

Slovenia

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I. Abstract

Key sources for the preparation of this report were comparative overviews and analyses of legislation, relevant press conferences and other public events, documentation and reports of the Slovenian Union of Journalists, a survey and analysis of the position of freelance journalists, systematic analyses of contractual relations between media publishers and journalists and analyses of the market and ownership prepared by the Peace Institute.

A comparative overview and cross-analyses of key legislation point to a deficit in regulating the work of freelancers, as the majority of stipulations of general and specialized legal acts regulate only the contractual relations of the regularly employed. The legal position, security and rights of freelance journalists are at a much lower level than those of the regularly employed, even when they work for the same media outlet and their tasks and professional obligations are the same. It can be stated both with regard to freelance and to regularly employed journalists—and partially also for media publishers and the media themselves—that systemic and institutional exposure to various pressures is considerable, i.e., when the journalist's role as an agent of the public is in question, legislative and self-regulatory mechanisms for protecting the independence and autonomy of the media and journalists from the government and owners are insufficient or nonexistent. As a result, general risks and exposure in labor relations that include losing work or employment because of expressing one's opinions are greater in journalism than in some comparable professions.

II. Overview

The new Employment Relationship Act that regulates individual contractual relations between workers and employers entered into force on 1 January 2003, and the Collective Agreements Act has been in force since May 2006. Until 2003, individual and collective labor relations were predominantly regulated by one legal act. The major novelty of the new Employment Relationship Act was the intention of the legislature to regulate only those employment relationships that are established with a contract between a worker and an employer. Likewise, the Collective Agreements Act limits collective negotiations to representing the interests of workers with regular employment only. The gap will become unbridgeable if the employers' side does not show the will and interest to regulate the position of freelance journalists as well. That can be a handicap in the future, as the already very bad legal situation of freelance journalists will deteriorate further when the validity of the collective agreement for professional journalists expires. From the perspective of a professional journalists' union, the gap in legislation restricts the right to freedom of association and collective representation of freelance journalists.

The Collective Agreements Act will radically change the model of collective negotiations and social dialogue in Slovenia. In April 2009, the validity of all those collective agreements that were concluded with employers' associations with mandatory membership will expire. Until 2006, membership of business enterprises in the Chamber of Commerce and Industry of Slovenia was mandatory, so there are practically no collective agreements that would not have been negotiated and signed by the Chamber. In June 2006, the Chambers of Commerce Act

was adopted introducing voluntary membership. That was followed by a lengthy reorganization and transformation of the main business association. On the basis of voluntary membership in the Chamber of Commerce and Industry of Slovenia, the Association for Print and Media—the signatory of the collective agreement for professional journalists on behalf of the employers in the private sector—has also been transformed into the Chamber for Publishing, Book Selling, Graphic Industry, Radio and TV Media. If social partners do not demonstrate sufficient will and interest to conclude a new collective agreement for professional journalists, the existing one will expire at the same time as all others, i.e., in April 2009, and trade unions will have to renegotiate the content of collective relations that can be settled within the minimum standards established by the Employment Relationship Act.

Trade union membership structure is influenced by the oligarchic and highly concentrated structure of the media market and by trends in the journalistic labor market. Public RTV Slovenija employs about one half of all workers in the media industry. Its TV department has only one genuine competitor at the national level. In print, the strongest competition exists among three publishers of national dailies. The market share of RTV Slovenija, measured by revenues, is 34%, the share of the three major national publishers of print media and one TV operator is 38%, while regional and local publishers take 28% of the media market. In total, there are over 400 publishers publishing about 1200 media titles. Those that predominant in the market do not publish more than 100 media titles in total.¹

III. Legislation Regulating Labor Relations in the Media

Freedom of association in trade unions is a constitutionally guaranteed right. Slovenia has ratified all key International Labour Organization conventions on collective negotiations and trade unionism as well as all other relevant conventions on regulating working conditions. They are therefore a part of the internal legal system.

Media publishing and public interest in the field of information in the private and public sector are generally regulated by the Mass Media Act. It entered into force in May 2001, replacing the previously valid Public Media Act. Specialized media legislation is the RTV Slovenija Act that regulates the operations of public radio and television. It was entirely revised in 2005, and the new version entered into force in November of that year. Among the laws that regulate civil contractual relations, a particularly important one for freelance journalists is the Copyright and Related Rights Act, with regard to the general code of obligations.

Among the collective agreements with general validity, the Collective Agreement for Publishing and Book Selling concluded in 2000 has been used in the media industry. It regulates minimum standards in relations among the employers and the employed in the sector. The Collective Agreement for Professional Journalists concluded in 1992 is generally valid for publishers employing journalists. In principle, a general provision guarantees equal economic rights for both employed and freelance journalists².

