

SELF REGULATION REGULATION

Freedom And Accountability Safeguarding Free Expression Through Media Self-Regulation



March 2005

**FREEDOM AND ACCOUNTABILITY:
SAFEGUARDING FREE EXPRESSION
THROUGH MEDIA SELF-REGULATION**

ARTICLE 19, the Global Campaign for Free Expression
International Federation of Journalists

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Executive Summary

A couple of years ago, a judge at the High Court in London capped the libel damages a plaintiff could claim from *The Guardian* because the newspaper had readily agreed to publish a correction and apology, which the plaintiff had spurned. This was described by the editor, Alan Rusbridger as a significant precedent that might encourage other newspapers to set up their own equivalent of *The Guardian's* readers' editor who had responded to the plaintiff's initial complaint.¹

The mechanism of a reader's editor within a newspaper is just one way in which *individual media outlets* can uphold journalistic standards, engage in a mutually beneficial dialogue with their readers and protect themselves from excessive libel damages when journalists get things wrong.

Developing self-regulatory mechanisms *across the sector*, in order to ensure a more comprehensive approach to developing and upholding media ethics, to deliver genuine accountability to the public and to protect the principle and practice of freedom of expression is complex and challenging.

This report looks at how countries in Western Europe, in particular Sweden, Germany and the UK have developed press councils or complaints commissions and analyses recent initiatives in five countries of South East Europe aimed at improving journalistic standards and establishing some form of media self-regulation. Developments in Albania, Bulgaria, Bosnia and Herzegovina, Romania and Slovenia are explored through the testimonies of key stakeholders in the process: media owners, editors, journalists and non-governmental organisations.

As the key findings and recommendations of the research reveal, there is no single fit-all model of media self-regulation that can be easily transferred from one country to another, but there are fundamental principles, which should be observed and useful lessons that can be learned.

The aim of this report is to stimulate debate and exchange of practical experience between those engaged in developing media self-regulation and to encourage the media in transition societies to reflect on how they can contribute to preserving hard won freedoms through better adherence to standards and commitment to the principle of accountability.

¹ I Mayes, *More Corrections and Clarifications*, Foreword (London: The Guardian, 2002).

Recommendations for developing sector-wide media self-regulation

The following recommendations are based primarily on the empirical evidence gathered via interviews with relevant stakeholders in Albania, Bosnia and Herzegovina, Bulgaria, Romania and Slovenia. They are further informed by observations of the way in which models of media self-regulation, specifically press councils, have developed in established democracies and in particular in Sweden, Germany and the United Kingdom. The recommendations are considered most relevant to the situation in Eastern Europe and specifically to South East Europe, but those in other regions are invited to reflect on their own situation and the extent to which these recommendations could be applied in their own countries.

To the executive and legislative authorities:

1. Media self-regulation can only prosper alongside a legal framework which provides strong guarantees for the fundamental right to freedom of expression and freedom of information.
2. In particular, defamation should be decriminalised and replaced where necessary by civil defamation laws. Furthermore, a journalist's conduct in compliance with recognised professional standards, such as those elaborated in a journalists' code of ethics, should preclude his/her liability in defamation cases concerning statements on matters of public interest.
3. The fundamental objectives of media self-regulation should be to provide protection for members of the journalistic profession; to hold individual journalists accountable to their profession and to hold media outlets accountable to the public.
4. Codes of conduct/ethics which set the standards to which members of the profession endeavour to adhere should not be elaborated in national legislation but are the preserve of journalists and media organisations.
5. The right of the public to correction or reply should *ideally* be the subject of self-regulation where such mechanisms exist and if the subject of statutory regulation should comply with the standards elaborated by the Council of Europe.²
6. In order to guard against censorship and undue political interference in the media, it is preferable for bodies aimed at promoting media accountability to be established by the media community *voluntarily* and not by law.
7. Notwithstanding, there are circumstances in which statutory bodies may be the only realistic option. Whether established voluntarily or by law, sector-wide self-regulatory bodies should be:
 - Independent from government, commercial and special interests;
 - Established via a fully consultative and inclusive process;
 - Democratic and transparent in their selection of members and decision-making;

² See Recommendation of the Committee of Ministers to member states on the right of reply in the new media environment (Adopted by the Committee of Ministers on 15 December 2004 at the 909th meeting of the Ministers' Deputies) [http://wcd.coe.int/ViewDoc.jsp?Ref=Rec\(2004\)16&Sector=secCM&Language=lanEnglish&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](http://wcd.coe.int/ViewDoc.jsp?Ref=Rec(2004)16&Sector=secCM&Language=lanEnglish&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679)

- Include a tripartite representation (journalists, media owners and members of the public);
- Have the power to impose only moral sanctions, such as the publication of a correction or an apology. They should not be entitled to fine or ban media outlets or exclude individual members from the profession.

To journalists, editors, media owners and NGOs:

8. Codes of conduct/ethics are best elaborated through the most representative journalists' body such as the national journalists' union or professional association. Where there is more than one body, they should be encouraged to develop one joint national code.
9. At a minimum, codes of conduct/ethics should include commitment to the following principles:
 - Respect for the public's right to know;
 - Accuracy in news gathering and reporting;
 - Fairness in methods to obtain news, photographs and documents;
 - Non-discrimination in relation to race, ethnicity, religion, sex and sexual orientation;
 - Sensitivity in reporting on vulnerable groups such as children and victims of crime;
 - Presumption of innocence in reporting on criminal procedures;
 - Duty to protect sources of information obtained in confidence;
 - Duty to rectify published information found to be inaccurate or harmful;
10. Considering that journalists are at the frontline of ethical decision-making, a clause of conscience that endorses a journalist's right to refuse assignments which breach the principles outlined in the code of conduct/ethics should be included in a journalist's contract of employment and endorsed by a self-regulatory body, such as a press council. Further clauses that guard against conflict of interest can also be developed.
11. Bearing in mind the dynamic nature of the media and changing values in society, a code of conduct/ethics should be considered a working document subject to interpretation, rather than a set of rigid rules. To assist in interpretation, a definition of public interest should be included in the code and to ensure the code remains relevant to the changing environment, regular review and opportunity for debate about its contents should be provided.
12. Those engaged in developing a self-regulation mechanism to uphold a code of code of conduct/ethics should be aware that there is no single fit-all model, but that each country can develop its own version that suits the political, cultural and economic environment in which journalists work.
13. Notwithstanding, on the basis of the findings of this study, ARTICLE 19 and IFJ would recommend a tripartite model which includes participation of journalists, publishers and representatives of the public in order to realise the fundamental objectives of self-regulation: accountability of members of the profession to their peers, accountability of media outlets to the public, protection for members of the profession.
14. In order to ensure a broad sense of ownership among the media community, due consideration should be paid to the *process* for developing a self-regulation mechanism. This process should be consultative, inclusive and transparent. A step-by-step approach which encourages support for self-regulation from the bottom up is preferable to a top down or centrally imposed solution.

15. In order to avoid domination by any individual or interest group and to enable fresh experience and insight to be brought to the activities of a press council, members should be selected according to democratic and transparent procedures and the term of membership limited in duration.
16. In order to preserve legitimacy and credibility of its decisions, high standards of accountability, good governance and transparency should be applied to the everyday functioning of a press council or ethics commission, such as regular publications of decisions and activities, full disclosure of the operational budget and sources of funding and publication of procedural rules and biographies of the members.
17. In order to encourage widespread support among the media community and to contribute to raising its public profile, the mandate of a press council should extend to advocating for freedom of expression. It should act as both a defender of the rights of members of the media profession as well as a guiding force for their conduct and an adjudicator for complaints received from members of the public.

To the international donor community:

18. Programmes of support for the development of media self-regulation should be guided by the following principles:

- media self-regulation can not be imposed by external actors in the absence of a domestic initiative or at least a reasonable level of interest among members of the media profession in the country concerned;
- due attention must be paid to the *process* for establishing a media self-regulation mechanism which should be consultative, inclusive and transparent;
- the provision of funding should be conceived as part of a longer term strategy aimed at securing structures which can be sustained by the local media community;
- external experts brought in to advise on the development of self-regulation should be competent and come from organisations or institutions with a good reputation among the profession (donors should make use of the growing experience in Eastern Europe, in addition to drawing on the experience of established self-regulation mechanisms in Western Europe and elsewhere).

To all:

19. Sometimes no self-regulatory structure is better than a bad structure. Where it is not possible to create a national body for the media sector then other forms of self-regulation should be encouraged:
 - Journalists unions should develop their own codes of conduct and negotiate recognition of those codes in collective contracts;
 - Individual media outlets should develop in-house rules that reflect high ethical standards;
 - Journalism training institutes should incorporate ethical issues into all their courses;
 - NGOs should demand high ethical standards and educate the public on the importance of ethical media.

1. Introduction

The Changing Media Environment in South East Europe

The transformation in the media in the former communist countries of Eastern Europe in the past 15 years has been dramatic, posing entirely new challenges to individual journalists and their profession. On the one hand, the crude forms of state censorship and monopoly of the printed and broadcast word have been overturned, while on the other, more subtle forms of pressure and influence from political and commercial elites have undermined the development of truly independent media.

There has been plenty of progress in legislative reform: the abolition of press laws restricting media content, the adoption of freedom of information legislation, the development of new legal frameworks for the regulation of private broadcast media and the transformation of state radio and television stations into public service broadcasters. However, many countries have struggled with the nuts and bolts of implementing new legislation, precisely because it has entailed challenging the persistent desire of governments of whatever political shade to exercise some control over the media. This goes hand-in-hand with having to uproot the entrenched interests within media institutions themselves.

New freedoms have brought uncertainties as well as opportunities to journalists. The profession has suffered from the consequences of liberalisation, in addition to having to deal with new forms of pressure exerted by powerful elites, still unused to the watchdog role the media plays in a democracy. In the wake of the abolition of restrictions on who can or cannot practice as a journalist, publish a newspaper or launch a radio station, hundreds of people have entered the profession, without any form of training. Standards of reporting in the new 'free' media have suffered as a result, as has the status and reputation of the profession. The removal of regulation has also resulted in the removal of protection, particularly in the area of employment rights – working without a contract has become the norm for journalists in many countries of the region.

The transformation in the media as an industry has also changed the working environment of journalists and the role of the journalist in society. Journalists may no longer serve the interests of the state, but they may find themselves serving the interests of the proprietor of the media outlet for which they work. The advent of entrepreneurs with little interest in journalism as a profession or as an instrument of democracy does not favour the development of public interest media, especially when combined with the common feature of over-saturated markets in which newspapers compete for a relatively small number of readers.

Media Self-Regulation

This report addresses the issue of media self-regulation against the background of the profound changes summarised above. The report explores the way in which journalists, editors, media owners and NGOs in five countries of South East Europe are codifying media ethics and beginning to develop systems of self-

regulation. The development of media self-regulation in more established democracies and in particular in Western Europe is examined as a means of reflecting on the practical dilemmas – the challenges and solutions that can provide valuable insight for newer practitioners.

So what is self-regulation? Self-regulation in any profession or sector entails the development and enforcement of rules by those whose conduct is to be governed, with the ultimate aim of improving the service offered to consumers, claimants or – in the case of the media – the public at large. It requires standards to be set and agreed on by the individuals and institutions to which they will apply and the development of procedures and mechanisms for enforcing them.

Fundamental to self-regulation is the principle of voluntary compliance. Law courts play no role in adjudicating or enforcing the standards set and those who commit to them do so not under threat of legal sanction, but for positive reasons, such as the desire to further the development and credibility of their profession. Self-regulation relies first and foremost on a common understanding by members of the values and ethics at the heart of their professional conduct. Essential considerations in the conceptualisation and development of a system of self-regulation are: who is being held accountable, by whom, for what purpose, how and with which outcome in mind?

