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OVERVIEW OF LABOR RELATIONS IN THE MEDIA IN ALBANIA



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OVERVIEW OF LABOR RELATIONS IN THE MEDIA IN ALBANIA

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I N T R O D U C T I O N

The research on employment conditions of journalists was conducted as part of the Project “South-East European Partnership for Media Development”, implemented by the Centre for Independent Journalism – Romania and supported by the European Commission. The overall objective of the project is to support the development of independent and accountable media in the Western Balkans. The project aims to achieve this through the following activities: research on employment conditions of journalists and on education needs for journalists and the public; freedom of expression and of media monitoring and advocacy; training sessions on advocacy and media literacy; advocacy activities. The Albanian Media Institute is one of the partners in this regional project, where the other partners are the Macedonian Institute for Media, Foundation Mediacy for Media and Civil Society Development (BiH), Media Initiatives – Association for Media Development and Promotion of Professional Journalism (BiH), Montenegro Media Institute, Foundation Media Center (Serbia), Media and Reform Centre Nis (Serbia), and Media Development Center (Bulgaria).

The methodology of the research -common for all countries - was developed after discussions with all project partners and research experts. The research aims to document the social statute of journalists in Albania, given the allegedly vulnerable employment (weak labour rights, weak implementation of existing legislation, weak trade unions or alternative defence mechanisms, weak associative powers, economically weak employers, vulnerable to political pressures, ailing economies, shifting business models.) The research uses a variety of sources, such as previous research done in this area, relevant official data and statistics, analysis of legal framework on media operations and on labour relations, as well as in-depth interviews with journalists from mainstream, national, and local media.

MEDIA LANDSCAPE

Albania's media landscape is rich in numbers, compared to the country's small population of about 3 million. The exact number of media outlets is not known, since print and online media do not need to register. At the moment there are 25 daily newspapers and many more publications of other frequencies. The print media do not have the obligation to publish their circulation and sales, while neither public nor commercial bodies provide any statistics in this respect. A 2013 study regarding the sales at the news kiosks revealed that the biggest newspaper sold up to 4,200 copies, estimating that nearly half of the sales took place in the capital Tirana¹. However, in the absence of certified data, such figures must be taken cautiously.

The situation is clearer in terms of number of audiovisual media outlets operating in the country, given their obligation to obtain a license and register with the regulator. Currently there are two national commercial televisions, 71 local televisions, 83 local cable televisions, and two commercial multiplexes². There are 63 local radio stations and two national radio stations³.

When it comes to online media, their number, way of operations, funding, and staff is almost totally unknown, given the lack of regulation on this media section. In terms of websites, there is still a heavy presence of portals run by traditional media, as the main televisions and newspapers in the country have adapted to the demand for online content. Often websites of traditional media rank higher than online-only news media⁴, indicating that the boundaries have been blurred.

Overall Albania has a rich and vivid media landscape, with new media outlets opening frequently. However, in terms of the way the market functions, the transparency of the media market is very low. As it was mentioned, the readership, circulation, and sales of print media are not known. At the same time, there are no publicly accessible and verified data on radio and television audience. In the last two years there have been a few initiatives to measure the audience, but the data are not public. Even these initiatives to measure audience do not have a profound effect, since not all media owners or managers are interested in determining their actual market share, nor do they know how to use the information provided by market research⁵.

In this context, attempts to determine the market shares and market size are a matter of speculation. "Although the media market has been liberalized for 23 years now, only limited progress has been made in terms of public, systematic, and reliable data on media market and media finances. Accordingly, the ranking of Albanian media outlets can only be a judgment based on popular perceptions rather than on accurate data or audience measurements."⁶

Parallel to the lack of transparency on the media shares and ranking, there is also a lack of transparency regarding the advertising market. While some market research companies monitor and estimate the size of the market, their data are not public and, in the best case, they remain just estimates. "In some cases the data coming from different sources are conflicting, which adds to the overall confusion."⁷ The following table includes the estimates of distribution of advertisements across media for seven years:⁸

Advertising market distribution (2004-2011)

Media	2004	2005	2006	2007	2008	2009	2010	2011
Television	86.3%	81.1%	78.2%	63.6%	63.8%	68.7%	65.4%	66.8%
Radio	1.2	1.4	1.2	1.4	1.4	1.3	1.4	1.4
Press	6.4	8.1	5.8	20.1	17.8	8.5	10.7	8.5
Outdoor	6.1	9.4	14.3	15.6	17.4	21.8	20.8	22.4
Cinema	NA	NA	NA	NA	NA	NA	NA	NA
Internet	NA	NA	NA	0.5	0.8	1.1	0.9	0.9
Ad Market <small>(million euros)</small>	14.5	19.8	24.38	27.18	42.23	49.3	57.4	54.34
Source: Abacus Research, November 2012.								

1 Aleks, "Ja sa kopje shiten gazetate ne Tirane," AMA-NEWS, 21 April 2013. Available at: <http://www.ama-news.al/2013/04/ja-sa-kopje-shiten-gazetat-ne-tirane/>. Accessed 8 April 2014.

2 AMA list of licensed operators is available at: http://ama.gov.al/index.php?option=com_content&view=category&id=21&Itemid=75&lang=sq, accessed 12 October 2014.

3 Ibid.

4 Alexa.com rankings.

5 Interview with Thanas Goga, R&T Advertising, 15 May 2013, qtd. in Peace Institute, "Media Integrity Matters," Albania, 2014.

