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## MONITORING OF JOURNALISTIC SELF-REGULATORY BODIES IN MONTENEGRO

FIRST REPORT

(September 2012 – March 2013)

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## 1. INTRODUCTORY REMARKS

This is the first report of the project "Monitoring of Journalistic Self-Regulatory Bodies in Montenegro", conducted from September 2012 by the Human Rights Action (HRA), with the support of the British Embassy Podgorica. The project will last two years, and reports will be published every six months.

The aim of the project is to support the media and journalistic, i.e. media self-regulatory bodies in Montenegro in objective and uniform implementation of the Code of Montenegrin Journalists and standards of human rights.

We think that self-regulation of the media can and should be used to protect human rights and prevent their violation. We believe that, if done professionally and objectively, media self-regulation may prevent litigation and contribute to accountable informing of the public.

We hope that, by monitoring the implementation of the Code by the media and self-regulatory bodies, and encouraging discussions on the subject, we can act usefully, as part of the "media accountability system", defined by Professor Jean-Claude Bertrand, an expert in journalistic ethics.<sup>1</sup>

Since September 2012, the HRA has also published electronic bulletins on the practice of the European Court of Human Rights in relation to various aspects of freedom of expression, of importance to journalists.<sup>2</sup> Bulletins are forwarded to editorial boards of media outlets in Montenegro and to self-regulatory bodies. Handbook for journalists on the implementation of rules of ethics and human rights is in preparation for publishing, written by journalist Marijana Bojanić after a series of workshops organized by the HRA on selected topics in the field of human rights and journalistic ethics, in collaboration with editors of leading Montenegrin media.

This report, whose author is journalist Dragoljub Duško Vuković, is based on reports published by journalistic self-regulatory bodies in Montenegro from 1 September 2013 to 31 March 2013, as well as on the monitoring of the HRA project team.

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<sup>1</sup> Bertrand is considered the most prominent international expert for journalistic ethics. He defined the *Media Accountability Systems* as rules and practices that include "any non-governmental means of inducing media and journalists to respect the ethical rules set by the profession". These systems include ethical codes, counselling for press and other self-regulatory bodies, research conducted by non-governmental organizations, auditing, etc. For more details, see <http://www.rjionline.org/MAS-Claude-Jean-Bertrand>; and, "Power without Responsibility", Sandra Bašić Hrvatin, PhD, article published in magazine *Media Culture* no. 02/2011, "Self-Regulation", Civic Forum Nikšić, 2011, page 23-27.

<sup>2</sup> Bulletins, prepared by Peter Noorlander, Director of *Media Legal Defence Initiative* London, in cooperation with HRA, are available at: [http://www.hraction.org/?page\\_id=459](http://www.hrraction.org/?page_id=459)

During the monitored period, the Media Self-Regulation Council published five reports, and the Self-Regulatory Local Press Council one report. The Press Council and TV Vijesti Ombudsman have not yet published any reports.

The HRA monitoring was aimed at daily print media issued in Montenegro, weekly “Monitor”, web portals “Analitika”, “Café del Montenegro”, “IN4S” and “Vijesti online”.

Although the HRA associates sought to closely monitor the content of media outlets mentioned above, probably not every case of unethical journalistic practice has been recorded. The principal intention, based on our own monitoring, was to check whether journalistic self-regulatory bodies are successful in responding completely and appropriately, within their jurisdiction, to actions of the media that violate the Code of Montenegrin Journalists.

Based on the analysis of self-regulatory practice, recommendations are highlighted in the report as well.

This first report contains a short history of development of self-regulatory practice in Montenegrin media community during the last decade.

We thank Marijana Buljan for her useful suggestions that helped improve the report.

We expect your comments as well.

Tea Gorjanc Prelević,

NGO Human Rights Action Executive Director

## 2. HISTORY OF MEDIA SELF-REGULATION IN MONTENEGRO

Restoration of discussion within the profession about journalistic ethics and self-regulation in Montenegro began in 2001, with the commencement of operation of the Montenegro Media Institute (MMI), an umbrella media organization established by relevant journalists and media organizations in Montenegro from that time, as well as all relevant public and commercial media at national and local levels<sup>3</sup>.

One of the first projects of MMI was the development of a journalistic code of ethics. After several months of work by representatives of various journalistic associations in the working group, and with the help of international experts, the Code of Montenegrin Journalists (hereinafter "The Code") was formally signed on 21 May 2002.

The Journalists' Associations of Montenegro, the Association of Professional Journalists of Montenegro, the Association of Young Journalists of Montenegro, the Independent Union of Journalists of Montenegro, the Association of Independent Print Media of Montenegro (MONTPRESS) and the Association of Independent Broadcast Media of Montenegro (UNEM) participated in the development of the Code and signed it.<sup>4</sup>

The Code, containing 12 basic principles and several appropriate guidelines that explain and specify these principles, is still in force. Although it is noted at the end of the Code that these guidelines are not final and may be updated in accordance with ethical dilemmas brought by practice, in the meantime this did not happen. There was an attempt in this regard, which foiled the termination of the Journalist Self-Regulatory Body (JSB).

Under the auspices of the MMI and with assistance of foreign experts, the project of completing the process of self-regulation by establishing a transitional form of a self-regulatory body was continued, nearly a year after the adoption of the Code. After a transitional solution that lasted for a period of time, the JSB was established and registered as an NGO. The JSB Council for monitoring and complaints consisted of representatives of journalistic associations, signatories of the Code and founders of the self-regulatory body, the daily "Vijesti" and "Pobjeda", Atlas TV and weekly "Monitor".

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<sup>3</sup> Among founders of the Montenegro Media Institute were: the Association of Professional Journalists of Montenegro, the Association of Young Journalists of Montenegro, the Independent Union of Journalists of Montenegro, the Association of Independent Print Media of Montenegro (MONTPRESS), the Association of Independent Broadcast Media of Montenegro (UNEM), daily "Vijesti", "Dan" and "Pobjeda", RTV of Montenegro, Radio Antena M, RTV Elmag, NTV Montena, MINA – MNNNews, weekly "Monitor", bimonthly "Polja", portal PCNEN, etc.

<sup>4</sup> "The signatories described the adoption of a common Code as a 'historic' act in the commencement of the process of self-regulation of the journalistic profession, as well as a contribution to the harmonization of Montenegrin society (as stated in MMI press release).

The JSB published the total of 17 reports on the observance of the Code. First report was published in March 2006, and the last report in January 2010. This self-regulatory body ceased to operate in March 2010, after the withdrawal of representatives of daily “Vijesti” and weekly “Monitor” from its Council.<sup>5</sup> The immediate cause was the disagreement in terms of decision-making and interpretation of Principle 2 of the Code, which stipulates that a journalist should be a sharp observer of those who have social, political and economic power.<sup>6</sup>

Until the end of its operation, the JSB Council had eight members, although the Statute prescribes that this body should have 9 to 11 members. The Statute does not prescribe what happens in case that a representative of the media withdraws from the Council, or under which circumstances the JSB ceases to operate.

Although it ceased to operate, the JSB did not formally cease to exist, and its website is periodically updated. In time of the completion of this report, the process of registration of the JSB in accordance with the new Law on Non-Governmental Organizations was underway.<sup>7</sup>

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<sup>5</sup> At the moment when this self-regulatory body ceased to operate, members of the JSB Council were: Mirsad Rastoder (Association of Professional Journalists of Montenegro), Vesna Pejović (Independent Union of Journalists of Montenegro), Rajko Šebek (Association of Independent Electronic Media), Jovan Plamenac (Journalists' Associations of Montenegro), Neđeljko Rudović (daily “Vijesti”), Savić Jovanović (daily “Pobjeda”), Milka Tadić Mijović (weekly “Monitor”) and Vuk Perović (ATLAS TV). At the moment of conflict and end of operation, members of the Journalist Self-Regulatory Body Board of Directors were: Ranko Vujović (Association of Independent Electronic Media), Jovanka Kovačević – Đuranović (Association of Professional Journalists of Montenegro), Senko Čabarkapa (Journalists' Associations of Montenegro), Jelica Pantović (TVCG) and Boris Darmanović (Association of Young Journalists of Montenegro). Source: <http://www.nstcg.org>

<sup>6</sup> Namely, there was a disagreement over whether the Code had been violated in an interview broadcasted by “TV IN”, with Serbian businessman Stanko Subotić Cane, who is considered a controversial person, close to the Prime Minister of Montenegro, and was at that time wanted on an international arrest warrant by the Republic of Serbia. Members of the JSB Council from “Monitor” and “Vijesti” considered that the manner in which journalist Rajko Šebek, also a member of the JSB Council, asked questions to his interlocutor violated Principle 2 of the Code, which states in the second paragraph: “a journalist should be a sharp observer of those who have social, political and economic power”. In a statement for Radio Free Europe, member of the JSB Council Neđeljko Rudović said: “In the end, Mr Subotić told only what suited him. Mister Subotić was not faced with unpleasant questions that could show or at least hint that not everything is as he wanted to present to the Montenegrin public. Unfortunately, the colleague who conducted the interview is also a member of the JSB and I think that he failed his task. The theory that Principle 2 of the Code, which states that a journalist should be a sharp observer of those who have social, political and economic power, had not been violated was ungrounded. The author of the interview and member of the JSB, Rajko Šebek, expressed his attitude towards accusations made by his colleagues about his violation of the Code, also for the Radio Free Europe: “The discussion about the interview and its contents was not disputable, but colleagues considered that the Code had been violated because I asked few questions that were not good. I think that no article of the Code prescribes this, because in that case we could analyse every interview in Montenegro or the world and say that the Code had been violated because someone did not ask a certain question.” ([http://www.slobodnaevropa.org/content/stanko\\_subotic\\_intervju\\_tv\\_in\\_novinarsko\\_samoregulatorno\\_tijelo/1993722.html](http://www.slobodnaevropa.org/content/stanko_subotic_intervju_tv_in_novinarsko_samoregulatorno_tijelo/1993722.html))

<sup>7</sup> According to information HRA gathered, the re-registration process was initiated by the last president of the JSB Council, Mirsad Rastoder.

### 3. RESTORATION OF SELF-REGULATION

Restoration of self-regulatory practice on new bases in Montenegro was encouraged by the OSCE Mission to Montenegro and its media division, and the Delegation of the European Union to Montenegro<sup>8</sup> and the President of Montenegro Filip Vujanović as well.

President Vujanović invited the representatives of relevant media, journalists and media associations to a meeting held on 30 May 2012, which was dedicated to this issue.<sup>9</sup> The meeting, attended by a large number of influential people in the media, did not lead to a consensus for the establishment of a self-regulatory body, competent for all media in Montenegro. The efforts from aside have not led to a restoration of journalistic self-regulation at the level of the entire media industry and media community. Instead of the restoration of the unified self-regulatory body, several new self-regulatory bodies were established in 2012 and in the beginning of 2013 in Montenegro.

- In early March 2012, representatives of 18 print, broadcast and online media established the Media Self-Regulation Council (MSC).<sup>10</sup>
- One month after the establishment of the MSC, the Self-Regulatory Local Press Council (SLPC) was established, joined by 11 print media, most of which are published periodically.<sup>11</sup>
- In late May 2012, two private daily newspapers "Vijesti" and "Dan" and weekly "Monitor", established the Press Council (PC)<sup>12</sup>, registered as NGO on 6 August 2012.<sup>13</sup>

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<sup>8</sup> More details available in a press release of the Delegation of EU at: <http://www.delme.ec.europa.eu/code/navigate.php?id=1808>.

<sup>9</sup> Vujanović urged "everyone who is directly or indirectly involved in the establishment and development of the Montenegrin model of self-regulation", to "intensify and establish mutual cooperation and communication and prove their full commitment to this process" (<http://www.predsjednik.me/?action=news&id=3699>).

<sup>10</sup> The MSC was established by: Radio Television of Montenegro, local public broadcasting service Radio Tivat, commercial televisions and radio stations "In", "Atlas", MBC, "Elmag", "Montena", "Bojin", "Teuta", "Radio Antena M", "Radio Montena", "Skala Radio", "Radio Dux", "Radio Adriatic", daily "Pobjeda" owned by the government, private daily "Dnevne novine" and private web portals "Café del Montenegro" and "Analitika". (Decision on the establishment was adopted at the inaugural session on 7 March 2012 in Podgorica.)

<sup>11</sup> The SLPC was established by print media: "Komuna", "Pljevaljske novine", "Mojkovačke novine", "Mozaik", "Tokovi", "Glas Berana", "Cetinjske novine", "Danilovgradske novine", "Novske novine", "Alav" i "Medijska kultura".

<sup>12</sup> Statute of NGO Press Council, Article 2.

<sup>13</sup> Source: Decision of the Ministry of the Interior of Montenegro from 6 August 2012



- In late May 2012, two private daily newspapers "Vijesti" and "Dan" and weekly "Monitor", established the Press Council (PC), registered as an NGO on 6 August 2012.
- Television "Vijesti" formed a single self-regulatory body - the Ombudsman, and informed the public about its establishment on 25 January 2013.<sup>14</sup> The Executive Director of Television "Vijesti", Slavoljub Šćekić appointed a prominent journalist and editor of this media outlet Aida Ramusović as the first Ombudsman. Previously an amendment to the Statute of TV Vijesti established this form of self-regulation.

The Council's Commission for Petitions and Complaints of the Listeners and Viewers operates within the national public broadcaster Radio Television of Montenegro (RTCG), and its main task is to monitor the compliance to programme principles of this media outlet.<sup>15</sup> The existence of such a commission in the RTCG is an obligation arising from Article 15 of the Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro" from 2008 and 2012. Such commissions also exist in local public broadcasting services (e.g. Radio Bijelo Polje, RT Nikšić), but they do not fall into the category of self-regulatory bodies that deal primarily with issues of journalistic ethics and are voluntarily established and therefore have not been the focus of report.<sup>16</sup>

*Conclusion: There are currently five media self-regulatory bodies in Montenegro for monitoring the implementation of the Code of Montenegrin Journalists, three of which are active. Media Self-Regulation Council, Self-regulatory Local Press Council and TV Vijesti Ombudsman are active, while the inactive ones include Journalistic Self-Regulatory Body and Press Council.*

### **Recommendation:**

- The aim should be the re-establishment of a single self-regulatory body for Montenegro, which would bring together all of the media interested in self-regulation. This does not exclude the establishment of self-regulation at the level of individual media, i.e. editorial boards.

