**UNITED NATIONS**

**Human Rights Office of the High Commissioner**

**Call for comments on opportunities, challenges and threats to media in the digital age**

This report is prepared and submitted by Balkan Investigative Reporting Network - Serbia (BIRN Serbia), member organization of Balkan Investigative Reporting Network, present in nine countries of the region.

This report summarizes key challenges ro media freedoms in Serbia (and the wider Balkan region) in the digital age, and is part of overall BIRN efforts to advocate for social, political and legal setting which would allow for a free, independent and pluralistic media environment.

The report follows key questions structure submitted by OHCHR and provides necessary inputs and evidences, as follows:

*1a. What are the key trends, threats or challenges to the freedom, independence, pluralism and diversity of media and the safety of journalists in your country, region, or globally in your view?*

Global challenges streaming from the digitalisation, primarily inability of media to develop viable revenue models and the growing lack of trust in traditional media, in combination with the strong authoritarian tendencies of the current Serbian President and the Government, have resulted in the number of threats to media freedom, independence, diversity and safety.

These include spreading political propaganda and exercising editorial control through clientelistic deals made with media owners and [unequal access to public funds and market](http://www.kazitrazi.rs);

Obstructions when it comes to the access to information, including low level of institutional transparency and concerns about [FOI law not being fully implemented](https://ec.europa.eu/neighbourhood-enlargement/enlargement-policy/strategy-and-reports_en) as well as [further restricting](https://bird.tools/wp-content/uploads/2021/07/Freedom-of-information-report-ENG.pdf) access to information during the global COVID-19 pandemic;

Threats to a safety including smear campaigns, intimidation, pressures and harassment as part of larger-scale attempt to shut critical voices and curve public debate - according to the [Report of the Ombudsman of Serbia](https://www.ombudsman.rs/attachments/article/6542/Regular%20Annual%20Report%20of%20the%20Protector%20of%20Citizens%20for%202019%20pdf.pdf) journalists are facing pressures, offensive and degrading treatment, direct threats and physical assaults by the participants of the public space;

High concentration of media audience, lack of transparent ownership along with political control over media funding and unregulated vertical concentration between media outlets and distribution networks (especially TV stations and internet and cable providers) present yet another risk to media independence and pluralism.

In recent years, so called [SLAPP lawsuits](https://www.ecpmf.eu/serbia-wave-of-lawsuits-against-investigative-portal-krik-chills-media-freedom/) have been introduced as one of the means to put pressure on critical and investigative media outlets, counting as much as 20 active cases at the moment.

*1b.To what extent have these trends, threats and challenges emerged, or have been aggravated, because of the policies and practices of digital and social media platforms?*

Social media platforms have growing influence on the ways information is created, disseminated and consumed, and thus their policies and practices are also influencing the entire media landscape. Some of the above mentioned challenges have been aggravated by the policies and practices of digital and social media platforms, especially those related to spreading of fake news, orchestrating smear campaigns and the rising trend of threats against journalists.

For example, in 2019, 30% of all threats and pressures against journalists came from online platforms and social media, and since the pandemic this number is on the rise. SHARE Foundation and BIRN [digital right monitoring](https://monitoring.bird.tools/data) reported 343 cases (2014-2021) of violations of digital rights of journalists, investigative journalists and media, portals and bloggers. These violations range from technical to psychological, including making content unavailable through technical means, changes or removal of content, threatening content and endangering security, publishing falsehoods and unverified information with the intention to damage reputation, insults and unfounded accusations, illegal personal data processing, etc. Still, there is still no efficient mechanism for reporting and blocking these cases.

Some efforts are made towards exposing the fake news and hate speech on Twitter and Facebook but there is no significant change in the digital environment as a result of these moves. It includes FB partnership with the local fact checking website Istinomer to follow the fake news, suspending more than 9.000 bot accounts on Twitter related to the president Vucic and Serbian ruling party, tagging Government sponsored media on Twitter.

*1c. Please highlight the gender dimensions of the trends and their consequences for the equality and safety of women journalists as well as media freedom.*

Female journalists are at special risk when it comes to digital violence and online threats and pressures. As suggested by the [Independent Journalists’ Association of Serbia report](https://nuns.rs/media/2021/02/onlajn-napadi-na-novinarke-EN.pdf), in nine months of 2020 this organization recorded 29 cases of online attacks targeting female journalists. Such attacks include direct messages on social media such as Facebook, Twitter and Instagram, in the form of threats, hate speech, gender based insults, orchestrated campaigns and other forms of pressure through posts or articles. Investigative journalists whose reporting criticises authoritarian regimes or political or criminal groups are the most likely to be targeted.

