

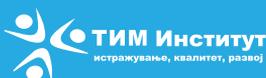


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# Media in (Trap of) Election Campaigns: the Case of Serbia

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European Fund for the Balkans



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**Election Campaigns:**  
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Media in (Trap of) Election Campaigns: the Case of Serbia

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**Authors:**

Vladana Jaraković, Tamara Branković, Tara Tepavac

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## INTRODUCTION

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Despite progress made over the past years, Serbia is facing considerable challenges in preserving the rule of law, democratic institutions and the protection of democratic values. Heightened political polarisation that has been accelerating over the last year has led to the shrinking of the space for public dialogue, negative impact on the work of democratic institutions, as well as on degrading trust of citizens towards political institutions and actors.

These negative trends, particularly in regard to the electoral conditions and work of the Serbian Parliament, the lack of public dialogue and alarming state of play in regard to the media, have been highlighted through the years by the civil society, and finally recognised as priority issues by the European Commission in the most recent Serbia 2019 Report. Citizens' demands for reinstating the rule of law, free media as well as free and fair elections have been in the core of the wide public protests, which have been ongoing throughout Serbia since the autumn of 2018. At the same time, part of the opposition started boycotting the work of the Serbian Parliament, while some of them also announced that they would boycott the forthcoming 2020 Parliamentary Elections. The demands coming from the citizens, civil society and the international community, together with boycott which became again a political option in Serbia

after more than 20 years, have led to certain developments in the Summer and Autumn 2019, including state authorities' announcements of changes in the work of the Serbian Parliament and improvements of electoral conditions. A series of round tables on the electoral conditions was launched between the governing and the opposition parties ahead of the 2020 Parliamentary Elections. Despite the fact that many opposition parties decided to leave round table discussions shortly after they were launched, the state authorities started with operationalisation of some of the discussion conclusions, together with some of the OSCE/ODIHR recommendations<sup>1</sup> and recommendations addressed by the civil society.

However, the electoral conditions in Serbia still remain a stumbling stone which generates an atmosphere of mistrust between the opposition and the government parties. One aspect of this problem is that systemic efforts towards improving electoral conditions lacked in the past<sup>2</sup>, which generated a large amount of issues in laws and practice to be solved and properly implemented by 2020 elections. Another aspect is that the work of the media and the Regulatory Body for Electronic Media (REM) in ensuring equal media representation in election campaign remain areas which produce highest tensions, around which almost no conclusions were reached within round table discussions. It is still unsure if any common ground related to media will be reached even after the involvement of the European Parliament representatives in the discussion on the electoral conditions.<sup>3</sup>

Along these lines, this paper aims to shed more light on the role of the media in electoral campaigning, with a particular focus on the roots of most pressing vulnerabilities, problems and obstacles that are hampering media ethics and equal media representation. In order to grasp the extent and consequences of the problem of media performance in the elections, the paper provides an overview of the state of play of the media scene in

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1 The Working Group of the Serbian Government for Implementation of OSCE/ODIHR Recommendations was formed in September 2019.

2 In the past five years, most of the OSCE/ODIHR recommendations addressed to Serbia, have not been addressed. Out of 39 recommendations from 2014, 2016 and 2017 OSCE/ODIHR reports, only one was fully and seven were partially addressed by 2019, according to assessments made by CRTA. See: Branković, Tamara; Cvejtn, Željka, *Izbori u Srbiji - Demokratija zamagljena kampanjom*, CRTA, 2018, p 12.

3 The equal media representation will find its place at the agenda of the round scheduled for the week between 11th and 15th of November 2019.

Serbia. The focus is placed on the electronic media, as it has the largest influence in comparison to other media formats and consumes the largest amount of money that political actors in Serbia spend on election campaigning<sup>4</sup>, with particular emphasis on strategies and patterns for establishing political and economic influence on media in Serbia. Another key component influencing the electoral conditions in Serbia that is related to the media is the citizens' right to information, which has not been institutionally protected during the past elections in Serbia. This lack steams both from incomplete legal and institutional framework as well as from the lack of readiness to implement the existing legislation, which is illustrated through the analysis of the work of the Regulatory Body for the Electronic Media during 2016, 2017 and 2018 election cycles at national and local level.

Voters' right is to be informed about the electoral offer as a prerequisite for making informed decisions for whom to vote. It is hence necessary to guarantee equal representation of all electoral lists and candidates in the electronic media. Along these lines, the paper offers concrete recommendations for overcoming key challenges hampering the performance of the media in the framework of election campaigning.

## Background: Media Landscape in Serbia

The state of the media in Serbia is highlighted as alarming by various reports of the civil society, as well as by the professional media associations which continuously point out the abuses of media law, state influence over the media and difficulties in the professional and material position of the journalists. Serbia is facing

a palette of problems on the media scene. They range from verbal and physical attacks on journalists together with a very low impact of investigative authorities in processing of the attacks, to dependency of the media on power centres, pressures and poor economic position of journalists. As a consequence, media landscape in Serbia faces a serious decline of ethical standards and transformation into self-censorship and tabloidization.