If we attempt to answer these questions in the case of the media, then we immediately stumble across some of the dilemmas that characterise the debate and have influenced the development of different models of self-regulation in different countries.

The question as to what *outcome* is sought by media self-regulation goes to the heart of the purpose of the media and the role of journalists in a democratic society. The first duty of journalists is to serve the public by providing accurate, independent and timely information on the basis of which choices and decisions can be made. In order to fulfil the role of public watchdog, credibility with the public must be maintained. This demands the highest of ethical standards. Creating effective systems of self-regulation to develop these standards and account for their implementation, strengthens the bonds of trust between media and the public.

The question of *who* is being held accountable directs us to consider whether self-regulation applies to individual journalists or to media outlets – be they print media or broadcast organisations. Individual journalists who personally commit to a code of ethics and strive to practise ethical journalism are answerable to their own conscience and can be held to account by their peers according to standards recognised by the professional association or trade union to which they belong. However, if we assume that among the desired outcomes of self-regulation is greater accountability, then it is clear that self-regulation of journalists only by other members of the journalistic profession has its limitations and cannot satisfy the objective of accountability to the public. Self-regulation is not a matter only for journalists – it has to involve also those who share the responsibility and in some cases personally direct the content of what is published – i.e., editors and media owners. In other words, ethics can be practised by the individual and guided by the profession, but to deliver real accountability, regulation must operate at the level of the sector, with each media outlet committing to the standards and the relevant enforcement mechanism.

The question of *how* and *by whom* the media is held accountable is complex and finds different solutions in different countries, conditioned by many factors, such as the history of media freedom, the economic conditions of the media industry and the political and legal framework in which the media operate. Should a self-regulation system only involve journalists, editors and media owners? Or should it include representatives of the public? What kind of sanctions should be available for breaches of the standards to which individual journalists and media outlets commit?

In Chapter 2, we see that the need for and benefits of self-regulation of the media sector are not universally accepted. In countries in which the state has traditionally played a more intrusive role and where issues such as privacy are regulated by law, there is likely to be less appetite for a system of self-regulation. This lack of enthusiasm can turn to suspicion at the suggestion that self-regulation should involve actors other than members of the journalistic profession. In transition societies, the media is recognised as a powerful tool by politicians, commercial actors and special interest groups manoeuvring for position and influence. At the same time, the numerous non-governmental organisations that have proliferated since the fall of communism and are often turned to as representatives of the public interest are not always free from political or other influence. In this context, it is perhaps not surprising that journalists will be wary of vested interests compromising the independence of a self-regulatory body via the participation of non-journalists.

At the same time, there is also plenty of evidence from Western Europe that the willingness of the media to invest time and effort in the development of self-regulation, guards against the introduction of overly intrusive state regulation and contributes to enhanced credibility in the eyes of the public.

As has been described in reference to the NGO sector, “the measure of any good self-regulatory scheme is [...] how it ensures openness and accountability, public confidence, statement of values and standards of behaviour, beneficiary participation and above all mechanisms for monitoring and updating the scheme in the light of changing circumstances.”³

These indicators can also be applied to media self-regulation and what they tell us is that self-regulation is a process, anchored by fundamental principles, yet dynamic in its need for continuous review and adaptation to changing circumstances. Such characteristics are evident both in the more established self-regulation mechanisms from Western Europe described in Chapter 3 and in the nascent initiatives in the five countries of South East discussed in Chapter 4.

ARTICLE 19 and the International Federation of Journalists

ARTICLE 19 and the International Federation of Journalists (IFJ) have been active in support of legislative, institutional and professional reform of the media in Eastern Europe for several years.

ARTICLE 19 elaborates standards and campaigns for legislative and institutional reform to enable the development of free and independent media. A particular focus of ARTICLE 19’s work in South East Europe is the reform of criminal and civil defamation laws, which exert a chilling effect on the media and suppress public debate about issues of significant public interest such as corruption and organised crime. While there has been progress in reform of the defamation provisions in some countries – notably Bulgaria and Romania, where prison sentences for defamation have been abolished and special protection for public officials removed – there remains an entrenched resistance to complete decriminalisation.

A common argument cited by government officials and politicians to further reform, is that journalists are irresponsible and if criminal sanctions for libel and slander were removed individuals would be left unprotected from attacks on their reputation. While such an argument is not a justification for failure to reform outdated provisions that continue to stifle freedom of expression, there is some truth in the claims of poor journalistic standards and practice.

³ Eddie Adlin Yaansah, “Code of Conduct for NGOs in Ethiopia” in the International Journal of Not-for-profit Law, vol. 1, issue 3, 1999.

The lack of understanding of and commitment to media ethics not only leaves individual journalists more vulnerable to legal procedures, but also damages the credibility of the media as a whole. ARTICLE 19 is interested in promoting the development of media self-regulation as a means of raising standards, as a way of providing society with a dispute resolution mechanism in relation to the media which acts as an alternative to the courts and to remove the excuse for those who cling to outdated legal provisions to protect themselves from public scrutiny. Above all, ARTICLE 19 is interested in contributing to safeguarding freedom of expression.

The International Federation of Journalists is the world's largest journalists' organisation, representing more than 500,000 journalists worldwide. All affiliates of the IFJ are signatories to the IFJ Declaration of Principles on the Conduct of Journalists, first adopted in 1954 and most recently amended in 1986. It outlines the fundamental ethical principles of the profession. It is the only global journalists' code of ethics.

In 1999 the IFJ organised a conference on ethics and self-regulation for journalists in South East Europe in Tirana, Albania. The meeting made a series of recommendations for actions by journalists and their organisations to create sound effective systems of self-regulation in the region.⁴

Since then, the IFJ has been closely monitoring the impact on journalistic standards of multinational companies that now dominate media ownership throughout the region. Here, the struggle for editorial freedoms and journalistic independence has been hard fought, particularly against former communist and then nationalist leaders. Globalisation however, raises new and serious concerns about maintaining pluralism and quality in countries where one or two multinational companies dominate the media.

IFJ believes that if media are to maintain legitimacy in the eyes of the public then they must demonstrate respect for journalistic ethics and independence in their newsrooms and make themselves accountable through national press councils and other forms of self-regulation. Standards must not be compromised in the drive for ever higher profits.

Methodology and Structure of the Report

The principal aim of this report is to provoke discussion, exchange of information and experience about the benefits, viability and practical implementation of media self-regulation in South East Europe.

Chapter 2 introduces media self-regulation, its role in guaranteeing a free and responsible media and its conceptual development in relation to the changing statutory and commercial environments in which the media operate in established democracies. Chapter 3 considers different models of self-regulation and presents some advantages and disadvantages of press councils in Sweden, Germany and the UK.

The largest Chapter of the report – Chapter 4 – describes the current status of self-regulation in Albania, Bulgaria, Bosnia and Herzegovina, Romania and Slovenia. In all five countries, journalists' professional associations or trade unions have adopted Codes of Ethics or Codes of Conduct that lay down standards for the media. In some countries, these are intended to apply to both print and broadcast journalists, while in others the Codes have been conceived exclusively for the print media. Bosnia and Herzegovina is the only country of the five to have an established self-regulatory body – a Press Council – that seeks to enforce the Press Code across the print media sector.

⁴ IFJ's Declaration of Principles on the Conduct of Journalists and the Recommendations from the Tirana Conference are included in the Appendices.

The research methodology developed to gather information for these five country case studies was itself intended to contribute to debate by providing an opportunity for key stakeholders to share their experience and views about self-regulation with a wide audience.

In-depth questionnaire-based interviews were conducted in each country by a local researcher selected with the help of local free expression and media organisations. Up to 20 individuals were interviewed in each country and were selected to represent the range of stakeholders who have an interest in media self-regulation. They included: journalists, editors-in-chief and media owners of major national newspapers and – where relevant – influential regional publications; prominent members of journalist trade unions or professional associations and where they exist, established self-regulatory bodies; members of civil society organisations with a human rights or freedom of expression mandate; media lawyers; and finally government officials and parliamentarians involved in developing media-related legislation.

The interviews were structured around open rather than closed questions to encourage interviewees to describe initiatives with which they had been involved; to reflect on the level of support for media self-regulation among different stakeholders and beneficiaries; and to consider the obstacles and possible solutions from within and outside the profession to the realisation of an effective self-regulation scheme. Each interview was transcribed and sent to ARTICLE 19 for analysis. The empirical data was supplemented by collation of general information on the media environment in each country that forms an introduction to each case study.

Finally a concluding chapter draws out the common themes to emerge from the interviews; a summary of findings provides a brief overview of the main features of the self-regulation debate in each country; and recommendations point the way forward to journalists, editors, media owners, NGOs, government authorities and the international donor community.

2. Self-Regulation & Statutory Regulation

Freedom of Expression is a fundamental human right, without which many other rights cannot be exercised. For example, the electorate cannot exercise its franchise freely if election coverage is censored. Since the 18th century, lawmakers have embraced press freedom as a defence against tyranny. The First Amendment to the US Constitution stated in 1791 that “Congress shall make no law ... abridging the freedom of speech, or of the press ...”. This idea was echoed in the Belgian Constitution of 1831: “The press is free, censorship can never be introduced” and once again in the Federal German *Grundgesetz* (Constitution) of 1949 which guarantees that “there shall be no censorship”.

The European Convention on Human Rights, an internationally binding treaty signed by every country in Europe, except Belarus, embodies this right in Article 10, paragraph 1:

“Everyone has the right to freedom of expression. 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.”

But freedom of expression is not an absolute right. There are limits. National and international legal systems give great protection to the press because of the significant contribution that the media make to the realisation of the right to freedom of expression. Article 10, Paragraph 2 of the European Convention adds that the exercise of this freedom “carries with it duties and responsibilities”, so it may be subject to “such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society”. A number of specified grounds for restrictions are added, covering matters such as national security, public safety or the personal reputations of the citizenry. No restrictions are allowed outside these grounds.⁵

Ratification of the European Convention means accepting the ultimate authority of the Strasbourg-based European Court of Human Rights in disputes over the matters covered by this treaty. Signatories become

⁵ The full list of these grounds is ‘in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary’.

members of the Council of Europe (CoE) and are entitled to advice and assistance from the Council in complying with the terms of the Convention.

The post-communist states of Eastern Europe are among the most recent members of the CoE and by signing up to the Convention have agreed to be bound by it.⁶ State interference with press freedom and even outright censorship remain a serious problem in many of these countries and here the Council has played a very active role, reminding governments of their responsibilities under the Convention.

But it would be very wrong to imagine either that the only problem facing press freedom in Europe is state intervention or that all the impediments to such freedom are located in Eastern Europe. A recent CoE report warns that the unregulated development of transnational media conglomerates throughout the continent risks making the media 'less local, less controversial, less investigative and less informative'.⁷ At a meeting in January 2003, the Parliamentary Assembly of the CoE stated that the conflict of interests between the Italian prime minister's private media businesses and his public office was 'a threat to media pluralism'.⁸

Although important advances have been made since the collapse of communism, media freedom is threatened in many countries of Europe by political and – increasingly – commercial pressures, which are complex and more difficult to address than traditional forms of censorship. Indeed, the assailant can be from within the media themselves. This chapter looks at some of the wider aspects of this conflict and at some ways in which it can be resolved or at least alleviated.

