

Albania

By Ilda Londo

I. Abstract

This report is a review of existing relevant legislation and an analysis of 72 questionnaires and 15 interviews. It also includes findings from previous research projects.

There is no specific legislation or regulation that addresses labour relations in the media. Regulations for labour relations start with the Constitution. In addition, Albania has ratified 38 conventions of the International Labour Organization which is reflected in greater detail in the Code of Labour, the most important piece of legislation that regulates labour relations. Of the 72 media employees surveyed, only 9 had signed a work contract for their current jobs and most who had did not think the contract would offer real protection against sanctions or removal from their jobs. Payments for benefits are usually based on the minimum wage and not on the real salary. In addition only 1% of the persons surveyed said they considered that their salaries were appropriate for their jobs. Most agreed that journalists work long hours and are poorly paid. Only 21% stated that they worked less than 40 hours per week. As for sanctions, they were financial according to 79% of the sample.

In view of the relatively few rights journalists enjoy and of their insecurity, they are quite vulnerable to censorship and self-censorship. Only 20% of those surveyed replied that this was never the case. As a result, the first casualty is the quality of content offered to the public as it mirrors the political and economic interests of the media owners or managers.

Although there are several organizations of Albanian journalists, they have had little activity in the last 15 years especially in labor protection. A trade union was established in 2005 and at the moment it has about 385 members, but journalists are still afraid to join because of the unlimited arbitrary powers of their outlet owners. Thus while progress has been made in the past 15 years, journalists' rights and the observance of fair labor relations remain underdeveloped and Albanian journalists fail to reap the benefits that the law guarantees them.

II. Overview

Since the emergence of the first private newspaper, Albanian media has grown in quantity and quality as well as in professionalism. This has led to more responsible reporting and to higher ethical standards. Progress has been mainly due to a combination of the initiative of reporters themselves and continuous training.

While progress is evident in many areas of Albanian media, one of the least developed areas is that of journalists' rights and the observance of fair labor relations. After 15 years of developing free and independent media, journalists continue to find themselves in a weak position vis-à-vis their owners. Working without contracts or viable regulatory mechanisms to protect them from internal and external pressure, they retreat into self-censorship.

The lack of a strong trade union tradition for journalists as well as the fragmented and weak journalists' associations reflect and nurture this situation. Having in mind also the relatively informal nature of labor relations in the country in general, journalists find themselves without any real protection or security. In this context, it becomes increasingly difficult for them to preserve professional independence and integrity.

Although these conditions have been alarming for 15 years now, no ongoing studies, research or systematic gathering of data have been done regarding the situation of journalists and especially of their work conditions. This situation is also worsened by the inability or lack of willingness of the State Labour Inspectorate to monitor the enforcement of labour relations in the country. So at this point, given the weak implementation of the law, Albanian journalists, like many other workers, fail to reap the benefits that the law guarantees to workers.

This research reviewed existing relevant legislation including the Constitution, the Code of Labour, and international treaties and government decisions. In all, 84 questionnaires were distributed, 66 in Tirana as most of the media is focused in the capital, and 18 in other cities. The questionnaire was mailed to persons holding various positions in media from photographers to editors-in-chief so that problems could be addressed from various perspectives. The same reasoning was used with regard to the kinds of media chosen: they included radio, television, newspapers, magazines and news agencies. In addition, the survey covered both private and public media and the few existing international media outlets. Of the 84 questionnaires distributed, 72 were returned out of which 56 were Tirana based. These 72 questionnaires constitute an important source for the findings of this research.

Fifteen interviews were conducted with managers, editors, and journalists from both print and electronic media. Radio, on-line journalism and news agencies are relatively underdeveloped, so greater attention was paid to TV and newspapers. In this context, five editors-in-chief were interviewed from both print and electronic media along with two managers, seven journalists and the chairman of the trade union of Albanian journalists. These interviews provided a greater insight into the range of problems and factors that affect the situation of Albanian journalists and their labour relations.

The findings of this research are also based on previous research projects addressing this issue such as a report drafted by Albanian Centre for Media Monitoring and the trade union of Albanian journalists, past editions of International Research and Exchange Board's (IREX's) Media Sustainability Index (MSI), interviews with management representatives of the South East European Network for Professionalization of the Media's (SEENPM's) "Media: The business of ethics, the ethics of business" as well as other relevant data.

III. Legislation Regulating Labour Relations in the Media

There is no specific legislation or regulation that addresses labour relations in the media. There is almost no regulation of print media while there is fairly detailed legislation on electronic media; however, none of these laws concerns the regulation or specification of labour relations. Consequently, labour relations in the media are subject to the same laws and general norms that govern every other sector in the country.

