

# BOSNIA AND HERZEGOVINA

By Sanela Hodžić

## I. Abstract

There is a body of laws generally consistent with international standards which represent a solid basis for the protection of labor rights. Collective bargaining led to signing a collective agreement in Republica Srpska while signing a specific collective labor agreement for media employees is currently in process in the Federation of Bosnia and Herzegovina.

For this report, a total of 27 in-depth interviews were carried out with employees from different types of media outlets and survey questionnaires done partly on-line and partly via direct contact with media employees totaled 122. The findings indicate that procedures related to labor issues conducted either in courts or in administrative agencies are extremely slow and inefficient. Labor inspectors lack authority, personnel and competence. Existing legislation includes overly generalized wording that leads to difficulties in practice. For example, labor law articles related to conditions and reasons for dismissal do not explicitly define justifiable reasons and thus fail to protect employees from the arbitrary decisions of employers.

The most prominent violations of labor rights of media employees are related to salaries, working conditions, length of the working day and health and pension security payments. Some of the problems identified were unregistered working engagements and freelance engagements that often violate labor rights more frequently. The quality of the labor contract is often poor (job description is inadequate; payment rates are not always listed). Journalists mostly consider that they are not protected by individual labor contracts in terms of unjust penalties or dismissal. There are some indications that labor rights and relations are particularly fragile in private media while in public media outlets employees are at least more protected from unwarranted dismissal.

There is a considerable lack of awareness among journalists of relevant legislation and mechanisms for protecting labor rights and on the functioning of trade unions. In addition, evaluations of trade unions are generally negative. Trade union organizing in private media virtually doesn't exist.

## II. Overview

A total of 27 in-depth interviews were carried out with employees from different types of media outlets: seven from TV stations, seven from radio stations, six working in newspapers, three news agency journalists, one on-line media employee, and three representatives of media associations and trade unions. The research sample included employees from media with different types of ownership based in Sarajevo, Banja Luka and Mostar. Survey questionnaires done partly on-line and partly via direct contact with media employees totaled 122. Direct contacts with media employees were realized mostly by contacting managers then visiting media outlets and distributing questionnaires among the employees present. Thus, the research sample is stratified primarily according to the type of media outlet (Table 1) and is limited geographically, so the findings presented cannot be treated as representative of the entire population of journalists.

**Table 1: Survey Sample by Type of Media Outlet**

Type of media outlet	Frequency	Percentage
TV	34	28.1
radio	40	33.1
newspapers	24	19.8
News agencies	7	5.8
Online media	3	2.5
Other (engaged in more than one type of media outlets)	13	10.7
Total surveyed	121*	100.0

\*One of the respondents failed to answer to this question.

The war in Bosnia and Herzegovina from 1992 to 1995 had devastating demographic consequences. There were around 200,000 casualties, 240,000 people were wounded, around 1 million became refugees.<sup>1</sup> It also had grave economic consequences as the economy and a great deal of infrastructure were destroyed, and the living standards of the population drastically declined. The process of transition and privatization coupled with state-building efforts and the implementation of the peace process has led to the growth of a black market economy and to the degradation of the basic rights of employees. However, in spite of these rather grave conditions, it can generally be said that labor laws as well as the relevant international conventions on human rights that have been ratified by Bosnia and Herzegovina, some of which were even incorporated into the constitution, represent a solid basis for the efficient protection of both labor and social rights in all parts of the country.

### III. Legislation Regulating Labor Relations in the Media

The fields of labor rights and social security are not regulated by a single law at the national level but are placed under the jurisdiction of the Federation of Bosnia and Herzegovina (FBiH), Republica Srpska (RS) and of District Brčko (BD), the three jurisdictions into which the country is organized. The constitution(s) of Bosnia and Herzegovina<sup>2</sup> incorporate(s) several international human rights instruments of relevance for labor relations in general:

- International Covenant on Economic, Social and Cultural Rights;
- conventions of International Labour Organization (ILO);
- UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW);
- European Social Charter and additional protocols (currently only in FBiH);
- European Convention for the Protection of Human Rights and Fundamental Freedoms (not ratified by FBiH and RS).

Accordingly, these instruments protect rights related to labor relations such as the right to work, the right to fair and good working conditions, the right to associate in trade unions, the right to

---

<sup>1</sup> According to Council of Ministries of Federation of Bosnia and Herzegovina- *Report on Implementation of Economic, Cultural and Social Rights in Bosnia and Herzegovina i 1993-2003*, p. 60

<sup>2</sup> Constitutions of RS and of FBiH, as well as Constitution of Bosnia and Herzegovina

social security and safety, equal rights for men and women, protection of the family and the right to an adequate standard of living. The realization of these standards represents both the international and constitutional obligation of Bosnia and Herzegovina and its entities.

Labor relations in the media are governed primarily by general labor and labor-related norms since there is no specific legal regulation of labor rights in this field with the exception of the branch collective agreement signed in RS.<sup>3</sup> The general legal documents regulating labor relations in Bosnia and Herzegovina are the following:

- labor law of FBiH<sup>4</sup>
- labor law of RS<sup>5</sup>
- labor law of BD<sup>6</sup>
- general collective agreement for FBiH territory<sup>7</sup>
- general collective agreement of RS<sup>8</sup>
- general labor law documents of employers<sup>9</sup>

The labor laws of FBiH, RS and BD regulate labor contracts, working hours, salaries, the termination of labor contracts, rights and responsibilities in labor relations, collective labor contracts and other relevant issues concerning labor relations. Hence, labor and labor-related issues in the media are regulated depending on the location of the media in question; there is no overall state-level legislation.

Although all three labor laws are similar in their fundamental nature, some important differences in wording can be identified. Labor laws incorporate regulations concerning the terms and conditions of the labor contract. There are two types of contracts: indefinite and definite, the latter for the maximum of two years. An employer is obligated to sign an indefinite labor contract with an employee within one month of engagement and on the very first day of work for definite contracts. The labor law of RS includes a clause specifying the conditions under which a contract for a definite period of time can be signed.<sup>10</sup> If a definite contract is renewed so that the employee continues working for the same employer for more than two years, the contract will be considered an indefinite labor contract.<sup>11</sup> The laws envisage the possibility of probationary work but limit its length to a maximum of six months.<sup>12</sup> Terms of engagement and the elements of labor contracts for

---

<sup>3</sup> The branch collective agreement defines obligations of employers related to salary payment for transport to work, and health and social security payments (Sekul Popović, president of Trade Union of Graphic and Media Workers of RS, telephone interview 05/09/2007)

<sup>4</sup> Official Gazette of FBiH No. 43/99, 32/00 and 29/03

<sup>5</sup> Official Gazette of Republika Srpska No.: 38/00, 40/00, 47/02, 38/03, 66/03 and 20/07

<sup>6</sup> Official Gazette of Brcko District 7/02 7/00, 8/03 and 33/04

<sup>7</sup> Official Gazette of FBiH No. 54/05

<sup>8</sup> Official Gazette of Republika Srpska No.27/06 and 31/06

<sup>9</sup> Internal Labor Statutes if defined within media outlets

<sup>10</sup> Performing work for less than six months; temporary enlargement of the workload; replacement of an absent employee for up to one year, duration of which is beforehand determined by the nature of absence (Article 16 of the Labor Law of RS; also in Law on additions and changes of Labor Law of BD (LACLL BD), Official gazette No. 33/04 Article 2)

<sup>11</sup> Article 19 FBiH, Article 17 RS; Article 12 BD

<sup>12</sup> Article 18 FBiH; Articles 21 and 22 RS.

first-time workers, elements and conditions of volunteer labor contracts<sup>13</sup> and contracts for temporary and occasional working engagements<sup>14</sup> are defined as well.

According to the labor laws,<sup>15</sup> collective agreements, internal labor rules within companies and institutions and individual labor contracts establish the minimum wage. Periods between payments cannot be longer than 30 days, and an employer is obliged to deliver a salary receipt.<sup>16</sup> Furthermore, an employee has a right to additional payments for difficult working conditions, overtime work, night shifts and for work on Sundays and holidays.