The state influence on the media remains strong. The privatisation of media outlets owned by public authorities, planned to be completed the latest by October 2015 according to the Law on Public Information and Media, has not been fully implemented. Privatisation procedures have been initiated for 73 media outlets out of which 14 have not yet been completed. At the moment two media outlets are still in fact managed by the public authorities.<sup>5</sup> In addition, the lack of financial self-sustainability leaves most of the media heavily dependant on the government funding. State authorities remain the biggest advertisers, while the allocation of public funds through project co-financing is being used as a channel of influence and control over the media.<sup>6</sup>

The overview of the media landscape in Serbia reveals that the television is the most prevalent electronic media. Preferred media channel through which citizens of Serbia choose to be informed differ among the age groups, with the younger population (18-29 years-of-age) favouring the social networks and digital media, and the older generations (45 and above years-of-age) opting rather for television. Still, over 99% of households owning TV sets and more than 70% of population watching the television. The percentage of the Internet users is growing year by year, with 70% of total population using the Internet, while 54% listens to the radio, and 27% reads the daily press.<sup>7</sup> The Radio Television of Serbia (RTS), which is a public service broadcaster, is the most frequently used and the most trusted television channel.

Although over 200 TV and more than 300 radio stations have been registered in

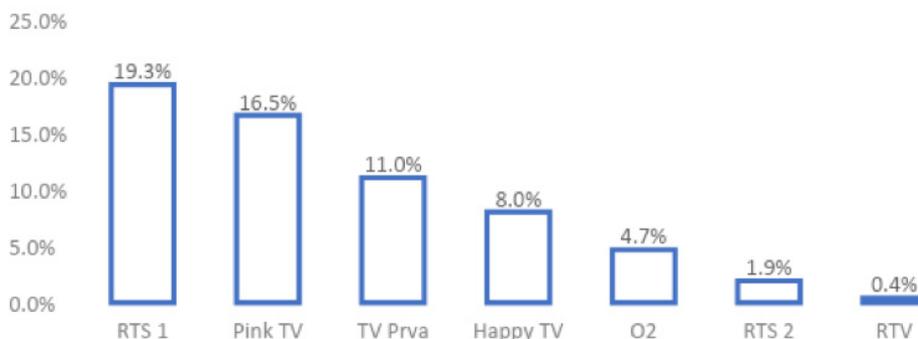
4 For political advertising on television in 2017 Presidential Elections was spent more than 50% of the total amount of money spent on campaigning. See: Reports on campaign costs available on the Anti-Corruption Agency webpage <http://www.acas.rs/pretraga-registra/>

5 These are the Radio Barajevo and RTV Kragujevac, whose shares were allocated to Municipality Barajevo and City of Kragujevac, and have not yet been privatised.

6 See Jarakovic, Vladana, *Medji – u slobodnom padu*, CRTA, 2019.

7 See Ipsos Audience Measurement, *Srbija pod lupom Ipsosa*, Desk report for 2017, Ipsos 2017

Serbia, according to the Media Register of Serbian Business Registers Agency. **However, only some of them can have national terrestrial coverage, which allows them to be viewed throughout the country.** In addition to the public service broadcasters, the national frequency is allocated to five commercial televisions and five commercial radio stations on the basis of the competition. The decision on the allocation of the frequency is to be adopted by the Regulatory Body for Electronic Media (REM), which has left **one out of five national frequencies for commercial TV broadcasters unassigned since 2013. Televisions with national frequency are also the televisions with highest ratings share.** Out of the total TV audience, **63.3%** goes to public broadcasting service and four televisions with national frequency, including all television channels in their ownership (Graph 1).<sup>8</sup>



Graph 1 - Share of national frequency televisions in the total audience

Serbia's public service broadcasters include the three channels of the Radio Television of Serbia (RTS), along with two channels of the Radio Television of Vojvodina (RTV), broadcasted throughout the province of Vojvodina. Pursuant to the Law on Public Service Broadcasting, RTS and RTV are designated as independent and autonomous entities with the main activity of realising the public interest in the area of public media information as defined by the Law. However, their actual independence is, on the one side, influenced by the fact that they are still largely funded from the state budget, and on the other, compromised by the manner of election of their management board members. Namely, members of the management board are elected by the Regulatory Body for Electronic Media whose independence is being questioned by the professional public for years now.

As the televisions with national frequencies are using the limited public resources, the programmatic requirements they need to meet in order to obtain the broadcasting licence are somewhat stricter than the requirements to be met by other media service broadcasters in private property. Along these lines, the REM has the right to revoke the licence to a television which fails to fulfil the legal and programmatic obligations stipulated by their licence. Yet, the REM has never launched the procedure of revoking the licence for either of the four commercial televisions with national frequency, although the REM's yearly report on the manner of fulfilling the legal and programmatic obligations clearly shows lacks in complete fulfilment of stipulated obligations.<sup>9</sup>

The commercial media outlets which have received national frequencies are TV Pink, the programme of which is composed almost entirely of tabloid content including various forms of reality shows, TV Prva, O2 and Happy TV. **The ownership structure of these televisions is often mentioned in the public, due to the alleged connections of their owners with the ruling party.** TV Prva and O2 have recently been bought by the Kopernikus Corporation

<sup>8</sup> See Media Ownership Monitor Serbia, <http://serbia.mom-rsf.org/en/media/tv/>

<sup>9</sup> See Regulatory Body for Electronic Media, *Commercial Broadcasters - Fulfilment of Legal and Programmatic Obligations in 2018, 2019*, p.75

owned by Srdjan Milanovic, a high official of the Serbian Progressive Party in Nis, which reflected in changes in the editorial policy. Finally, Happy TV is owned by companies Ideogram and Kanal 1, while a controversial businessman Predrag Rankovic Peconi is also mentioned in the public as the owner.

