



Weekly Briefing

**Serbia political briefing:
Media Laws Amended
Ivona Ladjevac**

China-CEE Institute

Kiadó: Kína-KKE Intézet Nonprofit Kft.

Szerkesztésért felelős személy: Ju Weiwei

Kiadásért felelős személy: Feng Zhongping



1052 Budapest Petőfi Sándor utca 11.



+36 1 5858 690



office@china-cee.eu



china-cee.eu

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Summary

At the Second Regular Session of the National Assembly of the Republic of Serbia in 2023, held on October 26, 2023, the Law on Public Information and Media and the Law on Electronic Media were adopted. Logically, an observer could think that the adoption of these laws is an important step towards the further improvement of the media scene in Serbia, the further implementation of the Strategy for the Development of the Public Information System in the Republic of Serbia for the period 2020 – 2025 and also step closer to the European Union, but those who are involved react different. Main objections are that two newly adopted laws contribute to expanding the state's influence on the media and making the role of regulatory bodies meaningless. From the other hand, Government itself as pro-Governmental medias assessed them positive.

Introduction

At the beginning of 2020, Government of the Republic of Serbia had adopted the Strategy for the development of the public information system in the Republic of Serbia for the period 2020-2025.¹

General goal of the Strategy was to improve the public information system through harmonized positive legal framework that guarantees freedom of expression, freedom of the media, safety of journalists, media pluralism, a developed media market, a strengthened journalistic profession, and achieving educated citizenry and institutions capable of implementing regulations. From the other hand, One of the main goals of the Media Strategy is the establishment of a functional, sustainable and fair media market free from political influence. The process of competitive co-financing of public interest in the sphere of public information is more or less transparent, so basic information about it can be obtained by accessing the Media Register, and on the portals of independent research centers, as well as (mostly) on the websites of government bodies - other state grants in the media sphere they are

¹ “Strategija razvoja sistema javnog informisanja u Republici Srbiji za period 2020–2025. godine”, Ministarstvo kulture Republike Srbije, “Službeni glasnik RS“, broj 11 od 7. februara 2020.

completely invisible to citizens and researchers, and they are extremely important in order to understand the media scene and its appearances, but also in order to take the first step towards the desired fair and non-discriminatory media market. One of the measures within the implementation of the Media Strategy is the entry into the Media Register of all relevant information related to the allocation of state money to media publishers. Besides general and the main, Strategy had specific goals among which were: improved safety, socio-economic and professional conditions for the work of journalists and media workers; established functional, sustainable and fair media market protected from political influence; functional, competent, professional and open institutions have protection mechanisms against external pressures and consistently apply public policies and regulations and increased objectivity and diversity of sources and media content in the media in the languages of national minorities.

One of the special goals of the Strategy is the establishment of an environment in which quality, plural and diverse media content that meets the needs of the most diverse social groups will dominate. One of the measures that should contribute to the stated goal is a stronger role of the Press Council, i.e. self-regulation in the competitive co-financing process. Namely, print and online media are obliged, if they want to apply for state money, to accept the jurisdiction of this body. The vast majority of respondents (89.5%) fully agree that media that regularly violate the Code of Journalists of Serbia should not receive citizens' money that is awarded for public interest in the media sphere.

Until the end of the year the Action Plan for the implementation of the Strategy of the development of information system was adopted too, but only for the period from 2020 until 2022.² Although the Action Plan envisaged the amendment of 13 laws, from December of 2020 to October 2023, only the Law on Free Access to Information of Public Importance was adopted.³

Despite the fact that working groups whose task was to prepare amendments to the law were formed, the implementation of the Strategy and the Action Plan was both slow and

² “Akcionni plan za sprovođenje strategije razvoja sistema javnog informisanja u Republici Srbiji za period 2020–2025. godine, u periodu 2020-2022. godine”, <https://www.kultura.gov.rs/tekst/sr/5745/akcionni-plan-za-sprovođenje-strategije-razvoja-sistema-javnog-informisanja-u-republici-srbiji-za-period-2020-2025-godina.php>, accessed on: 25/11/2023.