Growing number of threats against female journalists is fueled by lack of proper response (legal and extra legal) by relevant authorities.

*2. What legislative, administrative, policy, regulatory or other measures have Governments taken to promote press/media freedom, including media independence, pluralism, viability and ownership issues? What has been the impact of these measures? What changes or additional measures would you recommend?*

Serbian media legislation is very much in line with the EU standards and laws. Reforms of media legislations were mostly driven by decades long EU accession process. Country has adopted [Law on Public Information and Media](https://www.legislationline.org/download/id/5479/file/Serbia_law_on_public_information_2003_en.pdf) as overarching legislation of media and public information sector, with two lex specialis Law on Public Service Media and Law on Electronic Media.

Named laws prescribes several measures that could ensure media freedoms: free flow of information and ban of censorship, public interest in informing, ban on unlawful concentration and monopoly, transparency on media ownership data (through establishment of official [Media Register](https://www.apr.gov.rs/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B8/%D0%BC%D0%B5%D0%B4%D0%B8%D1%98%D0%B8.1180.html)), rules of state financing of media outlets, independence of Public Service Broadcaster and Regulatory Body for Electronic Media (REM).

However, in reality, the majority of the law prescriptions are not implemented or openly broken through various corruptive practices and lack of political will.

Numerous independent reports testify to the decline of media freedoms, despite a relatively decent legal framework. In the Reporter Without Borders 2021 World Press Freedom Index Serbia is listed on 93th place out of 180. Similarly, IREX 2021 Vibrant Information Barometer Serbia scored 15 points, making the country's media system “slightly vibrant”. EU annual Country reports, monitoring the progress in the accession process, marks the slow pace of reforms in the media sector.

New wave of reforms in media legislation was initiated by the 2020-2025 Media Strategy ([Strategy for Development of Public Information in the Republic of Serbia](https://www.kultura.gov.rs/tekst/sr/4993/strategija-razvoja-sistema-javnog-informisanja-u-republici-srbiji-za-period-od-2020-do-2025.php)) which was adopted with inclusion of professional media associations and journalistic organizations. The Strategy lists key points and necessary steps for improvement of relevant legislation.

Its full implementation is, however, pending and concrete measures are yet to be adopted by government bodies.

*3.What measures are Governments taking to support public service media? What has been the impact of such measures? What changes or additional measures would you recommend?*

The work of Public Service Media is regulated by the Law on Public Service Media. It recognizes two broadcasters - a National Public service broadcaster - *RTS*, and a provincial one in the Province of Vojvodina - *RTV*. The Legal acts are harmonized with EU legislation providing a legal framework for applying state aid rules to public service broadcasting.

However, as it is the case with other media legislation (described in the point above) the legal setting doesn't provide enough independence from political interference, financial sustainability and reporting diversity of PSM.

PSMs are still financed directly from the state budget, according to the legal solution established by lex specialis The Law on Temporary Regulation of the Manner of Charging Fees for Public Media (adopted in 2015). The consequence is that the state provides approximately 28% of total income for national broadcaster RTS and 49% for RTV. The EU countries' practice shows that states participate in financing only 14-15%. The dependence on the state significantly decreases critical voices and content diversity failing to fulfill the national broadcaster's principal mission – impartial information of public interest.

[Lack of content diversity](https://www.birodi.rs/wp-content/uploads/2020/08/Industry-of-Populism-Zoran-Gavrilovic.pdf), therefore on the state influence through financial support, is reflecting almost exclusive presence of state and political officials, members of the entrepreneurial elite close to the ruling party, entertainment business, patriots and politically acceptable artists, cultural workers and scientists, representatives of traditional religious communities with less equal Serbian Orthodox Church, and athletes, at the same time, practicing the exclusion of the opposition leaders, marginalized and discriminated groups, and public figures expressing a different point of view on the political and social situation in the country.

Strategic document (Media Strategy) in section 3.3 singles out several measures to improve the position of PSMs, including the transformation of managing boards, financial transparency, increased diversity of content and digital transformation which would be more suitable for younger audiences and be in line with the platform media ecosystem.

*4. What measures have a) Governments b) social media companies c) media companies taken to promote the safety of journalists? What has been the impact of these measures? What more can/should be done and by whom? Please also mention any specific laws or measures to address online violence, threats and harassment and what result they have produced.*

Even though journalists are increasingly at [risk online](https://rs.bird.tools/) and their safety endangered almost on a daily basis, this problem is not sufficiently recognized, existing legal settings are not adequate, as well as institutional mechanisms for the protection.