Labor laws define that the length of a working week should not be longer than 40 hours except in extraordinary circumstances (if there is a need for dealing with consequences of earthquake, fire, epidemics, accidents etc; in cases of unexpected increase in workload and other cases of necessity) or by employee's own free will. Overtime work can never be longer than 10 additional hours per week. If this additional work continues for 3 weeks, or 10 weeks in total per year, the employer is obliged to report this to the relevant labor inspection institution.<sup>17</sup>

The laws also contain provisions on the right to lunch/rest breaks (minimum of 30 minutes a day), annual leave (minimum of 18 days) and on the conditions for attaining the right to annual leave (six months of continuous employment).<sup>18</sup> Several articles in the labor laws are aimed at the protection of motherhood (pregnant women cannot be denied the right to employment and cannot be fired because of pregnancy) and family.<sup>19</sup> Labor laws also contain nondiscrimination requirements and protection measures regarding sex, race, religion, political or other opinion, national and social origin, political affiliation and membership in trade unions.<sup>20</sup> The right to participate in trade union functioning is defined in the labor laws as well as in general collective contracts.

Employers can discharge employees provided that there are economic, technical or administrative justifications as well as if the employee in question has lost the ability to perform his or her job (but only if he/she cannot be reassigned to another post).<sup>21</sup> Employers must give a minimum of 14 days notice unless the employee has committed a severe offense or violation of labor obligations. Employers should compensate employees unless circumstances allow for exceptions. What these circumstances might entail is not specified. An employer is obliged to provide evidence of justifiable reasons for dismissal if the case is brought to court.

---

<sup>13</sup> Articles 26–28 F BiH, Articles 28–31 RS, articles 19–21 BD according to which interns and volunteers can be engaged for a period defined for a specific profession. Both engagements require the signing of a contract. The duration of a volunteer's engagement is considered as working experience.

<sup>14</sup> on the condition that the engagements in question are defined in collective agreements or internal labor rules, that they don't last longer than 60 days per year and that "(...) temporary and occasional jobs are not jobs over which indefinite or definite labor contracts are concluded (...)." (L\RS, Article 34; \F BiH, Articles 136–137; Article 109 BD)

<sup>15</sup> Articles 68–74 F BiH, Articles 57–60 BD, Articles 90–92 RS

<sup>16</sup> General collective contracts of F BiH, in contrast to those of RS treat salary receipts as documents that offer opportunities for a direct proceeding for exercising the right to unpaid salaries. In practice, there is no significant distinction, since salary receipts are rarely issued (Analiza propisa i stanja u oblasti radnih prava, [*The Analysis of Labor Laws and the State of Labor Relations*], Vaša Prava, Sarajevo, 2006, p. 9)

<sup>17</sup> Articles 29 and 32; Articles 43–46 RS, Article 25 BD

<sup>18</sup> Articles 37–45 F BiH, Articles 57–65 RS, Articles 32–35 BD)

<sup>19</sup> Articles 53–63 F BiH, Articles 76–85 RS, and Articles 41–49 BD define the right to maternity leave. F BiH also defines the right to parental leave for the father. RS defines the right to the prolonged maternal leave.

<sup>20</sup> Article 3 F BiH, Articles 107–112 RS, Article 4 BD

<sup>21</sup> Articles 87, 88, 90, 91 and 95 F BiH.

An employee has a right to financial compensation in case of dismissal if he/she has been continuously working for the employer for at least two years unless the employee violated the obligations specified in his/her contract. This compensation cannot be less than one third of the average monthly salary paid to the employee in the three months preceding dismissal and is supposed to be paid for every year of work.<sup>22</sup>

Labor laws obligate employers to define internal labor statutes in consultation with a council of employees or with a trade union only if more than 15 workers are employed. Employees have a right to form the councils and trade unions in order to protect their rights in relations with the employer.<sup>23</sup> In addition, it is important to note that all labor laws in Bosnia and Herzegovina contain provisions for penalties for employers that violate specific elements of labor and labor-related obligations.

General collective agreements in RS and FBiH<sup>24</sup> define the following: labor relations, salaries, terms and conditions of trade union functioning, rules on collective bargaining and signing of collective contracts, the operation of bodies authorized for peaceful resolution of labor disputes and issues related to the right to strike. General rules concerning salaries are defined in the collective agreement of FBiH (similarly in RS) as follow:

- equal salaries for work of equal value regardless of ethnicity, religion, sex, political and trade union membership;
- salary payments not longer than 30 days apart;
- a salary receipt delivered with salaries;
- salary increases for every year at the same post for 0.6 percentage with a maximum overall incentive of 20%;
- the minimum wage determined at least once a year or more often depending on changes in the economy;
- basic salary is the minimum wage plus additional amounts according to the level of complexity and difficulty as defined for specific professions;
- extra pay for overtime work, night work, working on days of rest and on holidays;
- paid sick leave;

The labor legislation in Bosnia and Herzegovina is to a great extent adjusted to relevant international conventions, but some critics (for instance Vaša Prava Association<sup>25</sup>) argue that the existing labor laws are inconsistent, imprecise and open to various interpretations. According to them, these legal documents often contain overly generalized provisions that prove to be inefficient.<sup>26</sup> Also, the same source points out that the procedures related to labor issues conducted either with employers, in courts, or with administrative bodies are intolerably slow, inefficient and expensive. For example, the regulations on the conditions and reasons for dismissal are inadequately formulated in labor laws and general collective agreements.<sup>27</sup> As noted above, clauses on dismissal permit the ending of labor contracts within a defined time frame if there are

---

<sup>22</sup> Article 100 FBiH, Article 141 RS, Article 85 BD

<sup>23</sup> Articles 108–110 FBiH; Articles 6–12 RS, Articles 5–9 and 93–95 BD

<sup>24</sup> A general collective agreement for BD has not yet been signed.

<sup>25</sup> Non-government, non-profit organization that assists all beneficiaries by providing free legal aid related to all aspects of protecting human rights and freedom.

<sup>26</sup> See more in *Analiza propisa i stanja u oblasti radnog prava [The Analysis of Labor Laws and the State of Labor Relations]*, Vaša Prava, Sarajevo, 2006 (pg.7–8)

<sup>27</sup> Article 87 FBiH, Article 124 RS; Article 73 BD. The collective agreement of RS defines only the right to severance pay while the collective agreement of FBiH does not address this issue at all.

justifiable economic, technical or administrative reasons or if the employee is not able to perform the obligations in the contract. However, it is not specified what can be considered as justifiable dismissal or who is authorized to assess one's capability to meet obligations.<sup>28</sup> According to the experience of Vaša Prava legal advisors, dismissing workers under the pretext of economic, technical or administrative reasons has become a routine way for executing employers' arbitrary decisions.

Furthermore, the necessary preconditions for this kind of collective bargaining in the media have not yet been fully established at all levels in FBiH. Only recently<sup>29</sup> was the Association of Graphic, Publishing and Media Employers (as part of the Association of Employers of FBiH) established. Currently, negotiations with this newly established Association aimed at defining a collective agreement are taking place. In addition to the standard provisions already listed, the pending agreement is supposed to include the protection of workers from practices like pressuring, psychological blackmailing and various forms of harassment. However, it is most likely that this document will have to contain modest requests so that the employers can accept it without being unreasonably burdened with new obligations.<sup>30</sup>

#### **IV. The Implementation of the Legislation in Practice**

Based on available information, it is evident that the norms on labor and labor-related rights contained in international covenants and in relevant domestic legislation are not being implemented to the full extent in practice. The unanimous opinion of the participants in this study is that journalists are in a relatively difficult position when it comes to their social status and labor rights; however, many of our respondents pointed out that media outlets are not unique in this regard since violations of fundamental social and economic rights are a byproduct of existing general socio-economic circumstances and are common to most businesses.

