

Montenegro

By Petar Komnenic

I. Abstract

Currently, journalists are mostly a cheap work force in Montenegro, aware they must not anger their almighty employers. Labor relations are spelled out in the labor law of 2004, but a new law has been drafted to overcome the difficulties with implementing the current legislation that guaranteed too many rights to employees and gave employers little flexibility. Under the current law, collective contracts are possible, but in privately owned media outlets there are none. Journalists conclude individual contracts with employers, but those contacted for this study refused to discuss them. In general, private employers tend to violate labor rights by reporting only minimal salaries and by not specifying working hours and vacations in contracts. The public company Radio and Television of Montenegro, on the other hand, has a collective contract with its employees that specifies salaries, working hours, vacations and conditions for dismissal that include over staffing; many of its workers have recently been made redundant. Because journalists' labor rights are basically unprotected, they feel financially insecure and fear unemployment which exacerbates self-censorship.

Lack of awareness regarding the need for trade unions is one of main problems in Montenegrin media. The six journalists' associations and unions exist in name only and could not provide any data on their activities or their members. Collective contracts and unifying the media community to fight for labor rights and protection at work will reclaim security and achieve normal working conditions.

II. Overview

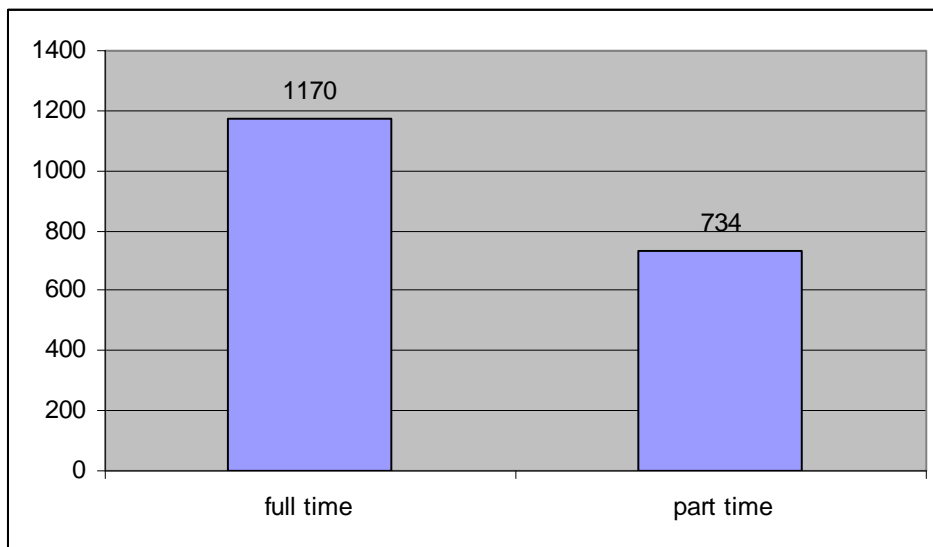
Until now, there has been only one quantitative analysis in Montenegro of the employment of professional staff in the media. This analysis, first done in 2002 and again in 2004 by the Montenegro Media Institute, is the only document that can be used to form a picture of the employees hired in Montenegro's media and to gain an overview of the various types of employment relationships they have with their employers.¹ This survey included 115 active media outlets in the country: dailies and periodicals, radio and television stations, on-line media, news agencies and correspondents' offices of media whose headquarters were situated outside Montenegro. The largest number of actively working media were the 45 print outlets (42%) followed by 43 radio stations (40%), 15 television stations (14 %) and 4 online media outlets (4%). There was only one news agency, and there were seven correspondents' offices. According to this report, there were four daily newspapers, three

¹ "Quantitative Analysis of Montenegrin Media", Montenegro Media Institute, 2004, <http://www.mminstitute.org/files/Quantitativeanalysis%20ofMontenegrinmedia.pdf>

weeklies, eight bi-weeklies and 13 monthly papers. Research indicated that another 21 publications of various types were issued periodically.

