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# Media News

Prepared by the  
*SAFAX News Agency* Sarajevo  
<http://www.mp-institu.com/>

• Journalism and Democracy • Media in Transition

No 49, Vol. I Sarajevo,

January 10, 2000

## Public RTV Services

### Most Deadlines Breached

The international community's High Representative Carlos Westendorp took a decision on July 30 last year on the restructuring of the public RTV service in Bosnia-Herzegovina. The decision, which rests on the Dayton Peace Agreement, came in reaction to irresponsible behavior of local politicians and bodies of authority regarding legal regulation of the public radio and television broadcasting system in the entities and the state. However, it is as if the High Representative's energy, expressed in the form of very short deadlines for the decision to be implemented, is now melting in the face of resistance on the part of local factors and controversies that people charged with establishing the new system are clashing with every now and then.

The majority of the deadlines announced by the High Representative have not been met. The Public Service Founding Board held its first meeting only on September 17 because all members of the Bosnian-Herzegovinian Presidency had not proposed on time members from their jurisdiction. The Federal RTV Council held its inaugural meeting in December although the deadline for its appointment had been 30 days. As usual, the federal parliament had not been able to name its representatives and the High Representative had had to do it. Within 15 days the National Assembly of the Republika Srpska had been due to pass a new law on RS Radio Television, harmonized with the interim arrangements for governing this medium of February 13, 1999. The law has still not been presented to parliament representatives. The only thing that

has changed due to a decision taken by Westendorp is the former name of Serb RTV into RTV of the Republika Srpska. Disharmony between the so-called interim arrangements and the old law, which the RS authorities seem to be following, recently caused a scandal related to dismissal of the RTV RS director general. The government decided to dismiss him, although under the interim arrangements this can be done only by the interim governing board. Anyway, the RTV RS director general is now recognized by some, and not recognized by others.

Counting that the deadlines would be met, the High Representative decided that talks on collecting RTV subscription through the public electricity company would be completed by September 1. In the Federation this task was completed even before the Federal RTV was founded, but only for half the auditorium (subscribers living in territory that is supplied with energy by the Elektrodistribucija BiH company from Sarajevo). In the Republika Srpska subscription is still collected through the postal service company.

A serious flaw in the implementation of the High Representative's decision is that the international community still has not appointed an international representative for property transfer. Based on his report, interim measures were to be adopted by October 1 related to division of the present RTV BiH's property, as well as a concrete description of RTV BiH's assets and liabilities that are to be handed over to interested parties by November 1, and a certificate that these obligations have been completed was to be given to the Independent Media Commission by January 1, 2000. These deadlines have not been met. Finally, by October 1 at the latest it had been necessary to resolve the issue of Croatian Television broadcasting in Bosnia-Herzegovina. In the meantime a dispute has arisen concerning EROTEL broadcasting from Mostar and negotiations are still underway with it and Croatian RTV.

It is definitely clear that there is still no federal radio television program on air, nor the envisioned "at least one hour" of programming of the TV BiH Public Service. Sometimes on a channel that can be watched in Sarajevo the emblem "FTV" can be seen, but this program is only a simulation of the new federal TV program, of which there is still no trace.

If a really new radio television of the BiH Federation is to be made, which will be independent of political pressure, suiting all peoples and citizens and attractive media-wise, for which viewers and listeners will not only have to, but will want to pay subscription, a lot of quite complex work has to be done. At least another five months are required for that task. It is necessary to establish a supervisory board, find and appoint a management and editors-in-chief in line with criteria determined by the law. The editors-in-chief have to find their associates and propose a program concept, program schedule, editing and production organization. The precondition for the start of broadcasting is to divide property and link the transmitter system into a single network, because the new federal RTV probably should not start broadcasting in



**Media News-** all the media news of BiH collected in one place.

Issued every second Monday in English and Bosnian/Croatian/Serbian. Texts by local author are published in whatever variant is appropriate to the author.

Published by **Media Plan - Safax**

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Fund for BiH and Westminster  
Foundation for Democracy London,  
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only one, so-called Bosniak part of the Federation. What also remains to be done is to complete negotiations with the public electricity company Elektroprivreda Herceg Bosna (Mostar), so that viewers and listeners living in this part of Bosnia-Herzegovina can pay subscription.