Taking into account the discrimination of BiH citizens during employment, because of ethnic and party affiliation, nepotism and corruption, it is possible to say that in Bosnia and Herzegovina the right to labor is one of the most jeopardized human rights.(CCPR/C/BiH/1, 106)

According to Vaša Prava, the differences in labor laws and collective agreements in the jurisdictions rarely lead to the significant differences in practice since their wording is often vague and their rules are often ignored.<sup>31</sup>

The Free Media Help Line which offers assistance in defending journalists' rights has reported that they received many complaints from 3 May 2006 to 3 May 2007 concerning labor relations, especially irregular salary payments.<sup>32</sup> Similarly, data of the journalists' association BH Novinari for 2005 show that 35 journalists asked for "protection and public support in defending their

---

<sup>28</sup> Vaša Prava Op. Cit.

<sup>29</sup> May 2007, although the official registration of the Association is still in process (According to Amer Toskić, representative of the Trade Union of Graphic, Publishing and Media Employees of FBiH, interview by the author, Sarajevo, 08/08/2007)

<sup>30</sup> Amer Toskić, Op. Cit.

<sup>31</sup> See Association Vaša Prava, *Analiza propisa i stanja u oblasti radnog prava [The Analysis of Labor Laws and the State of Labor Relations]*, Sarajevo 2006 (pg. 7-8).

<sup>32</sup> Press release of Free Media Help Line, 03 May 2007; available at: <http://www.bhnovinari.ba/linija/en/?ID=47> (as of August 22 2007).

elementary rights and working conditions”<sup>33</sup> in which irregular salary payments and social security and health insurance contributions were at the core of their complaints.

As the analysis of labor laws in practice published by Vaša Prava suggests, some of the clauses of existing legal documents are imprecise. This fact, together with a strong tendency for employers to consider financial factors exclusively combined with tendencies toward nepotism in making employment and labor-related decisions (that our respondents often referred to) in reality leads to insufficient protection of the labor rights of journalists. For example, a trade union representative we interviewed confirmed that while media employees with labor contracts should be protected by the provisions in labor legislation, noncompliance with those rules is very common.<sup>34</sup>

Furthermore, the state institutions that should control the implementation of labor-related laws<sup>35</sup> were evaluated as inefficient by a trade union representative<sup>36</sup> who indicated that the labor inspectorate has insufficient personnel and authority which leads to its ultimate ineffectiveness. It has to be noted that the labor law in RS envisages a more efficient solution in this sense: contrary to that of FBiH, it authorizes labor inspectors to close down an enterprise due to the failure of the employer to conclude labor contracts and include employees in the health and pension insurance system.<sup>37</sup>

Despite continuous violations of the social and labor rights of media employees, only a small proportion of them resort to legal means of protection and decide to take their cases to court. As noted by a trade union representative, the judicial system is inefficient and slow to the extent that the results of court proceedings are mostly confined to moral satisfaction for the worker while financial rewards remain limited. According to this respondent, one of the biggest problems is related to potential consequences—journalists fear that court proceedings will lead to losing their jobs and that the costs they would suffer thereby would be greater than those caused by the violations of their rights.

As shown in Table 2, 38% of participants considered that they were not protected by individual labor contracts from unjust penalties or dismissal.

**Table 2: Does Your Contract Protect You from Unjustified Sanctions and Dismissal?**

Media Outlet	Yes	No	Other	No answer	Sum
Newspapers	3	13	3	5	24
Radio stations	12	16	4	8	40
TV stations	16	9	1	8	34
News agencies	1	2	4	0	7
On-line media	1	1	0	1	3
Other - multiple engagement	6	5	0	2	13
Total	39	46	12	24	121

<sup>33</sup> See the data available at <http://arhiva.bljesak.info/modules.php?name=News&file=articele&sid=19051> (as of August 15, 2007).

<sup>34</sup> Amer Toskić, Op. Cit.

<sup>35</sup> Proceedings are initiated by labor inspectors (authorized by RS, Article 149 and FBiH, Article 131) and the court for minor offences decides on the punishments for violations.

<sup>36</sup> Amer Toskić, op cit. He suggested that the new law on inspections that increases personnel by 150 inspectors should enable efficient inspection within a short period of time. However, he remains skeptical when it comes to reducing corruption and nepotism..

<sup>37</sup> Article 180 RS

The most frequently violated rights were related to salary payments (43%), the length of the working day (39%) and overall working conditions (33%) while other violations occurred less frequently.

The results of this research suggest that radio and newspaper journalists are somewhat more affected by violations of labor rights, mainly rights related to salary (50% radio and 34% newspaper) and rights regarding annual vacation (29%). Radio journalists are especially affected by violations of rights regarding working conditions (48%), while TV journalists were especially affected when it came to the length of the working day (53%). Overall, it can be assumed that the situation in this regard depends on the type of ownership since according to the respondents interviewed, public media tend to have more developed internal procedures and mechanisms that partially protect the labor rights of the employees. Approximately three fourths of the respondents employed in TV (N=33) and in radio outlets (N=40), as well as 6 out of 7 news agencies journalists were employed in public sector. The most vulnerable category when it comes to the violations of labor rights, i.e., newspaper journalists, were predominantly employed in private media outlets (21 out of 22).

**Typically Hired Staff**

Table 3 shows that the highest rate of regular staff employment is in TV outlets and news agencies. A total of 67 were employed in public media, 46 in private national media, and 4 in private international media<sup>38</sup>. This proportion of employees in public media is probably somewhat higher than in the general population and is especially high in news agencies and TV stations. Therefore, the results should be considered in that context.

**Table 3: Type of Employment by Media Outlet**

Media Outlet	Typically Hired Staff	Freelancers	Sum
TV stations	26	8	34
Radio stations	27	13	40
Newspapers	14	10	24
News agencies	5	2	7
On-line media	2	1	3
Multiple engagements	11	2	13
Total	85	36	121

Of the 85 regular staff, the majority had signed an indefinite labor contract while 25 of them had definite contracts. Also, public media outlets had a slightly higher rate of long-term employment as 72% had indefinite contracts compared with 70% of private media employees.

The survey results also showed the existence of violations related to salaries, working hours and working conditions. One of the participants reported that labor rights and relations were particularly fragile in private media:

---

<sup>38</sup> Remaining five failed to answer, or offered multiple answers



(...) I left one of those media outlets (...) although I was one of the reputable journalists (...) I was unsatisfied... my salary was not fully reported, many more working hours than legally permitted, small salaries in comparison to the work accomplished, annual vacation not in accordance with the law. (male age 25–34 regular staff journalist in a public TV station)

Similarly, 56% of those interviewed considered the rights of public media employees were protected more efficiently. Although they too had experienced various infringements of their labor rights, there were protective mechanisms in place. Most significantly, public media tended to respect internal procedures in cases of dismissal, and there were internal trade unions that offered some support and protection to the employees. Overall, the main difference identified during interviews was that public media employees enjoy somewhat more security in terms of keeping their posts.

The survey results, on the other hand, indicated that the frequency of violations of labor rights did not always demonstrate that public media employees were more protected. Infringements related to annual vacation were frequent in private media, while difficult working conditions and violations related to the length of the working day and work not stipulated in contracts appeared to be more frequent in public media (*Table 4*).

**Table 4: Violation of Labor rights by Type of Ownership**

<b>Do the employer frequently violates :</b>	<b>(%)</b>	<b>Public</b>	<b>Private</b>
Your rights related to annual professional vacation	Yes	4.5	17.4
	No	83.6	69.6
	Sometimes	10.4	6.5
	I don't know	1.5	6.5
	<b>Total</b>	<b>100 %</b>	<b>100%</b>
Your rights related to work conditions	Yes	17.9	8.7
	No	52.2	76.1
	Sometimes	25.4	13.0
	I don't know	4.5	2.2
	<b>Total</b>	<b>100%</b>	<b>100%</b>
Your rights related to length of the working day	Yes	11.9	6.5
	No	49.3	69.6
	Sometimes	35.8	17.4
	I don't know	3.0	6.5
	<b>Total</b>	<b>100 %</b>	<b>100%</b>
Your rights related to accomplishment of a work that in not stipulated in the individual labor contract	Yes	9.4	9.1
	No	62.5	63.6
	Sometimes	23.4	18.2
	I don't know	4.7	9.1
	<b>Total</b>	<b>100%</b>	<b>100%</b>

Discrepancies in the results suggest that some of the respondents were unfamiliar with the basic terminology and legal regulations on labor relations which rendered them unable to estimate or to assess even the basic elements of their status. For example, 11 freelancers said that they had signed labor contracts (five of which were indefinite), and 10 regular staff journalists noted that they had

not signed any labor contracts at all. This unfamiliarity could account for the discrepancies between numbers of regular staff in Table 3 and the number who had signed indefinite or three to five year contracts in Table 5.