¹ Media for Citizens

² CAPJ, article 2.

The Mass Media Act defines a journalist more broadly than the Employment Relationship Act defines a worker. According to media legislation, journalists are not only those who are regularly employed, but also freelance journalists registered with the Ministry of Culture (that grants so-called “independent journalist” status)³.

There are also some conflicts in legislation arising from general definitions of the rights and duties of an employee in the Employment Relationship Act and the responsibilities and duties of a journalist according to the Mass Media Act. The latter has imperfections especially in regulating professional conflicts that cannot be solved merely by applying labor legislation among editorial departments and publishers as well as within editorial departments. State institutions— media inspectors and the Directorate for Media—have been inefficient in their supervision of the enforcement of the Mass Media Act. If its stipulations are breached, there are no legal sanctions to impose.

Employment Relationship Act and Specifics of the Mass Media Act

Among the general provisions of the Employment Relationship Act, a particularly relevant one for workers/journalists is the prohibition of discrimination on the grounds of political or other convictions when entering into an employment relationship, throughout its duration and with regard to the termination.⁴ An employment relationship is defined as a relationship between a worker and an employer whereby the worker is voluntarily included in the employer's organized working process, in which he or she in return for remuneration continuously carries out work in person according to the instructions and under the control of the employer⁵. In the case of journalists, their autonomy and personal responsibility for expressing opinions and standpoints is regulated by the Mass Media Act.

When the elements of an employment relationship exist, it is explicitly prohibited to carry out work on the basis of civil law contracts⁶. In the case of disputes between a worker and an employer regarding the existence of an employment relationship, it is assumed that when the necessary elements are there, the employment relationship exists. Those provisions are of great importance for freelance journalists who in fact perform work as per the description of an employment relationship but who are remunerated on the bases of civil contracts. According to the Mass Media Act, the program concept of the media in question is a part of the employment contract⁷. The program concept is therefore one of the elements that a journalist/worker has to be familiar with to fulfil contractual and other obligations.

The Employment Relationship Act stipulates the mandatory constituent elements of an employment contract. Among the more important ones are the stipulations on the duration of an employment relationship, daily or weekly working time and the organization of working time, the amount of basic wage and other compensation, the components of a worker's wage, payment period and payment day, annual leave and length of periods of notice. In relation to the Mass Media Act that protects the autonomous expression of opinions and standpoints in the public interest, it is important that journalists' contracts include the title of the position or information on the type of work for which the worker is to conclude the employment contract,

³ MMA, article 21. and 22.

⁴ ERA, article 6.

⁵ ERA, article 4.

⁶ ERA, article 11.

⁷ MMA, article 17.

including a brief description of the work he or she should carry out pursuant to that contract. Specifically, the Mass Media Act prohibits any deterioration in the working position of a journalist that is a consequence of expressing opinions and standpoints⁸. This provision can be enforced only if the contract clearly defines what editorial department the journalist works for and what his or her position in that department is. Because of the responsibilities of the profession as they are defined in the Mass Media Act, a very important provision for a journalist/worker in the Employment Relationship Act is the one requesting that individual contracts refer to collective agreements (therefore also to the collective agreement for professional journalists) binding the employer and/or employer's general acts stipulating the worker's conditions of work.

Remuneration for work on the basis of an employment contract is a wage, and the employer must respect the minimum set by law or by the relevant binding collective agreement. The total wage is composed of the basic wage, the wage for job performance and extra payments. Remuneration for s performance is a constituent element of wages if laid down by a collective agreement or an employment contract. The worker is entitled to extra payments for conditions related to working time (e.g., night work, overtime, Sunday work, work on statutory holidays and free days, remaining on call, unevenly distributed working time). Those payments are to be specified in the collective agreement as is extra payment for years of service. The employer must reimburse workers' expenses for meals during work, for travel expenses to and from work and expenses the worker incurs when performing certain work and tasks on business travel⁹.

The Employment Relationship Act refers to collective agreements with regard to working hours as well. Full-time work must not exceed 40 hours a week. The statute and/or a collective agreement may stipulate working time of fewer than 40 hours a week; however, full-time work cannot be less than 36 hours a week. In accordance with a European directive, overtime work is limited to a maximum of 8 hours a week, 20 hours a month and 180 hours a year. Daily, weekly and monthly time limitations may be regarded as an average limitation over the period stipulated by the law or a collective agreement and may not exceed six months. The law or collective agreement also regulates the cases in which the worker is obliged to perform overtime work at the request of the employer. Annual leave in each calendar year may not be less than four weeks; the collective agreement or the employment contract can specify a longer period¹⁰.

