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Monitoring

The Media's Vicious Circle: Dull Programs, Lack Of Professionalism, And Harsh Structural Conditions

In the previous issue of Media News, published on February 21, 2000, we have presented the results of our monitoring project considering the position of press releases and press conferences in major Bosnian broadcasting media. According to that analysis, there is clear dominance of these items in news programs on domestic affairs. The most significant percentage of such non-journalistic categories was registered in newscasts of the Radio-Television of the Republic of Srpska (RTRS), reaching 56,38% of time dedicated to domestic affairs. The second was the former EROTEL broadcaster with 28,63% and the third position was that of Television of Bosnia-Herzegovina (TV BiH) which broadcasted press releases and press conferences as individual news items in 19,11% of time dedicated to domestic affairs in its evening news program. As a consequence of such conduct, these broadcasters have largely ignored topics and actors originating out of institutionalized political landscapes, thus failing to feature items on NGOs, artists or topics such as human rights, education or culture in general. On the other side of this 'scale' stands OBN with only 2% of time dedicated to conferences and releases and with more relevant and interesting program in general.

It is more than clear that such practice has extremely negative impact on the quality of programs. The time and space for significant topics and actors is reduced and program is flooded by irrelevant items. Consequently, public discourse is over-politicized and over crowded. Hence, instead of being the arena for evaluation of different opinions, positions and political options, these media act as mere promoters of diverse political actors and perspectives. This perhaps contributes to the plurality of political landscapes and discourses but it subsequently removes attention from responsible actors and important topics toward the insignificant ones. Moreover, such practice also make journalists and their media organizations take rather passive position, acting according to the inertia of mere transmission of variety of statements, proclamations and general political marketing. Another interesting trend we have noted is that through such practice, press releases and press

conferences have received status of specific journalistic genre and are not treated as mere sources of information. In other words, instead of using conferences, press releases and statements as basis for, or integrative element of, some further developed stories and news items, these media are broadcasting them as independent news items. In effect, both the media and the audience loose in such situation.

On the basis of these findings, we have decided to take more thorough insight into the underlining processes and conditions, which determine above described media practices. In this context, we offered four basic proposals that provided the framework for this research:

1. First of all, we assumed that above presented practices could be consequence of general lack of professionalism among journalists and editors.
2. Second assumption was that legacies of communism, i.e. previous transmissive character of the media, still have significant influence on the practices of presentation of political actors. We considered that it is reasonable to assume that some journalists and editors still feel obliged to uncritically publish anything political actors say.
3. As third possible reason we depicted the lack of transparency of major state institutions and thus reduced access to the information sources. In other words, we assumed that perhaps lack of access to relevant information forces journalists to primarily turn to the press conferences and press releases as alternative sources of information.
4. And finally, the fourth possibility we thought of is the general lack of media regulation in Bosnia, and in particular, the lack of basic guidelines for the selection of sources and actors to be allowed access to the media. This problem can have particular importance if we consider extreme fragmentation of political scene in Bosnia with dozens of political parties among which only 7 or 8 are of any political relevance.

Thus, we have conducted interviews with editors and journalists from Bosnia media in order to acquire more thorough insight into this problematic and to test and discuss our assumptions. Interviews consisted of 10 questions that closely reflected above listed proposals, and the answers were received either through direct conversation or via fax.

In this way we were able to identify sets of causes and underlining conditions for above described negative practices. Firstly, it has become clear that one of the causes is the general lack of professionalism in the media as well as in the public communication as a whole. Secondly, we were able to partly confirm our assumptions and detect additional structural conditions that significantly determine the conduct of the Bosnia media.

Public Communication Needs Skills and Knowledge

All interviewees have marked domination of press conferences and releases as radically damaging for the quality of news programs. The overall impression is that such practices place the media into rather passive position toward the political actors and are thus misused for purposes of political marketing. Nevertheless, one journalist observed that generally low quality of such program



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Editor: Zoran Udovičić

Editorial in Sarajevo:

Patriotske lige 30,
(Arhitektonski fakultet) Sarajevo;
Tel/fax:+387 (0) 71 206 542, 213 251

Office Banja Luka – SOS – open line
for journalists:

Grčka 4, Tel/fax (0) 58 213 442

E-mail:

Safax-mp@bih.net.ba

<http://www.mp-institut.com>

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damages both the media that broadcasts it and the political actors whose statements and conferences have been broadcasted. In other words, dull and repetitive program produced in such a way is the result of two factors: On one side it is produced due to the general lack of professionalism among journalists and especially among editors. On the other hand, it results from amateur approach to the public relations by featured political actors. Although these political parties obviously think that they will benefit from permanent presence in the media, total absence of PR skills can only produce the opposite. Hence, both the media and featured parties are victims of low professional standards.

Thus we may say that all interviewed journalists and editors were clearly aware of negative aspects of programs overloaded by press conferences and press releases. Nevertheless, such rather critical attitude leaves us with one crucial question: How come that they cannot change it? It is here that a distinction between responsibilities of journalists and editors has to be made. Journalists are forced to work within established framework and the largest part of responsibility rests on the side of editors. After all, editors are those who choose tasks, direct journalists, and finally select what enters the program. Therefore, we should not blame journalists for they are the most exposed and the least protected ones in the whole system. Journalists do receive tasks and perhaps want to be inventive but they have to fit the system. And the system does not accept horizontal inputs and is managed through exclusive vertical chains of command with minimum if any freedoms on the lower end.