<sup>14</sup> Source: <http://www.vijesti.me/vijesti/tv-vijesti-dobija-ombudsmana-clanak-110681>

<sup>15</sup> Statute of Radio Television of Montenegro, Article 33

<sup>16</sup> For example, see records of the operation of the Council's Commission for Petitions and Complaints of the Listeners and Viewers, available at: <http://rtcg.me/rtcg/biltena-casopis.html>

## 4. DESCRIPTION AND ACTIVITIES OF NEWLY ESTABLISHED SELF-REGULATORY BODIES

### 4.1. Form of organization and membership

The Media Self-Regulation Council (MSC), the Self-Regulatory Local Press Council (SLPC) and Press Council (PC) have been established and registered in the Ministry of the Interior of Montenegro as non-governmental associations, i.e. non-governmental organizations (NGO).

The *TV Vijesti* Ombudsman is appointed from the ranks of journalists by the Executive Director for a period of minimum two years.

Membership in the MSC is voluntary and a member of this organization may be any legal entity from the field of media activities in Montenegro if they accept its Statute and programme aims. It was stipulated, however, that the principle of consent applies only to media that meet certain requirements.

Radio and television stations must be registered for minimum six months and cover at least 10% of the territory of Montenegro with their signal. In addition, they must have at least 5% of their own production within the daily news programme.

In order to fulfil the conditions, the print media must have been published for minimum six months on a daily or week basis and their minimum circulation must be 3,000 copies.

When it comes to Internet media, the conditions for membership in the MSC include: they must be registered in Montenegro, they must have operated for at least one year, they must have at least 5% of their own production in their content and the number of daily visitors must be at least 5,000.<sup>17</sup>

Although the SLPC is organized as a self-regulatory body of the local press, the Statute of this NGO states that its member may be "any legal entity in the field of media activities in Montenegro if they accept its Statute and programme aims of the Council," and that members "may be print media that meet the well-known conditions of registration".<sup>18</sup>

Statute of the PC leaves a possibility that a media outlet may join the founders (daily "Vijesti" and "Dan" and weekly "Monitor") and acquire the founder status, provided that it "exceeds 15% market share or 15% confidence of readers, in accordance with relevant polls of public opinion". However, it stipulates that members of other similar organizations in Montenegro

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<sup>17</sup> Statute of the Self-Regulatory Media Council, Article 9.

<sup>18</sup> Statute of the Self-Regulatory Local Press Council, Article 10.

cannot be founders and members of the association, and if they become so, they will automatically lose their status in the PC.<sup>19</sup>

**Conclusion:**

*In contrast to the once unified Journalist Self-Regulatory Body, whose founders, alongside with the media, were journalistic and media organizations, new journalistic self-regulatory bodies in Montenegro have been established only by the media.*

**4.2. Organizational structure**

The Media Self-Regulation Council (MSC) has an assembly, a board of directors, an executive secretary/director<sup>20</sup> and a monitoring team. The MSC Assembly consists of all the members of the association, with equal voting rights, and it is prescribed that the Assembly shall meet regularly once a year. The Board of Directors is elected for four years, has seven members (including the President of the Assembly), and manages the Association between two regular sessions of the Assembly. The Monitoring Team consists of the Executive Director and, as stated, "three media experts". This team is in charge of monitoring the compliance with the Code, and developing reports (for more details, see section 4.5 below).

Internal organizational structure of the Self-Regulatory Local Press Council (SLPC) is identical to that of the MSC. The SLPC also has an assembly, a board of directors and a monitoring team, except the monitoring team is called the Court of Honour and its composition is different – it consists of the president of the association, and "four representatives from among the media experts, prominent cultural and public workers, university professors, media analysts and journalists selected by the Board of Directors for a term of four years".<sup>21</sup> The competences of this body are defined by the Statute of the SLPC, as is the case with the MSC.

The Press Council (PC) has its assembly, "as the highest governing body of the association", a board of directors (whose president is authorized to represent the association), an appeal commission and a director.<sup>22</sup> The Assembly consists of all the founders of the association, and it convenes regularly once a year. Each founder and member of the association has the right to delegate two members to the Board of Directors, with one delegated by the owner of media outlet or by administration, and the other by editorial board or journalists. The Appeals Commission of the association has odd number of members (3 to 7). The Board of Directors elects the Appeals Commission with direct invitation or through public competition. According

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<sup>19</sup> Statute of the Press Council, Article 10.

<sup>20</sup> Statute of the MSC in some places states Executive Secretary, and in some Executive Director.

<sup>22</sup> PC Statute, Article 13.

to the Statute of the PC, members of the Appeals Commission may not be owners, members of administration or editorial boards and members of the association. Director of the PC is a person who is professionally engaged.

### **Conclusions:**

*Although journalists inside editorial boards should essentially be most interested for the issues of self-regulation, of collective self-regulatory journalistic bodies only the Press Council (PC) provides for mandatory participation of journalists as well, i.e. representatives of editorial staff in its management structure, in addition to representatives of the founder or management of the media.*

*Only the PC Statute expressly stipulates that members of the body for handling of complaints and monitoring of the compliance with the Code shall be independent persons who are not owners, members of management or founder's board or members of the Council, which, according to experts in matters of media self-regulation, contributes to public confidence in the self-regulatory body.<sup>23</sup>*

*According to the Statute of the Media Self-Regulation Council (MSC), the Monitoring Team should include three media experts, however, in practice this body is composed of two professional journalists from the media who are members of MSC and executive secretary/director of the MSC.*

*The Statute of the Self-Regulatory Local Press Council (SLPC) stipulates that its Court of Honour shall be composed of representatives from among the media experts, prominent cultural and public figures, academics, media analysts and prominent journalists. This is only partially fulfilled, as the Court of Honour of the above includes only prominent local journalists.*

### **4.3. Aims**

The Media Self-Regulation Council (MSC) and the Self-Regulatory Local Press Council (SLPC) have defined their aims for which they were established identically. Their statutes provide that their aim is to improve and develop media self-regulation in Montenegro, to implement the Code in order to protect the public from unethical reporting in the media and to raise awareness about the importance of true and timely reporting.

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<sup>23</sup> "In a truly independent system, those who manage them should not have any interest in the outcome of regulation. If the public does not believe that some media regulation represents their interests, and not interests of others, then a system of regulation in the long run cannot work" (Philip Harding, consultant, former journalist and editor of BBC World Service, at a workshop for journalists organized by Human Rights Action in December 2012.)

The Press Council (PC) defined its aims more precisely. The Statute of the association as the first objective listed monitoring of compliance with the Code and resolving complaints of individuals and institutions, and then mediation between damaged entities, on one side, and editorial boards of print media, on the other. The third specified objective is education for acting in accordance with ethical standards and enhancement of the reputation of the media.<sup>24</sup>

The decision of *TV Vijesti* on the establishment of the Ombudsman does not specify objectives to be achieved, but the description of the field of its operation suggests that the aim is to improve the ethical and professional standards in this media outlet.<sup>25</sup>

#### **4.4. Competences**

Although the Media Self-Regulation Council (MSC) is an association of only a part of media industry, this self-regulatory body and its competence extended to those media outlets in Montenegro, that are not its members.<sup>26</sup> Thus defined competence necessarily goes beyond the scope of the term self-regulation, and as such is not common.<sup>27</sup> Additionally, in practice the MSC excludes a part of smaller media outlets that are its members from its regular monitoring, which is especially confusing. Namely, the first report of the MSC noted that the Monitoring Team monitored only "major media outlets"<sup>28</sup> (electronic media with national coverage, print media with a circulation of more than 3,000 copies and web portals with more than 5,000 visits

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<sup>24</sup> PC Statute, Article 12.

<sup>25</sup> "The ombudsman deals with the establishment and use of the Internal Code of the media outlet. The Internal Code aligns with the Code of journalists and complements the internal rules of Television Vijesti. The Ombudsman deals with establishing and use of Style and production handbook containing practical rules. Ombudsman's job is to ensure that the Style and production manual is observed, to control its accuracy and further development". (Decision on the Establishment of Ombudsman of TV Vijesti).

<sup>26</sup> MSC Statute, Article 21 "...Monitoring Team decides on appeals filed against any media organization in Montenegro when it comes to violations of the Code of Montenegrin Journalists and informs the public on this. Monitoring team mediates in disputes between media organizations or journalists and physical and legal entities in cases when media organizations or journalists had violated the basic principles of journalistic ethics, so that these disputes would not end up in court ...".

<sup>27</sup> "Self-regulation may exist at the level of the entire media industry or within individual media outlets" (Media Self-Regulation Guidebook, OSCE, Vienna, 2008, p. 10). The guidebook, as an answer to what is necessary for the functioning of a media council, states: "It should include representatives of all stakeholders — journalists, editors, media owners and members of the public. All should be publicly acceptable and dedicated to building trust in the concept of self-regulation." (Self-Regulation Guidebook, OSCE, Vienna, 2008, p. 45). In article "Closed model of self-regulation of open journalistic profession", Đorđe Obradović, PhD, said: "The main characteristic of a media council is a voluntary membership and voluntary acceptance of the arbitrage it has. The fines imposed are not benign and can seriously damage media outlets, but they accept a self-regulatory body because it is a better solution than to go to court" (magazine "Media Culture", Self-regulation, 02/2011, p. 48).

<sup>28</sup> "Media Council Monitoring Team monitored only the operation of major media outlets:

- a) electronic media with national coverage;
- b) print media with a circulation more than 3.000 copies (four daily newspapers were monitored);
- c) web portals with more than 5.000 visits a day." (Report on the operation of Montenegrin media from 1 April to 15 May 2012.)

a day), which means that it did not monitor the operation of a large number of media outlets that are its members, and which do not fall into this category.

The Self-Regulatory Local Press Council (SLPC) stated that this self-regulatory body monitors only the operation of "local press and their relevant web portals"<sup>29</sup>, although the Statute does not specify whether it applies only to the local print media that are members of the SLPC or to those who are not.<sup>30</sup>

On the basis of the Press Council (PC), it is also not clear whether the Appeals Commission of the association will deal only with complaints relating to print media that are members of PC or to other print media.<sup>31</sup>

There is only no dilemma in the case of the Ombudsman of Television Vijesti, who will, according to the decision on establishment, deal only with issues of ethics in contents of this electronic media and with mediation between this body and the audience, i.e. the public.<sup>32</sup>

### **Conclusion:**

*While the MSC is not the only media self-regulatory body, nor has it been accepted by the entire media industry in Montenegro, it acts as the exclusive arbiter in questions of professional ethics in the media that are not its members, but not in all the media who founded it, contrary to the principle of self-regulation.*

### **Recommendations:**

- The Media Self-Regulation Council (MSC) should only be engaged in the work of media outlets that founded it, in accordance with the principle of self-regulation. On the other hand, the Press Council should start its operation.

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<sup>29</sup> President of the SLPC Board of Directors, Amer Ramusović said in an interview with the author of this report that this self-regulatory body deals only with media outlets that are its members in its operation, although this is not specified in the Statute.

<sup>30</sup> SLPC Statute, Art. 22 "...Monitoring team decides on appeals filed against any of the local print media in Montenegro when it comes to violations of the Code of Montenegrin Journalists and informs the public. The Monitoring Team acts as a mediator in disputes between media organizations or journalists and physical and legal persons in cases where a media organization or a journalist violated the basic principles of journalistic ethics, so that these disputes would not end up in court...".

<sup>31</sup> PC Statute Art. 37: "...The Appeals Commission receives appeals from readers on unprofessional, unethical and misleading texts published in the print media that violated the Code of Montenegrin Journalists."

<sup>32</sup> "The Ombudsman communicates directly with the audience of Television Vijesti. The audience is the main source of information and the legitimacy of the Ombudsman. The communication is conducted through direct correspondence, i.e. by mail, e-mail and fax. The ombudsman collects comments and suggestions of media users as well as explanations of editors, management or administration, and attempts to reconcile the two sides. In addition to acting as a mediator, the Ombudsman also considers the functioning of the media." Source: <http://www.vijesti.me/vijesti/tv-vijesti-dobija-ombudsmana-clanak-110681>

- All journalistic self-regulatory bodies should specify their competences in their founding documents.
- The composition of journalistic self-regulatory bodies (especially authorities that handle appeals and monitoring) should prove that they are strong and independent from owners and editors of the media, because that is the only way to gain trust of the public, whose interests they should represent.

#### **4.5. Models of self-regulation**

Monitoring Team of the Media Self-Regulation Council (MSC), according to the Statute of the Association, consists of the Executive Secretary and “three media experts”<sup>33</sup> appointed by the Board of Directors for a period of four years, and is in charge of “monitoring and keeping records” of violations of the Code in a great number of media outlets<sup>34</sup>, responding to “applications and appeals” and the development of reports, which are then presented to the public at least once every 60 days. In the development of the report, the Monitoring Team, in accordance with the provisions of the Statute, shall “request the opinion of the media outlet that is accused of violating the Code of Montenegrin Journalists in an application filed by viewers/readers/listeners or on the basis of Monitoring Team”.

