



Submission to UN Special Rapporteur on the promotion and protection of freedom of opinion and expression

Input for the 2022 report on media freedom and safety of journalists

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Slavko Curuvija Foundation (SCF), based in Belgrade, Serbia, was founded in 2013 by Jelena and Rade Curuvija, children of late Mr Slavko Curuvija, a journalist murdered in Belgrade in 1999.

SCF's mission is to promote and support the development of free, independent, and accountable media and the advancement of investigative journalism in Serbia.

SCF is active in the field of **safety of journalists** through monitoring of implementation of public policies in this field, monitoring of trials, analyses of judicial decisions, as well as direct support to endangered journalists and participation in relevant working groups - Standing Working Group for the Safety of Journalist (SWG)¹ and the Working group for the protection of journalists from pressure and intimidation, formed by Ombudsman of the Republic of Serbia.

Since the very beginning, **independent local media and the position of local journalists** have been in focus of SCF, with a special focus on local environments where independent local media face pressure and attacks from local authorities. SCF also supports young journalists and media through annual School of Digital Journalism, and regularly organizes campaigns aiming to enhance freedom of speech and media freedoms in Serbia. In 2014, SCF established its **own online news portal - Cenzolovka.rs**, in order to open public debate, to point to main obstacles to media freedoms in Serbia and to promote freedom of speech. To date, Cenzolovka.rs is the only media outlet in the country dealing exclusively with media related issues.

SCF is a member of Association for Electronic Media (AOM) and participates in its Managing Board, as well as a member of the newly formed Coalition for Freedom of Media.

¹ SWG was formed in December 2016 based on the *Agreement on Cooperation and Measures for Raising the Security of Journalists*, signed between media associations, the Republic Public Prosecutor's Office and the Ministry of Interior



Context of media freedoms in Serbia

Since the change in government in Serbia in 2012, political rights and civil liberties have steadily eroded, putting pressure on independent media, the political opposition, and civil society organizations. The state of media freedoms in Serbia has been marked by an increase in nationalism in recent years and continued to deteriorate in 2021, with no sign of improvement as evidenced by all relevant indicators and reports of international organizations. Since 2016, Serbia has fallen for 34 places in the World Press Freedom Index (from 59th in 2016 to 93rd in 2021 of 180 countries). According to the report, “Serbia is a country with weak institutions that is prey to fake news spread by government-backed sensational media, a country where journalists are subjected to almost daily attacks that increasingly come from the ruling elite and pro-government media”.² The Freedom House³ assesses that “Journalists often face physical assaults and threats in connection with both online and offline reporting.” In its report for 2021, the European Commission⁴ states that “Cases of threats and violence against journalists remain a concern and the overall environment for the exercise of freedom of expression without hindrance still needs to be further strengthened in practice.”

Main obstacles for exercising freedom of expression without hindrance in Serbia are: online and offline violence, attacks, harassment, intimidation and smear campaigns against independent journalists and media; lack of transparency in media ownership and financing; editorial pressure from politicians and politically connected media owners; the threat of lawsuits and SLAPPs against journalists; precarious work of journalists and financial sustainability, especially at the local level.

Over the time, the ruling party has developed mighty machinery for propaganda which includes hate speech against opponents, including judges, CSOs, journalists and independent media outlets. Any criticism of the government or investigation of the government's corrupt activities carries out orchestrated attacks through the Parliament, televisions with national coverage, tabloid media and numerous fake profiles at social networks (bots). This situation is deteriorating over time, and in March 2020, Twitter removed approximately 8,500 fake accounts that were linked to the ruling party. According to Twitter, these clusters of accounts served to promote the interests of President Aleksandar Vučić and the SNS by silencing political opponents and amplifying coverage favorable to the administration. The content produced by the “troll farms” in turn was routinely cited by pro-government tabloids as evidence that the government’s political opponents were deeply unpopular.⁵

² Reporters Without Borders <https://rsf.org/en/serbia>

³ Freedom House’s Freedom on the Net 2021 report <https://freedomhouse.org/country/serbia/freedom-net/2021>

⁴ European Commission https://ec.europa.eu/neighbourhood-enlargement/serbia-report-2021_en

⁵ Stanford Internet Observatory, “Fighting Like a Lion for Serbia”: An Analysis of Government-Linked Influence Operations in Serbia,” April 2, 2020, [https://fsi-live.s3.us-west-1.amazonaws.com/s3fs-public/serbia_march tw...](https://fsi-live.s3.us-west-1.amazonaws.com/s3fs-public/serbia_march_tw...)