Trust

Since the very origins of the newspaper industry, journalists have struggled to be seen as credible, professional witnesses. That struggle has mostly been fought against those who exercise power in secret and it has become more complex as society has changed. Public trust in the work of journalists has risen and fallen over the years in almost direct relationship to their ability to expose the structures and abuse of power. Unfortunately today, that trust is at a low point in many countries of Europe.

When journalists fail to follow their own professional guidelines, they inevitably invite controls which may damage the rights of the general public. When government ministers or entertainers are subjected to relentless streams of innuendo about their private lives until they resign, divorce or even attempt suicide, parliaments tend to consider tighter privacy laws.⁹ The fact that such laws might harm the scrutiny of those guilty of serious misdemeanours is sometimes forgotten in the anger generated by the press intrusion.

Invasion of privacy is only one of the grievances against the press. A number of principles such as independence, accuracy and fairness have been betrayed – not in solitary, one-off 'slips of the pen'. Systematic, fundamental problems have occurred.

The media can reverse these dangerous developments through self-regulation which would ultimately make them more accountable to the public. Professor Claude-Jean Bertrand has suggested that "The media hold

6 There are 46 full members of the Council of Europe (including Turkey and the South Caucasian republics). Belarus is the notable exception in the region and remains a candidate member.

7 *Transnational Media Concentrations in Europe*, Media Division, D-G Human Rights, Council of Europe; Nov 2004

8 Recommendation 1589 (2003), para 12.

9 For example, in January 2005, an actor from a popular soap opera in Britain attempted suicide following publication of rumours about his private life in a tabloid newspaper. http://news.bbc.co.uk/1/hi/entertainment/tv_and_radio/4187187.stm

[certain] traditional rights on behalf of citizens. That delegation of power has no explicit contractual basis: in order to keep it, the news media need to deserve it, by providing high quality services.”¹⁰

So self-regulation or media accountability is where journalists and publishers come together to form rules of conduct for journalism and to make sure these rules are obeyed. As part of this, they provide a means by which people who feel aggrieved by a particular news or information item can have their case heard by a fair tribunal. This is all done by voluntary agreement of media professionals. It means that journalists and publishers or broadcasting organisations take responsibility for ensuring that their media adhere to good journalistic standards.

Of course proprietors and journalists enter this process from different doors. Ownership gives one the ultimate power over what is actually published/ broadcast. It also subjects one to the demands of the market, which may not comply with the requirements of the journalistic code of conduct. So, if regulation is to serve the public interest, there need to be checks and balances in place to ensure that proprietors cannot abuse their power.

Journalists too have their own sectional interests. However, these (mostly concerning salaries and working conditions) are less likely to conflict with the interests of the general public. Just as ethical journalism is in the interests of society, it is also in the ultimate interests of the journalists themselves. Lazy and irresponsible journalists do exist and some of them are well-paid. But for the majority of the profession, there is a close correlation between high standards and good remuneration.

Statutory Regulation of the Media

The term *statutory regulation* applies to any measure passed by parliament to direct the media. Defamation and/ or libel legislation, such as we find in all countries, comes under this category. So do the laws against inciting racial hatred, as do restrictions on the right of journalists to name the victims in rape or sexual abuse cases, which are found in many countries.

There are statutory regulations covering the reportage of trials, of parliament and of municipal affairs. Freedom of information legislation imposes duties on the authorities to provide information to everyone, including journalists, on request. This right of access to official information is subject to certain exemptions but in the best freedom of information laws exemptions are in turn subject to an overriding public interest test. Rigid state secrecy legislation still remains in a number of countries, but increasingly freedom of information advocates are successfully challenging such restrictions. In some – though sadly not all – European states, the duty of journalists to protect confidential informants is actually recognised in law.

So statutory regulation is already part of journalists' working lives. In some cases, they welcome it. Professional journalists would be horrified to think that their coverage of a trial, for example, could result in the wrongful imprisonment of an innocent person. In general, colleagues accept press regulations that protect the vulnerable individual from either the state or other powerful institutions or people, while they reject ones which restrict democratic discussion.

But, for the most part, journalists fear additional legal regulation of the media. Many feel the current restrictions are too limiting; that they prevent journalists from providing the service the public needs. They believe democracy entails keeping lawyers out of the newsroom, as far as possible. It may be very hard for either politicians or

¹⁰ *Media Ethics & Accountability Systems* by Prof Claude-Jean Bertrand, Transaction, 2000, p25

jurists to accept, but there are some things where the law is out of place: such as religion, poetry, industrial relations and especially news-gathering.

The judicial system's crude alternatives of guilt or innocence are simply inappropriate amid the nuances of daily news production. The courts are blunt instruments. They frequently demand standards of proof, which may be appropriate in a legal setting but which stifle political discourse. Some judges expect journalists to prove everything they write as conclusively as a lawyer would, with forensic evidence, witnesses and concrete proof. They forget that journalists do not have the power of arrest and that people lie to reporters with impunity.

Journalists find out as much as they can about a given assignment before the next deadline. They know from experience that tomorrow's findings may well disprove today's great discovery. The 'truth' you find on the airwaves or among newspaper pages is a tentative thing and comes with the implicit warning: "This is it, so far as we know."

The law can prevent good journalism, but no law can create it. That is because good journalism is a matter of responsibility and you cannot force that down anyone's throat. It is impossible to set rigid, exacting rules and practices for journalists. How do you set a norm for the level of journalistic diligence in covering a corruption inquiry or in describing some horrific tragedy? Is it possible to specify exactly how much and what sort of preparation is necessary before covering a major football match?

In the Case of Broadcasting

Nevertheless, there are situations where additional statutory arrangements have been seen as necessary for many years – such as in the regulation of broadcasting.¹¹ In most European countries, the state-owned broadcasting company was the first ever broadcaster. So, broadcasting emerged almost as a branch of the civil service. The state was able to direct such companies through government nominees, who did not always show great independence of mind. Right up until the late 1960s, in many Western European democracies, the government considered the state broadcasting company to be its own propaganda arm.

The doctrine of public service broadcasting – first established at the BBC – whereby the station is expected to serve the entire country, opposition as well as government, has taken over since then. The right of the state to intervene is now subject to certain restrictions, known judicially as the 'triple test'. The proposed regulation must follow Article 10 of the European Convention, and so it must be:

- prescribed by law (i.e.: a written parliamentary statute, accessible to the public)
- in pursuit of a legitimate aim (i.e.: protecting a public or private interest in a legal manner) and
- necessary in a democratic society.

But why should different regimes exist for broadcasting and for print journalism? Part of the reason is that, in the past, only a limited number of licences could be issued to broadcasting companies. Technology was such that the spectrum was limited and therefore governments had to allocate such licences according to a fair set of rules. It was natural that such rules should – among other things, such as duties to promote diversity and access – involve professional standards of journalism, and that the body which issued the licence should also administer a complaints procedure.

¹¹ See Article 10 (1) of the ECHR: This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

Commercial and technological developments are eroding each state's power over broadcasting. The development of digital TV and the growth in cross-border broadcasting may require new approaches to regulation. The sheer number of stations and the scale of their operations may swamp the current statutory arrangements.

Another case for statutory supervision derives from the nature of broadcasting. The rationale behind the view shared by many European states is that broadcasting needs to observe higher standards of impartiality than the press because it reaches a wider audience and does so in a more powerful way.

Reading a newspaper requires a conscious choice to concentrate on a particular item from a particular source. But broadcasting is more pervasive. Without even consciously deciding to watch or listen to a particular programme, you can be affected by it. If you are trying to have a conversation with somebody in a room while the television is on in the corner, you will be concentrating on what the other person is saying, but your sub-conscious mind is also listening to the television programme. This subliminal effect of broadcasting gives it a higher influence than the written press.

Furthermore, even in a multi-channel environment, there is a strong need for state regulation of broadcasting to ensure pluralism. Experience teaches us that in the absence of regulation, broadcasters will generally provide a homogenous diet of light entertainment and the industry will be dominated by a small number of very powerful players. This situation would negate the right of the public to receive information from a wide variety of sources that is not only entertaining but also informative.

Tensions and Contradictions

Ownership can also be a problem for the print media. The ownership structure of the publishing industry favours the concentration of power in the hands of very few people. On occasion, this can seriously limit the public's spectrum of choice and thereby the paper's accountability. During the late 1980s in Britain for example, three very active newspaper proprietors (Robert Maxwell, Rupert Murdoch and Sir Jocelyn Stevens) dictated the overall parameters of what might be written in 82 % of the Sunday press and 73% of daily newspapers. These three men tried to mould both reportage and comment within their newspapers to fit their own interests.

The Council of Europe's Parliamentary Assembly gave some quite clear guidance on these ethical issues twelve years ago. It affirmed that information is a fundamental right owned by the citizen, not the government, nor the publisher, nor the journalist. It warned news organisations that they "must treat information, not as a commodity, but as a fundamental right of the citizen" and went on to tell them they "must consider themselves as special socio-economic agencies whose entrepreneurial objectives have to be limited by the conditions for providing access to a fundamental right".

The Assembly added that it recognised the primary role of the journalist in the information-gathering process: "we must reinforce the safeguards of the journalist's freedom of expression, for they must in the last instance operate as the ultimate sources of information". There is an additional duty on the journalist to provide this information "truthfully, in the case of news, and honestly, in the case of opinions"¹².

In its day-to-day work, the Council strongly encourages the formation of self-regulatory bodies in the press field. It does recognise that statutory action may be needed if self-regulation fails. But self-regulation should first be tried. For example, in a Resolution adopted at the 4th Ministerial Conference on Mass Media Policy in 1994, the

12 CoE Parliamentary Assembly: Resolution 1003, 1993 passim

Council urged public authorities to exercise self-restraint and recognise that all those engaged in the practice of journalism have the right to elaborate self-regulatory standards – for example, in the form of codes of conduct – which describe how their rights and freedoms are to be reconciled with other rights, freedoms and interests with which they may come into conflict, as well as their responsibilities.¹³

The Council of Europe has also provided guidance to Member States on ownership limitations with a view to promoting pluralism and ensuring a minimum level of diversity in media supply throughout Europe. For example, in Recommendation (99) 1 on measures to promote media pluralism, the Committee of Ministers addressed the issue of concentration of ownership in the press and broadcasting sector by requesting states to consider the opportunities for defining permissible thresholds which a single media company or group should be allowed to control in one or more media sectors.¹⁴

Deregulation

Some publishers, such as Rupert Murdoch, CEO of *News Corporation*,¹⁵ are unhappy about this approach. In a 1989 lecture at the Edinburgh Festival, he promised “freedom and choice rather than regulation and scarcity”. Private ownership of the media was presented as a guarantee of freedom: any entrepreneur with something to say, could win public attention and advertising would foot the bill. He rejected public service broadcasting, accusing organisations such as the BBC of believing that “the people could not be trusted to watch what they wanted to watch, so that it had to be controlled by like-minded people who knew what was good for us.”

But how do unregulated media markets cater for the citizens? One way of judging this would be to compare the News Corporation outlet in the US with its British counterpart: Fox vs Sky. This contest would be a very short one in professional terms, with Sky scoring a knockout in the first round. In 2004, Sky News won a top award from the Royal Television Society for the third time in a row. Fox by contrast has become a by-word for extraordinarily superficial and partisan political coverage, backed up by tawdry ‘reality TV’ shows.¹⁶

The two companies are owned by the same proprietor who likes to let his subordinates know exactly what to do. So the difference in professional standards between them must be connected with the differences between the US broadcasting regime and the British one. In fact, Sky is in competition with the BBC, probably the most respected broadcasting organisation in the world, while Fox is free to plumb the unregulated commercial depths.

