

COMMENT BY CIVIL SOCIETY ORGANISATIONS

FREEDOM OF EXPRESSION AND MEDIA PLURALISM IN THE EUROPEAN COMMISSION'S 2017 SERBIA COUNTRY REPORT

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I Introduction

About the Comment

The comment on the European Commission's 2017 Serbia Country Report, as well as the accompanying Alternative Report, is dealing with the issue of freedom of expression and media pluralism as fundamental prerequisites for Serbia's democratisation.

The comment has been compiled by the following organisations: Civic Initiatives, Balkan Investigating Reporting Network – BIRN Serbia, Independent Journalist Association of Serbia, PG Network, Educational Centre and Transparency Serbia.

Monitoring of progress of media freedoms under Chapter 23 and its "Freedom of Expression and Media" section has proved to be insufficient as the issues of public procurements, state aid, advertising and other areas effectively affecting media freedoms are not covered therein. This is why this report encompasses all the chapters pertaining to media freedoms – Chapter 5 (Public Procurements), Chapter 8 (Competition Policy), Chapter 10 (Information Society and Media), Chapter 23 (Judiciary and Fundamental Rights), Chapter 28 (Consumer and Health Protection) and Chapter 32 (Financial Control).

The key assessment in this Comment is that the European Commission's report rightfully states negative trends restricting media freedoms. As the Country Report is, above all, a political document written in a diplomatic and administrative language, this Comment, along with the accompanying Alternative Report, shall place an emphasis on the depth of the problem in this field, insisting on 1) incompleteness of the legal framework and 2) problems in the implementation of the law and the fallout from the implementation failure affecting the work of the media and freedom of expression and information.

The comment, as well as the Alternative Report, point to not only stagnation but also obvious deterioration of the situation with media freedoms which is very much under threat. Pressure and attacks on journalists and media outlets, control of media by way of financial pressure, and state of dysfunction of relevant independent institutions which are supposed to enforce the laws in these fields, are the principal causes of threats to media freedoms.

In addition, the Alternative Report highlights the need for revision of the Action Plan for Chapter 23, first of all, in the part concerning deadlines, but also the activities and Result indicators (e.g. a result indicator cannot be a fact that some regulation has been adopted without previous assessment of the quality of public policies).

On 2017 Country Report

For the third consecutive year, the EC specifies that there is no progress in enforcement of the right to freedom of expression and media pluralism. What is particularly worrying is that there has been no progress, or that the progress achieved has been minimal, in all the chapters listed above with an impact on media freedoms. All this further points to the seriousness of consequences for media freedoms which stagnation, and more often than not, further deterioration, may produce.

II Chapter 5 (Public Procurement) and Chapter 8 (Competition Policy)

Considerable funds are still being paid out to the media through public procurements of media services or direct purchase of services without public procurement procedures. Only a handful of entities report state aid received to the Commission for State Aid Control.

In addition, the obligation to report state aid and other donations to the Media Register is being flouted despite fines stipulated for such an infringement (as opposed to no penalties for the failure to report state aid to the Commission for State Aid Control). Moreover, the data available offer scant information and provide no clear insight into potentially dependency relations between aid givers and aid recipients.

The state organs have never (according to the publicly available data, at least) performed control of concentration in the media sector due to, above all, a high concentration threshold. And yet, surveys show that audience concentration is high (e.g. Serbian TV market is highly concentrated as four biggest owners have 62.35% share in total viewership), whereas vertical ownership concentration and political influence on media funding have been described as indicators with a strong influence on concentration.

Recommendations:

- The Serbian Government should provide for the implementation of the law, the enforcement of its decisions to shut down Tanjug news agency, and thereby ensure level playing field on the market for all the actors.
- To improve regulations which shall ensure more efficient control of state aid. It is necessary to stipulate specific rules on state aid in the field of public information.
- To introduce sanctions for failure to report data on allocated state aid as well as for unlawful allocation of state aid.
- To ensure a more active approach by the Commission for State Aid Control (CSAC) in cases of violations of media state aid regulations. To this end, it is possible to open a wider debate on the current CSAC status and the need for its transformation (creation of an independent body or merging with the Commission for Protection of Competition).
- To regulate in the Public Procurement Act (article 7, para. 1, item 10) the exemption from the law's application to the purchase of broadcasting time slots, given that this may be interpreted as a basis for direct contracts with the media on the purchase of promotional time slots and for live broadcasts or broadcasts of recorded footage on local organs' activities.

III Chapter 10

(Information Society and Media)

Regulatory Authority for Electronic Media

Except for politicisation of the REM Council members' election which is recognised in the Country Report, when electing the council members, there is no compliance with the procedure prescribed in the Electronic Media Act. In October 2016, the national parliament refused to appoint one of two candidates put forth by the entities authorised by the law to propose council members – the associations dealing with freedom of expression and child protection. In contravention of the law, in December 2016, a candidate fielded by a disabled persons association was elected. Such national parliament's decisions also had a strong impact on professionalism and independence of the Regulatory Authority for Electronic Media (REM).

Although the REM Council should have played a more active role during the 2017 presidential election campaign, the Council however decided not to supervise media coverage in terms of equal representation of the candidates declaring that it would only act upon citizens' complaints. This set a precedent of sorts bearing in mind REM's legal obligations, as well as that this body had been monitoring media coverage of all previous elections. In addition, all the citizen complaints (more than 50) were dismissed as groundless. For the duration of the presidential election campaign, the ruling Serbian Progressive Party's candidate and the then prime minister, Aleksandar Vučić, enjoyed incomparably greater representation in the media than all the remaining candidates put together. The runner-up, Saša Janković, had 90% less media coverage than Vučić.

Despite repeatedly stating in its consecutive annual reports on broadcasters (including the 2017 reports) that there was a conspicuous trend with all the commercial broadcasters of "further commercialisation of their respective programming, reduction in content diversity and non-compliance with elementary programming-related legal obligations", and that RTS was failing to meet its obligations regarding production and broadcasting of programming intended for national minorities, as well as that obligations vis-à-vis vulnerable groups were not being sufficiently fulfilled, REM has not taken any measures to reverse such a trend and ensure that the broadcasters meet their obligations in terms of type and quality of programming contents.

Children's rights have been constantly violated by way of broadcasting detrimental content in television shows to which REM has failed to respond for years although this is its legal obligation.

Recommendations:

- To change the way in which REM Council members are elected and to re-elect REM Council members given that the experience so far has shown that it is not possible to improve the work of the Council by evolution.
- To define court procedures for protection of the rights of entities authorised to nominate REM Council members with a view to reduction of procedural violations by the executive and legislative branches of power.
- To introduce a limitation of only one term in office for REM Council members.
- To improve legal provision concerning REM's obligation to supervise media reporting during election campaigns, as well as REM's actions against electronic media failing to fulfil their programming-related obligations.
- To reinforce laws and by-laws intended to provide adequate protection for children and juveniles against inappropriate media content. To introduce a possibility for REM to directly issue fines in case of such violations.

Public Service Broadcasters

Politicisation of REM Council members election is also conducive to politicisation of public service broadcasters. Management boards of Radio Television Serbia (RTS) and Radio Television Vojvodina (RTV) are appointed by the REM Council, and the management boards appoint CEOs, editors-in-chief and members of programming councils. The best example of influence by political and other interest groups was seen in the contentious election of RTS management board members election in January 2016 when six out of eight REM members voted for the same nine candidates out of 52 nominees. Insufficiently transparent election process was again recorded in September 2017 when the remaining two members of the RTS management board were elected.

Public service broadcasters (PSBs) and commercial TV broadcasters are under an obligation, in addition to truthful and unbiased reporting, to take into account the need to protect media pluralism and cultural diversity. Reports by the civil society sector show that there is a dominant presence of one specific party in the electronic media, whilst RTS and RTV are not conducting analyses of media content quality but only of their respective viewerships.

Public service broadcasters' financing from the state budget undermines their independence, as well as pluralism of information in editorial policies of both PSBs.

Recommendations:

- It is necessary to ensure that public service broadcasters be funded primarily from subscription fees, i.e. viewers' money.
- To improve the procedures for election of public service broadcasters' organs with a particular emphasis on strengthening the efficiency of programming councils and their communication with the public at large / citizens.
- To introduce mandatory analysis of PBS media content quality as well as control of indicators for reporting in public interest which need to be first formulated. RTS and RTV have centres for surveying public opinion, programming and audience which used to analyse earlier the media content quality. Public service broadcasters need to improve the operation of the said centres and provide for analyses of media content quality which are not being conducted at present.

IV Chapter 23 (Judiciary and Fundamental Rights)

Safety and Position of Journalists

In its latest report the European Commission states that *cases of threats, intimidation and violence against journalists* are still a concern. This statement is corroborated by data from the NUNS database of attacks and pressures on journalists¹ in Serbia according to which in 2017 there were 92 instances of attacks and pressure exerted on journalist, including 6 physical assaults, 22 verbal threats, two attacks on property and once case of journalist surveillance. For the most part these were instances of pressure exerted on media representatives (61) – almost twice as many in 2017 than in the previous year (2016 – 33). They range from harassment of journalists through various forms of illicit influence by state officials, politicians and other people in power, to cases of bans or selective invitations to journalists to attend public events, which all hinder and affect professional journalist work. NUNS data from early 2018 show that out of 31 reported cases of attacks, threats and surveillance of journalists in the previous year, 26 are still in procedure in prosecutors' offices, in three cases it has been established that there are no grounds for prosecution, i.e. no elements of a criminal offence which is to be prosecuted *ex officio*, in one case criminal charges have been dismissed, whereas only one case has been solved.