6 Peace Institute, "Media Integrity Matters," Albania, 2014.

7 Ibid.

8 Goga, *The era of "cross-platform" media and its impact on the market*, January 2013.

As it can be seen, television advertising revenue still gets the lion's share, while radio and press figures are significantly lower. In general all estimates data agree that the main advertisers include telecom operators, banks, big companies (food and beverages, such as Coca-Cola, and similar companies).⁹ In 2011, the telecommunications sector accounted for 69 per cent of the TV advertising market, followed by coffee trading companies, which accounted for 14 percent.¹⁰

Apart from commercial advertising, public funds have also been used to advertise in the media or to organize campaigns that have benefited media owners. Albanian legislation does not specify any provisions whatsoever on state support and funding of the media, not even in terms of protecting media pluralism or supporting minorities or specific communities.¹¹ Nonetheless, speculations on unfair and non-transparent distribution of state advertising have never ceased. A recent independent investigation proved that most of the claims about unfair distribution of state advertising were true.¹² The investigation showed that the state spent at least 780,000 Euro between June 2012 and the end of 2013 on TV advertising, with the bulk of this sum going to TV stations and agencies owned by or tied to one person, whose media provided favourable coverage to the government at the time.¹³ "The publication of such data clearly reveals both the unfair awarding of advertisements for state institutions to the media close to the government and the lack of transparency in distributing these funds."¹⁴

JOURNALISTS' EDUCATION AND EMPLOYMENT

At the moment, only the public university offers journalism studies, more specifically its branches in Tirana, Elbasan, and Shkodra. The students quota are fixed according to the capacities of the university. For the main branch, the Tirana one, no more than 80 students can be enrolled each year, while for master's studies the number can go up to 100. Out of this university branch an average of 60 students graduate with a bachelor's degree in journalism¹⁵. Meanwhile, in the last years a total of 202 students have received a master's degree out of the 400 students registered in total¹⁶. For the branches of the public university in the countryside, this figure is smaller. In Shkodra university this figure is about 50 students per year.¹⁷ Meanwhile, in the last decade, a total of 480 students have graduated from University of Elbasan with a journalism degree¹⁸. Other private universities also have offered journalism degrees for a few years; however, such programs have either been closed, or have been turned into communication and public relations programs, rather than strictly journalism ones.¹⁹ Neither universities, nor other bodies have offered statistics or surveys regarding the rate of journalism graduates' employment in the media.

Similarly, there are no official figures on the number of journalists in the country. According to the trade union of journalists, there are approximately 2,500 journalists in the country, and 60% of them work in television²⁰. The number of journalists in online media remains totally unknown, even for the union of journalists. According to an independent academic survey, Albanian journalists are relatively young, with an average age of 31, and 52% of them are female.²¹ The same survey indicates that 64% of the journalists held a bachelor's degree and 32% a master's degree, while 27% of them had not previously studied journalism or communication.²² However, interviews with working journalists did not show a direct relation between education and job position: „The persons with higher education within newsrooms are not necessarily in the highest positions. This means that career progress in journalism, unlike in other areas such as academia, medicine, etc, is determined by other factors, rather than the level of education.“²³

9 In the first half of 2011, Eagle Mobile was considered the top spender in print advertising, spending an estimated 252,249 euro from January to May, compared to 173,539 euro spent by AMC, according to Idramedia research. Available at: http://www.idramedia.com/news/news_eagle_jul11. Accessed 8 April 2014.

10 Likmeta, "Big advertisers subvert Albanian media freedom," BalkanInsight, 20 December 2013. Available at: <http://www.balkaninsight.com/en/article/big-advertisers-subvert-albanian-media-freedom..>

11 Peace Institute, „Media Integrity Matters,“ Albania, 2014.

12 Likmeta, "Big advertisers subvert Albanian media freedom," Balkan Insight, 20 December 2013. Available at: <http://www.balkaninsight.com/en/article/big-advertisers-subvert-albanian-media-freedom>.

13 Ibid.

14 Peace Institute, „Media Integrity Matters,“ Albania, 2014.

15 University of Tirana, Department of Journalism, October 2014: The figures for each year are the following: 63 in 2011, 65 in 2012, 66 in 2013, and 55 in 2014.

16 Ibid

17 Interview with Ardita Hysa, Department of Journalism, University of Shkodra.

18 University of Elbasan, Department of Journalism, <http://www.uniel.edu.al/index.php/al/departamentet-shkencat-humane/154-departamenti-gjuhe-letersi-dhe-gazetari>

19 Peace Institute, „Media Integrity Matters,“ Albania, 2014.

20 Interview with Aleksander Cipa, chair of Union of Albanian Journalists, November 10, 2014.

21 Jonila Godole, "Gazetaria shqiptare ne tranzicion," 2014, p. 149.

22 Ibid, p.150- 151.

23 Ibid, p.157.

LEGAL FRAMEWORK OF THE MEDIA BUSINESS

The media business is regulated by the overall laws that govern the business in the country, such as the Law on Commercial Companies, the Law on Protection of Competition, and the Code of Labour. These laws do not contain specific provisions related to media; the provisions are equally applicable to media companies or to any registered company. The only media-specific legislation regulating entry to the market of the media companies is the Law on Audiovisual Media, covering only the audiovisual media. Print media is completely unregulated and there are no specific legal requirements to start a newspaper or a magazine. The same situation applies to online media, where no registration of any kind is required. Companies need to register with the respective regulator only if they wish their domain name to include the national ending, namely „.al.“ However, even in this case the rule is applicable to any company, not only to media.