Within this context, a set of additional questions has to be raised: What are general values and norms within which journalist work? To what extent are journalists able to see and experience different perspectives and options which are available in other societies? To what extent they experience an intellectual and material stimulus for active engagement and investigative work? What is the wider social environment within which journalists and media in general are forced to operate? And finally, what kinds of education journalists have access to? All these questions are of crucial importance if we want to investigate the position, conduct and the role of journalists and media in contemporary Bosnian society. It is necessary to talk about the context if we want to understand any particular problem. In other words, the answers are to be found in deeper structural problems upon which Bosnian media system(s) actually operate, thus focusing on media regulation, economy, political system, and culture.

Incomplete Regulatory Framework as Confusing Factor

One of the crucial factors that clearly has significant impact on the conduct of media as well as of political actors is the way they interpret existing media regulation. Whether the media will be put in passive and subordinated position in respect to the flood of political statements, press releases and conferences depends largely on the media itself. Indeed, the media regulation as developed by the Independent Media Commission (IMC) promotes equal access to the media but it does not say that everything political actors say has to be published. The media, i.e. its editors, have unalienable right to select sources and actors along the criteria of news value and relevance, and this is especially so in periods without electoral campaigns.

Nevertheless, one of the problems that clearly have to be taken into consideration is that of transparency. Although the opinions on this issue have been divided among interviewed participants, there exists an impression that the lack of transparency puts pressure on the media by forcing them to turn to press conferences and press releases as primary sources of information. The IMC and the Office of the High Representative (OHR) have recognized this problem and adequate regulations are on the way. Another crucial problem that yet has to be resolved is the relation between publicly owned media (on national as well as on local levels) on one side and ruling political structures on the other side: this is the field where real questions on independence and editorial freedom are to be answered. This points to one negative aspect of the policies of international community: until recently they were focused exclusively on the problems of media conduct in electoral campaigns while totally neglecting non-electoral periods. As a consequence, general problematic of the access to the media, access to information and transparency, issues of obligation of the media toward audiences and ruling structures remained unresolved. Hence, it is no wonder that in such blurred environment, and within extremely volatile political developments, editors (and journalists) have had extremely difficult time when trying to make decisions on the principles of access and selection of

sources. In most cases the easiest way is to decide not to make any decisions and to act according to the inertia of political scene.

Media and Authoritarian Political Culture

Additional aspect that has to be seriously considered is the general political culture that significantly shapes media scene as well. This problem supports our assumption that communist legacies still play important role in media conduct but only when taken within much wider perspective: Centuries of authoritarian rule, five decades of communism and a decade of radical nationalism(s) have depleted the capacity of Bosnian society to function properly. Authoritarian ideological structures and practices exercise significant impact on the media conduct, and this impact is visible both within media as individual institution and in relations between the media and diverse political actors in society. Hence, it is the media professionals that still operate within specific authoritarian codes of conduct, but also, and above all, political actors and societal mechanisms of control in general. In such circumstances, publicly owned media are caught in the most difficult situation: It is common practice for political actors who hold offices on local or national levels to consider those media as their own property. Political actors frequently request unconditional right to access the medium. Under such circumstances, journalists and editors are inevitably forced to choose an easier way if they want to distance themselves from pressures and eventual problems.

How deeply rooted these authoritarian practices are we have encountered while trying to get interviews from journalists and editors from one publicly owned media organization: Editors were not allowed to provide as with answers without green light from the higher levels of the 'chain of command'. In other cases we were kindly asked not to put names in this article. These facts are indicative of conditions in which editors and journalists work in their companies, and puts question mark on actual editorial freedom as exercised under such circumstances. In other words, apart from obvious constrains from political environment, the media as organizations also operate according to authoritarian principles of control and subordination. This in effect reduces decision-making capacity of such organization, subsequently reducing its sensitivity toward environment. The result of it is partly visible in uninventive and dull programs.

Difficult Economic Conditions as Major Obstacle

Nevertheless, despite clear importance of issues such as political culture, media law, and professionalism, one problem has received the most prominent position among all others: General economic situation. The material conditions are extremely harsh and this is particularly so in the field of the media. Thus, it is the easiest way for any media institution to simply focus on daily events and not to involve too much in any kind of investigative journalism because it takes time, money and skills - extremely scarce resources in contemporary Bosnia. This situation is further exacerbated because the media organizations are forced to employ young journalists without experience and education since they are the cheapest ones. Hence, there is general lack of material and human resources within local media, what necessarily has negative impact on the quality of programs. Moreover, without internal capacity to educate its personal, majorities of the media are in specific 'educational vacuum position'; incapable to generate needed skills and knowledge. Here we see how financial difficulties and lack of professionalism reinforce each other, jointly forcing the media to abandon quality for the sake of mere survival.

If seen from the position of individual journalists and editors, the situation becomes even more complicated. First of all, low salaries are rather bad motivation for editors and especially for journalists who have no incentives to engage beyond necessary minimum. Second, high unemployment rates put additional pressure on journalists whose highest priority is to save their jobs. Thus, it would be totally irrational for any journalist to confront existing principles of conduct in particular institution and to work outside of established frameworks. As a consequence, initiatives are restrained before even started and the media lack basic preconditions for good program – individual action and skills.

Breaking the Circle: Initiative is the Responsibility of Editors

All in all, one may say that an issue of the domination of press releases and press conferences is not a real issue. It is rather one of many expressions of more deeper, crucial structural problems and conflicts that have its background in general socioeconomic, political and cultural conditions that characterize contemporary Bosnian society.