The latest *Report on Implementation of Action Plan for Chapter 23*² specified that a positive breakthrough was achieved regarding journalist safety by way of signing an *Agreement on Raising the Level of Journalist Safety* between journalist and media associations, on one hand, and the prosecutors' offices and the police, on the other, in December 2016. Some associations have frozen their status in the standing working group established by this *Agreement*. What triggered such a decision was the explanation of the First Basic Public Prosecutor's Office on dismissing a criminal charge related to an attack on journalists on 31 May 2017 during the inauguration of president Aleksandar Vučić. On top of this, the fact that no significant progress was made for a year since the signing of the *Agreement*, that the number of pending cases was still high whilst proceedings were excessively protracted, was yet another reason to freeze their status. Journalists are facing political pressures in their everyday work and have no freedom to report on issues professionally. The latest *Control and Media Freedom*³ survey shows that these pressures originate from both within the media themselves and actors outside the media. According to journalists themselves, influence exerted by executive authorities (69%) and political parties (56%), followed by editorial boards (47%), have the most powerful effects on their work. Pressure exerted by advertisers (33%) are comparably the least common. Socio-economic status of journalists is deteriorating year-on-year, which, coupled with all stated above, is increasing self-censorship and undermining journalist professional standards.

Protection of journalist sources and exercising free access to information of public importance are not satisfactory.

There is a need to pool resources in order to improve IT security for online journalists and media.

¹ <http://www.bazenuns.rs/srpski/napadi-na-novinare>

² Council for Chapter 23 Action Plan Implementation, Report no. 4/2017 on implementation of the Chapter 23 Action Plan, Belgrade, 2018, p. 509. <https://www.mpravde.gov.rs/files/Izve%C5%A1taj%20br.%204-2017%20o%20sprov%C4%91enju%20Akcionog%20plana%20za%20Poglavlje%2023.pdf>

³ Jovanka Matić, *Control and Media Freedom*, available at <https://kazitrasi.rs/svedocenja-novinara-o-pritiscima-medije-kontrolisu-politicari-i-urednici/>

Recommendations:

- To undertake all necessary measures to improve protection of journalist sources through amendments to the Electronic Communications Act.
- Education of judicial office holders on cyber-attacks is necessary, as well as strengthening of state organs' capacity to fend off cyber-attacks and other security-related threats in an online environment. Protection measures should also encompass other media actors, i.e. all persons performing media activity / informing the public.
- Institutions should ensure transparency of their work and publish results of analyses of the ongoing and earlier activities of the police and prosecutors' offices in cases of attacks and murders of journalists.
- To involve judiciary representatives in the process of ensuring journalists' safety. To provide education for journalists and media owners on their rights.
- To create conditions for signing a branch collective agreement designed to resolve in a more organised and systematic way the social and economic problems of media workers.

Drafting New Public Information System Development Strategy

Representatives of individual representative associations (NUNS, NDNV, ANEM, AOM, Lokal Press) along with representatives of UNS, ASMEDI and individual expert Dejan Nikolić walked out of the working group for media strategy drafting as the working group was reluctant to take on board associations' substantive proposals. At that point, the drafting of this strategic document was running late for over a year, which was repeatedly highlighted. Bearing this in mind, the associations have brought the legitimacy of the document in question, as well as the results of public consultations follow-up.

Ministry's senior officials have announced that "the state will return to media in normative and ownership terms, if this were to be in the Serbian citizens' interest", which is a reason for concern.

Recommendation:

- To ensure full inclusiveness in the strategy adoption process and take on board the associations' proposals. To give explanation in case the proposals are not accepted.

Media Financing

The Media Register, which is administrated by the Business Registers Agency, is not fully updated. Full data on financing from the state budget are missing, and database search and in-depth data analysis are not possible, hence this Register is only partially fulfilling its purpose.

The Public Information and Media Act has not been implemented in the area of public information project co-financing in public interest. Projects with no particular relevance to public interest are awarded in media competitions for allocation of funds, whereas regular shows are presented as media projects.

No state institution has complete, systematised data on media co-financing process. The legal framework for allocation of funds for co-financing does not stipulate mandatory evaluation (if a content for which the funds were allocated has been produced and of what quality); there are nor criteria for appointment of selection commissions' members, nor the rules regulating their work; there are no sanctions in place for violations of the applicable law.

Recommendations:

- To introduce an obligation to evaluate competitions for public information project co-financing in public interest – achieved results and public interest served, as well as evaluation of media products.
- To enhance transparency of the Media Register – to provide insight in information on which state organ has disbursed state aid or other funds and for which purposes.
- To initiate accountability proceedings regularly and impose sanctions in case of failure to submit data to the Media Register.

State Media Ownership Withdrawal Process

Privatisation of state-owned media has not been fully completed. Daily newspapers Politika, Večernje novosti and Novi Sad-based Dnevnik are still partly state-owned, whereas their respective private owners remain unknown even to state organs. The legal status of Tanjug news agency is still unknown. Although the government shut down Tanjug news agency as far back as late 2015, having instructed its management to complete the process and initiate its deletion from the Business Registers Agency, Tanjug is still operating, signing contracts with other legal persons, employing staff and receiving funds from the Serbian budget.

The latest Ministry of Economy's data show that out of a total of 73 media owned by the state in 2014, 50 media entered the privatisation process which should have been completed in 2015. Thirty-four media were privatised at the time, whereas there were no buyers for 16 state-owned media. Out of all the media which originally had buyers, the contracts were cancelled in six cases, whilst insolvency proceedings were initiated for the media without prospective new owners.

An additional reason for concern are indications that the state will regain control over some previously privatised media. The government passed a regulation (in May 2017) effectively restoring local self-governments' supervision of the privatised media. Under this regulation, local self-government organs may be granted a special permission by the central government to take over managerial control of a media outlet for a period of six month during which a new round of privatisation is to be prepared. The case of RTV Kragujevac whose privatisation was announced by the local self-government, but there has been no new buyer to date despite the expiry of all legal deadlines.

Recommendations:

- To complete the privatisation process in a transparent and legal manner and to effect full withdrawal of the state from media ownership in order to ensure free editorial policies and level playing field for media actors.

Freedom of Expression and Media in Minority Languages

Freedom of expression in minority languages is exercised through public service broadcasters (RTS and RTV), the media owned by national minority councils and private media (mostly privatised municipal media with programming in national minorities' languages). RTS has not as yet introduced programming in minority languages (with an irrelevant exception of a single radio show in Romany language) although this is a legal obligation. Editorial boards for minority languages at RTV are facing strong pressure exerted by political structures through national minority councils.

Recommendations:

- Pressure exerted by politicians at the national level and political parties dominant in some national minority councils on public service broadcasters' operations must be relieved.
- The state has a duty to identify reporting in minority languages as a public interest in the new media strategy and legislation and protect it at all levels.
- It is particularly important to protect the media owned by the national minority councils from political parties' pressure by way of establishing managerial and supervisory structures independent of the minority councils and through incentive to self-regulate within the national minorities' media communities.
- Media public competitions which, inter alia, fund the contents of public importance in minority languages must be more transparent; experts with no conflict of interest must be appointed to the commissions; and more adequate evaluation of the implemented projects' results must be ensured.

Leaking Information from Investigations to Media

Leaks from investigating proceedings are still occurring. The media are reporting on arrests before the police makes it public; the media are announcing imminent arrests and publishing police investigation data. There are no proceedings against those responsible for leaking information to the media. No one is penalised in any way or form for undermining the presumption of innocence, hence drastic violations of human rights.

Recommendation:

- To fulfil indicators from the Chapter 23 Action Plan pertaining to amendments and addenda to by-laws and codes of conduct, and add qualitative indicators for monitoring the implementation of the amended legal framework.

V Chapter 28 (Consumer Protection)

Advertising by state organs is not regulated by a separate piece of legislation despite announcements to do so when the Advertising Act regulating commercial advertising was adopted. Some state-run public enterprises conclude relatively high-value contracts with the media. Considerable funds spill over from public enterprises to the media through sponsorship deals. Some contracts with the media feature clauses which are unacceptable from the viewpoint of independent editorial policy and media freedoms. Some public enterprises are not providing information about their operation contrary to the Free Access to Information of Public Importance Act.

For years the state has been the biggest advertiser in Serbia. Taxpayers' money is spent on numerous sponsorship and advertising contracts through ministries, state institutions, companies, agencies and local self-governments. The lion's share of the money is spent on advertising in national media. Outside large cities, local economies and advertising market are poorly developed.

Recommendations:

- To define and present rationale on advertising needs of public enterprises both in legal terms and at the point of financial plans' approval;
- To regulate in more detail and more consistently the relations between public enterprises and the media, as well as advertising in the media, as part of amendments to the Public Procurement Act, media regulations or the Advertising Act;
- To focus on the issue of advertising by public enterprises and state-owned companies in the pending Media Strategy taking into account the findings from relevant surveys, such as Anti-Corruption Council's 2011 and 2015 reports.

VI Chapter 32

(State Audit Institution's Supervision of Budget Spending)

The State Audit Institution (SAI) conducted an audit of 2016 financial reports and business operations compliance and published it in December 2017. SAI did not conduct performance audit which might have highlighted the issues in the REM work noted as part of Chapter 23 monitoring. In a part of the report on compliance, violations of the Electronic Media Act, the laws regulating general and financial management (such as the Accounting Act), as well as violations of the REM Statute's provisions, are cited. These irregularities go back to 2013, according to the SAI report. The auditing company commissioned by REM each year has failed to find any irregularities in any of its audit reports.

Under Chapter 23 Action Plan, in the area of freedom of expression and media, SAI is in charge of controlling the work of political parties. Thus, since 2015, SAI has audited 11 political parties to date, with 4 political parties being audited in 2017. SAI has found a series of irregularities in the work of 10 political parties, but there is no information of any sanctions. Since 2016, Serbia has reported full implementation of this measure despite the fact that the indicator also includes sanctions imposed on the political parties.