An additional by-product of the US model is that information – when turned into a commodity – becomes too expensive for many. Broadcasters are forced to charge extra for the kind of analytical coverage European stations provide. Instead of serious programming the majority get a mix of entertainment with political coverage slanted in a direction selected by one rich person or a small group of directors.

13 CoE Resolution No. 2 on Journalistic Rights and Freedoms adopted at the 4th Ministerial Conference on Mass Media Policy [http://www.coe.int/t/e/human_rights/media/5_Documentary_Resources/1_Basic_Texts/4_Ministerial_Conferences/DH-MM\(2000\)004%20E%20European%20Conference.asp#P975_65057](http://www.coe.int/t/e/human_rights/media/5_Documentary_Resources/1_Basic_Texts/4_Ministerial_Conferences/DH-MM(2000)004%20E%20European%20Conference.asp#P975_65057)

14 CoE Committee of Ministers: Recommendation no. R (99) 1 on measures to promote media pluralism <https://wcd.coe.int/ViewDoc.jsp?id=399303&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>

15 NewsCorp one of the most important conglomerates in the English-speaking media, has total assets amounting to \$52 bn and annual revenue of \$22 bn.

16 2003 was a very good year for Fox when its ‘reality TV’ shows American Idol and Joe Millionaire boosted profits in the last three months of the year to \$29 million, after sustaining a \$60 million loss for the same period of the previous year.]

And the media market is notoriously difficult to get into. For example, in Britain after 1986, when the cost of setting up a paper from scratch was drastically reduced in an all-out attack on the printing unions, a number of papers were launched: *The Independent*, the *London Daily News* (published by Robert Maxwell), *Sunday Correspondent*, *Independent on Sunday*, *News on Sunday*, *The Sport*.

But within 12 years all but the two *Independent* titles and the *Sport* had collapsed and the *Independent* titles (launched as a challenge to the press barons) were bought by a multinational publisher. Some of the papers which collapsed were doing quite well. The circulation of the **Sunday Correspondent** reached 390,000 at its highest point and was selling 221,000 copies when it closed.¹⁷

Deregulation failed to open up the market to new media companies because the media market is very different to other commercial environments, as the Council of Europe suggested in 1993. In fact, the Murdoch approach degraded the media so much that radical measures of self-regulation were required to win back the trust of readers and viewers.

Marketplace of Ideas

In the debate about media accountability we come upon a number of misleading, unquestioned assumptions. One of these is the belief that press liberty linked to market liberalism is a kind of universal language, a uniquely effective tool for resolving conflict and exposing error. This standpoint has a strong pedigree. It belongs to the writers of the US Constitution. Just over two centuries later, it was eagerly grasped by many in Eastern Europe as an antidote to the combination of censorship with a command economy under which they lived. In this model, the bugbear is 'big government' and liberalised mass media play the role of the saviour or at least of its chief archangel. At its most virulent, this argument rejects any form of media regulation which inhibits free market competition.

The idea has become fundamentally entwined with liberal as well as conservative notions of free speech in the United States. In a key Supreme Court decision expanding the right of expression, Justice Oliver Wendell Holmes once explained that "the best test of truth is the power of the thought to get itself accepted in the competition of the market", adding "that [-] at any rate [-] is the theory of our Constitution." But is the market the best metaphor for the success of truth over its opponents? Are all commercial participants as equal as citizens in the ancient Athenian agora? Should the search for truth be subject to the haphazard ups and downs of the economy?

Firstly, we need to admit that the market will inevitably play a vital role in any healthy media regime. Without competition among media organisations, the public would not get the latest or the most accurate news. The readers' right of choice from the newsagents' shelves can only really be satisfied by the market. But the position taken by the Council of Europe and by journalistic organisations throughout the world is that this market needs to be regulated to ensure the citizens' information rights.

In the relatively unregulated media market of the United States, choice has been steadily shrinking over the past 30 years. Corporations like Gannett can boast 25% profits, while the consumer finds fewer and fewer options at the newsstand. Taking the issue of media diversity on its own, it would seem that the European approach is more successful.

¹⁷ DD Guttenplan: "The Once (and Future?) Independent", the Columbia Journalism Review, July/August 1994.

But the contrasting doctrine of absolute market liberalisation is immensely popular today among the larger media corporations. In the free-for-all after the collapse of communism in Eastern Europe, some of these corporations made very lucrative investments.

When the German giant *Axel Springer Verlag* acquired four Hungarian papers virtually free in 1990, Jozsef Bayer (director of the company's Hungarian operation) boasted "Hungary is in a judicial void. But when it comes to business there is no power vacuum". During the privatisation process, the government installed no restrictions whatsoever on foreign ownership of the Hungarian press, with the result that today, seven of the 10 national dailies and all of the local dailies are owned by Western companies.¹⁸

The penetration of Western capital into East European media markets is not of itself a problem. When the multinational companies show a clear commitment to standards – and some do – the general level of journalism can actually rise. The problem lies in the mindset, which opposes rules of any sort – self-regulation of media standards or statutory controls on ownership.

In some Eastern European countries, the "judicial void" extends into the ethics of journalism. Allegations are published without proper evidence and the reputations of decent people are cut to pieces. Minors accused of crimes are clearly identified, even before they are arrested, if the pictures are dramatic enough. Sensationalism becomes the only news value and competition between publishers – who very often also act as editors-in-chief of their publications – brings new excesses every day. The decline in professional standards not only provides an excuse for government officials to attack the press, but also degrades the reputation of the journalistic profession in the eyes of the public, who will be less inclined to rally to the defence of press freedom as a result.

At the same time, many of these post-communist countries retain some elements of the legislation that protected the nomenklatura of former days: especially in the field of defamation. These include criminal sanctions for journalists who show 'disrespect for the office' of President, Prime Minister or other dignitaries. For example, in January 2005, Jerzy Urban, publisher of the Polish *Nie* weekly magazine, was fined approximately €5,000 for insulting Pope John Paul II under a law that criminalises insults aimed at foreign heads of state.¹⁹ Yet, when local organisations and international bodies lobby for reform, governments often try to justify these measures by pointing to the irresponsibility of the press.

Clearly, the media market needs to put its own house in order, if it is to secure reform of the laws restricting freedom of speech – if only for pragmatic reasons. It needs to establish a regime of trustworthy journalism and to rein in its more sensationalist elements. Proprietors, editors and journalists need to establish a regime of accuracy and trustworthiness: self-regulation.

18 European Journalism Centre, European Media Landscape: Hungary: "The local dailies enjoy virtual monopolies in the counties where they are published. Of the 24 local newspapers, Axel Springer owns 10; Westdeutsche Allgemeine Zeitung owns 5; Funk GmbH owns 3; and Associated Newspapers owns 3. Although there were several attempts to launch rival local newspapers, these mostly failed due to the undercapitalisation of the new papers and the inflexibility of local markets." (Author: Ildiko Kaposi)

19 "Publisher of weekly magazine fined". <http://www.ifex.org/en/content/view/full/64042>

From Ethical Journalism to Sector-wide Self-Regulation

The journalist

The first witness of the news is usually the journalist, often acting alone in filtering the information back to the newsroom. Although journalism is a highly collective process involving news prioritisation and sub-editing, this initial element of it is almost entirely dependent on one individual reporter. Of course, sub-editors will often ring back to check if the reporter has 'got it right' if it sounds wrong. But that too is a journalistic task, rather than one for the higher echelons of the editorial team or the proprietor.

It is clear that the initial onus of responsibility for ethical journalism falls squarely on the shoulders of individual journalists. Their diligence in preparing themselves and in exploring the background of an article, their patience in waiting for the evidence or for the right moment to put the question, their respect for the privacy of others are moral questions for the private conscience of the reporter. Editors can punish when things obviously go wrong or when there are justified complaints. But even the most avid editor cannot oversee all the paper's reporters all the time. Ethics depends first and foremost upon the reporter.

In many countries, journalists make a commitment to their country's code of conduct as they first become employed. The strength of their adherence to this promise is ultimately the most important guarantee of high standards. This is because most journalistic choices can only be taken by an individual acting alone. Editors and other colleagues can help answer questions such as "How shall I describe this event?" or "Do I believe this individual sufficiently to use his story and to promise to protect his anonymity?" or "How much more background information do I need?". But others cannot answer these questions for the reporter in the field – the ultimate responsibility belongs to the individual journalists themselves.

Commitment to the code of conduct by the individual journalist is the first and most important step towards self-regulation of the media. However, a journalist cannot develop or practice this commitment in isolation from his/her working environment. In order to be able to ask difficult questions without fear of repercussions, a reporter must feel supported by the solidarity of colleagues, which in turn is often generated by belonging to a journalistic trade union. Besides providing solidarity, a trade union can also provide an important mechanism for guidance and discussion within the profession on ethical issues. In the UK, the National Union of Journalists has an Ethics Council whose function is to promote the Union's Code of Conduct through issuing guidance notes to its members and by considering complaints brought on violations of the Code.²⁰

The media company

If commitment to ethical journalism stretches only to the reporter in the field, it is practically pointless. There also needs to be a respect for standards and professionalism at the level of the media organisation: the newspaper or broadcasting station.

In practice, each media company adopts a particular style of reporting the news and a set of policies which determine how it will cover particular issues. The central reason for these decisions is that the reader, the

²⁰ The NUJ Ethics Council can only receive complaints from its own members. Sanctions include reprimands, fines and in extreme cases recommendation for expulsion from the Union. The NUJ's Code of Conduct can be found at <http://www.nuj.org.uk/inner.php?docid=59&PHPSESSID=41fe42e05e0c3abd4c7432db5c23f61d>

listener or the viewer can get very confused if a news organ seems to veer radically in its approach to certain questions. These decisions can affect the standards of the paper or station. In most Western media, they are codified and published as “style guides” or “broadcasting rules” and are given to members of staff as working manuals.

While such manuals can provide guidance to the journalist on ethical dilemmas, self-regulation at the level of the media organ requires the creation of a mechanism for responding to readers’ or viewers complaints about breaches of accepted standards. One such example is the appointment by some national newspapers of readers’ representatives – usually senior staff members, whose job it is to hear complaints against articles and to liaise between the complainant and the paper. This is designed to allow readers greater access to the paper and to provide someone who can judge the complaint as independently as possible. Only a small number of newspapers do this – usually the more serious ones. For example in the UK, the *Guardian* newspaper is one of three national dailies to have appointed a reader’s editor whose job it is to respond directly to complaints from members of the public, to write corrections and clarifications which are published daily and to write a weekly column in which a range of ethical issues are discussed.²¹

There is an ethical aspect to almost everything a journalist does. From the reportage of a sports event or a fashion show to that of high politics, questions of fairness and accuracy always need to be answered. Because of the intense pressures journalists come under during their work, there’s a constant need to re-focus on professional values. To ensure this, some media companies invest very seriously in training, either by setting up their own schools of journalism or by collaborating with academic institutions specialising in journalism.

Press councils

When people speak of self-regulation, what they most frequently mean is some form of national or regional Press Council, Complaints Commission or Ombudsman (acting alone or in conjunction with a Press Council), the aim of which is to hold every newspaper to account for respect of a set of universally accepted standards. Press Councils may be funded by the publishing industry alone, by the journalists alone or by a combination of both and sometimes with government assistance. As illustrated by the example of the German Press Council in Chapter 3, the provision of statutory funding is not incompatible with the principle of self-regulation.

A Press Council will publish a code of conduct with the approval of journalistic and media organisations. Crucially, the newspapers of the country need to commit themselves to this code of conduct. Sometimes the broadcasting stations do so as well, as is the case in Norway, for example, where since 1997, broadcasting standards have been upheld by the entirely self-regulatory press council. Traditionally, press councils have limited themselves to regulation of the print media, given the greater extent of statutory regulation and oversight bodies in the broadcast sector, as explained above. However, as technological developments in the media industry increasingly blur the traditional distinctions between print, electronic and broadcast journalism, it will become necessary to rethink the exclusive mandate of press councils.