The Criminal Code recognizes journalists as persons who are entitled to emergency measures in case of threats and endangering their safety. In the year of the COVID outbreak (2020), Serbia [marked](https://www.bazenuns.rs/srpski/napadi-na-novinare) the highest number of attacks on journalists, 189 in total. In 2021, there is a certain decrease, 148 in total, but the worrying trend is that the number of pressures increases (in 2021, there were 96 declared cases).

Government has established two working groups dealing with journalists' safety (described in the following point). On top of that, the Republic Public Prosecutor initiated the measures to protect journalists’ safety resulted in two signed agreements: 1) with the Ministry of Interior Affairs obligation to urgently act in cases against journalists’ safety and appointed contact persons to coordinate these cases; 2) with the Ministry of Interior Affairs and representative journalists’ association and in accordance the Standing Working Group was formed. The positive effects are that the system in place reacts promptly (the Public Prosecutor put in place legal measures within 24h and 48h), and in total 114 public prosecutors were appointed as contact points.

However, after initial prosecutors’ reaction, endangered journalists do not have updates on their cases for up to one year, decreasing its effects.

Social media companies are dedicated to safeguarding online space mainly through various forms of community standards, terms of use that need to be more sensitive to journalistic production. Domestic legal framework does not sufficiently recognize social media as entities where breaches of safety occur and their cooperation with companies is not developed enough. According to [META’s transparency report](https://transparency.fb.com/data/government-data-requests/country/RS/) in the first six months of 2021 Serbian Government sent 296 total requests, 281 legal process requests, 15 emergency disclosures, 510 user/account requests. Twitter’s report marked over 12 000 requests in 2020. However, no data is available on how many Serbian Government submitted.

META is the only company which created a fact-checking program to identify and address viral misinformation, obvious hoaxes that have no basis, partnered with Serbian NGO Istinomer and AFP, which is a step forward in a more tailor-made approach in dealing with warnings coming from online space.

Media companies and journalists themselves don’t have enough knowledge to protect themselves and the integrity of their work in these situations, while public support is sporadic. Majority of them don't have internal protocols on how to deal with breaches of safety and they usually rely on free legal aid provided by journalistic associations.

*5a. What measures have Governments taken to investigate and prosecute attacks against journalists, including online violence and harassment against female journalists?  What are the barriers to fighting impunity? What changes would you recommend?*

In Serbia, there are two special mechanisms that have the mandate to investigate and prosecute online attacks against journalists, as well as to analyze and propose changes to the legal framework for journalistic protection.

The Standing Working Group for Journalists Safety (gathering representatives of the relevant Ministries, prosecution, Special Prosecutor's Office for High-Tech Crime, PM cabinet and media associations) which is functioning under the auspices of Action Plan for EU Enlargement Chapter 23 is mainly focused on immediate attacks and threats. This Group enabled establishing contact persons in prosecutors’ offices and police departments which are due to react promptly. The Standing Working Group for Journalists Safety only sporadically and with a low level of success deals with harassment and abuses that happen online.

Besides this Group, the Serbian government formed the Working Group for Security and Protection of Journalists, which was founded in December 2020 with the backing of the Prime Minister. This Group was established with the aim of bringing together different stakeholders to respond more effectively and efficiently to attacks on journalists.

In March 2021 representative [media associations left the Working Group](https://ipi.media/serbia-credibility-of-new-working-group-questioned-after-kirk-smear/), following the refusal of the body to react to the waves of attacks on independent media coming from the ruling party and their media allies, questioning the commitment of the Government to the goals of the WG.

[The most recent analysis](https://www.slavkocuruvijafondacija.rs/en/rare-verdicts-for-threats-and-attacks-against-journalists-in-serbia-excessively-long-media-disputes-before-the-courts/) showed that only about 10% of reported cases reach the final verdict, that cases last longer than a year and that these are mainly suspended sentences. Official statistics are not segregated by gender, thus it is impossible to follow the trends in that respect.

In May 2020 the Ombudsman signed a memorandum for the establishment of a platform to record cases of harassment, violence, and other attacks or pressures against the safety of journalists and other media workers and push for a response by responsible institutions. The work of the Ombudsman, however, has been criticised over delays in taking up cases of attacks against journalists. The Platform is not operational to this day.

At the beginning of 2021, the organization Article 19 organized a [Media Freedom Rapid Response mission in Serbia](https://www.article19.org/wp-content/uploads/2021/04/MFRR-Serbia-mission-report.pdf). The organization noted that the safety of journalists was a matter of growing concern. It is noted that despite the existence of formal mechanisms to enhance cooperation between government and civil society there are significant discrepancies in data provided by CSO and the Government. For example the state authorities focus solely on acts that are offences by law, while media associations include other types of threats, such as online threats, smear campaigns, and other threats to media freedom which do not constitute criminal offences in the Penal Code.

in december 2021, after numerous obstructions and following a Belgrade appeal court decision to quash the conviction of those accused of torching investigative reporter Milan Jovanovic’s house in 2018, [Reporters Without Borders (RSF) called on the Serbian authorities](https://rsf.org/en/news/serbia-unable-render-justice-reporter-whose-home-was-torched) to organise a new trial as a matter of urgency, and to renew Jovanovic’s protection.