With regard to disciplinary sanctions, an employer may only admonish a worker: other sanctions are possible only if they are laid down in a collective agreement¹¹. These sanctions are important as the employer can claim that there has been a serious breach of work duties that can result in the termination of an employment contract. In the disciplinary procedure, the employer must allow the worker a defense and if required by the worker, the employer must notify the relevant trade union about the procedure and the violation. The employer must deal with the written opinion from the trade union regarding the procedure within eight days and express his or her standpoint in respect of the statements.

⁸ MMA, article 21.

⁹ ERA, from Article 126. to 140.

¹⁰ ERA, from Article 141. to 153.

¹¹ ERA, Article 175.

In case of employment disputes, the law guarantees judicial protection before a competent labor court within 30 days from the expiration of the time limit stipulated for the employer either to fulfill obligations or to cease violations. Another possibility is arbitration for settling individual labor disputes that may be stipulated in the collective agreement. In such cases, the collective agreement must lay down the composition, the procedure and other relevant issues.

Collective Agreement for Professional Journalists

The valid collective agreement for professional journalists upgrades the Employment Relationship Act with minimum standards for employment contracts. The introductory provision binds the signatories to enforcing the Declaration of Munich on journalists' rights and duties. Its principles (among them informing the public above all other duties and interests) are to be specified by the employer or in individual journalists' employment contracts.

The provision on personal validity incorporates not only the regularly employed but also freelance journalists and students studying to become journalists¹². The important provisions of the collective agreement that upgrade the minimum standards enacted by law are typical journalists' posts, terms of employment and minimum basic salaries, working hours and their organization, annual and recreational leave (a maximum of 40 days in total), professional training and the protection of trade union representatives.

The tariff part of the collective agreement stipulates the constituent elements of a wage in the same manner as the law and sets the scale of minimum wages for typical journalists' posts. The collective agreement stipulates significant supplements to the basic salary, the most important one being 0.5% for each year of service and 0.2% for length of service. In addition to the standards of the collective agreement, some major media publishers pay supplements for length of service for the same employer, normally 0.2% for each year of employment. Journalists also receive supplements for working certain shifts (night, overtime, holidays and Sundays) that are set at 150% of the hourly rates for regular work. The collective agreement contains other relevant provisions regarding remuneration such as a jubilee reward, the amount of assistance paid by the employer in certain cases and a provision that prohibits decreasing the wages of journalists who are over 50 years old. The collective agreement also stipulates reimbursements of work-related costs: meals, transportation to and from work and costs for business traveling. The collective agreement expressly states that the remuneration for freelance journalists is a set gross amount that should be comparable to that paid for the work of the regularly employed. According to the collective agreement, freelancers are also entitled to the reimbursement of material costs¹³.

As for protecting the public interest and professional autonomy, the collective agreement stipulates that the manager/employer must obtain the opinion of the editorial staff when appointing editors and defining basic concepts.

Regulations on the Status of Freelance Journalists

A systematic overview of legal sources that regulate the position of freelance journalists reveals a fragmented, incoherent and inconsistent regulatory framework. The general Civil

¹² CAPJ, Article 2.

¹³ CAPJ, Article 56., 62., 64. and 79.

Code only regulates rights and duties with regard to fulfilling contractual obligations but not their content¹⁴. The Copyright and Related Rights Act is more favorable for freelance authors than for regularly employed journalists as the latter transfer all the authors' material/economic rights to the employer for 10 years after the completion of a copyrighted work, unless the contract (either employment contract or a collective agreement) states otherwise. Theoretically, the position of freelancers is more favorable since they keep their economic rights unless they specifically transfer them to the publisher. Without specific agreements, it is assumed that they transfer only the minimum scope of rights which in principle means only the right to one-time publication. In the case of unwritten, unclear or in any way problematic transfers of economic rights, the principle *in dubio pro autore* is enforced, meaning that the court would rule in favor of the author.

In practice, the situation is rather different. An overview of a number of contracts showed that authors well protected legally are frequently in a position in which they cannot negotiate, and their clients force them into signing unfavorable, many times even illegal contracts¹⁵. Long-term, widespread illegal contractual practices of publishers can represent a great legal risk. If it comes to an avalanche of law suits, they could affect stock prices of private publishing companies and the operations of public radio-television RTV Slovenia.

The new Personal Income Tax Act has been enforced since 2005. One of its purposes is to eliminate tax evasion in copyrighted works. Specifically, it has become a general practice of employers to conclude civil contracts when actually an employment relationship exists thus making journalists into de facto freelancers. Therefore the tax legislation introduced a distinction between the so-called dependent and independent contractual relationship, and the dependent work is taxed in an equal amount as the work of the regularly employed. Enforcing those stipulations is expected to encourage publishers to regularly employ their de facto freelance journalists.