The Law on Audiovisual Media, in its turn, delineates specific rules for granting the licenses and authorizations for audiovisual media. The Law establishes the regulator, the Audiovisual Media Authority, as the main body in charge of granting, renewing, and monitoring broadcasting licenses. „The allocation of frequencies shall be made on the basis of objectivity, transparency, non-discrimination, availability of free frequencies, and in compliance with the specifications of the National Frequency Plan only in the frequency bands assigned for administration to AMA.“²⁴ The current law, approved in spring 2013, covers both analogue and digital broadcasting, since at the moment both broadcasters are part of the landscape. In the switchover process AMA has the competency to issue licenses for network operators, service providers, and content providers for both audio and audiovisual networks and programs. The licenses are also divided in accordance with their geographical area, namely, national, regional, and local. In addition, AMA is also in charge of granting cable and satellite licenses.

The law makes specific requirements on the criteria applicants have to meet before receiving a license. These criteria include²⁵:

- legal form of registration;
- documents on financial capital assets of the applicant;
- information on the broadcasting plan and programs;
- data on the territory that it will cover;
- the technical project of the installation and use of equipment;
- the list of administrators, the anticipated expenses and revenue, the initial and total predicted funding for the license's requested duration;
- the list of names of the Management Board and their curriculum vitae.
- the content of the programs that will be broadcast and the program structure proposed for broadcasting, which clearly express pluralism in their entirety and the information's objectivity;
- information on the ownership structure of the company and its shareholders.

In addition, should the regulator require further information, the applicant should make this information available.

During the revision process of applications, the law specifies a long list of qualities the regulator should consider, such as the applicant's capacities, its financial resources, the quality of the programs proposed and if they favor national culture, as well as their diversity and the way they meet the demands of local community. In addition, the applicants are not eligible to obtain a license if they are bankrupt and have a registered capital of less than ALL 3,500,000 (approximately 25,000 Euro).²⁶ According to the law, persons with a criminal record are not eligible five years after being convicted. The broadcasting license shall also not be issued to the subjects whose license has been revoked or made invalid by an AMA decision if a time limit of ten years from the license revocation has not passed²⁷.

24 Law on Audiovisual Media, 97/2013, Art. 54.
25 Ibid, Art. 56.
26 Ibid, Art. 61.
27 Ibid

OWNERSHIP REGULATION

Print and online media are not regulated at all in terms of ownership. Neither do the media laws contain any provisions regarding cross-ownership. The only regulated sector in this aspect remains the audiovisual media.

The Law on Audiovisual Media has several rules on the ownership of terrestrial audio and audiovisual broadcasting, distinguishing between national and local and regional licenses²⁸. National licenses are issued only to joint stock companies, whose exclusive scope of activity is the audiovisual activity. No natural or legal, local or foreign person can possess more than 40 % of the general capital of a joint stock company that holds a national license. In addition, a natural or legal person who has shares in a company that holds a national license cannot own more than 20% of the shares in a second company that holds a national license, be it audio or audiovisual one. Regarding analogue broadcasting, participation shall be allowed with up to 10 % of shares in a third national company. In addition, this natural or legal person cannot have a local or regional license.

Regarding local licenses, a natural or legal person who has 100 % of the shares in a company that has a local or regional license, may be issued only one second local or regional audio broadcasting license. A natural or legal person who has 100 % of the shares in a company, which owns a local or regional audio broadcasting license, may be issued only one second local or regional audiovisual broadcasting license, owning no more than 40 % of the general capital in this company.

Finally, another limit the law poses is that broadcasters with a national license cannot broadcast more than 30 percent of commercials in the audiovisual broadcasting market. According to the law, AMA is in charge of monitoring the volume of advertisement. However, to this date, the size of advertising market remains an estimate, and AMA has not published any information in this respect.

In fact, the transparency of the market in general is a problem, including the transparency of media ownership. While this is not hidden, neither the regulator, nor the media outlets offer information to the public on the media ownership dynamics in a pro-active and open way²⁹. Transparency on formal ownership of media outlets has increased through the years. All companies, including media outlets, have to register with the National Registration Center and specify the names of their shareholders; ownership data are available online for most of the media outlets, including the print media. Extracts of ownership are available online for free, by searching the name of specific companies or shareholders.

Another option for greater transparency of the audiovisual media would be actions taken by the regulator, the Audiovisual Media Authority, which possesses the data on the ownership of companies. So far the regulatory authority has not published these data in an online register. On the other hand, the ownership of some online media remains unknown, since they do not have any registration obligations as long they are not registered as a company.

