criticizing his attempts to completely control the media broadcasting of the floods. Later, the political talk show *Utišak nedelje* was cancelled under quite controversial conditions. The most prominent case is the one where the government and Vučić orchestrated a campaign against the Balkans Investigative Reporting Network (BIRN) in January 2015. *BIRN* had already for some time been under attack from the government for investigative reports published in the course of 2014. Following *BIRN*'s investigations and reporting on a public tender procedure to drain the Tamnava Mine and a contract awarded by *Elektroprivreda Srbije* to a consortium linked to a close associate of Vučić, Vučić himself, and some media outlets, launched a near war in the media against *BIRN*. Vučić took the *BIRN* reporting very personally and exclaimed in an outburst during an interview at the beginning of January: "Tell those liars that they have lied again. [...]. They got the money from Davenport [head of the EU delegation in Belgrade] and the EU to speak against the Serbian government."²⁷ In parallel, media outlets allegedly close to the government, like *Informer*, labelled *BIRN* and the EU Delegation in Serbia as mafia. With Serbia being at a critical stage of its EU negotiations and Vučić being applauded internationally for his pragmatic approach, such an open attack on the media came as a surprise. The fact that hardly any mainstream media republished *BIRN*'s articles appears indicative of government influence over media in Serbia, and sends a strong political message about unwelcomed investigative journalism.

26 Vlasti šalju poruku da pitanja nisu dobrodošla. Blic, 9 October 2014. Available at <http://www.blic.rs/Vesti/Politika/501170/NUNS-Vlast-salje-poruku-da-pitanja-nisu-dobrodošla>

27 I. Nikolic. 2015. "Serbian Govt and Press Lead Campaign against BIRN," *Balkan Insight*.

A picture of strong control of media and open assaults on journalists is quite common in Montenegro, too. For example, in March 2012, *Vijesti* journalist Olivera Lakić was beaten near her home.²⁸ She had previously received several threats because of her reporting on the illegal cigarette trade in Montenegro. Journalists and media being critical of the government are especially under threat. The continuous attacks on the independent daily newspaper *Vijesti* are an example. Since 2011, five vehicles belonging to the newspaper have been set on fire, a small bomb went off at its building, the offices of the newspaper were pelted with stones thrown by unidentified persons, and journalists were physically attacked. What is particularly striking in the case of attacks against *Vijesti* is that the police were not able to resolve a single case, which suggests that perpetrators have logistical support from part of the state structures or the ruling political party.

Over the past nine years in Bosnia and Herzegovina there were close to 400 cases of violations of freedom of speech and the rights of journalists, while criminal charges against perpetrators were pursued in only nine of those cases.²⁹ The co-organizers of a public event in support of *Klix*, the editor-in-chief of *Tacno.net*, Stefica Galić, and another editor, Amer Bahtijar, were attacked by a group of young men in Mostar in January 2015 after leaving a movie theatre. This incident resembles a similar attack against professor Slavo Kukić, a well-known Bosnian independent intellectual, who was beaten in his office at the University in Mostar.

D. Financial Influence and Control of Media.

The economic situation in the media sector and relationships in the advertising market constitute crucial elements of structural and operative dimensions of media freedoms. A complex media environment in all Balkan countries, with a high number of media outlets and limited sources of funding, poses manifold challenges to the independence of the media. Despite decades of media reforms and significant international interventions in the media sector across the region, the majority of media outlets are still financially

28 M. Milosevic. 2012. "Montenegrin 'Vijesti' Journalist Attacked," *Balkans Insight*.

29 J. Paunovic. 2015. "Media Freedom in Bosnia-Herzegovina: They Don't Keep Us in Fear, but in Sight," *Balkans Insight*.

unstable and thus vulnerable to various financial pressures. Revenues are scarce, but the number of media outlets still remains high, raising questions on how the necessary funding is assured and how editorial independence is affected by various official and unofficial financial arrangements. In some parts of the region, Bosnia and Herzegovina in particular, the advertising market has been constantly shrinking, which adds to the challenges of survival for many media outlets.