In November 2005, a special committee for the interpretation of the collective agreement established by two signatories, namely the Slovenian Union of Journalists and RTV Slovenia, adopted binding interpretations of general stipulations regarding freelance journalists and the scope of their rights. The interpretation is thereby an integral part of the Collective Agreement for Professional Journalists and Freelancers that does not explicitly distinguish between the (scope of) rights of regularly employed and freelance journalists. It stipulates that the remuneration for freelance work has to be defined in a special contract, that the conditions of pay cannot be worse than those of the regularly employed and that freelance journalists are also entitled to reimbursements for expenses related to the preparation of commissioned/copyrighted works. The committee for interpretation concluded that the provisions of the collective agreement limit the free will of contractual parties by requiring them to take account of remuneration for a comparable, regularly employed worker (for example with a comparable level of education and description of work duties) as a minimum standard when setting the remuneration for work performed by freelancers. Remuneration for freelancers has to be proportionately adjusted to the scope of the work commissioned. A freelancer is also entitled to the reimbursement of actual costs arising from fulfilling the commission and the cost of transportation and meals which can be included in the lump-sum contract. A freelance journalist is also entitled to an annual leave bonus; however, since that right is derived from the right to annual leave of the regularly employed journalists, the bonus

¹⁴ The strike of journalists, Domen Rant

¹⁵ Regulating the freelance status in journalism, Jasmina Potokar Rant

has to be contained in the tariff or the contract price itself in the amount received by a comparable regularly employed worker.

IV. The Implementation of the Legislation in Practice

First, it must be stated that there is a relatively big gap between legislated norms and actual practice. The greatest breaches of labor legislation occur with regard to freelance journalists who in fact work as employees. In contractual relations with freelance journalists, breaches of the Copyright and Related Rights Act are the rule rather than the exception¹⁶. The contractual relations of the regularly employed are predominantly in line with the Employment Relations Act and the collective agreement for professional journalists, while their professional duties and responsibility to the public in numerous cases contradict the provisions of the Mass Media Act.

Following an examination of actual practice, we can confirm the general conclusions of international studies regarding the implementation of EU directives in new member states. It can be stated for Slovenia that the labor law directives are integrated in its legal system even better than in those of some older members. When considering the implementation of and respect for the regulations, however, the situation is much worse. The most important reasons for that are the poorly staffed and uncoordinated inspection services (tax, labor and media) that have the authority to supervise the implementation of legislation. Slovenian courts rule on individual cases in about one year, which is the EU average, but in many cases that period is still too long as the actual situation of the individual plaintiff deteriorates in the meantime due to lax inspection services. Pressure from civil society organizations to realize the legal rights of the employed is relatively weak. On average, trade union membership represents about 44% of the employed work force. The professional journalists' trade union organizes about 40% of the regularly employed journalists, which is comparable to the average of other members of the International Federation of Journalists. The share of freelance journalists in the trade union is significantly lower: according to estimates of the total number, only 17% are union members.

The Status of Typically Employed Workers

According to trade union reports, with regard to contractual obligations, the most common violations of law and of the collective agreement occur in regulating the duration and organization of working time, and the amount of the annual leave bonus is in many cases lower than that set by the collective agreement.¹⁷ Instead, the employers set it according to the minimum in the law. Other provisions of the tariff part of the professional collective agreement are violated less frequently. In line with the collective agreement, the minimum basic gross wage for a reporter has been set at 1035 euros since August 2007, and for the most demanding work of the head of editorial department at 1863 euros corresponding to a net amount of about 745 euros for the former and 1341 euros for the latter¹⁸. The basic wage set in the collective agreement is the minimum wage; in practice, bigger private publishers of daily papers are the ones that remunerate their journalists at the highest rates.

¹⁶ Regulating the freelance status in journalism, Jasmina Potokar Rant

¹⁷ See, Recommendation for minimum of common standards in working contracts, SUJ

¹⁸ Salary reports in media companies, SUJ

The wage standards in the collective agreement are low as the last revision of basic wages was concluded in 1994. Since then, journalists' wages have been adjusted only to the inflation rate. According to the journalists' trade union reports on journalists' wages, they are from 15 to 40% above the minimum set in the collective agreement for those working for bigger private publishers of national dailies. In medium-sized private media, at the public radio-television station and at the national press agency, basic wages are at the minimum levels of the collective agreement. Trade union wage surveys, predominantly matching information provided by the employers, show that the average journalists' gross wage in June 2007 was 1930 euros which is 52% above the average wage per employee in Slovenia. In bigger media outlets, wages were higher. The average in June was 2052 euros, while the average wage in smaller media was 1591 euros. Average gross wages for radio journalists were 1391 euros, for TV journalists 2155 euros and for print 2247 euros. The average was higher in national media, i.e., 2011 euros in June, while the average wage of journalists working for regional and local media was 1508 euros. In public media, the average journalists' wage was 1597 euros, and in private media it was 2283 euros.¹⁹