In spite of the increased transparency in media ownership patterns, the doubts on the real ownership behind certain media remain. "People are not sure whether the owner of a newspaper or a television station is a politician or a businessman who is known to be associated with the politician or political wing in question."³⁰

COMPETITION PROVISIONS

Media companies are also subject to competition regulation, which is not specific to media, but rather covers all business companies. The law states that all agreements that intend to prevent, restrict or distort competition are forbidden. Some examples of such agreements include directly or indirectly fixing prices, limiting or controlling production, markets, etc., sharing markets or sources of supply, etc.³¹ The regulation aims to guarantee fair competition by preventing abuse with dominant positions on the market. The overall position of the law on concentration is that they are not forbidden per se; rather, their abuse is prohibited and punishable by law³². Instances of abuse provided by law include:

- direct or indirect imposition of unfair prices or trading;
- limiting production, markets or technical development;

28 The provisions on ownership are all under the same law, Art. 62.

29 Peace Institute, "Media Integrity Matters," Albania chapter.

30 I. Luarasi, as quoted in IREX, 'Albania' in Media Sustainability Index (MSI), 2013, p. 11.

31 Law No.9121, "On Protection of Competition," 28.07.2003, art. 4.

32 Lindita Milo, "Politika Kombetare e Konkurrences", available at http://www.caa.gov.al/file/Politika_Kombetare_Konkurrences.ppt

- creating conditions for competitive disadvantage;
- refusal to deal or refusal to license, etc.³³

According to the law, concentration occurs in the following cases:³⁴

- when the combined worldwide turnover of the participating businesses in a group exceeds ALL 7 billion (app. 50 million Euro), or when the domestic combined turnover of businesses is more than ALL 800 million (app. 5,714,285 Euro);
- when the domestic turnover of all companies is higher than ALL 400 million (appr. 2,857,142 Euro) or at least of one participating enterprise is higher than ALL 200 million (app. 1,428,570 Euro).

Any agreements that lead to the above-mentioned cases and hence to concentration, should be notified to and approved by the Authority on Competition. In cases when the concentration is expected to create or strengthen a dominant position by one or more of the enterprises involved, the Commission on Competition can prohibit the agreement that would lead to this concentration³⁵.

The Authority on Competition has not started any investigation and there have been no specific complaints on competition practices of media companies brought to this authority. The Authority, however, has had a small role in media regulation when particular amendments or draft laws were discussed, which posed competition questions. Such a case was presented in 2004, when there was a proposal to establish a floor price for daily newspapers, after allegations of dumping. Also, based on doubts that certain publishers were spinning their media coverage and obtained public tenders in return, there was also a proposal to prohibit publishers who sell their papers below the floor price from participating in public tenders. The Authority on Competition criticized the articles, stating: “The owners have the right to set prices as they like. In many countries in the world it is common practice to offer free newspapers, irrespective of the high cost of their production.”³⁶ At the end, the amendment did not pass.

The second case of the Authority on Competition involvement in the media was the opinion it provided in the discussion on the Law on Digital Broadcasting in May 2007, upon the request of the Parliamentary Commission on Media. The AC’s stance on the bill focused on two concrete aspects: the need to stress that abuse with dominant position is prohibited rather than the dominant position *per se*, and the suggestion to leave out the proposal to define a ceiling share of the advertising cake³⁷. This law, however, was not implemented, as the preparations for a totally new law started. The new Law on Audiovisual Media does set a ceiling share for the advertising cake of audiovisual media, contrary to what the authority suggested.

REGULATION OF LABOUR RELATIONS IN THE MEDIA

There is no legal or professional definition of who is a journalist in Albania. Through the years there have been a few initiatives to consider the possibility of “licensing” journalists through an Order of Journalists, similarly to the Italian model. In 2001, a new draft law on the press was discussed, which proposed a very detailed regulation of who could be called a journalist, setting rules on professional exams and licensing for journalists to practice their profession. However, the media community at the time rejected this law, preferring a free or self-regulated profession, rather than one regulated by strict laws.³⁸

This spirit has prevailed also in later discussions on self-regulation and regulation of the profession of journalists. To this day, there is no legal definition of who is a journalist and the profession is totally unregulated. The journalists are not required to register with any institution to do their job.

As with all the other aspects related to the profession, the legislation does not include any specific provisions regarding labor relations in the media, which are subject to the same laws and general norms that govern every other sector in the country.

The specification and regulation of labour relations start with the Constitution which has precedence over any other law. More specifically, in several of its articles the Constitution addresses different facets of labour such as forced labour and the

³³ Law No.9121, “On Protection of Competition,” 28.07.2003, art. 9.

³⁴ *Ibid.*, art. 12.

³⁵ *Ibid.*, art. 13.

³⁶ Authority on Competition, quoted in IREX, *Media Sustainability Index 2004*, available at <http://www.irex.org/msi/2004/MSI-2004-Albania.pdf>

³⁷ Authority on Competition, “Opinion on Bill on Digital Broadcasting,” 22.05.2007, available at <http://www.caa.gov.al/file/leter-komsioni-medias.doc>

³⁸ Media ownership 2007, AMI.

freedom to organize trade unions. Article 28 states that forced labour is forbidden unless it takes place in specific circumstances such as carrying out military service, executing a court order or something that happens in extraordinary circumstances such as war or a natural disaster.³⁹ More importantly for this research, the Constitution states that the freedom to organize trade unions is a right protected by law.⁴⁰

This right, along with other labour rights, is specified in greater detail in numerous international treaties and conventions. Albania has ratified 38 conventions of the International Labour Organization. The spirit of these conventions is reflected in greater detail in the Code of Labour, which is the most important piece of legislation that regulates labour relations. The Code details general rules and norms that have to be applied in labour relations, specifying certain conditions that have to be present for the establishment, modification and termination of labour relations. It starts by defining labour relations, stating that they are established based on a contract that an employer and an employee sign, specifying the task of the employee and the reward for performing this task.⁴¹