The lack of transparency of ownership of media outlets remains a source of concern. There are also known cases of close connections between media owners and particular political options. Examples of *Dnevni avaz* or *Nezavisne novine* in Bosnia and Herzegovina or *TV Klan* in Albania are cases in point. Similarly, editorial independence is potentially threatened by the fact that some media outlets are relying on revenues from their owners' other businesses.

Particularly worrying is the fact that major advertisers are in a position to condition their advertising contracts with editorial loyalty. Indeed, many reports suggest that media are pressured to take an expected editorial course in order to get or keep the advertising contracts. The ceasing of publication of the internationally acclaimed Croatian satirical magazine *Feral Tribune* in 2008 is a telling reminder that critical media reporting in the Balkans often comes with a high price. The problem has continued relevance given that the political centres of power control much of the advertising market. The survival of media outlets is therefore often conditional upon support for a certain political option. In Macedonia, for example, various reports suggest a rather evident division between the mainstream media, which support the current ruling coalition led by Nikola Gruevski, and the smaller critical media outlets, such as Telma TV and Focus magazine.³⁰

30 See e.g. Freedom House: Freedom of the Press: Macedonia (2014), available at <https://freedomhouse.org/report/freedom-press/2014/macedonia#.VYgahPmqgko>; see also Snežana Trpevska and Igor Micevski, "Macedonia", in Brankica Petković, ed., *Media Integrity Matters: Reclaiming Public Service Values in Media and Journalism*, Peace Institute, Ljubljana (2014), pp. 257-326; IREX, Europe and Eurasia Media Sustainability Index 2014: Macedonia, p. 75 (available at https://www.irex.org/sites/default/files/u105/EE_MSI_2014_Macedonia.pdf).

Financial contributions by the state to the media sector – be it in the form of direct funding from the state budget, subsidies, state advertising and campaigns, or various projects - constitute an important vehicle of negative influence on the media in the Balkans. The state has become one of the major sources of revenue in the sector. For example, the state is among the top advertisers throughout the region. In Serbia, for example, it is estimated that state spending in the media sector amounts to approximately 25 per cent of the total yearly advertising revenues.³¹ In Macedonia, the state has been among the top five advertisers for several consecutive years.³²

Government-controlled public companies, such as national telecommunications operators in most of the Balkan states, are significant actors in the media market. These companies are often misused as a tool of indirect government influence on editorial policies, as advertising funds often tend to be directed towards government friendly, or neutral, media outlets. In some contexts, like in Serbia, the political influence over the media has additionally been exerted via advertising agencies closely connected to political parties. State control over the media is probably even more explicit in the case of local media, where big commercial advertisers generally tend to have low interest in investing.

When it comes to subsidies, there are obvious procedural flaws suggestive of the misuse of the public funds. Perhaps more openly in Macedonia and Bosnia's Republika Srpska, friendly media seem to be favoured. Common features in this context are the lack of criteria and transparency when allocating the contributions to particular media outlets. Even when such criteria are established - such as in Albania, where audience share or circulation are expected to be used as objective factors – the lack of reliable data on ratings of various media outlets remains a problem. In contexts where steps for greater transparency of allocation of government funding are undertaken, like in Macedonia, where the government published the very first data in this field in 2014, such

31 Jovanka Matić and Dubravka Valić – Nedeljković, “Serbia”, in Brankica Petković, ed., *Media Integrity Matters: Reclaiming Public Service Values in Media and Journalism*, Peace Institute, Ljubljana (2014), pp. 358-361.

32 Sašo Ordanoski, Flash Report 5: Macedonia, available at <http://mediaobservatory.net/radar/flash-report-5-macedonia>

reports are inconclusive as to the criteria for selecting particular media to serve as the advertising channels.

