

Serbia: Facts about media legislation relevant for media integrity

| De jure - rules | Yes / No / Partially | Details | Trends (e.g. relaxation, reinforcement) | De facto - situation (Comments) |
|---|-------------------------|--|--|---|
| Transparency rules for all media (media register, published reports etc.) | Partially | Transparency rules are minimal. All media outlets are required to register in the Media Register, kept by the Business Registers Agency, and report only the size of the founding capital. Broadcasting media have to report their ownership structure to the regulator, but only through ownership stakes and names of individual natural persons and legal entities. Real owners behind legal persons are not registered. No specific financial reports are required from the media. They submit annual financial reports to the Business Registers Agency in the same way as other enterprises, without data on types and sources of revenues, circulation or size of the audience. | Reinforcement. New media laws are in preparation. The Draft Public Information and Media Bill introduces a new Media Register for newspapers and agency services, while broadcasters will be registered by the Republic Broadcasting Agency. The Media Register will include data on owners with stakes above 10%, on related persons (spouses, close relatives, etc.), the amount of state aid received and types of revenues earned from state bodies (advertising, reporting, etc.). | Crucial information on media – their ownership, business performance, types and sources of revenues, wages of journalists – are not publicly available. All these types of information are considered a business secret. Individual owners behind registered legal persons are unknown, especially if legal persons come from off-shore zones. Data in the Media Register and Register of Broadcast Licenses is available on specific websites, but it is scarce, incomplete and inaccurate. Data is related to individual media outlets and cannot be processed by a website user. Annual financial reports of media outlets are available on the website of the Business Registers Agency. However, they do not reflect the specific media economy. |
| Specific transparency rules for PSB | No | PSB institutions are not treated in any special way. Their only obligation is to submit financial reports to the Business Registers Agency, like all other media and like all other business companies. Since PSB institutions are | Reinforcement. The Media Strategy (2011) treats PSB institutions as different from other media. It introduces the | Very few data are available on republic public broadcaster RTS and provincial public broadcaster RTV. Their annual financial reports show only a number of employees and total sums of revenues and |

| | | | | |
|--|-------------------|---|--|--|
| | | <p>in state ownership, they are subjected to yearly financial control by the State Audit Institution (Article 91, Broadcasting Law), like all other companies owned by the state.</p> | <p>obligation for PSB to make publicly available their programming as well as financial plans and reports on their implementation. These documents are to be publicly debated. The Strategy also stipulates a public financial control of PSB. Public broadcasters will be required to keep separate records on different types of revenues (commercial and subscription fee).</p> | <p>expenditures. There is no transparency in regard to the structure of revenues and expenditures, loans and debts, financial contracts, subscription fee payments, investment in programming production, salaries of journalists, or on decision making concerning programming and business operations. The only source of information data on RTS is its Director General. In 2008-2010, RTS refused to obey 8 orders of the Public Information Commissioner to provide data on its business operations. RTS' Director General preferred to pay penalties for not respecting the Access to Information Law than to disclose financial documents. The Republic Broadcasting Agency has monitored the (genre) structure of PSB programming (2010, 2011 and 2012) but has not controlled how PSB institutions meet their other programming obligations. The first audit of RTS by the State Audit Institution started in 2013. Its results are not yet known.</p> |
| <p>Transparency rules for media regulator(s)</p> | <p>Yes</p> | <p>The Broadcasting Law obliges the Republic Broadcasting Agency, i.e. its Council, to make its work public (Article 32). However, the Agency is allowed to decide on the way in which to conduct this by its own Statute. Its only imposed obligation is to publish the annual report on its work, like all other state bodies. According to the RBA's Statute, the Agency makes its decisions and work public by making available online the Council's meetings minutes(except those designated as official</p> | <p>Expected to be reinforced. A new law on broadcasting is under preparation. Transparency of the regulator should be reinforced.</p> | <p>Insufficient transparency in the work of the Republic Broadcasting Agency is the main cause of strong and wide doubts about its independence, which have been present in the media community and the public at large since its establishment. Although in recent years the availability of data on the work of the RBA has been increased – all of the Council's acts and decisions are available on its website – the way the Council makes its decisions is not</p> |