Recommendations:

- SAI should carry out compliance and performance audits in 2018; Accountability of the audit company conducting yearly REM audits should be established; The decision to hire this audit company should be reconsidered.
- To ensure adequate response of all institutions to irregularities identified by audits performed. To ensure submission of response reports of audited entities and publish those which have been submitted to SAI.

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ALTERNATIVE REPORT BY CIVIL SOCIETY ORGANISATIONS – BIRN, NUNS, AOM

FULFILLMENT OF MEASURES FROM CHAPTER 23 ACTION PLAN



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Alternative Report is compiled by the following organisations: Balkan Investigative Reporting Network - BIRN Serbia, the Independent Journalist Association of Serbia (NUNS) and the Association of Online Media.

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PROTECTION OF JOURNALISTS

This report is an alternative report to Council for Chapter 23 Action Plan Implementation Report no. 4/2017. It relates to the part pertaining to the protection of journalists within Chapter 3.5 *Freedom of Expression and Media Pluralism*. The report is based on the monitoring of implementation of a total of five activities which the competent bodies are required to carry out in order to achieve the ultimate objective embraced as an obligation by the state of Serbia, specifically: *efficient protection of journalists from threats of violence ensured through improvement of preventive measures undertaken with a view to protect journalists and give priority to proceedings in investigations of threats and violence against journalists in order to efficiently impose sanctions for perpetrated attacks as well as to ensure that journalists could do their job without any hindrance in the public interest.*

Methods which were used to collect information for the report: analysis of relevant national and international reports on media freedoms and safety of journalists; analysis of media articles and gathering of statements by national and international officials on media freedoms and safety of journalists; analysis of legal regulations and other official documents pertaining to safety of journalists; conducting interviews with persons relevant to the issue of improvement of journalist safety and submitting requests for information of public importance to relevant institutions in charge of improvement of journalist protection.

I Has the desired result been achieved?

RECOMMENDATION FROM THE SCREENING REPORT: 3.5.1 To ensure protection of journalists against threats and violence, in particular through effective investigations and deterrent sanctioning of perpetrated attacks.

RESULT OF RECOMMENDATION'S IMPLEMENTATION: More efficient protection of journalists against threats and violence ensured through enhancement of the system of preventive measures which are taken for the purpose of protection of journalists and giving priority to the proceedings in the investigations of threats and violence in order to ensure efficient sanctioning of perpetrated attacks.

Impact Indicator 1: Positive opinion of the European Commission in its annual Country Report on Serbia in the part pertaining to a higher level of protection of journalists against threats and violence.

With regard to freedom of expression and safety and protection of journalists in the most recent 2018 EC report, there is a following assessment, "Serbia has some level of preparation concerning freedom of expression. However, there was no progress over the reporting period and this lack of progress is increasingly a matter of concern. The overall environment is still not conducive to the exercise of this right. Cases of threats, intimidation and violence against journalists are still a concern, while investigations and final convictions remain rare."¹ Progress has only been recorded within the scope of work of the commission for reviewing the facts gathered over the course of investigation into journalists' murders and is reflected in the completion of one out of three journalist murder investigations. Recommendation to the Serbian authorities is to react promptly to and publicly condemn hate speech and attacks against journalists, as well as to elaborate guidelines clarifying their classification as criminal or other types of offences and closely monitor their follow-up by the law enforcement authorities.

This is the third consecutive year in which Serbia has failed to make any progress in the field of freedom of expression in the European Commission's Serbia country Reports, hence we may infer a conclusion that this result indicator has not yet been met.

¹ European Commission, final official document: Report accompanying the document 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions', Strasbourg: 2018 Communication on EU Enlargement Policy), p. 25-26. The report is available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-serbia-report.pdf>

Impact Indicator 2: Positive report by Ombudsman in the part pertaining to a greater degree of protection of journalists against threats and violence

In his annual reports, the Protector of Citizens (Ombudsman) did not record progress either in the field of freedom of expression and safety of journalists. The Ombudsman's 2016 and 2017 reports specify that the overall environment is not conducive to full enjoyment of this right. "Threats, violence and intimidation of journalists are key issues which are still worrying the media representatives and the general public. According to the journalist associations' data,² there were 92 reported attacks against journalists in 2017. The attacks ranged from physical assaults and attacks on property, through pressure on journalists, to threats to journalists' property and verbal threats. The majority of the documented threats feature pressure (62) on media representatives."³

The Protector of Citizens' annual reports in the past two years state that Serbia has not made progress in the field of freedom of expression, highlighting in particular the issue of journalist safety, therefore we may conclude that this result indicator has not yet been met.

Impact Indicator 3: Increased number of activities undertaken by prosecutors' offices to ensure protection of journalists, as well as criminal prosecution of perpetrators of offences against journalists

Certain activities have been undertaken by the prosecutor's office in this respect. For example, in December 2016, an agreement on cooperation and measures for raising the level of journalist safety between the Ministry of Interior and Serbian public prosecutor's office, on one hand, and 7 journalist and media associations, on the other hand, was signed under which separate records on attacks against journalists were to be kept by the prosecutor's office and urgent response in such cases was stipulated, however this does not seem to suffice. Investigations into crimes against journalists are not being carried out quickly and efficiently, which is, above all, corroborated by the fact that there still are many pending cases and three unsolved murders of journalists. Journalist and media association describe the communication with competent institutions as better, but the cooperation is still at a low level. Despite the fact that certain activities have been undertaken with regard to criminal prosecution of perpetrators, solved cases are still few and far between. "According to the records kept by the Independent Journalist Association of Serbia (NUNS), from 1 January to 5 December 2017, a total of 30 attacks were reported, including 6 physical assaults, 21 verbal threats, two attacks on property and one case of journalist surveillance. Out of a total of 30 reported cases, 23 are still being processed by the prosecutor's office; in three cases no grounds for ex officio criminal prosecution have been established, and in another four cases criminal charges have been dismissed."⁴

Certain activities have indeed been undertaken by the prosecutor's office and there are certain moves in the right direction, hence we may conclude that this result indicator has been reached to a lesser extent.

Impact Indicator 4: Report of the Commission for Reviewing Facts Obtained in Journalist Murder Investigations

Reports of the Commission for Reviewing Facts Obtained in Journalist Murder Investigations are not publicly available. According to the information received from the commission's chairman, Veran Matić, the commission is submitting its reports to the competent bodies, as well as some proposals and recommendations. The reports are sent to the Ministry of Justice and the Negotiating Group on Chapter 23 Action Plan. However, we received a reply from the Ministry of Justice that they were not collecting and were not in possession of this type of reports.

² Available at: <http://www.bazenuns.rs/srpski/napadi-na-novinare>.

³ Zoran Pašalić, Regular Annual Report by the Protector of Citizens for 2017, p. 10. The report is available at: <http://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>

⁴ Marija Vukasović, Tamara Skrozza and Svetozar Raković, Chronicle of Attacks and Pressure on Journalists in 2017, p. 6, available at: <http://safejournalists.net/rs/resources/page/2/>

It is unknown whether the proposals and recommendations are implemented by the state organs since, according to the commission's chairman, the commission is not receiving feedback from these bodies.

This result indicator is not an indicator per se. Instead, it may serve as a verification for certain result indicator. We propose that this indicator be modified in the following manner: Percentage of recommendations and proposals adopted and implemented by the competent authorities from the reports of the Commission for Reviewing Facts Obtained in Journalist Murder Investigations.

Impact Indicator 5: Substantial improvement of Serbia's ranking according to internationally recognised indexes of freedom of press and freedom of expression.

Both domestic and international experts agree that media freedoms in Serbia have declined. Such an assessment is to be found in the most relevant world reports on this subject. Reporters without Borders published 2017 World Press Freedom Index⁵ where Serbia ranked 66th among 180 countries listed by the degree of media freedoms. Serbia dropped 7 places compared to the previous year. In the Freedom House report,⁶ Serbia was among the countries recording the biggest drop in ranking on the media freedom list – by 4 points.

In his mission to Serbia report on human rights, Nils Muižnieks, the Council of Europe's Commissioner for Human Rights until recently, noted that 'despite some efforts by the authorities to ensure a better institutional response to crimes committed against journalists, few such cases have been effectively prosecuted. Smear campaigns, inflammatory remarks and other forms of pressure against journalists have increased and have led to self-censorship and discouraged journalists from performing their important work. The Commissioner urged the authorities to investigate and prosecute all crimes against journalists and politicians to unequivocally condemn all cases of violence targeting journalists.'⁷

In his regular report⁸ to the Permanent Council of the Organisation for Security and Cooperation in Europe (OSCE) for the period from 18 April to 9 November, Harlem Désir, the Representative on Freedom of the Media, noted that he had made 109 interventions in 32 countries in the given period. Of this number, 11 interventions were related to cases of threats to media freedoms and safety of journalists in Serbia.

All relevant reports recorded a decline in media freedoms and safety of journalists in the previous period, hence we may conclude that this result indicator has not yet been met.

II What has been done to achieve the result?

3.5.1.1 Conducting an analysis of relevant provisions contained in the Criminal Code for the purpose of assessing the need for amendments and addenda which would be conducive to a higher level of protection of journalists against threats of violence.

Implementer: Working group to be formed by the ministry in charge of judicial affairs

⁵ Reporters without Borders, World Press Freedom Index, Paris, 2017; <https://rsf.org/en/serbia>.

⁶ Freedom House, Freedom of the Press 2017, Washington, 2017; <https://freedomhouse.org/report/freedom-press/2017/Serbia>.