First of all, economic situation constrains initiatives on the sides of media organizations as well as on the side of individual journalists and editors. There are simply not enough resources, which are needed for the improvement of the quality of programs. The second important cause for the bad media performance is to be found in still partial media laws that did not solve some crucial issues such as the problem of transparency or other important questions dealing with relations and mutual obligations of publicly owned media and governing political structures. The third reason is general political climate and its accompanying culture that acts according to most rigid authoritarian principles, thus radically disturbing processes of political and public communication in Bosnian society. When put together, these structural conditions immensely decrease the capacity of the media to offer responsible, balanced and interesting programs. This is especially so in the domestic affairs programs that primarily deals with touchy political issues. The situation is additionally complicated if we take into consideration low professional skills of journalists and editors. Multiplied with total lack of PR knowledge on the side of political actors, the picture we receive necessarily has to be gray, if not black.

Nevertheless, this is not to take the responsibility from journalists, and above all, from editors of news programs. Indeed, editors are focal point of processes of mediated communications, they are the 'gate keepers' and they still have obligation to perform their function best they can. In other words, and despite the generally difficult conditions on all levels of processes of mediated communication, editors are those who have power to draw the line and determine the character of the program. Perhaps they cannot compete against complex pressures from political, economic and cultural spheres, but they can at least produce interesting news programs. From where we stand now, it seem to be the only possibility for breaking away from the vicious circle of repetition, dull programs, lack of professionalism and harsh structural conditions. The chain has to be broken somewhere. We hope.

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The Monitoring Team of the Media Plan would also like to express its gratitude to journalists, editors and other media professionals who all helped us to bring this analysis to an end. (T. Jusić)

S l o v e n i a

Law on RTV – Unsuccessful Changes

Legal regulation of the position of radio-diffusion is an important condition for harmonious development of this media system. Countries undergoing transition have dilemmas on how to establish a harmonious relationship between public and commercial radio-television, how to transform state RTVs into public stations, in what way to avoid monopoly in the media market, what to regulate by law and what to leave to self-regulation, what is the character of RTV subscription... Most of these countries have tried to apply European standards, some have adapted them to their specific conditions, while others, such as Bosnia-Herzegovina, have political blockades and require the international community's assistance.

Media News will in its next issues provide an opportunity for prominent media law experts from countries that are undergoing or have undergone transition to present experiences from their countries and to state their opinions on certain issues.

In this issue we feature M.S. Lenart Setinc of the Institute of Media Law Ljubljana.

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Why Changes to the Law on Radio-Television of Slovenia?

The Law on Radio-Television of Slovenia, which is the founding act of public radio-television in Slovenia, was passed in 1994. In more than five years of practice, the law has turned out to be appropriate primarily in managing the public institution RTVS. This has been confirmed by foreign experts.

RTVS in 1997 adopted an operating procedure on the method of payment of subscription (Official Gazette of RS, 39/97), whose essential part establishes a proper record of payers. A year later the Slovenian Constitutional Court invalidated the procedure. It elaborated that the operating procedure was not in conformity with the Constitution because record keeping was not prescribed by the law. The Constitutional Court specified a one-year time limit to harmonize the operating procedure with the Constitution, that is to amend the Law on RTVS in order to provide a legal foundation for the system of charging subscription. RTVS prepared a draft amendment to the law and asked political parties to support it. The aim of RTV Slovenia's proposed draft was for provisions to be adopted which would define more precisely the legal foundation of establishing a record of payers who pay RTV subscription. This RTVS initiative did not change the legal nature of RTV subscription (a legal obligation), or the ground for its payment (possession of a television or radio).

Parallel with this, within the Chamber of Commerce of Slovenia, under pressure from commercial RTV organizations in Slovenia (with unreasonable and unargued opposition from national RTV), an amendment was drafted on changes to the Law on RTVS (which was given the name "dual system"). The idea of a dual system (existence of public and separate commercial television) arose from European findings that public services financed from public sources cannot have a market role. European Union members, as well as candidates for EU admission, will sooner or later have to abolish "bivalents". They only seem to be market entities, but actually they are financed from public sources and they compete with business entities which are completely dependent on the market. This fact puts these public subjects in a privileged position.

The second significant reason for the dual system is the fact that the concept of public non-commercial RTVS, which is introduced by the Law on RTVS, is not being implemented in practice. RTV Slovenia is left to compete in a market race with commercial RTV programs and other media. Financing through advertising in this way prevents the rudimental role of public radio-television and with it the aims with which RTVS was founded. RTVS therefore does not carry out a public service in the area of TV in the field of information, and even less in the field of culture and education; programs from its own production and Slovenian language and local creativity are rarer and rarer on national radio-television. Numerous European countries have already taken measures to defend national RTV: in Great Britain, Norway, Finland and Sweden, radio-television is provided with a stable source of financing and it is prohibited from broadcasting paid commercials; in Germany public TV can broadcast commercials only during the week, after 8 p.m., 20 minutes a day at the most; SAT 3 is not allowed to advertise at all; advertising in Germany is also not allowed on public radio; in the Czech Republic advertising on public TV in prime viewing time is legally restricted to three percent of this time. In Greece, in Cyprus, in Egypt and in Macedonia, subscription is charged together with the electricity bill.