In addition, there are even cases where governments are misusing tax policies so that critical media are shot down for not meeting the deadline to pay their debts to the state (*Zrenjaninske novine*), while loyal media are not (*TV Pink*).

Finally, there is the issue of direct financing of media from budgets of state institutions. In BiH, for example, there are a large number of broadcasters that are still financed directly from the municipal and cantonal budgets, without any guaranties of their editorial independence.

In sum, while European standards envisage that state contributions to media should be programmatic, temporary, project-based, public interest-driven and based on non-discriminatory criteria known in advance, throughout the Balkans this is not the case. Generally, state funding for the media is unregulated, non-transparent and, thus, not subject to systematic monitoring. State contributions to the media in various forms are thus often transformed into means of controlling the media rather than supporting their independence and the quality of their work.

E. Dominance of Pro-government Media

Several countries of the region suffer from pro-government newspapers leading smear campaigns against independent news outlets or NGOs critical of the government. One example is the stance taken by *Informer* and *Politika* on the revelations of a corruption scandal by BIRN. Smear campaigns were also conducted against a number of prominent figures in the NGO sector in Montenegro during 2014. The formerly state-owned daily *Pobjeda*, the tabloid *Informer* and *TV Pink* were involved in campaigns against NGO activists.

It can be argued that the political leadership strictly controls the media in the Western Balkans, particularly when one takes into account all the possible forms of pressure and influence on the content of news stories. Using publicly owned and pro-government media for attacks and campaigns against

independent news outlets or critical NGOs is one of the instruments limiting media and freedom of expression, and all of the countries in the region suffer from it.³³ Such campaigns are not only brutal, but also labelled with the lack of ethical and professional standards in writing or broadcasting content. In addition, they are characterized by the lack of institutional protection for the free expression of views and opinions. Regularly, state officials have failed to condemn threats and hate speech made against journalists and NGO representatives, thereby confirming their support for these attacks.

Although sharply criticized by the EU and international officials, pro-government media in WB countries continue to lead smear campaigns against critics, as mentioned earlier. It is particularly worrying that such campaigns are taking place in parallel with the requirement to guarantee media freedom and freedom of expression, which is given a strong emphasis by the EU in the accession process. Even the countries that are progressing smoothly in the EU negotiation talks are struggling with such practices.

In 2014, the Montenegrin, then state-owned, daily *Pobjeda* and the regional TV station *Pink* were involved in campaigns directed against prominent NGO activists known for their criticism of the government's policies. Moreover, the Belgrade-based tabloid *Informer*³⁴ led a continuous “media lynch” and smear campaign against NGO activist Vanja Čalović during the past year, which has even recently been echoed by the Montenegrin Prime Minister.³⁵ In Serbia, the tabloid *Informer* and daily *Politika* published assaults on BIRN, as well as against independent institutions, such as the Ombudsman.³⁶

In Macedonia hate speech is often directed against journalists who report objectively, but is ignored by law enforcement institutions. The Macedonian Independent Trade Union of Journalists also faced a long-running and

33 “Labelling” is another long-established practice of pro-government media.

34 Tabloid *Informer* started with publishing a special edition for Montenegro in March 2014

35 Đukanović: Na snimku je Vanja Čalović (Djukanovic: Video is authentic), *Vijesti*, 15 May 2015, available at: <http://www.vijesti.me/vijesti/dukanovic-na-snimku-je-vanja-calovic-833106>

36 Balkan Investigative Reporting Network: “Otvoreno pismo Vladi i EPS” (Open letter to the Government of Serbia and the EPS), January 2015, available at: <http://birnsrbija.rs/otvoreno-pismo-vladi-srbije-i-eps-u/>

persistent smear campaign in pro-government media.³⁷ In Bosnia and Herzegovina, just a few of the media can be described as independent.

