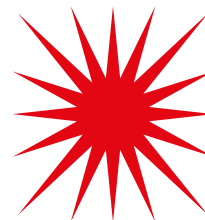
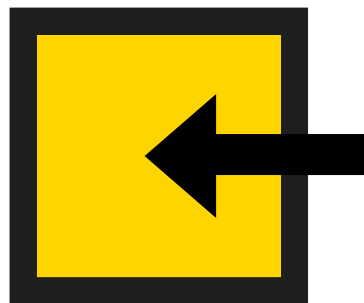


Assessment of Serbia's progress in meeting the political criteria in the scope of the EU negotiation



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Media in Serbia: In Defence of the Existing Situation



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Media in Serbia: In Defence of the Existing Situation

On 30 January 2020 the Government of Serbia adopted the Strategy for the Development of Public Information System in the Republic of Serbia for the period 2020-2025 (hereinafter: Media Strategy). Previous Serbia's Media Strategy had expired in 2016, and since then Serbia unwaveringly slid down in the rankings of media freedom by the Reporters without borders, finally ending at 90th place¹, therefore the adoption of the Media Strategy represented a significant event.

It is inarguable that new Media Strategy precisely recognises problems the media experts have been warning about for years – first the need to finish the media privatisation, and ensure the higher level of Regulatory Authority for Electronic Media autonomy and in the end take into consideration frequent and rarely punished attacks on journalists and providing for effective measures for solving all problems identified. However, current status of media freedoms in Serbia is definitely not caused by the absence of strategic document, but absence of political will to consistently apply the laws adopted during the period of application of previous Strategy, and primarily the lack of will of ruling structures to give up on their privileged treatment in the media.

It is also inarguable that, despite of the lack of the strategic document, Serbia had a solid legal framework for the improvement of the media environment. Media laws adopted in 2014. are generally considered good and in line with European standards. However, numerous problems in their implementation resulted in negative criticism on the media freedom in Serbia, by both domestic experts and international actors².

Timely implementation of the necessary legal changes is an important prerequisite for achieving the Media Strategy objectives. For this reason, it is of crucial importance not to delay the implementation, especially having in mind the fact that it took three years from the date of the adoption of the previous Media Strategy for the set of media laws to be adopted³.

Long way towards Media Strategy

Many controversies followed the process of adopting new Media Strategy. The media and journalists' associations, unsatisfied with the manner of the working group for drafting the strategy handling the work on Strategy, abandoned this process in 2017, so at the beginning of 2018, the working group has adopted the first draft of the Strategy without the presence of representatives of professional associations. Professional associations questioned the legitimacy of the draft, but the further procedure of drafting the strategy was prevented in April 2019, only after the intervention of the President of the Republic of Serbia. Ministry of Culture and Information

1 In the Reporters without borders rankings, in 2016 Serbia occupied 59th place, in 2017 it was 66th place, in 2018 Serbia was 76th, and in 2019 it has dropped for 14 positions and it currently 90th in the rankings <https://rsf.org/en/serbia>

2 In „Non-paper on the state of play regarding chapters 23 and 24 for Serbia“ published in November 2019 the European Commission positively assessed the Draft to the Media strategy, but the general state of media freedom in Serbia received negative criticism especially due to attacks against journalists, political and economic influence to the media and the work of the Regulatory Body for Electronic Media. https://www.mei.gov.rs/upload/documents/eu_dokumenta/non_paper_23_24/non_paper_23_24_19.pdf

3 Media Strategy entered into force in 2011, while the Law on Electronic media, The Law on Public Information and Media and the Law on Public Media Services were adopted in 2014.

never released an official statement on this occasion, the Draft text was never published, and notice to stop the process came from Aleksandar Vučić staff⁴. The working group was established in mid-2018, with the support of international community⁵, and the representatives of professional associations were involved in its work from the very beginning. On 1 February 2019, the Government published the text of Draft and started the public debate on this Draft. However, in May 2019 the Government had sent the Draft Strategy to Brussels for the opinion of the European Commission that significantly deviated from the one that the working group previously agreed about. The public was never informed who initiated and executed the amendments of the Draft, and the Prime Minister stated that she believed the faulty version was sent to Brussels by “mistake”⁶. Only after the additional pressure from the public, members of the working group from media and journalists’ associations and international actors, in October 2019 the working group started working on the Strategy again, which was sent to Brussels and received positive assessment by the European Commission experts. In December 2019 the Government published the final version of the Draft that was adopted in January 2020.