Official statistics are not reliable due to deficiencies in the registration of publishers and in media registers. Analyses of the market have shown that of the total of 75 radio stations that are registered with the Ministry of Culture (as the Mass Media Act stipulates), 16 are not registered for RTV activities at all with the Agency of the Republic of Slovenia for Public Legal Records and Related Services; about half of the 52 TV operators fall within the same category. That is important for it points to a group that most likely violates the media law. It is very probable that they also massively violate collective and individual labor standards, as many local media operate without a single employee. There are 18 such operations in the above-mentioned total number of radio stations, and 11 such TV stations. About one half of the total of 127 private RTV stations employ only managers, so it can be concluded that about two thirds operate exclusively by hiring freelance journalists²⁰. Major media publishers have been leading in that respect, practicing a very restrictive employment policy and for many years barely replacing retired or redundant workers. The share of freelance journalists in the labor market has therefore rapidly increased. According to the latest statistics, 1635 people were employed as journalists in 2006 and 350 were registered as freelance (independent, self-employed) journalists. The journalists' associations estimate that there were at least 400 more freelance journalists working for the media without registering their status²¹. The share of freelancers in the Slovenian media market is thereby comparable to that of bigger, developed markets since it has exceeded 30% of all professional journalists. The organization of freelancers in professional trade unions has not, however, been following those trends. The Slovenian Union of Journalists has 744 members of whom 614 are regularly employed (83% of all employed journalists) and 130 are freelancers (17% of the estimated number of freelance journalists). Membership is concentrated in major media where the level of union organization is relatively higher: in the biggest five companies, 61% of employed journalists are members of the trade union. Adding the independent journalists' trade union Dnevnik, the second biggest publisher of print media, 44% of all employed journalists are members of a trade union. The total number of journalists employed by publishers with trade union organizations is 1134 (membership level is 62%).²²

¹⁹ Ibid.

²⁰ Media for Citizens

²¹ Attacking the journalism with capital

²² Salary reports in media companies, SUJ, June 2007

Reports from the major media outlets point to a deterioration in collective negotiations and social partnerships in the past year and a half. The employers—also under the influence of the new labor legislation—terminate the dialogue as soon as trade unions propose strengthening their rights and establish dialogue only when they attempt to weaken or abolish rights. In the name of cost cutting, publishers have been terminating contractual relations with journalists who were in fact employees but who performed work on the basis of civil law.²³

A sample of about 100 employment contracts revealed that nearly all major media have excessively emphasized the duties stipulated in the Employment Relations Act, while the obligations and rights of the profession defined by the media law are referred to only indirectly or not at all. Employment contracts generally contain the mandatory provisions laid down in the labor law, but those that should be included according to the media law are frequently missing: the general and introductory provisions do not refer to the specific regulations and codes that are binding for the profession (the Mass Media Act, the Declaration of Munich, the Slovenian Journalists' Code of Ethics); definitions of working post and tasks do not contain the media outlet that a journalist works for or the editorial department when bigger media are in question; contracts do not contain the program concept and job descriptions do not specify the area in which the journalists work. Employment contracts should contain these basics as it is impossible to enforce the rights and duties of journalists without them. Stipulations of the Mass Media Act are of particular importance in that respect, stating that the program concept shall be a constituent part of employment contracts. Journalists may not have their employment terminated, their pay reduced, their status on the editorial board changed or their position demeaned in any other manner as a result of expressing opinions and standpoints in accordance with the program concept. In the framework of these legal and other professional standards, a journalist is personally responsible for the consequences of his or her work and therefore the above-mentioned conditions should be defined in the employment contract, also in accordance with Directive 91/533/EGS. (EU; a part of internal labour relations legislation).

The conscientious objection clause contained in the professional code of ethics is not included in the employment contracts, and there is no severance pay if the clause is enforced. Those deficiencies have been most obvious, and in the past year and a half, the trade union's legal services have predominantly been needed for legal disputes in employment relationships.²⁴ Some cases taken to court to establish the legality of sanctions for expressing opinions and standpoints have not been concluded. The protection of journalists from changes in editorial policies is not functional at this point.

The Status of Atypically Employed Workers

It became evident when amending the tax and labor legislation that the numbers of de facto and forced freelancers were massive, and neither tax nor labor inspection had been efficiently overseeing the implementation of the new stipulations. A number of civil contracts analyzed still revealed a typical inequality between the obligations and the rights of freelance journalists:²⁵ on one hand they have the same responsibilities as those that arise from employment contracts, but on the other hand, the financial, economic and other obligations of

²³ SUJ Archives

²⁴ Report on professional autonomy. Techniques of controlling the media in Slovenia

²⁵ Jasmina Rant Potokar: Regulating the freelance status in journalism

their employers are considerably less than those for the regularly employed according to individual and collective standards.