## Legal Grounds: Media coverage of political actors and election campaigns

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In accordance with the Serbian law, all electronic media are obliged to provide free, true, objective, complete and timely information.<sup>10</sup> When it comes to the public service broadcasters - RTS and RTV - they are obliged, regardless of the election campaign, to always respect and promote pluralism in political, religious, and other ideas and facilitate the public's familiarity with those ideas, without serving the interests of individual political parties or religious communities, or any other individual political, economic, religious or similar positions or interests and being guided with obligation of impartial coverage of political issues, enabling equal encounters of different views.<sup>11</sup>

The legislation in Serbia has specific rules on the role and the performance of the media that become valid the moment of calling of elections. Legal framework for establishing this environment during the campaign was set up by the provisions of the Law on Election of Members of the Parliament, Law on Public Service Broadcasting, Law on Electronic Media, and it was additionally prescribed by the provisions of the Rulebook on the obligations of providers of media services during the

election campaign (the Rulebook). The Law on Electronic Media contains the general provision obliging the media broadcasters, to ensure free and equal representation of political parties, coalitions, and candidates that have verified electoral registers for the republic, provincial, or local elections during campaigning. Along these lines, the behaviour of media broadcasters is subjected to specific restrictions during the election campaign, with the sole aim of providing possibilities for each candidate to present themselves to the viewers in accordance with the principle of equal representation and without discrimination. This legal provision was elaborated in more detail by the Rulebook. The Rulebook had specified the obligations of media service broadcasters pertaining to permitted manner and broadcasting of the election programme that must be clearly separated from the remaining programme. In addition, it also prescribed prohibition of hidden or indirect recommending of electoral lists or candidates in both news and entertainment programme. Finally, the Rulebook included provisions regulating public information on pre-election activities of submitters of electoral lists or candidates by prescribing the obligation of media service broadcasters to enable representation of pre-election activities of electoral lists submitters and candidates in the programme without discrimination. The Rulebook has been adopted by the REM in 2015, yet it is no longer enforced as it was repealed by the same authority in February 2019.<sup>12</sup>

## Paths of Influence on the Media

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According to the information from 2015, TV stations with national frequency<sup>13</sup> had 89%

<sup>10</sup> Law on Electronic Media, Article 47

<sup>11</sup> Law on Public Service Broadcasting, Article 7

<sup>12</sup> Rulebook on the end of validity of the Rulebook on the obligations of providers of media services during the election campaign as of 27 February 2019. <http://www.rem.rs/uploads/files/Podzakonska%20regulativa/Pravilnik%20o%20prestanku%20vazenja%20Pravilnik%20o%20obavezama%20pruzalaca%20medijskih%20usluga%20tokom%20predizborne%20kampanje.pdf>

<sup>13</sup> Advertising market grew from 178,2 in 2017 to EUR 197 million in 2018. Although the digital media had the biggest growth in revenue from 13% in 2016 to 15% in 2017, the largest share in advertising with stable 55% belongs to television. However, in relation to the number of 2,000 registered media in the Business Register Agency, this growth was not sufficient so as to make all registered media sustainable and it is inevitable they rely on financial assistance of the state.

of advertising share<sup>14</sup> on television, while the remaining 11% belonged to foreign channels distributed through the TV cable system. According to the information from the Draft Strategy for the Development of the Public Information System in the Republic of Serbia, none of the 15 largest commercial advertisers in Serbia advertises in the local and not even in the regional pages.

Taking this into consideration, it is evident that the **media in Serbia are not financially self-sustainable**. On the contrary, they are still largely relying on various types of state assistance, such as project co-financing, allocation of state aid, advertising of national authorities and public enterprises, contracts on media monitoring of enterprises, sponsorship contracts and other. **This reliance on the state funds determines the media editorial policy to a great extent.**

By analysing the paths of influence on the media in Serbia, **two main trends** can be singled out: the influence through the allocation of public funds, and through financing of advertising and marketing services by the public authorities and public enterprises.