No less work remains to be done before the start of broadcasting of the public service for all of Bosnia-Herzegovina: management, editors, program policy, division of property, implementation of a decision on setting aside a certain percentage of subscription collected by the two entity RTV stations, resolving legal problems related to registration (under the present regulations in Sarajevo Canton), definitive decision concerning which channels programs will be aired on (a certain amount of time in entity RTV programs or a separate frequency).

It appears that the general political public in the entities and the state, and even employees of the present state RTV organizations, are watching from aside the problems faced by the small group of people appointed by the High Representative to deal with this hot potato. As far as viewers are concerned, they seem to have become indifferent to this political and media mess. Perhaps they are satisfied with being able to watch at least two to three local and several foreign television stations in most parts of the country, which enables them to watch what suits them at the moment.

## **T e l e v i s i o n   M o n i t o r i n g**

### **Daily Events Dictate Choice of Issues**

How much are economic issues present in media in Bosnia-Herzegovina? In searching for the answer, Media Plan Institute Sarajevo in the last issue featured the results of monitoring of daily newspapers in Bosnia-Herzegovina, particularly focusing on coverage of economic issues and how they are presented. In this issue we feature the results of monitoring of primetime news and political programs on television channels in Bosnia-Herzegovina carried out from December 21 to 27, 1999. We monitored the news program *Dnevnik (Journal)* on Television BiH, *Dnevnik* on Television Republika Srpska (TVRS), and TV INFO on OBN (TVOBN). We determined precisely how frequently economic issues were featured in these programs. In order to obtain a realistic view of how much economic issues are covered in these programs, we compared their number with the total number of items aired, not including the weather forecast and sports. Here are the results:

#### **Sixteen Percent of Economic Issues**

In the monitored period a total of 558 items were aired in primetime news and political programs on television stations in Bosnia-Herzegovina, of which 88, or 16 percent, dealt with economic issues. Of this number, 30 economic items, of 34 percent, were placed in a wider social and political context. Most items on this issue were aired on TVBiH – 35, which is 16 percent of the total number of items aired by this station. OBN in this same period featured 30 items on economic issues, which is 23 percent of the total number of items shown by this television channel. Although in this period TVRS broadcast a large number of items with different content in its *Dnevnik* programs (216), economic issues took up only 11 percent of these programs (only 23 items). The order of television channels with regard to announcement of economic issues in the newscast is similar: TVBiH announced economic issues 10 times, OBN seven, and TVRS only twice.

Very few primetime news programs in Bosnia-Herzegovina started with an announcement or item dealing with economic issues. An exception in this regard were only once the RVR

*Dnevnik* (Dec. 21, 1999), when the main news of the day was a decision taken by the RS Government to privatize strategic state companies, and TVBiH (Dec. 22, 1999), when as many as three news items with economic content found their place one after another in the *Dnevnik* newscast (European Commission economic assistance to Bosnia-Herzegovina, privatization, and U.S. assistance to farmers in Bosnia-Herzegovina). It appears that the unwritten rule – despite the huge significance of the economy in overall development of the country – is that economic issues are featured in the second half of the news program, even when they are of exceptional importance for transition of the state and economic reform.

## **Privatization in the Spotlight**

In the monitored period *p r i v a t i z a t i o n* was the most dominant topic. Of 88 items, 21 referred to current privatization events, which is 24 percent. In second place was electricity production, with 18 items dedicated to this issue, which is 20 percent of the total number of items. True, this issue was a result of, first, the date (December 21 – Miners Day), and then of the weather because there was a lot of snowfall in the monitored period which jeopardized electricity supply to the economy and population. Development plans were the third most frequently presented issue in primetime news and political programs on television stations. There were 15 items, or 17 percent of the total number of economic items in programs, dedicated to this issue. This issue is followed by bank credits, corruption and fraud, and production and financial results. The smallest number of items focused on the issue of donations (2), banking (3) and exports (4). There were no items on employment and opening of new factories.

Economic issues presented in the analyzed programs were mostly a result of daily events (one third of daily political events). According to genre, usually they were in the form of news items, which their authors occasionally presented as analytical reports by adding statements taken from two, or more rarely three competent persons. Following up on an issue – regardless of its importance – is rare. An exception in this is OBN, which covered the Banja Luka Telekom case for two days (Dec. 21 and 22, 1999). In addition, all three channels followed the state of roads and energy supply for three days due to a snowstorm, and these are the only examples of issues presented in continuity.