All the facts about drafting Media Strategy were meticulously listed here for the purpose of illustrating the manner and amount of effort needed to achieve inclusion and transparency that both members of the Government and representatives of international community underline as fundamental qualities of the Strategy drafting process. It is particularly worrying **that the involvement of wider circle of actors in drawing up of this strategic document was rather motivated by the intervention of the international community than by substantive improvement of the culture of dialogue between the Government and other actors.**

Regulatory Authority for Electronic Media: Shuffling before elections

Politicisation and non-efficiency of Regulatory Authority for Electronic Media (REM) are viewed by the public for years now as the fundamental reasons for bad situation as regards media freedom in Serbia. The Council of Regulatory Authority for Electronic Media functioned with only 6 members from May 2017, instead of 9 members which is the full composition of the Council as prescribed by the Law on Electronic Media. The National Assembly, with powers to appoint the members of the Council on the proposal of the competent proposers, postponed to carry out the procedure for appointment of three members of the Council without clear explanation all the way until the end of 2019.

However, in autumn 2019, the delegation of the European Parliament got involved in the negotiations between government and opposition, pointing out the problem of REM Council functioning in the reduced composition, so the representatives of the ruling coalition promised that no later than 2019 the Parliament will appoint the members of the Council whose positions were vacant for two and the half years. The entire procedure of the appointment, from announcing the competition and making proposals, interviews by the Culture and Information Committee and then appointment in the plenary session, was completed in a month and on 27 December 2019 the Parliament appointed three members of the Council.

4 N1, New National Media Strategy Stopped, 23. April 2018 <http://rs.n1info.com/English/NEWS/a382183/Drafting-of-new-Serbian-media-strategy-stopped.html>

5 Slobodna Evropa, Vučić with a Head of the OSCE Mission to Serbia on Media Strategy, 4. June 2018. <https://www.slobodnaevropa.org/a/29270133.html>

6 Danas, Brnabic: Sending amended Media Strategy to Brussels was a mistake, absolutely, 19 July 2019.

In addition, representatives of the ruling coalition announced that besides appointed three, the Assembly will elect two new members of the Council although at the time none of the members' term of office was drawing to an end. Professionals believed that undertaking such obligation was indicative of the theory that ruling coalition has influence on some members of the Council that would be willing to resign on its request. This is precisely what happened, on 20 and 21 January 2020, one after the other, the members with term of office expiring at the end of 2021 resigned from their positions in the Council. In the quick procedure, reducing all legal deadlines to the minimum, the Parliament elected another two members of the Council, **demonstrating again how dependant is the composition of this authority, which the legislator considered as independent, on the current political will of the ruling majority.**

As for the measures in the scope of its competences, in 2019 REM pronounced cautions (3) and warnings (4). REM did not impose any of the harsh measures available in the previous year as well: measure of prohibiting broadcasting of programme content and measure of revoking the licence. REM invested the majority of resources in the control of advertising, so every month, starting from May 2019, REM submitted requests for initiating offence proceedings against four televisions with national frequency.

(Self) regulation during the election campaign

Although the Law on Electronic Media clearly prescribes the obligation of media service providers that during the election campaign they must ensure the representation without discrimination to all election participants, and grants powers to REM to impose measures to those failing to observe such obligation, members of REM Council insist that REM does not have powers whatsoever to monitor the behaviour of broadcasters during the election campaign⁷. Regulator demonstrated particular passivity during the election processes in 2016, 2017 and 2018, and in **February 2019, not reasoning the decision, REM repealed the Rulebook on Obligations of Media Service Providers during the Election Campaign**, which prescribed in detail the obligations of both public broadcasting services and commercial broadcasting services.

Regulatory Authority for Electronic Media had an opportunity to improve regulations and enable political entities with more equal treatment in the media during the election campaigns. Instead, REM adopted **Rulebook on Obligations of Public Broadcasting Services during the Pre-Election Campaign** which not only had failed to solve any of the problems occurred in the scope of previous Rulebook application, but also through this new act deliberately decided **not to include commercial broadcasting service. Unlike public broadcasting services, whose obligations are presented in detail in the Rulebook, the Recommendation was adopted for commercial media⁸, which is non-binding.** This is especially disputable if taking into consideration REM's legal obligation to adopt binding legal act to regulate obligations of all media service providers – both public broadcasting services and commercial broadcasting services⁹. Seven out of ten most popular TV channels in

7 Večernje novosti, "When you have small ratings, someone else is to blame. You cannot win in the elections, and it is someone else's fault": Olivera Zekic on criticising REM work, 24 February 2020.