The specification and regulation of labor relations start with the Constitution which has precedence over any other law. More specifically, in several of its articles the Constitution addresses different facets of labor such as forced labor and the freedom to organize trade unions. Article 28 states that forced labor is forbidden unless it takes place in specific circumstances such as carrying out military service, executing a court order or something that happens in extraordinary circumstances such as war or a natural disaster.¹ More importantly

¹ Constitution of the Republic of Albania, Law no.8417, dated 21.10.1998, art.28, available at http://www.qpz.gov.al/botime/kusht_kode/Kushtetuta_alb.pdf .

for this research, the Constitution states that the freedom to organize trade unions is a right protected by law.²

This right, along with other labor rights, is specified in greater detail in numerous international treaties and conventions. Albania has ratified 38 conventions of the International Labour Organization. The spirit of these conventions is reflected in greater detail in the Code of Labor which is the most important piece of legislation that regulates labor relations. The Code details general rules and norms that have to be applied in labor relations, specifying certain conditions that have to be present for the establishment, modification and termination of labor relations. It starts by defining labor relations, stating that they are established based on a contract that an employer and an employee sign specifying the task of the employee and the reward for performing this task.³

The Code stipulates that the individual contract is legally binding and can be considered void only by mutual agreement or in specific cases the contract or law defines. There are no specific forms of work contracts: they can be completed by oral or written agreement. However, once the sides orally agree on the contract and its conditions, the employer is forced to present a written contract to the employee within 30 days. This contract has to include such elements as the identities of the signatories, the location of the job, a general job description, starting date, duration of contract, length of paid vacation, the notice for termination of the contract, the payment mode, weekly working time and if applicable, the elements of the collective contract.⁴

In addition, the Code of Labor defines a series of contracts depending on the length of work and its nature and purpose as follow:

- work contract for an indefinite period
- work contract for a defined period
- contract for probationary work
- contract for part-time work
- collective contract
- apprenticeship contract
- home work contract
- commercial agent contract

In spite of these specific kinds of contracts, the Code sets out some general norms and obligations for both the employee and the employer that are applicable in all work contracts. Article 22 determines that the employee should do the job personally unless otherwise agreed. In addition, the employee has to respect the employer's instructions unless they change the essence of the job description or endanger the safety and health of the employee.⁵ Article 26 of the Code also sets out some important obligations for the employee such as prohibiting the employee from taking on a second work contract that leads to increased competition for or damages to the present employer. The employee must also regard as confidential the activity or products that he/she deals with; the employee and employer can determine a period after the termination of the contract for keeping the confidentiality of the activity.

² Ibid, articles 50, 51.

³ Code of Labor, Law no.7961, dated 12.07.1995, amended by Law no.8085, dated 13.03.2006, and Law no.9125, dated 29.07.2003, Art.12, available at <http://www.mpcs.gov.al/images/stories/files/kodi-punes.pdf> .

⁴ Ibid, Art.21

⁵ Ibid, Art. 23.

In this regard, the Code of Labour also regulates those cases when the employer is damaged by the employees' work. According to Article 27, the employee can be held liable when either wilfully causing damage or when causing it out of recklessness. The consequences include disciplinary or administrative measures and civil or legal lawsuits depending on the damage. However, the Code also determines three circumstances in which the court can partially or fully relieve the employee of his/her obligations in these cases:

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

While these are the main norms that the employee has to respect in labor relations, the Code of Labour also determines a series of obligations for employers. One of the main conditions the law imposes is the protection of the personality and dignity of the employee in relations with the employer.⁶ This protection is mainly related to sexual harassment by the employer or by other persons in the workplace. In addition, the employer should not collect or process data on employees except when the information is related to professional skills.⁷ In order to achieve transparency on rights and obligations in this relationship, the employer has to make a copy of the Code of Labour available to employees.⁸

Article 36 of the Code of Labour obliges employers to keep a register of employees. The register should contain general information on the employee such as name, date of birth, home address, job position, starting and termination dates, monthly salary, social and health security, taxes on income, dates of annual vacation and dates of medical check-ups.⁹

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

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

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

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

⁶ Ibid, Art. 32.

⁷ Ibid, Art. 33.

⁸ Ibid, Art. 38.

⁹ Ibid, Art. 36.

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

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

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

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

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

- the employee makes claims that derive from the work contract;
- the employee has acted lawfully;
- the cause is not labor related but rather is motivated by race, sex, age, civil status, family obligations, pregnancy, religion, nationality or social status;
- the employee exerts a constitutional right that does not violate the obligations set out in the work contract;
- if termination is because the employee is member of and participates in trade union activities.

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

On the other hand, the reasons for the employer to terminate the contract are considered justifiable if the employee seriously violates the contract's obligations or has repeated minor contraventions. In these cases, if the employee commits serious violations of the contract, the

court may exempt the employer from paying the salary for the notice period. The employee, if rightly fired, also loses the benefit of the experience bonus but is still entitled to payment for vacations not taken.

The law also defines procedures for those cases when the employee terminates the contract. The Code states that if the employee does not start working or abandons the job with no justification, he/she is liable for financial damages in the amount of no more than a week's salary. In addition, if any damage was caused to the employer because of the contract's termination, the employee should pay for that; it is up to the court to rule if any significant damage was caused and on the amount to be paid.

In addition, inappropriate times for the terminating a contract are specified such as while completing military service, if the employee is on paid sick leave, or when the employee is on vacation with the employer's consent. On the other hand, probationary contracts can be terminated by either side at any time with five day's notice.

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

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

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

The Code of Labor also sets specific periods of notice for the termination of a contract. The main criterion in this case is the length of experience on the job. If the employee has held the job for up to six months, the notice should be no less than two weeks. If he/she has held the job for six months to two years, a one-month notice is required. For two to five years of experience the notice is two months and for more than five years it is three months. These timeframes can, however, be changed in individual or collective contracts.