Besides causing unrest and violating freedom of speech, attacks on media might have other far-reaching consequences. Media either directly owned by or close to governments in the region have thus been used to attack both independent media and civil society. In addition, the media often give disproportional space to governments and offer little criticism of government policies.

F. Influence on Media through the Allocation of Public Funds

Media assistance and state advertising in the Western Balkans are frequently non-transparent, politically motivated, and, as such, violate competition and affect media freedom and the sustainability of independent media. As a rule, most of the funding is allocated to pro-government media, while critical media receive an insignificant portion. Funding is further conditioned by poor regulation, while official data on the funds are not complete or clear and are generally available through the efforts of non-state actors, usually based on the request for access to information.

Considering the four possible models of media financing by public administrations (public enterprise subsidies, advertising by public administration and enterprises, financing media services and projects, and on the basis of public procurement procedures), governments usually avoid reallocation of funds based on procurement rules, as seen in Montenegro.³⁸ In Serbia in 2011, only 3 of the 15 local governments concluded contracts with media chosen on the basis of public procurement procedures.³⁹

37 Europe & Eurasia Media Sustainability Index, 2015, p. 84, available at: <https://www.irex.org/sites/default/files/2015-msi-macedonia.pdf>

38 “Concerns remain that the state is in breach of the law on the media, which prohibits the state from funding print media. Concerns persist also regarding possible state aid and advertising funding allocated to print media in 2012, which were not in line with public procurement rules and could jeopardize competitiveness on the media market”, Montenegro 2013 Progress Report, p. 42, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mn_rapport_2013.pdf

39 “Soft Censorship: Strangling Serbia’s Media,” World Association of Newspapers

Although the media market does not necessarily comply with the rules defined for the procurement of goods and services, key principles must be provided relating to transparency and cost-effective and efficient use of public funds. Also, competition among the media should be ensured and be based on equal conditions for all. Financing of the media in the WB countries often violates some or all of these principles. In addition, it is often the case that certain funds during the year are transferred to the media not included in the annual procurement plan, or purchases are simply carried out on the basis of non-transparent procedures - direct agreement.

In the era of 'soft censorship,' targeted and partisan use of state funds is the simplest and has the least visible impact on media freedom, and it is marked in all WB countries. In Macedonia, at least 1 per cent of the annual national budget is spent on advertising campaigns, where the pro-government media were generously favoured over other media, which directly affects their sustainability.⁴⁰ Because of such funding and political pressure, several opposition media in this country have been forced to cease their work. In Montenegro during 2015, the account of the independent TV *Vijesti* was blocked because of tax debts. The broadcaster in 2013 received a total of 36,297 euros out of 2,144,429 euros allocated in the budget for the media, just 1.7 per cent of the total.⁴¹ In Serbia, only one out of the 15 stations that received the most funding from the budgets of local governments in 2011 was private.⁴² In Republika Srpska, two newspapers owned by a close friend of the prime minister received more than half of the total amount for the three-year period.⁴³

The allocation of resources for projects and the advertising of 'government friendly' media are preventing objective reporting, and this is usually

and News Publishers, 2013, p. 19, available at: <http://www.mc.rs/upload/documents/istrazivanje/2014/Prikrivena-kontrola-ugrozavanje-medija-u-Srbiji.pdf>

40 Nations in transit 2014, report on Macedonia, p. 419, available at: https://freedomhouse.org/sites/default/files/17.%20NIT14_Macedonia_final.pdf

41 Equal chances for all media in Montenegro, Centre for Civic Education, 2014, p. 30

42 Balkan Investigative Reporting Network Report on Financing local media from the local self-governments' budget, BIRN, 2011, p. 15

43 "Government Millions for Private News Outlets in the RS", Center for Investigative Reporting, available at: <http://www.cin.ba/en/vladini-milioni-za-pri-vatne-medije-u-rs-u/>

accompanied by poor journalistic standards. A lack of objective reporting also occurs in the media where the state is the owner and where financing comes mostly from the state budget, as is the case with Kosovo's public broadcaster (*RTK*) or the daily newspaper *Pobjeda* in Montenegro. Another worrying feature is the lack of transparent ownership structures of the media. This includes shady ownership structures in foreign shell companies, which raise concerns about owners controlling larger shares of the media than legally allowed.