The Code recognizes the validity of both individual and collective labour contracts, while identifying a series of contracts depending on the length of work and its nature and purpose: work contract for an indefinite or determinate period, contract for probationary work, contract for part-timework, collective contract, apprenticeship contract, home work contract, commercial agent contract.⁴²

The contract has to include such elements as the identities of the signatories, the location of the job, a general job description, starting date, duration of contract, length of paid vacation, the notice for termination of the contract, the payment mode, weekly working time and if applicable, the elements of the collective contract.⁴³

The Code sets out some general norms and obligations for both the employee and the employer that are applicable in all work contracts. Article 22 determines that the employee should do the job personally unless otherwise agreed. In addition, the employee has to respect the employer's instructions unless they change the essence of the job description or endanger the safety and health of the employee.⁴⁴ Article 26 of the Code also sets out some important obligations for the employee such as prohibiting the employee from taking on a second work contract that leads to increased competition for or damages to the present employer. The employee must also regard as confidential the activity or products that he/she deals with; the employee and employer can determine a period after the termination of the contract for keeping the confidentiality of the activity.

In this regard, the Code of Labour also regulates those cases when the employer is damaged by the employees' work; with regard to the media, that maybe the case of publishing false information. According to Article 27, the employee can be held liable whether they cause damages wilfully or out of recklessness. The consequences include disciplinary or administrative measures and civil or legal lawsuits depending on the damage. However, the Code also determines three circumstances under which the court can partially or fully relieve the employee of his/her obligations in these cases:

- the employee's recklessness was minor;
- the employer has also made a mistake in organizing or controlling workers;
- the employer's resources can comfortably afford to repair the damage.

While these are the main norms that the employee has to respect in labour relations, the Code of Labour also determines a series of obligations for employers. One of the main conditions the law imposes is the protection of the personality and dignity of the employee in relations with the employer.⁴⁵ This protection is mainly related to sexual harassment by the employer or by other persons in the workplace. In addition, the employer should not collect or process data on employees except when the information is related to professional skills.⁴⁶ In order to achieve transparency on rights and obligations in this relationship, the employer has to make a copy of the Code of Labour available to employees.⁴⁷

39 Constitution of the Republic of Albania, Law no.8417, dated 21.10.1998, art.28, available at http://www.qpz.gov.al/botime/kushtL_kode/Kushtetuta_alb.pdf.

40 Ibid, articles 50, 51.

41 Code of Labor, Law no.7961, dated 12.07.1995, amended by Law no.8085, dated 13.03.2006, and Law no.9125, dated 29.07.2003, Art.12, available at <http://www.mpcs.gov.al/images/stories/files/kodi-punes.pdf>.

42 Ibid, Art. 14, 15.

43 Ibid, Art.21

44 Ibid, Art. 23.the

45 Ibid, Art. 32.

46 Ibid, Art. 33.

47 Ibid, Art. 38.

Article 36 of the Code of Labour obliges employers to keep a register of employees. The register should contain general information on the employee such as name, date of birth, home address, job position, starting and termination dates, monthly salary, social and health security, taxes on income, dates of annual vacation and dates of medical check-ups.⁴⁸

Another fairly detailed aspect of labour relations in the Code is the payment mode. While the minimum wage is established by legislation, the Code defines the system of salaries which includes:

- payment according to time units;
- payment according to work done;
- payment according to the enterprise's profits.

In addition to the salary, there are also bonuses that the legislation details for the work done such as the experience bonus, a bonus for difficult or harmful jobs and bonuses for employees working far from their homes. Although there is no legal obligation for the employer to distribute a bonus at the end of the year, if the employer chooses to do so for three years in a row, the law states that the employer must continue this practice in the future as well. In addition, the Code establishes that in cases of overtime work and work carried out between 19:00 and 22:00, the employee should have a bonus of no less than 20%. If work is done between 22:00 and 6:00, the bonus should be no less than 50%.

The employer deducts taxes on income and social security and health benefits from the employee's salary as defined in legislation or contracts in force. The Code of Labour also regulates those cases when the salary payment is delayed. If the salary is paid with a delay, an annual interest rate tax of no less than 10% of the unpaid sum and no more than 150% of the inflation rate during the delay period is due.

If the employer chooses to terminate the work contract unexpectedly and for no justifiable reason, he/she has to pay one year's salary to the employee. If the employee has worked for more than three years, the employee should also receive an experience bonus.

Apart from the salary and payment modes, the Code of Labour also regulates the length of work time. Weekly working time should be specified in individual or collective contracts; however, it cannot be longer than 40 hours per week and no more than 8 hours per day. Weekends and national holidays are not paid vacations; if employees work on these days, they should receive a bonus of at least 25% of the salary or an equally long vacation to be taken one week before or after the holiday.

The Code defines overtime work as any work that takes place beyond the normal working hours. The maximum allowed for overtime work should be specified in the work contract, but it cannot be more than 50 hours per week. Exceptions are made by government and labour inspectorate decisions when a job is particularly harmful for the health of the employee or in emergencies. If overtime work is not compensated by extra vacation, the employee should receive a 25% bonus. If overtime work takes place during vacations or national holidays, the bonus or extra vacation should be 50% greater than the overtime work.