⁷ Nils Muižnieks, 1st Quarterly Activity Report 2018 (Strasbourg: Council of Europe, 2018), p. 6. The report is available at: <https://rm.coe.int/1st-quarterly-activity-report-2018-by-nils-muiznieks-council-of-europe/1680793252>

⁸ Harlem Désir, Regular Report to the OSCE Permanent Council, available at: <https://www.osce.org/fom/355616?download=true>

Result indicators:

- ✓ Compiled analysis of the Criminal Code with recommendations for establishing a higher level of protection of journalists against threats of violence

Although the implementer of this activity is the working group formed by the Ministry of Justice, the Coalition for Monitoring Chapter 23 Action Plan Implementation reports only on the analysis as specified by the TAIEX mission members. The agreement on cooperation and measures for greater safety of journalists stipulates an activity related to compiling a comprehensive analysis of the Criminal Code for the purpose of assessing the need for amendments and addenda which would be conducive to greater protection of journalists against threats of violence. OSCE, which has the role of an observer of the agreement implementation, offered its expertise and the analysis was completed in April 2018. TAIEX mission was organised on 16 and 17 March 2017. TAIEX mission experts held meetings with the representatives of state institutions, as well as the representatives of journalist associations and civil society organisations.

The TAIEX mission expert report was submitted to the associations as late as October 2017, whereas this activity, according to the Action Plan, should have been carried out in the third quarter of 2016.

The report features an analysis of the current state of play in terms of both legislative framework and practical aspects of journalist protection, as well as recommendations for improvement of the journalist protection system. Some media reported that the expert mission for journalist protection made an assessment in its report whereby, given the control which the government had over TV and radio broadcasters, online media became very important sources of news, but that the problem was that these online media were under constant pressure exerted by the national and local authorities. In addition, the sources of independent and unbiased information were few and far between, according to the report, and they were struggling to survive on an extremely fragmented media market. Many cases of interference with the work of journalists were recorded, such as banning some journalists from attending press conferences, instances of impeding the right to access information of public importance, and hiding information about the activities of local politicians. The report stated that the Serbian media market was probably the most fragmented in Europe, relative to its population size. Due to a large number of media outlets and the economic crisis, as well as a total annual advertising market budget of EUR 160 million, according to the report, the media for the most part are not profitable.⁹

In their report, TAIEX mission experts listed a set of recommendations for improvement of journalist safety. The last report on the implementation of the Chapter 23 Action Plan¹⁰ specified that the mission experts proposed efficient execution of the agreement on cooperation and measures for greater safety of journalists and monitoring of its implementation. In addition, public condemnation of attacks and threats against journalists is recommended, as well as additional measures by the Serbian Prosecutor's Office intended to raise public awareness of the prosecutors' offices activities related to journalist protection. Also, according to the report, experts were of the opinion that this would increase transparency going on to say that the Serbian Prosecutor's Office should issue press statements in connection to their activities and decisions in cases of attacks on journalists, including statistical data, and this information should be posted online.

⁹ Beta, "TAIEX: Media in Serbia under Constant Government Pressure", Belgrade, 22 October 2017; <https://beta.rs/vesti/drustvo-vesti-srbi-ja/76021-taix-mediji-u-srbiji-pod-stalnim-pritiskom-vlasti>

¹⁰ Council for Chapter 23 Action Plan Implementation, Report no. 4/2017 on Chapter 23 Action Plan Implementation, Belgrade, 2018, p. 506. https://www.mpravde.gov.rs/files/Izve%C5%A1taj%20br.%204-2017%20o%20_sprovo%C4%91enju%20Akcionog%20plana%20za%20Poglavlje%2023.pdf

Moreover, they proposed trainings for judges and prosecutors at the Judicial Academy in order to underline the significance of these cases, as well as for the police which should have a more active role in the prevention and fast response to attacks. The experts also suggested that the journalists themselves should be trained so that they would understand better criminal proceedings. Finally, the recommendation to the Ministry of Culture and Media was to amend the Public Information Act by way of introducing penalties in cases where local political actors were preventing journalists from doing their job.

It is a problem that public officials very rarely and selectively condemn the attacks and pressure exerted on journalists. Moreover, in some cases state officials would even create an atmosphere which is conducive to such attacks¹¹. In the past several months, the agreement on cooperation and measures for greater journalist safety has not been efficiently implemented. Five members, the representatives of journalist and media associations, froze their status and the standing working group formed under the agreement had not been operational from November 2017 until April 2018 when the associations raised again the issue of returning to the standing working group (see more in 3.5.1.5 section). On top of that, no trainings for judges, prosecutors and journalists have been organised to date.

The Report on Chapter 23 Action Plan Implementation reads that this activity has been successfully carried out given that the indicator for this activity is the completed analysis only, and not actual compliance with the recommendations laid out in the analysis itself. The problem herein is the fact that not a single recommendation, e.g. from the TAIEX mission report, has been implemented, hence we are of the opinion that the official stance whereby this activity's implementation is deemed successful is contentious. Furthermore, the Criminal Code analysis, compiled by the OSCE, is not covered by this reporting period which is yet another fact in support of the argument that this activity has not been successfully implemented within the set deadlines and that there have been major delays of almost nine months in total.

3.5.1.2 Resumption of the work of the Commission for Reviewing Facts Obtained in Journalist Murder Investigations

Implementer: Government of the Republic of Serbia, Commission for Reviewing Facts Obtained in Journalist Murder Investigations

Result indicators:

- ✓ Commission's annual report submitted to the competent bodies
- ✓ Competent bodies are acting regularly in accordance with the commission's recommendations by way of conducting investigations and bringing criminal charges.

The Commission for Reviewing Facts Obtained in Journalist Murder Investigations was formed in January 2013 pursuant to a decision adopted by the Government of the Republic of Serbia. According to the information received from the commission's chairman, Veran Matić, the commission is submitting reports to competent bodies, as well as proposals and recommendations. The reports are submitted to the Ministry of Justice and the Negotiating Group for Chapter 23 Action Plan. The commission is receiving no feedback from these bodies on actions taken to comply with the recommendations issued by the commission along with the reports.

¹¹ State secretary for public information Aleksandar Gajović first said in an interview for Radio Free Europe that journalists had to protect themselves, and then, in response to the radio presenter's riposte that Nedim Sejdimović was also receiving threats, went on to ask the presenter, "Are you sure he wasn't the one who set it all up himself to present himself as a victim?" He added that, in his view, Nedim was a man with no good intentions (<https://www.slobodnaevropa.org/a/intervju-aleksandar-gajovic/29032189.html>). Several months earlier, first in the national parliament and then on the RTS 'Question Mark' political talk show, SNS parliamentary caucus leader Aleksandar Martinović showed publicly the photographs of journalists who had taken part in street protests 'against dictatorship'. He was effectively labelling and singling them out for participating in the demonstrations (<https://www.cenzolovka.rs/pritisci-i-napadi/na-18-godisnjicu-ubistva-curuvije-martinovic-targetira-novinare-i-njihove-porodice/>).

We sent a request for information of public importance asking the Ministry of Justice to provide insight into the reports submitted to the ministry by the Commission. However, the Ministry of Justice, which is in charge of compliance with the Chapter 23 requirements, replied that the ministry was not in possession of such reports and that it was not collecting the said reports. We received a reply from the Commission that we needed to check with the Ministry of Justice if the reports were available to the public reiterating that the commission was submitting the said reports to the ministry.

According to the information received from the commission's chairman, thanks to the commission's efforts, the most progress had been made in the investigation of Slavko Ćuruvija's murder. Apparently, the prosecutor's office brought criminal charges and the judge in the previous proceedings received the indictment. However, the commission's chairman stressed that the commission's role was limited in this respect. The commission is monitoring the trial proceedings; the Ministry of Interior's working group in charge of this case is still in existence and does everything at the request of the court and the prosecutor, such as supplementing the case files, providing clarifications, etc. The commission reacts to the extent possible, taking care not to interfere with the court's independence, when the commission members are of the opinion that some decisions are wrong, as was the case with releasing two defendants from custody and ordering home confinement, threats to witnesses, and other situations.

In Radislava Dada Vujašinović case, the commission insisted on checking everything that the prosecutor's office had done previously. The case had been filed as a suicide for about 15 years, meaning that there had been no investigation whatsoever until 2009. At that point, Serbian public prosecutor Zagorka Dolovac reclassified it as a murder in order to make an investigation into the case possible. She did not have additional evidence to support her decision except for the material compiled through expert witnesses' evaluations commissioned by the family. The last development in this case was the commissioning of a super-expertise by the Netherlands Forensic Institute. The super-expertise did not exclude a possibility that the journalist had committed suicide. The case is still open and in pre-investigation stage.

In Milan Pantić murder case, the Serbian Prosecutor's Office responded to the commission's communications and assigned another two prosecutors, in addition to the prosecutor in charge of the case. Documentation prepared by the Ministry of Interior's working group for this case was the basis for prosecutorial investigation in the pre-investigation stage. As noted by the commission's chairman, the passage of time has had a significant impact since several witnesses have died, whereas some witnesses do not recollect the events in the same way as recorded in the original police notes. All the preserved evidence found at the scene of the crime was re-analysed, but the problem was that the crime scene itself was not protected well against contamination.

In May 2017, the commission submitted its report to the prosecutor's office in charge. The investigation shed light on the motives of those who had ordered the murder, indicating that Milan Pantić had been murdered precisely because of his journalist work and investigative articles on corruption and crime in Jagodina and this part of Serbia.

However, the prosecutor's office has not as yet brought charges for the murder of journalist Milan Pantić, and the case itself is still languishing in the pre-investigation stage.

The report on the Chapter 23 Action Plan implementation reads that this activity is successfully being carried out. Nonetheless, the evidence in support of such a claim are fully available to the public. In commission's chairman Mr. Matić's words, the commission is regularly submitting reports. Though, we could not obtain information through official channels on who is indeed in charge of collecting these reports.