³ “Zakon o slobodnom pristupu informacijama od javnog značaja”, “Sl. glasnik RS”, br. 120/2004, 54/2007, 104/2009, 36/2010 i 105/2021, https://www.paragraf.rs/propisi/zakon_o_slobodnom_pristupu_informacijama_od_javnog_znacaja.html, accessed on: 25/11/2023.

inconsistent.⁴ Partly it was caused by political situation, elections held in April 2022 and late composition of the Government. The overall situation in media sphere was criticized by independent media and the European Union which annual reports were addressing this area as mainly unfavorable and not in compliance with the EU regulations. Nevertheless, two months prior to the end of 2023, two media laws finally were adopted in the Serbian Parliament.

The Law on Public Information and Media and the Law on Electronic Media between praise and critics

On October 26, 2023, the National Assembly of the Republic of Serbia passed and adopted amendments on two media laws: the Law on Public Information and Media⁵ and the Law on Electronic Media⁶. Serbian Government assessed the adoption of these laws as an important step towards the further improvement of the media scene in Serbia, as well as the further implementation of the Strategy for the Development of the Public Information System in the Republic of Serbia for the period 2020 - 2025. The Government announcement stated that laws guarantee freedom of thought and expression and freedom of the media in accordance with the highest international standards of the countries of the European Union and documents of the United Nations and the Council of Europe, but also with the standards derived from the practice of the European Court of Human Rights.⁷

The Ministry of Information and Telecommunications expressed gratitude everyone who participated in the drafting of these two laws, including media and journalists' association, but also the international partners likewise the Delegation of the European Union to the Republic

⁴ The last working group, composed of representatives of media and journalistic associations that in the previous period participated in the creation of the Media Strategy and representatives of competent state authorities, was formed in December 2022 and actually prepared drafts of two laws adopted in October 2023. "Nova radna grupa za strategiju razvoja sistema javnog informisanja", Cenzolovka, 22. decembar 2022, <https://www.cenzolovka.rs/drzava-i-mediji/nova-radna-grupa-za-strategiju-razvoja-sistema-javnog-informisanja/>, accessed on: 25/11/2023.

⁵ "Zakon o javnom informisanju i medijima", "Sl. glasnik RS", br. 92/2023, https://www.paragraf.rs/propisi/zakon_o_javnom_informisanju_i_medijima.html, accessed on: 25/11/2023.

⁶ "Zakon o elektronskim medijima", "Sl. glasnik RS", br. 92/2023, https://www.paragraf.rs/propisi/zakon_o_elektronskim_medijima.html, accessed on: 25/11/2023.

⁷ "Vlada Srbije usvojila predloge dva zakona o medijima", Radio slobodna Evropa, 20. listopad 2023, <https://www.slobodnaevropa.org/a/srbija-vlada-mediji-zakoni/32646813.html>, accessed on: 25/11/2023.

of Serbia, the OSCE Mission in Serbia, the Embassy of the Kingdom of Norway and the Konrad Adenauer Foundation.⁸

From Government's stance, with the Law on Public Information and Media, the public interest in the field of public information is more fully defined and the project co-financing procedure is in detail regulated. At the same time, the work of media publishers whose founders are councils of national minorities is more closely regulated.

With the Law, the establishment of a Unified Information System for the implementation and monitoring of co-financing of projects in the field of public information also is planned. This is expected to affect the transparency of this process. In addition to the existing Register of Media, the draft law establishes the Registry of Media Content Producers. Likewise, the self-regulatory body Press Council is defined in the law for the first time. Regarding the amendments to the Law on Public Information and Media, the differences in interpretation of provisions related to the authority of the Press Council in the process of allocating budget funds to media outlets and provisions determining who can be a media publisher represent central points of contention between some media organizations and government representatives.

According to the disputed provision, the publisher of media cannot be the Governmental bodies but it can be a legal entity in public ownership, provided it does not receive state aid or engage in activities of general interest.⁹

The Law on public information and media also provides labor protection to journalists, in accordance with the regulations in the field of labor law, which strengthens the basis for protecting professional journalistic integrity from abuse of the law and harassment, in order to prevent freedom of public information.¹⁰

Further, the Law on Electronic Media, in addition to harmonization with the revised Directive on Audiovisual Media Services from 2018 and the fulfillment of pre-accession obligations from Chapter 10, creates prerequisites for achieving greater independence and professionalism of the Regulatory Body for Electronic Media (REM), and thus better regulation of the market electronic media. The organizational, functional and financial independence of the Regulatory Body for Electronic Media was strengthened, its professionalism improved, as

⁸ "Usvojeni novi medijski zakoni", Ministarstvo informisanja i telekomunikacija, 26. oktobar 2023, <https://mit.gov.rs/vest/sr/2917/usvojeni-novi-medijski-zakoni-.php>, accessed on: 25/11/2023.