That daily events dictate which issues editors will choose is confirmed also by the number of items from this field during the week: the weekend usually has a small number of items on economic issues (OBN – Dec. 26 one item, TVBiH – Dec. 26 three, and TVRS Dec. 25 two and Dec. 26 one item). Still, on December 22 not a single channel on its primetime news program announced anything related to the economy in the Sarajevo Canton, although a news conference was held that day at the Cantonal Chamber of Commerce, in which a detailed analysis was given of the situation in this canton, which has one of the biggest potentials in Bosnia-Herzegovina.

## **News of the Day Prevails**

By analyzing items on economic issues by journalistic genre, we assessed that news of the day prevailed. In the monitored period, of the total number of items as many as 74 were news items, which is 84 percent, whereas there were 17 analytical items, which is 16 percent. In these items the television stations usually relied on their own journalists, and more rarely on news agencies. This fact is confirmed by the number of authors' items related to economic issues. Of 88 items, 71, or 80 percent, were made by authors employed by these television stations, and 17 items, or 20 percent, were made by news agencies.

When it comes to the regions that the issues refer to, it is noticeable that issues from the territory where the TV organization is based are dominant. Of the total number of aired items, 45 referred to the BiH Federation (mostly the Bosniak part), 29 to the Republika Srpska, 11 to

Bosnia-Herzegovina as a whole, and only three focused on the wider area – the world. Whereas TVBiH in 27 items, or 77 percent, dealt with issues from the BiH Federation, and in only two, or five percent, from the Republika Srpska, TVRS dealt in 17 items, or 73 percent, with its own territory, and four, or 17 percent, with current issues in the Federation. OBN had a somewhat more balanced approach, because in this period 14 items, or 46 percent, were about the Federation, and 10 items, or 33 percent, about the Republika Srpska. Issues speaking about the economic situation in Bosnia-Herzegovina as a whole were present most often on OBN – six items, or 20 percent, followed by TVBiH – five items, or 14 percent, whereas TVRS featured four items, or 17 percent, of this orientation.

There was no news on world market trends at all in this period, although it was announced this week that the prices of oil derivatives in the Federation of Bosnia-Herzegovina were going up as a result of world oil prices.

Through a detailed analysis of the aired items on economic issues, it was noticeable that journalists in most cases had good command of economic issues and terminology, although one cannot acquire the impression that the economy is their narrow specialty. They usually covered other similar issues along with economic ones.

Concerning footage that accompanied text, it was noticeable that economic items usually featured footage of gatherings of businessmen and their visits to companies and meetings (events of the day) and footage from factories. In most cases footage was suitable for text, but sometimes it happened that picture was not in correlation with what was being said. An illustrative example of this is an item on economic policy implementation in Bosnia-Herzegovina aired on OBN in the TV INFO program on Dec. 26, 1999 when the text was for a short time accompanied by footage of passengers in a tram. It was also noticeable that TVRS did not have adequate footage from the Federation, in particular from Sarajevo, and instead of accompanying text with moving pictures it showed either emblems of institutions (USAID, OHR, etc.) or frozen pictures of the person mentioned in the text.

One of the flaws of items focusing on economic issues on all television channels is a lack of charts and tables as very suitable forms for showing figures. Although foreign television stations exploit them to the maximum, our television channels have not yet accepted them.

## **Lack of Issues or Media Traditionalism**

The conclusion is that television stations in Bosnia-Herzegovina give economic issues in their news and political programs a little more time and space than newspapers do, in which there is only 10 percent of economic issues (see *Media News* no. 47/48 of December 13, 1999). Still, even 16 percent of the total number of items in TV news programs is not enough. When we say this, we bear in mind the fact that business and the economy are of key importance for the country's reconstruction and development. News on the economy affects the lives of everyone – housewives, workers, pensioners and businessmen. We assume that news on an approved donation, credit, successful business move or development plan, opening of a new factory or employment of new workers is always of top interest. However, many fields of life in Bosnia-Herzegovina are inferior to politics, including the economy, which media faithfully reflect. That is why as much as one third of economic items in television news programs rely on political events of the day. Perhaps this impression may be corrected somewhat by the fact that some TV stations have special programs on the economy or business, but from the viewpoint of public influence, news programs have the biggest impact.

It is up to television stations to determine why their interest in the economy is so low: either because that is a lack of events and issues of this type in the life of the country and society, or because editors rely on the old habit that media are primarily political missionaries, not a mirror of real life. Due to all this, economic issues should be more common in television news

programs for two reasons: to enable viewers to be better informed about this field, and also to show the significance of the economy in the life of the population and reconstruction and development of the country which is undergoing a period of transition.