Press Councils accept complaints from any member of the public who believes that a published article infringes the code of conduct. The council members will then adjudicate on these complaints, publish their conclusions on their website and in some cases order publication of their adjudication or impose a right of reply on the offending newspaper. In a very few cases, councils can impose financial penalties for a particularly serious breach of the code of conduct. But usually, the sanction they impose is the public shame of being found to have broken the code and having to admit to this in their own publication.

²¹ <http://www.guardian.co.uk/Columnists/Archive/0,5673,-20,00.html>

To many people outside journalism, that may not seem a very serious penalty. But newspapers crave the trust of their readers. When a respected body condemns an article in a certain newspaper, its readers tend to turn to the competition. Meanwhile, the competing papers will publish the judgment enthusiastically, enjoying the discomfort of their rival.

Many press councils see the task of hearing complaints as part of a wider responsibility to defend press freedom. So they will also campaign for greater accountability and less secrecy in public life. These bodies often publish an annual review discussing media concerns and sometimes lobby governments for changes in the law. Others see their role solely as a complaints body.

In most countries of Western Europe, press councils have successfully protected the media from heavy-handed state regulation. Nevertheless, the debate about the need for tighter laws, particularly on privacy, has never entirely gone away and legislative initiatives aimed at reining in the worst excesses of the media are likely to continue to test the ability of the media sector to regulate itself.

The success or failure of a press council can also very roughly be measured by the index of press credibility, the public opinion survey of attitudes towards the press and journalism. This is more difficult in countries where civil society is more vigorously divided along ideological and political lines. But in all cases, one vital requirement for the success of a press council is its independence from the sources of power, whether in business, politics or the press itself. The object of the exercise must be media accountability. If it fails to provide that, then it has failed utterly, however bravely it has fought.

3. Press Councils in Practice Sweden, Germany, the UK and Elsewhere

In most developed democratic countries there is some form of national press council to which people may bring complaints against a newspaper or broadcasting station. Each of these councils is quite unique, its role and structure dictated by the media landscape of the particular country. Many of them were established in order to avoid statutory controls of the press, but they all emerged out of a public concern about press accountability and they also broadly conform to the CoE principles set out in Chapter 2.

For example, in Sweden, freedom of speech has been a fundamental constitutional element since the mid 18th century and – unlike any other European country – it has retained an unbroken thread of media liberty ever since. Nordic traditions of collaboration and cooperation have helped Finland and Norway to establish an approach that is equally open, although Danish procedures are a good deal more legalistic.

In these countries, there is broad support for the press councils from journalists, proprietors and the general public. In Norway, the government went so far in 1997 as to abolish the statutory Broadcasting Complaints Commission in favour of the entirely self-regulatory Norwegian Press Council.

In Italy, by contrast, the independence and fairness of the legal system has been called into question by a government which itself has been accused of manipulating public opinion through its own statutory powers. It is natural that in such a situation, the independence of the *statutory* press accountability body, the *Ordine Nazionale dei Giornalisti*, has been seriously questioned.

The Italian example brings up another important distinction. Many observers casually use the terms “self-regulation” and “statutory regulation” as antonyms. But the *Ordine Nazionale dei Giornalisti* has been set up by law, while its membership is selected by the press. So it embodies both self regulation and statutory regulation at the same time.

In fact a number of other self-regulatory systems are backed up in some way by laws and procedures originating in Parliament. Some of these laws prevent the press council from being sued for defamation by an editor who feels aggrieved by one of its decisions. Others even allow for some form of financial sanction.

“Self-regulation” may actually be rather a misnomer for these systems. “Independent regulation”, avoiding undue influence from any quarter, so as to preserve press freedom, might be more appropriate and Professor Bertrand’s preferred “media accountability” is important too.

Press councils base their decisions on a set of principles or general rules known as a “Code of Conduct” or a “Kodex”. The Council will then interpret the principles in a given case. However these basic codes need to be kept up to date and journalists need to be made aware of the latest interpretations. To that end the Swiss *Presserat/ Conseil de la Presse* regularly updates its Kodex and produces a useful Vade-Mecum containing the latest decisions of the council on major issues.²² Recently, it added a new directive on the duty of journalists to let those facing serious allegations have their say.²³

The initial impetus for public accountability generally comes from the journalistic, rather than the proprietorial side of the media business. Publishers and proprietors have commercial interests and responsibilities to shareholders which can conflict with the public good. Of course, journalists can also have selfish motives. But, in the long term, their interests are better served by quality journalism that increases public trust in the press than by the short-term quest for sensationalism at any cost.

It was thus in Sweden in 1916, when the first-ever press council was set up by serious, respected journalists, concerned with the standing of the profession. Likewise, in the Netherlands, after the Second World War, when the Journalism Council emerged from the *Union of Dutch Journalists* in response to Parliamentary moves to install statutory registration of journalists. The *Raad voor de Journalistiek*²⁴ is now independent of the union. Half the members of its board are journalists and half are lawyers or ex-civil servants and the chairperson is usually a judge.

Some unions of journalists still perform the role of press council. This is the case in Iceland, where the Ethics Committee of the Union of Icelandic Journalists (*Sidanefnd Bladamannafelags Islands*) plays this role. In both Croatia and Slovenia, ‘honour councils’ of the journalists’ professional organisations perform a similar role. However, it can be difficult for a trade union to defend a member who is under a threat of dismissal from management and then to turn round and find the same member guilty of professional misconduct.

In some countries, such as the UK, self-regulation is introduced at the level of the proprietors, which – as we shall see later in relation to the *Press Complaints Commission (PCC)* – can bring its own set of problems in realising an effective and respected system of media accountability.

Media-Only and Mixed Councils

Some councils simply comprise representatives of media organisations. In addition to the organisations we have just mentioned in the above paragraph²⁵, these include the German and Austrian *Presserats* and the Italian *Ordine Nazionale dei Giornalisti*. The rationale behind restricting these councils to media representatives is partly to protect the independence of the journalistic process. It is felt that ‘outsiders’ would naturally tend to establish rigid rules for a fluid process.

However, many of these bodies find it hard to gain public trust. Increasingly in modern society, journalists are seen as part of a media elite, an aristocracy of information. This picture may or may not be accurate.

22 www.presserat.ch/index.htm

23 Minutes of 6th Annual AIPCE Conference, Cyprus, see contribution from Peter Studel, Chair of Swiss Presserat.

24 Journalism Council

25 I include here both those which emerged from the journalistic trade unions and the British PCC, set up by the publishers. The PCC would claim a degree of independence, which we will examine later on.

What matters, is that it is widely held, so that when the public sees journalists sitting in judgment on other journalists, it is inclined to be suspicious of the outcome.

Furthermore, media-only councils render their journalistic participants open to charges of hypocrisy, as the journalists will be the first to challenge the right of other professions to stand in judgment of their own colleagues. Throughout modern societies the closed, elitist process of self-regulation that has operated in the medical or legal fields is being ditched as a result of media exposure. How then can the press claim to be its own custodian?

In order to avoid mistrust, other councils try to give representation to the wider community. Here, we might take the formation of the *Australian Press Council (APC)* as an example. It was founded in July 1976, after discussion between publishers and the Australian Journalists Association – the journalists' union at the time. The Council's constitution called for balanced representation of publishers, journalists and the public, with an independent chairman. It was funded by the newspaper proprietors.

Journalists generally tend to favour such tripartite arrangements, along the social partnership model, made up of

- representatives of the publishers (and maybe other media),
- those of the journalists and
- those of the general public.

This process might or might not be backed by an ombudsman. In the case of the general public, representatives of non-governmental organisations, rather than elected political parties would be considered. As in every case where independent people are selected for committees, their own credibility, their own reputation for fairness, would be what should get them selected.

Funding, Independence & Advocacy of Free Speech

From the beginning, the *APC* saw campaigning for press freedom as one of its duties and continues to issue an annual report on this subject. Reports have – on a regular basis – raised matters such as the Commonwealth Crimes Act, Australia's official secrets legislation, defamation legislation and police harassment of journalists. Over the years, it responded enthusiastically to any encroachment on press freedom from outside. At the same time, it adjudicated on complaints against articles in papers whether they were members of the *APC* or not.

For over a decade, the council maintained a fair degree of credibility in one of the world's most aggressively competitive media markets. Fairfax Newspapers, one of the then three main publishing houses in the country did not join until 1980. Murdoch's News Ltd (another of the three) left in 1980 but rejoined in 1987, after it had swallowed the third major publisher. The fact that the Council contained representatives of the general public (albeit people selected ultimately by members of the press) did however give its decisions additional authority.

That authority received an almost terminal blow in 1987, when the structure of the *APC* proved that the body was less independent in reality than had initially been believed. In that year, the delegate from the journalists' union argued that the *APC* should oppose the concentration of media ownership in Australia. Here was a clear public interest issue where media freedom was under threat from within the media. Yet the *APC* refused to take a position on the matter.

To Hal Wootten QC, Chair of the APC and the journalistic representatives on the Council, it seemed clear that this decision was linked to the fact that the body was funded by the publishers. The APC's robust response to other restrictions on press freedom contrasted badly in their eyes with this refusal to take a stand, so Wootten resigned and the journalists' union left the APC.

This stand-off between the APC and the journalists' union (now known as the Alliance) continued for a long time,²⁶ seriously undermining the Australian public's trust in APC fairness. However in 1996, the Council adopted an addition to its basic principles, committing participants to disclose any commercial influence on news coverage. The Alliance welcomed that decision and – after a long period of consideration – it is rejoining the Council this year.

The source of funds for a press council does not necessarily dictate the outcome of press council decisions. It is possible to establish protection from undue influence by those in control of the funding. But the whole point of setting up a mixed, rather than a media-only press council, is to avoid the very type of mistrust generated by this incident. It only serves to underline the importance of the principle of independence: a challenge for all forms of press councils. State funding can lead to conflicts of interest, but so can funding from publishers, especially when issues such as concentration of media ownership appear. The best independent regulatory bodies have been able to criticise their paymasters when the need arose. The input of journalistic unions is a vital component of this independence.

On the whole, press councils which emerge from the media industry see advocating press freedom as one of their responsibilities. Wider access to decision-making would enable wiser democratic choice. Most media would wisely assume this attractive role, if they could. The British *Press Complaints Commission*, however, was established as a grievance mechanism to the exclusion of any other role.

Some Exceptions

Before we examine such bodies in greater detail, we need to note that in France – as in the United States – there is no press council. This is due to a residual hostility in both nations towards anything that might limit what may be said – hardly surprising, in the two countries that embodied 18th-century democratic revolution.

Maybe because the French media have been subjected to much more statutory regulation than their US counterparts, the opposition seems stronger in Paris than in Washington. For example, one of the *Syndicat National des Journalistes*'s key ethical declarations states that on matters of professional honour, journalists will only submit to the jurisdiction of their peers “to the exclusion of all interference by government or by others”.²⁷ This reflects a widely-held view among French journalists about the importance of their independence and it would seem to rule out any form of press council.

Many of their colleagues in the United States share that antipathy, but it is neither so strong nor so widespread among them. The short-lived *National News Council* was evidence of some support within US journalism for the idea of outside accountability. Set up in 1973 after complaints from the Nixon administration about unfair

²⁶ The AJA subsequently amalgamated with other unions to create the Media, Entertainment and Arts Alliance

²⁷ Declaration on the Duties and Rights of Journalists, SNJ 1971: “à l'exclusion de toute ingérence gouvernementale ou autre”.

coverage during the Watergate investigation, it lasted only 11 years. Influential figures such as Ben Bradlee of the Washington Post and Arthur Sulzberger of the New York Times never accepted the Council.