The length of an annual vacation, on the other hand, is defined in the work contract, but it should be no shorter than four calendar weeks. This vacation should be paid the same way as if the employee were working. If labour relations terminate before the employee has taken his/her vacation, he/she is entitled to a bonus of the amount of payment he/she would normally get while on vacation. The law also stipulates that in specific cases such as marriage or the death of a spouse or direct descendant, the employee gets up to five days of paid leave. In cases when the parents or children of the employee are seriously ill, they get no more than 10 days of unpaid leave.

Finally, the Code determines a series of causes for ending specific contracts along with the proper procedures to follow in these cases. One of the most important provisions concerns the termination of the work contract by the employer for no justifiable reason. Reasons for termination are considered as unjustifiable when:

- the employee makes claims that derive from the work contract;
- the employee has acted lawfully;
- the cause is not labour related but is rather motivated by race, sex, age, civil status, family obligations, pregnancy, religion, nationality or social status;

48 Ibid, Art. 36.

- the employee exerts a constitutional right that does not violate the obligations set out in the work contract;
- the employee is a member of and participates in trade union activities.

The Code determines that if the employer terminates the contract for unjustified reasons, the employee has the right to sue the employer within 180 days from the notice of termination. If the court rules the termination of the contract was unjustified, the employer should pay the employee one year's salary.

On the other hand, the reasons for the employer to terminate the contract are considered justifiable if the employee seriously violates the contract's obligations or has repeated minor contraventions. In these cases, if the employee commits serious violations of the contract, the court may exempt the employer from paying the salary for the notice period. The employee, if rightly fired, also loses the benefit of the experience bonus but is still entitled to payment for vacations not taken.

The Code also determines what constitutes collective firing. Collective firing happens because of reasons not related to the performance of employees. In addition, the quantity of people fired is a criterion. Specifically, to qualify as collective firing, in 90 days' time:

- at least 10 employees are fired in an enterprise of up to 100 employees;
- at least 15 for an enterprise of 100–200 employees;
- at least 20 for enterprises of 200–300 employees;
- at least 30 for enterprises of more than 300 employees.

Before collective firing, the employer should notify the employees through the trade union or, in its absence, should tender a public notice. The notice should include reasons for firing, the number of persons to be fired, as well as the period of firing. The employer must also negotiate with the trade union in order to reach an agreement in 20 days unless the employer agrees to an extension. If the parties fail to agree, the Ministry of Labour assists them in reaching an agreement for another 20-day period of negotiations. However, the Ministry is not in a position to stop collective firing.

The Code of Labour also sets specific periods of notice for the termination of a contract. The main criterion in this case is the length of experience on the job. If the employee has held the job for up to six months, the notice should be no less than two weeks. If he/she has held the job for six months to two years, a one-month notice is required. For two to five years of experience a two-month notice is required, and for more than five years of experience the notice should be given three months prior to the termination of the contract.

These timeframes can, however, be changed in individual or collective contracts.

A very important aspect the Code of Labour addresses regards the collective agreements and contracts. A collective contract is similar to an individual one in terms of definition and content. The difference is that the contract is signed between one or several employers or employers' organizations on one hand and one or several trade unions on the other hand. The Code specifies that collective contracts cannot contain any dispositions that are less favourable than the legislation or regulations in force.

Every employer that signs a collective contract is bound by it. If the employer is no longer a member of the employers' organization that signed the contract, he is bound by the contract until its termination up to a maximum of three years. If the enterprise changes ownership, the new owner is also bound by the contract until its termination.

The collective contract is valid only in a written form, signed by all parties. When one of the parties is an organization, representatives are selected according to their statutes. Each of the parties is bound by the contract, and organizations have to guarantee their members respect it. Collective agreements also have to specify an impartial referee in case of any disagreements that may arise. No party can render judgement on the other in this regard.

Collective contracts can be signed for a definite or an indefinite period of time. If indefinite, the contract can be terminated by either party with a six-month notice. The notice is the same when the collective contract has a definite period of more than three years; however, the Code states that if there is any major change in the situation that could not have been foreseen at the time of signing, the contract is no longer valid and the referee should decide how to adjust it.

With regard to collective agreements, trade unions have a special role. The regulation for the activity of trade unions is found both in the Constitution and in more detailed dispositions of the Code of Labor. In order to start functioning legally, trade unions should register at the commercial register. There should be at least 5 trade union signatories for the employers and 20 for the employees. However, essentially the dispositions and principles of organization are the same for both types of trade unions, those of employers and those of employees.

The law states that employers should enable all necessary facilities and conditions so that the employers' representatives in the trade union can carry out their jobs normally. In addition, the Code of Labour prohibits any interference or intervention by state bodies or employers with employees' trade unions.⁴⁹ Another fundamental right guaranteed by law is the right to strike, provided that the dispositions of the Code of Labour are respected in this regard.