⁹ Journalist associations see this as an indirect return of media ownership to the state.

¹⁰ "Usvojeni novi medijski zakoni", op. cit.

well as its responsibility towards the public. The Law stipulates establishment of new bodies: the Council - the decision-making body, and the director - the representative body, as well as certain clear criteria for the selection of Council members, which are much stricter compared to the previous law.¹¹

Unlike the Government, Serbian journalist associations didn't welcome two amended laws. Their main objections arose because of the expansion of the state's influence on the media and the meaningless of the role of regulatory bodies.

The announcement of the Independent Association of Journalists of Serbia (NUNS) states that a prior to this previous Law on Public Information was fully aligned with the Strategy for the Development of the Public Information System for the period 2020-2025.¹² The disputed articles of the new Law on Public Information and Media, Articles 39 and 41, legalize the return of state ownership to the media, which contradicts the goals and measures of the Media Strategy, and prevent the creation of a functional, sustainable and fair media market protected from political influence. These two articles that the government did not want to give up, cancel many good solutions and improvements that the new media laws bring and can be disastrous for the media market and freedom of expression. The association emphasizes that from the first indication of the return of state ownership in the media, the Coalition for Media Freedom, of which NUNS is a member, harshly and uncompromisingly criticized the government's intention and urged it to remain committed to the measures and goals from the Media Strategy, adopted at the session of the Government of Serbia in January 2020.¹³ There are experts who think that the Law on Public Information and Media, adopted by the Government of Serbia, is the first openly revisionist law, which, by returning the state to media ownership, simultaneously opposes European standards and after 25 years returns to the starting point of the transition.

The new law on public information enables Telekom, which is majority-owned by the state, to establish media through other companies, which is contrary to the current media strategy, according to which the state cannot directly or indirectly own the media. The new Law on Electronic Media also stipulates that the REM Council will continue its work in its current composition for another year.

¹¹ Op.cit.

¹² "Režimska strategija kontrole medijskog tržišta", Vreme, 23. oktobar 2023, <https://www.vreme.com/vesti/rezimska-strategija-kontrole-mediskog-trzista/>, accessed on: 25/11/2023.

¹³ Ibidem.

That the latest changes to the media laws in Serbia contradict the standards and practices of the European Union, also thinks some foreign experts, likewise Marko Milosavljevic, professor and head of the Department of Communication at the University of Ljubljana.¹⁴ He noted that it is inappropriate to European standards for the state to establish the prices and conditions under which private television programs will be distributed as part of cable operators' offers. "In Europe, there is an informal rule that the first place in the offer of cable operators are public services, but then the schedule of private channels is a matter of agreement and is not defined in the laws and rules of the European Commission. In a world where there are hundreds of channels, the state cannot define which channel will be on cable television," he said.¹⁵ According to him, the relationship between the telecommunications operator and private television stations should be the relationship of two companies, which themselves regulate mutual relations.

The partner organisations of the Media Freedom Rapid Response (MFRR) also raise the alarm about two draft media laws brought forward by the Serbian government for their lack of compliance with international freedom of expression standards.¹⁶ According to them, the Law on Public Information and Media and the Law on Electronic Media, developed by the Ministry of Information and Telecommunications, propose a framework that would block the reform of the Regulatory Body for Electronic Media (REM) and pave the way for a return to full state ownership of private media, including Telekom Srbija.

Further, the Law on Electronic Media does not foresee the election of new REM Council members an year after the adoption of the new law, despite the fact that the draft law prescribes completely new criteria for their election, as well as authorized proposers, as is foreseen in the Media Strategy adopted by the Government of the Republic of Serbia. The REM has faced both domestic and international criticism for its lack of independence and politically-motivated decision-making processes.¹⁷ There has also been widespread criticism about how members of the REM are appointed. Proposed changes which would oblige the Council of REM to adopt

¹⁴ Professor: Changes to media laws in Serbia are not in line with European standards, N1 Belgrade, 14. October 2023, <https://n1info.rs/english/news/professor-changes-to-media-laws-in-serbia-are-not-in-line-with-european-standards/>, accessed on: 25/11/2023.