| | | | | |
|--------------------------|------------------|---|---|--|
| | | secret), by allowing journalists to follow open meetings (there could be closed ones too), by holding press conferences or issuing press releases, etc. Financing of the RBA is based on the plan it makes by itself, which is approved by the Government. Its annual financial reports consist of balance sheets only. | | sufficiently transparent. Most often, the Council communicates with the public through official releases and statements of its top officials. |
| Anti-concentration rules | Partially | Specific anti-concentration rules pertain to broadcast media only. They are rather general and unelaborated. Three criteria are used – ownership stakes in capital, simultaneous performance of broadcasting activities and presence of same natural persons and connected persons as founders of different broadcasters. Precise thresholds for non-allowed concentration are defined for a national broadcaster (above 5% ownership stake in the capital of another national broadcaster) and for a regional/local broadcaster (above 30% stake in the capital of another broadcaster on the same market) (Article 99, Broadcasting Law). A broadcaster may not have several broadcasting licenses. It could simultaneously have only one radio and one TV licence, but only in the case it is not a sole broadcaster in the same market. Shares in the management or voting rights or in the advertising market are not taken into account. Respect of anti-concentration rules is the responsibility of the Republic Broadcasting Agency in issuing broadcasting licences and approving changes in ownership structure. | Reinforcement. New media laws are in preparation. The Draft Public Information and Media Bill introduces the rules for print media that did not exist before. It prevents concentration of publishers of daily newspapers whose circulation exceeds 50% of the total annual circulation of daily papers in Serbia. The criterion for broadcast media is a share of audience, which was not used before. Broadcasters are not allowed to merge if their share in the audience exceeds 35% of radio or TV audience in the market (Article 50). | The first Public Information Law (2003) did not include the concept of illegal concentration because the problem seemed far away in the then highly diversified media sector. In the meantime, the market became quite concentrated. However, due to the lack of transparency of media ownership, non-existent (print media) or too general rules on illegal concentration (broadcast media) and lack of methodology for control, no measures were taken to prevent it. There is no effective check of media concentration. It is the responsibility of broadcasters to prove they obey the anti-concentration rules and to report changes in the ownership structure. The Republic Broadcasting Agency is believed to have approved several doubtful changes in the ownership structure of national broadcasters (TV Avala, RTV B92, TV Fox) but it claims that the documents submitted did not show breach of the valid rules at the time. Large media owners have actively obstructed two recent attempts (2008, 2009) to bring new anti-monopoly regulation. |

| | | | | |
|---|------------------|---|---|---|
| Cross-ownership rules | Partially | Cross-ownership is not allowed on two lines only: broadcasters-daily newspaper publishers and broadcasters-news agencies (Article 97, Broadcasting Law). Specifically, cross-ownership over 5% of ownership stake in total capital is forbidden for a national broadcaster in relation to a publisher of a daily paper with circulation over 30 000, and in relation to a news agency. Illegal is also cross-ownership between a regional/local broadcaster and a publisher of a daily local paper in the same or the neighbouring market (Article 99). | Partly reinforcement, partly relaxation. New media laws are in preparation. The Draft Public Information and Media Law regulates new forms of illegal concentration between newspaper publishers and distribution organisations and between newspaper publishers and media buying (advertising) agencies. Concentration is now related to both founding and governing (voting) rights. However, the allowed threshold for the ownership stake of a national daily paper publisher in a national broadcaster (and vice versa) is increased from 5% to 25% (Article 51). | There is no check of cross-ownership. It is the responsibility of media themselves to report changes in ownership structure. New forms of cross-ownership appear in the telecommunication market (mobile providers-cable channels), which are not regulated by any law. |
| Ban/restrictions of media ownership for politicians | Partially | Media ownership is banned for specific types of political organizations. The Broadcasting Law prevents political parties, organizations and coalitions and legal persons established by them to be holders of a broadcasting license (Article 42). The Public Information Law prevents legal persons mostly financed by public funds from being (direct or indirect) media founders (Article 14). As far as individuals are concerned, their rights are regulated by the laws on conflict of interest prevention. These rules do not allow public | New media laws are in preparation. It is unknown if there will be changes in this area. | Several media are or used to be strongly politically affiliated through their owners who are party officials. High officials of the Socialist Party of Serbia, Zoran Anđelković and Dušan Bajatović used to be owners of Radio S (the most popular national radio station) and TV Most (regional TV in Vojvodina), respectively. Both of them transferred their ownership rights to close relatives after accepting state duties (the first is currently a member of the Parliament, the latter is a director of a nationwide public enterprise). A Democratic Party official Božidar Đelić was |