## **Ombudsmen's Report on Legal Regulation of Defamation and Insult in the BiH Federation**

### **Westendorp's Intention Thwarted**

The three ombudsmen of the Federation of Bosnia-Herzegovina, Branka Raguz, Vera Jovanovic and Esad Muhibic, on December 22 sent a comprehensively elaborated request to the Federation Parliament and Government to modify the present legal solutions in the field of defamation and insult through media, considering them to be a threat to free work of journalists. The institution of the Ombudsmen of the Federation of Bosnia-Herzegovina was established shortly after the creation of this entity in 1995 and has a corrective role towards the Federation authorities. The Constitution of the Federation states that "An ombudsman may also present at any time special reports to any competent federation, cantonal, municipal or international authorities. Domestic institutions shall have an obligation to reply within a time limit specified by the Ombudsman." However, at least judging by the present reality, decisions taken by the ombudsmen have often been ignored by the authorities, and some of their objections related to the exercising of human rights, except for being published once, did not have much significance. One of the reasons for the "helplessness" of these "guardians of human rights" is that they do not possess an efficient mechanism to enforce their decisions.

Still, as the international community is increasingly putting key segments of Bosnian-Herzegovinian society under its control, it is clear that the ombudsmen's remarks will enjoy stronger and more concrete support. Therefore it should not be surprising that these remarks, in addition to bodies of legislative and executive authorities in the Federation, were also sent to OHR, OSCE and IMC (Independent Media Commission), which are all international organizations that have the power to modify and impose key decisions in Bosnia-Herzegovina.

We publish the ombudsmen's report with slight interventions.

### **Draft in Parliamentary Procedure**

Exercising his powers the High Representative of the international community in Bosnia-Herzegovina, Carlos Westendorp, announced "The decision on freedom of information and abolition of criminal penalties for insult and defamation" on 30 July 1999. This decision also contains a request for both entities "...to adopt necessary laws concerning insult, libel, and slander with the purpose of ensuring remedies for insult, libel, and slander within civil proceedings, legislation that would be in accordance with European Convention for the Protection of Human Rights and Fundamental Freedoms ..." and sets up a deadline for the mentioned adoption "...no later than 30 December 1999". Stating the grounds for his Decision the High Representative concluded that "...the existence and application of relevant provisions have a discouraging impact on journalistic freedoms in Bosnia-Herzegovina".

In the meantime, on 11 November 1999, the Office of the High Representative and the OSCE Mission to Bosnia-Herzegovina formed an advisory group for legal regulation of defamation and freedom of information. As it stands in the Decision, the Group shall be composed of representatives of the Government, local and international experts, and

representatives of OHR, OSCE and IMC. The group has held several meetings so far, but has not announced any proposal yet.

Finally, in the Federation Government session of 16 December, the Draft Law on Compensation of Damage caused by Defamation or Insult was adopted and, according to the press, the Draft Law was communicated to the Parliament of the BiH Federation for adoption through emergency procedure.

## **Defamation and Insult in Our Reality**

Defamation and insult through media (this term includes all types of media, print and broadcast) are regulated by both the old and new Criminal Codes (Articles 213-220). The latter has been in force since December 1998. These criminal offenses are sanctioned by sentencing perpetrators up to three years in prison ("In the case that the substance of what is falsely being asserted or circulated is of such significance that it has led or might have led to grave consequences to the victim", Article 213, paragraph 3, and article 215, paragraph 3). It is clear that the new Code inherited, if not all, than at least part of the approach to these criminal offenses from the previous communist regime. Since the Criminal Code does not explicitly define that only persons who assert or circulate incorrect or false facts, excluding expression of evaluation (opinions and comments), can be indicted, the current description of defamation and insult set forth by the Criminal Code ("Whoever asserts or circulates something false...", or "whoever insults another person...") actually opens the possibility even for indictments for expressed opinion ("something false"). Secondly, according to the provisions of the Criminal Code, violation of dignity of "Bosnia-Herzegovina or the Federation, their coat-of-arms, flag or anthem" and of "constituent nations and others living in Bosnia-Herzegovina" are serious offenses that are punishable by imprisonment for a term between three months and three years, which is also taken over from old laws. Thirdly, it is even more anachronistic that criminal offenses against honor and reputation (Articles 213 and 214, with reference to Article 219) "committed against a state body or against an official or military person in connection with their official work" may be prosecuted *ex officio*.

