



HUMAN RIGHTS ACTION | AKCIJA ZA LJUDSKA PRAVA

CONCLUSIONS AND RECOMMENDATIONS OF THE FOURTH REPORT ON MONITORING PERFORMANCE OF MEDIA SELF-REGULATORY BODIES IN MONTENEGRO

Cooperation between self-regulatory bodies

The Media Council for Self-Regulation's Monitoring Team (MCSR MT) forwarded only one of the complaints concerning media outlets that are not members of the MCSR and have their own Ombudsmen, to the Ombudsman of that particular media. In all other instances MCSR MT considered such complaints and decided upon them, sometimes also in the second instance (following the decision of the Ombudsman). **When addressed with a complaint directed against a media having its own self-regulatory body, MCSR MT should declare itself not competent and advise the complainant to address the self-regulatory body (Ombudsman) of the media to which the complaint refers, and its role should end there. We recall the recommendation from our previous report that in case of discrepancies in the application of the Code, i.e. different interpretations of basic principles and associated guidelines, self-regulatory bodies should initiate a joint debate with the aim of consistent interpretation of the Code and promotion of the respect for professional standards and human rights by the media.**

The procedure by which self-regulatory bodies act

The Media Self-Regulatory Council (MCSR) has not fulfilled its promise made 18 months ago, to adopt a rulebook that would precisely define dispute settlement procedures. **It is about time the MCSR adopted the promised rules on dispute settlement procedures, as the quality of the MCSR Monitoring team's work and the public opinion of it depends on it.**

The MCSR does not use its webpage to inform the public of its activities, nor does it conduct campaigns promoting importance of self-regulation and the MCSR itself. **The webpage of MCSR should contain information on all activities of the organisation and its Monitoring team, official press releases and statements made by representatives of this self-regulatory body, including interviews for media.**

Since the beginning of the project, i.e. over the past two years, the MCSR MT persisted on seeking statements about the complaints' allegations only from media outlets that are its members, in breach of its Statute requiring statements from every media to which a

complaint pertains. **The MCSR MT should observe the MCSR Statute and apply equal criteria for all media outlets when deciding on complaints concerning them.**

Even though the Statute of MCSR prescribes that its Monitoring team should consist of the MCSR Executive Secretary and three media experts selected by the Management board for the period of four years, the third member of the team has never been appointed. Considering that MCSR MT continuously decides in incomplete composition and that there is no Rulebook on its work, the legitimacy of its decisions made so far may be brought into question. **The MCSR should complete its team as prescribed by its Statute, or adapt the Statute to the current reality. This applies to the members of the Monitoring team as well, since it is not advisable that they are called media experts in the Statute, but in reality they are journalists/editors working in media outlets, which are members of the MCSR.**

In addition to the fact that it only sporadically monitored broadcasting media (radio and television), the MCSR MT has lately also stopped monitoring online media. This means that MT reduced its monitoring function, prescribed by its Statute, to the print media only, of which only some media are members of that self-regulatory body. **The MCSR should critically examine the way in which it exercised its monitoring, adapt its Statute to its actual possibilities, and reduce the scope of its monitoring to the media outlets who are its members.**

Examples presented in this report show that self-regulators often disagree over the interpretation of the Guidelines for Principle no. 4, concerning the right to correction and reply, which may be due to imprecision of the guidelines, as well as to the inconsistency of these guidelines with the provisions of the Media Law that are more precise. **During the announced work on amendments to the Code, guidelines for the Principle no. 4 referring to the use of the right to correction and reply should be aligned with the provisions of the Media Law.**

The Self-Regulatory Local Press Council (SRLPC) has not yet adopted an act regulating the work of its Court of Honour, the body envisaged by the Statute, and the procedure for filing complaints and acting upon them. The existence of such a document could encourage potential complainants. **It is necessary that SRLPC adopt a document regulating the work of Court of Honour and the procedure for filing complaints and acting upon them.**

The TV *Vijesti* has not informed the public that their Ombudswoman ceased to operate. No information has been published on whether any complaints were received in the meantime and what happened with them, nor what will happen with possible complaints in this new situation. **TV *Vijesti* should appoint another person as Ombudsman/Ombudswoman as soon as possible if they want to continue with self-regulation. If, for some reason, this is not possible in the short term, TV *Vijesti* should inform their viewers about it.**

The Ombudswoman of daily *Vijesti* insists on the mediating and not adjudicative aspect of her role, doing her best to reach an agreement between the complainant and the media in order to achieve that the correction and reply is published, which is, as we believe, in the spirit of self-regulation and developing a relationship of trust between the media outlet and the citizens. Of course, the publication of corrections and responses do not have equal strength in the case of violations of all principles of the Code (unethical intrusion into someone's private life, for example), and cannot be used always as the first remedy followed by an assessment of the Ombudsman. **In order to define precisely this mediating role of its Ombudswoman, it would be necessary to define more precisely the duties of the *Vijesti* editorial board in the Rulebook, as well as to emphasize the obligation of the complainants that, whenever possible, they should first try to exercise their right of correction and reply as guaranteed by the Code and the Media Law, as well as mediating services of the Ombudswoman, and only ultimately require her to adjudicate.**

The Daily *Vijesti's* Ombudsman still fails to specify at all times which basic principle of the Code has been violated and in what manner, as well as to consistently follow terminology used in the Code. **When determining violations of professional ethics, it is desirable to always stipulate which principle and guideline of the Code has been breached, and in what manner. Consistent adherence to terminology used in the Code is also desirable.**