The MSC Statute does not specify what happens after the Monitoring Team receives the opinion of the media outlet that is accused of violating the Code, and there is still no adequate document that specifies this procedure<sup>35</sup>. In the practice so far, the Monitoring Team failed to observe this part of the procedure prescribed by the Statute, because it never sought the opinion of the daily “Vijesti” and “Dan”, which are often labelled as violators of the Code in its reports.<sup>36</sup>

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<sup>33</sup> The MSC Monitoring Team by the end of March 2013 consisted of only three members: Ranko Vujović, Gordana Borović and Miodrag Bubreško. Vujović is the Executive Secretary/Director of MSC, and also the President of the Council of the Agency for Electronic Media. Borović is a journalist of portal “Analitika” and Bubreško is a journalist of radio “Antena M”. Both media outlets are members of the MSC.

<sup>34</sup> MSC Statute, Art. 21: “...the report of the Monitoring Team covered the operation of electronic media, daily and weekly print media and related web portals...”.

<sup>35</sup> The MSC on its website announced the development of a special rulebook that will further define how the appeals are submitted and how the competent team will act upon receiving appeals.

<sup>36</sup> On HRA question: “Did the Media Self-Regulation Council request an opinion, and how many times in total, regarding the application that the Council received from readers, related to the content that you published, or in other cases where the Council has assessed that you have violated the Code of Montenegrin Journalists?”, the Editor in Chief of daily “Vijesti” Mihailo Jovivić and the Deputy Editor in Chief of the daily “Dan” Nikola Marković replied that such opinion has never been requested from them.

The Court of Honour (Monitoring Team) of the Self-Regulatory Local Press Council (SLPC) consists of the President of the Association, and “four representatives from among the media experts, prominent cultural and public figures, university professors, media analysts and prominent journalists selected by the Board of Directors for a period of four years”.<sup>37</sup> The obligations of the Court of Honour are defined in the same way as those of the MSC Monitoring Team, provided that the Statute of this Council does not prescribe specifically when the developed reports should be published.<sup>38</sup> As in the case of MSC, the procedure of resolving appeals and complaints is not specified.

Statute of the Press Council (PC) prescribes the establishment of the Appeals Commission that shall have an odd number of members and shall be composed of prominent journalists, representatives of civil society, the judiciary, professional and educational organizations. This Commission shall receive appeals from readers for unprofessional, unethical and misleading texts published in the print media that violate the Code, and decide on complaints within 30 days.

The PC Appeals Commission has not yet been constituted, and the rules on its operation, prescribed by the Statute, have not yet been established.

The Ombudsman of *Television Vijesti* will, as announced, gather criticism and suggestions of media users, as well as explanations of editors, management and administration, and attempt to reconcile the two sides, but will also act preventively to avoid errors.

The description of *TV Vijesti* Ombudsman’s operation states that he/she may: forward correspondence and request from the author of the article/journalist/editor to respond to the appeal, which would be the minimum “punishment”; request the correction of the error (normal “punishment”); publish an excerpt from the correspondence that contains criticism as a letter of the viewer (strict “punishment”); expose the error and the apology in the programme in which the error was made, which would be very strict “punishment”.<sup>39</sup>

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<sup>37</sup> The President of the SLPC Court of Honour Amer Ramusović, Editor in Chief of "Komuna" (Article SLPC) and the President of the SLPC, while the members of the Court of Honour are once prominent local journalists Boro Jovanović, Milorad Joknić and Dino Tuzović, now retired, and professor of literature Draško Došljak, PhD.

<sup>38</sup> SLPC Statute, Article 22: “...Monitoring Team monitors and keeps records and at regular press conferences publishes reports on violations of the Code of Montenegrin Journalists, including the answers to readers' applications and complaints submitted to the Monitoring Team...”.

<sup>39</sup> Source: <http://www.vijesti.me/vijesti/tv-vijesti-dobija-ombudsmanska-clanak-110681>



## Recommendations:

- Self-regulatory bodies should have rulebooks that precisely regulate the process of mediation between the injured party and the media that the complaint or appeal is related to, and the main aim of the mediation should be the reconciliation of confronted parties and solving the problem by publishing a correction, apology, etc.
- Self-regulatory bodies should not be dealing with violations of the law by the media, because that is in the competence of the courts. They may do so only if the media, while violating a certain principle or ethical standard, also violated the legal norm which corresponds to the ethical principle or standard.
- The MSC should observe its own Statute and, before deciding on appeals or on the basis of its own assessment that a media outlet breached the Code, seek the opinion of the party to which the appeal or complaint relates to.
- Regardless of whether the MSC continues to monitor only the work of its members, or the work of the media who are not its members, the Monitoring Team should not be composed of active journalists from certain media outlets, but of independent media experts and/or representatives of interested public.

### **4.6. Transparency**

Every newly established self-regulatory body has committed to transparency in their founding documents.

According to the Statute of the Media Self-Regulation Council (MSC), all necessary information are published on the official website of the MSC<sup>40</sup>, including the reports of the Monitoring Team. These reports shall be presented at press conferences and forwarded to all members of the MSC. However, it is not specified whether the reports should be forwarded to media outlets that are not members of the MSC, although they are mentioned in these reports. The MSC did not publish the first four reports on their website (it did not exist then), nor they were forwarded to the press that were mentioned in them.

Statute of the Self-Regulatory Local Press Council (SLPC), in the same way as the MSC, prescribes the transparency, provided that the Statute of this Association added that all

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<sup>40</sup> Statute of the MSC, Art 21 and 22.

necessary information will be published in the media that are members of SLPC, in addition to the official website.<sup>41</sup>

Statute of the Press Council (PC) prescribes that the transparency shall be achieved through press releases, by publishing the annual financial statements and other data relevant to the operation of the Association on the website.<sup>42</sup> However, the Statute does not regulate the manner in which the public will have access to the work of the Appeals Commission.

The decision on establishment of the *Television Vijesti* Ombudsman, published on the web portal "Vijesti"<sup>43</sup> states that the decisions of the Ombudsman will be public, and that the Ombudsman will publish reports on his/her operation every four months. It was not specified how the reports will be available to the public.

Although the MSC, the SLPC and the PC in their founding documents envisaged the development of websites, by the end of March 2013 only the MSC fulfilled this statutory obligation. The MSC published its latest (fifth) report covering the period from 1 December 2012 to 1 March 2013 on the new website<sup>44</sup>, where the previous reports are now available, but were previously only presented to the public at press conferences. (Only the first of these reports was published in full in the daily "Pobjeda", a member of the MSC).

In addition to the *Television Vijesti* Ombudsman<sup>45</sup>, none of the newly established self-regulatory bodies led any campaign during the period covered in this report that would inform the public on their mission and the opportunities that their existence provides to physical and legal entities in case the media violated their rights. In the first report of its Court of Honour, SLPC encouraged the submission of applications and appeals<sup>46</sup>, and MSC on their website<sup>47</sup> gave instructions for filing appeals and enabled it to be done directly through the website.

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<sup>41</sup> SLPC Statute, Articles 22 and 23.

<sup>42</sup> PC Statute, Article 1.

<sup>43</sup> <http://www.vijesti.me/vijesti/tv-vijesti-dobija-ombudsmana-clanak-110681>

<sup>44</sup> <http://medijskisavjet.me/>

<sup>45</sup> More than a month before and after the establishment of the Ombudsman, *Television Vijesti* broadcasted a message with duration of 1'20 minutes, several times a day. At the same time, it repeatedly published advertisements in print and online editions of the daily "Vijesti".

<sup>46</sup> "Since this is the first report of the SLPC Court of Honour, we would like to use the opportunity to incite those who believe that the Code of Montenegrin Journalists was violated in the first quarter of 2013 in publications of local print media, that are members of the Self-Regulatory Local Press Council, for any reason, that they may file an application or appeal so the Monitoring Team could accuse a representative of the Council for a violation of the Code of Montenegrin Journalists".

## Recommendations:

- All self-regulatory bodies should fulfil their voluntary commitments in regard to transparency of their operation and develop their own websites or ensure that the media, which are their members, publish all relevant information related to their work, including reports.
- In the future, in addition to presenting their reports at press conferences and publishing them on their website, the MSC should also forward them to relevant addresses of media outlets which are not their members, but have been mentioned in those reports on any grounds.
- Self-regulatory bodies should ensure that citizens are informed of the possibility to complain to them about the conduct of the media and to help them do so when necessary. Therefore, in addition to regularly informing the public about their activities, it is also necessary to periodically conduct certain public campaigns.

### **4.7. Funding methods**

Statutes of the Media Self-Regulation Council (MSC) and the Self-Regulatory Local Press Council (SLPC) stipulate that these associations, except from the membership fee (50 euros per month per member), are financed from the State budget, contributions, gifts, donations and other sources, that are in accordance with the law.<sup>48</sup> In the Press Council (PC), the founders make decisions on the collection of funds for the operation of the Association, but the Statute does not specify in what manner.

The Ombudsman of Television Vijesti is funded by this media organization, as prescribed by its Statute.

Upon the proposal of the Ministry of Culture, the Ministry of Finance has approved 30,000 euros for a three-year funding for Media Self-Regulation Council (MSC)<sup>49</sup>, regardless of the fact that this self-regulatory body does not represent the whole media industry.

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<sup>47</sup> <http://medijskisavjet.me/zalbe-i-postupci/>

<sup>48</sup> Statute of the MSC, Article 24; SLPC Statute, Article 25.

<sup>49</sup> The explanation of the decision states, inter alia, the following: "On the basis of measures from the Action Plan for monitoring the implementation of recommendations from the European Commission - the area of the media, which states "the definition of a transparent and independent funding of self-regulatory bodies", working group composed of representatives from the Ministry of Culture, Ministry of Finance, OSCE experts and media professional organizations (UNEM Montenegro Media Institute) defined the three-year transparent and independent funding model of self-regulatory bodies in the area of media".

The MSC Statute prescribes that the Executive Secretary/Director and members of the Monitoring Team shall receive a monthly compensation, if financial resources allow. The Executive Secretary shall be entitled to a compensation of up to two and a half average salaries, and members of the Monitoring Team to two average salaries.<sup>50</sup>

In the case of the Self-Regulatory Local Press Council (SLPC), the Statute does not prescribe any compensation for the operation of the Court of Honour.

Statute of the Press Council (PC) prescribes that only the Secretary of the Association is professionally employed, and the founders and members of the Board of Directors work voluntarily. The PC Statute does not specify whether the members of the Appeals Committee receive a compensation in money for their work.

The Journalist Self-Regulatory Body (JSB), the first self-regulatory body, from its establishment to March 2010, when it ceased to operate, was funded by foreign donations.

#### **Recommendations:**

- Participation of the State in funding self-regulatory bodies is desirable, especially if public media are represented in those bodies, but in such cases, as specified in the OSCE “Media Self-Regulation Guidebook” – “such involvement should be controlled by strong mechanisms to prevent interference of the State” in their work.
- The State should not favour any self-regulatory body in any way, especially not when it comes to financial support.

## **5. RESULTS OF OPERATION OF SELF-REGULATORY BODIES**

Since the establishment in March 2012 to the end of March 2013, the Media Self-Regulation Council (MSC) has published a total of five reports on its operation. The Self-Regulatory Local Press Council (SLPC) since its establishment in April 2012 to the end of March 2013 published only one report, while the Press Council (PC), established in August 2012, and the Ombudsman of *Television Vijesti*, established in January 2013, have not yet published a single report. The report of the *TV Vijesti* Ombudsman will be published in May 2013.

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<sup>50</sup> MSC Statute, Articles 20 and 21.

## **5.1. Reports of journalistic self-regulatory bodies**

### **5.1.1. Frequency of reporting**

The Media Self-Regulation Council (MSC) should have published monthly, semi-annual and annual reports on compliance with the Code, under Article 7 of the Statute. However, there is a contradiction in the Statute, because Article 21 states that “the Monitoring Team monitors and keeps records and publishes reports on violations of the Code of Montenegrin Journalists at regular press conferences (at least once every 60 days)”.

The first report of the MSC covers the period from 1 April to 15 May 2012, the second report covers the period from 15 May to 31 July 2012, the third covers the period from 1 August to 1 October 2012, the fourth the period from 1 October to 1 December 2012, and the fifth covers the period from 1 December 2012 to 1 March 2013.

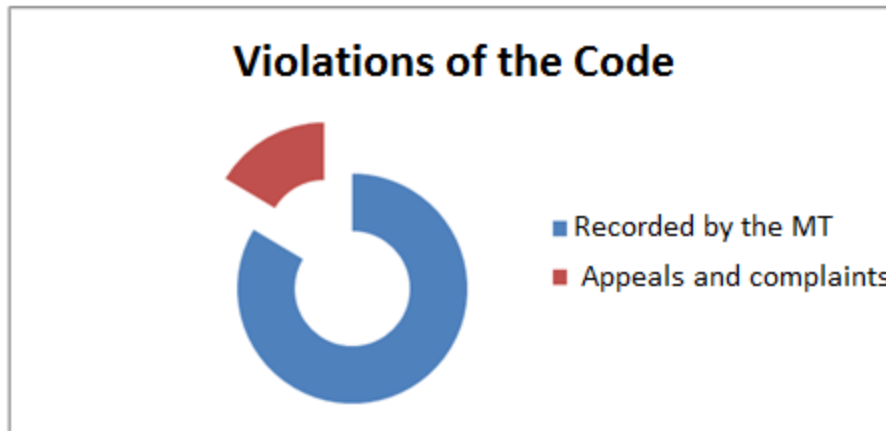
The MSC presented its reports to the public at press conferences usually every 60 days, as required by the Statute. However, three months passed between the fourth and the fifth report.

The Self-Regulatory Local Press Council (SLPC), as one of its activities, envisaged annual reports on compliance with the Code. The first such report was published on 3 March 2013. On less than three pages the report covered a period of eight months (May 2012 - December 2012) and referred to nine local print media outlets, members of the SLPC. Two members of the SLPC were not published during the period covered in the report and therefore the report does not refer to them.

The Press Council (PC) and the Ombudsman of *Television Vijesti* did not publish any reports on their operation from their establishment to the end of March 2013.

