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SPOT REPORT

BiH Media and Media Regulators Under Pressure

2010 is an election year in Bosnia and Herzegovina (BiH) and a decisive year for the country's future in Europe. Free and fair elections are at the core of the OSCE's values. However, possessing the technical capability to conduct and administer elections is not sufficient. Central to the democratic process is the role that media play. Only voters who have unfettered access to information are able to make their choices freely. In this light, BiH citizens should enjoy access to a free press and quality information on a diverse range of political options. The OSCE is mandated by the Dayton Peace Accords to play a major role in creating and developing a stable, peaceful, democratic and self-sustaining BiH. As part of this mandate, the OSCE Mission to BiH has paid particular attention to the independence of BiH media, as well as the establishment of functional media regulators.

Monitoring the latest trends, the Mission is deeply concerned to note that political pressure on media outlets and agencies is on the increase. We have identified worrying developments in four areas. **First**, a number of recent dismissals within media outlets give the impression that the way in which the media are managed remains vulnerable to political interference. **Second**, continuing disagreements on the workings of and appointments in the Communications Regulatory Agency are undermining its independence. **Third**, state-of-the-art legislation regulating the media is currently lacking implementation. **Fourth**, reports of threats and physical assaults on journalists are on the rise but they are increasingly treated as occurrences deserving little reaction.

Management of the media

The circumstances surrounding a number of recent high-profile resignations continue to cast doubt on the degree to which public broadcasters are shielded from political pressure. Mehmed Agovic, General Director of state public broadcaster Radiotelevizija Bosne i Hercegovine (BHT1), was removed from his position in December. As Mr Agovic had to be reinstated by a court decision following a prior dismissal, concerns persist over his discharge. The debate surrounding the removal of Duska Jurisic in January as Editor-in-Chief of political programming at Federal Television (FTV) has raised similar concerns.

In addition, a political climate continues to take hold in which any and every issue can seemingly be politicised. The most recent example concerns the publicly stated refusal of Republika Srpska Radio Television (RTRS) to pay a fine imposed by the Communications Regulatory Agency (CRA) following unauthorized broadcasting on a digital channel. Although the rules to be followed are clear

in such regulatory cases, politicians called into question the CRA's independence in reaching its decision.

Communications Regulatory Agency

The CRA increasingly faces difficulties that limit its ability to conduct its work properly. For over two years, the Agency has had to function without a confirmed Director General at its helm. The Law on Communications leaves the election of a Director General solely to the CRA Council. This was disregarded by the Council of Ministers in 2008 when it refused to endorse the CRA Council's candidate. Ever since, political leaders have openly speculated on the viability of candidates based on their ethnic and political affiliation.

Interference of this kind also threatens to affect the appointment procedure of CRA Council members. In a letter on 22 December 2009, the OSCE, the European Commission and the Office of the High Representative (OHR) reminded the Council of Ministers that the decision to appoint candidates to the CRA Council should be done "exclusively on considerations based on their integrity, knowledge and professional merit", as stipulated in the Law on Communications. Yet, the Council of Ministers has continued to insist that the Ministry of Communications prepare an instruction introducing ethnic and territorial considerations into how the CRA Council should be composed.

This instruction is now ready, though the Ministry has failed to inform stakeholders such as the public or even the CRA of its contents. Such undertakings give the impression that the Council of Ministers is effectively seeking draft changes to the Law on Communications that threaten to put the CRA under direct supervision of the government. This process should be closely monitored to ensure that the CRA's core independence is sustained. It needs to be emphasised that the creation of the CRA has so far been one of this country's most significant institutional successes: having an independent and capable regulatory body for the broadcast media is essential in every functioning democracy.

Legislative framework of the media

Despite the fact that much of BiH's media legislation conforms to best practices in Europe, implementation of these laws has generally stalled. For example, in a letter on 18 February 2010 the European Broadcasting Union draws attention to the obstruction that is continuing to hold back implementation of the 2006 Public Broadcasting Service Law, despite the fact that, in a multinational society such as BiH, a functioning media framework plays a crucial role in advancing democratic standards. This is particularly the case for the public service broadcasting system which is currently characterised by fragmentation and politicisation.

Laws relating to public service broadcasting played a prominent role as conditions for the signing of the EU Stabilisation and Association Agreement. In this light, we are particularly concerned at attempts to scale back this legislation by calling into doubt its functionality. Media reform should only be pursued with a proper legal and institutional basis in mind, and any framework needs time to

demonstrate its usefulness. Much of BiH's originally adopted media legislation was drafted with the help of the OSCE, the OHR and the Council of Europe, and is designed to meet European standards. We caution against a premature assessment of the current framework and rashly adopting new laws.

Journalists under attack

Journalists continue to be the victims of direct violence, and their legal as well as physical security is also under threat. In 2009, the Free Media Help Line (a special service for the protection of journalists run by the BiH Journalists Association) registered over forty cases of violations of journalists' rights and media freedoms. Key media organisations and watchdogs of the BiH media landscape (including the Journalists Association, the CRA, Media Centre Sarajevo, the public media Ombudsman and the Press Council) all report a rise in the number of verbal and physical assaults and even death threats directed at journalists over the last few months, and have expressed alarm at this development.

This is of growing concern as elections approach and political parties start campaigning. Free and fair elections can only be ensured when free press and speech are guaranteed. In this light, we are particularly worried to observe that the attacks on their journalists are provoking little reaction among BiH citizens. An environment in which threats to freedom of speech are considered commonplace is one in which silence can and will be interpreted as licence. Such a culture of indifference can only be countered by strong reactions on the part of the international community whenever such attacks occur.

Recommendations

We suggest increased pressure to speed up the implementation of existing media laws. The introduction of reports, by either international community actors or the media regulators, measuring BiH's alignment with EU and OSCE standards could be useful in building pressure for media reform.

We also recommend more focus on whether structural constraints exist that impede a politically independent public service broadcasting system from taking root. For example, the link between political influence and the fact that broadcasters depend, to a larger or lesser degree, on public financing is a topic that could be explored. Possible remedies include promoting privatisation, centralising licence fee collection and establishing distribution according to a legally-prescribed system, or investigating how advertising revenues can be more equally shared.

Lastly, the Mission will request the assistance of the OSCE Representative on Freedom of the Media to launch a number of corrective measures to address the current situation in which de facto limitations on the freedom of speech and media are believed to exist. We recommend that the PIC Steering Board, the international community and domestic civil society actors equally consider tackling media-related matters as a priority to prevent deterioration of the situation in the run-up to the elections.