Electronic media

Electronic media, and above all televisions with national coverage, are the main source of information on political and social issues for the most of Serbian citizens. The absence of pluralism of media content, discrimination, hate speech and gross violations of the Law on Electronic Media have marked television programs with national coverage since the adoption of the set of media laws in 2014 until today. Televisions with national coverage, including public services, are under strong control of the ruling party, and independent media have little reach. Regulatory body for electronic media (REM) is heavily politically influenced and highly ineffective in the protection of public interest. According to **Analysis of the effects of REM work from 2017 to 2020 conducted by Slavko Curuvija Foundation**,⁶ since its establishment in 2014 until 2020, REM has imposed only 67 measures on media service providers for discriminatory speech, protection of minors and hate speech in electronic media, although there is evident daily broadcasting of such content in various programs. At the same time, in three years' period (2018-2020), citizens and organizations have submitted a total of 1,030 complaints to REM against various disturbing content in electronic media.

REM systematically refuses to employ harsher measures within its competencies, issuing only warnings as a lowest level measure, although it has the power to ban broadcasting for a period of time, or indefinitely. The warnings themselves do not impose any obligation of the broadcasters, apart from publishing them. The practice renders all 67 imposed measures highly ineffective, since broadcasters are regularly repeating the same behavior after the measure was imposed.

From year to year, in its annual reports, REM notes a dramatic deviation from the programmatic elaborates of all TV broadcasters with a national license (which were the basis for granting broadcasting licenses). REM has issued only one warning measure due to non-compliance with the program study, and this measure was issued to one local media.

Although REM has competencies to file criminal charges against broadcasters in cases of hate speech, spread of national, ethnic, religious or other hatred based on personal features, not a single charge was initiated by this regulatory body, in spite the fact that such a speech is a common content broadcasted by electronic media.⁷

Intentional inefficiency of the Regulatory body in practice encourages broadcasters to continue with smear campaigns and harassment of political opponents of the ruling party, independent journalists, civil society activists and other critical public figures.

Criminal proceedings for the protection of journalists

The Criminal Code of the Republic of Serbia (CC)⁸ provides enhanced protection for three criminal acts committed against, *inter alia*, persons performing an occupation of public importance in the field of

⁶ Available in Serbian at <https://www.slavkocuruvijafondacija.rs/wp-content/uploads/2020/10/Analiza-efekata-rada-REM-a-2017-2020-Slavko-%C4%86uruvija-fondacija.pdf>

⁷ <https://rm.coe.int/hf25-hate-speech-serbian-media-eng/1680a2278e>

⁸ Criminal Code of the Republic of Serbia, RS Official Gazette, nos. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019

information (aggravated murder⁹, serious bodily harm¹⁰ and endangerment of safety¹¹). Serbia does not have a specific law regulating online content, and general media laws, such as the Law on Public Information and Media (LPIM) and the Law on Electronic Media (LEM), are not currently used to restrict online speech. Online violence and threats against persons of importance to public information (journalists) are treated through criminal act endangerment of safety. There is a special Prosecution Office for Cybercrime in Belgrade tasked with handling such cases in the country. In December 2020, the Republic Public Prosecutor's Office (RPPO) issued a mandatory instruction for all public prosecutors, ordering urgent procedure in cases of threats and attacks against journalists. Prosecutors are obliged to keep special records in relation to criminal acts committed against journalists. Also in December 2020, the Government of Serbia have introduced new mechanism for the protection of journalists. Beside existing Standing Working Group for the Safety of Journalists (since 2016), Government formed new working group with the same mandate. But in March 2021, most media associations withdrew from Government's group on safety of journalists, due to its non-responding to increased hate speech and smear campaigns against journalists and civil society representatives in the National Parliament and by the state officials.

Despite new mechanisms for the protection of journalists that the state formally introduced, independent journalists have constantly been under attacks, harassment and smear campaigns through television, tabloids and by ruling-party politicians, which remains off the radar of the prosecution and remains unpunished. In the period January-June 2021, at least 141 negative mentions and verbal attacks against seven independent media and journalists were recorded in the Parliament by the MPs. This kind of behavior is spilling over and taking on very serious proportions at social networks and tabloid media.

Research "Protection of Freedom of Speech in the Judicial System of Serbia",¹² conducted by the Slavko Curuvija Foundation and the Centre for Judicial Research (CEPRIS) for the period 2017-2020 have shown that the most of the reported offenses against journalists end before the prosecutor's office, namely by dismissals of the criminal reports. Only one in every ten reported case of threats and attacks against journalists culminates with a final and binding court decision. In the 2017-2020 period 20 legally concluded proceedings were identified and analyzed. The analysis showed that courts have a tendency to impose lenient criminal sanctions: of 20 criminal convictions, only one prison sentence was imposed to be served institutionally for a six-month period. The longest pronounced sentence was a one-year house arrest, but to be served without electronic surveillance. Suspended sentences were handed down in eight cases. Of the total number of proceedings, nine concluded with a guilty plea agreement and four resulted in acquittals or decisions that rejected or dismissed the filed indictments.