## Labor Contracts

Overall, 96 respondents had signed labor contracts; the types are shown in Table 5.

**Table 5: Length of Contracts by Media Type**

Media Outlet	Indefinite	3–5 years	less than 1 year	other	No answer	Sum
TV stations	21	1	6	3	3	34
Radio stations	23	1	2	1	13	40
Newspapers	15	0	0	4	5	24
News agencies	5	0	2	0	0	7
On-line media	1	0	1	0	1	3
Multiple engagements	6	3	1	0	3	13
Total	71	5	12	8	25	121

15 interviewed respondents stated that the duties of an employee are not defined in detail in labor contracts though four employees of private media outlets and two employees of public news agency said that they were. Most said their duties were defined as “journalists’ tasks” with no further specifications. The poor quality of labor contracts is one of the basic problems in labor relations in the media. In addition, some of the respondents asserted that labor contracts do not always include the definition of salaries for different positions.<sup>39</sup>

It appears that the minimal specifications for legal individual labor contracts, including working conditions, rights and obligations of both the employers and employees, are often left out which is not in the interests of the employees. A representative of the trade union of FBiH stated that the continuation of these practices demonstrates the incompetence of labor inspectors.<sup>40</sup>

A representative of the Organization of Croatian Journalists suggests that the generalized and abstract wording of labor contracts leaves journalists unprotected from engaging in tasks that can be in conflict with their professional interests and their reputations.<sup>41</sup> In this context, 27% of respondents affirmed that they were often or sometimes assigned work that was not stipulated in the individual labor contract. Furthermore, 54.1 % of the respondents claimed that there was no conscience clause<sup>42</sup> in their labor contracts<sup>43</sup>. The fact that 32.8 % of respondents failed to answer this question can possibly be explained by unfamiliarity with meaning of this clause. For example, several interviewed respondents did not know whether this clause was included or whether it should be included.

<sup>39</sup> According to one respondent “(...)salary is not defined in the labor contract, nor are coefficients used for salary calculation (...)” (female, 25-34, regularly employed print media journalist)

<sup>40</sup> Amer Toskić op. cit.

<sup>41</sup> Ilko Barbarić, representative of Association of Croatian Journalists, interview by author, Mostar 02/08/ 2007

<sup>42</sup> A conscience clause is defined in the questionnaire as the right to refuse doing work that does not correspond to the beliefs of the journalist;

<sup>43</sup> 10.7% claimed that conscience clause is included in their labor contracts, 2.5 % offered alternative answers.

In all, 41% of respondents thought the contracts they had signed offered protection from unjustified sanction and dismissal, but 47% did not believe they did<sup>44</sup>. Respondents employed in public media had somewhat more confidence (41%) than those employed in private media outlets (37%).

### **Salaries and Social Benefits**

A total of 38% of respondents who had signed labor contracts considered problems with payment frequently or sometimes violated their labor rights. Those problems included low wages, irregular payment and minimum salaries reported to the state to reduce benefit payments for employers. Although the 67% of journalists with labor contracts stated that their salaries surpassed the national average (in 2006 the average salary in the country was 580.9 marka or 297 euros<sup>45</sup>), 61% of them nevertheless considered the payments to be inadequate compared to the work accomplished. Salary rates were somewhat higher in private media as 58% of respondents said their salaries were higher than the national average compared with 55% of respondents in the public sector.

According to the FBiH trade union representative, violations of workers' rights are indeed serious when it comes to payments:

There are companies that have not paid up to 60 salaries to the employees(...)unfortunately, all criminal court proceedings are (...) put aside, on hold, covered up etc. (...) some of them last for three years(...) when the proceedings are over, there is no more capital (...) workers cannot get (...) their wages and social and health security contributions. (Representative of the Trade Union of Graphic, Publishing and Media Employees of FBiH, interviewed by the author, Sarajevo, 08/08/2007)

Although the labor laws require employers to provide health and pension insurance for their employees, only 59% of those responding to the survey indicated that these contributions were regularly paid by the employers. One of journalist asserted that part of the problem is the fact that there is practically no legal punishment for not paying health and social security contributions for the employees.

According to a 16 interviewed media employees and to the trade union representative interviewed, it is a widespread practice that only minimum wages are officially reported. A representative of the trade union of FBiH pointed out that this can happen without the employee's knowledge since in some cases they don't have access to this information despite the fact that the salary receipt is legally required.<sup>46</sup> In addition, this practice may be preferred by journalists as well because it increases their take-home pay and because of the general disrespect for and disbelief in the public health and retirement insurance system. According to several respondents interviewed, these kinds of practices and other forms of infringements of labor rights are a result of a combination of factors including financial limitations, the excessive concentration of employers on financial gains, the perceived ineffectiveness of mechanisms that should protect labor rights and the low level of awareness of labor rights and the importance of their protection among employers and employees.

---

<sup>44</sup> Here is one more divergence in comparison to data presented in Table 2. Namely, the table also includes answers offered by journalists that did not signed labor contract.

<sup>45</sup> Agency for Statistics of Bosnia and Herzegovina, data available at <http://www.bhas.ba/arhiva.html>

<sup>46</sup> Amer Toskic, Op. Cit.

## **Annual Vacation, Length of the Working Week, Rest Time**

Although 49% of the respondents said they worked more than 40 hours a week, they did not perceive of this as a violation of their rights. One of the reasons for this attitude could be the tendency of journalists to regard long working hours as a necessity for performing their jobs. 12 survey respondents did point to disrespect for the legally defined working hours as one of the most severe infringements of labor rights in the media.

In all, 67% of the salaried, permanently employed staff reported that their rights to an annual vacation were normally respected, 12% stated that violations of this right often took place, while 19% reported that such violations sometimes occurred<sup>47</sup>. Three survey respondents underline that problems with annual leave, rest time and the length of the working week were more severe and more frequent in the private sector than in public media outlets. These rights were the subject of collective bargaining between the trade union and the association of employers that was to be concluded by the end of September 2007.

## **Discrimination**

Interestingly enough, only two survey respondents mentioned discrimination on the basis of age, gender and national identity as frequent labor rights violations in media outlets, 12 believe that it occurs sometimes, while 81% respondents perceived that there were no discriminatory practices in labor relations in the media. Among the participants interviewed, only the representative of FBiH Trade Union of Graphic, Publishing and Media Employees explicitly expressed his belief that various forms of discriminatory practices were very common in everyday experiences in labor relations. Although the labor laws of FBiH and RS protect women during pregnancy and after delivery, in practice, according to Vaša Prava<sup>48</sup> and as confirmed by one of our respondents,<sup>49</sup> employers not only rarely decide to employ pregnant women, they also often dismiss them or pressure them to return to work before the end of their maternity leave. The same respondent also stressed that there is gender discrimination because women are generally not in high managerial posts. Another respondent<sup>50</sup> expressed an opinion that there is ethnic segregation in the media so that employees do not apply for posts that are clearly oriented towards the “other” ethnic groups.

## **Punishment and Damage Reimbursement**

According to the survey results, frequently used methods of penalizing journalists for mistakes and violations of professional ethics or working schedules were financial penalties (reported by 72%) and official warnings (72%), while dismissals were less frequent (36%). A total of 45% did not know whether they were obliged to reimburse their employers for damages they caused to their media outlet. These results further confirm the significant lack of knowledge and information on labor rights and obligations among the respondents.

## **Authorship**

According to the Law on Author's Rights and Neighboring Rights in FBiH,<sup>51</sup> authorship rights cover creations made in the course of a labor relation, either as a part of performing one's working

---

<sup>47</sup> Remaining two failed to answer

<sup>48</sup> Vaša Prava Magazine No. 18, September 2006, p. 22

<sup>49</sup> Amer Toskić, Op. Cit.