As regards the second result indicator, i.e. the actions undertaken by the competent institutions pursuant to the recommendations from the commission's reports, we are in no possession of any facts which would corroborate that this is indeed happening. Hence, we may only conclude that the activity is only being partially implemented.

3.5.1.3 Adoption of recommendations by the Serbian Public Prosecutor's Office on formation of a special register of criminal offences perpetrated against journalists, media and web sites, and on priorities in prosecution of such criminal offences.

Implementer: Serbian Public Prosecutor's Office

Result indicators:

- ✓ Adopted recommendations by the Serbian Public Prosecutor's Office on formation of a special register of criminal offences perpetrated against journalists, media and web sites, and adopted guidelines on priorities in prosecution of such criminal offences.

On 22 December 2015, the Serbian public prosecutor issued Instruction A no. 802/15 on keeping special records in appellate, higher and basic public prosecutors' offices on criminal offences committed against persons performing tasks of public importance in the field of public information, in connection to the tasks that they perform and attacks on media's web pages. These instructions stipulate fast-track proceedings in such cases. The records should contain data on perpetrators of criminal offences, injured parties, criminal offences in question, actions undertaken and prosecutorial and judicial decisions pronounced. Appellate prosecutors' offices are required to submit quarterly reports on data contained in these special records to the Serbian Public Prosecutor's Office.

The Serbian Public Prosecutor's Office is maintaining records pursuant to the said Instruction. The problem herein is the analysis of the results achieved. Namely, the prerequisite for the analysis of the results is the adoption of recommendations by the Serbian Public Prosecutor's Office on formation of a special register of criminal offences. However, much more important is the issue of acting upon this instruction and complying with the provision on fast-track proceedings in such cases. Therefore, as regards the result indicator, this activity has been implemented almost in its entirety.

3.5.1.4 Drafting and signing of an agreement on cooperation between the Serbian Public Prosecutor's Office and the Ministry of Interior stipulating investigations into threats and violence against journalists as a priority with a view to improving efficiency of investigations into attacks on journalists criminal prosecution of perpetrators.

Implementer: Serbian Public Prosecutor's Office and Ministry of Interior

Result indicators:

- ✓ Signed agreement on cooperation whereby efficiency of investigations into attacks on journalists and criminal prosecution of perpetrators are improved.
- ✓ Increased number of actions by the Serbian Public Prosecutor's Office and the Ministry of Interior as part of implementation of the agreement on cooperation, which is conducive to more efficient investigations and indictments against the accused parties.

Serbian Public Prosecutor and the Ministry of Interior signed the agreement on cooperation. The agreement stipulated an obligation for these two bodies to introduce fast-track procedures through their internal acts for criminal cases involving injured parties performing tasks of public importance in the field of public information in connection to the tasks he/she performs. The prosecutor's office adopted the Instruction mentioned above stipulating an obligation of fast-track procedures whereas the Ministry of Interior, according to information in our possession, has not adopted such an act to date.

Moreover, the agreement requires both signing parties to appoint persons for contact and coordination of actions taken in the cases in this field, to keep separate records on these criminal offences; that the Ministry of Interior submit reports on criminal charges brought at the request of the Serbian Public Prosecutor's Office; that the appellate prosecutors' offices submit quarterly reports on actions taken by the competent prosecutors' offices at the request of the Serbian Public Prosecutor's Office. The agreement also stipulates the formation of a standing working group which is to be composed of representatives of the public prosecutor's office and the ministry whose members are to hold quarterly meetings to review the situation in this field and possible need for improvement of the actions to be taken and cooperation.

We tried to find out if the agreement is being implemented and if the provisions contained therein have been enforced, but we did not receive any reply at the time of compiling this report. The agreement overlaps in its many aspects with the Agreement on Cooperation and Measures for Greater Journalist Safety. To illustrate the point, a standing working group has already been established under the Agreement on Cooperation and Measures for Greater Journalist Safety.

This activity may be considered implemented on account of the fact that the agreement has been signed and that some actions have been undertaken by, above all, the Serbian Public Prosecutor's Office with regard to keeping records on offences against journalists, informing the associations about these cases, stipulating fast-track procedure by the Serbian Public Prosecutor's Office, and establishing points of contact and coordination. In respect of the second result indicator, i.e. conducting more efficient investigations and indictments against the accused parties, we are of the opinion that this result indicator has not yet been met since we still have a very large number of pending cases; investigations and pre-investigation proceedings related to criminal offences committed against journalists are protracted; we still have such pending cases as the attempt on the life of Dejan Anastasijević in 2007, the beatings of Davor Pašalić in 2014 and Ivan Ninić in 2015. None of these cases have been solved, including the three journalist murder cases. More attention should be paid to the agreement's implementation and the results which this and other agreements bring about instead of purely formal adoption of such agreements. Bearing in mind all these facts, the assessment would be that this activity has partially implemented.

3.5.1.5 Improve the system of preventive measures undertaken to protect journalists against threats of violence by way of:

- **an analysis of risks to journalists, in cooperation with the representative journalist associations;**
- **continuous monitoring of the situation in print and electronic media for the purpose of assessing the risks threatening journalist safety.**

Implementer: Ministry of Interior

Result indicators:

- ✓ System of preventive measures undertaken to protect journalist against threats of violence is improved in cooperation with representative journalist associations
- ✓ Quarterly reporting on the state of play in print and electronic media with a view to assessing risks threatening journalist safety

It should be noted, above all, that, to our knowledge, no analysis of risks threatening journalists has been conducted in cooperation with the representative journalist associations despite the fact that this analysis pertaining to improvement of the system of preventive measures undertaken to protect journalists from threats of violence has been envisaged. The implementation of this activity should have started as far back as the third quarter of 2016.

On 26 December 2016, the Serbian Public Prosecutor's Office, the Ministry of Interior and 7 journalist and media associations (Journalist Association of Serbia, Independent Journalist Association of Serbia, Independent Journalist Association of Vojvodina, Journalist Association of Vojvodina, Media Association, Association of Online Media and Association of Independent Electronic Media) signed an agreement on cooperation and measures for greater journalist safety.

The agreement was indeed signed, but the question is whether this activity has been successful in terms of the result achieved. Namely, in November 2017, five journalist and media associations (Independent Journalist Association of Serbia, Independent Journalist Association of Vojvodina, Media Association, Association of Online Media and Association of Independent Electronic Media) suspended their participation in the Standing Working Group established under the agreement on cooperation and consisting of all the parties to the agreement. The last report on the Chapter 23 Action Plan implementation¹² noted that the agreement was signed, but there was no mention of other developments related to the Standing Working Group, including the freezing of their status on the group by 5 associations. This very fact should not have been omitted, and in itself it speaks volumes about the efficiency of this agreement's implementation.

The trigger for walking out of the Standing Working Group by the associations was, above all, an explanation of the prosecutor's office on dismissal of criminal charges in a case of an assault on journalists on 31 May 2017.¹³ The associations found the explanation issued by the prosecutor's office contentious. Soon after the assault, the media ran images clearly showing the faces of persons attacking the journalists, but the prosecutor's office stated in its explanation that, according to the witnesses' testimonies, "much worse incidents and 'lynching' would have occurred, and consequently the participants in the gathering would have sustained more serious physical injuries, had the journalists not been taken out of the crowd". The prosecutor's office went on to explain that the persons doing that "were behaving politely, threatening no one, and pleading that provocations should cease".

And yet, this was not the only reason. Over the course of a full year since the signing of the agreement, no major breakthrough has been achieved. As already noted, some steps have been taken – there is better communication in place and information about some cases are easier to come by. However, there is still a backlog of pending cases and the ongoing proceedings are excessively protracted. And yet, these are crucial things as only fast-track processing and meting out punishments to the perpetrators will send a clear message to would-be perpetrators that such a behaviour is unacceptable and punishable by law.

The journalist and media associations, which froze their status on the Standing Working Group as far back as November, sought an appointment with Serbian Public Prosecutor Zagorka Dolovac, but this meeting has not come to pass to date. In the meantime, on 30 December 2017, in relation to the said attack on journalists, the Appellate Prosecutor's Office in Belgrade upheld the complaint filed by one of the injured parties and referred the case back to the Basic Prosecutor's Office.

¹² Chapter 23 Action Plan Implementation Council, Report no. 4/2017 on Chapter 23 Action Plan Implementation, Belgrade, 2018, p. 509. <https://www.mpravde.gov.rs/files/Izve%C5%A1taj%20br.%204-2017%20o%20spro-vo%C4%91enju%20Akcionog%20plana%20za%20Poglavlje%2023.pdf>

¹³ In the course of the ceremony of swearing in Aleksandar Vučić as a new Serbian president on 31 May 2017, six journalists were attacked. According to some of them, the police officers standing nearby did not take any action. The journalists were prevented from doing their job. Physical force was used against some journalists, such as Lidija Valtner, Danas daily journalist, who was literally 'carried away from the scene' by unknown persons. VICE and Insider journalists were threatened, whereas Radio Belgrade and Espresso portal journalists were pushed away.

Despite the fact that no meeting with the Serbian Public Prosecutor did take place, the associations which froze their status were of the opinion that additional efforts should be made to resume the activities of the Standing Working Group and that the agreement itself was important due to, above all, a possibility to cooperate with state institutions through the Standing Working Group. At the associations' initiative, a meeting was held and measures were put forward for improvement of the work of the Standing Working Group, as well as draft Rules of Procedure for the Standing Working Group's proceedings. Satisfaction with the desire and efforts made to resume its work was expressed at this meeting.