The Code has detailed provisions on the procedures the employer should follow in cases of immediate termination of the contract or termination of contracts of employees on probation. The employer should give a written notice to the employees at least 72 hours before they discuss this issue. The discussion should clarify the reasons for terminating the contract. The notice of termination should be in written form and submitted no earlier than 48 hours or later than one week after the oral discussion. If the employer does not respect this procedure, the employee can claim up to two months of salary in addition to other remuneration. However, not following the proper steps does not mean that the termination of the contract can be reversed.

A very important aspect the Code of Labor addresses is collective agreements and contracts. The definition and content of a collective contract is the same as an individual one. The difference is that the contract is signed between one or some employers or employers' organizations on one hand and one or some trade unions on the other hand. The Code specifies that collective contracts cannot contain any dispositions that are less favorable than the legislation or regulations in force.

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

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

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

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

The law states that employers should enable all necessary facilities and conditions so that the employers' representatives in the trade union can carry out their jobs normally. An exception is made for the army and police which are not entitled to organize in trade unions. In addition, the Code of Labor prohibits any interference or intervention by state bodies or employers with employees' trade unions.¹⁰ Another fundamental right guaranteed by law is the right to strike, provided that the dispositions of the Code of Labor are respected in this regard.

IV. The Implementation of the Legislation in Practice

While there seem to be no serious drawbacks in legislation on labor relations, implementation in the media sector seems to suggest a different picture. In order to better understand the dynamics of labor relations, a brief description of the media landscape in Albania is necessary.

The present picture of the television market in Albania and its evolution in recent years is remarkable. Today, according to official data, Albania has 68 local television stations, 2

¹⁰ Code of Labor, Art. 10, 184-5.

national television stations, 2 satellite televisions and 44 local cable televisions. With regard to radio stations, there are 46 local radio stations and 2 national ones. While there are no official data on print media, there is a general agreement that the number of publications exceeds the existing demand in the market. In fact, 25 daily newspapers are published in Albania at the moment for a market of about 3 million people. In addition, there are numerous other newspapers and periodicals amounting to approximately 250 publications.

In this overall picture of a growing media sector, the demand for journalists is also greater. In these circumstances, it is very easy to enter this market. As one report put it, “You can finish your studies in agriculture and still immediately become a journalist in Albania.”¹¹ Although there are no official figures on the number of journalists in the country, the trade union of journalists estimates it to be approximately 5,000.¹²

Against this backdrop of a highly unstable media market and the constant need for journalists, the distinctions between typically hired and atypically hired workers is extremely blurred. Due to demand and to the high mobility of jobs in the media market, there seem to be no differences among journalism students, freelancers or full-time experienced journalists in terms of labor relations. A report on Albanian media suggests that in the last five years, the longest period that an editor held a job in one place did not exceed six months.¹³

The high mobility of journalists in different media, apart from affecting quality reporting, is also indicative of their lack of job security. In view of the demand for workers in the media, it is easier for media owners to behave arbitrarily with respect to their employees.¹⁴ The fundamental problem with labor relations in this regard starts with the lack of working contracts or their inadequacy when there is a signed contract.

Of the 72 media employees surveyed, only 9 had signed a work contract for their current jobs. The contract term was either indefinite or up to one year; longer terms were not mentioned by any of those surveyed. Furthermore, most persons who had signed a contract did not think it would offer real protection against sanctions or removal from their jobs: only three of them were confident that their contract offered any protection in this regard.

This alarming statistic is also confirmed by the Union of Albanian Journalists which carried out a survey of 120 journalists and media employees in different areas of the country in 2005. The Union estimated that about 95% of journalists and media employees worked without any contracts and/or proper health and social benefits.¹⁵ Furthermore, “Media owners sign formal contracts of no legal value with journalists and media employees which media owners can violate with no fear of consequences and sanctions.”¹⁶

The concern about the validity of signed contracts was also raised during interviews with editors and journalists when 80 percent of interviewees mentioned that although a contract was signed, its legal validity was never tested for various reasons. An editor-in-chief of a daily newspaper¹⁷ said that, “Contracts were too formal and were not detailed regarding the

¹¹ Unidentified source quoted by IREX) See: IREX, MSI 2003 Albania, IREX, 2004, p. 6.

¹² Albanian Center for Media Monitoring, “Labor protection and social security of journalists and media employees, a necessity for a free media,” 2006, p.1. (hereafter, Labor protection report 2006.)

¹³ Aleksander Cipa, head of Union of Albanian Journalists, qtd. In IREX, Media Sustainability Index 2006, p.8.

¹⁴ Labor Protection Report 2006, p.3.

¹⁵ Ibid, p.6.

¹⁶ Ibid, p.3.

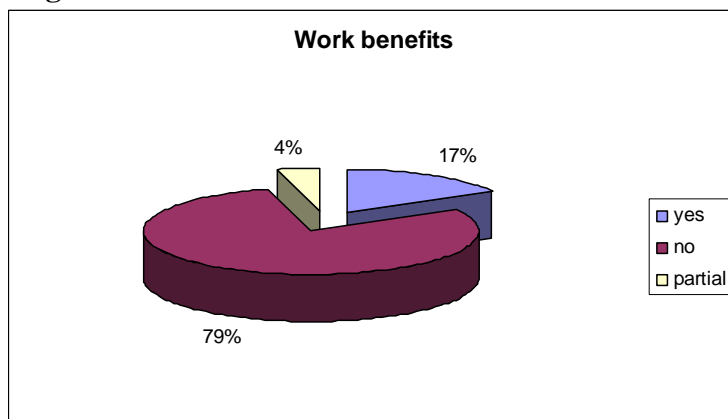
¹⁷ Since some of the interviewees preferred not to go on record for some of these issues in fear of retaliation, the survey will not mention any names when quoting information from the interviews.

job description of the journalist and as such they are useless in a court of law.”¹⁸ Another editor-in-chief also pointed out the deficiencies of these contracts as they do not contain any job descriptions or specify the rights of the journalists, and as a result the journalists have no legal basis for suing the owner when unjustly fired.¹⁹

In fact, as previous research has pointed out when looking at existing contracts of the main media in the country, these contracts are confined to details of working hours, duties and company rules with no consideration for the social value of a media organization.²⁰ Not only do very few media outlets sign work contracts, but those signed are also very ineffective and do not offer any real job protection.