<sup>50</sup> Ahmed Burić, editor, private newspapers Oslobođenje, interview by the author, Sarajevo, 14/08/2007

<sup>51</sup> *Official Gazette of FBiH No. 7, 10 April 2002*

obligations or at the employer's request. These rights are considered to be transferred to the employer for a period of five years beginning from the day the product was completed if not otherwise specified in a specific labor contract. After a five-year period, authorship rights belong exclusively to the author. Authorship rights over products made during the execution of a contract for temporary or occasional work belong to the author if not otherwise specified by the individual contract.<sup>52</sup>

There were wide variations in respondents' assessments of the protection of their authorship rights. Overall, 17.2% considered that their authorship rights were protected, 27.9 % believed they were protected in principle, 20.5 % said they were unprotected and 9% believed they were unprotected in principle. It is particularly important to note that 18% were not familiar with the protection of their authorship rights<sup>53</sup>. In the interviews, positive individual experiences were not unusual, but a need for more legal guarantees and mechanisms for protecting authors' rights in a systematic manner was indicated.

Authors' rights are generally considered to be an important mechanism of control over remuneration for journalists' work as well as an important protective mechanism for moral rights (the right to be recognized as an author) and consequently are a valuable means for maintaining the ethical standards that define and guarantee professional journalism.<sup>54</sup> However, the research results suggest that awareness of the importance of developing these mechanisms is rather low among journalists and managers of media outlets in Bosnia and Herzegovina. While 19% survey respondents consider their authorship rights protected, and 30% believe they are in principle protected, 21% perceive these rights unprotected, and 10 % mostly unprotected. 20% of respondents failed to answer. Six interviewed respondents stressed that material produced during employment usually stays in the possession of the media outlet even after the termination of the contract. Only one journalist employed in a public TV station reported that employees were transferring their authorship rights to the employer by signing individual contracts. Nevertheless, even though in this media outlet there was a possibility of signing an additional contract on authorship rights for specific projects, this option is rarely used in practice.

In sum, participants asserted that their authorship rights were not formally protected, and that this is why journalists generally choose not to report on what they believe to be authorship rights violations by the media employers. The majority of interviewed participants who believed that their rights were partly protected in practice (9 out of 15 of them) were of the opinion that this was due to the favorable individual contracts with the employer. A tendency to disregard the importance of the protection of authorship rights can partly be explained by the general disbelief in the possibility of protection of authorship rights in the chaotic market economy of Bosnia and Herzegovina.

### **Freelancers, Students, Young Professionals**

According to a statement of the General Secretary of International Federation of Journalists (IFJ),<sup>55</sup> these atypically hired workers make up around 30% of its membership. This proportion corresponds with the percentage of freelancers in the research sample although one respondent

---

<sup>52</sup> Law on Authorship and Neighboring Rights in FBiH, Articles 24–27

<sup>53</sup> Remaining 7.4 % failed to answer

<sup>54</sup> See more in International Federation of Journalists, *Author's Rights Manual*, available at: <http://www.ifj.org/default.asp?Issue=manual&Language=EN> (web page accessed on August 15, 2007).

<sup>55</sup> Speech given at the 95-th International Labor Organization Conference in Geneva, 05/06/2006, available at: <http://www.ifj.org/default.asp?Index=4169&Language=EN> (as of August 12 2007).

estimated that the proportion could be as much as 50%.<sup>56</sup> Atypical working arrangements include predominantly task or single-purpose engagements, false temporary labor contracts, and unregistered hiring.

One of the major problems of the economy of Bosnia and Herzegovina is certainly related to unregistered hiring. Data from the report of Media Task Force of 2002<sup>57</sup> indicated that out of 190 journalists, 58% of them had not signed contracts. Most of those who reported that they had signed contracts were employed in public media outlets. The results of our research also confirmed that the incidence of signing labor contracts was higher in public media (78%) than in the private sector (61%). 7 participants interviewed for this study expressed the opinion that unregistered work is to a great extent still present in the media, but 3 of them expressed believe that there was a tendency toward decreasing it.

According to interviewed respondents, many journalists are engaged on the basis of contracts for temporary and occasional assignments that are regulated by the labor laws while a significant number are hired on the basis of task or single-purpose contracts that are regulated by obligation and contract laws. 2 respondents said they had been volunteers during their studies. The manager of one public radio station reported that virtually all workers in that media outlet were engaged without signing any kind of contract. He pointed out that these arrangements were satisfactory for students who work couple of hours a day and even get adequate compensation for their work. According to one respondent who was a volunteer at the time of the survey, it is common that a volunteer engagement does not include any kind of contract.<sup>58</sup>

Based on the interviews, it can be stated that some freelancers are in fact satisfied with their status. Most of them are established journalists (especially those contributing to weekly newspapers) who have the opportunity to work for several media outlets at the same time which brings the reasonable expectation of a higher overall income. In addition, the lack of confidence in existing public health and social security systems can make signing a labor contract somewhat less desirable.

On the other hand, young professionals on their first jobs seem to be particularly vulnerable and are often exploited by their employers. They report frequently prolonged working hours, underpayment for their work and constant prolonging of their temporary status due to delays in signing labor contracts despite their expectations in this regard. One respondent stated:

“A big problem is maximum exploitation of young professionals who sometimes don’t have adequate working conditions or payment for their work“(female, 18–24, freelancer in a public radio station).

Even though the labor laws offer the possibility of a probationary period that would enable an assessment of young journalists prior to entering into regular salaried employment, employers prefer signing contracts for temporary and occasional assignments. According to the labor laws, this kind of engagement should be used for specific jobs of determinable outcome and duration

---

<sup>56</sup> Amer Toskić, Op. Cit..

<sup>57</sup> See Tarik Jusic, *Vlasništvo nad medijima i njegov uticaj na nezavisnost i pluralizam medija u Bosni i Hercegovini [Media ownership and its influence on independency and pluralism of media in Bosnia and Herzegovina]* in Sandra Bašić Hrvatini, Brankica Petković, Tarik Jusić, *Vlasništvo nad medijima i njegov uticaj na nezavisnost i pluralizam medija* (Mediacentar Sarajevo, October 2004, p. 106).

<sup>58</sup> According to labor laws (Article 30 RS, Article 28 FBiH, Article 21 BD ) an employer is obligated to sign contracts for engaging volunteers and to pay 35% of minimum wages for health insurance in case of injury or illness.

that cannot last longer than 60 days in one year. In practice there is a common misinterpretation of these clauses since most of the first-time engagements of young journalists regulated by this kind of contract lasted much longer than 60 days. In fact, according to our respondents, this status is often prolonged for years. This practice of pressuring journalists to freelance while performing full-time jobs represents a commonly used strategy of employers to avoid welfare and social insurance payments. A task or purpose contract is often used with this same intention. Young journalists are seen as a qualified but cheap workforce.

In all, 84% of the freelancers surveyed mainly performed their tasks at their employers' premises, and among journalists without signed labor contracts, it was the employer who decided where their jobs were to be performed for 70% of them. For 66% the employer made the decision as to the specific hours for performing the job. It is furthermore important to note that 44% of freelancers did not know whether they had to reimburse their employers for damages caused to their respective media outlets.

These results suggest that in practice, jobs that are formally registered as temporary work are often not distinguishable from permanent employment arrangements, and that registering them as temporary serves only the employers as they can avoid their legal obligations to journalists and to the state. According to 9 survey respondents, such atypical hiring leads to greater job insecurity. The resulting difficult labor relations and overall socio-economic insecurity can in turn potentially lead to compromising ethical standards in journalism and often to a decline in the quality.<sup>59</sup> As indicated by 11 survey participants, job insecurity and low salaries and violations of labor rights appear to have a negative impact on the quality of editorial content and in effect jeopardize the objectivity, professionalism and ethical standards in media outlets.

According to one respondent, young journalists are often forced to accept difficult working conditions and to engage in assignments that can conflict with their professional roles, and they do not get adequate opportunities for their professional development.<sup>60</sup> It is also indicated that freelancers are in principle more affected by delays in payment than regular staff journalists. The results presented in Table 6 demonstrate that the position of employees who don't have labor contracts is more difficult and violations of their rights more frequent.

