

## **MEDIA SELF-REGULATION IN TEMPTATION**

Dusan Babic

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Media deregulation is a general trend in the contemporary world. Most European countries do not have laws on information, but rather laws on media, which is not the same. The former are a relict of previous systems that were trying to control the media, while the latter generally regulate organizational, technical and related conditions and modalities of organizing media companies. The newly-created countries in the territory of the former Yugoslavia, with the exception of Slovenia, also find it hard to free themselves of the inherited schemes and formulas. In this regard, the post-Dayton Bosnia-Herzegovina has gone furthest in reconstructing its media landscape, primarily entailing media legislation in line with European standards. Of course, there is always the problem of the rift between normative projections and the actual situation.

Looking at the overall media landscape of BiH, there is an evident paradox between the unequal status and position of print media in relation to broadcasters. While radio and television stations, public or commercial, are under the watchful eye of the Communications Regulatory Agency (local acronym RAK), the press is solely left to self-regulation through the Press Council, which became operational in early 2001. To recall, the Press Code was passed in April 1999 and the Press Council of BiH was created in early summer 2000, consisting of 12 members, six press representatives and six representatives of the public. Due to the specific characteristics of post-Dayton BiH and its media reconstruction, the position of BiH Press Council Chairman is held by a foreigner. BiH is the first country in the region (South East Europe) that created a self-regulatory body for press.

The Press Council of BiH is a self-regulatory body charged with preserving high professional standards in press, with emphasis on a corrective role, including an opportunity given to the public to lodge complaints regarding omissions spotted in the writing and reporting of individual media outlets. This body has to remain independent of political power centers and their influence.

In countries and societies with democratic tradition, the principle of press self-regulation functions well; decisions passed by self-regulatory bodies, regardless of what they are called, are obeyed without exception. It is still too early to speak about the scope and effects of media self-regulation in BiH, particularly in the sense of passing a coherent and consistent judgment.

The point is that the Press Council does not have any executive prerogatives, such as those of RAK, which has broad powers and mechanisms – from warnings, through fines, suspensions – to withdrawal of licenses and finally closure of media outlets. The Press Council relies on mediation in disputes and its corrective remedies are: right to reply, correction, denial, apology, etc. However, a media outlet in dispute cannot be forced to publish the above remedies. This is the key problem of self-regulation here: lack of ethics and morality, in short – lack of professionalism. If self-regulation fails, and here, unfortunately, as a rule it does fail, the party in dispute goes to court. In conditions of a regulated state of law, the advantage of self-regulatory bodies lies in their speed and efficiency compared to the work of courts, plus mediation free of charge.

### **Boy Kidnapping Case as Litmus Paper**

The media in this region is in a rift between business and the profession. In our conditions, usually between survival and professionalism, clearly shown by expansion of tabloids, or more precisely – tabloidization of daily press. Here the term “tabloidization” with full right bears negative connotation, a separate issue in itself.

The case of a recent kidnapping of a seven-year-old boy in Sarajevo, with a happy ending, illustrates the temptations facing press self-regulation in BiH. To recall, in mid-last week the son of a public figure (a sportsman) was kidnapped. On Thursday, December 9 this year, all newsrooms in Sarajevo had information of the kidnapping, but

were warned by the police, and also asked by the parents, not to print or broadcast anything on the kidnapping so as not to hamper the operation of rescuing the boy and, worst of all, put his life in danger. Three media outlets, however, did not obey the agreement. *Dnevni Avaz*, *San* and NTV 99, with *Dnevni Avaz* flagrantly violating Press Code Article 9 (Privacy) and Article 11 (Protection of Children and Minors), by printing the names of the boy and his father and even carrying photographs of the boy on the front page (issue of Friday, December 10). Unlike *Avaz*, *San* carried the news, but without listing the names or printing photographs. The local NTV 99 acted in a similar fashion; on International Human Rights Day – December 10, dedicated this year to protection of children, it aired information on the boy's kidnapping and the kidnappers' ransom demand of one million euros.

There is no doubt that *Dnevni Avaz* violated the Press Code. It is indicative that the newsroom of this highest circulation paper in BiH did not act in solidarity with the other newsrooms in town. Another recollection, in early February this year the son of a Croatian Army General was kidnapped in Zagreb, and five years ago the son of a famous entertainer and a former tennis ace was kidnapped in Belgrade. In both cases, the media obeyed the police request not to report on these kidnappings. In Sarajevo, a powerful media outlet turned a deaf ear. Its clumsy *post factum* excuses come to nothing before the realization that an innocent child's life could have been put in danger due to unprofessional and irresponsible conduct on the part of news people. What is also disturbing is that *Avaz*, in an effort to cover itself, roughly and primitively disqualified the very press self-regulation institution in BiH, in whose creation the paper's journalists had taken part.