In addition, as a result of the lack of appropriate work contracts, there are huge problems with the welfare benefits of media employees. Of the 72 persons surveyed in this regard, 58 of them (79%) said they did not receive any benefits while the rest said they received pensions and/or health insurance (Figure 1).

Figure 1: Do Journalists Receive Work Benefits?



The 2005 survey of the Trade Union of Albanian journalists yielded similar conclusions. When asked how many years they had contributed to social security, 20% had no idea, 20% said they had not contributed, and only 20% said they did have insurance. A total of 33% said they had benefits but not from their work as journalists; rather, the benefits were from positions they had held while also working as journalists.²¹

Apart from the lack of social security, another problem is that even when there is a scheme, it is based on the lowest possible level of payment allowed by law and not on the real wage.²² An exception in this case seems to be one of the main media companies in the country that has established a regular practice of paying benefits to its employees. The employees choose which class of social security payments²³ they wish to be paid.²⁴ According to Albanian legislation, these payments can also be made by the employees themselves and consequently journalists can pay their own social security insurance, but according to the survey conducted

¹⁸ Interview with deputy editor-in-chief of Tirana daily newspaper, male, 36.

¹⁹ Interview with editor-in-chief of Tirana-based national daily newspaper, male, 33.

²⁰ I. Londo, chapter on Albania, qtd. in SEENPM, “Media: Business of ethics, the ethics of business.”.

²¹ Labor Protection Report, p.7.

²² Interview with Aleksander Cipa, head of trade union of Union of Albanian Journalists, Tirana, July 2007.

²³ Albanian law does not calculate payments for social security as a percentage of the salary received; they are based on clusters that correspond to several ranges of salaries.

²⁴ interview with editor-in-chief of TV station owned by this company

by the trade union, the salary of most of the journalists is such that they cannot afford voluntary payments for social security.²⁵

The payment of journalists is another major, controversial issue in the area of labor relations in the media. As mentioned above, this market, as most of the market sectors in the country, suffers from informality and a lack of data on various aspects including journalists' salaries. The first public statement on this problem came from then Prime Minister Nano in July 2004 when he alleged that the main media companies in the country had committed fraud in the payment of social security for their employees. He mentioned that national TV Klan had paid social security for 21 persons receiving the national monthly minimum wage of 10,184 lek (80 euros); national TV Arberia had declared 30 employees with a wage of 13,000 lek (102 euros) and Top Channel had declared 90 employees with an average salary of 10,000 lek (78 euros).²⁶ Nano alleged that the figures declared were extremely low and did not correspond to the real salaries paid to media employees. When Nano made these allegations, the editorial policies of these three media groups were at odds with the Prime Minister and the Government. Unfortunately, the practice of addressing these fundamental problems for journalists seems to fade away once the editorial policy of the media changes. As another report put it, "Independence and transparency are symbols to be displayed when the situation becomes critical for any of the sides involved, and once the storm calms down, the debate moves on to another topic."²⁷

As a result of the lack of interest and of systematic attempts by the state to formalize the labor market, the chances of changing journalists' working conditions are far from auspicious. The last two years have marked some improvement according to the trade union as there has been an increase of 15% in the total sum of contributions paid for social security for journalists.²⁸ However, much more work needs to be done in this regard.

In this overall climate of informality, there are no data on the real wages of journalists and media employees. According to this survey, only 6 of the 72 persons surveyed (1%) said they considered that their salaries were appropriate for their jobs. In addition, due to the lack of accurate data, journalists cannot seem to determine their positions in the overall hierarchy of salaries in the country. Of the 72 persons surveyed, 33 stated that their salaries were higher than the average salary in the country, 24 said they were in the same range, and only 12 said they were lower.²⁹

This is also an indication of the wide disparity and diversity of payment for different positions within the community of journalists, a trait confirmed by all interviewees. All interviewees pointed out that some positions are extremely well paid while the opposite is true for reporters who are badly paid although they work the longest hours. According to the IREX 2005 report, the monthly salaries of some editors-in-chief or news directors at private stations are considered very high if they fall in the range of 1,140 to 1,900 euros.³⁰ However, these are isolated cases, as the overwhelming number of journalists earns salaries in the range of 152 to

²⁵ Labor Protection Report, p.5.

²⁶ Speech of Prime Minister Fatos Nano to Parliament on 5 July 2004, as reported in Sot, 6 July 2004.

²⁷ Chapter on Albania, OSI/EUMAP, "TV across Europe: Regulation, policy, and independence," 2005.

²⁸ Labor Protection Report, p.6.