| | | | | |
|--|------------------|---|--|--|
| | | <p>servants to establish a commercial company in any sector. Public officials, while in office, must transfer their governing rights to another legal or natural person.</p> <p>No legal document prevents party officials as individuals to be media owners.</p> | | <p>the owner of a weekly Ekonomist before transferring ownership rights when he became a minister. Officials of the Serbian Progressive Party Jugoslav Petković and Nemanja Stefanović are the owners of a daily Pravda (it stopped printing in 2012 and now has only an online edition).</p> |
| Barriers/thresholds for foreign ownership in the media | Partially | <p>Media legislation does not restrict foreign participation in print and online media. The Public Information Law insists on the same rights of foreign and domestic legal and natural persons in regard to media. Broadcast media, however, are subjected to some restrictions. The license holder must be a Serbian entity, situated in Serbia. The threshold for foreign ownership in the founding capital of the license holder is 49%. Foreign organisations registered in countries where it is not possible to determine the origin of the founding capital are not suitable for being co-owners in a Serbian entity (Article 41, Broadcasting Law). Foreign ownership is not allowed in PSB.</p> | <p>Relaxation.</p> <p>Draft Information and Media Bill reinforces the principle of equal rights of domestic and foreign legal and natural persons in the field of public information.</p> | <p>The limit of 49% of foreign capital in broadcasting license holders did not prevent a complete foreign ownership of some broadcast media. In these cases domestic legal or natural persons only formally act as majority owners. At the same time, nominal foreign owners are often only a mask concealing real domestic owners behind them. There is no much foreign capital in the media market. Only one foreign publisher (Ringier Axel Springer) acts in the daily press industry – and this is the only successful one among 12 publishers. Out of 5 active national commercial TV broadcasters two are owned by foreign companies (B92 and Prva TV), who are assumed to be linked with each other.</p> |
| Separate anti-monopoly body for media industry | Partially | <p>Since specific anti-monopoly measures are prescribed for broadcast media only, they fall in competencies of the Republic Broadcasting Agency.</p> | <p>New trend.</p> <p>A new solution, envisaged in the Draft Public Information and Media Bill, goes away from establishing a separate body for the entire media industry and puts anti-concentration measures in the competence of the general</p> | <p>The Republic Broadcasting Agency has not proven effective in preventing media concentration. It operates with data supplied by broadcasters, without independent check and without a mandate to identify the true owners behind registered legal entities. It is generally assumed that national broadcasters B92 and TV Prva have the same owner, but</p> |

| | | | | |
|--|------------------|---|--|--|
| | | | anti-monopoly body. | their respective changes in ownership structure were allowed by the RBA. The RBA also allowed the change of ownership structure of TV Avala, although there were indices that a new owner Željko Mitrović (a sole owner of national TV Pink) gained a bigger ownership stake than the allowed 5%. TV Košava got a national license in 2006, although it was generally known that it took a large loan for the founding capital from the owner of TV Pink. |
| General anti-monopoly body in charge of media concentration | Partially | The Commission for Protection of Competition does not deal with broadcasting media, since they fall in the competence of the Republic Broadcasting Agency. Definitions of concentration in the Broadcasting Law differ from the ones in laws respected by the Commission for Protection of Competition. However, the Commission is in charge of concentration in the print media market and print distribution market according to general anti-concentration rules for all market players. | New trend. The Draft Public Information and Media Bill makes the national anti-monopoly body responsible for checking and deciding on concentration in the media industry. It will have the obligation to make a sector analysis of media market and related markets at least once in three years (Article 52). | The Commission for Protection of Competition reacted in 2011 to prevent concentration on the print distribution market. In 2010, German company WAZ accused the Commission for improper behaviour regarding WAZ's request to allow it a purchase of Novosti Company and left the Serbian market. |
| Conflict of interest rules for membership in regulatory bodies | Yes | There are several discriminatory rules for membership in regulatory bodies. They are rather general and do not include a time limit for the unacceptable status of the member candidate. At the moment of candidacy for the post, they cannot be members of parliaments, officials of executive state bodies and political parties, or spouses or close relatives of persons holding those positions. Restrictions also pertain to owners, shareholders, members of governing and | Expected to be reinforced. A new law on broadcasting is in preparation. Conflict of interests rules are expected to be reinforced. | Conflicts of interests are not checked. Candidates for regulatory body members claim themselves that they meet all the conditions required. A lack of time limits for unacceptable status for membership in regulatory bodies creates confusion. The RBA's decision to commission a paid job from an organization where a member of the RBA Council used to be an employee was perceived by the Anti-Corruption Council as a case of conflict of interest (ACC's report on media, 2011), although it |