The Ombudsman of daily *Dan* suggested that those who believe the daily had wronged them by publishing significantly distorted facts or incorrect information should first take advantage of the possibilities suggested by Principle no. 4 of the Code regarding the publication of a correction or a response, and to file a complaint with the Ombudsman only if they feel that the media outlet did not respect their rights and violated the Code. **Although we believe that the suggestion of the Ombudsman is correct and in line with the Rules of Procedure, we suggest that in the early days of self-regulation in daily *Dan*, the Ombudsman should participate as actively as possible in the establishment of trust between the readers and editorial staff.**

In the case of a complaint that was only partially adopted, the Ombudsman of daily *Dan* did not state which principle of the Code had been violated. **Finding of the violation of the Code should be supported with the statement of the specific principle and guideline violated.**

Although commencement of the work of the weekly Monitor's Ombudswoman has been announced in July, the public hasn't been informed of any of her decisions or reports to date. Also, no important information concerning the rules and procedures for interested readers, i.e. citizens to file a complaint, and rights and duties of the Ombudswoman in this regard has been announced. **Monitor should as soon as possible publish a document regulating Ombudsman's rights and duties and specifying procedures for filing complaints.**

Findings of comparative media monitoring

Media often use research conducted by the Network for Affirmation of NGO Sector (MANS), pertaining to crime and corruption also at the highest levels of Montenegrin government, but quite frequently take these findings for granted without trying to additionally verify, using journalistic methods and tools, the soundness of data obtained by MANS. **As journalism, *inter alia*, implies verification skills, the media are required to verify information obtained from NGOs researchers, or any other more or less relevant and reliable source, with the other party and with independent sources.**

The monitoring conducted by both MCSR and HRA teams shows frequent violations of Principles no. 1 and 3 of the Code of Montenegrin Journalists, which are crucial for the credibility of the media, and which relate to the accuracy and balance of reporting and inviolability of facts. By and large, violations of these principles result from emphasising one aspect of the story and failure to verify information from independent sources, as well as from placing of comments and opinions in news reports without necessary separation. **HRA reiterates its recommendation that journalists must immediately give the opportunity to the other party to respond to allegations and emphasizes the obligation of verifying information from independent sources. Commentary and news should be clearly separated.**

The violation of the presumption of innocence (Principle no. 10 of the Code) is still by far the most common example of unethical practice in the media. **Once again, we recommend the media do their best to reduce the number of instances of violation of the presumption of innocence to a negligible extent. Mitigating circumstance in this case is that this violation is quite easy to recognize, therefore, with the good will of journalists and in particular editors, it can be easily avoided. A question mark at the end of a statement suggesting someone's guilt may, at least partially, lessen the final effect of such statement.**

In a significant number of examples, HRA associates have noted violations of the Principle no. 5 by stating nationality of a person suspected of a crime, i.e. highlighting this fact in the news title without any professional reason. On the contrary, such indications intentionally or unintentionally suggest to the public that someone's nationality is of importance for an alleged wrongdoing of that person, which is in complete contradiction with the Code. **HRA recommends the media outlets to avoid highlighting the nationality of a person suspected of a crime in the texts, especially in the headlines, as it may only contribute to the deepening of stereotypes and incitement of hatred.**

As it has been emphasized in the previous report, the majority of examples of violations of the Principle no. 8 of the Code in monitored television news programs is related to the disclosure of names of traffic accident victims. Detailed monitoring of the press and web portals over the past five months has proved such unethical practice quite common in these media outlets, too. **HRA repeats its earlier recommendation that the media should be much more careful and considerate to the victims of crime or accidents,**

since, under the Code, they are entitled to special protection of identity, except in cases of extraordinary circumstances, which should always be carefully considered.

Several examples have been noted where the media published the lists containing citizens' names and surnames and their unique identification numbers and/or private telephone numbers, committing thus severe violation of their privacy. Regardless of the basis for reasonable suspicion of certain person's illegal behaviour, in none of the said examples did the media have the right to make their private information public. **Since the guidelines for the Principle no. 8 explicitly state only that "the private addresses of people shall enjoy special protection," without mentioning unique identification numbers and private telephone numbers, HRA recommends amendments to the Code in order to specify that these data too shall be kept strictly confidential.**

A number of examples of plagiarism noted by HRA and the fact that self-regulatory bodies overlook such unethical practice point to an upsetting conclusion that plagiarism (publishing other people's photographs and texts without acknowledgment of authorship) is not seen as a serious violation of ethical norms. **MCSR MT, as well as the current Ombudspersons, should henceforth pay more attention to plagiarism as an unethical media practice. It is particularly important to do so for the young journalists who are more knowledgeable on the new, on-line media, and whose knowledge of foreign languages makes it easier for them to take someone else's work without citing the source. As it has been pointed out in previous HRA reports - as clearly asserting their authorship with regard to articles and photographs, it is desirable that the media do the same when using someone else's articles or parts of those articles, photographs and other graphic illustrations.**

There has been a significant increase in the number of more or less covert advertising in television news programs, as a result of the fact that newsrooms transmit companies' propaganda material uncritically. **A journalist should act solely in the public interest and not in the interest of companies, including own media company. It is crucial that the audience can differentiate at all times between advertising and content processed by journalists.**