The case of RTV Pancevo represents a vivid illustration of the manner in which the **media is being influenced through the allocation of public funds** envisaged for co-financing projects in the area of public information to the media seen as suitable. RTV Pancevo is a local radio television owned by Radoica Milosavljevic, a businessman from Krusevac who owns more than ten local televisions throughout Serbia, in Krusevac, Kragujevac, Pancevo, Paracin, Pirot and Pozega, Novi Knezevac, Leskovac, Backa Palanka, Brus, etc. Milosavljevic has been a member of the Socialist Party of Serbia (SPS) since its establishment. He was the chairman of SPS district committee, and Deputy Mayor of Krusevac from 2009 to 2012. According to Raskrinkavanje web portal, the Serbian media platform dedicated to the fight against disinformation and fake news, most of these televisions operate at a loss, despite millions of dinars that they received from the budgets of local governments in early 2018.<sup>15</sup>

In the period from June 21st 2016 until May 30th 2019, RTV Pancevo received the funds in the amount of RSD 15,852,914 of state aid. Under the Rulebook on co-financing projects for realisation of public interest in the area of public information it has been stipulated that when assessing projects, it should be especially assessed whether the participants in the call for proposals were imposed measures by the national authorities, regulatory bodies or self-regulatory bodies in the previous year on the grounds of violation of professional and ethical standards. On March 13th 2019, the REM issued two warning measures to RTV Pancevo due to violation of the Law on Electronic Media. Nonetheless, this television received again a million RSD of state aid on May 30th 2019. In addition to the state aid, TV Pancevo receives funds from other units of local government. More precisely, solely in 2018 it received about half a million RSD from municipality of Kovin, 800 thousand RSD from Bela Crkva, one million RSD in Kovacica and around six million RSD in Pancevo which amount to a total of EUR 70 thousand.<sup>16</sup>

Such practices alone can serve as an indicator of the connection between the ruling coalition, including the Serbian Progressive Party (*Srpska napredna stranka - SNS*) and the Socialist Party of Serbia (*Socijalistička partija Srbije - SPS*) and TV Pancevo, which became evident during the 2017 election campaign. Media monitoring carried out by the CRTA revealed that TV Pancevo broadcasted the electoral campaign rallies of the Serbian Progressive Party on a daily basis towards the end of the campaign, along with regular interviews with and appearances of distinguished members of this party.

For instance, according to the CRTA election observation mission's final report on the 2017 Presidential Elections, the TV programme on TV Pancevo just a couple of weeks prior to the elections included:<sup>17</sup>

14 Ipsos Strategic Marketing, Media Market Analysis, August 2015, p. 7 <http://www.rem.rs/uploads/files/PDF/6529-Analiza%20medijskog%20trazista%20u%20Srbiji%20-%20final.pdf>

15 Cenzolovka, "Radoica Milosavljević kupuje još jednu televiziju", October 2019. <https://www.cenzolovka.rs/trziste/radoica-milosavljevic-kupuje-jos-jednu-televiziju/>

16 Raskrinkavanje, "Radoica Milosavljević kupio još jednu televiziju dok su druge u gubicima", July 2018. <https://www.raskrinkavanje.rs/page.php?id=200>

17 CRTA, *Election Observation Mission: Final Report - 2017 Presidential Elections*, 2017, p. 27 <https://cрта.rs/en/final-report-presidential-elections-2017/>

<b>TUESDAY, MARCH 21</b>	<b>18:00h</b> BROADCASTING THE SNS RALLY FROM KRALJEVO	<b>20:00h</b> RECORDING OF THE PANEL “SERBIA SHALL CHOOSE”	
<b>WEDNESDAY, MARCH 22</b>	<b>01:00h and 13:00h</b> Recording of the panel “Serbia shall choose”	<b>18:00h</b> Broadcasting of the SNS rally from Nis	<b>20:00h</b> TV show “Interview” – with guest appearance of MP Aleksandar Martinovic, SNS
<b>THURSDAY, MARCH 23</b>	<b>02:30h and 13:00h</b> Rerun of the TV show “Interview” with MP Aleksandar Martinovic, SNS	<b>20:00h</b> TV show “In South Banat” with guest appearance of Jovan Lazarov, SNS deputy in AP Vojvodina Assembly and Chairman of the Budget and Finance Committee of AP Vojvodina Assembly	
<b>FRIDAY, MARCH 24</b>	<b>02:30h and 13:00h</b> Rerun of the TV show “Interview” with MP Aleksandar Martinovic, SNS 01:00h, 13:00h Rerun of the TV show “In South Banat” with Jovan Lazarov, SNS	<b>16:00h</b> Broadcasting of the SNS rally from Belgrade	
<b>SATURDAY, MARCH 25</b>	<b>11:00h</b> Recording of the panel “Serbia shall choose”	<b>17:05h</b> Recording of the SNS rally from Belgrade	
<b>SUNDAY, MARCH 26</b>	<b>11:00h</b> Rerun of the TV show “Interview” with MP Aleksandar Martinovic, SNS	<b>19:40h</b> Recording of the SNS rally from Belgrade	

In addition to the misuse of the procedures for the allocation of public funds, the **state influence over the media through the procedures of contracting advertising and media services** has also been monitored. A comprehensive Report on the Possible Impact of Public Sector Institutions on Media through Financing of Advertising and Marketing Services<sup>18</sup>, published by the Serbian Anti-Corruption Council in 2015, analysed various types of influence to the media. The Report highlighted several models used by public authorities and public enterprises in order to circumvent the procedure of public procurement when contracting the media services (including sponsorship contract, contract on business and technical cooperation and other). One of the typical examples can be found in the contracts on media monitoring, which oblige the media to affirmatively report on the institution which contracted them, and to invite the representatives of those institutions and public enterprises as guest in their news programme. The media that receive money on these grounds are refraining from critical reporting on state authorities.