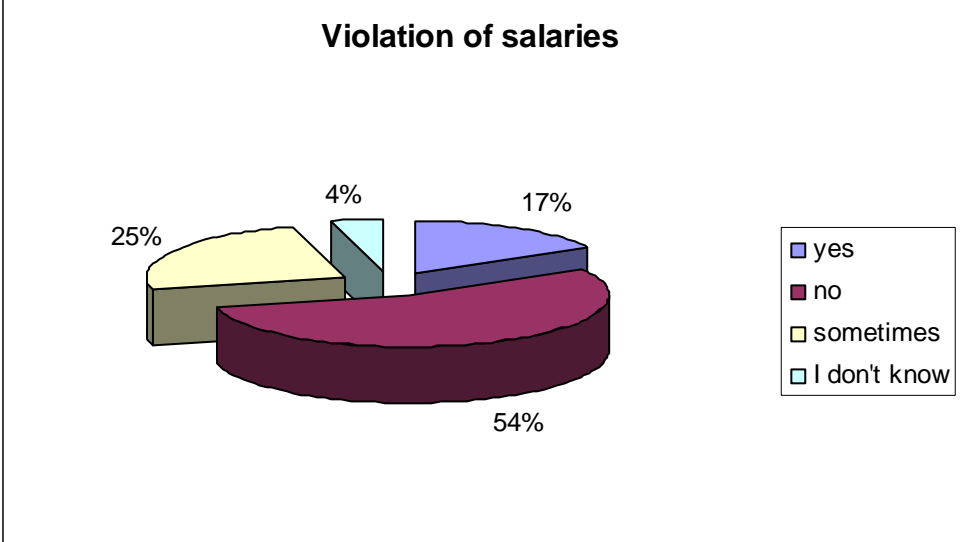
²⁹ The minimum wage in the country is determined by a decision of the Council of Ministers. At the moment the minimum wage cannot be lower than 14,000 lek (approximately 113 euros) while the latest figures indicate that the average salary in the state sector was 31,850 lek (approximately 257 euros) in the first quarter of 2007. There are no official data on the average salary and employment in the commercial sector. The statistics are available from INSTAT at http://www.instat.gov.al/graphics/doc/tabelat/Fp/3Mujori_I_07/tab1.xls

³⁰ IREX, MSI 2006, p.9.

380 euros.³¹ Having this in mind, in general the interviewees agreed that it is especially reporters who are poorly paid and do not get a salary that adequately compensates them for their strenuous jobs. Some newspapers are more like workshops than newsrooms: a staff of only five or six reporters does everything which is very hard for them and a difficult task.³²

In fact, most of the persons surveyed and interviewed seemed to agree that journalists work long hours and are poorly paid. In addition, employers seem to violate most of their labor-related rights such as those related to vacation time, working conditions and payment of salaries. In all, 39 persons surveyed said they had not experienced problems with payment of salaries, while 30 others indicated otherwise (Figure 2). Delay in payment of salaries, sometimes even for months, was also a problem raised by 73 percent of the interviewees and also by the trade union.³³ Talking about bonuses, even the ones guaranteed by law, seems to be a luxury; in fact, 70% of persons surveyed by the trade union declared they had never received a bonus for their work experience or for any other contribution.³⁴

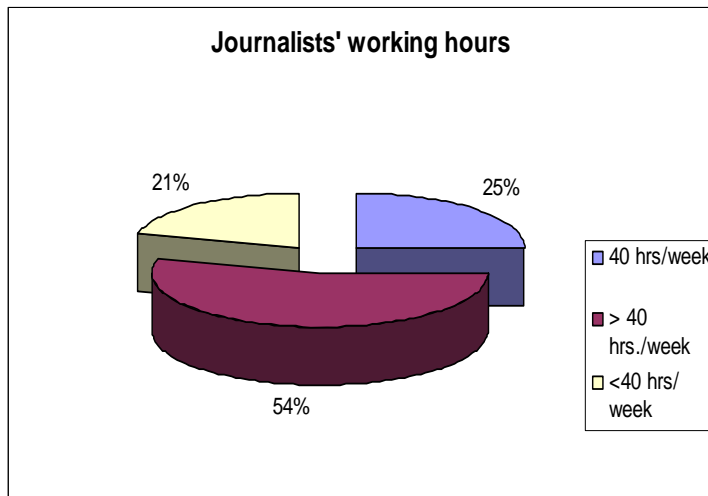
Figure 2: Violations of Salary Payments



Another major problem that came up in the interviews and survey was related to working conditions, mostly to long hours. Only 15 persons out of the 72 surveyed (21%) stated that they worked fewer than 40 hours per week; 18 of them said they worked 40 hours, and 39 said they worked more than 40 hours per week (Figure 3). In fact, with only a few exceptions, most daily newspapers come out every day of the week which leaves no time for a weekly holiday of at least one day for the journalists. To make matters worse, only two of the persons interviewed indicated that their media outlets paid the seventh day as overtime work. In this overall context, some of the interviewees expressed their concerns that reporters failed even to have a satisfactory social life due to their long working hours and all for a salary less than satisfactory. It was even noted that reporters in many cases even get married within their own communities as they only stick to each other all day long, doing their work.³⁵