The main idea behind the proposed changes to the Law on RTV Slovenia, which was made by the Chamber of Commerce, was the following: on one hand to provide a stable and reliable source of financing for public radio-television, and on the other to ban (that is to restrict) broadcasting of commercial advertising. This proposal thereby transforms RTV subscription into a public-law fee

which should be paid by taxpayers who have an electricity connection, or – alternatively – taxpayers under the law on personal income.

A group of parliament members introduced into parliamentary procedure a **third version** of the proposed changes to the Law on RTS, which is a failed (probably anti-constitutional as well) combination of the two earlier described proposals. This proposal, which contains two significant amendments which have provoked a polemic among experts, was passed by the State Parliament (published in Official Gazette of RS 88/99). An initiative was submitted to the Constitutional Court against the adopted amendments to the Law on RTVS immediately after they were adopted, which the Constitutional Court accepted and adopted a conclusion on temporary moratorium on the validity of certain provisions.

Presumption of Obligation

The adopted amendments to the Law on RTVS, according to the proposed “dual system,” prescribe linking RTV subscription (which is called a “contribution”) to the electricity bill. On the other hand, they do not restrict national RTV in broadcasting advertisements in any way! On one hand the new system has turned RTV contribution into a full public-law tax (contribution = tax), and on the other the ground for paying this contribution is possession of a radio or TV. One of the most disputed provisions in the new law is certainly the one which introduces the presumption that everyone who is registered as an electricity consumer from the public electricity network possesses a radio or TV, except for those who give a signed statement that they do not possess one. This presumption is questionable from the legal aspect because it establishes an obligation to pay tax without first establishing whether there is ground for this tax. This is why the Constitutional Court of the Republic of Slovenia has accepted the initiative to start a procedure of assessing the constitutionality of the provision which introduces “RTV contribution” (in the place of RTV subscription), and the provision which introduced the disputed presumption (Articles 14 and 15/4).

Lex Imperfecta

The second flaw in this method of regulation is that the law introduces a public-law tax, while at the same time after execution maintains a legally-binding relationship between RTV and the owner of a radio or TV set. It is important that this provision is again *lex imperfecta*, because there is no legal way for RTVS to verify the truthfulness of a statement given by someone who does not possess a radio or TV set. The solution, which had been stipulated by the proposed dual system, is simpler and more efficient. The obligation to pay RTV fee is not linked to the possession of a radio or TV set, but to the fact that the payer is obliged to pay an income tax (contribution), that is to say that he possesses an electricity connection (this is the essence of public-law contributions: for example tax for financing education is paid by all taxpayers, not only by those who have children of school age!).

Experts (see J. Tekavec: Extraordinary Regulation of the “Fee” Under the Law on RTVS; Pravna praksa 448/99) also warn of numerous legal problems and dilemmas related to the new regulations. They introduce RTV contribution, as a family fee, which is a novelty in our legal system; the regulations establish inequality because the contribution is equal regardless of the number of radio and TV sets or family members; provisions regulating the method of collecting payer data, as well as the tax procedure for collecting contributions, are also disputed.

Disputed Collection of Data

The Constitutional Court has also accepted an initiative to assess the constitutionality of most provisions of the new law which regulate collection of data on payers who are obliged to pay RTV contribution, as follows:

- that RTVS may use personal data for computation and collection of payment (Article 15d);
- that payers shall be obliged to give RTVS their personal data; that RTVS is entitled to look into records of electricity and cable distributors; that RTVS may collect personal data without the obligation to inform those referred to (Article 15e);

- that RTVS shall keep records of payers who possess a radio or TV and records of those who fail to pay (Article 15f);
- that RTVS records shall contain separately: first name, last name, company and address; details of birth; personal number; tax number; employment record; brand of radio or TV (Article 15g);
- that RTVS may collect employment data from records of the RS Health Insurance Bureau, RS Invalid and Pension Insurance Bureau and Employment Bureau; that details of birth, personal number and address shall be collected from records of administrative units and the central population registry; that RTVS may also collect this data from the RS Tax Administration records (Article 15h).

The Constitutional Court also adopted a conclusion to suspend the implementation of the following provisions of the Law on RTVS pending final decision: Article 15e related to cable distributors and Articles 15g and 15h.

Why are provisions related to collection of data on payers of RTV contribution disputed? J. Tekavec warns of the violation of the ban on using personal data in a way that contravenes the purpose of its collection, and that data may be collected and used only with consent of the person it refers to. He also warns of the violation of the principle of minimal (as little as possible) invasion of privacy, and of the disharmony between the purpose of collecting data and the right of RTVS to obtain data, for example, regarding a payer's employment record.

I am confident that the majority of the above listed provisions will not survive the constitutional assessment.

Tax Procedure

In the procedure of passing the innovated Law on RTVS a problematic provision has sneaked through, according to which provisions of the Law on Tax Procedure shall be used for computation and collection of payment! "Attainments" of this amendment are that an appeal by the payer shall not suspend the execution, that all execution actions shall be carried out by the Tax Administration, and that the statute of limitations for paying RTV contribution is extended from one to 10 years!

In connection with this provision, an initiative has been adopted to start a procedure of assessment of constitutionality! It is necessary to warn here that this provision is completely uncoordinated systematically, which has been proven already by the first steps taken in implementing the innovated Law on RTVS. For example, RTV Slovenia is the body that has taken steps to implement the new system of collecting RTV contribution instead of the Tax Administration which is the sole body authorized to conduct tax procedure! Experts therefore warn that there are many open issues related to this provision: who is actually authorized to collect contribution, will each payer be issued with a decision on contribution and who will issue it; if jurisdiction is awarded to RTVS, this raises the issue of competence of this public institution to conduct tax procedure, how will the right to appeal be ensured, who will decide in first instance and who in second. It would be legally unfeasible, for example, to have RTVS issue the initial decision, as well as the decision on execution, and to carry out confiscation, etc.