On the basis of surveys and the massive cases discovered²⁶ of concluding illegal civil contracts with freelance journalists, it can be estimated that nearly two thirds of freelance journalists have been forced into that status. RTV Slovenia has been the greatest violator of the provision of the Employment Relationship Act that prohibits employment by civil contracts when there are elements of an employment relationship. The Court of Auditors revised royalties and other payments by RTV Slovenia in 2004 and established that at least 482 associates had continuously worked for the public station under civil contracts and had received monthly remunerations greater than 626 euros. The auditors examined the content and volume of their work and established that in half of all cases, elements of an employment relationship were obviously present and that violations of the Employment Relationship Act were very likely in an additional 36%²⁷.

In his analysis of the actual position of freelance journalists in comparison with those regularly employed, Gašper Lubej²⁸ emphasized the following key differences:

- freelancers receive lower pay for the same work and payments are frequently late;
- they have difficulties in covering their pensions and health insurance, fewer possibilities for professional training and cannot obtain bank loans;
- their working time is not limited, they do not have weekends off, and if they cannot work due to illness, they receive no compensation;
- their right to extra pay for working overtime is not stipulated;
- for many, the period of service is not registered as they cannot cover their pension insurance with their incomes;
- they are deprived of all extra payments that the regularly employed receive for years of service and for working demanding shifts.

The Slovenian Union of Journalists conducted a survey among freelance journalists in 2004 that was analyzed by Jakob Južnič.²⁹ He separated the 104 responses into registered and unregistered freelancers. Registration for freelance journalists was introduced by the Mass Media Act in 2001. The main feature is related to pension insurance, namely that it enables journalists to make monthly pension contributions and in fact makes it their obligation to pay them (the minimum rate is slightly above 210 euros). Not surprisingly, the position of unregistered freelancers was worse than that of registered freelancers. Only the combined results for both groups will be presented in this report.

On average, respondents had been in the profession for seven years, and 72% indicated that journalism was their only source of income. The average working time per week was 39 hours, 48% worked only for one client, and 13% worked for two. A total of 26% worked without a written contract. Of those with a written contract, 57% had a one-year contract and

²⁶ Estimate from the SUJ archive, Auditors report on annual financial statements (Court of Audit of the Republic of Slovenia).

²⁷ Auditors report on annual financial statements, Court of Audit of the Republic of Slovenia.

²⁸ Gašper Lubej: Position of freelance journalists in Slovenia, diploma work, Faculty of social sciences, University of Ljubljana, 2003.

²⁹ Južnič, Jakob. "Position of freelance journalists in Slovenia." *Ekoda*. March 2004; Peace Institute and Slovene Union of Journalists.

20% had contracts for an indefinite period of time. Of all written contracts in the sample, 57% contained a competition clause, a typical element in employment contracts.

Work was normally negotiated with an editor. Six percent of respondents frequently experienced pressure from their clients regarding the content of their texts, 31% had occasionally, 37% seldom and 27% never. Remuneration for work was a monthly lump sum for 47% of the respondents. One quarter was paid between 420 and 630 euros per month for their work, 25% received between 630 and 835 euros, 12% were paid between 835 and 1045 euros, and only 6% were paid more than 1045 euros. While 70% of the respondents were paid regularly and on time, only 15% indicated that they were suitably compensated. In all, 42% of the respondents received reimbursements for their travel costs, 23% received daily subsistence allowances and only 15% received reimbursements for their phone and Internet expenses. In comparison with regularly employed journalists whose benefits were entirely covered by their employers, only 17% of the freelancers indicated that social security costs were covered by their clients. Overall, 82% of the respondents evaluated their situations as bad, and 64% wanted regular employment.

A quantitative analysis of 66 copyright contracts signed by freelance journalists was conducted last year by Jasmina Potokar Rant³⁰ and presented in her graduation thesis, "Regulating the Freelance Status in Journalism." Her analysis points out serious deficiencies, an extremely low level of protection for authors and above all their weak negotiating positions. For one-time payments, their clients assume all economic rights for unlimited use frequently violating the law while the authors in many cases have responsibilities typical of those working with contracts. As many as 59 of the 66 contracts she examined contained provisions that had been voided by the Copyright and Related Rights Act. Only six contracts specifically defined the economic rights transferred to the publisher, while 21 contained a prohibition for working for other media. Ten contracts stipulated the authors' liability for the accuracy of the information, in 11 cases it was the liability of the publisher, in 4 it was divided between the two parties, and in 37 cases there were no provisions for liability which means that either side could be liable. Only 7 contracts contained a defined scope of work; 54 did not. Remuneration was defined as a fixed fee in 15 cases, and 47 contracts included a provision that the monthly fee could be higher or lower, depending on the scope and quality of work.