**Table 6: Violations of Labor Rights with and without Signed Contracts**

Type of employee	Does Your Employer Frequently Violate Rights Related to (%)									
	Salaries		Working conditions		Length of working day		Rest time		Annual vacation	
	Yes	Some times	Yes	Some Times	Yes	Some times	Yes	Some times	Yes	Some times
<b>Signed labor contract (N=86)</b>	20.9	17.4	11.6	19.8	8.1	31.4	5.9	24.9	8.1	7.0
<b>Without labor contract (N=36)</b>	37.4	17.1	41.2	24.1	16.7	19.4	13.9	27.8	13.9	13.9

<sup>59</sup> As indicated in the research report of the International Federation of Journalists "The changing nature of work: a global survey and case study of atypical work in the media industry", <http://www.ifj.org/pdfs/ILOReport070606.pdf>

<sup>60</sup> Ilko Barbarić. Op. Cit.

In all, 69% of freelancers considered their salaries were inadequate for the work they accomplished, and 74% asserted that their salaries were below the national average. Comparing this with data on regular salaried staff, 73% said their salaries were above average and 17% said they were equal. This indicates that freelancers (especially young freelancers) may be paid less for the same work. According to the freelance journalists interviewed, their salary rights were particularly violated since payments were frequently delayed for several months.<sup>61</sup> One respondent asserted that if these violations are frequently made by public broadcasters, it can be assumed that they are even more common in private media outlets.<sup>62</sup> In addition, payment rates for freelance and temporary workers mostly depend on employers' decisions in the absence of adequate regulations in that respect.<sup>63</sup>

The issue of enhancement of regulations concerning terms and conditions for temporary, task and single-purpose engagements, in order to limit their extensive misuse was not included in the negotiations for the collective agreement, although the trade union representative who participated in this research recognized the need to address this problem in future.<sup>64</sup>

Although freelance journalists should exclusively enjoy their authorship rights as prescribed by the Law on Author's Rights and Neighboring Rights in FBiH, one stated that the articles he produces as a freelancer stayed in the possession of his employers and that he did not have control over the use of this material. Protection of authorship was not an issue that 39% of freelancers were familiar with in the survey. Only 14% said they were protected, 22% said they were protected in principle, 17% said they were not protected and 8% said they were not protected in principle.

## V. Censorship and Self-censorship as an Effect of Labor Relations

Due to various political and social pressures, the United Nations High Commissioner for Human Rights report in 2004 concluded that the professionalism and protection of journalists had been exceedingly neglected,<sup>65</sup> and that as a result, employees were forced to resort to strikes as the means for promoting and protecting their rights.<sup>66</sup> This kind of report suggests that under the pretext of protecting national interests, there are hidden aspirations of politicians and other important persons in the public arena to maintain or promote their socio-political positions by controlling mass media. In those circumstances, media owners are not immune to polarization and to pressure from socio-political and economic factors in the country. Moreover, according to Mehmed Halilović, "wars against journalists" that political elites initiate and carry out are usually

---

<sup>61</sup> According to one young honorary journalist engaged in a public TV station, she was still waiting to get paid for her engagement in August 2005 (interviewed by the author, July 2007). Also, on the on-line forum of FTV public media outlet, the director confirmed that honorary journalists are treated as second-class workers: "I regret that we are not able to pay all honorary workers on time. However, RTV FBiH is trying to deliver salaries to employees as regularly as possible and honorary workers come right afterwards."

<sup>62</sup> Ilko Barbarić, Op. Cit.

<sup>63</sup> Amer Toskic, Op. Cit.

<sup>64</sup> Ibid

<sup>65</sup> HCHR report on the status of human rights in 2004, available at <http://www.bh-hchr.org/Reports/reportHR2004.htm>, as of August 15 2007)

<sup>66</sup> For example, on 23 November 2004 the employees of BHRT and RTV FBiH entered into a 20-minute warning strike because of the difficult economic situation in these public broadcast systems. Salary payments were delayed for four months, and health insurance for most of them was not paid for. (See Radenko Udovičić, *Između novca i politike [between money and politics]*, available at <http://www.mediaonline.ba/ba/?ID=418>, as of August 11, 2007)



“covered and private, rarely public and open.”<sup>67</sup> Due to the alarming socio-economic situation, journalists find themselves in a highly vulnerable position, where censorship, self-censorship and violations of professional ethical standards become possible and real.<sup>68</sup> This is confirmed by the results of this research, as 18% respondents considered that labor relations actually demand a certain censorship, or self-censorship, while 40% argued that there are occasional cases of censorship or self-censorship. 41% did not report this kind of conduct.

16 survey respondents indicated that the most prominent problems in labor relations in the media are the lack of the journalistic freedom and the practices of censorship and self-censorship. One of the participants interviewed<sup>69</sup> was a victim of pressure from cantonal authorities in 2005 that illustrates the various means of censorship over local public media that authorities have. This journalist was pressured to leave the media outlet where she was employed after publishing a negative representation of a high cantonal official. Another survey participant had a similar experience, “(...) I had strict orders not to touch the governmental agencies (...) in the end (...) I was dismissed” (male, 34–45 freelancer for several private newspapers). 18 participants of the in-depth interviews asserted that a large number of mass media outlets are clearly oriented towards certain political parties.<sup>70</sup>

Respondents pointed out that censorship and self-censorship as well as employment policies are predominantly governed by the commercial interests of the employers. One of the respondents argued that the politically driven censorship culture is declining, while a certain “corporate marketing dictatorship”<sup>71</sup> is expanding in the sense that companies that are attractive for marketing contracts are influencing editorial policies.

## VI. Journalists’ Trade Unions: Existence and Effectiveness

The right to organize independent unions in Bosnia and Herzegovina is defined by labor laws in all three jurisdictions and is also guaranteed by entities constitutions. Currently, there are three trade unions in Bosnia and Herzegovina, one for each jurisdiction. An additional level of trade union organizing in FBiH is the confederation of these three trade unions which functions at the state level.<sup>72</sup> Composite parts of the trade unions are branch trade unions of graphic, publishing and media workers. As noted previously, the efficiency of these trade unions has been diminished by the non-existence of an equivalent body within the Association of Employers in FBiH which has made collective bargaining impossible.

---

<sup>67</sup> Halilović Mehmed, Profesionalci i podanici: na margini sukoba Vlade RS i BHTI [*Professionals and vassals: on margin of conflict between government of RS and BHTI*] Puls demokratije Available at <http://www.pulsdemokratije.net/clanak.php?sifra=070206002&lang=bh>, as of August 16 2007.

<sup>68</sup> Amer Toskic, Op. Cit.

<sup>69</sup> Female journalist in a private TV station, interviewed by the author, Sarajevo 07/08/2007.

<sup>70</sup> See more in De(kon)strukcija javnog diskursa: Štampani mediji u predizbornoj kampanji u BiH od 5.augusta do 5. oktobra 2002, [*De(con)struction of public discourse: Print media in pre election campaign in B&H from 5 August to 5 October 2002*] available at: <http://195.222.62.54/mediacentar/documents/Dekonstrukcija%20javnog%20diskursa%2Epdf> (as of August 10 2007). and HCHR Report of the Status of Human Rights in FBiH, Analysis for the period January-December 2006, available at <http://www.bh-hchr.org/Reports/reportHR2006.htm#top> (as of August 17 2007)

<sup>71</sup> Ilko Barbarić, Op. Cit.

<sup>72</sup> See the information published on the official site of the Trade Union of FBiH, at <http://www.sindikatih.ba/sssbih.asp> (as of August 10 2007)

There is no reliable information on the total number of media employees, so it can only be assumed that most of them are members of one of the four journalists associations.<sup>73</sup> According to the membership data issued by the associations, 1758 journalists are members.<sup>74</sup> The initiatives of these organizations are separate and independent, and their potential strength is diminished by the fragmentation of journalists along ethnic and regional lines. According to a respondent interviewed,<sup>75</sup> the four media associations currently functioning in Bosnia and Herzegovina were formed on a geographic and/or ethnic basis and are predominantly devoted to local initiatives which makes them unable to advocate for the advancement of journalists' labor rights nationally.