| | | | | |
|--|------------------|--|--|--|
| | | controlling bodies and employees of organisations engaged in production or distribution of radio and TV programming or related activities (advertising, telecommunication and similar) and to spouses and close relatives of such persons (Article 25, Broadcasting Law). | | is not strictly defined as such in the rules. |
| Conflict of interest rules for governing bodies of PSB | Yes | Members of the governing bodies of PSB cannot be members of parliament, members of government or other executive bodies, officials of political parties or members of the Broadcasting Council (Article 87, Broadcasting Law). Except for these general discriminatory rules, there are no other, specific rules on conflicts of interest or a time limit for unacceptable status. | Expected to be reinforced. A new law on PSB is in preparation. Conflict of interests rules are expected to be reinforced. | The Anti-Corruption Council (ACC) considered that business relations of some members of the governing body of RTS with RTS made clear cases of conflict of interest, although such rules are not prescribed by existing regulation (ACC's report on media, 2011). In the view of the ACC, it was unacceptable that members of the RTS Governing Board were authors or producers of programs broadcasted by RTS, or were closely related to private production companies which cooperated with RTS. |
| Conflict of interest rules for management of PSB | Partially | The rules apply only to the Director General of PSB (Article 90, Broadcasting Law), but also to directors and editors-in-chief of regional and local broadcasters with the status of public enterprises (Article 96). The rules are the same as for governing bodies of PSB. Members of management bodies cannot be members of national, provincial or local parliaments, members of executive bodies of power at any level, and officials of political organizations. | Expected to be reinforced. A new law on PSB is in preparation. Conflict of interests rules are expected to be reinforced. | No institution monitors conflict of interest of management bodies of PSB. Due to non-transparency of management decisions, conflicts of interests are difficult to identify. |
| Conflict of interest rules for top management | No | | | |

| | | | | |
|---|------------------|--|---|--|
| position in a regulator | | | | |
| Conflict of interest rules for members of decision making body on media subsidies | N/A | There are no specific bodies making decisions on media subsidies. There are no specific rules on members of any bodies making decisions on aid to media. | Expected to be introduced. The Draft Public Information and Media Bill envisages the establishment of special decision-making bodies on media project funding through public competitions. Their members should be independent media experts “who have no conflict of interests and do not hold a public office”. However, the nature of the conflict of interest and rules for preventing them are not specified. | Decisions on media subsidies are taken by executive bodies of power (usually the highest office holders). Decisions on project funding in the Ministry of Culture and Media and Vojvodina Secretariat for Information are taken by the minister and provincial secretary, respectively, basing on proposals of unknown bodies established by the Ministry and the Secretariat without any established criteria. The media participating in public competitions for project funding complain that these decisions are the result of extensive lobbying by interested parties. |
| Merit system for nomination and appointment of members of a regulatory body | Yes | Only one, scarce and imprecise, legal provision defines qualifications for members of the regulator. They should be “respectable experts in fields of significance for performing the work in competence of the Republic Broadcasting Agency (media experts, advertising experts, lawyers, economists, telecommunication engineers and others) (Article 22, Broadcasting Law). | Expected to be reinforced. A new law on broadcasting is in preparation. The merit system is expected to be more specific. | The rules are ambivalent and provide ground for different interpretations. In some cases it is obvious that they are not respected. The chairman of the Council is a priest with no expertise in media. In 2011, out of two candidates for the Broadcasting Council – a lawyer Goran Petrović, who had a working experience in a health and pharmacy institution and used to be a journalist in his young age, and telecommunication expert Nataša Gospić, with a PhD degree and a large number of scientific works on information society, the Parliament elected the former. |
| Merit system for nomination of members of PSB | Partially | Criteria for nomination of members of governing bodies of PSB are very general and superficial. Members are elected among | Expected to be reinforced. A new law on PSB is in preparation. The merit system is | Among 9 members of the present Board of Governors of RTS (since 2011) there is one media expert and two journalists, and no |