MAIN TRENDS IN IMPLEMENTING THE CODE OF LABOUR

The main problem regarding labour relations with journalists is the poor implementation of the Code of Labour in the country, reflecting problems not limited to the media section, but rather the overall informality problem that exists in the country. According to the reports of the journalists' trade union, most of the journalists work without contracts or, if they have contracts, they can be terminated in an arbitrary way⁵⁰. According to a survey the trade union carried out in 2012, 42% of the surveyed journalists had a regular contract during the whole period of employment, 26% had a contract for part of this employment period, while 32% had never had a work contract.⁵¹

Even if the contracts exist, they are often purely formal documents, for the companies to comply with the state requirements, rather than a result of negotiation and agreement between journalists and the media company. The contracts are drafted unilaterally by the media management.⁵² Interviews with journalists have also confirmed that there are problems in the drafting and implementation of the contracts. "The contract can be interrupted in a unilateral and arbitrary way. While the contract demands that I notify the owner three months ahead if I'm leaving the job, I can be fired the very next day and do not enjoy the same notification period. There are even cases when the owner can pressure other media outlets not to hire you. So, work contracts are a significant pressure on journalists."⁵³ Another journalist says: "Labour contracts are often fictional. They are often not transparent and journalists do not receive their own copy."⁵⁴ Another journalist also confirms this: "Contracts are a formality, a way of being in order with papers that the state requires, but they do not guarantee any safety of the job position and this is a status quo that has remained unchanged for years."⁵⁵ In addition, all journalists interviewed and the union data confirm that the contract, if any, is just a purely administrative one, and nothing like the conscience clause has ever been mentioned.⁵⁶

After union lobbying in recent years, some of the major commercial outlets have agreed to sign contracts. Currently nine of the major media outlets have signed collective agreements with their employees, with the mediation of the trade union⁵⁷. However, that does not guarantee the safety of the journalists' jobs. So, while under a collective contract, more than 90 journalists and employees of Albanian Screen TV have been fired, due to the financial crisis of the company. Nonetheless, the fact that they had a contract helped the journalists in their lawsuit⁵⁸. According to the union, approximately 80 new lawsuits related to labour relations have been filed this year, while in the last two years the number of cases in this category amounts to approximately 130 cases⁵⁹. With a few exceptions the court has upheld the claims of journalists for remuneration, demanding the media companies to pay them several salaries as indemnification.⁶⁰ Out of 33 rulings on cases of media employees versus their employers, the court has not accepted the journalists' claims or the case has been stopped by the plaintiff in seven cases.⁶¹ However, the lawsuits are relatively long and most of the cases are ongoing at different levels, which does not always encourage journalists to start a lawsuit, even when they are entitled to their rights.

49 Code of Labor, Art.10, 184-5.

50 Peace Institute, „Media Integrity Matters,” Albania, 2014.

51 Union of Albanian Journalists, *Informal Labour Practices in Albanian media*, 2012, p.38.

52 Ibid

53 Interview with Klementina Cenkolari, *Ora News TV*, qtd. In Media Integrity.

54 Interview with Sokol Paja, *Tirana Observer* daily newspaper.

55 Interview with Armand Bajrami, *Panorama* newspaper.

56 Interviews with journalists and Aleksander Cipa.

57 Ibid.

58 Ibid.

59 Ibid

60 Court of Tirana rulings on labour relations, <http://www.gjykatatirana.gov.al/>

61 Ibid.

Another increasingly frequent problem in labour relations in the media is the delay in salary payment for media employees, mainly due to the difficult economic conditions of the media outlets. According to statistics that the trade union presented in October 2014, that was a widespread phenomenon for this year: 18 of 21 daily newspapers had delayed payment of salaries for journalists; the same problem was true for 94 television stations and 97% of the radio stations.⁶² As a result of repeated delays in payment of the salaries, often lasting more than four months, the union estimated that 176 journalists had been laid off or had changed jobs, unable to continue working without receiving a salary.⁶³ The trends have significantly deteriorated compared to a year ago. On September 2013, the union stated that “in the last six months the salaries of journalists were delayed in 75 percent of media outlets in the country for a period of two to six months.”⁶⁴

Regarding the level of salaries, again, official statistics are missing. At the end of 2014 the average salary in the country for public employees was approximately 385 Euro, while the minimum wage is 157 Euro. Statistics for the average salary across all sectors, public and private, are missing⁶⁵. The union estimates that there are three levels of salaries for journalists, depending on their position, media, and location. The best paid journalists have an average wage of 550-600 USD, the second level reaches 450-500 USD, while the lowest level media pay their journalists an average of 300 USD per month.⁶⁶ Public broadcaster journalists are considered to be paid relatively well, but higher levels of editors or distinguished journalists in commercial media receive much higher salaries. The average salary for journalists of public broadcaster is 420 Euro, while the best salaries among RTSH journalists reach about 510 Euro⁶⁷. Another survey confirms this situation: 65% of journalists have a monthly salary of 400-700 USD⁶⁸. At the same time, there is a huge gap between Tirana-based media and the ones in the districts. The average wage of local journalists is 150-220 USD, usually working for more than one media, in total informality.⁶⁹ The union estimates that journalists in the districts make up 45% of the total number of journalists, indicating the urgent need to intervene in this area.⁷⁰

Interviews with journalists and the practice of the union so far points to another disturbing trend: the missing years of social contribution payments. A 2012 survey of the union showed that 65% of the journalists reported that the years they worked with a contract did not match the years they actually worked in the media.⁷¹ Recent events also indicated that there are cases of fraud, where the contributions either have not been paid at all or have been paid for only part of the years.⁷² In addition, both the union and the journalists interviewed indicated a widespread trend: even when the social insurance is paid, it is based on the minimum wage, and not on the real wage, pointing again to the informality problem. “Especially in the electronic media, social contributions are paid, but only for minimal salary. In fact, the declaration of a lower wage than the real one is a constant problem across Albanian media outlets.”⁷³ According to the union, 98 % of media outlets do not declare the real wages of their employees.⁷⁴

Journalists also indicated two other major problems in regard to labour practices. The first one is work overload and working long hours without overtime payment. “This certainly affects the quality of our work, as working so many long hours leads to poorer reporting.”⁷⁵ The second trend is that of replacing more experienced journalists with students of journalism, who receive a lower salary.⁷⁶

Intellectual property is also regulated under Code of Labour, referring mainly to patents, which does not apply to journalism. Regarding other creative work, the employer is entitled to use this work as stipulated in the contract. However, in the case of contracts employed in the media, they do not consider such an issue at all.