### **5.1.2. Number of recorded violations of the Code**

In the periodic reports from 1 April 2012 to 1 March 2013, the Media Self-Regulation Council (MSC) reported a total of 140 specific examples of violations of the Code, 117 of which were recorded by the MSC Monitoring Team and 23 by organizations or individuals who have addressed this body.



Of violations of the Code that the MSC Monitoring Team recorded, only 13 or 11.1% relate to media outlets that are members of MSC, while the rest (89.9%) are from media outlets that are not members of this self-regulatory body. (*We emphasize the limitation of the MSC in the monitoring of its own members mentioned in section 4.4.*)

In case of daily “Dan”, that is not a member of the MSC, there were a total of 40 violations of the Code, and in case of daily “Vijesti”, also not a member of the MSC, 14 violations. In the case of web portal “Vijesti Online” 46 examples of violations of the Code have been recorded in comments by readers under articles. Of media outlets that are not members of the MSC, the most examples of violations of the Code have been recorded in the case of daily “Pobjeda” (5) and the daily “Dnevne novine” (3).

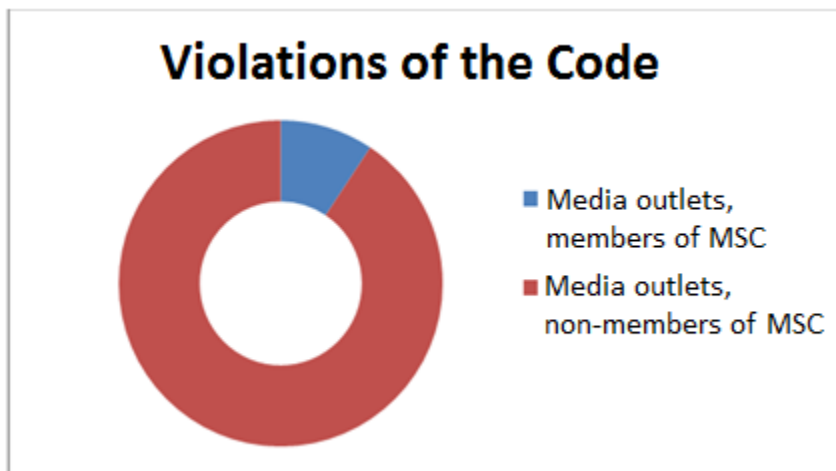
From a total of 18 media outlets that are members of the MSC, examples of violations of the Code have been recorded only with five (5). In addition to the aforementioned “Pobjeda” and “Dnevne novine”, violations have been recorded in cases of portals “Analitika” and “Cafe del Montenegro” and in case of *Television of Montenegro*.

According to reports, in the period from 1 April 2012 to 1 March 2013, the MSC received a total of 23 appeals, applications and complaints of citizens and legal entities. Two cases only state that appeals have been filed, but not to what they relate to, or what was the position of the MSC in regard to them. Namely, the appeals were filed by NGO Civic Alliance<sup>51</sup> and former

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<sup>51</sup> According to information provided to HRA by NGO Civic Alliance, MSC never responded to their first appeal, which referred to the article “Milo ballerina”, published in the daily “Pobjeda”. On 26 September 2012, the Civic Alliance filed an appeal about the writing of the web portal “Analitika” because the text “List of calls confirmed that the murder was planned to her” listed the phone numbers of the victim and the girl suspected of murder. This case was covered in the report by the MSC, but it did not state that the Civic Alliance filed an appeal in regard to that, and it was analysed as an example recorded by the Monitoring Team.

member of the MSC Board of Directors Dritan Abazović<sup>52</sup>, and they were both mentioned in the first report of the MSC. Among other complaints and appeals, the MSC did not determine a violation of the Code in two cases, in one case it concluded that the law was violated, and in two cases that the Code was partially violated. In one case, there was no complaint, but an appeal, however, the MSC treated it as a complaint and acted in accordance with that. Namely, it was an appeal of the President of the Parliament of Montenegro Ranko Krivokapić that the media should use the official Montenegrin language.



Nine (9) appeals were filed by individual persons and 14 by institutions. The majority of appeals (16) were related to daily newspapers “Dan” (9) and “Vijesti” (7), media outlets, non-members of MSC. *Television of Montenegro* is the only media outlet, member of MSC that appeals were filed against. Two appeals were filed and both related to the TV show “Robin Hood”. One of the appeals, filed by the Democratic Party of Socialists, which was accepted and considered by MSC, did not relate to the Code, but to the Law on Election of Municipal Delegates and Deputies.

The first and so far the only report by the Self-Regulatory Local Press Council (SLPC) on two pages stated that the Court of Honour (Monitoring Team) did not receive any appeals, and concluded that the local press observed the Code.<sup>53</sup>

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<sup>52</sup> Dritan Abazović confirmed to the HRA that when he was a member of the MSC, he filed an appeal against the daily “Pobjeda”, but never got a response to the appeal. He said that this case was presented in the first report of the MSC, but, according to the information the HRA gathered, the report only mentioned that Abazović filed an appeal, but not to what it referred to.

<sup>53</sup> “The analysed period has shown that the local print media completely observe the Code of Montenegrin Journalists. In the past period, this body did not receive any complaint or appeal from readers. According to our findings, no case related to a journalists of this media outlet has been prosecuted in court”.

### 5.1.3. Identifying violations of the law

The reports of the Media Self-Regulation Council (MSC) stated examples of violations of certain laws (*Media Law, Law on Election of Municipal Delegates and Deputies, and the Personal Data Protection Law*), although the Statute does not specify that the Monitoring Team is competent for these matters. It was stated that the media violated laws in 16 occasions, of which only one example refers to a media outlet that is a member of the MSC (“Dnevne novine”), and others relate to media outlets that are not members of the MSC (daily newspapers “Dan” and “Vijesti” and TV Vijesti).

For example, in the fourth consecutive report, the MSC stated that the daily “Vijesti” violated the election silence by publishing on election day texts on cover page and page 12, and quoted the titles of these texts (“Đukanović approved the apartment to Vukčević” and “Strategic partner in the network of influential persons”) and concluded that these articles “attempted to discredit the head of the coalition European Montenegro Milo Đukanović”.

In the fourth consecutive report, the MSC stated that it received an appeal by the DPS concerning several aspects of violations of the Code by a number of media outlets, and issues of abuse of media ownership concentration.<sup>54</sup> The MSC concluded that “sanctioning monopoly ownership in the media” is not in its competence.

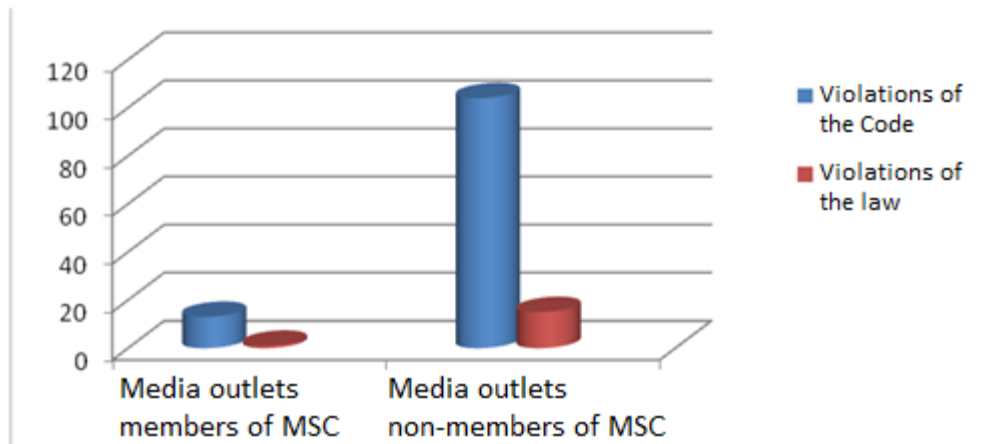
In its first and second reports, the MSC crossed the border of its statutory competence and evaluated relations in the market of daily press, protecting its member “Dnevne novine” that had been prohibited to distribute its newspapers on kiosks.<sup>55</sup> Although the issue of the use of a language has nothing to do with journalistic ethics, the MSC allowed itself the freedom to, at the initiative of the President of Parliament of Montenegro, urge the media “to enable the use of the official language in a manner used by Montenegrin state institutions”.

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<sup>54</sup> “The MSC received an appeal from the DPS due to a number of articles and television reports published during the election campaign in the newspapers “Vijesti” and “Dan”, weekly “Monitor” and the Television “Vijesti”, as stated in the letter, “for violation of the Code of Montenegrin Journalists, abuse of ownership concentration in the media for political purposes, spreading hate speech, unfair representation of the Coalition for European Montenegro in these media outlets, biased informing and violations of the legal institute of election silence”.

<sup>55</sup> “The previous period was marked by an attempt to obstruct the distribution of daily “Dnevne novine”. In Montenegro, one company holds almost 100 percent of the daily distribution of circulation and therefore has a monopoly over this activity, which is a big problem when it comes to the liberalization of the newspaper market. In such a situation, the distributor was publicly blackmailed by two daily newspapers - not to distribute free newspapers. Such an attempt to obtain a monopoly in the daily newspaper market has not recorded by now in Montenegro. Media Self-Regulation Council strongly condemns this blatant attempt to endanger media pluralism in the State and calls for the authorities to protect the “Dnevne novine” on the market and allow it equal treatment with other print media in distribution” (MSC Report for the period 1 April - 15 May 2012).





In parts of the report, the MSC stepped out of the boundaries of its role in evaluating ethics of media organizations in Montenegro and tried to arbitrate in matters relating to freedom of expression in the media, guaranteed by the Constitution and various international treaties, and strongly affirmed by the Principle 2<sup>56</sup> of the Code. An example of this is the introduction section of the second report which criticizes the daily “Vijesti” and “Dan” because of the in which they had written on the occasion of the sixth anniversary of Montenegrin independence.<sup>57</sup> Example for this can be found in the report covering the period from 1 December 2012 to 1 March 2013. The MSC concluded that the author of the article “Branislav Đuranović gave five thousand for the album of the DPS”, published in “Vijesti” on 6 February 2013 violated Principle 3 of the Code.<sup>58</sup> The MSC emphasized the parts of the text and polemicized with the author<sup>59</sup>, but also ignored some key information from the text<sup>60</sup> that spoke in favour of her critical attitude in relation to the sponsorship of monograph that was discussed.

<sup>56</sup> The Code of Montenegrin Journalists, Principle 2: “A journalist is obliged to defend freedom and the right to collect and announce information without being disturbed as well as to give free comments and critics. A journalist should be sharp observer of those who have social, political and economic power”.

<sup>57</sup> “Assessment of journalists to subsume the sixth anniversary of independence under the concept of “State decline or shipwreck” can hardly be accepted as impartial and objective journalism. The point is not in the value judgments: even statistics that were stated in these texts (double salaries and pensions, as well as a large influx of foreign investments in the past six years) did not prevent the authors of these texts to describe the last six years of Montenegrin independence with the most pessimistic words.”

<sup>58</sup> The Code of Montenegrin Journalists, Principle 3: “The facts should be sacred for a journalist, and it is his duty to put them in the right context and prevent their misuse, whether it is a text, picture or a tone. Rumours and assumptions should be clearly marked as such. It is a duty to clearly separate news from a comment.”

<sup>59</sup> “The MSC believes that it is malicious and untrue to refer to this monograph as the album of DPS. The author of the text was not guided by the idea that the facts should be presented fairly, but tried to cover up the true picture of this monograph with classical manipulation. If a couple of pages from the total of 400 total contain pictures of the local leadership, it can hardly be conclude that this is an album of the ruling party”. (MSC Report for the period of 1 December 2012 to 1 March 2013).

<sup>60</sup> “While there was no economization from the municipal budget to help print the books of Đuranović’s advisor, for complete programme activities of the Cultural Centre, including publishing, for 2011 the six times lesser amount was allocated, only 856.58 euros”. (<http://www.vijesti.me/vijesti/branislav-duranovic-dao-pet-hiljada-album-dps-a-clanak-112890>)

#### 5.1.4. Most frequent violations of the Code according to reports of self-regulatory bodies

From a total of 12 basic principles of the Code, according to reports of the Media Self-Regulation Council (MSC), the media violated eight (8), mostly Principle 5<sup>61</sup> and a number of standards recommended in the guidelines for this Principle. In the case of Principle 5, this guideline concerns the hate speech.<sup>62</sup> In regard to violations, Principle 5 is followed by Principles 8 and 4<sup>63</sup> of the Code.

The report of the Self-Regulatory Local Press Council (SLPC) stated that there were no violations of the Code.

#### 5.1.5. Violations of the Code by electronic media

In the first report, the MSC stated that violations of the Code have not been recorded in programmes of the electronic media, and this position is corroborated by the fact that “during the period of analysis there were no applications or appeals filed by viewers or listeners”. Part of the report concerning the electronic media stated that the member of the Board of Directors of MSC and Editor in Chief of the daily “Pobjeda” Srđan Kusovac publicly distanced himself from the work of the Monitoring Team.<sup>64</sup>

The second report of the MSC does not contain a specific analysis of the electronic media operation, with the exception of one case of violation of the Code by *TV Vijesti*, for publishing a photo of a “man washing the blood of the killed juvenile N.S. (15) off the sidewalk with a hose”.

In the third report, the MSC does not mention any electronic media outlets. The fourth report states the electronic media (*TV Vijesti* and *Television of Montenegro*) as violators of the Code

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<sup>61</sup> Principle 5 of the Code of Montenegrin Journalists: “One’s race, religion, nationality, sexual orientation and family status will be mentioned by a journalist only if that is necessary for the information”.

<sup>62</sup> (a) The media must not publish materials intended to engender hostility or hatred against persons because of their race, ethnic origin, nationality, gender, physical disability, religion or political affiliation. The same is true if there is a strong likelihood that the publishing of a material will cause the above mentioned hostility and hatred.