8 REM, Recommendation for commercial broadcasters on enabling registered political parties, coalitions and candidates representation without discrimination

9 REM is obliged (Article 60 of Law on Electronic Media) to closely regulate by the general legal act the rules for execution of media broadcasting services legal obligation to ensure representation without discrimination for registered political parties, coalitions and candidates during the pre-election campaign (Article 47 para. 1 item 5 of Law on Electronic Media) and to impose measures to those not observing the rules (Article 28 para. 1 of Law on Electronic Media).

Serbia with largest ratings, both with national frequency (Happy, Pink, Prva, B92), and cable channels without national frequencies (N1, Pink2, Pink3), do not fall under the binding REM Rulebook on obligations of Public Broadcasting Services during the Pre-Election Campaign.

The Rulebook also **does not limit broadcasting of public officials activities if they are at the same time candidates or prominent representatives of election list submitters** in news, entertainment or other programme during the pre-election campaign, even though both domestic and foreign elections observers recognised the unfair advantage which enables the position of ruling coalition and vague separation between government and party activities as one of the key problems of the election process in Serbia.

Public broadcasting services: Do not stir the water

Promoting pluralism of political ideas is one of the fundamental, legally defined assignments of public broadcasting services – Serbian Broadcasting Company and Radio Television Vojvodina. However, in the scope of the media monitoring carried out by CRTA,¹⁰ in the period from 14 October 2019 to 2 February 2020 it was observed that in the evening *Dnevnik 2*, central news programme of RTS 1, even 79.6% of content was dedicated to political actors from ruling coalition who are primarily presented in positive light, *while the representatives of the opposition parties, even in the rare appearance, were mostly presented as neutral or negative.*¹¹

Such circumstances that citizens of Serbia by the rule listen about the relevant political topics exclusively from the point of view of government representatives, that public broadcasting services fail to criticise government official politics, that public broadcasting services rarely speak about the events unfavourable for the government and that not all relevant participants of the political life can access their programmes, was a reason why part of the public has disputed the independence of editorial policies and openly invited for overthrowing the management, primarily RTS, as the television with the highest viewership among citizens of Serbia. Many rallies and petitions directed towards the realisation of pluralism of political ideas in RTS had not yielded any results in 2019. Moreover, despite the fact that editor-in-chief of RTS news programme mandate had expired in 2019, even after two public competitions, the election for this position has not been finished yet.

Total independence of public broadcasting services in relation to the state budget was never realised although it was planned for the end of 2016. With the amendments of Law on the Temporary Determination of the Manner of Charging the Fee for the Public Broadcasting Service, ensured that both RTV and RTS are partially financed from the budget until the end of 2020. In the final amendments of the Law, starting from January 2020, the fees increased from RSD 220 to RSD 255 (before EUR 1.8 and now EUR 2.2) per month. According to the final publicly available Financial Statement of RTS, **in 2018 budget subsidies represented about 28% of this media company revenue** (about RSD 3.1 billion)¹².

10 In the framework of the election observation, CRTA performs media monitoring by observing five TV stations with national frequency, in the extended prime time from 17.30 until midnight.

11 Istinomer, *Third of RTS political programme for Aleksandar Vučić*, 16. 02. 2020. <https://english.istinomer.rs/analyses/third-of-rt-s-political-programme-for-aleksandar-vucic/>

12 RTS Business Statement for 2018, p. 31

Economic factors: Relying on public funds

Majority of media in Serbia is not financially sustainable so they rely on various types of state assistance (project co-financing, advertising of government authorities and public enterprises, contracts on media monitoring for enterprises, sponsorship contracts and other). There is no information available what is the total amount spent on advertising and buying other media services by public and local authorities and public enterprises. New Media Strategy recognises the need to implement amendments of the regulations to establish limits for allocating the funds to media outlets in the form of grants and sponsorship by the public authorities and public enterprises, institutions and other. However, even for the purpose of drafting the strategy and limiting the funds, their amount available in previous years was not established.

Co-financing projects in the field of public information did not help achieve its primary goal. Existing model was criticised, first of all, because it was predominantly reduced to allocating the funds to the media who report on the government affirmatively. Procedure of electing professional committees in procedure of allocating funds is not transparent and the funds are often allocated to the media that had violated the Serbian Journalists Code of Ethics.

As regards some media outlets, the privatisation procedure has not been even launched at all. This was the case, among others, with the company publishing *Politika* daily where the half is owned by *Politika a.d.* and 90% of its shares are owned by Republic of Serbia, City of Belgrade and other national authorities and organisations. State press agency Tanjug was terminated on 31 October 2015 by the force of law and was never deleted from Businesses Registers and it still operates.