In spite of all these problems, little has been done to improve the situation, either by the state institutions, or by the media themselves. While the union tries to organize protests or arrange negotiations, its role is still weak. The union currently has

62 Union of Albanian Journalists statement, <http://institutemedia.org/Documents/PDF/Statement%20of%20Union%20of%20Journalists%20Oct%2018.pdf>

63 Ibid.

64 Union of Albanian Journalists statement, 21 September 2013.

65 INSTAT official data on employment, <http://www.instat.gov.al/themes/tregu-i-pun%C3%ABs.aspx?tab=tabs-5>

66 Interview with Aleksander Cipa.

67 Peace Institute, „Media Integrity Matters,” Albania, 2014.

68 Jonila Godole, p.157

69 Interview with Aleksander Cipa.

70 Ibid.

71 Union of Albanian Journalists, *Informal Labour Practices in Albanian media*, 2012, p. 21.

72 Interview with Aleksandër Cipa.

73 Interview with Eglantina Alliaj, News 24 TV.

74 Interview with Aleksandër Cipa.

75 Interview with Endrit Habilaj, Channel One.

76 Interviews with journalists.

1013 members, but it mentions that the lack of organization and solidarity between journalists for their own rights is a major obstacle, indicating that “a genuine rebellion of this community is needed.”⁷⁷ “Often we complain to media owners about the situation of the journalists and they reply that their own employees do not have any complaints, so any attempt of ours to change the situation seems unjustified.”⁷⁸ The lack of protests and the weak movement to enforce labour rights is also confirmed by journalists: “This is one of the communities that has the lowest degree of solidarity, among other things because of the pressure from owners, political divisions, the lack of reaction and impunity [of those who exert pressure].”⁷⁹ Other journalists said that owners can threaten them with replacement if they demand better salaries or working conditions, which makes it difficult to fight for their rights and those of other colleagues.⁸⁰ Added to all these internal factors, the weak role of the Labour Inspectorate must also be mentioned. According to the union, in 2014 the inspectorate has visited a few media, but has not checked documents regarding labour contracts⁸¹. The journalists share the same concern: “We are invisible for the institutions that deal with labour rights. Neither the Labour Inspectorate, nor the Social Insurance institution do care, as they are afraid of the backlash they might face in the media coverage, presenting it as pressure on freedom of expression.”⁸²

Weak or selective enforcement of labor relations constantly affects the journalists’ ability to perform in a professional way. Even more so in the context of the Albanian media scene, where the keyword is no longer open government pressure, but rather pressure from financial sources, be it from private advertisers, businesses of media owners, and their political links and affiliations. “Today the Albanian media rarely face open threats or assaults, but rather experience problems of an economic nature, such as financial pressure, distribution issues, the transparency of funding and ownership, labour relations, and corruption in the media.”⁸³ In a context where economic resources dwindle by the day and there is an intricate web of interests that links media to politics and business, professional reporting is usually the first victim. In this respect, and in the absence of well-developed professional or self-regulation bodies, plagued by rather insecure labor conditions, journalists often retreat to self-censorship, feeling insecure and uninspired to do their job properly.

CONCLUSIONS

The situation regarding labour relations in the media section is certainly not better than that of the private sector in the country in general. The main problems witnessed include the lack of work contracts, fictitious contracts, significant violation of contract terms, especially delays in paying the salaries, overtime work, failure to pay social contributions, etc. Both the state bodies working in labour rights and the failure of the media community to stand up for their rights have led to a stalemate where the journalists are increasingly devoid of their rights. Most of them seek the solution to these problems in a better enforcement of the Code of Labour by the state bodies, such as the Labour Inspectorate, carrying out frequent and thorough inspections.⁸⁴ A few also indicate that a more aggressive role of the union is also necessary,⁸⁵ while recognizing also their own weaknesses and inability to organize and protest, fearing the safety of their job or due to simple neglect. The EU Progress Reports have increasingly identified the need to better enforce labour contracts for journalists.⁸⁶ However, with Albania being a candidate country since June 2014, it is too early to talk about a real impact of the EU on the journalists’ labour situation. Apparently, the war against informality - which has proved to be a long battle, as well - is the only solution to the current problems.

77 Interview with Aleksandër Cipa.

78 Ibid.

79 Interview with an anonymous print journalist, Tirana.

80 Interviews with Sonila Caka, *Standard*, Klementina Cenkollari, *Ora News TV*, Eglantina Alliaj, *Republika*, Aleksandra Bogdani, *Mapo*, Fatjona Mejdini, *Shqip*, qtd. in Peace Institute, „Media Integrity Matters,” Albania, 2014.

81 Interview with Aleksander Cipa.

82 Interview with Endrit Habilaj.

83 Londo, *Mapping Digital Media: Albania*, 2012.

84 Interviews with journalists.

85 Ibid.

86 EU Progress Report on Albania, 2014.

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Overview of labor relations in the media in Albania