(b) Journalists must take special care to avoid contributing to the spread of ethnic hatred when reporting about events and developments that contain elements of ethnic hatred. The obligation of journalists is to respect other states and nations.

<sup>63</sup> Principle 8 of the Code of Montenegrin Journalists: A journalist is obliged to be very careful when dealing with private life of people. A right to private life is disproportional to the importance of a public function that an individual performs, but in those cases, it is necessary to respect human dignity as well. Principle 4 of the Code of Montenegrin Journalists: It is a duty of a journalist to complete an incomplete and correct incorrect information, especially the one that can cause any harm and at the same time to make sure that the correction is pointed out in the adequate manner.

<sup>64</sup> “Pobjeda”, on whose behalf I am obliged to react especially after a full consensus of the Editorial Board on the issue in question, distances itself from the part of the report of the Self-Regulation Media Council, which states that in the period from 1 April to 15 May “there were no recorded violations of the Code in programmes of the electronic media. “Pobjeda” is not doing so because it is itself emphasized by this self-regulatory body. On the contrary”. (Pobjeda, 30 May 2012)

only on the basis of filed appeals. In the fifth and latest report the electronic media are not mentioned.

#### **5.1.6. Violations of the Code by web portals**

In the first report, the MSC stated (as mentioned) only a few examples to illustrate the abuse of anonymous comments in defamation of individuals or groups on web portals that were the subject of attention of the Monitoring Team. In other reports the analysis of web portal was reduced to broad assessment by listing examples of problematic comments of visitors.

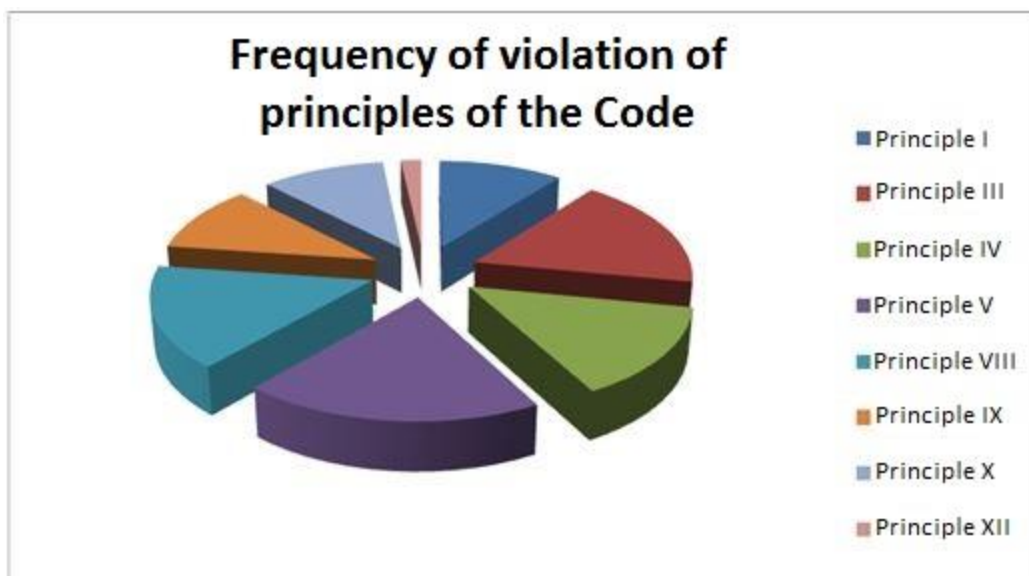
The fourth report listed 22 examples of violations of the Code in the case of comments under articles published on web portals, but it did not state whether all the examples were taken from the web portal “Vijesti”, as can be concluded from the statement in the introductory text.

The fifth report listed seven examples of articles published on the web portal “Vijesti” commented by visitors in a manner that violates the Code. The MSC also emphasized that the editors of this web portal delete improper comments generally, but also rightly concluded that this is done “with a great delay”, after these comments “remain for hours under the information to which they refer”. In its latest report, the MSC supported the editorial position of web portal “Vijesti”<sup>65</sup> that visitors of the portal should be warned about the rules, finding that “the part in which the editors disclaim any responsibility for what is written as unacceptable”<sup>66</sup>. In its latest report, the MSC rightly concluded that “it is essential to amend the Code of Montenegrin Journalists in order to clearly define the rules of administration of comments”.

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<sup>65</sup> “Comments are published on the web portal in real time and Vijesti online news cannot be held responsible for what is written. Hate speech, swearing, insulting and defamation are prohibited. Such content will be removed as soon as it is observed, and the authors may be reported to competent institutions”.

<sup>66</sup> “The MSC supports the idea to warn the readers of the web portal, finding that the part in which the editors disclaim any responsibility for what is written as unacceptable... This is not in accordance with professional standards or with the principles of editorial policies: the editorial boards are always responsible both for their own texts and texts that they publish as well as for the published comments of readers, i.e. the entire contents published in the media”. (From the MSC report for the period 1 December 2012 – 1 March 2013)



Reports of the MSC do not yet state which principle of the Code has been violated, i.e. the guidelines for this principle.

### 5.1.7. Distinction between hate speech and offensive speech

The Media Self-Regulation Council (MSC) in its reports mentioned several examples of alleged hate speech in articles published in daily newspapers and comments under articles published on web portals. However, it is evident that the MSC does not make a clear distinction between hate speech, as defined in the Code<sup>67</sup> and the Recommendation on hate speech of the Committee of Ministers of the Council of Europe from 1997<sup>68</sup>, and offensive speech, i.e. it was noticed that the offensive speech is qualified as hate speech.

For example, the report covering the period from 1 August to 1 October 2012, stated parts of the text “Draža’s front (DF)” by Marko Udovičić (Marko Vešović) and Šeki Radončić, published in daily “Pobjeda” as an example of hate speech. According to the authors of the report, these parts contained insults against the leader of the Democratic Front, Miodrag Lekić.

<sup>67</sup> Guidelines for interpretation of Principle 5 of the Code, Hate Speech

(a) Media institutions must not publish material that is intended or is likely to engender hostility or hatred towards persons on the grounds of their race, ethnic origins, nationality, gender, physical disabilities, religion or political affiliation. The same applies if it is highly probable that publication of a material may cause the above stated hostility and hatred.

(b) Journalists must take utmost care to avoid contributing to the spread of ethnic hatred when reporting events and statements of this nature. It is journalist's duty to respect other states and nations.

<sup>68</sup> Recommendation on hate speech of the Committee of Ministers of the Council of Europe from 1997: “the term “hate speech” shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin”.

The same mistake was made in case of the qualification of insults from the polemic correspondence published in the press, led by Janko Vučinić, the former leader of the Union of Ironworks from Nikšić, on one side, and the former director of this factory Vojin Đukanović and Editor in Chief of the daily “Pobjeda” on the other side. This was also done in the case of the polemical text “Percentage and a half of fear” (“Vijesti”, 28 September) by Miodrag Perović, in which he expressed his opinion of the leader of the Democratic Party of Socialists Milo Đukanović.

In its first report, the MSC stated that “a great number of insults was registered on personal accounts in some Montenegrin media, and especially in columns by Marko Vešović, Željko Ivanović, Blagoje Grahovac, Balša Brković, Miodrag Perović”, but it did not specify these insults, and how they, in specific cases, constituted a violation of the Code.

The report of the Self-Regulatory Local Press Council (SLPC) stated that some media outlets “published several texts from pre-election rallies that contained certain parts that were on the verge of hate speech”, but they also stated that “these were obviously statements of the participants in the rally, and should therefore be considered as such”. The report did not, however, mention in what media were these texts published nor did it quote parts that were “on the verge of hate speech”, so it cannot be assessed whether they actually were examples of such speech.

### **Recommendations:**

- The role of a self-regulatory body should not be exhausted in the monitoring and analysis of media practice, but primarily in response to complaints and appeals of injured or interested physical and legal entities, the prevention of violations of the Code by timely pointing out the violations of ethical standards and helping the media and journalists correct the mistakes<sup>69</sup> they made or reduce their harmful effects.
- When a self-regulatory body records an example of violation of the Code, it should precisely specify what the violation involves, as well as what principles and ethical standards had been violated. In the event that the Code is deficient in that area, it should offer an appropriate amendment and initiate a professional debate on this matter.

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<sup>69</sup> The example of the Editorial Board of “Vijesti” that removed the homophobic comments from the text published on 17 October 2012 after the HRA pointed out the problematic content of these comments is a good example that the media are ready to react when mistakes are pointed out to them.

- Self-regulatory bodies should avoid assessment of professional and ethical values of contents of the media if they cannot validly argue the assessment by referencing the Code or relevant authorities and sources relevant to these issues, such as the European Court of Human Rights.

## **6. COMPARATIVE MONITORING AND ANALYSIS OF HUMAN RIGHTS ACTION**

In contrast to the results of monitoring of the MSC, which showed that most violations relate to the Principle 5 (hate speech), then 8 and 4, according to the monitoring conducted by the Human Rights Action (HRA) from 1 September 2012 to 1 March 2013, violations mostly regarded Principle 10 of the Code, i.e. violation of the presumption of innocence is the most common form of violation of the journalistic standards on ethics. By frequency of violations, according to the HRA, Principle 1 of the Code is at number one – one-sidedness and selective approach to facts.

### **6.1. Principle 1 of the Code: selective approach to facts, one-sidedness**

The Media Self-Regulation Council (MSC) in the report covering the period from 1 October to 1 December 2012 overlooked the violation of Principle 1 of the Code in reports on exit polls published on the online edition of “Vijesti”, conducted by pollster Miloš Bešić, PhD, and his colleagues from the Faculty of Political Sciences. Web portal “Vijesti” on 14 October 2012 published an article titled “Maraš: Team of the Faculty of Political Sciences does not violate the law by conducting polls, if it respects the rules”, which stated the facts selectively and on that basis the report was inaccurate and unethical. Namely, the report only partially quoted Article 2 of the Law on Election of Delegates and Deputies, and the public was misled to believe that the so-called exit polls are illegal and punishable in Montenegro.

During the period covered by this report, besides the above mentioned, other examples were also recorded where in various ways and in a more pronounced manner Principle 1 of the Code<sup>70</sup> and some guidelines<sup>71</sup> that specify the ethical standards of this principle were also violated. Examples noted by the HRA associates were not recorded by the MSC.

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<sup>70</sup> Principle 1 of the Code of Montenegrin Journalists: “Duty of a journalist is to respect the truth and persistently search for it, having in mind a right of the public to be informed and human need for justice and humanity”.

<sup>71</sup> Guidelines for Principle 1

1.1 General standards: “Journalists must maintain the highest professional and ethical standards. They must take all reasonable steps to ensure that they disseminate only accurate information, and that their comments on events are genuine and honest. They must never publish information that they know to be false or maliciously make unfounded allegations about others that are intended to harm their reputations. It is journalist's right to refuse an assignment being opposite to the ethic codex”.

The first example refers to unconfirmed rumours that a journalist of “Blic”, Montenegrin edition, “picked up” in Rožaje and took for granted, without trying to find out the truth. This daily, on 26 November 2012 (in section “Chronicles”, page 11) published an entrefilet (fact box) with a text titled “Alleged links with BS”, which states: “There is a speculation in Rožaje that Safet Kalić financed the Bosnian Party in recent elections. This speculation is supported by the fact that two days before the elections, employees of hotel “Rožaje” and cafe “Tajson” wore t-shirts with “I choose my 10” written on them. Citizens of Rožaje say that workers are not allowed to do so without Kalić’s knowledge, even though he is not currently in Rožaje. In addition, allegedly the former Kalić’s security provided personal protection to the President of the RS Rafet Husović”.

The following example concerns putting certain facts in an inappropriate context, i.e. in the context that would justify the accusations against a certain person.

Daily “Pobjeda”, on 31 October 2012 (in section “News”, page 6) published an article with subtitle ““Prince” and “analyst” Mirko Vuletić Kujavski spoke about our country at a conference in Germany” and title “Daka, Carević, Zaimović and Čelebić paid for slander of Montenegro”. In the subtitle of the article the mentioned Vuletić is accused of “regularly speaking the worst untruths about Montenegro in Germany” and states that the activities of this, as said, controversial person, are “paid by some of the leading Montenegrin businessmen”. The article also disclosed which companies transferred money to the account of Vuletić’s NGO and how much.

The text presented accusations on account of one man and quoted the alleged untruths stated against Montenegro at a meeting, even though the article noted that he “regularly states these untruths in Germany”. “Pobjeda” did not ask Vuletić to comment on the accusations made against him. Quotes are taken out of the context and presented in a manner that proves the position that Vuletić is “smearing” Montenegro. In the same one-sided manner, the money paid to Vuletić’s NGO is associated with the alleged “slander”. This text violated Principle 1 of the Code, in the context explained in the guideline which states that “the public’s right to be informed does not justify sensational reporting” and that “therefore, journalists must not

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1.2 Accuracy: (a) “Before publishing a report, the journalist must ensure that all reasonable steps have been taken to check its accuracy. Journalists must endeavour to provide full reports of events and must not be silent about or suppress essential information”.

(b) “The public’s right to be informed does not justify sensational reporting. Therefore, journalists must not distort information by exaggeration, by placing improper emphasis on one aspect of a story or by giving only one side of the story. They must avoid using misleading headlines or advertising slogans. The facts must not be distorted by reporting them out of the context in which they occurred”.

distort information by exaggeration, by placing improper emphasis on one aspect of a story or by giving only one side of the story”.

The following examples concerns a different nature of one-sidedness, reflected in the omission of the other party or relevant sources.