How to Appoint Editors-in-Chief?

During the procedure of passing the innovated law, which occurred in a time crunch in order to respect the time limit specified by the Constitutional Court, all of the above issues which encroach upon the interests and freedoms of almost every citizen of RS, did not upset the public too much. A real scandal broke out concerning a proposed amendment which in Article 20 of the Law on RTVS strikes out consent of representatives of program workers during the appointment of editors-in-chief. In the ensuing polemic, political positions prevailed that this was supposedly only a preparation to change some incumbent editors-in-chief because it would be much more difficult to make these changes if journalists had to give consent for the appointment of new editors.

M. Krivic, former constitutional court judge, joined the polemic with legal arguments ("An interesting legal and constitutional issue – consent or opinion during appointment of editors-in-

chief,” Pravna praksa 446/99). According to him, this is a conflict between two constitutional rights: freedom of the press, that is to say of expression, which belongs to media owners (in this case RTVS – the state), and freedom of expression of journalists. According to Krivic, the solution which requires consent, as well as the solution which does not require any journalist input, is obviously unconstitutional. The solution requiring consent, according to the author, is absurd “because it means it is exclusively a matter for journalists to decide which editor will direct their work and ensure that tasks are carried out which are prescribed by the law and RTV Council as a representative of the public.”

A precise analysis of the method of appointing editors-in-chief shows that the solution requiring journalist consent actually does not give journalists the exclusive right to decide on the appointment of their editor-in-chief. The procedure of appointing editors-in-chief under the Law on RTVS unfolds, namely, in four phases: the first phase is a public vacancy announcement; in the second phase, among the candidates who have applied, the program director suggests the most suitable candidate; in the third phase, representatives of journalists (program workers) give their consent (under the modified law: prior opinion) to the suggested candidate; and finally, in the fourth phase, the RTVS Council decides on appointment by secret vote. The chosen candidate must receive more than 50 percent of votes of all Council members (qualified majority). This system of appointment of editors-in-chief, according to earlier regulations, required harmonized interests of journalists (program workers), the program director and qualified majority of Council members! Journalist consent in no way meant the exclusive right to make the decision. On the contrary, it was one of four conditions required for appointment. In case the suggested candidate did not receive consent of journalists (program workers), the program director could suggest another candidate (the same was true if the candidate did not receive the required majority in the Council). Of course, a candidate who is not suggested by the program director cannot be appointed editor-in-chief (even if he could get journalist consent and majority Council support!). The problem in this kind of regulation is a possible blockade among the three decisive subjects, which has not happened yet in the practice of editor-in-chief appointment during the validity of the Law on RTVS.

Difference Between “Public” and “State” Management

The constitutional right to freedom of press and expression, which media owners are guaranteed, in the case of public-national RTV is specifically regulated. The concept of public RTV in Europe puts these institutions in a specific position. They cannot be in private hands, nor can they be fully owned by the state. “Public management” of public RTV means that the state, as the “owner,” only co-participates in managing RTVS together with representatives of civil society (RTV Council members) and experts – RTVS program workers. In many European countries, the term used is public-law property instead of state property. The 1991 Law on Institutions put the property of all public institutions in state hands, including RTVS, which is in contravention of recommendations of EBU – the European association of national RTV organizations. The idea of such regulation is to establish a balance among state interests (represented by representatives of parliamentary political parties), civil society and employees – RTV experts.

Regulation which requires consent of journalists (program workers) for the candidate for editor-in-chief, is certainly not in disharmony with the status of public RTV.

The National Parliament concerning this issue amended the Law on RTVS and removed regulation which requires program workers’ consent, and instead introduced “prior opinion,” which, naturally, cannot prevent the appointment of the editor-in-chief even if it is negative.

Will There Be Changes?

The first verification of this amendment is pending before the Constitutional Court. It will certainly also be interesting to follow the implementation of the disputed provisions in practice. It is not too daring to predict that the adopted innovations to the Law will not be able to be implemented.

In the long run the European solution certainly affirms the **dual system**, which would bring: open media space for all, which does not work against the principle of competition; for RTVS a

stable source of public financing and shift of focus from a struggle for the market to a struggle for a better national program, as well as more program time for local production; for commercial media an advertising market without interference of the bivalent RTVS; for citizens a clear ground for RTV subscription, which would take into account the social aspect; and for viewers and listeners a public RTV program different from commercial programs. (Lenart Setinc)

I n t e r n e t C o n t r o l – Y e s o r N o ? (4)

Media News is publishing articles featuring opinions of journalists, scientific and other public workers, as well as Internet surf fans, on the topic – does the Internet need special regulation. We were inspired by the Conference on the Internet, held early December last year in Paris, in which one of the most important conclusions was that Internet control must not be allowed because it would be a kind of censorship which would particularly suit totalitarian regimes in the world. On the other hand, the gathering called for banning content that instigates people to commit so-called generally accepted criminal acts, such as pimping, violence, theft... We reserved this issue for a somewhat longer article written by Professor Jelenka Vockic – Avdagic, who deliberated this issue in a wider context of global communication flows.