In the past two decades there have been periodic suggestions that such a body should be recreated. But, as yet, these don't seem to have gone beyond the pages of academic magazines like the Columbia Journalism Review (CJR).²⁸

Media Self-Regulation in Sweden

The Swedish Press Council

The Swedish Press Council (*Presses Opinionsnaemnd*, known as *PON*) was launched in 1916 as a kind of 'honour council', whereby three distinguished journalists sat in judgement of their colleagues' work, when a member of the public laid a complaint against that work. The members of the *PON* were selected by the journalists' union, the body representing the publishers and the journalists' club, a society for the improvement of journalistic standards.

The First World War provided an impetus for this development. During the war, the Axis and the Allied powers competed to ensure sympathetic coverage in the Swedish press and their manipulations undermined popular trust in the media. Reform was necessary.²⁹

One very important innovation to the concept of 'honour council' in this case was the hearing of complaints against the newspaper rather than the writer of a contentious article, in compliance with Swedish law, which holds the publisher and not the author responsible for what emerges in print. This principle has been followed elsewhere; after all, articles are published and broadcasts are made as part of a collective activity. Quality control of that activity is, of necessity, vested in the hands of one person – the editor.

But the *PON* was also intended as a kind of industrial conciliation body. Initially, it took on two other categories of work: disputes between newspaper companies or between a newspaper and another company and disputes between employers and employees in a newspaper, concerning for instance salaries or contracts.

A person or company could file complaints for a fee of 20 Crowns: the equivalent of a male farmer's weekly wage and a clear deterrence both to frivolous complaints and to those from the less well-off. In the event of a critical verdict, papers were expected to publish the *PON*'s decision and usually did. But there was no rule to compel them to do so. The Council heard less than 20 cases per year during its first three decades.

After the Second World War, its workload began to increase beyond the capacity of its structures and delays between complaint and adjudication began to grow to unacceptable levels. Press complaints are notoriously immediate. They concern circumstances which may only exist very briefly, but which burn very fiercely for that short time. A speedy response, an apology or even just an explanation, can turn bitter recrimination into honour satisfied. For a media accountability system, delays equal failure.

²⁸ See Philip Meyer, 'Saving Journalism'; CJR, Issue 6, 2004

²⁹ "During World War I some newspapers came to serve as a vehicle of propaganda for the powers at war and the reputation of the press was considerably damaged. France, Great Britain and Russia paid enormous amounts to an entente friendly news agency in Stockholm as a counterbalance to the leading news agency, which was by tradition pro-German." Pär-Arne Jigenius, Swedish Press Ombudsman; Address contained in Proceedings of the Information Seminar on Self-Regulation by the Media, Strasbourg, 7th – 8th October 1998.

A new structure was needed and in 1969, the office of Press Ombudsman (*Allmänhetens Pressombudsman* or *PO*) was established. Traditionally in Sweden, the *Ombudsman* was a kind of municipal odd-job-man, charged with clearing icicles in winter and entirely different jobs in summer. His work became one of fixing the mess created elsewhere in the administration as well as filling in the gaps. The concept was then brilliantly adapted into the national civil service with the establishment of a non-party political watchdog, whose duty was to respond to criticism of the administration: a non-judicial appeal court where the public could challenge administrative decisions without the risk or expense of litigation.

In 1969, this concept was adapted once again to enable the *PON* to deal with its growing mailbag. The *PO* became the first port of call for the complainant, subject ultimately to the *PON*. Meanwhile, the body itself was made more accountable by the incorporation of representatives of the general public. The press organisations have no influence whatsoever over the selection and appointment of those representatives.

Under these reforms, the *PO* was charged with ascertaining the seriousness of the complaint, whether it could be settled by reconciliation; and with pursuing the complaint in cases where the *PO* felt press ethics had been violated. In such a case, the ombudsman would ask the editor to respond and then allow the complainant to rebut before producing a report on the matter.

If the *PO* deems the complaint worthy, it will then go to the Press Council for adjudication. The Ombudsman does not rule on such matters. If the *PO* rules out the complaint, the complainant has the right of appeal to the council against the Ombudsman's decision. If, at any time complainants are dissatisfied with the process, they may take the matter to the regular courts. For the ordinary citizen, filing a complaint under this system is free of charge. But if a newspaper is found to have violated good journalistic practice, it must pay an administrative fee to the press council, besides having to publish the decision.

The *PO* usually receives between 350–400 complaints a year. Coverage of criminal cases and alleged invasion of privacy loom large among these. In recent years 30% are referred to the Press Council and roughly 10%–15% per cent of a year's complaints incur criticism by the council. The *PON* bases its decisions on the Swedish Code of Ethics but – within that – it is free to interpret what it considers to be good journalistic practice.

The *PO* is appointed for three years by the chief Parliamentary ombudsman, the Chairperson of the Swedish Bar Association and the Chairperson of the Swedish Press Cooperation Council – a joint union/management body. The ombudsman is employed by a committee financed by the Press Club, the Swedish Newspaper Publishers' Association, the Swedish Magazine Publishers' Association and the Swedish Union of Journalists. Contributions by these bodies are roughly proportionate to income.

Cases

Issues of privacy – especially that of minors – and the protection of judicial fairness have accounted for much discussion by the Swedish press council in recent years. For example, when a suspected burglar was shot dead by a homeowner, the newspaper *Sydsvenska Dagbladet* printed a picture of the dead man with his body and clothing visible. The *PON* ruled against the paper for not considering the feelings of the dead man's family. The publication of such photos has provoked controversy among journalists in many countries and the council had to balance the respect for the family's grief against the paper's responsibility to honestly portray the truth. In another case, the regional paper *Göteborgs-Posten* interviewed two 17-year-old girls about contraceptive pills, publishing their names with their consent. Once again, the *PON* ruled against the newspaper, this time citing the need to additionally protect the privacy of younger people, over and above that which is afforded to adults.

These examples embody a firm, if not a rigid, adherence to the protection of the privacy of vulnerable people. The *PON* has taken an equally firm stand on the right of a subject of press scrutiny to put his or her own case. Where newspapers have failed to provide the subject of an exposé with the right to rebut the accusations, they have been strongly criticised.

To highlight the egalitarian approach taken in Sweden, Ombudsman Pär-Arne Jigenius told a conference in 1998 that the Press Council had upheld a complaint from a homeless person and one from a royal princess. The homeless man didn't even have to write down his complaint. He simply visited the *PO* office in person and someone typed it up for him. A weekly paper had taken pictures of him in the subway, describing him as a beggar and an alcoholic. He had not given his consent to the picture and the description of him was false. The *PO* agreed, adding that, even if the facts were correct, there would have been no legitimate public interest that could justify such an article.

The royal case was against a weekly magazine which published manipulated pictures of a crown princess 'wearing' swimsuits. In the pictures, the real face of the crown princess was superimposed on the body of a model dressed in fashionable swimsuits. The magazine did state that the pictures were altered by "montage," but a lot of readers got the impression from a quick glance that the pictures were authentic and that the crown princess had agreed to have her picture taken in swimsuits.

The Council did grant that public figures must put up with publicity, even when it touches their private lives. However, because the manipulated images had nothing whatsoever to do with the role of the crown princess; and because no young woman – whatever her role – should have to put up with such exploitation, it ruled against the magazine.³⁰

As a result of the *PON*'s approach, some of the more sensational and scandalous press coverage one finds elsewhere is absent from the Swedish press. Swedes seem to enjoy their newspapers quite well without it. Readership figures are quite high by comparison to countries where privacy is less respected.

But that doesn't stop it creeping in from time to time. One example might be the case of England Team Manager Sven-Goran Eriksson and TV presenter Ulrika Jonsson, two Swedish celebrities living in Britain where such rules do not apply. A minor affair between them was turned into the scandal of the age in the British press, so a number of the more entertainment-oriented Swedish papers were tempted to follow suit.

Another problem was highlighted in September 2002, when the famous professional soccer player Zlatan Ibrahimovic was pictured in the Stockholm newspaper *Aftonbladet* as a result of surveillance photography. Ibrahimovic complained to the Press Ombudsman that his privacy in a popular bar had been infringed. However the problem occurred when the newspaper and Ibrahimovic made an unofficial settlement, whereby the footballer withdrew the complaint, thereby short-circuiting the *PO*'s report. In his report for that year, the Ombudsman specifically criticised this practice.

Observations

The Swedish model has certainly proved successful – probably the most successful in Europe. Addressing a Strasbourg seminar in 1998, the then Ombudsman Pär-Arne Jigenius noted that Swedish citizens (in company with their Norwegian and Japanese counterparts) bought more newspapers per capita than the citizens of any other nations. He linked this fact to the trust Swedish newspapers had earned among their readers. "People believe in the facts that appear in the papers," he said, adding that "in countries where the

³⁰ Jigenius, *ibid.*

trust in the press is lost, the purchasing of papers per capita is much lower". He cited Italy as an example of the latter scenario.³¹

The Swedish self-regulatory system contributes to this relatively healthy situation by giving readers a trustworthy mechanism for righting press wrongs. It is seen as trustworthy because no single interest group is allowed to dominate decision-making. It is clearly independent of government. But, powerful publishing interests are also reined in by the inclusion of the journalists' union and the professionals' National Press Club. So, it can be seen as truly independent of all sectors.

The central involvement of representatives selected by journalists – through their trade union – is vital for ensuring this legitimacy within the industry and outside. Journalists can have confidence that their considerations have been taken into account and readers can be sure that commercial considerations have not played undue influence.

The Swedish Press Council contains no specific representation for members of the general public, such as in Australia. But the instructions to the Press Ombudsman clearly place a public interest responsibility on this office.³² The very fact that the *PO* has the role of an advocate, placing a case before the *PON*, establishes an element of independence from the concerns of the media industry.

By committing the *PO* to "further the cause of good journalistic practice" and by directing him or her to spread information and advice to the general public, the Swedish system does lay a certain, but limited duty on this office to publicly defend press freedom. However, the public advocacy role of councils such as the Australian one – recommending legislative reform and promoting wider access to information – is not envisaged for the Swedish press council. Here, it is important to note that this right is deeply entrenched in Swedish law and traditional social practice already. Where it is less well-established – as in most other countries throughout the world – councils have found it necessary to campaign for press freedom as well as hearing complaints against the press.

The *PO/PON* system did not appear overnight. It took over ninety years to reach its present state. Over that time, the Swedish press developed side-by-side with a sophisticated self-regulatory system and so it was seen less as an imposition from outside than as an integral part of the newspaper industry. In other countries, it has proved more difficult to develop self-regulation.

Media Self-Regulation in Germany

The German Press Council

The German Press Council, the *Deutscher Presserat* not only hears complaints but it also seeks to propagate high standards and campaigns for press freedom. Like many of the other press councils, it was set up in response to the threat of statutory regulation. But, unusually, the *Presserat* is staffed and run entirely by journalists and publishers. There are no representatives of the general public and no outside judicial figures to chair hearings.

³¹ Jigenius, *ibid.*

³² These instructions are to "provide advice and assistance to individuals who feel offended by something that has been published in a newspaper, other periodical or Internet publication, investigate deviations from good journalistic practice, either on his own initiative or following an application, whenever appropriate refer such cases for decision by the Press Council and, by participating in public debate further the cause good journalistic practice": Instructions for the Office of the Press Ombudsman. <http://www.po.se/Article.jsp?article=2291&avd=english>

The *Presserat* was established by the German publishers and the journalistic trade unions in 1956. Four years earlier, the Bonn Government had drafted a Federal Press Act, which would establish a form of self-monitoring in a statutory framework. But there was deep revulsion against any form of censorship in post-war Germany and the proposal was dropped in favour of a model based on the British Press Council of 1953.