According to this study, there were 1,944 professional staff of which 1170 were full time and 734 were part time (Figure 1). It was noted, however, that part-time employees could work for two or more media companies simultaneously, so it was quite possible that some were counted more than once in the total. .

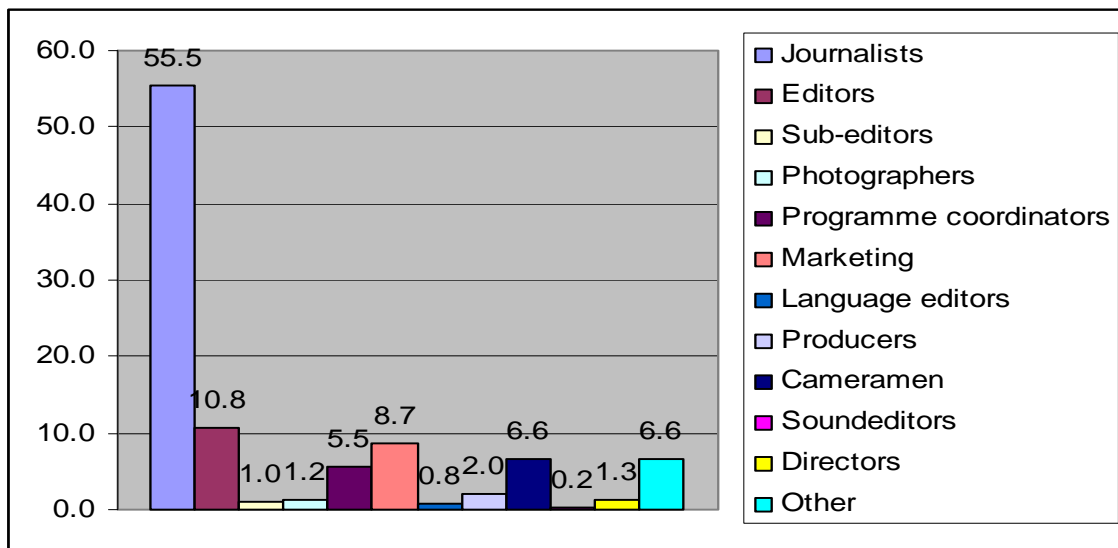
Figure 1: Total Number of Media Professionals Hired in Montenegro in 2004



Of the professionals hired, 31% worked for radio stations, 30% worked for print media and 30% worked for TV stations. This was a change from 2002 when there were 3, 403 professionals: 1986 full-time employees and 1435 part-time workers. That year radio stations employed 25% and television stations hired 27%.

In 2004, the largest group of full-time or part-time professionals was journalists at 56%. The second largest group was editors at 11% followed by employees in marketing services at 9%. The rest were employed in administration and in various auxiliary services (Figure 2).

Figure 2: Professional Employees in Media by Job Held in 2004



III. Legislation Regulating Labor Relations in the Media

Salaries, security in the work place, employers' obligations, the duties and obligations of employees and methods for resolving conflicts at work are regulated in the existing general labor law though changes are expected in the near future. The labor law in force is relatively new; it was adopted four years ago and amended three years ago.² According to this law, contracts may be concluded for permanent or for temporary employment, and the employee who is permanently employed has the same contractual rights, duties and obligations as a temporarily employed worker.

There are several types of collective work contracts defined by this law. The branch collective contract refers to employees hired in a specific field of work and clearly specifies coefficients based on which salaries are calculated in addition to employees' rights and responsibilities. Each company also has the possibility of instituting its own collective contract which would apply at the corporate level and which has supremacy over other more general collective contracts. The company's collective contract is a product of bargaining between trade unions and management, but it may not specify fewer rights or less favorable working conditions than those set out in the labor law. Another possibility is concluding individual labor agreements. At this level, everything is left to the skillfulness and resourcefulness of job candidates and their negotiating abilities to work out the best possible labor rights and conditions with their future employers.