International Consensus Required for Regulation

(Jelenka Vockic – Avdagic, Professor of Communication Systems, University of Sarajevo)

Hierarchy and Subordination Not Applicable to New Media

The new communication situation, with its cultural, social and political consequences, goes beyond political borders and legal restrictions. New methods of influence are being established, due to which many social activities acquire different forms and content, and with it different meaning. Among them is, certainly, the new comprehension of information/communication and in particular its normative regulation. Legal guarantee of fundamental human rights always refers to freedom of expression and the right to receive information as the basic principle. In implementing these two values, new media are complementary more than they are opposed to mass, classical media. They, thanks to their capability of simultaneous public and private access, storage and transmission, as well as interaction and one-sided imparting of messages, surpass the almost exclusively structural perspective of mass media, and thereby also their monopoly in public communication. However, regarding the value of order, which was usually considered a precondition for free and civilized society and the central value of communication, it is difficult to make new media conform to this system. The term order due to its association with control, hierarchy and subordination, can hardly be complementary with new media.

As an illustration, the Internet is a sufficient example, as a unique system of quick exchange of information and networking on a global level, which contains a huge amount of data, but which is, at the same time, impossible to manage and control well. When using the Internet, timely gathering of correct information in the decision-making process remains among the most critical factors.

The Internet has not overcome the problem of time conservation, guarantee of quality, and reliability of material in the sphere of international relations and safety of inter-cultural exchange. On the contrary, as a powerful tool for free flow of unclassified information, it has complicated it even more.¹

The existence of an open media environment implies planning of transparency, not control, openness, not obstruction, cooperation instead of hire. The most difficult issue will be to bring about

¹ The Internet is considered a “democratic” tool because it enables everyone to write on the net. However, not all material has equal value and reliability, which is not immanent to classical media. Their profile and the way they function are in a certain way a guarantee of order.

international consensus on what to do. First, some may try to use social norms. The biggest limitation of this approach comes from the diversity of results that may be achieved in different countries: to achieve consensus on child pornography, “non-light” drugs and so on, may be much more difficult than to achieve consensus on freedom of speech, or some other ban (or lack of ban).

New Technological Breakthroughs Expected

For now it is truly difficult to accomplish any serious level of regulation. Therefore, technological breakthroughs must be expected which would enable regulation or at least systematic supervision of information super flows. A consequences of net “patrols” may also be a quest for a new “Internet” and so on without end. There is no easy way to protect against unwelcome effects of global development, basic problems must be resolved on world level, or they cannot be resolved at all. Actually, world economy at this moment seems to be developing more and more towards creating a situation in which technology will bring globalization which lacks an appropriate social and ecological framework. Communication forms, when it comes to the global net, unlike “classical” mass media and mass communications, cannot vary in the context of different societies and cultures.

The issue of global net communication control remains open, in contrast to mass media control, which is widespread as a system. At the same time, governments have developed deep and inevitable interest in national and international communication systems in a way that is unfeasible in the case of the global net.

Will a “Lower Information Class” Appear?

The new global information market accommodates owners of communication paths, information hardware and software producers and information users. Just as highway transportation enables transport of people and goods from those who are more developed to those who are underdeveloped, new electronic highways will have access (both regional and social) to re-distribution of wealth, income and information. If a more just and universal approach is not insisted upon at state and international level, the new electronic highway may unintentionally result in the permanent creation of a lower information class.

Communication via the global net has created a new dimension of the human right to freedom of expression. Traditional communication restraints (in space and time) are disappearing. The flow of millions of information units which can link individuals and institutions at a global level is measured in seconds. Are these great opportunities available to everyone or will there still be “passage protectors” who will request special permit? Is access really free or is this right to the information race restricted, as Kleinwachter (1995) wonders, or in other words does there exist an individual and collective human right to the net, or are new limits and censorship appearing on the invisible horizon of the net and nets?

The history of the human right to freedom of expression points to a mutual influence between development of communication technologies and normative regulations related to communications. Still, effective control of the flow of information has been constantly lessened in practice. With the development of communication technologies, control of information across state borders became harder and harder. The eighties brought communication technologies that do not recognize any traditional ideas of sovereignty. There are no international bans, if we exclude technical standards related to connection and operation potentials. No government can control the Internet and, as Kleinwachter has said: there is no individual owner, and no “social correctness” is required to enter cyberspace. The classical method of control and manipulation is not applicable to the decentralized Internet. The Internet is the first opportunity to apply Article 19 of the Universal Declaration of Human Rights that anyone has the right to “seek, receive and impart information and ideas regardless of frontiers.” There have been no global negotiations on the Internet so far. Even on national level it is difficult to achieve consensus on the necessity, method and prospects of its regulation.

An American Experience

A legal attempt to introduce decency into communication, approved by the US president in 1996, which stipulates that those who disseminate immoral material via the Internet may be fined up to \$250,000 and sentenced to a prison term of two years, immediately resulted in a suit filed against the US government by the American Civil Liberties Union. The law, in their opinion, encroaches upon the First Amendment of the US Constitution and jeopardizes freedom of public expression. A higher level of legal and social regulation brought about by strong development of high technology, with the present regulation of media work on the principle of fair play, is not sufficient or possible any more. Application of existing norms can hardly be efficient, and in any case it cannot be complete.