Daily “Pobjeda”, on 3 November 2012 (in section “In Focus”) published an article with subtitle “President of MASA presented a harsh assessment of our country to his Macedonian counterpart in Skopje” and title “Momir Đurović: Montenegro is unsustainable and should not exist”. The text, based on the testimony of unnamed sources, quotes and paraphrases statements from a dispatch that the Ministry of Foreign Affairs received from the Ambassador to Skopje, who, according to the text, witnessed what the President of MASA said. At the end of the article it is stated that the President of MASA “Momir Đurović was not available to journalists of Pobjeda on Friday”, thereby offering an explanation as to why the other side is not present in the text.

However, this story does not pertain to those that need to be urgently published, since the public would not be at a loss if it was published at a later date, on the contrary, the public would gain more because of the information that the other side would have provided, especially the side that serious accusations had been made against. This is a minimum that should be applied in such cases in order to maintain a level of basic professional and ethical standards of journalism.

Daily “Vijesti”, on 31 October 2012 (in section “Society”, page 11) published an article titled “Hopefully it will not start before the tender”, which speaks about the readiness of Montenegro to welcome the stormy winter weather similar to the one from the previous year. The article questions the role of the “Crnogoraput”, the company responsible for cleaning of roads, and poses a question whether it learned a lesson from the previous winter. The article then states that it was not possible to obtain an answer to this question from “Crnogoraput” the previous day because the head of the company Željko Leković did not respond to calls and text messages from journalists of “Vijesti”.

This story also does pertain to those whose relevance and importance would diminish in 24 hours, which is the usual period of time between two issues of daily newspapers, so there was no reason not to wait for the response of relevant sources on such an important issue. The journalists did not make an effort to seek the answer to the question from someone else in the company, or to try to find out from persons in charge of relations with the media and the public the reason why Leković is not available.

Daily “Vijesti”, on 24 October 2012 (in section “Economy”, page 5) published an article titled “Combine in charge of cleaning”, in which the owner of a private company “Čisto” Neđeljko



Koprivica accused the Aluminium Combine that they did not meet the financial obligations from the contract, which is the reason they left the Combine.

This text offers the readers only one side of the dispute, not supported by material evidence. According to the content of the article, journalists did not even attempt to obtain the position of the other side, although there were no reasons for urgency in publishing this text, nor did they attempt to verify the accuracy of statements of the source that made the accusations.

Daily "Dan", on 2 November 2012 (in section "Society", page 12) published a story titled "Selling weapons to Assad regime" while the subtitle stated "Montenegro Defence Company exported missiles from port Bar to Syria despite the blacklist of the United States". The story was announced at a prime location on the cover page (upper left) next to a photograph of the President of Syria. The report, in an entrefilet (fact box), emphasized that the representative of Montenegro Defence Company (MDI) Zoran Damjanović denied a year before that this company is reselling weapons to states under international embargo. The current story does not, however, contain a newer statement of the MDI representatives, nor is it stated that journalists attempted to obtain their position.

Daily "Dan", on 7 November 2012 (in section "Chronicles", page 9) published a story with subtitle "Command of Helicopter Unit ignored warnings that the gazelle in which three officers of the Army of Montenegro (VCG) were killed is not for use" and title "Test pilot hinted at the fault three times". The next issue from 8 November (section "Chronicles", page 9) published a continuation of the story about the death of helicopter crew with subtitle "Deputy Minister of Defence, Colonel Željko Fušić, a member of the committee that examines the cause of death of officers, even though he is directly responsible for the failure of the helicopter" and title "The accident is investigated by those responsible for it". The issue from 9 November published (section "Chronicles", page 9) a third text dealing with the same topic with subtitle "After the texts published in "Dan" a super analysis of the cause of helicopter crash in Luštica is in preparation" and title "The plaintiff holds the evidence on the death of pilots". The major part of the text are reaction from the Ministry of Defence on allegations from previous two articles, and their denial.

The first story "Dan" published is based on an unnamed source, whose allegations "Dan" did not even attempt to verify, nor did it obtain a secondary source (document) to confirm the story of the primary, unnamed source. Although there was no reason for haste, because the story would not have lost relevance and importance, "Dan" did not even wait for the Ministry of Defence to express their opinion. The continuation of the story presented direct accusations against the Deputy Minister of Defence, but they were not supported with evidence in the text, nor is the effort to check the incriminating version of the story with other relevant sources or on the basis of documents and secondary sources evident.

In this story, “Dan” dealt with an important and controversial topic, but the story remained an incomplete and one-sided example of research attempt, which ignored the ethical standards from Principle 1 of the Code and guidelines to this principle.

During the period covered by this report, in addition to the above mentioned, there were several other examples where, more or less, the border between professionally correct and sensationalist reporting prescribed by the Code<sup>72</sup> was crossed. The following examples were also not mentioned in the reports of MSC.

Daily “Dan”, on 5 November 2012 (section “Occasions”) published an article titled “Five gays infected with AIDS”, which presented research results of the Institute of Public Health concerning the gay community and the risk of sexual diseases.

Data disclosed in the title are part of the data obtained during the research, but there is no professional justification for extracting this information in the title and it serves only to achieve a sensational effect, further stigmatizing members of a vulnerable population group.

Daily “Dan”, on 29 November 2012 (section “Chronicles”) published an article with subtitle “DPA reported that the smuggling of cigarettes through Montenegro severely hit European states” and title “Milo damaged the German budget for \$10 billion”. The text is, basically, the authorship of the German news agency DPA, processed by the Editorial Board of “Dan”.

The content of the text suggests that the State of Montenegro was involved in the smuggling of cigarettes, but that does not justify the personalization in the headline. Such headline gives a sensationalist tone and makes it one-sided.

Daily “Dan”, on 10 January 2013, published an article with subtitle “Inmate Simo Žižić passed away in the Clinical Centre” and title “Died of grief for the woman he killed”. The text is, for the most part, a reminder of the crime of murder of a women in the village Strug near Šavnik, and it contains the sentence: “According to his colleagues in the cell, he kept saying he was sorry for killing his wife, and that the grief will kill him”.

Only one sentence, which contains a paraphrase of the testimony of unidentified sources, and whose authenticity can reasonably be questioned, was used for the heading. It is this part of the text that re-actualized this crime and served for a sensationally formulated headline.

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<sup>72</sup> Principle 1 of the Code of Montenegrin Journalists, Guideline 1.2 Accuracy, under b): The public’s right to be informed does not justify sensational reporting. Therefore, journalists must not distort information by exaggeration, by placing improper emphasis on one aspect of a story or by giving only one side of the story. They must avoid using misleading headlines or advertising slogans. The facts must not be distorted by reporting them out of the context in which they occurred.

## **6.2. Principle 2 of the Code: critical attitude toward individuals in power**

None of the published reports of self-regulatory bodies (the MSC five reports and the SLPC one report) recorded a violation of Principle 2 of the Code<sup>73</sup> that caused a dispute within the JSB Council and led to the end of operation of this self-regulatory body (*See Section 2 and footnote 6 of this Report*).

The HRA monitoring proved that a part of Montenegrin journalists, according to the second sentence of Principle 2 of the Code are “sharp observers of those who have social, political and economic power” (more or less observing professional standards or violating them) while to others, this kind of journalism is less or not at all important.

Bearing in mind that this part of Principle 2 of the Code in self-regulation practice so far was interpreted in different ways, it is necessary to specify this principle through appropriate additional guidelines. These guidelines should clearly distinguish when the journalist is expected to work in the spirit of the mentioned principle, and when not, because some forms of journalism (news, reports) are not always suitable for it. In addition, it should be noted that this principle embodies the very essence of quality journalism, and it is questionable whether this quality could be standardized and secured with coercion, i.e. whether its violation could be sanctioned in any way.

## **6.3. Principle 3 of the Code: news and commentary together**

During the period since the HRA monitors the media within the project, three characteristic examples of violations of Principle 3 of the Code that the news and comments should be clearly separated were recorded.<sup>74</sup>

The first example is from daily “Dan” (29 September 2012), which published the report from the session of the Inquiry Committee of the Parliament of Montenegro, before which, at the time former Montenegrin Prime Minister, Milo Đukanović testified in the case of corruption in the privatization of Telekom Montenegro. Title of the report title was on the cover page and the report was published in its entirety in the “Economy” section with heading “Milo talked nonsense for four hours”.

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<sup>73</sup> “A journalist is obliged to defend freedom and the right to collect and announce information without being disturbed as well as to give free comments and critics. A journalist should be sharp observer of those who have social, political and economic power.”

<sup>74</sup> “The facts should be sacred for a journalist, and it is his duty to put them in the right context and prevent their misuse, whether it is a text, picture or a tone. Rumours and assumptions should be clearly marked as such. It is a duty to clearly separate news from a comment.”

Another example is from daily "Vijesti" (24 October 2012). In section "Society" it published an article titled "Who does not want the murderers to be found" and subtitle "Crime without punishment: Six years from the murder of Srđan Vojičić and attacks on Jevrem Brković". The text, in the first two paragraphs, states: "For six years the Montenegrin police and the Prosecutor's Office do not want to shed light on the murder of Srđan Vojičić and an assassination attempt on the writer Jevrem Brković"/"For six years the crime is without punishment, but apparently new changes in the top of the police will make any improvements in finally solving the murder, and putting the killers where they belong".

The third example is from daily "Dan" (20 November 2012). In section "Chronicles", page 9, it published a report from the trial of Metropolitan of Montenegro and the Littoral Amfilohije. The subtitle of the report contained: "The metropolitan of Montenegro and the Littoral punished for alleged hate speech on Christmas Eve".

In case of the text "Milo talked nonsense for four hours", the title of the report contained a journalistic quality assessment of the testimony of former Prime Minister Đukanović, who is not included in the report, nor is it mentioned that these words had been uttered by some of the participants of the session, so we can reasonably conclude that this assessment was made by the journalist or editor. In the case of the published article, it is clear that it belongs to the category of news or report, as one of the informative journalistic genres, in which, as required by the Code, it is not desirable that the journalist expresses his/her own value judgments, but rather to present the facts of the event.

The article from daily "Vijesti" titled "Who does not want the murderers to be found" is a genre hybrid, composed of parts of the interview or statements of the interested party and journalistic commentary, which essentially reflects the opinion of the interested party, in particular uncle of the person killed, that he stated in the same text.

In the subtitle of the report from the trial of Metropolitan of Montenegro and the Littoral Amfilohije, daily "Dan" commented the sentence using the word "alleged". Commenting the judgment is, of course, legitimate, but it is not ethical to do so in the report of the trial, especially in the news headlines.

None of these examples were recorded in the reports of the Media Self-Regulation Council (MSC).

#### **6.4. Principle 4 of the Code: correction, denial, avoidance of apology**

During the period covered by this report, there were several examples where the media published reactions of the injured party and thus corrected the previously made mistakes, but

they did not offer an apology in the manner suggested in the guidelines for Principle 4 of the Code<sup>75</sup>, and this was not recorded in the reports of the Media Self-Regulation Council (MSC).

The Media Law also prescribes the right to response and correction, including the right to press charges for the publication of a correction or response.

Daily “Dan” on 3 November 2012 continued to write about the operation of the Montenegro Defence Company (mentioned earlier in this report), provided that the new story (published on page 13 in section “Society”) was announced as exclusive on the cover page with title “30,000 guns sent to cartels in Mexico” and subtitle “Government’s company resold weapons from China, despite the U.S. embargo”. The story was announced on the upper half of the cover page and illustrated with a photograph of Zoran Damjanović, Director of MDI.

In the issue from 5 November 2012, “Dan” published a denial of the MDI in section “Chronicles”, on page 10, in the lower half of the page. The denial was not announced on the cover page of the issue, although in the disputed issue, the story was announced on that side, which would be in the spirit of Principle 4 of the Code<sup>76</sup> and the guidelines<sup>77</sup> which explains the interpretation of this principle.

In the issue from 8 November 2012, “Dan” published the opinion of the other side regarding the allegations stated in the article titled “30,000 guns sent for the cartels in Mexico” and in an entrefilet along with the new text dealing with the same subject, titled “Investigation because of texts in Dan”.

“Dan” has not acted ethically when it published the story without the opinion of the other side, in this case the company it accused, and did not verify the allegations of the source that made the accusations. The mistake was partially corrected through subsequent publication of the opinion and the denial of the accused side, but new mistake was made with inappropriate treatment of subsequently received information.

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<sup>75</sup> Guideline (b) for Principle 4 of the Code of Montenegrin Journalists: “If a media institution discovers that it has published an erroneous report that has caused harm to a person’s or institution’s reputation, it must publish an apology promptly and with due prominence”.

<sup>76</sup> Principle 4 of the Code of Montenegrin Journalists: “It is a duty of a journalist to complete an incomplete and correct incorrect information, especially the one that can cause any harm and at the same time to make sure that the correction is pointed out in the adequate manner”.

<sup>77</sup> Guidelines for the Code of the Montenegrin Journalists: (a) “If a media institution discovers that it has published a report containing a significant distortion of the facts, it must publish a correction promptly and with comparable prominence. This correction must refer to the previous incorrect report.” (b) “If a media institution discovers that it has published an erroneous report that has caused harm to a person’s or institution’s reputation, it must publish an apology promptly and with due prominence.” (c) “Due prominence” in this context means publication of the correction in the same space (in the case of print media) or within the same programme (in the case of broadcast media).”

## **6.5. Principle 5 of the Code: issues of ethnicity and nationality**

The Media Self-Regulation Council (MSS) in its latest report recorded a case of unethical mention of nationality/ethnicity of persons suspected for certain crimes. This case is also noted by the associates of the Human Rights Action (HRA). It concerns news published on the web portal Café del Montenegro on 20 January 2013 at 10:48, which states that an Albanian, who has been living in the United States in the state of New York for years, raped a dog of one tenant in whose building he worked as a janitor. The news stated the full name of the accused, his age and photo, and the headline was worded as follows: “USA: an Albanian raped his neighbour’s Labrador!”

During the period covered by this report, the HRA associates recorded two more cases that, among other things, mentioned nationality/ethnicity of persons suspected for certain crimes in non-ethical manners and thus violated Principle 5 of the Code<sup>78</sup>.