The existing labor law, the critics claim, is a product of socialist heritage that in practice does not match reality: employees do not have the necessary security, nor does it offer employers flexibility. Critics claim that it has proved that excessive security is no security at all because it specifies such a high level of security that it is impossible to implement in

² Labor Law, Official Gazette of Montenegro, No. 43/03 and 79/04.

practice. The extent of security the law offers in theory to the employees is best demonstrated in Article 94 which states that an employer may not fire an employee who is an “alcoholic or a drug user” or who causes incidents or physical fights at the workplace, but can only punish such an employee with a fine. In such a situation, critics claim, employers are forced to consciously circumvent the law and avoid contractual obligations. Thus employees have rights on paper, but very few in reality. In short, opponents believe this law was based on a false premise—protecting workplaces instead of workers. Those employees who come to work only to meet the formal condition of being present at the workplace are the ones who benefit.

Due to all the criticism, in December last year the Government of Montenegro, the Union of Employers and the Trade Union of Montenegro signed a national three-party agreement committing themselves to drafting a new labor law by the end of 2007. A draft of this law has been prepared and public debate is under way. The Trade Union has offered numerous criticisms on the draft currently supported by the Government and Union of Employers. The Association of Trade Unions of Montenegro, the second national union organization, also opposes the draft, questioning the authority of the employers’ organization. Both trade union organizations have claimed that rights of employees are seriously violated in the new draft; nevertheless, the Government is planning to turn this draft into a bill. The Trade Union points out that that work contracts for definite periods of time under the new draft “shall not be the rule,” and claim that this type of contract would eliminate the possibility of collective bargaining and enable employers to fire employees without paying them severance pay.

“The new Draft would provide the employers with the possibility to loan employees to each other and to fire staff without previous disciplinary procedures. At the same time, it would reduce the amount of severance pay from 24 to 6 months of minimum wage”, said the Union’s secretary general Srdja Kekovic. The final wording of the new law has not been determined yet.

IV. The Implementation of the Legislation in Practice

In Montenegro’s privately owned media there are no existing collective contracts or the basic awareness of the need for trade unions. Media professionals have therefore been forced to conclude individual work contracts with employers, striving to specify their individual rights and obligations. This research revealed that both employers and media professionals hired by privately owned media are reluctant to discuss these issues. It was impossible to get insight into contracts as the journalists we contacted refused even anonymously to discuss their labor rights, responsibilities and the nature of the contracts they had signed.

The existing labor law states that work contracts, apart from the usual general data on employer and employee, must contain relevant data regarding workplace location, duration of working hours and work schedule, amount of salary, bonuses and other remunerations from the employer for job-related tasks, duration of holidays, contract duration for contracts for definite periods of time and procedures for contract cancellation of contracts for

indefinite periods of time. Contracts should also define the tasks and responsibilities of the employees at work and regarding their work, as well as other data both employer and employee consider relevant in establishing labor relations. However, employment contracts for media are often very short and basic, and even when the form is proper, obligations do not meet the criteria specified and employers tend to violate the guaranteed rights of media professionals.

These contracts often involve fictitious salaries that are most often paid in cash. Only minimal amounts are entered in the contracts enabling the owners of privately owned media to avoid the legal obligations they have to the state to pay full tax and insurance for their employees. All of this, obviously, has a direct impact on the status and financial security of those who consciously accept work in such conditions. This is also the main reason the majority of reporters avoids discussing these issues and why it is almost impossible to obtain information that is more specific.

Length of holidays, overtime work and employers' responsibilities with regard to employees are rarely specified in these contracts, while those employed by the media are often forced without complaints to carry out all of their employers' directions and demands in order to receive even their basic wages.