The very lack of synonyms for the Internet is confusing. The issue of whether it is possible to regulate sources of Internet sites, which are located in different world centers, also remains open. The 1993 GATT Agreement supports principles of free trade in this field with two exceptions:

- that governments have the right to protect their cultural identity, and
- that intellectual property copyrights are enforced.

Still, is it possible to enforce the right to property in the global net? The world's leading industrial G7 nations, which clashed views with the UN and UNESCO in the 70s and 80s, in the 90s are expressing a need for appropriate regulation of international communications. Although it seems impossible to restrict the technically unrestricted Internet through local rules of conduct, according to experience so far these new communication tools have been transformed into tools for achieving power and profit. For now the following question remains open: is there a possibility for site servers to restrict access through credit cards or special codes? If there is, representatives of numerous institutions which function via the Internet maintain that certain restrictions would narrow down or complicate access to content which is not disputed. In addition, servicing of this type is extremely expensive and could be implemented only by the richest.²

Media Legal Practice in the World

Court Battle Over Faithfulness of Trnopolje Camp Images

Award-winning television pictures showing emaciated Bosniaks behind barbed wire at a detention camp have again captured world-wide attention – this time as the focus of a High Court battle that began on February 28.

News broadcaster ITN sued *Living Marxism* magazine after it accused ITN of faking and manipulating images so it appeared the men were locked behind the fence instead of standing before it.

The 1992 Trnopolje Camp footage, which aired on evening news programs around the world, prompted international outrage. Officials such as then-U.S. President George Bush likened the scenes to Nazi death camps.

At the center of the group of men is emaciated prisoner Fikret Alic, with a bare chest and apparently starving to death, at the Bosnian Serb-run Trnopolje camp.

² Ibrahimovic, N., The Worlds in the Net or Post-Modern Issues, Note, no. 1, Faculty of Philosophy, Tuzla Information Society, Globalization and Sustainable Development, Research Institute for Applied Knowledge Processing (FAW) Ulm, June 1998, Ivos, E. (Im)possibility of Classical Liberal Theory in Face With New Communication Technologies, Politicka misao, no. 4, 1998., Zagreb Kleinwachter, W., Is the Right to Communication Needed in Cyberspace? Javnost, Vol. I (1995), 4, European Institute for Communication and Culture, Ljubljana, 1995 Lambeth, Edmund, etc., Assessing Public Journalism, University of Missouri, 1998, Smith, J., Understanding the Media, Hampton Press, INC, Gresskill, New Jersey, 1995

But in February 1997 *Living Marxism* published an article called “The picture that fooled the world,” written by German journalist Thomas Deichmann. The article claimed the camp was a refugee center, not a prison, and that there was no barbed wire fence surrounding it.

ITN denied its pictures were a fabrication and sued for libel. ITN lawyers called accusations against the journalists a “highly damaging attack upon their respective reputations and professional integrity.”

Reporters Penny Marshall and Ian Williams visited the detention camps with an armed Serb escort to verify allegations that Bosnian Serbs were interning Bosniaks in concentration camps, ITN said.

The case, due to last three weeks, is expected to have far-reaching implications as the credibility of media coverage during wartime comes under scrutiny. (source: “2000 News 24” http://news.24.com/English/World/Asia/ENG_257241_1041626_SEO.asp)

N e w s F r o m T w o J o u r n a l i s t A s s o c i a t i o n s i n S a r a j e v o

Association of Journalists Proposes Two Projects for Stability Pact

The Association of Journalists of Bosnia-Herzegovina will try to go beyond the borders of Bosnia-Herzegovina in the year 2000 and become an associate and partner of media organizations in other countries of southeast Europe encompassed by the Stability Pact, Enes Osmancevic, Association Vice-President, told us.

Osmancevic said the most important project proposed by the Association of Journalists is establishment of an international press center in Sarajevo aimed at providing assistance primarily to foreign journalists, but also to local colleagues, in carrying out their assignments. The press center would offer tickers of the largest world news agencies, the Internet, a library, a video-library and all needed equipment (machines, cameras, microphones, etc.).

The second project submitted to the Stability Pact is a joint project of the Association of Journalists and Sarajevo-based Faculty of Political Sciences. It consists of a number of research projects related to current social events, human rights and media freedoms, said Osmancevic and added that the projects have passed through the first filter. The final decision will be made at a meeting in Brussels later this month.

NUPN to Open Bureau in Republika Srpska

The Independent Association of Professional Journalists (NUPN) at an election conference planned later this month is to elect association president and secretary general, as well as commissioners for bureaus in Tuzla, Konjic, Travnik, Mostar and Bihac. According to Borka Rudic, the organization’s secretary general, several journalists from the Republika Srpska are members of the Independent Union and therefore the NUPN plans to open bureaus in the other entity of Bosnia-Herzegovina in the coming period. A Working Group for establishing a Press Council has been holding final preparations in Mostar over the last few days. Consensus has been reached among the five journalist associations operating in Bosnia-Herzegovina to form a Press Council, a professional body dealing with protection of journalist rights and development of broadcasters and print media in the country, said Rudic.

The Independent Association of Professional Journalists is preparing to take part in a large Stability Pact project called “Media Development in Southeast Europe,” financed by Danish-based Baltic Media Center. The task of the Independent Union of Professional Journalists will be to train journalists, form journalist syndicates, etc.

Dnevni Avaz and Belgrade Vecernje Novosti Most Read Papers

Upon research of press read by citizens of Bosnia-Herzegovina, *Slobodna Bosna* reached extremely interesting, but also devastating findings: the average Bosnian reluctantly buys any newspaper, and even when he does, he rather buys papers produced in Zagreb and Belgrade than those published in Sarajevo and Banja Luka.