A Press Code, regularly updated and modernised, is published by the *Presserat* and it provides professional training for journalists on ethical issues. However, the Council's main task is to hear complaints from the public. Each year it deals with around 600 of these. It was set up on the basis of agreement involving 95% of the publishers and part of this agreement obliges the papers to print adjudications of the *Presserat* – however uncomfortable or embarrassing these might be. Defending press freedom is another of the duties imposed on the *Presserat* and it is also committed to campaigning for greater freedom of information.

The whole budget of the German Press Council is just over €400,000. Over a quarter of this (€123,000) comes in the form of a grant from the Federal Government. The publishers associations pay 75 % of the remainder and the Journalists Association 25%. The federal grant is covered by a law dating from 1976, the stated purpose of which is to “guarantee the independence of the complaints committee of the German Press Council”. The state is barred from interfering in any way with the work of the German Press Council. The total of each year's grant is decided in the federal budget debate.

The logic of multi-source funding is twofold: manipulation is more difficult when there is more than one paymaster and making the participants pay, gives them a sense of ownership of the process.

Cases

One of the earliest major issues for the *Presserat* occurred in 1958, when press intrusion in the life of Princess Soraya, the divorced wife of the Iranian Shah, prompted proposals for tighter privacy legislation. The Council was able to persuade federal lawmakers that its own procedures would be enough to protect people.

In its struggle for recognition, it also had to fight off a legal suit from a publisher who alleged that the *Presserat* was guilty of censorship. One of the most unambiguous clauses in the Federal constitution, the *Grundgesetz*, states that there will be no censorship. In 1959 the publisher lost his case.

Another major stir was caused in 1976, when four journalists published off-the-record political comments by two air force generals, in a clear breach of confidentiality. The two generals were dismissed. In its adjudication, the *Presserat* upheld the journalists' right to publish the information, on the grounds of the public good. The threat to democracy from potential political interference by the military was so great that it warranted a breach of what is one of journalism's most sacred pledges. But, to emphasise the fact that this was a unique exemption rather than a new rule, the *Presserat* went on to make an addition to the Code of Ethics underlining the importance of respecting confidentiality.

Despite its successes, the Council continued to face problems of recognition among sections of the press, right up to the mid-'80s. Between 1982 and 1985, this problem reached a climax as certain papers refused to publish *Presserat* reprimands. Finally, in 1985, a majority of the publishers agreed to publish reprimands. Having won this battle over its authority, the *Presserat* now boasts that its decisions are accepted by 95% of the German press.

In 1994, the newspaper *BILD* published an article in March under the headline “Kurds terror - Highways are burning everywhere - riot in the cities - They set themselves on fire” about serious events resulting from

demonstrations by Kurdish immigrants to Germany. The newspaper continued in this vein with similar articles during that month. Kurdish groups complained to the *Presserat*, alleging that the headlines stigmatised the entire Kurdish community. The Council rebuked *BILD*, finding racist undertones in the headlines.

BILD was also criticised twice in the year 2000 by the *Presserat*. On the first occasion, it published a picture of the German victims of the Concorde crash on its front page. The Press Council ruled that it is unethical to publish pictures and personal details of such victims without the permission of relatives. The tabloid newspaper then reported that neo Nazis had drowned a child in the public baths of Sebnitz, an eastern town. But the testimony of 'witnesses' quickly transpired to be lies and the death to be an accident. The *Presserat* found that the reporters had not done sufficient research.

Observations

Despite the fact that the *Presserat* makes no attempt to gain additional legitimacy by appointing or involving non-media figures in its deliberations, it has won greater public trust than press councils elsewhere that claim to be publicly accountable. Journalists and editors take its decisions very seriously and defend themselves enthusiastically when criticised. But they also tend to accept the rulings.

This is largely because the *Presserat* has adopted and stuck to a public-interest approach rather than one dictated by the interests of the media. In this practice, it has followed the example of councils such as the Swedish *PON*, weighing up the competing claims and rights of the complainant and the media respondent and then ruling with an eye on the public good.

The *Presserat* is clearly and explicitly independent of Government, despite receiving part-funding from that source. Unlike the Swedish or the Australian systems, it does not provide either representation or advocacy for the general public. However, the public interest is protected.

Like the Swedish Press Council, the *Presserat* balances the interests of the proprietors against those of the journalists themselves. In doing so, it ensures that the commercial interests of the publishers are kept in check. The *Presserat* also adopts a considerably more active advocacy role than its Swedish counterpart. For example, a recent pamphlet *Achtung: Pressefreiheit* criticises the filtering of information from Iraq by the authorities.³³ However, on the crucial question of public credibility, the *Presserat* has succeeded.

Media Self-Regulation in the United Kingdom

Efforts to establish self-regulation in Britain have probably been more fraught with controversy than in most other countries. This stems in part from the almost unique structure of the British – more particularly the English – newspaper market. In most countries, newspapers tend to arise out of the communication needs of a given city or region and a large proportion of readers opt for the local rather than a national paper. However, the substantial English newspapers are all concentrated in London.

Moreover, the British market is dominated by a set of populist, downmarket, tabloid titles. These are known colloquially as 'the red-tops' but in other countries terms like 'boulevard press' and 'yellow newspapers' would be used. So what makes this unique, apart from the fact that it is the oldest and possibly the largest mass newspaper market in the world? It is the competitive cockpit – once known as Fleet Street – where the most aggressive titles win.

³³ www.presserat.de

That heady mixture of competition and power has always attracted money, whether old or new. In the London newspaper industry, the most venturesome of new tycoons vied with the aristocracy right through the 20th century. It is true that the new money eventually won, but it was so quick to enmesh itself in the patronage system involving the House of Lords and the Queen's Honours List that the change was easily missed.

The General Council of the Press

The first attempt to tone Fleet Street down a little was the *General Council of the Press* of 1953, made up of publishers' representatives with minimal input from the National Union of Journalists. This later became the *Press Council*. From the beginning, the press barons resented even the most minimal accountability and failed even to establish a proper code of conduct.³⁴ Its first Chairman was Colonel the Hon. JJ Astor, owner of *The Times*. Under pressure from the wider public, the industry eventually appointed an outside Chairperson and co-opted some lay representatives during the 1960s. By the latter part of that decade, complaints reached as many as 500 per year and editors and other journalists had begun to take its rulings more seriously, partly as a result of support from *Daily Mirror* boss Cecil King. The cultural commentator Raymond Williams, a critic of the Council in its first existence, wrote in 1966 that it had become "more evidently authoritative".³⁵

Then came the era of Rupert Murdoch, with his purchase of the *Sun* in 1969. The 1970s saw a downturn in press standards, which became even more pronounced in the 1980s with the entry into the market of Robert Maxwell, Murdoch's equal in disregard for standards. Murdoch wrote in the early '70s "I do not hate the Press Council. I just think they are a pussyfooting arm of the establishment."³⁶ During that time, the Council came under intense pressure as newspapers refused to accept its rulings and the tabloids felt free to make the most extraordinary allegations on little or no evidence and to invade the privacy of anyone in the public eye. In 1980, the National Union of Journalists resigned from the Council in protest at its ineffectuality, stating that it was incapable of reform.

Again and again, lawmakers considered statutory controls only to be put off by press promises to behave better in the future. Eventually, in December 1989 David Mellor, the government minister responsible for the media, warned the press that they were "drinking at the Last Chance Saloon", suggesting that he thought they were cowboys facing death in a gunfight, and notifying the media that the government would introduce statutory controls unless the press became more civilized. The NUJ rejoined the Press Council in 1990, just at the moment everyone else was deserting it.

A *Committee on Privacy and Related Matters* under Sir David Calcutt had been set up by the Conservative government to provide a viable means of protecting basic personal rights of those in the public eye, without shackling the press. In May 1990, it concluded that campaigning for press freedom and hearing press complaints were incompatible objectives; a rather bizarre verdict, given that many other press councils have successfully combined these two functions. It went on to recommend the introduction – on a provisional basis – of a body to hear complaints against the press. This was to be turned into a statutory body if the papers hadn't 'cleaned up their act' by the time of a second Calcutt report due in early 1993.

34 "Of the Press Council it must be said that its disastrous end in 1990 was in its flawed beginning in 1953. It was flawed because it was grudging." A Press Free and Responsible by R Shannon, London, 2001, p13.

35 Quoted in *Regulating the Press* by O'Malley & Soley, London 2000, p66.

36 *ibid* p68.

The Press Complaints Commission

The press proprietors proved to be more prepared for Calcutt than the journalists' trade union. Directly after the report, the publishers were able to provide their own prefabricated solution: the *Press Complaints Commission (PCC)*, the terms of which they had already written. For example, after 30 years of haggling over a code of conduct, the new body seemed to develop one overnight. The proprietors abruptly terminated funding to the Press Council and opened the *PCC* on January 1st the following year. The NUJ rejected it from the beginning as a “poodle” of the publishers, but it was a *fait accompli*.

The PCC is entirely funded by the industry, which is willing to spend significant sums of money on its operations. According to the figures for 2002 (the latest available report), the operation of the PCC costs the British newspaper publishers just over € 2,226,800.

The *PCC* consists of 17 members – seven editors-in-chief representing the media interest and ten lay members who are selected by an ‘independent’ Appointments Commission, which is in turn made up of leading figures from the world of business and culture and former politicians. Critics of the *PCC* claim that the process for selecting the lay members of the Complaints Commission is not transparent and the Appointments Commission is too establishment-focused and narrow in its representation of broader society. The *PCC* is always chaired by someone who has no other connection with the industry. The current chairman is Sir Christopher Meyer, ex-Ambassador to Washington and previous chairs have included a former Conservative Party minister and a professor of sociology.

Cases

The *PCC* had a huge mountain to climb if it was to avoid further statutory regulation and it started out energetically. One of the most scandalous examples of press misbehaviour concerned Clare Short MP, a campaigner against the publication of semi-nude pin-ups in the *Sun* and its sister paper, the *News of the World*. She became the target of a vilification campaign in these two papers, culminating in an entirely spurious allegation that she was involved in pornography and in an attempt by the papers to obtain embarrassing photos of her from a former friend. When she made a complaint in 1992 and the *News of the World* was thoroughly criticised by the *PCC*.

Despite such decisions, the press proved slow to change. So slow that when Calcutt released his second report in January 1993, he recommended the introduction of a statutory tribunal with the power to prevent publication, impose fines and enforce corrections. Although there has always been a significant minority of MPs in favour of such a body, they have never been able to persuade enough of their colleagues and so it was on this occasion.

The *PCC* has, on occasion, stood up for investigative journalism when the establishment tried to limit it. When British Nuclear Fuels complained in 1994 about highly critical articles in the tabloid *Daily Star* about the dangers posed by a nuclear waste plant, they alleged inaccuracy. But the Commission ruled against the company, pointing out that the paper had a right of advocacy. It also backed *The Sunday Times* when one of its reporters succeeded in bribing an MP to ask a particular question in Parliament.

However, on other occasions the *PCC* has interpreted its regulations in a pro-establishment manner. The Code of Practice rules out payment to criminals, which might glamorise crime but it does recognise that there may be a public interest case for such payment in certain cases. In an unusual move under this rubric, the Commission chose to make and then uphold its own complaint against *The Guardian* for paying a prisoner for an article about the prison conditions Lord Jeffrey Archer was due to face.