Apart from criminal procedure, existing regulations even now offer the possibility of compensation for consequential damage through litigation on the ground of violation of honor and reputation (defamation and insult). However, this legal solution offered by civil procedure has been rarely applied in the case of defamation and insult inflicted through media. Persons believing that their rights have been violated, almost without exception, insisted on initiating criminal procedure, and rarely, following the completion of criminal procedure and in case of a favorable outcome for the plaintiff, they initiated proceedings for compensation of consequential damage. In 1999 there was only one case registered where the damaged party did not initiate criminal procedure but only civil procedure, the outcome of which was a first instance decision on compensation for consequential damage in the amount of 20,000 KM paid by a daily paper from Sarajevo (*Vecernje novine*). This decision was taken by Sarajevo Municipal Court I on 27 September 1999.

Since most media organizations operating in the Federation are seated in municipalities in the central part of the city of Sarajevo (Stari Grad and Centar Municipalities), we shall use data from the competent court (Sarajevo Municipal Court I) to present a summary of judicial practice. According to this court's register, in 1997 and 1998 there were 56 cases of criminal offenses of defamation and insult (although this analysis does not differentiate press cases from other cases, the fact is that more than 80% of legal actions were taken against journalists and editors). There were eight new legal actions taken against journalists and editors in 1999 and seven pending cases from previous years. Out of the total number of new cases only one was closed by a sentence of one year of probation against the editor-in-chief of the *Slobodna Bosna* weekly. This first-instance decision was taken on 23 June 1999, i.e. 38 days prior to the High Representative's

decision. Two criminal procedures against journalists and editors, initiated this year, were suspended. The others are still pending. Criminal procedures against journalists initiated last year are still undecided, only three of which were closed by first-instance decisions (one acquittal and two sentences to one year of probation). According to the register of this court, most legal actions (13) were taken against the editor-in-chief of *Slobodna Bosna* weekly and against the editor-in-chief of *Dani* weekly.

In most cases the plaintiffs are politicians and public figures, persons known to the public. Among recently opened files there is one in which the defendants are not local journalists or media, but foreign – journalist Chris Hedges and *The New York Times*.

A large number of criminal procedures against journalists and editors have been stalled for several years now. The president of Sarajevo Municipal Court I – speaking in particular about the last six months – explains the mentioned delays as "an intention to harmonize judicial practice with the High Representative's decision."

## **Defamation and Insult in Other Countries**

Article 10 of the European Convention on Human Rights stipulates that "everyone has the right to freedom of expression" and that "this right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers". The right to freedom of expression is not simply one of the cornerstones of democracy, it is also a precondition for exercising many other rights and freedoms guaranteed by the European Convention. Paragraph 2 of the Convention stipulates that "the exercising of this freedom carries with it duties and responsibilities..." and stipulates that the right "...may be subject to...restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of...protection of the reputation or rights of others" (defamation and insult).

Regardless of the fact that most European countries still recognize insult and defamation as criminal offenses, the organization "Article 19" reports that during the last two decades no person in Western Europe was imprisoned for insult or defamation. The general opinion is that imprisonment for these offenses is extremely humiliating and inadequate in democratic society. "The European Human Rights Court clearly expressed its position through a series of decisions that individuals shall exercise a range of rights to criticize political leaders, public officials, government and state institutions, and can be punished for that only if their criticism is factually false or extremely offensive. Even when overstepping the legal boundaries of expression, the punishment shall be proportional to the inflicted insult. The European Court clearly stated that generally it is neither acceptable nor adequate for Council of Europe member states to imprison citizens for criticizing the government, public institutions or officials." ("Freedom of Expression Handbook", London, Zagreb, 1993-1998). The European Human Rights Court has set forth certain criteria and principles regarding media. The following are most important for media: particular freedom of media to comment on issues of political and other public interest; boundaries of acceptable criticism are broader when applied to governmental bodies and politicians than when applied to private persons; the burden of proof regarding evaluations or statements reflecting public opinion or allegations based on rumors or statements of others shall not lie on the defendant. The European Court established the rule that politicians have to stand more criticism than other individuals. Additionally, U.S. courts have pointed out that the individual who has chosen a career in public service "has to accept inevitable consequences – that public attention will be more focused on him/her than it would be otherwise". The U.S. Supreme Court also decided that - if public officials take legal action regarding defamation - "they have to prove not only the falseness of the alleged defamation, but also genuine maliciousness as well", i.e., that the defendant, although aware of it, published untrue information, or did so due to serious carelessness. A French journalist can defend himself/herself

if s/he proves bona fide, i.e., that s/he acted carefully, verified facts, or tried to contact the person concerned. The European Court also underlined the necessity to distinguish facts from evaluation. "The existence of facts can be proven, but the truth of evaluations is not liable to the proving process... A demand for verification of truth of evaluations cannot be met, and it itself violates the very freedom of opinion".