According to the research results, only 31% of respondents were members of branch trade unions<sup>76</sup> out of which only two journalists were from private media outlets. This indicates that trade union organizing in private media virtually does not exist.<sup>77</sup> None of the freelancers from the survey sample was a member of a trade union, although the trade union representative stated that they have the right to membership.<sup>78</sup>

Postwar circumstances and the process of privatization have had devastating effects on trade union organizing, and the process of re-establishing the trade unions and gathering members is still in progress.<sup>79</sup> The perception of the efficiency of trade unions among the respondents is mostly negative. Only 7 survey respondents considered trade unions as efficient, and 19 of them believed that these associations are sometimes efficient. On the basis of these responses, it can be concluded that the interests of journalists in trade union organizing and collective bargaining are extremely low. At present, trade unions have a poor image and often are considered as only formal organizations that do not achieve substantial results in promoting the labor rights of journalists. Some participants have also expressed doubt over the impartiality of trade union representatives and fears related to their connections with the media employers.

As mentioned earlier, negotiations that should result in signing a specific collective agreement for this sector were to be concluded for FBiH in September 2007. Although the representative of the FBiH Trade Union is reasonably optimistic regarding the response of media employers to the requests and to their involvement in dialogue that will lead to the improvement of the existing legislation,<sup>80</sup> many of statements of the media workers suggest that this issue should be approached with a certain caution. That this problem is rather complex is shown in the fact that the process of including all media employers in the union of employers is ongoing but there are no mechanisms for stimulating their inclusion in that body. Consequently, there is no guarantee that all employers will have to respect the articles of the new collective contract when it enters into force. To be precise, according to current laws there is no positive obligation on the part of the employers to

---

<sup>73</sup> See the information on the official site of BH Novinari association, <http://www.bhnovinari.ba/?ID=29> (as of August 10 2007)

<sup>74</sup> Ibid.

<sup>75</sup> Ilko Barbarić, President of the Union of Croatia Journalists, interviewed by the author, Mostar, 02/08/2007.

<sup>76</sup> According to the data presented in the Report of Bosnia and Herzegovina on the Implementation of the International Covenant on Civil and Political Rights, CCPR/C/BIH/1, 24 November 2005, p. 104, the total number of trade union members was 478,640, out of which 277,450 were in the FBiH and 201,190 of them were in RS. The union is organized into associations and branch unions; however, the data from different sources are inconsistent. For example, according to the information published on the web site <http://www.sindikatih.ba/sssbih.asp> (as of August 12 2007), the number of members in this trade union was around 150,000. There are 22 branch unions in the FBiH and 15 branch unions in RS. The trade union of BDiencompasses around 20% of the total number of the employed persons there.

<sup>77</sup> It needs to be stressed that members of trade unions and associations are exclusively journalists while this research included a small proportion of non-journalist media employees (technicians, photographers etc.) as well.

<sup>78</sup> Amer Toskic, Op. Cit.

<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

negotiate with workers and their unions to define and implement the collective agreement. However, labor laws<sup>81</sup> do authorize the relevant ministries of FBiH and RS once the collective agreement is signed to extend its obligations to other legal persons if it is a matter in their interests. This is an important potential measure for increasing the efficiency of collective contracts in practice.

Considering that there is already a long history of employers violating the rights of workers in Bosnia and Herzegovina with relative impunity, there is an impression that the employers have unlimited authority and power which makes them disinclined to collective bargaining.<sup>82</sup> The trade union representative who participated in this research, however, stressed that this trend is changing and that the negotiations with the representatives of journalists make the employers increasingly recognize the need for improving labor relations in this professional branch.<sup>83</sup>

## VII. Conclusions and Recommendations

The results of this research suggest that labor rights violations in the media are persistent and that the most frequent among them are violations related to salaries, health and pension insurance, the length of the working day and overall working conditions while other types of violations occur less frequently. There are some indications that labor rights and relations are particularly fragile in private media while in public media outlets there is general respect of legally determined procedures when it comes to dismissing employees. Labor contracts are mostly evaluated as inadequate due to imprecise job descriptions and frequent noncompliance with legally defined patterns of formulation.

Many journalists, especially those employed in newspaper (and private) outlets, considered that they are not protected by individual labor contracts in terms of unjust penalties or dismissal. Journalists mostly consider that public media employees enjoy somewhat more security, especially in terms of keeping their jobs. The results show that young journalists without regular employment in media outlets are particularly vulnerable. Due to their specific positions and since they are not protected by labor regulations, they face violations of labor rights more frequently than those respondents who signed labor contracts. Pressuring journalists to work as freelancers while actually performing full-time jobs represents a commonly used strategy by employers to avoid welfare and social insurance payments. Nevertheless, these kinds of engagements are sometimes (usually for experienced and established journalists) more preferable because of potential multiple engagements and thus higher overall incomes. Temporary, one-task and occasional engagements usually don't include signing any kind of contract. Moreover, unregistered working engagements remain one of the major problems of the economy in general.

The results suggest that jobs that are formally registered as temporary work in practice are often indistinguishable from regular salaried staff positions and that registering them as temporary serves the interests of only the employers by avoiding their legal obligations to journalists and to the state.

Authorship rights are not formally protected, and it appears that journalists generally do not believe that the protection of authorship rights is possible in the chaotic market economy in Bosnia and Herzegovina.

---

<sup>81</sup> Article 116 FBiH, Article 159 RS

<sup>82</sup> See the report of the HCHR on the State of Human Rights in FBiH in 2005, available at: <http://www.bh-hchr.org/Reports/reportHR2005.htm> (last visited on 15 August 2007).

<sup>83</sup> Amer Toskić, Op. Cit.

While assessments of levels of censorship and self-censorship diverge, respondents indicated that infringements of labor rights and job insecurity due to atypical working arrangements make the practice of censorship and an overall decline in critical and investigative reporting more probable.

Initial positive steps toward enhancing labor regulations were ratifications of relevant international conventions and the inclusion of these documents in the body of constitutional law. There have also been certain positive tendencies in developing labor rules and regulations. By enacting labor laws and signing general labor contracts and branch general agreement in RS and through an agreement on collective bargaining in FBiH, a basis for further initiatives aimed at the enhancement of labor relations in the media has been established.

The alleged readiness of employers to participate in collective negotiations with the trade union is in itself an indicator of the rising awareness of the necessity to promote further labor rights and their protection in media outlets. However, collective agreements, even when signed, only oblige employers that are members of the association of employers, and there is no obligation for all to join. Relevant ministries of FBiH and RS are authorized, once the collective agreement is signed, to extend its obligations to other legal persons if it is in their interests.

It seems, however, that negotiations are focused on several key questions (mainly specifying minimum wages, additional payments for night shifts and working on holidays and length of working day) and do not include other important issues such as conscience clauses or atypical working engagements. Moreover, collective agreements are not a panacea for problems with labor relations, especially if they are not followed by more efficient mechanisms of control over the implementation of those agreements.

Labor inspections and court proceedings are evaluated as inefficient and intolerably slow. This in turn reinforces employers' further neglect of labor rights and the lack of trust of employees in state protection of their rights. Consequently, employers continue to violate labor rights of media employees with relative impunity.

Discrepancies between some of the statements of the participants in this research point to the lack of awareness of journalists of the relevant legislation and mechanisms of protection of labor rights. In addition, evaluations of trade union functioning are generally negative to the extent that the majority of respondents were not familiar with potential and actual trade union activities. Trade union organizing is particularly unpopular in private media outlets and virtually doesn't exist. At present, associations of journalists and trade unions are fragmented, and thus their potential strength in promoting labor rights is weakened.

## **Recommendations**

### **Legislators**

- Amend relevant laws with precise definitions of labor rights, protective mechanisms and standards. More precisely, labor law articles related to the conditions of and reasons for dismissal<sup>84</sup> must be specific in order to protect workers from arbitrary decisions of employers.