Although the effect of advertising could in fact be achieved by applying any model, it is by the rule promoted in the hidden manner, so the viewers and/or readers are not familiar with propaganda nature of the published content paid from the budgetary funds and implemented in the open procedure. In the context of the election campaigning, the **practice of hidden or indirect promotion of electoral lists of candidates has the greatest impact on the unequal representation** of the candidates. The Ministry of Culture and Information indicated in the official Media strategy that the public authorities allocate around EUR 25 million per year to the media.<sup>19</sup> However, the Anti-Corruption Council estimated in its report that annual allocations of public authorities for advertising and other marketing services in practice exceed this amount significantly, with EUR 840 million spent for the period between 2011 and 2015, and/or EUR 210 million per year for the period 2011–2014.<sup>20</sup>

## Lack of Oversight: Performance of the Regulatory Body for Electronic Media

The Regulatory Body for Electronic Media (the REM) is the only state body in charge of overseeing the activities of the electronic media, and ensuring an environment with equal opportunity of representation for all electoral candidates or lists, as well as the citizens' right to be truthfully, fully and objectively informed about the programmes and activities of the electoral candidates. In the election campaign, the REM does not have additional competences compared to the period before calling of elections. However, its general competences include the **control of media service broadcasters and supervision of the application of provisions of the Law on Electronic Media**. These include the provision that obliges media service broadcasters to enable representation to registered political parties, coalitions and candidates without discrimination during the election campaign.<sup>21</sup>

Taking into consideration the fact that the Rulebook additionally prescribed in detail the manner of realising the representation, it is obvious that during the campaign the REM is obliged to ensure consistent application of this law, which involves the prohibition of broadcasting hidden pre-election programme through the news programme. The REM is also authorised to impose measures to media service broadcasters in case of the law violation. Depending on the gravity of the infringement, the media service broadcaster shall be issued a warning, reminder or temporary ban on broadcasting programme (for especially serious violation). If the media service broadcaster was imposed a less serious

18 Savet za borbu protiv korupcije Vlade Republike Srbije, Izveštaj o mogućem uticaju institucija javnog sektora na medije kroz plaćanje usluga oglašavanja i marketinga, 2015, <http://www.antikorupcija-savet.gov.rs/Storage/Global/Documents/izvestaji/Izvestaj%20o%20medijima%20konacna%20verzija.pdf>

19 Strategy on the Development of the System of Public Informing in the Republic of Serbia 2011–2016

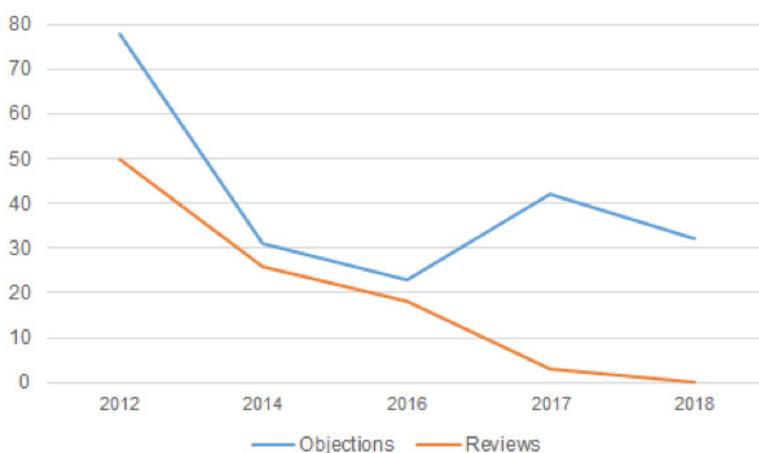
20 Savet za borbu protiv korupcije Vlade Republike Srbije, Izveštaj o mogućem uticaju institucija javnog sektora na medije kroz plaćanje usluga oglašavanja i marketinga, 2015, <http://www.antikorupcija-savet.gov.rs/Storage/Global/Documents/izvestaji/Izvestaj%20o%20medijima%20konacna%20verzija.pdf>

21 Law on Electronic Media, Article 47

measure before, but has nevertheless continued to violate the provisions of the Law and the Rulebook, REM has the authority to revoke their licence as the final measure. The procedure is instituted *ex officio* or upon citizens' objections.

The work and the performance of the REM has been seen as controversial in several election cycles. The issue of its substantive independence has been in particular focus of the public, as all the decisions from the scope of its authority are being made by its Council, which is currently operating with a reduced number of members. Namely, the members of the REM Council are appointed by the National Assembly of the Republic of Serbia, that are elected from the candidates nominated by various social actors. However, **since 2017 the Council has been operating with only 6 out of 9 members** that should be appointed by the National Assembly.