Media market in Serbia is continually consolidated. In the field of media content distribution, which is reduced to four systems and three of four are publicly owned, capital consolidation was intensified in second half of 2018, when Telekom Serbia, operator with majority public ownership, purchased four smaller cable operators.

Professional standards: No sanctions for violating the Journalists' Code of Ethics

Sensationalist reporting has become a standard in Serbia more than an exception. In the survey conducted by the *Centre for Media Professionalism and Literacy (CEPROM)* from 15 September until 15 October 2019, it has been established that in the press and online media with highest readership in Serbia, 19,964 articles were published containing the elements of aggressive communication¹³. Because they covered the story about the minor in a sensationalistic manner, the Ministry of Culture and Information submitted requests for initiating offence proceedings against many tabloids in Serbia during 2019.

Press Council decided on 117 complaints in the previous year. Code of Ethics violation was established for 42 cases, and the decisions were made against the media that did not accept the competence of the Council in 27 cases. The Press Complaints Commission adopted 15 decisions on the violation of the Code of Ethics which referred to the media that had fully accepted the competence of the Council and that are bound to publish the Council

decisions. However, as in previous year, the media **did not report on even 2/3 of decisions in their releases.**

Press Council makes periodical monitoring of the observance of Serbia Journalists' Code of Ethics. In the final survey for July-December 2019, the Council monitored 9 daily newspapers and established that during the observed period the Journalists' Code of Ethics was violated even 5057 times.

The minor impact of Press Council decisions is best reflected in the fact that funds for co-financing projects for realisation of public interest in the field of public information are allocated to those media who violated the provisions of the Code in many of their articles¹⁴, although the Rulebook on co-financing projects stipulates that when assessing projects it shall be especially evaluated *if the competitors was imposed measures by the national authorities, regulatory authorities or self-regulation authorities in the last year, for violating professional and ethical standards.*

Pressure and attacks on journalists

In April 2019 the first judgment was ruled in the case of the murder of a journalist in Serbia. Exactly twenty years since the journalist Slavko Curuvija was murdered, Special Department for Organised Crime of the Higher Court in Belgrade had ruled the first instance judgment sentencing four persons to several decades of imprisonment who, at the moment of murder, were agents of State Security. The sentenced persons appeal proceedings are still ongoing.

Although this decision is a huge breakthrough, the pressure and attacks on journalists' in Serbia are not diminishing. In 2019, the journalists' association registered higher number of verbal and physical attacks in their records as well as increased pressure compared to previous year.¹⁵ Most drastic attack on journalist in the last decade happened in December 2018 then Milan Jovanovic, Zig Info portal journalist, house was set on fire and there is still no epilogue to this story. The judicial proceeding was marked with postponed hearings, modifications in witness's statements and threats of the defendant to the deputy public prosecutor, and it is still not completed.

In February 2020, Defence Minister Aleksandar Vulin commented the opinion piece of the former Defence Minister Dragan Sutanovac in public which was never published but had been sent to the weekly Nedeljnik editor via email. Although Minister Vulin denied allegations that there was surveillance of the communication, the public believes that in this case the communication between editor and former minister was intercepted¹⁶.

It is especially worrying that media and journalists who are critical in reporting on the government are more often getting labels. The officials are usually trying to discredit the journalists by linking them with opposition leaders or targeting them as threats to Serbia. In addition, many journalists have been targets of long-lasting negative campaigns in the electronic media although publishing such content is not only unethical but in collision with the provision of REM's Rulebook on protection of human rights in the field of broadcasting services.

14 CINS, Podobnim medijima milioni iz džepova građana, 18. 09. 2019. <https://www.cins.rs/podobnim-medijima-milioni-iz-dzepa-gradjana/>

15 Independent Journalists' Association of Serbia (NUNS) in its Database of attacks on journalists, in 2019 registered 12 cases of assaults and attacks on property of journalists, 27 cases of verbal threats and 80 cases of forms of pressure on journalists. Association of Journalists of Serbia (UNS) in its 2019 records noted four physical attacks, two cases of safety threats, nine threats, five insults, 16 cases of obstructing the work, two arrests, 21 threat or insults in the social networks, four cyber-attacks and one administrative pressure and another 26 forms of pressures and incidents (breaking into home, two car arsons, pressure through lawsuit, insulting posters).

16 Danas, Nedeljnik: Odakle ministru Vulinu tekst iz Nedeljnika koji nikad nije objavljen, 16. 02. 2020. <https://www.danas.rs/drustvo/nedeljnik-odakle-ministru-vulinu-tekst-iz-nedeljnika-koji-nikada-nije-objavljen/>.

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