Under the Action Plan, the Ministry of Interior should be submitting quarterly reports on the state of play in print and electronic media for the purpose of assessing risks threatening journalist safety. Given that the latest report on the Action Plan's implementation (no. 4-2017) stated that this activity was being successfully implemented, we requested the Ministry of Interior, the implementer of this activity, and the Ministry of Justice, in charge of Chapter 23, to provide insight into these quarterly reports. We received a reply from the Ministry of Justice that it was not in possession of such reports and that it was not collecting the said reports, referring us to the Ministry of Interior and the Chapter 23 Action Plan Implementation Council. The Ministry of Interior informed us that it was submitting the reports to the Ministry of Justice, but that we needed to seek the reports from the Ministry of Justice as it was in charge of the Chapter 23 Action Plan implementation.

Taking into account that the analysis of risks threatening journalists, to our knowledge, has not been conducted and that, with regard to the quarterly reports pertaining to continuous monitoring of the situation in print and electronic media for the purpose of assessing risks threatening journalist safety, we have received conflicting information on whether these reports do exist and who is collecting them, we have no solid evidence that this activity is indeed being implemented.

The agreement signed by media associations is one of the preventive measures intended to protect journalists, but the act itself of signing the agreement has not advanced prevention much, therefore we would qualify this activity as partially implemented. In addition, we must also highlight the fact that, despite stipulation on fast-track procedure in the event of attacks on journalists, we still have an excessively large backlog of pending cases which are languishing in pre-investigation and investigation phases of the proceedings.

III Table Overview*

SOURCE OF ASSESSMENT		COUNCIL'S ASSESSMENT 23	NUNS/AOM ASSESSMENT	COMMENTS AND RECOMMENDATIONS BY NUNS/AOM	DEADLINE
3.5.1.1	Conducting an analysis of relevant provisions contained in the Criminal Code for the purpose of assessing the need for amendments and addenda which would be conducive to a higher level of protection of journalists against threats of violence	Fully implemented	Almost fully implemented	Analysis was carried out; TAIEX report was delivered to the associations in October 2017 with recommendations. Given that the result indicator for this activity is the adoption of the analysis with recommendations, and not compliance with these recommendations, the Council considers this activity to be successfully implemented. However, the problem herein is the fact that none of the recommendations has yet been implemented, hence our view is that it is contentious to consider this activity successfully implemented. Furthermore, the Criminal Code analysis, compiled by the OSCE, is not covered by this reporting period which is yet another fact in support of the argument that this activity has not been successfully implemented within the set deadlines and that there have been major delays of almost nine months in total. The recommendation is to amend the result indicator so that it would not solely be the adoption of the analysis with recommendations, but compliance with and acting upon these recommendations.	III quarter 2016
3.5.1.2	Resumption of the work of the Commission for Reviewing Facts Obtained in Journalist Murder Investigations	Successfully being implemented	Partially implemented	The Commission is submitting reports to competent bodies, along with certain proposals and recommendations. However, the Commission is not receiving feedback from these bodies on their actions in accordance with the recommendations. The recommendation is that competent bodies regularly act upon the commission's recommendations by conducting investigations and bringing indictments.	Continuous
3.5.1.3	Adoption of recommendations by the Serbian Public Prosecutor's Office on formation of a special register of criminal offences perpetrated against journalists, media and web sites, and on priorities in prosecution of such criminal offences.	Fully implemented	Fully implemented	On 22 December 2015, the Serbian public prosecutor issued Instruction A no. 802/15 on keeping special records in prosecutors' offices on criminal offences committed against persons performing tasks of public importance in the field of public information, in connection to the tasks that they perform and attacks on media's web pages. These instructions stipulate fast-track proceedings in such cases. The Serbian Public Prosecutor's Office keeps these records. The result indicator is the adoption of these recommendations, which has been done, but the recommendation here is also to amend it and focus more on the analysis of success in fast-track procedures and compliance with the agreement.	III & IV quarter 2015
3.5.1.4	Drafting and signing of an agreement on cooperation between the Serbian Public Prosecutor's Office and the Ministry of Interior stipulating investigations into threats and violence against journalists as a priority with a view to improving efficiency of investigations into attacks on journalists criminal prosecution of perpetrators.	Fully implemented	Partially implemented	The Serbian Public Prosecutor and the Minister of Interior have signed the agreement on cooperation. These two organs have increased the number of actions taken, but we are of the opinion that this activity has not been fully implemented as there is still a large backlog of pending cases, whilst investigations and pre-investigation proceedings are excessively protracted. The recommendation is to resume implementing the agreement in all its parts.	I-II quarter 2016
3.5.1.5	Improve the system of preventive measures undertaken to protect journalists against threats of violence by way of - an analysis of risks to journalists, in cooperation with the representative journalist associations; - continuous monitoring of the situation in print and electronic media for the purpose of assessing the risks threatening journalist safety.	Successfully being implemented	Partially implemented	Taking into account that the analysis of risks threatening journalists, to our knowledge, has not been conducted and that, with regard to the quarterly reports pertaining to continuous monitoring of the situation in print and electronic media for the purpose of assessing risks threatening journalist safety, we have received conflicting information on whether these reports do exist and who is collecting them, we have no evidence that this activity is indeed being implemented. The agreement with media associations has been signed as one of the preventive measures undertaken to protect journalists. The recommendation is that the Ministry of Interior conduct an analysis of risks threatening journalists.	Continuous, starting as of III quarter 2016

*The marking used is defined by the methodology of the Council for Chapter 23 Action Plan Implementation.

Source of assessment	Fully implemented	Successfully implemented	Successfully being implemented	Partially implemented	Not implemented
Council for Monitoring Chapter 23 AP	3	2	0	0	0
NUNS/AOM	1	0	1	3	0

IV Recommendations

- Amend the result indicator for the activity of conducting analysis of the relevant Criminal Code provisions for the purpose of assessing the need for amendments and addenda which would be conducive to greater journalist protection against threats of violence so that the indicator would not only be the adoption of the analysis with recommendations but also compliance with these recommendations;
- Amend impact indicator 4: Report of the Commission for Reviewing Facts Obtained in Journalist Murder Investigations in a way that would measure the impact of recommendations and proposals adopted and implemented by the competent bodies from the Report of the Commission for Reviewing Facts Obtained in Journalist Murder Investigations;
- Act in accordance with the recommendations provided by TAIEX mission experts and measure the impact of these recommendations' implementation;
- Competent bodies should regularly act in accordance with the recommendations of the Commission for Reviewing Facts Obtained in Journalist Murder Investigations by way of conducting investigations and bringing indictments, and they should measure the impact of the recommendations' implementation;
- Amend and improve the internal act stipulating the creation of a special register of criminal offences committed against journalists, media and web sites, and on priorities in proceedings pertaining to these criminal offences – Instruction A no. 802/15 so that this instruction would be implemented in its entirety;
- Institutions should be transparent in their work and publish the results of analyses of existing and previous activities of the police and prosecutors' offices in cases of attacks against and murders of journalists;
- Ensure full and efficient implementation of the agreement on cooperation and measures for greater journalist safety in all its aspects through establishment of clear procedures, rights and obligations of all those involved in the process;
- Ministry of Interior should conduct an analysis of risks threatening journalists in cooperation with representative journalist associations as stipulated in the Action Plan (3.5.1.5).

INSTITUTIONAL FRAMEWORK FOR MEDIA OPERATIONS

This report is an alternative report on the implementation of Chapter 23 Action Plan (AP 23) in the part pertaining to, and in the part 3.5.2 in particular concerning media legislation and cessation of illicit influence of state organs on the media exerted through allocation of state funds. The said measures are intended: *to review and amend the legislative and institutional framework for the protection of media freedom by implementing the media strategy with a view to appropriately regulating state funding and putting an end to control of media by the state*. This report assesses the impact of about a dozen measures in the field where BIRN has in-depth expertise and developed resources.

BIRN has already submitted the Alternative Report to the European Commission at the time when the Commission was collecting comments on its country Report (Alternative Report¹⁴). BIRN is now presenting the amended version of this previously published report.

The methods used to collect information for the report were as follows: analysis of relevant national and international reports on media freedoms; analysis of media articles; analysis of legal acts and other official documents related to the institutional framework and state financing of media; and gathering of information of public importance.

I Has the desired result been achieved?

RECOMMENDATION FROM THE SCREENING REPORT: review and amend the legislative and institutional framework for the protection of media freedom by implementing the media strategy with a view to appropriately regulating state funding and putting an end to control of media by the state.

RESULT OF RECOMMENDATION'S IMPLEMENTATION: 3.5.2 Improved normative and institutional framework for media freedom protection; implemented full state withdrawal from media ownership.

Impact indicators 1 - 2: Described in the previous chapter of this report.

Impact indicator 3: Periodical reports by the Sector for Public Information and Media of the ministry in charge of public information stating efficient application of the set of media laws.

With the exception of the report available at the web site of the Ministry of Culture and Information in relation to the assessment of projects supported as part of project co-financing by this ministry in 2015, there are no other public documents, nor special reports depicting the extent of efficiency of media laws' implementation. Hence, this indicator cannot be measured.

At the same time, surveys and monitoring of activities carried out by independent media and journalist organisations highlight many problems in the implementation of the laws.

Impact indicators 4 - 5: Described in the previous chapter of this report

II What has been done to achieve the result?

3.5.2.1 – Implementation and efficient supervision of the implementation of the set of media laws and periodical reporting

Implementer: Ministry of Culture and Information

Result indicators: Reports by the Ministry of Culture and Information, available to public, which indicate efficient application of the set of media laws.

¹⁴ <https://kazitrazi.rs/wp-content/uploads/2017/12/Alternativni-izvestaj-poglavlje-23.pdf>

BIRN's conclusion is contrary to the findings of the Negotiating Group overseeing implementation of the Chapter 23 Action Plan within the Ministry of Justice. In the latest monitoring report¹⁵ (4/2017), the Negotiating Group stated that "the activity is successfully being implemented. The Ministry of Culture and Information is regularly submitting quarterly reports to the National Assembly". BIRN could not find any evidence on such activities in the public domain. Such information does not exist on the ministry's official web site, nor on the parliament's official web site.