Daily “Blic”, Montenegrin edition, on 6 October 2012 (section “Chronicles”) published a news article titled “Albanians stealing in the villages of Cetinje”, stating that the police had arrested three Albanian nationals suspected of committing theft in Cetinje.

Daily “Dan” on 16 November 2012 (section “Chronicles”, page 11) published a news report titled headline “A Romani beaten to death” which stated that the suspected Adović were caught stealing from Miraš Selimović (Romani from the news headline), and they beat him to death. However, the report does not mention that Selimović is also a Romani by nationality, and highlighting this fact in the title sounds like pandering to the stereotype that Roma people are thieves and that this case may involve a hate crime.

## **6.6. Principle 6 of the Code: unethical gathering of information**

During the period covered by this report, another example was recorded of an offence in regard to the standard prescribed by the Code<sup>79</sup> when it comes to gathering information. In the report of the Media Self-Regulation Council (MSC), this case was also emphasized as unethical, but only in regard to the violation of Principle 3 of the Code 3 because of, as stated, tendentious nature of the text (referring to the headline) “that distorts the facts of the text in an inappropriate manner”.

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<sup>78</sup> The Code of Montenegrin Journalists in Principle 5 states: “One’s race, religion, nationality, sexual orientation and family status will be mentioned by a journalist only if that is necessary for the information” and the guidelines for this principle states that: “when reporting crimes, it is not permissible to refer to the suspect’s religious, ethnic or other minority membership unless this information can be justified as being relevant to the audience’s understanding of the incident”.

<sup>79</sup> Principle 6 of the Code of Montenegrin Journalists: “In order to collect information in any form, a journalist should use professionally honourable and legally allowed methods. Any violation of this rule is allowed only in cases when those methods are not sufficient, and information that is to be obtained of the great importance for the public”.

Daily "Dan", on 18 September 2012, published an article titled "Cynic, your face damages our cause". Text announced on the cover page contains quotes and paraphrases from a letter that President of the Church community in Podgorica of the Montenegrin Orthodox Church (CPC) Igor Koljenšić sent to Metropolitan of the CPC Mihailo, making harsh accusations on his account.

Daily "Dan" on 26 October 2012 published a reaction by the author of the letter, in which he accuses them of illegally coming into possession of his letter that, as he claimed, had the character of private correspondence, and by publishing it, they violated his constitutional rights.

Daily "Dan" did not mention in how they came into possession of the letter, but on basis of claims of its author it was clearly not intended for the public.

Although private in nature, the letter raised some issues of public importance, because they concern the relations within the CPC, a religious organization that brings together a significant number of people. Daily "Dan" did not, however, act ethically when it, without the knowledge of the author, published the letter. We cannot claim that "Dan" came in possession of the letter in a dishonest way, but it would be ethically right to inform the author about the possession and ask for his consent to publish it. In case the author denied such consent, on the basis of its findings, "Dan" could address the topic of conflict in a way that would not necessarily imply quoting the letter, but it could serve as initial information for legitimate professional research.

#### **6.7. Principle 7 of the Code: protection of sources**

The reports of the MSC and the SLPC there were no recorded examples of violation of Principle 7 of the Code, which regulates the attitude toward the source of information<sup>80</sup>. Such examples were also not observed by the HRA associates.

#### **6.8. Principle 8 of the Code: protection of privacy**

The report of the Media Self-Regulation Council (MSC), covering the period from 1 August to 1 October 2012, stated as problematic the publication of the list of alleged "double voters" in daily "Dan", which contains full names, identification numbers and addresses of these persons, but this was recognized as the only violation of the Personal Data Protection Law. The report,

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<sup>80</sup> "It is a right and duty of a journalist to protect confidential information sources, but also always to check motives of the confidential source before one is promised anonymity and protection."

however, overlooked that the above case, as well as two more that are not even mentioned, violated ethical standards prescribed by the Code.<sup>81</sup>

In issues from 19 September 2012, daily newspapers “Dan” and “Vijesti” published excerpts from the Central Voter Registration List that the NGO Network for Affirmation of NGO Sector (MANS) forwarded to them, containing identification numbers of citizens and their addresses of residence.

Daily “Vijesti”, on 10 October 2012 (section “Politics”) published an article with subtitle “Phantoms: After the analysis of the concluded Central Voter Registration List, MANS stated that the State authorities have made minimal alterations, despite their warnings that there were numerous irregularities in the final List” and sub-headline “the other army of duplicate voters”. The article revealed the identity of several person with same names and their private addresses.

The same was published by daily “Dan” on 10 October 2012 (section “Politics”) with subtitle “After a thorough analysis, MANS discovered numerous irregularities in the final version of the Voter List”, and headline “14,000 phantoms were not deleted”.

Publication of full names of persons and their private addresses was not in the function of finding the truth about whether there are abuses in the list. Daily newspapers “Vijesti” and “Dan” did not properly counterbalance the public's right to know with the personal rights of the persons whose identification numbers had been disclosed, and they especially did not comply with the guideline of the Code, which refers to the special protection of private addresses. Daily newspapers could have pointed out the problem of validity of voter lists without revealing the identification numbers and addresses of persons, stating that they have evidence, but not sharing it with the public.

The report of the MSC covering the period from 1 October to 1 December 2012 did not record the case of ethically problematic reporting<sup>82</sup> of three daily newspapers in editions from 8 October 2012 about the suicide of a woman in Podgorica.

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<sup>81</sup> Principle 8 of the Code of Montenegrin Journalists states that: “a journalist is obliged to be very careful when dealing with private life of people. A right to private life is disproportional to the importance of a public function that an individual performs...” and the guidelines for this principle emphasize that “the public’s right to information must always be weighed against the personal rights of those involved” and that “people’s private addresses enjoy special protection”.

<sup>82</sup> In guidelines for Principle 8, the Code of Montenegrin Journalists states that “reporting on suicides calls for restraint” and suggests that “this applies in particular to the publication of names and detailed descriptions of the circumstances”. The Code emphasizes that “the exceptions are justifiable only if the case is of public interest”.



In section "Society", daily "Dan" published a news report with the subtitle "Vidosava Jovanović committed suicide out of bitterness for the outcome of the trial for the murder of her son", and headline "a mother killed herself after an acquittal". The report presented details of the death of this woman. "Dan" also published a photograph of the tragically deceased wife, and the news was announced on the cover page of the edition, along with the same photograph.

News of the suicide was published in the daily "Vijesti" (section "Society") with subtitle "Tragedy: Vidosava Jovanović committed suicide the day after the trial for the murder of her son", and title "Mother could not accept the verdict". Along with the news, which did not contain too many details, "Vijesti" also published a photograph of the location where the body of the tragically deceased woman was found.

Daily "Dnevne novine" published the news of the suicide of the woman (section "Chronicles") with subtitle "After the acquittal", and title "Mother of the killed man committed suicide". The subtitle of the news contained a sentence: "After the verdict, Jovanović screamed and swore in the hallway of the High Court". Along with the news, "Dnevne novine" also published a photograph from the police investigation of the site where the body was found. The news from with the same photograph was announced on the cover of "Dnevne novine".

The tragic death of this woman and the circumstances that led to it are not of great interest to the public, so this case cannot be subsumed under the exceptions mentioned by the Code, concerning the disclosure of identity of the person who took his/her own life. The news reports have also ignored the suggestions of the Code, to exercise the utmost restraint and reservation in these cases.

#### **6.9. Principle 9 of the Code: disclosure of identity of juveniles, who are perpetrators or victims of crimes**

The Monitoring Team of the Media Self-Regulation Council (MSC) properly noted and condemned the unethical examples of disclosing the identity of juveniles when reporting about crimes.

The report of the MSC covering the period from 1 August to 1 October 2012 stated that in the editions from 4 and 5 September 2012, daily "Dan" revealed the identity of a juvenile suspected of murder, and in the editions from 11 and 12 September 2012, the same daily newspaper, reporting on the case of infanticide, revealed the identity of the children of the woman suspected of infanticide. (Regarding the latter case, the MSC received an appeal of interested female citizen.)

In principle 9 of the Code states that the journalist "obliged to protect the integrity of adolescent persons, different and disabled persons" and the guidelines for this principle oblige

the media “to comply with the principles of the UN Convention on the Rights of Children and to research with special care the information that effect children’s interests”.

The principles of UNICEF concerning the reporting on children<sup>83</sup>, the journalist are suggested, among other things, that “the dignity and rights of every child are to be respected in every circumstance” and not to additionally characterize any child. One of the guidelines states always to change the name and obscure the visual identity of any child who is identified as “charged or convicted of a crime”.

#### **6.10. Principle 10 of the Code: violation of the presumption of innocence**

In texts of various genres, but mostly in informative genres (news), published from 1 September 2012 to 1 March 2013 in five daily newspapers distributed in Montenegro and in the weekly “Monitor”, associates of the Human Rights Action recorded 103 cases of violation of the presumption of innocence. The presumption of innocence was violated by claims or suggestions in the composition of the title (headline, title, subtitle), in the first paragraph or elsewhere in the text, that someone, whose identity is revealed in full or only by initials, committed a criminal offence, although it is clear from the whole text or source to which the author of the article calls for (police press release, for example) that the person is only a suspect, suspected or accused, but not convicted.

In more than 54% of recorded examples, the presumption of innocence was violated in a manner in which some part of the title composition (headline, title, subtitle) was worded, which often happened in the title, and rarely in the headline and subtitle.

Examples of this are the titles: “Jovanović stole cars”, “Bulatović seriously wounded a fellow citizen with a knife”, “A man slaughtered a woman”, “Killed for the Mafia”, “Psychiatric treatment for the murderer of the girl”, “Double killer questioned in private”. These and similar titles highlight in a sensational manner some of the information with a problematic overtone in order for the title to be more attractive.

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<sup>83</sup> UNICEF, *Reporting guidelines - Reporting guidelines to protect at-risk children*: [http://www.unicef.org/media/media\\_tools\\_guidelines.html](http://www.unicef.org/media/media_tools_guidelines.html)



In more than 15% cases, the presumption of innocence was violated by problematic wording of some parts of the composition of the title or the text. In six cases it was violated by a problematic wording of the composition of the title and first paragraph of the news (lid). In two cases it was violated by the manner in which a sentence in the first and in some other parts of the text was worded.

In two cases it was done in the caption (explanation) that accompanies the photo. In one of these two examples, the photograph shows the arrest of one of two women accused of bribery and the caption below the photo stated: "We took 50 to 1,300 Euro: During the arrest of the accused".

In the examples of violations of the presumption of innocence, according to data gathered during the monitoring of the HRA, the most violations were made by daily newspapers "Vijesti"<sup>84</sup> and "Dan"<sup>85</sup> that violated the presumption of innocence, 23, i.e. 22 times. They are

<sup>84</sup> "Montenegrin tourists rampaged in Venice", 14 September 2012; "Stole water heaters and fittings", 20 September 2012; "Spent the tax money on fun", 4 October 2012; "Stole classified documents", 4 October 2012; "A Russian who was arrested in Bar offered the police officers a bribe to release him from detention", 4 October 2012; "Broke into houses and stole", 4 October 2012; "Thiefs that rummaged weddings arrested", 9 October 2012; "Father wanted to add subuteks", 22 October 2012; "Wounded two men in self-defence?", 22 October 2012; "Jovanović stole cars", 1 November 2012; "Robbed a betting shop and bought a mobile phone", 8 October 2012; "Stole and then sold for petty cash", 7 November 2012; "Killed her husband and said: There you go, Ms", 16 November 2012; "Attacked inmates with a sharp spoon", 16 November 2012; "Šole broke his fellow citizen's nose", 5 December 2013; "Shared money among themselves and their folk", 29 December 2012; "Took a reservoir from a farm", 29 December 2012; "Stole alcohol from Merkator and Albona", 29 December 2012; "Arrested for theft in Nikšić", 25 January 2013; "Stole cameras from school", 25 January 2013; "Božović behind bars for attempted murder", 25 January 2013; "Stole doors from school", 31 January 2013; "Juveniles robbed a holiday house of a police officer", 7 February 2013; "Raković arrested for theft", 13 February 2013.

<sup>85</sup> "Stole a motor bike and mobile phones", 15 September 2012; "Resold stolen gold", 15 September 2012; "Robbed flats and houses", 4 October 2012; "Stabbed a cousin with a knife", 30 October 2012; "Stole jewellery", 30 October 2012; "Psychiatrists examining the killer", 8 November 2012; "Those who did the beating denied their guilt", 15 November 2012; "Caught the murdered in front of her house", 16 November 2012; "Beaten a Romani to death", 16 November 2012; "Brother and sister sold heroin", 24 November, 2012; "Arrested for drugs, then attended her class", 28 November 2012; "Killed for Mafia", 4 December 2013; "Caught in the act", 18 December 2012; "Among themselves shared 114.000 euros", 29 December 2012; "Slaughtered his wife", 3 January 2013; "Abused their positions", 4 January 2013; "Bought heroin in Montenegro", 5 January 2013; "Juveniles robbed school", 8 January 2013; "Mother in law committed a murder because of

followed by “Dnevne novine”<sup>86</sup>, 18 times, and Montenegrin edition of “Blic”<sup>87</sup>, 13 times. Daily “Pobjeda”<sup>88</sup> violated the presumption of innocence eight times.

In all case, the violation of the presumption of innocence relates to persons who are suspects or defendants suspected of conducting minor or serious criminal offenses. In at least two cases, the presumption of innocence was violated in news titles of persons who were also victims of the crime, which is contrary to Principle 10 of the Code, and with the recommendation of the Committee of Ministers to Member States on assistance to victims and prevention of victimization.

The first three reports of the MSC did not state any violation of the presumption of innocence. It was only in the fourth and fifth reports that examples of this type of violation of the Code were recorded, provided that in the period from 1 December 2012 to 1 March 2013 the MSC recorded only two cases, while in the same period the HRA associates recorded 28 examples of violation of the presumption of innocence in the daily newspapers “Vijesti”, “Dnevne novine”, “Pobjeda”, “Dan” and the weekly “Monitor”.