Bosnia-Herzegovina's regulations and judicial practice are very much alike to those in the Republic of Croatia. However, despite the fact that the Croatian Criminal Code envisages imprisonment of journalists for violation of honor and reputation of an individual, no journalist has been imprisoned insofar. Most proceedings led to a peaceful settlement, suspension, or, in a couple of cases, probation. However, there were dozens of civil procedures, the outcome of which were first instance and final decisions on compensation for consequential damage. Most compensations are extremely high and present a real threat to freedom of information. There is a similar practice applied in Serbia, where proceedings for alleged defamation or insult are used as a tool to suppress free media (e.g. extremely high fines).

## **New Measures and Their Consequences**

The decision taken by the High Representative "on freedom of information and abolition of criminal penalties for insult and defamation" announced on 30 July 1999, is controversial and inconsistent in itself. The decision, as it is set forth in paragraph 1, practically abolishes nothing but the possibility of imprisonment (envisaged in Articles 213-220 of the Criminal Code of the Federation of Bosnia-Herzegovina), but it does not abolish the existence of criminal offenses! Even following the decision taken by the High Representative – who is empowered to take binding decisions – courts have found space to continue the practice of conducting criminal proceedings, which is obviously contrary to the High Representative's intention and his decision. The Draft Law on Compensation for Damage Caused by Defamation or Insult, drafted by the Federation Government on 16 December, which should be a replacement for the abolished criminal penalties, is not a good basis for creating a balance in encouraging freedom of expression and freedom of media while at the same time protecting the honor and reputation of all citizens in Bosnia-Herzegovina. The very decision taken by the High Representative, as well as constitutional powers, have provided ground for the Government to launch its initiative. However, according to our assessment – the present Draft Law is unacceptable and should be amended. The first defect in the draft is a lack of a more precise definition of the terms defamation and insult. Article 2 of the draft reads "defamation implies assertion or circulation of something false concerning a certain person through media..." What is the meaning of the term "something false"? False facts, or false opinion? It should be precisely defined that this applies only to assertion or circulation of false facts (information and alike), because the present formulation allows the possibility of indictment for so-called expressed opinion (according to the European Human Rights Court it is illegal to demand evidence on whether someone's opinion is truthful or not). The same objection also stands for the definition of the term insult ("the usage of offensive expressions for the purpose of attack..."). The second objection refers to the possibility of multiple punishment – of both journalists and publishers. Articles 3, 4, and 5, namely, stipulate payment of compensation (in different amounts) to the damaged party by both the journalist, who is the author of text, and the publisher. Multiple punishment will not increase the responsibility of media – which might eventually have been the intention of the draft proposer – on the contrary, it will impose self-censorship on journalists and reduce even more the freedom of media in general. The third and certainly the most important objection refers to penalties prescribed in the draft (compensation) which are unreasonably high, absolutely beyond the financial capabilities of journalists and media (ranging from 2,000 to 10,000 KM for journalists and 20,000 to 100,000 KM for publishers). Compensations are so high that this is a real threat to freedom of media and a call for journalistic self-censorship. According to the aforementioned, it is quite debatable what is the real aim of the draft – to be an impetus or to restrict freedom of

media, to serve the public or to censor the public, to help (in the establishment of media responsibilities) or to threaten the survival of media, to be only compensation for potentially damaged persons or (in local circumstances) a generous reward for plaintiffs.

## **Recommendations of the Federation Ombudsmen**

Bearing in mind the necessity for institutional encouragement of freedom of expression and media freedoms, and the necessity for harmonization of regulations existing in the Federation of Bosnia-Herzegovina with international standards in this field, the ombudsmen of the Federation recommend a total abolishment of the criminal offenses of defamation and insult (Articles 213-220 of the Criminal Code), not only abolition of imprisonment.