With the exception of the report¹⁶ which is available on the Ministry of Culture and Information's web site concerning assessment of the projects supported as part of project co-financing by this ministry in 2015, there are no other public documents, nor special reports depicting the extent of efficiency of media laws' implementation. Therefore, the result arising from this measure is lacking.

In addition, there are neither indications, nor public documents which would show that the media laws' implementation was considered at the meetings of the parliamentary committee for culture and information¹⁷ over the course of 2017.

At the same time, surveys and monitoring activities carried out by independent media and journalist organisations highlight many problems with the laws' implementation. Application of provisions contained in the Public Information and Media Act has shown weaknesses with respect to two key novelties introduced by the law in question – new model of public information budget co-financing and privatisation process. Both were originally introduced to curb excessive state influence on the media.

Through intervention in the media sector, instead of support to pluralism, the state has found one the most efficient control mechanisms.¹⁸ **Project co-financing of media content**, the new model introduced by the law, has turned into an efficient 'soft censorship' vehicle. Assessment by the media associations monitoring this process is that around RSD 2 billion is spent from the budget in this manner. In the first quarter of 2018 only, a total of 87 public competitions for project co-financing in the field of public information were announced at the national, provincial and local levels. Total funds designated to be allocated via the public competitions in the said period amounted to 1,039,133,838 dinars (approx. 8.8 million euros), according to NUNS. Except for conspicuously significant sums of money to be disbursed, the whole process of project co-financing is still insufficiently controlled, non-transparent and unfair, thus giving rise in some of its segments to suspicion of corruption. There is no evidence that public information has significantly improved in this manner.

Privatisation process and state withdrawal from media ownership have not fully completed. Leading daily newspapers, Večernje novosti and Politika, are still partly state-owned, whereas Tanjug news agency is operating in a legal void. Out of 73 media companies which used to be state-owned, 50 entered the privatisation process through the Privatisation Agency's portfolio, whilst 23 of them opted for other privatisation models. E.g. some declared bankruptcy and others became joint stock companies. Out of 50 media outlets, only 34 have found new owners. According to BIRN's investigation, 17 of these 34 media have new owners who are known to be affiliated

¹⁵ The report is available at: <https://www.mpravde.gov.rs/files/izve%C5%A1taj%20br.%204-2017%20o%20sprovo%C4%91enju%20Akcionog%20plana%20za%20Poglavlje%2023.pdf>

¹⁶ The report is available at: <http://www.kultura.gov.rs/cyr/konkursi/izvestaji-sektora-za-informisanje-i-medije-o-realizaciji-sufinansiranih-projekata-na-konkursima-iz-oblasti-javnog-informisanja-u-2015--godini>

¹⁷ Agenda and minutes from the 2017 committee meetings are available on the official web site of the National Assembly: <http://www.parlament.gov.rs/aktivnosti/narodna-skupstina/radna-tela/odbori,-pododbori,-radne-grupe.2391.html>

¹⁸ BIRN's investigation of 'soft censorship' is available at: <http://www.balkaninsight.com/en/file/show/SoftCensorship%20Serbia%202015%20update%20final.pdf>

with political parties.¹⁹ The latest Ministry of Economy's data show that out of the total of 73 media outlets which had been state-owned in 2014, 50 media entered the privatisation process which should have been completed in 2015. Thirty-four were privatised at the time, whereas there were no buyers for 16 of them. Out of the media outlets which originally found their buyers, the contracts were subsequently cancelled in 6 cases, whereas insolvency proceedings were initiated for the media outlets without prospective owners.

There are indications that the state will restore its control over some of the previously privatised media. In May 2017, the government passed a regulation effectively reinstating local self-governments' supervision of the privatised media. Under this regulation, local self-government organs may be granted special approvals by the central government to take over managerial control over a media outlet for a six-month period in the course of which they are to prepare it for a new round of privatisation. According to BIRN findings, at present respective local self-governments are taking over RT Kragujevac, TV Blace, TV Pruga and Bačkopalanacki nedeljnik (a local weekly newspaper). The government's regulation does not stipulate what will happen in case the media outlet in question is not privatised within six months. Particularly interesting is the case of Radio Television Kragujevac, a regional media outlet which the local self-government has put up for privatisation, but to date the identity of new buyer has not been revealed to the general public despite all legal deadlines having expired.

3.5.2.2 – 3.5.2.4 Measures pertaining to adoption of the media strategy

Implementer: Ministry of Culture and Information

Result indicator (3.5.2.2): Performed comprehensive impact analysis for the 2011-2016 Public Information System Development Strategy. Identified main obstacles to the strategy's implementation. Established strategic goals which are to be developed in the new strategy. Drafted recommendations for overcoming identified obstacles to the strategy's implementation.

Result indicator (3.5.2.3): Drafted new multi-year Public Information System Development Strategy in accordance with the recommendations from the analysis with a view to ensuring its full implementation with a particular emphasis on: - further strengthening transparency of media ownership - further monitoring of media privatisation effects - prevention of media control due to excessive dependency on state advertising - empowering media pluralism – strengthening media literacy – strengthening self-regulation.

Result indicator (3.5.2.4): Drafted Action Plan for implementation of the new multi-year Public Information System Development Strategy. Confirmed efficient implementation of the Action Plan through monitoring of precise indicators. Publicly available semi-annual reports on implementation of the Action Plan.

The new media strategy should regulate the media sector for the following five years, and it should additionally respond to challenges of new economic, social and technological circumstances in which the media are operating. The strategy should give answers in particular about the position of the state in the media sector which, inter alia, is highlighted by success indicators in this action plan's listed measures. AP stresses reduction of excessive state influence, which may be at odds with the goals of the strategy itself. Namely, an additional reason for concern is that the ministry's officials are announcing that "the state will return to the media in normative and ownership terms, if in the public interest of Serbian citizens".²⁰

¹⁹ See more about media privatisation issues in a joint investigation by BIRN and Reporters without Borders on media ownership at: <http://serbia.mom-rsf.org/en/findings/indicators/>

²⁰ See the interview with the state secretary of the Ministry of Culture and Information, Aleksandar Gajović, for more details at: https://www.youtube.com/watch?v=k-OxTe9m_wg

Drafting of the media strategy has not been completed, despite ministry's announcements that the document was being finalised. The working group has completed its job, and now everybody is waiting for the public discussion to start. Hence, the AP measure has not been implemented, as stated by the Council for AP 23 implementation. This was also reiterated by the European Commission in its latest 2017 Country Report,²¹ calling at the same time for strategy to be adopted in an inclusive procedure. Representative media and journalist associations have already brought such an attitude towards the new strategic document into question given that they withdrew their members from the working group earlier and now they are stressing that the document will lack legitimacy without their participation.²²

Let us remind ourselves that, from the very beginning, the work of the working group was plagued by various controversies coming to a head when four members suspended their participation (Dejan Nikolić, independent expert; Nedim Sejdinović in his capacity as the representative of five media organisations; Ljiljana Smajlović on behalf of the Journalist Association of Serbia and the representative of the Media Association, Dalila Ljubičić). Former members of the working group claimed that the methodology of work defined by the ministry was inefficient, and that it could not produce a strategic document which would be supported by the entire community of media professionals.

3.5.2.5 - 3.5.2.6 Activities pertaining to the establishment of an efficient, comprehensive and transparent Media Register and regular updating of data

Implementer: Ministry of Culture and Information

Result indicators (3.5.2.5): Established and operational efficient, comprehensive and transparent Media Register. Data on media ownership structure in the Register are regularly updated.

Result indicators (3.5.2.6): Regular collection of data from the Business Registers Agency with respect to changes in the Register. Sanctioning failures to report all the data on media ownership structure in accordance with the Public Information and Media Act.

The Media Register was set up with a basic idea to serve as a control mechanism allowing all interested parties and the public at large to gain insight into ownership structure of every media outlet, as well as sources of funding from state entities, since such an insight into both types of data significantly influences public understanding of the editorial policy of a given media outlet. Whilst the latest report²³ by the Council for AP monitoring claims that both measures have been successfully implemented, BIRN's investigation shows that there are many problems in practice. Some of the problems are as follows: the register is not set up in such a way to facilitate presentation about ownership structure and state funding for an average media consumer; it is impossible to determine if the Register is updated or not, nor how reliable and accurate the information about a given media outlet is, and there is no legal obligation to ensure that the information in the Register is updated; the Media Register has imported data from the Register of Public Media (RJG), but there is no information if all the media from RJG database still do exist; representation of data is not regulated, which gives the Register excessive leeway to decide which types of data about the media will be made available. A review of available data in the Media Register shows that it only partially performs its role, and that the results stipulated by measures 3.5.2.5 and 3.5.2.6 have not been achieved.

²¹ The Commission's report in English is available at:

<https://europa.rs/tag/european-commissions-annual-report-on-serbia-2018/?lang=en>

²² Press release by media and journalist associations is available at:

<https://www.danas.rs/drustvo/mediji-muke-po-strategiji/>

²³ Report is available at: <https://www.mpravde.gov.rs/files/izve%C5%A1taj%20br.%204-2017%20o%20spрово%C4%91enju%20akcionog%20plana%20za%20Poglavlje%2023.pdf>

BIRN has drafted a practical policy proposal for improvement of the Register's functionality.²⁴ The proposal has been submitted to the competent ministry and made available to other interested parties. In addition, there is no a document specifying that the Ministry of Culture and Information has performed a review or an assessment of the functioning of the Register.

3.5.2.10 – Efficient monitoring of functioning of the system of media project co-financing from the budget and/or public resources in accordance with the new rules on media project financing.