In addition, the vital role of this institution in ensuring equal media representation of all actors in the electoral process is being jeopardised by failures of the institution to deliver on its authority. From 2016 Parliamentary Elections onwards, **REM ceased publishing any reports on the performance of the electronic media in the election campaign**. In 2017 Presidential Elections, the REM went one step further by almost excluding itself from exercising its authority to monitor the media performance. Namely, the REM announced that it would not conduct media monitoring of the programme during the election campaign for the presidential elections and instead would act only upon citizens' objections. This decision represents an unjustified rejection of competence of the only authority that has enough competent staff and technical equipment to precisely determine whether the principle of equal representation of candidates is being consistently applied. Instead, the REM shifted the responsibility and handed over the monitoring to the viewers, by inviting them to report on detected and report irregularities. Yet, even though it has received a 42 objections directly related to unequal media representation during the 2017 presidential elections, REM reviewed only three, which represents a significant underperformance in comparison to previous years (Graph 2). In the following 2018 Belgrade Elections, REM **did not initiate a single procedure** based on 32 received citizens' objections in this area.



Graph 2 - Review of objections directly related to unequal media representation received by the REM during elections campaigns<sup>22</sup>

<sup>22</sup> This graph was first published in: Ilic, Vujo, "Turning the Tide: Political Influence and Independent Institutions in Serbia" in *Curbing Political Influence on Independent Institutions in the Western Balkans*, Aspen Policy Program, 2018, p. 48.

It is important to mention that in 2018 Belgrade Elections, in addition to the aforementioned 32 objections, citizens submitted additional 286 objections related to breaches of media ethics in content published during the election campaign.<sup>23</sup> These objections also remained without any institutional response. In May 2018, the REM released a public statement in which it rejected all 318 objections, calling them an orchestrated action of the civil society and media against this body. Furthermore, the REM established that **public interest had not been violated in any of over 350 reported cases during 2017 and 2018**. Consequently, **none of the media service broadcasters was punished for the violations during these election campaigns.**<sup>24</sup>

The independent media monitoring carried out during the campaigns for 2017 Presidential Elections and 2018 Belgrade elections, indicated that the REM's decision not to carry out the *ex officio* control of media service broadcaster caused "not even nearly equal representation"<sup>25</sup> of candidates.

In addition to ensuring equal **media representation, the media service broadcasters are also required to respect the ban of broadcasting the hidden pre-election programme** through the news programme during the election campaign. Along these lines, citizens have also reported cases in which candidates who are also public officials were unfairly more represented in the media programme. Namely, the elections in Serbia are marked with the **public officials campaigning**, that also heavily utilise the unlimited media time which they have as public officials and not candidates. This means that the public officials, who are also candidates or high officials of political entities participating in the elections, benefit from using the

framework of the news programme reporting on their daily activities. In the election campaign in Serbia, this becomes significantly visible due to the fact that the quantity of their activities as the public officials suddenly increases during the campaign. For example, during the last three days prior to the 2017 Presidential elections (including the first day of the election silence), Transparency Serbia recorded 26 events reported in the media featuring ministers, city officials and other prominent officials of ruling coalition (such as opening kindergartens, laying foundation stone for infrastructural projects and other).<sup>26</sup> The CRTA also reported that, during the 2018 Belgrade Elections campaign, public officials were introduced in their everyday media appearances in accordance with their public position in 37% of registered cases, but that they addressed mainly their respective political party or electoral topics and views.<sup>27</sup>

Yet, the **REM considers these situations as indisputable editorial freedom** of the media to shape their news programme content.<sup>28</sup> On the other hand, the OSCE/ODIHR Observation Mission took a different position and in its Report on 2016 Parliamentary Elections made a recommendation to Serbia that "consideration should be given to regulate media coverage of officials who are also candidates in the election campaign, in order that they do not enjoy an unduly privileged position compared to other contestants".<sup>29</sup> This recommendation has never been implemented.

<sup>23</sup> This was a result of the campaign organised by CRTA to mobilize citizens to fulfil the election monitoring role the REM was increasingly deserting. By enabling the citizens to file official objections to REM through a custom made website, a total of 318 citizens' objections, both in areas of unequal media representation and breaches of media ethics, have been gathered and submitted to REM in the course of 2018 Belgrade Elections.

<sup>24</sup> REM has issued only one measure against a broadcaster based on these objections in 2016, and none since. <sup>25</sup> CRTA, *Belgrade Elections 2018 - CRTA Election Observation Mission Final Report*, p. 51 [https://cрта.rs/wp-content/uploads/2018/08/CRTA\\_Belgrade-elections-final-report.pdf](https://cрта.rs/wp-content/uploads/2018/08/CRTA_Belgrade-elections-final-report.pdf)

<sup>26</sup> Transparency Serbia, *The 2017 Election Campaign Monitoring*, <http://www.transparentnost.org.rs/index.php/sr/projekti/152-monitoring-izborne-kampanje-2017>

<sup>27</sup> CRTA, *Belgrade Elections 2018 - CRTA Election Observation Mission Final Report*, p. 63 [https://cрта.rs/wp-content/uploads/2018/08/CRTA\\_Belgrade-elections-final-report.pdf](https://cрта.rs/wp-content/uploads/2018/08/CRTA_Belgrade-elections-final-report.pdf)

<sup>28</sup> REM decision from 5th of October 2017 in which CRTA had insight on the received citizen objection against TV Prva regarding the exaggerated media representation of then-Prime Minister and presidential candidate, Mr. Aleksandar Vucic, over other presidential candidates in central news.