*5b. The UN Plan of Action on the Safety of Journalists and the Issue of Immunity will mark its 20th anniversary in 2022. How do you assess its results and what suggestions would you make to improve it?  How can it be more relevant to gender concerns and to the threats posed by digital technology?*

Key points of the UN Plan of Action on the Safety of Journalists and the Issue of Immunity are still valid. This especially applies to the transition democracies which don't have established practices and standards of media freedoms. In that sense, UN regional offices could establish more direct cooperation with Serbian authorities and civil society, and raise awareness on most burning issues.

Updating the Plan to be more in line with the digital age and new media realities is recommended.

*6. What do you believe has been the impact of digital and social platforms on press/media freedom, independence, viability and safety of journalists? What specific recommendations would you make to a) Governments and b) the companies to address or mitigate the detrimental impact?*

Much of the change caused by technological innovation comes from the most developed countries (especially the US where the largest technology companies such as Google, Facebook, Amazon, Twitter, etc. are headquartered) but these changes equally affect the media in less developed societies.

That is why it is important that decision-makers and the media industry of less robust systems understand the changes that are fundamentally transforming the media environment and participate in setting new standards for the profession.

As algorithms have such profound impact on our freedoms of expression, access to information, and overall public debate, we recommend the following:

To companies:

The way algorithms work, criteria they use and machine learning processes, are still not fully developed to recognize finesses of context, and therefore human intervention is still needed.

Transparency in the way algorithms work (what criteria they use to boost certain content and remove others) are not clear enough.

Human rights perspective, especially in freedom of expression, should be taken more into consideration when designing the algorithms. Often criteria for content amplification which favors monetization, is very often in contrast to the public interest

Algorithms function best when fed with large data sets, which then leaves the small markets with a small number of users or specific languages (such as Serbian or other Balkan languages) prone to neglect. Companies should pay due attention to extend operations in these areas, in order to ensure plurality and diversity.

Companies should intensify cooperation with local fact checkers in order to ensure a decrease in false information.

Media should be recognized by platforms as entities which have a specific role in public informing (see for example, RWB Journalism Trust Initiative, or latest FB and Google attempts to make original media reporting more visible). Likewise, dispute mechanisms involving the media should be resolved more efficiently.

As Serbia and the majority of Balkan countries is largely following the EU regulations (e.g. GDPR, Serbia is a member of Council of Europe, OSCE etc.), platforms should respectively apply the regulatory system of the EU in the Balkan area.

To decision makers:

New information models ask for new policy solutions, e.g. co-regulatory systems which would hold social media companies accountable for content curation and moderation systems.

Initiate inclusive and transparent policy dialogue with all relevant stakeholders, including from the private sector, media, civil society, and academia, discussing freedom of media and freedom of expression in the digital environment.

*7. What policies, procedures or other measures have the media (broadcast, print and digital) sector taken to promote press/media freedom, independence, pluralism, diversity and viability? What has been most successful? What additional measures would you suggest? What steps should the media sector take to promote gender equality?*

Internet and digital technologies are testing the boundaries of freedom of expression. They have created new opportunities for free access to information and social dialogue, but at the same time have opened a space for various kinds of harassment, intimidations and pressures, ranging from technical to psychological, which all have a chilling effect on human rights and democratic developments.

Therefore, we recommend that the media apply the highest ethical and professional standards to minimize the harmful, dishonest and false content. Ethical and professional standards should be regularly revised and improved in order to respond to new realities. Journalists' Ethical Code should be revised and adapted to respond to the digital environment.

Additionally, media should apply digital security and communication protocols to prevent (as much as possible) online attacks, organized smear campaigns and undue reporting to platforms.

Media still hasn't found a sustainable business model that would ensure its economic survival in a new digital framework. We recommend developing strategies for placement of the content across various platforms and communication channels in order to avoid dependence on monopoly on the social media platforms market. Introduction of business model which relies on support of community (e.g. crowdfunding, subscription models).

*8. Do you see any major gaps in the international human rights legal framework? Are there any specific recommendations that you would suggest to address such gaps or to improve implementation of existing standards?*

There are no major gaps in the international human rights legal framework. Its implementation, however, presents a major challenge. Digital environment and ever evolving pace of technology development will pose another challenge to the legislation.