The ombudsmen's request states: we support the adoption of the law on civil procedure regarding compensation for damage, providing that the definition referring to the terms defamation and insult contained in the respective provisions is in accordance with the European Convention for the Protection of Human Rights and with the European Human Rights Court's opinion. In this law, the possibility of punishing journalists, i.e. authors of texts, should be completely omitted, leaving the possibility for compensation to be requested exclusively from the publisher or founder of a radio or TV station (the Swedish model). This will lead to a considerable increase of responsibility on the part of publishers and founders, and journalists will be relieved of pressure of self-censorship. The institution of a jury (two to four members) should be introduced in civil procedure in the part that is applied to media. In addition to a professional judge, active participation of citizens offers additional protection of freedom of information (again the Swedish model). Since the purpose of the procedure should be to establish the truth of facts and their publication, we believe that Article 8 of the draft should define the media obligation to publish a court decision, in its entirety or only partly, in the same place (the draft allows for this possibility), unless the damaged party insists otherwise. Publication of a court decision, in its entirety or partly, presents the most effective satisfaction for the damaged party, and, at the same time, the most painful blow to the credibility of individual media. As to the amount of compensation for consequential damage, we suggest that the following possibilities be considered: firstly – to limit this amount to a symbolic 1 KM (the purpose of compensation is not its payment, but establishment of truth and its publication, which also increases media responsibility, influencing at the same time media public credibility), or secondly, to limit compensation to reasonable amounts. If the former is not accepted, we think that compensation should be between 1,000 and 3,000 KM for the publisher or founder, which would be more or less proportional to the standard of living in the present economic and social situation in the Federation.

## **T h e I n t e r n e t**

### **Internet Control – Yes or No?**

Participants in the First World Conference on the Internet and New Services held last month in Paris were faced with a question to which no one could give a decisive answer. To control the Internet? It is inadmissible. The Internet is for everyone, everyone can state their opinions and views on it and it is crucial for democratization of conventional media, and through them also society as a whole, agreed everyone. However, they warned at the same time of many unacceptable contents on the Internet: child pornography, pedophiles, prostitution, growing and sale of drugs, crime... These consequences, very damaging for society, which are a result of the advantages of the Internet, have to be faced. They need to be prevented, agreed the summit

participants, and all countries have to take decisions on this separately. However, can the Internet be controlled?

Let us recall that the Internet appeared as a result of the U.S. army's need to have a secure computer network, which will not lose data on long distances. It was then given to be used by universities and scientific institutions, and it gathered a specific group of users, who developed a characteristic sub-culture. With the fall of the Berlin Wall, the network expanded to cover the whole world, but the United States are still in the lead. Typical Internet users from the early period are the intellectual elite. With global expansion the Internet gets new users and new roles. It becomes the first real global medium. But also a big market in which everything is sold and bought. It is therefore no wonder that the Internet also started to be used by groups of people from the margins of human society, who are in conflict with the law, such as the narcotics mafia or terrorists.

The Paris conference emphasized that the main characteristic of the Internet – self-regulation – must be preserved by resisting attempts to impose censorship and content control. It seems there is no way to prevent someone from circulating certain content. For there will always be someone, even from the other side of the world, who will circulate the content believing in freedom of expression. For example, the German ban on publishing neo-Nazi contents on the Internet resulted in that many such things were circulated in other countries. A similar situation is with the U.S. government attempt to limit coding of messages so that messages can be decoded if there is suspicion of criminal activity.

The fact is that most Internet users have good intentions and should not be restricted. However, damage that may be caused by offenders can be huge, which justifies efforts to establish legal regulation and supervision of the Internet. Violation of copyrights, pornography and gambling are problems that will most probably lead to restricting in freedom of circulation on the Internet. Instead of direct bans, participants in the conference remained within the framework of self-regulation, leaving to individual governments the freedom to take decisions on sanctioning damaging content. What can we in Bosnia-Herzegovina expect regarding this issue? It is technically possible to prevent, filter or contain certain content because we are linked with the world through the BiHnet network, as well as a smaller number of private providers, which for now do not enjoy must trust of users. At this stage the Internet is still free and outside of any law. Will it remain so? The conference conclusions are aimed against all those who try to control the Internet, but they allow for sanctioning of offenders. However, “what is an offence” is a question that media experts must deal with. For now it is best that it should include only content whose essence contains generally accepted criminal acts. (Marija Putica)

**Note to readers: Media News calls on journalists, scientists and Internet users to take part in the discussion: INTERNET CONTROL – YES OR NO?**

## **I M C o n M e d i a C o n d u c t i n E l e c t i o n P e r i o d**

### **Strict Rules for Public Electronic Media**

The Independent Media Commission (IMC) has adopted new Guidelines for Equitable Access to Media in Election Periods.