<sup>29</sup> OSCE/ODIHR, *Republic of Serbia Early Parliamentary Elections 24 April 2016 - OSCE/ODIHR Limited Election Observation Mission Final Report*, July 2016, p. 22.

# CONCLUSION AND RECOMMENDATIONS

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Campaigning in the electronic media establishes as the most expensive, the most influential and one of the most controversial areas of the elections in Serbia. The access to the mainstream electronic media in Serbia remained either restrictive for many opposition parties, or biased in a manner of favoring and over-representing governing parties' representatives. The scope of media reporting on everyday activities of public officials, coupled with public officials using their space in the media to promote certain political options, thus misusing the law and the public interest, provides significant electoral advantage to parties in the government in addition to the paid advertising. In previous elections, such an environment significantly hampered the equal media representation and led to poor information or even misperceptions on the electoral offer in the Serbian public. The Regulatory Body for Electronic Media, the independent institution whose authority is that both the Public Service Broadcasters' and the commercial media' reporting in the campaign is in line with the law, media ethics and key principles of equal media representation of candidates, failed to exercise its authority while its independence from political influence is overshadowed by significant number of affairs.

In addition, the electoral media environment is no different that the media environment in-between the elections in Serbia. Unfinished business and unachieved media privatisation goals, suspicious media ownership, in particular at the local level, low economic, but also low ethical standards, controversial project-funding from the state budget, have paved the way for significant political influence to editorial policy. In the case of many local media, their editorial policies are nothing more than additional local informative branch

of the governing party, which creates an environment of the neverending election campaign.

Thus, CRTA has developed a set of recommendations and measures intended for ensuring equal media representation, greater transparency and accountability of the REM, and media protection from political and economic influence. These recommendations were presented to political actors from the government and the opposition in the course of the discussion round-tables on the electoral conditions in their first phase – under the facilitation of the Fund for an Open Society and the Faculty of Political Sciences of the University of Belgrade – and in their second phase, under the facilitation of the European Parliament.

In order to improve the state of play in the media during the election campaign, all participants in the electoral process must first and foremost respect the existing laws and by-laws.<sup>30</sup> At the same time, there is a significant number of recommendations for amending or supplementing legal acts or adopting by-laws by the REM, which would further improve the work of the media during the election campaign.



## *Recommendations ensuring equal media representation*

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1. Define the principle of “representation without discrimination” by applying the strict equality of participants in the election and the principle of proportional equality in the informative programme;
2. Foresee that media service providers, public broadcasting services and commercial media cannot provide privileged treatment for government authorities within the election programme frame.

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<sup>30</sup> For a wider and more detailed set of CRTA recommendations, see CRTA Proposals for the Application and / or Amendment of the Existing Regulatory Framework Relating to Media and Elections, available here: <https://crt.rs/en/proposals-for-the-application-and-or-amendment-of-the-existing-regulatory-framework-relating-to-media-and-elections/>

3. Prohibit the broadcasting of shows, in the scope of informative programmes, in which public officials use their office for party or election promotions and precisely determine which activities of public officials who are at the same time candidates to the elections or prominent representatives of the electoral lists may be broadcast within the information programme;

4. Prohibit overt favouritism in programmes or overt discrimination in programmes regarding political entities and their representatives;

5. Determine in more detail the manner of broadcasting of political rallies. It is necessary to disable live broadcasting of election rallies by imposing a measure to all MSP so that they are allowed to play only a two-minute feature in the election programme frame.

6. Obliging the REM to publish quarterly on its web site reports on fulfilment of obligations of public media services on the basis of a performed qualitative and quantitative analysis of public interest in the information programme of public media services

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### ***Recommendations to ensure greater transparency and accountability of the REM***

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1. Introduce an obligation to the REM to periodically (for example, once a fortnight during the campaign), issue written reports about monitoring and analysis of the work of electronic media in the election period. The REM must be obliged to publish the final report on the work of electronic media during the electoral campaign one month after the final results announcement at the latest and submit it to the National Assembly for consideration. Additionally, the National Assembly should be obligated to review this report within 60 days from the announcement of final election results.

2. Precisely define compulsory elements in the reports on control of a MSP during the campaign. Reporting shall be performed on the basis of qualitative and quantitative analysis of programme contents, whereas

the reports must contain findings prepared by the expert service of the REM about the equal representation of candidates;

3. In order to ensure a higher level of publicity of the REM work in the election process, it is necessary to allow that, apart from media representatives, observers accredited for the election monitoring attend the Council sessions.

4. Introduce clear indicators for the assessment of the REM Council work by establishing objective criteria for the evaluation of the Council members' work.