In the same period, all public prosecutor's offices in Serbia recorded 204 reported cases of crimes committed against journalists and media workers. A little above half (105) are recorded as finally resolved. But, as previously said, only 20 cases were resolved before the court. The largest number of reported attacks against journalists and media workers end with the prosecution service, with the rejecting of

⁹ CC, Aggravated Murder, Article 114, paragraph 1, item 8

¹⁰ CC, Serious Bodily Harm, Article 121, paragraph 6

¹¹ CC, Endangerment of Safety, Article 138, paragraph 3

¹² Research available in English at <https://www.slavkocuruvijafondacija.rs/wp-content/uploads/2021/02/Protection-of-freedom-of-speech-in-the-judicial-system-of-Serbia.pdf>



criminal charges – in 69 per cent of finally resolved cases. Furthermore, six per cent of cases were resolved by applying the institute of postponing criminal prosecution, also before the prosecutor's offices. The rest of 99 cases in the same time period were active and yet to be resolved. In almost half of the active cases – a total of 49 – the perpetrators remained anonymous. The research also showed a difference in the number of registered cases by prosecution offices and by media associations. At the same time, Independent Journalists' Association of Serbia (IJAS) recorded 481 cases of attacks, treats or pressures against journalists. The number of ongoing proceedings before the Special Prosecutor's Office for Cybercrime (59 out of 99), given its competences, indicates that Internet and social media have become a virtual arena where the largest number of cases of endangering the safety of journalists take place.

It should be also noted that the government used the coronavirus crisis to pass draconian legislation under which journalist Ana Lalic was arrested in April 2020 for reporting about a local hospital. Due to public pressure, Lalic was released after a night spent in prison and legislation introducing censorship was repealed.

Impunity for crimes against journalists

Efficient investigation and effective court trials are lacking in Serbia to end impunity for crimes against journalists, especially in cases where political figures or members of the state structures are involved.

Trial for the murder of journalist Slavko Curuvija has started more than 15 years after his murder in 1999. Accused for the crime are former state security officers, including the former chief of the state security. The trial started in 2015, and in September 2020, an appeal court revoked on procedural grounds the first-instance verdict against the four accused. In the repeated first instance trial (October 2020–December 2021) four members of the state security were again convicted for the total of 100 years of imprisonment, but the second instance trial is still expected, 23 years after the murder. Both processes have been marked with undue delays: the repeated first degree trial has lasted a total of 13 months, but the court proceedings effectively took only 27 hours in total. In other two cases of murder of journalists in Serbia (committed in 1994 and 2003), investigation is still ongoing, with an uncertain outcome.

Efficient investigation was conducted in the case of arson attack on home of local investigative journalist writing about corruption at the local level, Milan Jovanovic, committed in December 2018. Trial against four accused for the crime, including former mayor and the member of the ruling party, have started in March 2019. In February 2021, accused were sentenced in the first instance to four years in prison, but appeal court revoked on procedural grounds the first-instance verdict against the accused. Retrial is expected in February 2022 and until final court decision, victims of this serious crime have no rights to claim damages.

Impunity for crimes against journalists is reflected in long lasting investigations or rejecting of criminal charges when suspects are civil servants or people closely connected to the ruling party, such are the case of attacks on several journalists during the inauguration of the President of Serbia in 2017 or the case of attack on journalist of KRIK by the security of the President's son. Cases of attacks on journalists by police officers during demonstrations organized against government's measures against Covid in July 2020 are still under investigation.



Media disputes

Media disputes are regulated by the Law on Public Information and Media.¹³ **Research “Protection of Freedom of Speech in the Judicial System of Serbia”**, included analysis of 305 cases of media disputes in the 2017–2019 period brought against five media outlets that have been confirmed by the Press Council – a self-regulatory body for print and online media,¹⁴ as those that most often violate the Code of Journalists of Serbia. These media outlets are: Kurir, Informer, Blic, Alo and Medijska mreža (Media Network) – publisher of daily newspaper Srpski telegraf and the Republika portal. Research have shown that media disputes related to cases of hate speech, the protection of minors, ensuring the dignity of victims of violence and protecting character and reputation last an average of around two years, despite the urgent status of such cases envisaged by the Law on Public Information and Media (LPIM). The excessive length of these proceedings makes it impossible to protect plaintiffs or defendants.