The lack of collective contracts in privately owned media also has other negative consequences for the profession. There are no norms or criteria regulating the kind of education necessary to perform the work of a journalist or to be hired for a specific position on an editorial team. Boris Darmanovic, President of the Association of Young Journalists of Montenegro said:

The main problem is that there is no professional organization, nor have the journalists themselves seriously dealt with this issue. No one has tackled this issue, and as far as I can see, no one will. If the journalists themselves do not initiate this, why would employers do so? They cannot be expected to work against their own interests. When there is no pressure, they are the ones who set down the rules as they find appropriate.

In privately owned companies, the most problematic attitude is the one toward trainees—staff with whom employers sign contracts for definite periods. They are mostly young, inexperienced individuals with or without education who accept poor conditions in order to get media jobs and gain some experience.

It is a common practice among employers to keep trainees for months in conditions approaching slavery and when their dissatisfaction peaks, they are free to fire them since they do not have any contractual obligations toward them. Then they simply replace them with a new, fresh workforce that will be treated in exactly the same manner.

In contrast to privately owned media companies in Montenegro, public outlets regulate labor rights and relations through collective contracts and acts. The Board of the public company Radio and Television of Montenegro accepted a collective contract in May 2007 that had been negotiated between the company's trade union and the management.

This contract provides for prior testing of work skills as a special working condition defined in accordance with a related act. According to this provision, testing is performed in front of a commission consisting of three members who must possess at least an equal level of education as the candidate whose skill is being tested. This document also provides a probationary period that enables an employee's immediate supervisor to test his/her skills in on the job. Once the probationary period is completed satisfactorily, the supervisor informs the general director who makes the final hiring decision.

The collective contract also defines the status of trainee who, after the probationary period expires, must take a special test in front of the commission to determine whether the conditions for the renewal of the employment agreement have been met. The contract also contains detailed conditions under which an employee may be transferred to a different position with the same employer or sent to work abroad.

Employees' working hours are also specifically addressed. According to the collective contract, employees may work continuous daily hours, or their hours may be divided in two daily parts or they may work in shifts. Working schedules within overall working hours are determined by the general director who may authorize another employee to perform this duty. Distributing working hours is done in such a manner as not to allow the average total working hours of an employee to exceed the total working hours per year, though working hours may not be fewer than 35 per week. Deviations from this rule are possible only in extraordinary situations when it is necessary to complete a task for which the duration could not have been estimated correctly at the outset and if its interruption would cause harm to the business. Employees may not work more than seven continuous days without their consent.

Employees have guaranteed annual vacations of a minimum duration guaranteed by the general and branch collective agreement. The employees are also entitled to paid leave for marriage, child birth, death of a family member and moving. The contract also provides for unpaid leave for up to 30 days.

Employees' salaries consist of the agreed amount for work performed, salary increases and bonuses based on results achieved, as well as salary remuneration. Salaries for work performed are determined in accordance with the basic salary for specific job positions and results achieved. The basic salary is determined by multiplying the minimum wage and the coefficient determined by the collective contract: the minimum wage is determined through negotiations between the trade union and the employer. The amount of the minimum wage is revised at least once every six months at the national level. Trainees' wages amount to 80% of the minimum wage for the position the trainee is being trained for. This collective contract also defines to what extent employers may increase employees' wages for work in night shifts, during holidays, weekends, overtime work, etc.

Disciplinary actions and the responsibilities of employees who violate labor rules are also defined. Apart from unprofessional reporting, this contract also prohibits media professionals from performing the same type of work for another employer without the company's consent while employees are obliged to follow the company's code and program principles.

The collective contract allows for dismissing employees when there is over staffing and in those situations when certain components of the company are being closed. Rationalization has been ongoing, and the company, which has had problems with over staffing for years, is now down to approximately 700 employees. This was one reason for establishing a parallel new trade union in this company that challenges the legitimacy of the existing trade union, accusing its officials of not acting on behalf of the employees but in accordance with the employer's and state's directions.