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

Amendments to the Mass Media Act in June 2006 strengthened the influence of the government by increasing subsidies to expand and diversify the media and by implementing political measures for awarding those subsidies.³¹ Analyses show³², however, that the state subsidizes the media regardless of economic need. The law and implementing regulations have not been appropriately amended in that respect. In spite of the measures specified, the

³⁰ Rant, Jasmina Potokar. 2006. "Regulating the Freelance Status in Journalism." Faculty of Social Sciences, University of Ljubljana. Research on individual contracts relationships.

³¹ MMA, Article 4a.

³² Media Watch Journal No. 27, December 2006, Iztok Jurančič: Poor diversity in media offer

policy on subsidies is not clearly defined with respect to the public interest and can therefore be in conflict with the regulatory and supervisory functions of the state in the media market. An amended provision³³ providing that subsidies would be used in the public interest to ensure the plurality, diversification and democratic nature of the media proved to be ineffective as many individual cases have demonstrated that subsidies can be used to legitimize the interference of the authorities with editorial autonomy. The RTV Slovenija Act, in fact, reflected the political party structure of Parliament.

Key provisions that define journalistic autonomy in the pursuit of the public interest have remained unchanged: they are deficient, their implementation is difficult and inspections and other forms of state supervision over their implementation have not functioned well.³⁴ Mechanisms for independent arbitration have not been determined either nationally or by publishing companies. Legal measures on editorial autonomy have become impotent since the statutes of companies do not sufficiently define the core competencies of management, editors-in-chief and editorial boards or the rules for organizing editorial departments.

Between April 2006 and August 2007, the journalists' trade union noted 26 cases of sanctioning and disciplining journalists for expressing opinions and standpoints, a clear sign of weakness in the provisions for autonomy. The MMA does not define the degree of autonomy of editorial departments stipulating instead that it has to be defined in the basic legal acts of the publishers. The law does not even provide a minimum framework for implementing autonomy or possible sanctions in case of violations and implies that the publishers will take care of resolving conflicts among their editorial departments and managements and within editorial departments themselves. There are no internal regulations in publishing companies for addressing and resolving conflicts within editorial departments; therefore, the stipulations of the law are mostly declarations, and in practice judicial channels have been the only possibility for resolving them.

For journalists, two stipulations of the Employment Relationship Act have proved to be in conflict with the provisions of the Mass Media Act defining professional principles and guidelines for publishers. The Employment Relationship Act stipulates³⁵ that the worker is obliged to refrain from all actions that in view of the nature of work which he or she does could cause material or moral damage or harm the business interests of the employer. The other provision of the Employment Relationship Act that can be used to silence or formally sanction a journalist is the one on protecting commercial confidentiality.³⁶ It prohibits a worker from exploiting for his private use or from disclosing to a third person an employer's commercial confidentialities as defined by the employer that were either entrusted to the worker or that were learned in any other way. Several cases of abuses of both provisions have been recorded lately.³⁷ They were used in disciplinary proceedings against journalists for expressing their opinions and views. The largest private media publisher (Delo) formally threatened representatives of journalists' organizations with termination of employment claiming they had damaged the commercial interests of the employer by publicly condemning the sanctioning of two correspondents reporting from other countries. The publisher terminated their contracts because they had criticized the government.

³³ MMA, Article 4a.

³⁴ MMA, Article 18., 19. and 20.

³⁵ ERA, Article 35.

³⁶ ERA, Article 35. and 36.

³⁷ ERA, Article 35. and 36.

The general labor law has become an instrument for directly threatening journalists who have come into conflict with the revised editorial policies introduced in 2005 by the newly appointed management of two state-owned media companies and of several larger private media groups. Replacements of top managers were carried out in institutions that together hold more than 70% of the media market. They were enabled by a high concentration of ownership in the market, dominated by economically strong companies whose principal activity is not publishing. To them, the media are merely a good financial investment and political capital.

Regulation and self-regulation of autonomy in the public interest is more significant in a small and concentrated market than in larger markets with strong competition. It has proved to be deficient and subordinate to the will of owners and the authorities. At the company level, the power of management in relation to editorial departments has been strengthened. Management has appointed new editors-in-chief, in many cases against the will of editorial departments. At the individual level, threats of termination of employment and disciplinary proceedings have jeopardized the stipulations that require journalist to place the interests of the public above obedience to employers. Since the policy on autonomy has not been amended and because the political orientation of the media remains unchanged, practically any expression of opinions and views can be sanctioned by an employer. Basically, the contractual security of journalists has deteriorated.