The fourth report of the MSC, covering the period from 1 October to 1 December 2012, the violation of the presumption of innocence in the case of teacher Marija Fatić from Podgorica was not mentioned, but a member of the Monitoring Team, after it was announced that the Prosecutor’s Office dismissed the police charges against the teacher and lawyers brought to attention that she can sue the media, said that this was a flagrant violation of the presumption of innocence. In its latest report, covering the period from 1 December 2012 to 1 March 2013, the MSC did not mention that it had overlooked this case, but in the introduction stated that

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torture”, 24 January 2013; “Skank hidden in the bushes”, 29 January 2013; “Robbed a priest”, 31 January 2013; “Embezzled 34,500 Euro”, 1 February 2013.

<sup>86</sup> “Cocaine in the wallet of Muša’s fellow traveller”, 2 October 2012; “Stole a Ford in Maine”, page 15, 2 October 2012; “Entered through windows and stole gold and guns”, 4 October 2012; “Damaged the investors for more than a million euros”, 4 October 2012; “Killed out of irritation and anger”, 4 October 2012; “Saved herself from rape with a knife”, 9 October 2012; “Car stolen by a highwayman from Rožaje”, 30 October 2012; “Robbed in Old town”, 30 October 2012; “Paid a loan with a knife in the stomach”, 30 October 2012; “Cause a fire, an olive plantation burnt down”, 31 October 2012; “Stole two guns”, 31 October 2012; “Brother and sister in street sales”, 24 November 2012; “Run away from the store with an unpaid coat”, 1 February 2013; “Bomber from Podgorica arrested”, 1 February 2013; “Hidden heroin in spare tire”, 5 February 2013; “Plaintiff killed a pedestrian by car”, 12 February 2013; “Serbs robbed banks in Slovenia”, 12 February 2013; “Mugoša willingly killed his best-man”, 12 February 2013.

<sup>87</sup> “Guns thief arrested”, 4 October 2012; “Murderer of the girl in court on 24 October”, 4 October 2012; “Albanians robbed the villages of Cetinje”, 6 October 2012; “Double murderer questioned in private”, 6 October 2012; “Raised 9,500 euros with fake credit cards”, 7 November 2012; “Psychiatric treatment for the murderer of the girl”, 10, 8 November 2012; “Murderer of neighbour detained”, 26 November 2012; “A citizen of Podgorica committed 16 robberies in Budva”, 27 November 2012; “Beaten an old lady until she gave him 100 euros”, 27 November 2012; “Thief arrested”, 29 December 2012; “Bulatović seriously wounded a fellow citizen with a knife”, 5 January 2013; “Plaintiff caught stealing expensive cosmetics”, 19 January 2013; “Beaten and tied down an old lady”, 19 January 2013.

<sup>88</sup> “Arrested for robbery in Montefarm pharmacy”, 7 October 2012; “Put expensive creams in boxes of the cheap ones”, 18 January 2013; “Plaintiff cosmetics still under investigation”, 23 January 2013; “Worker of the ‘De Luks’ taxi robbed a customer”, 23 January 2013; “Stole a coat from a store”, 1 February 2013; “Plaintiff before the judge for stealing cosmetics”, 7 February 2013; “A man from Nikšić stole everything he could”, 7 February 2013; “Sold four wheels from other people’s van”, 7 February 2013.

the teacher Fatić “was demonized by certain newspapers after the arrest that dedicated to her case the main pages with sensational headlines”.

This case is a classic example precisely because after the dismissal of charges it again came to light and showed how serious an ethical offense can be when the media condemn someone with no authorization to do so, before those who are competent in such matters, and therefore it deserves to be analysed in more detail.

Daily “Dnevne novine”, on 24 November 2012 (section “Chronicles”, page 12) published a news report titled “Brother and sister in street sales”. The introductory paragraph (lid) stated that “the Podgorica police arrested a brother and sister Branimir (30) and Marija (32) Fatić on suspicion that they were engaged in a long term purchase and sale of heroin”. The next sentence says that the suspects purchased heroin, and allegedly, repackaged it in their apartments into smaller bundles for further street sale at a price of 10 euros.

Daily “Dan” published a news report on the same day (section “Chronicles”, page 9), titled “Brother and sister selling heroin”. The first paragraph stated that the inspectors of criminal police, in two separate actions in Podgorica and Nikšić, arrested Branimir (30) and Marija (32) and Jovan Božović (37), for drug trafficking. It was further stated that Fatić was found with 150 grams of heroin, while a search of the car that was used by Božović, 39 kilos of skunk was found.

“Dan”, on 28 November 2012 (section “Occasions”, page 14), published a story that dealt with the anxiety of parents of students of primary school “Dragiša Ivanović” in Podgorica because the teacher Marija Fatić returned to work just days after she was arrested along with her brother, on suspicion of unauthorized production, possession and distribution of narcotics. The text also contained information from police reports, on which the police suspicion was based. “Dan” in the article stated that it failed to provide an opinion of the suspected teacher or the school administration.

Web portal Café del Montenegro, on 28 November shared the news from the daily “Dan”, titled “Teacher arrested for dealing drugs, and afterwards came to class”.

In the published news, the wording of the title, and the first paragraph, violated the presumption of innocence of suspects, and in the case of Professor Fatić it was additionally done in the subsequent story published in the newspaper “Dan”. Contrary to Principle 10 of the Code, which is clear in the sense that “a journalist has to respect the assumption that everyone is innocent until is proved differently” and “should by no means not pre-adjudicate the outcome of a court procedure”, in the published texts teacher Fatić was described as guilty.

Of course, parents fear for the safety of children and their health was justified, as it is justified that the media dealt with this case, but it is problematic that, on one hand, the manner in which they dealt with the story further upset the parents, and on the other this violated the human rights of teacher Fatić.

Some news that contained recorded violations of the presumption of innocence also contained violations of some standards of professional journalistic ethics. In this sense, this can be illustrated with the example of the news published in the daily “Vijesti” of 20 September 2012 titled “Kicked their friend in the head”. The news contained a photograph of the boy victim, which suggests that he was seriously injured, because in the photo he used crutches, while the news stated that he ascertained minor injuries.

During the period covered by this report, one typical example of a violation of the presumption of innocence was recorded, and a number of violations of principles and standards of the Code, with no reaction from the MSC, although the violations were committed by a media outlet that is a member of this self-regulatory body.

In an article titled “Scandalous: The kindergarten teacher pulling ears and slapping children”, published on the web portal Café del Montenegro (CDM) on 3 January 2013 at 15:23, it was reported that an unnamed mother accused a teacher (published first initial) of one of the kindergartens in Podgorica for beating her son and that it was the reason why he got diabetes. The text commented on the case as if the truth had already been established: “We found out that teacher S. has family problems, but it certainly does not give her the right to torture and beat children who have been entrusted to her care”.

The author of the text took for granted what she heard from the mother of the child and did not attempt to verify her claims that the teacher beat the child, or allegations that this was the reason why the child got diabetes. The reporter did not consult the doctor who treated the child or any doctor specialist in this field. She did not even try to hear what the teacher had to say.

This article violated Principles 1<sup>89</sup>, 3<sup>90</sup> and 8<sup>91</sup> of the Code.

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<sup>89</sup> Principle 1 of the Code of Montenegrin Journalists states that it is “the duty of a journalist to respect the truth and persistently search for it, having in mind a right of the public to be informed and human need for justice and humanity”.

<sup>90</sup> Principle 3 of the Code of Montenegrin Journalists states that “it is a duty to clearly separate news from a comment”, which was not applied in the case of the mentioned article. Additionally, the comment was grounded on information whose truth was not established.

<sup>91</sup> Principle 8 of the Code of Montenegrin Journalists suggests that “a journalist is obliged to be very careful when dealing with private life of people”, and that “a right to private life is disproportional to the importance of a public function that an

### **6.11. Principle 11 of the Code: accepting privileges**

The reports of the MSC and the SLPC did not record any examples of violations of Principle 11 of the Code<sup>92</sup>, relating to the possible privileges that adversely affect the journalistic independence and credibility. These examples have not been recorded by the HRA associates during the monitoring of the Montenegrin media content.

It is generally difficult to determine the violation of this principle because there are often only indications in the content or intonation of news stories, but not conclusive evidence, which would have to be obtained through a special research.

### **6.12. Principle 12 of the Code: journalistic solidarity and plagiarism**

The reports of the MSC and the SLPC did not record any examples of violations of Principle 12 of the Code<sup>93</sup>, which regulates the issue of journalistic solidarity and plagiarism, although there were public accusations of plagiarism by the web portal *Café del Montenegro* and news agency MINA.<sup>94</sup>

The monitoring of the HRA proved the widespread practice of using whole texts or parts of texts without stating where the texts were taken from, or at least the referencing to the source is not done in a clear and unambiguous manner. An illustrative example of this is recorded in the daily "Dan"<sup>95</sup>, which took almost the entire text of the "Case: "Set-up crime": Vujanović in conflict with Mandić through his underage son – reactions" from the web portal "IN4S"<sup>96</sup> (published on 8 March 2013), without specifying where the text was originally published.

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individual performs, but in those case, it is necessary to respect human dignity as well".

<sup>92</sup> "A journalist should not accept privileges of any kind that could limit or bring into suspicion his autonomy and impartiality, and affect freedom of a publisher and editorial board to make decisions."

<sup>93</sup> "It is a duty of a journalist to maintain solidarity in relation with his colleagues in the extent that would not prevent him to properly perform professional task, or to make him violate basic principles of the journalist code.

<sup>94</sup> "Montenegrin journalists often "borrow" a thought, a sentence or a whole text, without stating its real author, although this is contrary to the code of journalistic ethics. It is not rare that a report or information gathered by the Editorial Board of CdM appears in another media without naming the source" (Source: <http://www.cdm.me/drustvo/crna-gora/krada-novinarskih-tekstova-normalna-pojava>). In a statement for CdM, the Editor of the MINA Agency Milan Žugić emphasized that they encounter these problems on a daily basis: "Especially in local radio and TV stations, that although they are not subscribers, in "many ways" publish our information, without naming the source. Although we have problems with plagiarism every day, we have not sought protection of our copyrights on court. We believe that this problem could be solved with an appropriate law, and the education of journalists that the Code has to be observed".

<sup>95</sup> <http://www.dan.co.me/?nivo=3&rubrika=Drustvo&datum=2013-03-09&clanak=370790>

<sup>96</sup> <http://in4s.net/index.php/akcenat/osvrt/35102-sluaj-podmetnuti-zloin-vujanovii-u-obraunu-sa-mandiem-preko-njegovog-maloljetnog-sina-reakcije-2>

The HRA Monitoring Team noticed an illustrative example of the text signed by a journalist of “Vijesti”, which contains statements and even photos of interlocutors from abroad without naming the source, so the impression is that the extensive research on the complex topic was conducted by this journalist.<sup>97</sup> In a similar example, a part of the text indirectly stated that a journalist of London's “The Guardian” dealt with the same topic and cited his comment.<sup>98</sup> In case of daily newspapers “Dnevne novine” and “Pobjeda”, unlike the others, there is a highlighted practice of naming the sources from which something had been copied.

However, it is not always possible to accurately determine plagiarism and journalistic lack of solidarity if the journalists who were victims of such treatment by their colleagues do not publicly testify.

### **Recommendations:**

- When constrained by time, editors often violate the presumption of innocence trying to provide an attractive and short title. Putting a question mark at the end of the statement that suggests someone's guilt, can, at least partially, reduce the ultimate effect of the statement.
- As suggested by the MSC, the Code of Montenegrin Journalists should be amended so that it includes the new Internet media, but this should be done with consensus or biggest possible agreement, as previously done in case of the Code. It should be noted that “The Online Media Self-Regulation Guidebook” was adopted at the international conference “Internet 2013 - Shaping policies to advance media freedom”, organized by the Office of the OSCE Representative on Freedom of the Media, Vienna, on 14 and 15 February 2013.
- Since the basis of self-regulation is the principle of voluntary acceptance of rules, those rules are more easily accepted and observed by a smaller and more cohesive collective such as a media organization or editorial board, rather than by an imaginary collective such as “the whole profession”, especially if there are political or ideological divisions within the profession, and therefore the self-regulatory practice should first be cultivated and developed among journalists in the editorial boards of the media.
- It is crucial that journalistic reporting, in addition to ethical criteria, also meets the criteria of objectivity, meaning that the public is presented with the clearest possible image of the

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<sup>97</sup> “Randi: If the water could actually “remember”, the remedy would flow from the tap”, Vijesti, Science, p. 36-37, 17 February 2013.

<sup>98</sup> This concerns a text titled “Height is important on the political scene” (Vijesti, 5 November 2012), which represents a recycled text previously written by journalists Nic Fleming in “The Guardian”. It also used the illustration from “The Guardian”, which discretely cited the primary source. The original text is available at: <http://www.guardian.co.uk/news/datablog/2011/oct/18/world-leader-heights-tall>



concrete reality of an event, plus the elements (background and redundancy/clarification) that allow the event to be given proper context and that it is understood. Clear image of concrete reality that “took place” in the courtroom does not exist, for example, if the press reports only noted the statements of the accused, but not statements from the defence and witnesses, who are also the victims of the crime.

- Bearing in mind that a single Journalist Self-Regulatory Body ceased to function due to different interpretations of the paragraph from Principle 2 of the Code, "a journalist should be a sharp observer of those who have social, political and economic power", the guidelines for this principle should explain what this precisely means, so there would be no more misunderstandings, or in some other way prevent possible new misunderstandings and new conflicts within the journalistic profession.

- Self-regulatory bodies should pay more attention to the practice of plagiarism in the media and should encourage journalists and the public to indicate such examples.