When it comes to litigation proceedings initiated against the five analyzed media outlets on the basis of the LPIM, in the 2017-2019 period, the span of compensatory damages awarded ranged from 40,000 to 420,000 RSD (app. 340-3,500.00 EUR). The average amount of damages paid in 2017 was 75,000 RSD (app. 640 EUR), while in 2018 that amount was 85,000 RSD (app. 720 EUR) and in 2019 it totaled 88,000 RSD (app. 750 EUR). The noted amounts impose a need to conduct serious analysis to determine whether the court contributes to the increasingly unprofessional work of the media by awarding damages in amounts that cannot bring adequate satisfaction to the prosecutor. It is recommended that the amount of damages awarded be dependent on the regularity and recurrence of violations of rights by the same defendants related to the same plaintiff. This criterion should be enshrined in law in order to combat intimidation campaigns, the discrediting of individuals and hate speech.

A total of 22 journalists filed lawsuits against these media outlets during this period. Of this number, requests were rejected through a final judgement in four cases. The most lawsuits were filed against daily newspaper Kurir.

SLAPP lawsuits as a new model of pressure against independent media and journalists

In the recent years SLAPP lawsuits are increasingly being used to silence and intimidate journalists and the media, especially those dealing with investigative journalism and exposing various corruption scandals and connections with the political establishment. The report of the High Court in Belgrade, obtained for the newest analysis of the SCF (to be published in February 2022), contain data that company Millennium Team, closely connected with the political establishment filed a total of 34 lawsuits in three months period (from March to May 2021), of which 27 lawsuits were filed against the media (79 percent of the total number of lawsuits filed), while other lawsuits were filed against political parties and politicians who criticized this company in public.

One of the most attacked organization by SLAPP lawsuits by different plaintiffs is KRIK - Crime and Corruption Reporting Network. In just few months period, people close to the regime filed numerous

¹³ The Law on Public Information and Media, RS Official Gazette, nos 83/2014, 58/2015 and 12/2016

¹⁴ <https://savetzastampu.rs/en/>



lawsuits against this media outlet.¹⁵ Among plaintiffs against KRIK journalists are a man accused of organizing drug production, the head of the Serbian intelligence agency (BIA), police chiefs, tycoons close to the government, people on Interpol wanted lists, the Serbian president's best man, a pro-government tabloid publisher, a government agency, and an international corporation. The total value of the 10 proceedings currently being conducted against this media outlet is 90 million RSD (more than 765,000.00 EUR) - which is three times more than their annual budget.

Gender dimension

While all accountable journalists in Serbia are exposed to safety risks, poor working and economic conditions, constant pressure, smear campaigns and threats by power holders, tabloid media and groups prone to violence, women journalists are at particular risk. Their gender is usually the basis for pressure and intimidation while insults on gender and sexual basis are being recorded almost daily. However, there are no official records on gender-based attacks on women journalists or specific measures for their protection. Research conducted in 2020 as part of the international Media4Women campaign¹⁶, have shown that 71 percent of women journalists working in Serbia said they had received misogynistic and gender-based comments online in the past five years, and 54 percent said they experienced some form of online sexual harassment. While 73 percent said that their reputation was endangered, 56 percent of them said that it was a threat to security and life and that online threats and pressures has increased over time. Other research¹⁷ have shown that women make 63 percent of employees in media outlets, they are also the majority (58%) of the column editors, and this ratio is maintained when it comes to the position of assistant and deputies. However, there is a radical change, with only 18% of women at the position of editor-in-chief. It should be especially emphasized that women journalists at the local level are even more endangered, because their problem is less visible at the national level. Victims assessed that the attacks on them are a consequence of their writing about corruption and irregularities in local communities. Good practice examples come from informal platforms. Since 2017, in Serbia is active informal group "Female Journalists against Violence" established with the support of UNDP Serbia, with the aim of sensitizing for reporting on violence against women. Through meetings of group members, female journalists shared experiences that their male colleagues have not encountered.

¹⁵ https://www.krik.rs/krik-zatran-tuzbama-ljudi-bliskih-rezimu/?fbclid=IwAR3M4gBb40xPEMZQdH2-BuiEigtVlj0hW1lFbZis0ee4A3V1shib05k_XA

¹⁶ Research available in Serbian [onlajn-napadi-na-novinarke.pdf \(safejournalists.net\)](#)

¹⁷ Research available in Serbian <https://www.osce.org/files/f/documents/0/c/491866.pdf>