Implementer: Ministry of Culture and Information, Provincial Secretariat for Culture and Information, local self-government units

Result indicators: Established efficient mechanisms for monitoring of the functioning of the system of media project co-financing from the budget and/or public resources in accordance with the new rules on media project financing through: - introduction of an obligation for a public authority to regularly report on co-financing of media projects and their efficient implementation; - analysis by a public authority on the quality of supported projects conducted on the basis of beneficiaries' reports on expenditure.

The system of media project co-financing was ushered in, as one of the key novelties, by the Public Information and Media Act. As of 2015, the co-financing system is functioning as the most important mechanism for media funding, particularly the local ones struggling for survival on an impoverished and undeveloped market. The advertising market is worth on average about EUR 160-170 million which is not enough for commercially viable survival of over 2,000 media outlets in the Media Register. This is why the state is making interventions in the media sector, and its financial interventions boil down to media contents in the public interest. The system of public competitions is designated for allocation of state budget funding at national, provincial and local levels, and is intended to support the best media projects and improve media production quality.

In the fourth consecutive year since its inception, state organs are still poorly supervising the media project co-financing system which is failing to achieve the results as defined in the measure 3.5.2.10 AP 23.

BIRN's investigation shows that institutions are sufficiently transparent in terms of how they inform the general public about the way in which the money earmarked for public media competitions is spent. Transparency index shows that the institutions score 37% on average out of a maximum of 100%.²⁵

Lack of transparency is just one of the identified problems, also highlighted by civil society organisations which are monitoring this budget funding system. In addition, the legal framework for public co-financing competitions does not feature an obligation to evaluate what has been achieved (if the content for which the money was allocated has been produced and of what quality); there are no criteria in place for appointment of public competition commission members, nor are there rules of procedure; there are no sanctions for violations of the law. The shortcomings listed above are precisely the most 'vulnerable' aspects to the entire process which allow for allocation of funds in competitions without fulfilling the public interest.

²⁴ The document is available at:

<https://kazitrasi.rs/wp-content/uploads/2017/11/TRANSPARENTNOST-PODATAKA-DRZAVNA-POTROSNIJA.pdf>

²⁵ See more information at:

<https://kazitrasi.rs/javnost-nedovoljno-obavestena-o-tome-kako-se-trosi-budzetski-novac-za-medije/>

With the exception of a single report²⁶ and evaluation of projects supported by the Ministry of Culture and Information in 2015, there are no other documents showing that any other state organ has made public such a type of report.

Partial monitoring of the project co-financing system has been performed by independent media and journalist organisations which have recorded many problems in its implementation, as well as grave abuses of this financing model. The database which the organisations have made available online (sufinansiranjemedija.rs) is functioning at present as the only, publicly available, centralised place providing insight into public competitions, decisions made, composition of commissions, etc.

3.5.2.23 – Ensure equal treatment of all the media with a tax debtor status, i.e. with which agreements on tax debt reprogramming are signed

Implementer: Ministry of Finance, Tax Administration

Result indicator: Ensured equal treatment in practice of all the media with a tax debtor status, i.e. with which agreements on tax debt reprogramming are signed.

The latest report by the Council for monitoring AP23 implementation specifies that 'the activity is successfully being implemented', going on to say that 'the Tax Administration is taking measures for regular and forced collection of tax debt, pursuant to the legal requirements, vis-à-vis all taxpayers with the status of a tax debtor, including the media'. However, the actual state of play paints a completely different picture. Manipulations with the status of a tax debtor are used as yet another way to exert influence on the media, hence there is no equal treatment of all the media, as stipulated in AP23, which opens up possibilities for many abuses in practice.

The case of 'Pink International Company', the owner of TV Pink, a media outlets which is strongly supporting the current government, went public when it was revealed²⁷ that the company had received from AOFI state agency (Serbian Export Credit and Insurance Agency) EUR 7 million in tax credit, although at the time this company was among the biggest tax debtors in the country. This company was allowed to reprogramme its tax debt totalling several hundred millions of dinars despite being at times being late with instalment repayments.

At the other side of the spectrum, Južne vesti, a web portal from Niš with an editorial policy featuring a critical stance with regard to the current authorities, is undergoing a series of tax controls interfering with this media outlet's operation. Journalist associations have turned to the public, issuing a press release (and sending an open letter to PM Ana Brnabić) on account of ever increasing tax controls (in the past 5 years, tax inspectors have visited this Niš-based web portal another 3 times). The employees are convinced that frequent controls interfering with their work are, in fact, a retaliation by the local authorities for critical reporting.²⁸

A drastic example is the shutdown of the influential local political weekly magazine Vranjske from Vranje which was forced to cease publishing in the wake of numerous and financially sapping tax inspections that were, according to the weekly owner Vukašin Obradović, politically motivated²⁹ due to the critical editorial policy regarding local and central governments.

²⁶ The report is available at: <http://www.kultura.gov.rs/cyr/konkursi/izvestaji-sektora-za-informisanje-i-medije-o-realizaciji-sufinansiranih-projekata-na-konkursima-iz-oblasti-javnog-informisanja-u-2015-godini>

²⁷ The investigation conducted by the Serbian Centre for Investigative Journalism is available at: https://www.cins.rs/srpski/research_stories/article/pink-dobio-najmanje-sedam-miliona-evra-kredita-od-drzave

²⁸ See news item at: <https://www.juznevesti.com/Drushtvo/Direktor-niske-Poreske-uprave-pozvao-vlasnika-Juznih-ves-ti-na-razgovor-o-kontroli.sr.html>

²⁹ The interview with Vukašin Obradović is available at: <https://www.glasamerike.net/a/ugasene-vranjske/4037384.html>

III Table Overview

SOURCE OF ASSESSMENT		COUNCIL'S ASSESSMENT 23	BIRN'S ASSESSMENT	BIRN'S COMMENTS AND RECOMMENDATIONS	DEADLINE
3.5.2.1	Implementation and efficient supervision of the implementation of the set of media laws and periodical reporting	Successfully being implemented	Not implemented	Success indicator for implementation is related to transparency of the Ministry of Culture and Information's reports, i.e. whether the reports monitoring the laws' implementation are accessible to the public. As BIRN has not found a single piece of evidence for this increased transparency, the assessment is that the activity is not implemented although the strategy adoption is running late.	Continuous
3.5.2.2 3.5.2.4	Three activities related to the adoption of the media strategy	Not implemented	Not implemented	Even though the strategy adoption is late for over a year up to the point of writing this report, it has not been presented to the public to date.	2016 for strategy adoption; continuous for monitoring of AP implementation
3.5.2.5 3.5.2.6	Established and operational efficient, comprehensive and transparent Media Register and its regular updating	Successfully being implemented	Partially implemented	Media Register was set up following the adoption of the Public Information and Media Act pursuant to the Rules of Procedure. Business Registers Agency is maintaining this register. The activity is marked as partially implemented as the review and analysis of data are not user friendly; the data are not complete, nor updated (many state-run entities are not reporting data on their spending in the media sector despite this being a legal obligation). The recommendation is to improve the Register.	Continuous
3.5.2.10	Efficient monitoring of functioning of the system of media project co-financing from the budget and/or public resources in accordance with the new rules on media project financing	Successfully being implemented	Not implemented	Measure of success for this activity in AP is defined as 'introduction of obligation for a public authority to regularly report on media project co-financing and its efficient implementation'. As such reports are not mandatory (the novelty introduced by the latest changes to the Rules on Project Co-financing), and for the most part they have not been compiled, nor made available to the public, the activity is effectively contrary to the intentions embodied in AP23. BIRN's recommendation is to introduce mandatory evaluation, along with increasing transparency and control of the entire process.	Continuous
3.5.2.23	Ensure equal treatment of all the media with a tax debtor status, i.e. with which agreements on tax debt reprogramming are signed	Successfully being implemented	Not implemented	Actual state of play shows that there is no equal treatment in place of all tax debtors so that BIRN's assessment is that this activity has not been implemented. Such a treatment is perceived as yet another form of administrative harassment of media. BIRN's recommendation is strict implementation of the law and greater transparency in the work of the Tax Administration.	Continuous

Source of assessment	Fully implemented	Successfully being implemented	Almost fully implemented	Partially implemented	Not implemented
Council for Monitoring Chapter 23 AP	0	5	0	0	3
BIRN	0	0	0	3	5

IV Recommendations

- Modify activities and result indicators for AP23 so that the adoption of a document (e.g. adoption of the media strategy) cannot be a goal unto itself. Success indicators should be used to measure efficiency of public policies and impact on reform processes in the media sector.
- Media strategy should set, as one of its key goals, reduction in excessive state influence exerted in the media sector so that these two strategic documents would not be on a collision course with each other.
- Following the adoption of the strategy, laws and by-laws which would further regulate allocation of state resources and its financial interventions should be amended. Amendments to the law should go for introduction of greater transparency, control and equal access for all interested media.
- As already stated in AP23, state organs and institutions should regularly inform the public at large about their respective activities concerning monitoring of fulfilment of legal requirements. Parallel to this, control mechanisms of the institutions themselves need to be strengthened.
- Previous recommendation particularly concerns the control over media project co-financing, which is the most important state funding mechanism for the media and which should be improved through the legislative framework and implementation and introduction of good practices.
- Improve the Media Register so that it could fulfil its primary purpose – that of a tool for increasing transparency on ownership data and media cash flows. More centralised and more advanced presentation/layout of data in the following categories: data on state aid giver or contracting authority in public procurement procedures; data on state aid beneficiaries; legal grounds for decisions to allocate state aid or decisions to award contracts; amount of state aid allocated or value of the contracts awarded in public procurement procedures; sources of financing (specific budget line from which state aid is disbursed or public procurement financed); etc.
- Prescribe sanctions to resolve the issue of unequal application of the law or for infringements of the law.