¹⁵ Ibidem.

¹⁶ Serbia: New draft media laws represent another step backward for media freedom, Osservatorio Balcanica, 10. October 2023, <https://www.balcanicaucaso.org/eng/Areas/Serbia/Serbia-New-draft-media-laws-represent-another-step-backward-for-media-freedom>, accessed on: 25/11/2023.

¹⁷ Serbia: REM's awarding of TV licences underscores media pluralism and media diversity failure, Media freedom rapid response, <https://www.mfrr.eu/serbia-rems-awarding-of-tv-licences-underscores-media-pluralism-and-media-diversity-failure/>, accessed on: 25/11/2023.

the Code of Labour – a shift which would better regulate the ethics of its members – have also been disregarded. If passed, this proposal would solidify political control over REM and block much needed reforms to strengthen the regulator’s independence.

It is observed that the Law on Public Information and Media fails to establish legal provisions that would ensure that all media must meet ethical standards to receive public co-financing funding. Under the previous draft, sanctions issued by the Press Council could see media fail to receive public money from co-financing funding for public interest content. However, new rules provide a loophole for print and online media outlets which have not accepted the competence of the Press Council. For those media, such criteria would not apply, meaning they can continue to violate professional standards with impunity and still receive public funding.

From its stance, the European Union, i.e. the European Commission, in its report on Serbia for 2023 praises the measures envisaged to strengthen the independence of the Regulatory Body for Electronic Media and other legal solutions, but also notes that the legislative process has not been completed in full accordance with the *acquis* of the European Union and European standards.¹⁸

This topic was dealt with in the section “Freedom of expression”, for which Serbia received the grade “limited progress”. In this section, in addition to legal changes, the intimidation of journalists, the work of institutions in charge of the media, the work of the public service and economic factors that affect the work of the media are monitored.

The Report states that public discussions on the drafts of two media laws - the Law on Public Information and Media and the Law on Public Media Services - were launched in September 2023. After a public debate, consultation with media associations and, according to the report, hasty consultations with the European Commission, amendments to these two laws were adopted in October 2023, before the dissolution of parliament.

Overall, the report states that the new laws will strengthen the independence of the Regulatory Body for Electronic Media and strengthen its powers to deal with threats to media pluralism. The process of nominating REM Council members is depoliticized, while steps have been taken to protect the rights of persons with disabilities, minors and national minorities. The

¹⁸ Serbia Report 2023, Directorate-General for Neighbourhood and Enlargement Negotiations, European Commission, 8 November 2023, https://neighbourhood-enlargement.ec.europa.eu/serbia-report-2023_en, accessed on: 25/11/2023.

authorities and media associations also reached an agreement on the role of the Press Council, while steps were taken to make public co-financing of the media more transparent and accessible.¹⁹

In the context of the elections, it is further stated, the ban on media monitoring of officials who are simultaneously candidates and who participate in official gatherings organized for the purpose of opening infrastructure and other projects has been extended to 30 days, which is an improvement compared to the situation prior to the law adoption. However, the legislative process has not been completed in full compliance with the *acquis* of the European Union and European standards. That is why media ownership by state-owned enterprises was a prominent topic of discussion, but evidently it didn't bring desirable outcome.

It is also added that an important step has been taken when it comes to the application of criteria harmonized with the legal *acquis* on the EU to the assessment of state aid, while it should be clarified that the measures for the control of trusts and mergers also apply to the media sector, and the measures to protect media pluralism and editorial independence still needs to be improved. The application of these protection measures will have to be strictly monitored in practice, it concludes.

Conclusion

Recently adopted, so called media laws, the Law on Public Information and Media and the Law on Electronic Media attracted significant public attention. Various opinions have been expressed, completely positive views of the government of the Republic of Serbia, specifically the Ministry of Telecommunications and Information, as the formal proposer of these contentious amendments, while independent journalist associations have taken the opposite stance. On October 26, 2023, the National Assembly passed and adopted these amendments. Less than a decade after significant changes, these two crucial media laws have come under scrutiny to align with international standards of freedom of expression. Longevity of these laws and their provisions at great portion will depend on the approaching general elections in Serbia and their results.

¹⁹ Ibidem.