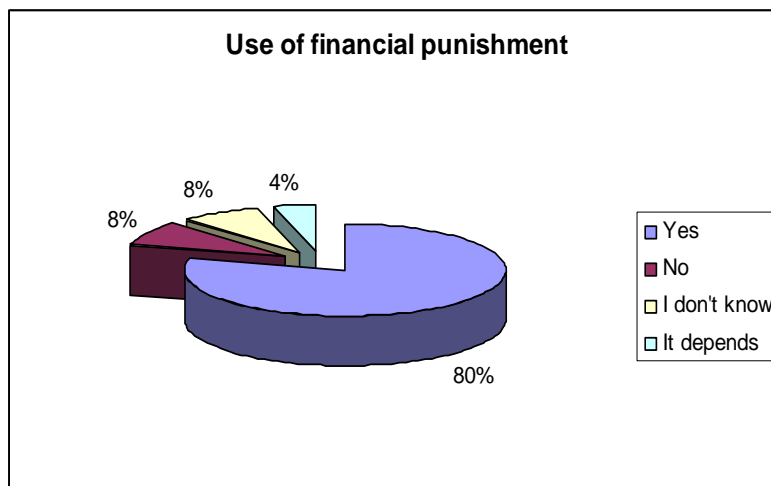
³¹ Ibid.
³² Interview with deputy editor-in-chief of Tirana daily newspaper, male, 36.
³³ Labor Protection Report, p.3.
³⁴ Ibid, p.7.
³⁵ Interview with deputy editor-in-chief of Tirana daily newspaper, male, 36

Figure 3: Length of the Work Week for Journalists



In addition to the level of payment, the potential sanctions that can be imposed on journalists and media employees are also a problem for the journalism community. According to the survey, the most widespread sanctions were financial, confirmed to be in use by 57 of the 72 persons surveyed (Figure 4). Considering that sanctions are imposed by newsroom management on a case-by-case basis instead of under any clearly defined internal regulations, this alarming figure poses serious questions about the impact of these measures on censorship and self-censorship.

Figure 4: Financial Sanctions on Journalists



The same is true when it comes to other potential sanctions and measures. Official reprimands were also measures that were frequently used as confirmed by 58% of the persons surveyed. In addition, 42% of the 72 journalists surveyed indicated that firing journalists for their mistakes was a sanction used by media management.

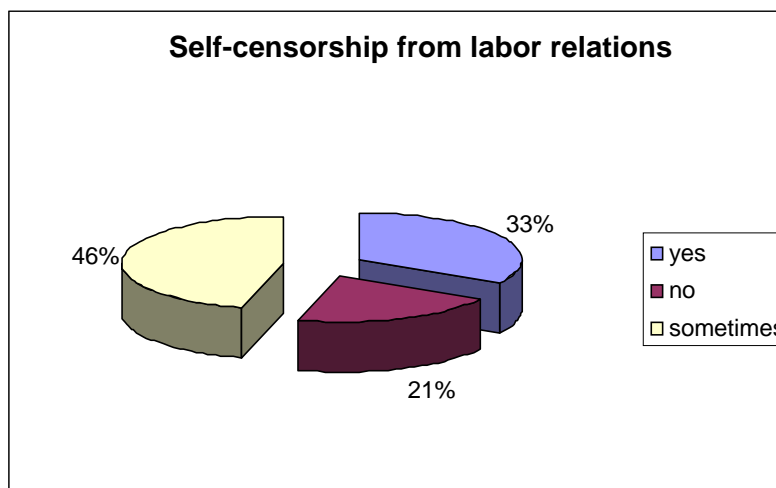
V. Censorship and Self-censorship as an Effect of Labor Relations

According to the information obtained through the interviews and the survey, there are hardly any guarantees that Albanian journalists can develop stable careers in a particular media outlet. Most of them indicate they lack working contracts or any legal basis on which to build

mutually nurturing labor relations. In view of the relatively few rights journalists enjoy and the high degree of insecurity that haunts them, they are quite vulnerable to censorship and self-censorship.

When asked whether labor relations imposed a certain degree of censorship or led to self-censorship, a mere 15 out of 72 persons replied that this was never the case (Figure 5). On the other hand, this is a problem that concerns not only reporters but starts with editors-in-chief themselves. All of the editors-in-chief interviewed were aware that they adjusted their work in accordance with the interest of the media owners either with or without the direct intervention of the latter. One of them said, “The owner does not intervene directly in the story; however, the journalist asks what the editorial policy of the media is and in this case we are certainly practicing self-censorship.”³⁶ Similarly, another editor-in-chief of a daily newspaper also described how the owner talks with the editor and then it is his job to let the reporters know what the policy is.“ However, there is no clear editorial policy as such; the general rule is that after a couple of incidents of interference from the publisher one gets the idea of this policy and what self-censorship should be like.”³⁷

Figure 5: Self-censorship in the Media as a Result of Labor Relations



Difficult as it may seem, editors-in-chief not only have come to terms with this practice, but they also have no problems admitting this problem exists. The latest report on media reliably quotes the concern of the director of one of the top daily newspapers in the country who admits he constantly exerts self-censorship. Even he, in spite of being editor-in-chief, is forced to apply self-censorship as he is aware of the political preferences of the media owners.³⁸ In addition, even in those few contracts that exist in Albanian media, those surveyed and interviewed said a conscience clause was unheard of either on paper or in practice leading to yet another chance and justification for self-censorship.