| | | | | |
|---|------------------|---|---|---|
| governing bodies | | “journalists and affirmed experts for media, management, law, finances and among other respectable persons” (Article 87, Broadcasting Act). | expected to be more specific. | experts in management, law or finances. Two members are historians, while others include a sociologist, political scientist, psychologist and economist. Majority are university professors. |
| Ban of political propaganda outside election period | Yes | Several legal acts forbid advertising by political organizations outside election periods (Advertising Law, Election Law, Broadcasting Law). | No change is expected in new media laws in preparation. | The ban is generally respected. The control is done by the Republic Broadcasting Agency, which punished some media for broadcasting political messages outside the campaigning time for (local) elections. |
| Obligation of fair and balanced reporting | Yes | The normative ideal of journalistic reporting is truthful, complete, credible and current reporting, free of censorship and pressures. Media laws, however, do not use the phrase “fair and balanced” reporting. The ideal is only indirectly defined, through the institution of due journalistic attention. The Public Information Act stipulates the obligation of a journalist and responsible editor to check the »origin, truthfulness and completeness of information« before its publishing, with attention adequate to circumstance, and to publish the information »credibly and completely« (Article 3). | No change. The Draft Public Information and Media Bill uses the same definition and terms. Additional obligation is envisaged for PSB, whose reporting should be »current and impartial« (Art. 8). | Media strive for free reporting, liberated from censorship and direct and indirect pressures, in the public interest. The ideal of balance is not a part of journalistic professional ideology. The stories often follow the model “one event, one topic, one source”. Media studies show that fair and balanced reporting is rare. |
| Editorial independence rules for private media | Partially | Media legislation treats editorial independence as part of the concept of free information dissemination. The Public Information Law prohibits any restriction to the freedom of information, particularly by the abuse of state or private authority as well as any form of pressure on a media outlet or its personnel (Article 2), regardless of the ownership structure of media. Although editorial independence is implied as desirable, | A new law on PSB is in preparation but it is unknown if there will be changes in this area. | In practice, journalists have no specific mechanism available to protect themselves from either owners’ or other actors’ interference in their daily work. |

| | | | | |
|---|------------|---|---|--|
| | | it is not precisely defined nor secured by specific mechanisms. | | |
| Editorial independence rules for PSB | Yes | The Broadcasting Act prescribes the duty of PSB institutions to ensure that their programs are protected from any influence that may be exerted by the authorities, political organizations or economic centres of power (Article 78). However, the manner in which this should be ensured is not stipulated. PSB institutions should by themselves regulate, through their statutes, the internal organization, the mode of operation, the manner in which to fulfil public interest and the rights and obligations of journalists (Article 93). Yet, these statutes do not contain any rules on the manner in which to achieve editorial independence from political influence. | A new law on PSB is in preparation but it is unknown if there will be changes in this area. | There are neither legal nor institutional guarantees for PSB editorial autonomy. PSB institutions in fact are close to the powers to be. They are not financially viable and therefore they are financially dependent on the state. The procedure prescribed for the formation of management bodies and enormous power in the hands of a single person (director general) render them extremely vulnerable to political influence. |
| Journalists' autonomy - conscience clause | Yes | Journalists are explicitly guaranteed the right to refuse to obey a work order which would violate legal, professional or ethical rules or would contravene the editorial concept of a media outlet (Article 31, Public Information Law). There cannot be sanctions for such behaviour, such as loss of a job, salary cut or demotion. | No change. The Draft Public Information and Media Bill contains the same contentious clause. | There is no evidence that journalists often use this right. |
| Journalists' opinion on appointments and dismissals of editors is requested | No | There is no legal regulation of this right of journalists. | No change. | The voice of journalists in appointment of editors is very rarely respected. Still, basing on long tradition, some media do take into account the opinion of journalists in editors' appointments (daily Politika, for example). |

| | | | | |
|--|------------------|---|--|---|
| <p>Legal obligation for employers to sign collective contracts on labour rights in the media</p> | <p>No</p> | <p>Media laws only acknowledge the right of journalists to organize freely in their professional associations (Article 33, Public Information Law).</p> | <p>No change. The Media Strategy does not deal with the economic status of journalists as an important problem in the media sector. None of the proposals (given by the trade unions) to include employer's obligation to sign a collective contract were adopted.</p> | <p>Labour rights of media professionals are not protected beyond the minimum guaranteed by the Labour Act for all the other employed workers. Somewhat broader rights for journalists had been enforced by the Separate Collective Agreement for Graphics, Publishing, News and Film Industries, which expired in 2005. As of May 2011, there is not even the General Collective Agreement in place of the expired one, which was signed by employers, trade unions and the Government in 2008. Employers are not interested in collective bargaining. As a rule, trade union organizations do not exist in private media companies. Many journalists work without signing any form of labour contract.</p> |
|--|------------------|---|--|---|

Relevant laws, institutions/bodies:

- Media Register: <http://www.apr.gov.rs/eng/Home.aspx>
- Register of Broadcast Licences: http://www.rra.org.rs/pages/search_permits/latinica
- Republic Broadcasting Agency: <http://www.rra.org.rs/english>
- Broadcasting Law (in Serbian): http://www.paragraf.rs/propisi/zakon_o_radiodifuziji.html
- Public Information Law (in Serbian): http://www.paragraf.rs/propisi/zakon_o_javnom_informisanju.html.