---

<sup>84</sup> Article 87 FBiH, Article 124 of RS; Article 73 BD. The collective agreement of RS defines only the right to the severance pay, while the collective agreement of FBiH does not address this issue at all.

## Governments

- Develop efficient mechanisms for stimulating as many employers as possible to engage in collective bargaining or make collective agreements obligatory for all media companies.

## Law Enforcement Agencies (courts, prosecutor's office, inspectors)

- Improve the effectiveness of labor inspections by increasing the number of personnel, and give the inspectors more authority, for example, in terms of immediate implementation of legally defined penalties for the infringement of labor rights.
- Increase inspections, and control the labor black market.
- Improve efficiency and shorten the length of court proceedings.

## Journalists' Trade Unions

- Promote journalists' trade union organizing, and use different ways of raising awareness among journalists regarding labor rights and issues.
- Enhance union organizing by connecting fragmented media employees' organizations in a network that defines common goals and interests.
- Continue and intensify collective bargaining through which specific conditions of work for a journalist are defined.
- Include additional issues in collective negotiations, e.g., conscience clauses and the status of freelance media employees.
- Develop mechanisms that will impede the misuse of temporary and occasional contracts by employers. More concretely, the collective agreement could define the maximum proportion of such workers in each media outlet in order to combat the practice of forcing them to enter into this kind of engagement contrary to their preferences.

## Journalists Associations

- Facilitate educational programs for journalists' rights in labor relations and the means for protecting labor rights. Continuous seminars and workshops on this topic, distributing educational materials and other forms of promoting labor rights of journalists would be strongly recommended.
- Involve and inform other stakeholders (governmental bodies and employers) to become part of the process of improving the quality of labor contracts by including a more specific definition of professional obligations and the rights journalists are entitled to on the basis of applicable international and domestic labor rights standards.

## Journalists

- Inform yourselves about labor rights, means of protecting them, and the content of signed contracts.

## Employers

- Inform yourselves about international and domestic labor rights standards.
- Involve yourselves in collective negotiations with the journalists' trade union in order to promote professional standards in media outlets and the quality of journalism.

## VIII. Bibliography and Additional Reading

- Ademović N. (February 2006) Economic and social rights: Are economic and social rights equally guaranteed for all? *Democracy Assessment in BiH*, Open Society Fund Bosnia and Herzegovina, retrieved August 10, 2007, 97- 124 from [http://www.soros.org.ba/images\\_vijesti/Istrazivanje%20demokratije/eng/03\\_citizenship\\_law\\_and\\_rights.pdf](http://www.soros.org.ba/images_vijesti/Istrazivanje%20demokratije/eng/03_citizenship_law_and_rights.pdf)
- Ademović N., (November-December 2006) Evropska socijalna povelja u BiH: Zaboravljena prava [European Social Charter and BiH: the rights forgotten], *Pulsdemokratije*, 3, retrieved August 20, 2007, from: <http://www.pulsdemokratije.ba/clanak.php?sifra=061101012&lang=bh>
- Ahmetasević N. (2005) The business of ethics, the ethics of business Bosnia and Herzegovina. *The Business of Ethics, the Ethics of Business*, SEENPM, 51-72.
- CCPR/C/BIH/1 (24 November 2005) Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Initial report Bosnia and Herzegovina.
- De(kon)stukcija javnog diskursa: Štampani mediji u predizbornoj kampanji u BiH od 5.augusta do 5. oktobra 2002* [De(con)struction of public discourse: print media in pre election campaign in B&H from August 5 to October 5 2002], retrieved August 10, 2007, from <http://195.222.62.54/mediacentar/documents/Dekonstrukcija%20javnog%20diskursa%2Epdf>
- E/1990/5/Add.65 (July 2004) Implementation of The International Covenant on Economic, Social and Cultural Rights, Initial reports submitted by States parties under articles 16 and 17 of the Covenant. Bosnia and Herzegovina
- E/C.12/BIH/CO/1, (24 January 2006), Consideration of Reports Submitted by States Parties Under Articles 16 and 17 of the Covenant, Bosnia and Herzegovina. Concluding observations of the Committee on Economic, Social and Cultural Rights.
- Halilović M., (January, February 2007) Profesionalci i podanici: na margini sukoba Vlade RS i BHT1 [Professionals and vassals: On the margin of conflict between Government of RS and BHT1] *Puls demokratije*, 4, retrieved August 16, 2007, from <http://www.pulsdemokratije.net/clanak.php?sifra=070206002&lang=bh>
- Helsinki Committee for Human Rights in BiH. Report on the State of Human Rights in 2005, retrieved August 15, 2007, from <http://www.bh-hchr.org/Reports/reportHR2005.htm> HCHR Report on the status of human rights in 2004, available at <http://www.bh-hchr.org/Reports/reportHR2004.htm> (as of August 15 2007)
- HCHR Report of the Status of Human Rights in BiH, Analysis for the period January-December 2006, retrieved August 16, 2007, from <http://www.bh-hchr.org/Reports/reportHR2006.htm#top>
- Int'l Labor Org. [ILO] Declaration on Fundamental Principles and Rights at Work, 86th Sess., Geneva. June 1998, retrieved July 18, 2007, from [http://www.ilo.org/dyn/declaris/DECLARATIONWEB.static\\_jump?var\\_language=EN&var\\_pagename=DECLARATIONTEXT](http://www.ilo.org/dyn/declaris/DECLARATIONWEB.static_jump?var_language=EN&var_pagename=DECLARATIONTEXT)
- Jusic T. (October 2004) Vlasništvo nad medijima i njegov uticaj na nezavisnost i pluralizam medija u Bosni i Hercegovini [Media Ownership and its influence on independency and pluralism of media in B&H] in Sandra Bašić Hrvatinić, Brankica Petković, Tarik Jusić, *Vlasništvo nad medijima i njegov uticaj na nezavisnost i pluralizam medija*. Mediacentar Sarajevo, 106.
- Let's organize: a union handbook for journalists International Federation of Journalists, 2005. retrieved August 10, 2007, from <http://www.ifj.org/pdfs/letsorganise.pdf>
- IREX *Media Sustainability Index 2005*
- Nies G. and Pedersini R. (October 2003) Freelance journalists in the European media industry. European Federation of Journalists. Retrieved August 10, 2007, from <http://www.ifj-europe.org/pdfs/FinalReportFreelance.pdf>

- Perulli A. *Economically dependent / quasi-subordinate (parasubordinate) employment: legal, social and economic aspects*. Retrieved August 11, 2007, from: [http://ec.europa.eu/employment\\_social/news/2003/sep/parasubordination\\_report\\_en.pdf](http://ec.europa.eu/employment_social/news/2003/sep/parasubordination_report_en.pdf)
- Udovičić R. Između novca i politike [Between money and politics], retrieved August 11, 2007, from <http://www.mediaonline.ba/ba/?ID=418>
- International Federation of Journalists (April 2006) The changing nature of work: a global survey and case study of atypical work in the media industry. retrieved August 11, 2007, from <http://www.ifj.org/pdfs/ILOReport070606.pdf>
- Vaša prava Bosne i Hercegovine (2005) Analiza propisa i stanja u oblasti radnog prava., [The Analysis of Labor Laws and the State of Labor Relations],
- Vaša prava Bosne i Hercegovine. (2006) Problematika obaveznih doprinosa i njihova uplata. [Issue of obligatory contributions and their payments], *Magazine of Vaša Prava Association*, 18.

### **Laws**

- Labor Law of FBiH, Official Gazette of FBiH No. 43/99, 32/00 and 29/03
- Labor Law of RS Official Gazette of Republika Srpska No.: 38/00, 40/00, 47/02, 38/03, 66/03 i 20/07
- Labor Law of BD Official Gazette of Brcko District 7/02 7/00, 8/03 i 33/04
- General Collective Agreement of FBiH, Official Gazette of FBiH No. 54/05
- General Collective Agreement of RS, Official Gazette of Republika Srpska No.27/06 and 31/06
- Law on Authors' and Neighboring Rights in FBiH, Official Gazette of FBiH No. 7, 10 April 2002