G. Effect of Europeanization on Media Freedom

In light of the fact that all of the countries in the region are at different stages of EU accession, there is a sense that the process does not offer sufficient safeguards against infringements of media freedom in the Balkans. While political will and public pressure on elites in these countries remain key to upholding free and objective media, the growing perception is that while rushing to join the EU, the Balkan aspirants brush aside European values such as the freedom of expression, and that the EU allows geopolitical considerations to override concerns over curtailed media freedoms in the region. Put differently, media freedom infringements might not be properly addressed in the Balkans, but they are also not dealt with in Brussels, via the EU's enlargement policy.

On the side of the EU, media freedom is covered by the Stabilization and Association Process, particularly through the implementation of Chapter 10 (Information Society and Media), Chapter 23 (Judiciary and Fundamental Rights) and Chapter 24 (Justice, Freedom and Security) of the accession process. Moreover, the subject matter is linked to the Copenhagen criteria and the respect of fundamental rights. In addition, actors such as the Council of Europe (CoE) and the Organisation for Security and Cooperation in Europe (OSCE) have a prominent role – alongside the EU – in influencing and shaping media transformation in the Western Balkans. However, the actual results of the EU's influence on media freedom in the region remain contested, as it has even been observed that the Western Balkans media freedom is “worse today than after the (1990s) war.”⁴⁴ What are the reasons?

44 Z. Filipović. 14.3.2015. State of Balkan Media “Worse Today than After the

First, despite the fact that media freedom is part of the EU enlargement conditionality, the EU still does not have a coherent policy devoted to this matter. So far, the EU's strategy has been more "reactive, particularly to escalating events, rather than reflecting policy,"⁴⁵ as a 2011 EPC policy study noted. The lack of a consistent EU strategy in assisting the fight for free media in accession countries has repercussions on the lack of clarity regarding the EU's media-related demands, and consequently affects the effectiveness of the rule transfer. Instead, the EU should have a better understanding of the situation of the media spectrum in the countries ahead of the start of the accession process, and not only ahead of the opening of negotiations, particularly bearing in mind difficult legacies of the past. Moreover, the apparent thinness of the *Acquis Communautaire*, and general legal uncertainty in the field of media freedom, should be overcome by the development of particular criteria and indicators on the basis of which candidate countries' progress will be graded.

Second, media freedom, as a condition for EU membership, forms only a part of the EU's enlargement strategy and, "not necessarily the most central element of establishing compliance with EU norms."⁴⁶ Hence, it comes as no surprise that the latest attacks on the free media in the region⁴⁷ had only a negligible effect on the overall process of EU accession. The EU is already used to turning a blind eye to regional authoritarian tendencies as long as governments continue to uphold regional stability.

Third, the EU's institutional approach to media freedom promotion in candidate countries does not work beyond the norm-adoption phase. Free media cannot be successfully engineered through the smart design of formal institutions. This is why the EU should consider a more inclusive bottom-up approach to media freedom promotion, whereby civil society actors

War," *Balkanist*.

45 R. Balfour, and C. Stratulat. 2011. The democratic transformation of the Balkans, EPC Issue Paper No. 61: 39.

46 European Parliament, Directorate General for External Policies, Policy Department. 2014. *Freedom of the Media in the Western Balkans*, EXPO/B/DROI/2013/16: 7. Available at [http://www.europarl.europa.eu/RegData/etudes/STUD/2014/534982/EXPO_STU\(2014\)534982_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/534982/EXPO_STU(2014)534982_EN.pdf).

