

MONITORING OF JOURNALISTIC SELF-REGULATORY BODIES IN MONTENEGRO

FIRST REPORT - Conclusions and Recommendations

(September 2012 – March 2013)

CONCLUSIONS

- *There are currently five media self-regulatory bodies in Montenegro for monitoring the implementation of the Codex 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.*
- *In contrast to the once unified Journalist Self-Regulatory Body, whose founders, except for the media, were journalistic and media organizations, new journalistic self-regulatory bodies in Montenegro have been established only by the media.*
- *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 Codex be independent persons who are not owners, members of management or founders 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.*
- *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 MSC.*

- *Statute of the Self-Regulatory Local Press Council (SLPC) stipulates that its Court of Honour 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.*
- *While 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.*
- *Although the founding documents of MSC, SLPC and PC envisage development of their websites by the end of March 2013, only MSS fulfilled this statutory duty and subsequently published four of the five reports.*
- *Except for TV Vijesti Ombudsman, none of the newly established self-regulatory bodies led any campaign during the period covered by this report to inform the public about their mission and the possibilities that their existence provides to individuals and corporate entities in case of the media jeopardizing their rights.*
- *At the proposal of the Ministry of Culture, Ministry of Finance has approved a three-year funding (30,000 Euros) from the state budget for the needs of the Media Self-Regulation Council (MSC), regardless of the fact that this self-regulatory body does not represent the whole media industry.*
- *In the five periodic reports issued by MSC from 1 April 2012 to 1 March 2013, this body found a total of 140 specific examples of violations of the Codex, of which, according to the reports, 117 were recorded by the MSC Monitoring Team and 23 by organizations or individuals who have addressed this body.*
- *Of the examples of Codex violations observed by the MSC Monitoring Team, only 13 or 11.1% relate to the media who are members of MSC, while the remaining 127 (89.9%) instances were recorded in the media who are not members of this self-regulatory body.*
- *In its first and so far the only report, the Self-Regulatory Local Press Council (SLPC) on two pages concluded that the Court of Honour (monitoring team) had not received any complaints and that the local press respected the Codex.*
- *Of the 12 basic principles of the Codex, according to the reports of the Media Self-Regulation Council (MSC), the media broke eight (8), but most frequently Principle 5 and some of the standards that are recommended in the guidelines for this principle. In the case of Principle 5, the guidelines concern hate speech.*

- *In contrast to the results of the monitoring conducted by MSC, which showed that Principle 5 (hate speech) is most violated, according to the monitoring carried out by Human Rights Action (HRA) from 1 September 2012 to 1 March 2013, Principle 10 of the Codex is violated most frequently, i.e. violation of the presumption of innocence is the most common form of violation of ethical standards of journalism. MSC did not at all mention violation of this principle in its first two reports. HRA has also established that MSC does not make a clear distinction between offensive speech and hate speech, in line with the definition of the latter contained in the Codex of Montenegrin Journalists and Recommendation on Hate Speech of the Committee of Ministers of the Council of Europe from 1997.*

RECOMMENDATIONS

- 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.
- 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.
- All journalistic self-regulatory bodies should specify their competences in their founding documents.
- The composition of journalistic self-regulatory bodies (especially authorities that handle complaints 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.
- Self-regulatory bodies should have rulebooks that precisely regulate the process of mediation between the damaged party and the media that the objection or complaint is related to, and the main goal of the mediation should be conciliation 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 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 complaints or on the basis of its own assessment that a media outlet breached the Codex, 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 continues to monitor the work of the media who are not, 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.
- All self-regulatory bodies should fulfil their commitments in regard to transparency of their work and develop their own websites to 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, MSC should also forward them to relevant addresses of the media outlets which are not their members, but have been mentioned in those reports on any grounds.
- Self-regulatory bodies should ensure that citizens be 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.
- Participation of the state in financing 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 state interference" in their work.
- The state should not favour any self-regulatory body in any way, especially not when it comes to financial support.
- 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 objections of damaged or interested physical and legal entities, the prevention of violations of the Codex by timely pointing out the violations of ethical standards and helping the media and journalists correct the mistakes they made or reduce their harmful effects.
- When a self-regulatory body records an example of violation of the Codex, it should precisely specify what the violation involves, as well as what principles and ethical standards had been violated. In the event that the Codex is deficient in that area, it should offer an appropriate amendment and initiate a professional debate on this matter.
- 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 Codex or relevant authorities and sources relevant to these issues, such as the European Court of Human Rights.
- 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 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.
- 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.

- 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.

Proposal for amendments to the Codex of Montenegrin Journalists

- Bearing in mind that a single Journalist Self-Regulatory Body ceased to function due to different interpretations of the principles of paragraph 2 of the Codex, "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.
- As suggested by the MSC, the Codex of Montenegrin Journalists should be updated 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 Codex. 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.