The impact of the media owners' interests in this area have a direct reflection on the content produced. The survey indicated that only 30 of the participants (41%) claimed it was their decision about what to report on while the other 42 said it was up to their employers. In many ways, it is these interests that determine not only the manner of reporting but also what should and what should not be reported. The latest example was a civil society campaign against the

³⁶ Interview with editor-in-chief of Tirana-based TV station, male, 35

³⁷ Interview with editor-in-chief of daily newspaper, male, 38

³⁸ IREX. 2006. Op. Cit. p.7.

high monopolistic tariffs applied by mobile telephone companies in the country in which the organizers found it very difficult to convey their message to the public through the media. The media refused to report on this movement claiming that these two companies were among their biggest advertisers and that they would withdraw their ads; in fact, this did happen in the case of one news station that reported on the protests.³⁹

When asked whether journalists often resorted to ethical violations in order to protect the interests of the media owners, only one of the interviewees denied such a practice. All the others agreed that such a thing had happened, although for some more often than others. The most representative answers were, “It might happen; it does not happen very often; about once a week; it happens all the time.”

The reasons that lead journalists to submit to censorship or to self-censorship become understandable in light of the lack of appropriate work contracts, the lack of clear internal regulations, and the lack of recognition of and respect for the code of ethics by the owners. When asked who would pay the expenses in a case of libel or defamation against the media, only 18 of the 72 persons surveyed (25%) said they would not have to, 6 said probably not, 24 were not sure and another 24 (33%) indicated they would probably have to pay. These replies reveal not only a general climate of insecurity and vulnerability vis-à-vis lawsuits, they also indicate the lack of any deeply rooted practice, regulation, or establishment of clear labor relations and positions in these cases. Luckily, Albanian courts are not awash with defamation cases, and some of the editors indicated that in the few cases that have occurred, the media paid the expenses. However, the lack of any specific regulation in this regard leaves journalists vulnerable and constitutes another reason for self-censorship.

Another very problematic consequence of the self-censorship syndrome is the creation of a vicious circle of unprofessionalism. According to a 2005 survey on media ethics, self-censorship in a way seemed to be partly responsible for low professional standards. Given the current modus operandi of the Albanian media, self-censorship is an asset rather than a liability, for both media owners and government and political institutions.⁴⁰ As a result, the first casualty is the quality of content offered to the public, which, with rare exceptions, mirrors the political and economic interests of the media owners or managers. The latest example in this regard emerged when monitoring the prime-time news editions of the public broadcaster (TVSH) and the main TV station in the country. The monitors concluded that the news criteria in both television stations followed a specific agenda whose order, selection and sources of news were close to the government line or its politics in general or to that of the TV management and its interests at the moment. In fact, as repeatedly shown in the analysis, political presence or the presence of persons who promote a specific interest for the TV station is one of the main criteria in defining news value.⁴¹

The report found no significant differences between public and private broadcasters in this case. This might also be related to the fact that TVSH journalists do not enjoy any greater protection in their jobs than their colleagues in commercial television do, and they are plagued by the same problems and mentality.⁴² As a result, the lack of working contracts coupled with

³⁹ Ibid, p.8.

⁴⁰ Chapter on Albania, SEENPM, „Ethics and journalism in South East Europe,” 2005.

⁴¹ Research was done in the framework of TV Prime time domestic News - monitoring and analysis of TV news programs in 10 SEENPM countries, published in the book Indicator of Public Interest (2007) issued by Media Plan Institute, Sarajevo, Bosnia and Herzegovina.

⁴² Interview with Aleksander Cipa.

relatively low wages, do not motivate them to pursue editorial independence and produce quality programs for the public.

In fact, other reports indicate that TVSH is still highly dependent and influenced by politics. Unlike other TV stations that seem to have gained a greater degree of at least the appearance of political independence, the main obstacle for TVSH is still interference from the political establishment. As a former chair of the Steering Council of TVSH put it:

Both political parties and their heads, instead of getting their hands off this institution and assisting its independence as guaranteed by law through their statements, labelling, pressure and orders that start from their mobile phones, have forced the public screen to change from blue to pink and vice-versa in accordance with the taste of the heads of two main parties who measure the 'quality' and independence of TVSH with the length of their own sound bites and appearances on this screen.⁴³

Political influence on TVSH is especially visible when there is a change of power which is almost invariably followed by a change of government and staff. The past elections when the democrats came to power after eight years in opposition were no exception. After the formula of the Steering Council was changed, so were the Steering Council, the management, and the staff. "More than 80 employees were fired from TVSH, including 10 journalists known to be of leftist convictions, while other people were hired who were not so much known for their professional standards as for their sympathy to the ruling party and government."⁴⁴ In this context, public broadcasters' employees are far from privileged compared to their colleagues in the commercial sector.

VI. Journalists' Trade Unions: Existence and Effectiveness

Although there are several organizations of Albanian journalists, they have had little activity in the last 15 years especially in the area of labor protection which is also due to the fact that these associations have not worked as trade unions. After a previously failed attempt, a trade union was established in 2005 with the support of IREX. The union has established branches in the main cities in the country and at the moment it has about 385 members that regularly pay their membership fees.⁴⁵ Although journalists have started to become members of the trade union, they are still afraid of the unlimited arbitrary powers of their outlet owners.⁴⁶ In 2006 the union negotiated with the Ministry of Labor signing a memorandum that would enable the signing of a collective agreement. At the moment, this collective agreement contract is under revision and discussion among the union and the ministry on one hand, and the union and media owners on the other. So far, this agreement in process constitutes the only collective document for Albanian media.⁴⁷

The union and the media community are aware that this process will take some time due to the prevailing working conditions for journalists over the years: in 2005, about 95% of journalists in the country worked without contracts and without social security.⁴⁸ In fact, 66% of the persons interviewed were pessimistic regarding the rapid empowerment of the trade

⁴³ Kico Blushi, "The television that has remained hostage to the parties," *Standard*, 17 March 2006, p.23.