The total average circulation of all dailies sold every day in the entire territory of Bosnia-Herzegovina does not exceed 100,000 copies, which is considerably less than the circulation of a single daily published in neighboring Croatia. More than half of daily press sold in newsstands in Bosnia-Herzegovina are papers from Serbia and Croatia, and a smaller part are the three Sarajevo dailies: *Dnevni avaz*, *Oslobodjenje* and *Vecernje novine*.

The biggest number of copies by far among foreign dailies are sold by *Jutarnji list* from Zagreb, and in the Republika Srpska the Belgrade *Vecernje novosti*. "Opresa," the biggest distribution organization, each month sells around 350,000 copies of dailies and 150,000 copies of weeklies published in Sarajevo. Among daily newspapers, *Dnevni avaz* has absolutely the biggest circulation, selling 55 percent of all dailies, followed by *Oslobodjenje* with 25 percent, and *Vecernje novine* with 20 percent. *Oslobodjenje* in circulation is more or less equal to *Avaz* only in Sarajevo, whereas in all other cantons *Avaz* is more superior. This paper is by far the most read federal daily which is distributed by organizations whose network encompasses Croat majority territories.

In the Republika Srpska, the best standing Sarajevo paper with the three leading distribution organizations is the daily *Vecernje novine* (100 copies a day), followed by *Oslobodjenje* (90 copies a day), and *Avaz* with only 60 copies sold a day.

Regarding weekly papers sold in the BiH Federation, Croatian weeklies are far ahead of Sarajevo weeklies. Among local weeklies, *Slobodna Bosna* has the highest circulation, followed by *Dani* and *AS*. The most read paper in Sarajevo is *Dani*, while *Slobodna Bosna* is in second place.

The highest circulation Croatian weekly reading is the women's magazine *Glorija*, while among news magazines *Globus* is in first place, *Nacional* in second, and *Feral Tribune* in third. In areas of central Bosnia with Croat majority population, Sarajevo weeklies are almost equal to Croatian ones, while in Herzegovina and the Posavina Canton Croatian weeklies are sold much more than those from Sarajevo.

In the Republika Srpska local weeklies are sold more than those coming from FRY. The paper with the highest circulation in the Republika Srpska is the fortnightly review from Bijeljina *Ekstra magazin* (4,500 sold copies), after which comes *Nezavisne novine* (4,000), and *Reporter* with 2,000 copies sold every month. The Belgrade *Vreme* sells 600 copies a month, and *NIN* around 500.

On the other hand, daily press from Serbia is absolutely the preferred daily reading in the RS. The largest numbers of copies are sold by the Belgrade *Vecernje novosti* (10,000 to 12,000 copies a day), *Blic* (7,000 to 8,000), and *Politika* (around 3,000). This means that the two Banja Luka dailies together manage to sell only one fifth of the number of copies sold by daily newspapers from FRY. However, we should not forget that the price of Belgrade dailies is six dinars (which is less than 30 pfennigs), while papers from the RS are twice, and from the Federation three times as much.

Court Dismisses Suit by Fired OBN Employees

A court case started by fired OBN employees, who sued their former company for 220,000 DM for "discrimination in relation to other employees," was dismissed because they "were unable to present any written evidence to support their suit," *Vecernje novine* reported quoting reliable sources at Sarajevo Municipal Court.

In addition to discrimination, eleven former employees sued the then-leadership of OBN – Simon Haselock, Michael Challenger and Sead Musemic, for the manner in which they were fired. Namely, no one received advance notice, and some of them were not even allowed to take their personal belongings and documentation from TV OBN. Another reason for the suit were insults made by Simon Haselock who said after the dismissal of the 11 employees that “first league” journalists were brought to the TV, which suggests that the dismissed workers were “second, third, fourth...league” of journalists.

BORAM Yet to Start Operating!

The Bosnian-Herzegovinian radio network BORAM, founded six months ago, consists of 24 local radio stations and radio FERN with the aim of covering all areas of Bosnia-Herzegovina, even “pockets” inaccessible to TV signal, Adnan Osmanagic, Radio Stari Grad director and BORAM network project coordinator, told us.

BORAM recently opened a bureau in Radio Stari Grad premises and hired two professionals to work exclusively for the network. BORAM also produced its first commercial advertisements for OSCE and well-known world companies which were broadcast across Bosnia-Herzegovina via the network. According to Osmanagic, certain problems have appeared in linking radio stations which have different editorial concepts, have unequal range, play different kinds of music...

The BORAM project is financed by USAID and OSCE, and the network is soon to turn to commercial financing, i.e. self-financing.

**If somebody interfere with your professional, journalistic work call
SOS – open line for journalists - 078 213 442 Media Plan Banja Luka**



Listen with your ears!



Look with your eyes!



Think with your head!

△

Council of Media Plan Institute: Prof. Dr. Muhamed Nuhic, Hamza Baksic (Sarajevo); Perica Vucinic (Banja Luka); M.S. Lenart Setinc (Ljubljana); Prof. Dr. Mario Plenkovic (Zagreb); M.S. Loius de la Ronciere (Paris); M.S. Aleksandar Todorovic (Montreaux); Prof. Dr. Slavo Kukic (Mostar), Prof.Dr. Miroljub Radojkovic (Beograd)