47 See in T. Vogel. 2015. *Media Freedom and Integrity in the Western Balkans: Recent Developments*, European Fund for the Balkans Paper Series.

will be empowered to play a rights-holder's role vis-à-vis public authority in order to push for compliance of key laws, monitor their implementation and influence norm socialization, but also to publically expose clientelistic networks and methods of more or less open pressure on the press.

Finally, the EU and other international organizations should focus on strict monitoring of the aspiring members towards stable and prosperous democracies governed by the rule of law. Eventually, this process will enable social and cultural continuity of the transferred norms, particularly by providing every responsible member of society with habits for their implementation. Otherwise, as the performance of the media in the Balkans disappoints, the fear is that democracy in the region will disappoint as well. Shielded from the cut and thrust of open and comprehensive media debate and reporting by economic and political pressure, the rule of law seems to be a dead letter in the region, and so democracy in the Balkans appears an empty shell. Without the ability to access and exchange information, without fearless fact-finding and the exposure of potentially uncomfortable truths, and without debates that allow for critical and diverse points of view, the democratic standing of a country is forfeited.

About the Balkans in Europe Policy Advisory Group

The Balkans in Europe Policy Advisory Group (BiEPAG) is a co-operation initiative of the European Fund for the Balkans (EFB) and Centre for the Southeast European Studies of the University of Graz (CSEES) with the aim to promote the European integration of the Western Balkans and the consolidation of democratic, open countries in the region. BiEPAG is composed by prominent policy researchers from the Western Balkans and wider Europe that have established themselves for their knowledge and understanding of the Western Balkans and the processes that shape the region. Current members of the BiEPAG are: Florian Bieber, Dimitar Bechev, Milica Delević, Dane Taleski, Dejan Jović, Marko Kmezić, Leon Malazogu, Corina Stratulat, Marika Djolai, Jovana Marović, Nikolaos Tzifakis, Natasha Wunsch, Theresia Töglhofer, Mirna Vlašić Feketija, Milan Nič and Vedran Džihic.

www.biepag.eu

About the European Fund for the Balkans

The European Fund for the Balkans is a joint initiative of European foundations that envisions, runs and supports initiatives aimed at strengthening democracy, fostering European integration and affirming the role of the Western Balkans in addressing Europe's emerging challenges.

The up-to-date programme strategy is based on three overarching areas – Capacity Development, Policy Development and Regional Cooperation - and channelled via flagship programmes and selected projects, complemented with a set of actions arising from EFB's regional identity as a relevant player in its fields of focus.

Their synergetic effects are focussed on continuous “Europeanisation” of the policies and practices of the Western Balkans countries on their way to EU accession, through merging of the region's social capacity building with policy platform development, and a culture of regional cooperation.

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About the Centre for Southeast European Studies, University of Graz

The Centre for Southeast European Studies was set up in November 2008 following the establishment of Southeast Europe as a strategic priority at the University of Graz in 2000. The Centre is an interdisciplinary and cross-faculty institution for research and education, established with the goal to provide space for the rich teaching and research activities at the university on and with Southeast Europe and to promote interdisciplinary collaboration. Since its establishment, the centre also aimed to provide information and documentation and to be a point of contact for media and the public interested in Southeast Europe, in terms of political, legal, economic and cultural developments. An interdisciplinary team of lawyers, historians, and political scientists working at the Centre has contributed to research on Southeast Europe, through numerous articles, monographs and other publications. In addition, the centre regularly organizes international conferences and workshops to promote cutting edge research on Southeast Europe.

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An abstract geometric design featuring four triangles that meet at a central point, creating a star-like pattern. The triangles are colored light blue, orange, dark blue, and white. The light blue triangle is in the top-left quadrant, the orange triangle is in the bottom-right quadrant, the dark blue triangle is in the bottom-left quadrant, and the white triangle is in the top-right quadrant. The website address 'www.biepag.eu' is centered in the white triangle.

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