⁴⁴ IREX, *MSI 2006 – Albania*, p.5.

⁴⁵ Interview with Aleksander Cipa.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ Labor Protection Report, p.6.

union stating that there is a lack of confidence in journalism associations after their failure to have any impact so far.

In fact, the existence of other journalism associations has not offered any help in this regard. In the words of one of the chairman of these organizations:

Even though we have 15 years of free press in Albania, there are only a few cases when colleagues of one media raise their voice or protest about the fate of other colleagues who are unjustly fired, censored or threatened. Such topics are raised only in the cafes where journalists gather and are never revealed to the public, leading to a situation where nobody talks of a phenomenon that affects everybody.⁴⁹

This trends is confirmed by all interviewees, stating that only in few flagrant cases journalists staged public protests in favor of their colleagues. “We are always willing to express solidarity among colleagues, but only as we sit in cafes and talk; that’s the length we are ready to go to,” one of the interviewees said.⁵⁰ Another interviewee stated that, „In 17 years of independent media I can count on the fingers of just one hand the cases of public protest and solidarity among colleagues.”⁵¹ This situation again renders journalists highly vulnerable to the desires and whims of their owners. “They are almost helpless when faced with the arbitrary decisions of owners who can fire their staff without cause.”⁵²

In this climate of insecurity, it is difficult to expect anything from journalists other than obedience to the economic and political interests of the owners. This aspect of the media landscape certainly influences the information conveyed to the public where the owners’ interests rather than public interest define the agenda. In the words of a well-known editorialist, “Our media has been alienated and has not served as an honest and independent watchdog; it has been misused.”⁵³

VII. Conclusions and Recommendations

Overall, the findings of the research indicate that there is a significant discrepancy between labor legislation and its implementation in practice in the media. The lack of working contracts and the vulnerability of the numerous Albanian media outlets has led to an extremely unstable market for journalists. Because of this, the mobility of journalists within the market is very high in the short term preventing the development and grounding of their careers and the establishment of their professional profiles.

In addition, with no legal protection and weak trade union tradition and efficiency, journalists find themselves working long hours and suffering from low salaries and violations of several of the rights they are entitled to. In these conditions, journalists are in no position to choose professional integrity over a media owner’s editorial line. As a result, self-censorship instead of self-regulation is the norm in the media community affecting all information conveyed to the public. Although the status of labor relations is in no way entirely responsible for the quality of reporting at the moment, it certainly affects it to some degree. In the words of a well-known journalist, “Working without contracts, the lack of a strong union of journalists

⁴⁹ Interview with Armand Shkullaku, “Media, transparency for its own news”, *Shqip*, 10 May 2006, p.12.

⁵⁰ Interview with editor-in-chief of TV station, male, 35.

⁵¹ Interview with editor-in-chief of national daily newspaper, male, 33.

⁵² IREX, MS 2005 – Albania, IREX, Washington DC, 2006, p. 14, available on the IREX website at http://www.irex.org/programs/MSI_EUR/2005.asp (accessed on July 20, 2007)

⁵³ Interview with Fatos Lubonja, *Standard*, 27/05/2006, p.35.

and therefore the absence of protection for journalists against media owners has been and will be one of the main causes not just for self-censorship but also for all the silent, psychological intimidation and pressure exerted on journalists.”⁵⁴

Recommendations

The Government should take specific steps to enforce the Labor Code in media organizations and regularly monitor its implementation.

Journalists’ associations, with the assistance of other civil society agencies, should demand enforcement of the Labor Code in media companies and eventually should demand collective bargaining.

Publishers/broadcasters should have contracts with their personnel that provide a clear job description. Contracts should detail the duties and responsibilities of all parties in a clear and undisputable manner.

Written regulations should be produced and implemented in the newsrooms to safeguard editorial independence and freedom from interference, be it internal or external, after consultations.

Civil society organizations should support individual journalists whose rights are violated by media owners, state authorities or other parties.

Journalists/media employees should be able to benefit from training/public awareness campaigns on the relevant legislation/Code of Labor that guarantees their rights and duties.

VIII. Bibliography

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

Albanian Center for Media Monitoring, “Labor protection and social security of journalists and media employees, a necessity for a free media,” 2006.

IREX, “Media Sustainability Index 2006 – Albania,” IREX, Washington DC, 2007.

IREX, “Media Sustainability Index 2005 – Albania,” IREX, Washington DC, 2006.

IREX, “Media Sustainability Index 2004 – Albania,” IREX, Washington DC, 2005.

IREX, “Media Sustainability Index 2003 – Albania,” IREX, Washington DC, 2004.

OSI/EUMAP, “TV across Europe: Regulation, policy, and independence,” 2005.

PI/SEENPM, “Media ownership and its impact on media independence and pluralism,” Ljubljana, June 2004.

⁵⁴ Fatos Baxhaku, qtd. in IREX, MSI 2005, p.8.

CPJ/SEENPM, “ Media: The business of ethics, the ethics of business,“ Bucharest, 2005.

MC/SEENPM, “ Ethics and journalism in South East Europe,“ Belgrade, 2005.