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

Unregulated labor relations and rights of professionals employed in Montenegrin media companies greatly influence their professional results. Their labor rights are unprotected and therefore they feel constant financial insecurity and fear of unemployment. Due to the fact that their futures depend on their relationships with their employers and his/her good will, journalists are often the recipients of unprofessional suggestions that influence the quality of their journalism and their coverage of topics.

In such situations, truth and public interest are often victims of powerful financial lobbies that control not only state-owned media but also a number of privately owned media companies. Aware that their existence directly depends on the employer and that they do not have any formal back-up which in case of a conflict they might use in court, journalists employed under general and vague employment contracts feel constant insecurity.

This feeling is exacerbated by the knowledge that if conflict arises, their profession would not back them up, since in Montenegro, especially in privately owned media companies, trade unions de facto do not exist. Journalists' organizations and associations virtually do not function and cannot provide support in situations such as these.

VI. Journalists' Trade Unions: Existence and Effectiveness

The main problem in Montenegro is the absence of regulations for this specific branch of industry and an overall lack of interest in them, in addition to the inefficiency of journalists' organizations and trade unions that should defend, at least in principle, the rights and interests of people hired in Montenegrin media.

There are several journalists associations in Montenegro that by definition unite members of this profession and represent their interests. These are the Association of Professional Journalists of Montenegro, the Montenegro's Journalist Association and the Association of Young Journalists. The results of this research show that these organizations exist in name only and are not even able to provide data on their activities and members. Attempting to obtain relevant data, we contacted the heads of these organizations. None has data on the number of people employed by the media in Montenegro, the status of employed media professionals, types of contracts concluded between staff members and employers, or on problems that the employees in media are faced with while performing their work. In fact,

the heads were taken aback by the questions posed admitting that since the organizations had been established, they had never dealt with these issues.

We also received the same response from the Association of Independent Electronic Media (UNEM), the Association of Printed Media (MONTPRES) and from the Independent Trade Union of Montenegrin Journalists which was obliged to initiate meetings of journalists employed in private media companies and start a public debate on issues regarding the work status and position of media professionals.

“We do not have these data available, nor have we ever tried to conduct similar research. The fact is that most journalists’ associations are not functioning and that, especially in private media companies, there is no general awareness of the importance of workers unions’ associations,” admitted UNEM’s coordinator, Ranko Vujović.

These organizations that in practice mostly serve as additional employment opportunities for their managers, long ago stopped organizing meetings with the managerial structures in media where these key issues would be discussed. Therefore, they lack legitimacy, and a direct consequence is the absence of relevant documentation that would specifically regulate labor rights in media companies.

VII. Conclusions and Recommendations

Lack of awareness regarding the need for trade unions represents one of the main problems in Montenegrin media. That lack and the fact that no functional journalist’s association or union exist in Montenegro that could lobby for the interests of the profession has created an environment of total insecurity for media professionals. This is especially true in privately owned media companies where journalists are forced to participate in unequal individual negotiations with more powerful employers and finally to sign contracts that do not even guarantee their basic rights.

This situation was additionally strengthened by destructive political processes during the past two decades that ushered in the virus of political divisions infecting journalists and their associations. Media employers are benefiting from the results since in an environment of professional discord with trade union networking they can easily fight for their interests and keep their employees under control.

In public media where collective contracts exist on a company level, the situation is not much better since those media outlets are still objectively under the political patronage of the current government and are making irrational business moves and suffering huge losses. It is logical that such a situation affects employees’ livelihoods who already make miniscule wages and live in fear that any day they might be labeled as “surplus staff.”

Collective contracts and unifying the media community to fight for labor rights and protection at work is the only way to reclaim security and to achieve normal working conditions. At the moment, journalists are mostly a cheap work force in Montenegro, aware they must not anger their almighty employers.

VIII. Bibliography

Montenegro Media Institute, "Quantitative Analysis of Montenegrin Media", 2002, <http://www.mminstitute.org/files/Quantitativeanalysis%20ofMontenegrinmedia.pdf>

Labor Law, Official Gazette of Montenegro, No. 43/03 and 79/04.