The Guidelines require that all public broadcasters shall provide free access for political spots for all parties and independent candidates during the election period. During the election period, political sports shall be aired throughout the election period and at times when the broadcasters are likely to reach the largest audiences. An equal amount of free broadcast time

must be provided for political sports to all political units registered in the electoral unit, which receives the broadcaster's signal.

Private broadcasters are not required to give free access to political units. However, if free access is given to one political unit, it must be provided on an equal basis to all other political units who request it.

The IMC has no mandate over the print media, apart from during the specific time of elections. However, the print media is not required to give free access to political units, but if free access is given to one, it must be provided for all other units during the election period, on their request. A clear indication of a political advertisement and the political unit responsible for the advertisement must be displayed.

Each political unit must request that their political spots be broadcast on specific media and must provide copies of the spots for broadcast. A maximum duration of 60 seconds is given for each political spot, which broadcasters may not shorten, unless it exceeds the maximum duration. Broadcasters may require political units to pay for production of political spots, with the same rates charged for all political units at the same level of service. If political spots are produced free of charge for any political unit they must be produced free of charge for all political units that so request.

During the election period, provision of political programming aimed at providing balanced and comprehensive information to the electorate is required from the public broadcasters. Private broadcasters are encouraged (but not obliged) to provide political programming in the same manner. All political units must be given equal opportunity of participation in political programming, for which there shall be no charge or fee levied.

All paid political advertisements shall clearly state that it is a paid political advertisement and who is paying for it. Each paid political advertisement may not exceed two minutes. The total time of paid political advertisements may not exceed five minutes per hour of broadcasting. During the election period, any one broadcaster may not broadcast more than a total of 30 minutes of paid political advertisements for any one political unit.

Broadcasters shall provide at least seven days in advance schedule of planned political programming to IMC, any changes of which shall be notified to IMC as soon as possible. Broadcasters shall keep a complete record of the timing of broadcast of political spots, of the timing and composition of political programming and coverage of political events, to be sent to the IMC each Monday for the previous week's activities.

Broadcasters are subject to continued monitoring by the IMC and obliged to adhere to any IMC Codes.

## **N e w s**

### **Fees Now Charged for Broadcasting Licenses**

As of January 1 this year broadcasters in Bosnia-Herzegovina are obliged to pay a broadcasting fee to the Independent Media Commission (IMC). The commission is the only responsible body in the country whose mandate includes issuing broadcasting licenses and allocating frequencies to radio and TV stations, as well as charging fees for frequency resources.

Paying to use the frequency spectrum, which is a public resource, is common practice in all European countries. Fees for licenses issued by IMC are calculated on the basis of data on the economic situation in the field of media that stand at the commission's disposal. The amount paid per month directly depends presently on the number of transmitters and their power.

The IMC register contains 272 broadcasters in Bosnia-Herzegovina.

### ***Republika – New Weekly in Republika Srpska***

The daily newspaper *Glas srpski* published the first issue of the weekly *Republika* on January 6. The paper is due to come out every Thursday on 52 color pages. According to the editor-in-chief, Goran Mihajlovic, the paper will professionally report on all current issues with particular emphasis on the Republika Srpska.

“This is an attempt on the part of *Glas srpski* to contribute to promoting the media space in the Republika Srpska, in particular in the field of print media. The newspaper, through a professional approach and objective reporting on all issues, will try to accomplish that,” Mihajlovic told *Glas srpski*.

### **Compensation of Damages of 60,000 Marks Requested**

A former Television Tuzla journalist and now director of Radio Tuzla, Zlatko Dukic, sued his former company and requested 60,000 in compensation for damages, the daily *Vecernje novine* reported. Dukic justifies his enormous request with the fact that, as he says, a program called “At the end of the week,” which he had edited on TV Tuzla for years, was taken from him for no reason and given to a former colleague of his. According to him, the television station retained the old name and concept of the program, which violates his author’s rights. In addition, Dukic added, TV Tuzla has not paid him his fee for as many as 200 broadcasts.

TV Tuzla editor Djuro Skondric for his part maintained that the program is owned by the station. He declined to comment on the allegation of unpaid fees.

**Note to readers:** As of this issue *Media News* will no longer be distributed by regular mail. We will continue to distribute the *News* via electronic mail, a digest of which can be found on our website [www.mp-institut.com](http://www.mp-institut.com).

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