### **How Far do Boundaries of the Private and the Public Extend?**

The sphere of privacy in the media became more pronounced with the appearance of television. To illustrate, the camera zooms in on unidentified faces, crippled by pain, at the moment of finding out their dearest ones perished in a traffic accident. No pen can describe this frantic expression better than the camera, which unmistakably registers all these complex mental states.

There are also brighter issues. People are curious by nature, especially about juicy details from the lives of celebrities. The camera secretly shoots famous people kissing on a yacht or half-naked film stars sunbathing in hidden beaches. Most of them are pleased when these scenes and images are aired; their popularity grows and newspaper and magazine circulations and television ratings also rise. Others, however, get upset. They are angry, they protest, they also seek protection from courts. Thus, the phenomenon of media-mediated privacy gradually crystallized. Privacy became an issue for the legislator, including media legislation. However, protection of privacy provokes serious dispute, dilemma and controversy.

To illustrate, lances were broken for decades for the issue – whether the right to privacy restricts rights guaranteed under the famous First Amendment to the US Constitution?

Over time, four dimensions of offense in the area of privacy were crystallized:

- appropriation, i.e. unauthorized intrusion upon someone's private life, or unauthorized use of someone's name, etc.;
- imposition, interference, uninvited presence, etc.;
- publication and
- offering a distorted image of someone.

As a rule, protection of privacy is requested by individuals, not by groups, organizations, associations, institutions, including religious communities. Practice has confirmed that privacy of minors in the media should particularly be safeguarded and this issue is specially developed and included in all professional codes.

There really is a thin line between the sphere of privacy and public interest. Everyone from besieged Sarajevo criticized the western media for protecting their audiences for a while from bloody scenes from Sarajevo's streets, squares and markets, not realizing that they were just obeying their own professional codes. Similar criticism was heard recently when images were shown of a US soldier in Baghdad killing a wounded Iraqi prisoner point-blank. Older generations remember a terrible image, which also went around the world, of a senior South Vietnamese police official killing a Vietcong member in the street with a shot to the temple.

Over time, the relationship between the sphere of privacy and the aspect of libel and defamation became evident. The view that prevailed was that public and political figures must be more open to the public and willing to sacrifice part of their privacy, normally guaranteed to so-called ordinary people. It must be stressed that US motivations for codifying journalist conduct considerably differ from European ones, but this differences has lately gradually been reduced.

In the early 20's of last century, so-called yellow or boulevard press in the United States, in frantic search of sensations in order to boost circulations, did not shrink from using dishonorable and immoral tools, inflicting great damage on journalists. Precisely in order to prevent this, or at least to reduce it, the institution of journalism code was introduced. On the other side of the ocean, Europe, after experiencing the horrors of Nazism, put emphasis in its codes on preventing the spreading of hate speech and intolerance. Five decades later, the aspect of inflammatory language, as a social phenomenon, became topical in this region.

### **Building up the Press Code**

The kidnapping case in Sarajevo calls for the Press Code to be built up and reformulated because its wording is not precise, as we have pointed out before. Every code must be clear, decisive, concise and unambiguous. In the present Code, there are evident imprecise and flexible formulations, such as “The press shall do its utmost” (Article 3, Incitement), or “Newspapers and periodicals shall **take the utmost care** (underlined by author) not to publish inaccurate, misleading or distorted material...” (Article 5, Accuracy and Fair Reporting), or “If at all possible...” (Article 7, Opportunity to Reply). There are other examples of practically unbinding wording, such as the phrasing of Article 9 on Privacy.

Press self-regulation cannot be a substitute for traditional or established regulation, nor should self-regulation be limited to the press. True, we find an element of self-regulation in the existing Communications Regulatory Agency, especially in the institute of how to lodge a complaint, and also in the agency's activities related to democratization and professionalization of the media landscape of BiH.

The South East Europe Stability Pact, through its media-related activities, developed a regional media support strategy for 2005-2007. In the section on BiH, emphasis is placed on the process of press self-regulation. Consequently, it is not a good idea to block the process of media self-regulation in BiH that is already heavily underway.

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Dusan Babic is media analyst at Media plan Institute. Translated by: K. H.  
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