5. Introduce an obligation to report on the fulfilment of the performance indicators of the REM Council.

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### ***Recommendations to protect media at election time***

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1. Obligate representatives of public authorities not to interfere with the activities of journalists and other media professionals with the aim of influencing the elections.

2. Journalists should be protected from assaults, threats and other unlawful pressure on the media at election time.

3. The law should ensure the independence of media editorial policy for media coverage of elections.

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## About the authors:

**Vladana Jaraković** currently holds the position of Senior Researcher at CRTA. Her research is mostly focused on the regulation of elections, media and free access to information. As of 2017, Vladana has been a Legal Analyst of the CRTA Observation Mission, responsible for providing an analysis of the legal framework governing the elections in Serbia in accordance with international commitments and obligations applicable to democratic elections, focusing primarily on monitoring media aspect of election campaigns, analyzing the enforcement of media laws during election campaigns and preparing recommendations for improvement of media environment during the campaign. Vladana earned her Bachelor's Degree from the University of Belgrade - Faculty of Law in 2013. From 2014 to 2016 she worked as a legal intern and passed the Bar Exam in 2016.

**Tamara Branković** is a researcher coordinating CRTA's Policy Lab. Her research interests cover processes of democratisation and Europeanisation in post-socialist societies, with specialisation on the Western Balkans region. In her research, she puts particular focus on examining the role and mutual relations between various state and non-state actors with an interest in how they shape societal transformation. By working in CRTA's Policy Lab team, she contributes to analysing the quality of democratic processes, work of institutions and political culture and developing recommendations for their improvement. Tamara holds a joint MA degree in interdisciplinary South-Eastern European studies from University of Belgrade and Karl-Franzens-University of Graz.

**Tara Tepavac** is a Senior Researcher and Coordinator of the Open Parliament at CRTA. She is a political scientist for international politics with experience in policy research and coordination of various regional and local projects. Her main research focus is on the political systems, the rule of law and the European Union. She has published several public policy and academic papers, and is currently a PhD student in Law and Politics at the Karl-Franzens-University of Graz.



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## About the partners:

### CRTA

With a vision of Serbia as a state whose citizens believe that they can bring changes, CRTA develops mechanisms that: inform, educate, influence policies and strengthen institutions. CRTA efforts aim at supporting democracy, empowering citizens to engage and raising demand for an open, accountable and inclusive government by involving different approaches:

- » fact-checking, accountability journalism, media monitoring and disclosure of fake news and misinformation in media and digital sphere;
- » independent civic election observation of parliamentary, presidential and local elections in Serbia, and advocacy for improvement of conditions for free, fair and democratic elections;
- » parliamentary oversight and advocacy for institutional accountability and openness.

CRTA received the OSCE 2018 Democracy Defender Award for contribution to the promotion of democracy and the defense of human rights, as well as the international recognition for innovation, commitment and contribution to democracy through the W. Averell Harriman Democracy Award, awarded by the National Democratic Institute in 2013. CRTA also received the 2018 award of the Commissioner for Information of Public Importance for its strong contribution in the area of free access to information in Serbia.

## Tim Institute

TIM Institute is a non-governmental, apolitical, self-governing and independent civic organisation whose founders are a team of experts with extensive experience in the field of sociological and political research. The experience of the employees of TIM Institute is founded on the creation, development, organization, implementation, evaluation and analysis of an exceptional number of research projects in numerous areas of social and political life, education, interethnic relations, human rights, business sector, communication and media, for international institutions as well as national and local institutions, business entities and NGOs. TIM Institute is a member of ESOMAR, a membership organization representing the interests of the data, research and insights profession at an international level.



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## About the European Fund for the Balkans:

The European Fund for the Balkans is a joint initiative of European foundations that envisions, runs and supports initiatives aimed at strengthening democracy, fostering European integration and affirming the role of the Western Balkans in addressing Europe's emerging challenges.

The Think and Link Regional Policy Programme fosters inclusive and evidence-based policy making in the Balkans through support of regional research projects. The programme's goal is to encourage citizen participation in decision-making processes by enabling policy-oriented civil society organisations to formulate and advocate public policies influencing the political and social transformation of the region in its European integration process.

The Think and Link Regional Policy Programme was launched in 2008 and since then more than 80 think tanks and civil society organizations from Albania, North Macedonia, Montenegro, Bosnia and Herzegovina, Serbia, Kosovo and Croatia were supported.



- 🌐 [www.politikon.me](http://www.politikon.me)
- ✉ [info@politikon.me](mailto:info@politikon.me)
- 📘 Politikon mreža
- 🐦 @politikonMNE
- 📷 @politikon.me

Politikon Network (PIN) is a research organisation that was founded in November 2016, with the goal to promote open dialogue and advocacy of sustainable solutions for improving public policies. Politikon combines various innovative methods that are typical for social sciences with the aim to formulate proposals for the improvement of the rule of law and good governance. A vital segment of our work includes research of processes and amends at the European Union level, i.e. what kind of consequences are these changes projecting on the Western Balkans and especially Montenegro. Politikon Network is a non-governmental, non-profit and non-partisan organisation which strives to influence the democratisation of society through an analytical approach.