Individual media companies have also reported frequently informally disciplining journalists for expressing opinions and preventing them from seeking legal protection. Such proceedings have led to transfers, pay cuts and demotions and in some cases to consensual termination of employment contracts, even though that is prohibited by law. A larger number of cases of censorship have also been recorded such as unauthorised changes in texts, refusals to publish commissioned articles or to publish any material that could be critical of the government.

VI. Journalists Trade Unions: Existence and Effectiveness

Professional solidarity is relatively strong within and among the media with internal trade union organizations. That became evident during the general journalists' strike in October 2004 organized by the Slovenian Union of Journalists. All employed and freelance journalists working for the media with local trade union chapters took part in the strike that was also joined by some smaller local media. Journalists in those media where there is no trade union representing about one third of employed journalists generally supported the strike in principle but did not join it. The strike was nevertheless a success because journalists drew the attention of the public to the problems in their profession for the first time in independent Slovenia, particularly to the problems of freelance journalists. The strike forced the then representative organization of employers, the Publishing, Printing and Media Association of the Chamber of Commerce and Industry of Slovenia, to start negotiating the revision of the national collective agreement for professional journalists. Negotiations have been in progress since the strike but not without interruptions. The latest has lasted since November 2006 and was caused by the organizational and institutional changes following the dissolution of the chamber with mandatory membership and its reconstitution with voluntary membership. Discussions on the continuation of negotiations with the new chamber are in progress.

Negotiations on wages for the employees of public RTV Slovenia were one of the more successful efforts of the trade union. Negotiations with state authorities lasted for five years within the broader social dialogue on the wage system for all employees of public institutions. As a result, basic journalists' salaries will increase by 20–30% above the standards of the professional collective agreement. The trade union has been far less successful in adjusting to the conditions in the journalism labor market. Trade union membership has been stagnating for several years³⁸ which can be ascribed to the fact that larger media companies have been assigning the work of regularly employed journalists to freelancers who are much more difficult to draw into a trade union, particularly in the framework of the existing rules of trade union organizations and the existing practices of trade unionism. The transition to new forms of organising is more difficult under the transitional legislation and because of the internal organizational and financial limitations of the trade unions.

VII. Conclusions and Recommendations

Currently, the two most critical issues in Slovenia are the position of freelancers and preserving editorial autonomy both internally in individual media organizations and nationally. Civil society organizations have relatively well-defined goals in both areas, but they will have to redefine their tactics and strategies. The 1240 members of journalists' professional organizations—the Slovenian Union of Journalists and the Association of Journalists—will have to redefine their division of labor and find new ways to cooperate in both critical areas. The division between workers' rights and duties and professional rights and duties that differentiated the two organizations in the past was evidently erased with the introduction of the latest aggressive publishers' policies and the new media policy of the government. The new political and legal constructs of autonomy on the side of the government and the owners have pointed out the deficiencies of the current legislation in protecting the public interest.

To improve the position of freelancers, it is important to enhance trade union membership by promoting the organization of freelancers and enabling systematic, independent representation of their interests in the national trade union and its constituent organizations within individual media. The trade union has to continue negotiating the professional collective agreement at the national level, striving for equal conditions for freelancers and for journalists regularly employed. Defining authors' rights and their collective protection are of particular importance. At the level of local trade union chapters, a key aspect is intergenerational and professional solidarity, including the ability to represent freelancers in their relations with publishers. All legal means must be used to ensure employment for all de facto freelancers who wish to be employed. State inspections (labor, media, tax) should coordinate the prevention of illegal contracts with freelance journalists. In that regard, a dialogue on flexible security has to be established to achieve adequate legal protection of freelance status and to enable transfers from one form of contractual relationship to another with self-regulation and specific legislation.

Basic rules for internal freedom and for the responsibility of editorial departments should be agreed upon in the professional collective agreement concluded by journalists' organizations and employers' representatives. At the national level, the law should define implementing an organizational minimum for autonomy and should establish national arbitration for cases

³⁸ The share of independent journalists with registered status doubled in six years (to 350 persons) from 10 to 20 percent of active professional journalists (without the number of non-registered freelance journalists).

when it is not possible to reach bipartisan agreements between publishers and editorial departments to solve internal conflicts. The collective agreement should stipulate basic rights that arise from changes in program concepts that will make conscientious objection clauses and severance pay part of employment contracts. Civil society organizations should systematically monitor and research the state of autonomy. Informing the international and national public is of crucial importance when legislation is violated and supervisory institutions fail to function. Partnerships between the public and politicians are crucial for initiating legislative amendments that should nevertheless be prepared independently by civil society organizations. Journalists themselves can do a lot by informing the public of informal disciplinary procedures and striving for regularity under the law. Their initiatives can sometimes be even more efficiently presented if they are logistically and otherwise supported by civil society organizations only during the second stage.

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