The article appeared at a time of public speculation that the jailed peer was receiving preferential treatment. The Commission chose to reject the claim that this made it a matter of legitimate public interest. However, when jailed former Conservative politician Jonathan Aitkin received payment from a paper for extracts from a book, the PCC found it acceptable on the grounds that the money went to his creditors.

Some other fundamental weaknesses have also been exposed. In 2001, for example, nude photographs of a popular music disk jockey, Sara Cox, were published by the *Sunday People*. She had been on honeymoon with her husband and was on a private beach when the photos were taken. Her lawyers made a complaint on her behalf to the PCC.

The Commission boasts of its ability to negotiate a quick and acceptable compromise between a complainant and the newspaper in question but such compromises have been criticised. In this case, the PCC negotiated a prominent 63-word apology in the following issue of the paper. However, when Sara Cox returned to Britain and read the apology, she found it unacceptable and successfully sued the paper for £50,000 (approximately 70,000€).

The case of Fiona Millar, an advisor to Cherie Blair, also involved an unsatisfactory back-door deal. Rather than condemn the *Mail on Sunday* for an inaccurate article about her, the PCC tried to negotiate a compromise during a private party. Eventually, the 'compromise' turned out to be a promise to publish a letter of complaint from Millar. When she rejected this proposal, the PCC was unwilling to pursue the matter any further.³⁷

When a number of probably fictitious stories about asylum-seekers appeared in the British tabloids during the summer of 2003, the PCC proved equally unwilling to act. In July – under the front page headline “**Swan Bake**” – the *Sun* accused people from Eastern Europe of killing and eating swans, using unidentified 'sources'. The following month the *Daily Star* accused Africans of doing the same to donkeys from a royal park.

These stories clearly promoted ill-will towards vulnerable asylum-seekers and immigrants and not one shred of evidence was ever provided by either paper. However, the PCC chose to accept the papers' claims that these informants actually existed. Five months after the original article, the *Sun* grudgingly retracted some details of the story, hiding this admission on an inside page.³⁸

Observations

Credibility Questioned

In addition to disquiet over the handling of some of its cases, which has chipped away at the credibility of the PCC, the body has also suffered from controversy surrounding its appointees.

The tenure of the former Chair Lord John Wakeham illustrates some of the problems the PCC has had. This former Conservative Party cabinet minister was appointed as Chair of the Commission in late 1994. He was very successful at persuading his former government colleagues against introducing any restrictions of the press and he proved equally effective with the New Labour administration from 1997.

However, the unravelling of a conflict of interest between his previous public role as a politician and his subsequent private business activities eventually undermined his credibility and that of the PCC. During his

³⁷ See 'My Battle with the PCC' by Fiona Millar in *The Guardian* 09/02/2004.

³⁸ Although the claim that the swans had been taken remained unproven, the paper partially absolved the asylum seekers: "We accept that it is not, therefore, possible, to conclude yet whether or not the suspects were indeed asylum seekers."

term in government as Energy Secretary, Lord Wakeham awarded the US company ENRON a contract of over €1bn to build a power station in the North of England. Just five years later, after his retirement from government, he joined the board of ENRON, which paid him €114,683 a year. Wakeham – an ex-accountant in private life – had responsibilities to oversee the company's practices. So when ENRON collapsed in a huge financial scandal at the end of 2001, he was enmeshed and the FBI required him to answer questions. In January 2002, he stood down from the PCC.

Of course, the PCC had no responsibility for the corruption in ENRON. But the fate of its leader and figurehead undermined its own credibility as a moral arbiter in press disputes. This standing was further eroded when it emerged around the same time, that a PCC official, a member of the royal staff, and the editor of one of Murdoch's newspapers colluded to ensure that a scandal involving one of the royal princes was hushed up for a period and then broken in a sensitive way in the Murdoch paper.

Two editors, Alan Rusbridger of *The Guardian* and Simon Kelner of *The Independent* have called for the establishment of an ombudsman, with statutory powers of inquiry to operate with the PCC in eliciting matters of fact during newspaper disputes. Sir Louis Blom Cooper, Chair of the now defunct Press Council has gone further, calling for the PCC to be replaced by a statutory council. The first historian of the PCC, one of its most sympathetic admirers, concedes that it operates as a "hugely plump duvet" for the newspaper proprietors.

To a certain extent, the PCC has recognised that it needs to make itself more accountable. Sir Brian Cubbon, a former chief civil servant and an ex-member of the Commission, was appointed in January 2004 as a "Charter Commissioner" to investigate allegations of procedural irregularity.

In October 2004, Sir Brian reversed a PCC decision by upholding a complaint against the *Sunday Telegraph*. The complaint originated from an article that charged Will Hutton, an economist and leading critic of profiteering in the housing market, with hypocrisy in view of his marriage to the director of a property company, "First Premise". The article misrepresented the nature of the property company, which far from being a property empire as it was described, is dedicated to small-scale social regeneration. Following a complaint by the company, the *Sunday Telegraph* had offered to publish a letter but had refused to print an apology. "First Premise" was not satisfied and therefore took their complaint to the PCC which eventually concluded that the offer to publish a letter by the newspaper was adequate, prompting the company to make a further complaint to the Charter Commissioner. Sir Brian forced the paper to print a correction, even though the Commission had thrown out the complaint. However the newspaper did not apologise for the inaccurate and very misleading article and still refuses to print a letter from Hutton, the target of the original article.³⁹

In recent years, the PCC has also begun to campaign more and more for freedom of expression, the role Calcutt thought it could not play. It has also proved receptive to concerns about the widespread inaccurate and derogatory reporting by several tabloid newspapers on the issues of asylum and immigration. During 2003, the PCC engaged in discussions with ARTICLE 19, attending a seminar to discuss the initial findings of research into media coverage of asylum seekers and refugees. In October of the same year, it published guidelines for editors which addressed common mistakes such as the use of the pejorative oxymoron "illegal asylum seeker".⁴⁰ The guidelines urged editors "to ensure that their journalists covering these issues are mindful of the problems that can occur and take care to avoid misleading or distorted terminology. By way of example, an

39 'Man Bites Watchdog' by Roy Greenslade *The Guardian* 04/10/2004

40 *What's the Story? Case Study of Media Coverage of the Sangatte refugee camp* and *What's the Story? Results from Research into Media Coverage of Asylum Seekers and Refugees in the UK*, 2003. Both available from ARTICLE 19

“asylum seeker” is someone currently seeking refugee status or humanitarian protection, there can be no such thing in law as an “illegal asylum seeker”.⁴¹

Journalists excluded

Arguably, the central problem facing the PCC is the fact that, unlike almost any other press self-regulation body in the world, it does not adequately reflect the experience of journalists, preferring the influence of proprietors expressed through their editors. Indeed its very birth was a form of coup which left the NUJ outside the system of self-regulation. This means that its decisions are often mistrusted by reporters and sub-editors. However, this also undermines public trust.

Deference to editorial authority is fundamental to the PCC’s approach. As part of its testimony to the Parliamentary Select Committee on Culture, Media & Sport in December 2003, the Commission rejected a suggestion that journalists should be entitled to refuse any assignment that conflicted with the PCC Code of Practice. It claimed to have “no evidence that journalists are asked to undertake such assignments”. Then it added significantly that this “would in any case seem to be a matter for the employer and employee concerned rather than the Commission”.⁴²

Only a month later, journalists at the *Daily Express* provided the PCC with quite a lot of the evidence it claimed to lack. This was in the form of records of a NUJ chapel [workplace branch] meeting, during which journalists discussed fighting pressure to write anti-Roma articles. Some 70 journalists decided at the end of January to write to the PCC “reminding it of the need to protect journalists who are unwilling to write racist articles”.⁴³

However, the Commission ruled that it had no jurisdiction on this matter and handed it to the Code Committee, which consists entirely of editors and which unsurprisingly rejected the proposal to introduce a conscience clause into the Code. Despite its evidence to the Parliamentary committee, the Commission had and has no intention of undermining editorial or proprietorial power. It set its face directly against a conscience clause to protect journalists trying to defend its own Code of Practice.

The composition and reflection of the interests of the proprietors over those of the journalists, within the PCC restricts challenges to ownership power structures and as a result undermines the accountability of the system.

Concerns of that sort were accepted in Ireland by virtually all sides in 2004 during moves to set up the country’s first press council. A review group under the barrister Mr Hugh Mohan SC made proposals for the reform of the country’s rigid defamation laws and for the formation of a press council. But Mr Mohan ruled out the PCC model from the beginning stating that it had “failed to deal with reasonable public concerns”.⁴⁴

The Irish government has consulted widely with journalists, including the NUJ, before proceeding with legislation. The Minister for Justice has indicated support for the foundation of an independent press council, recognised in law so as to be protected by privilege.

41 Decision on Refugees and Asylum Seekers, 23rd Oct 2003, available on www.pcc.org.uk.

42 It did undertake to raise the matter with its Code Committee.

43 *It’s official – journalists have no right to a conscience*, The MediaWise Trust http://www.mediawise.org.uk/display_page.php?id=666

44 “Press must accept Responsibility as Fair Price for its Freedom” by Hugh Mohan, *The Irish Times*, November 15th 2003.

Meanwhile an organising committee to set up the press council has brought together the NUJ, the Irish-based newspapers and the British-based papers on the Irish market. This committee is still at work at the time of writing.

Addressing the decline in public trust

In Britain, the press has still got a long way to go to improve its credibility with the public. An opinion poll recently found the public regarded journalists – taken as a group – as the least trustworthy professional body in British society. Although the poll of 2,000 adults in early spring 2004 found that trust in journalists had risen modestly to 20%, this was below the number who trusted politicians.⁴⁵

Within these figures, however, there is an interesting story to tell. The respected polling group YouGov also conducted a poll on trust in early 2003. It found citizens trusted some media organisations much more than others. It asked people how much they trusted for various professions. Then the percentage of those who said “Not Much” or “Not at all” was subtracted from that of those who said “A Great Deal” or “A fair amount”. Under this system, family doctors were trusted by an aggregate of 86%. But British TV news journalists did not do badly, with between 63% and 65%. Papers like *The Times*, *The Guardian* or the *Daily Telegraph* (which commissioned the poll) got 31% and regional journalists got 22%.

When the pollsters turned to trades which were not trusted and which fell into the minus category, scores plummeted. Plumbers were slightly mistrusted (-2%) but journalists on papers like the *Daily Mail* and the *Daily Express* got -25%. Labour government ministers got a whopping -49%, but far beneath them came car dealers, estate agents and – lowest of all – red-top tabloids like *The Sun* with -69%.

While these figures are embarrassing for some in the newspaper industry, they are very heartening to those who champion higher standards. They show there is a public appetite for serious journalism and that the readers clearly distinguish between entertainment and trustworthy information.

Circulation figures add another aspect to this story. Over the past two decades, real sales of all newspaper categories in Britain have declined. Since the late '90s, this decline has speeded up. But the largest drop is among the tabloids. The mid-market press has gained as readers migrate from the cruder, red-top tabloids.⁴⁶ The spread of education among and the increasingly middle-class aspirations of, the *Sun's* target audience are undermining an ignoble journalistic tradition.

Finally, however problematic the current system of self-regulation in the UK, and the negative impact on standards by the solely market-driven tabloids, the strength and solidarity of the profession acts as an important antidote. Every written or spoken report is written or spoken by a journalist. When the first Thatcherite drive against British trade unions began in the 1980s, journalists' professional solidarity suffered as their union rights were curtailed. That set the scene for some of the most concerted assaults on journalistic standards in history. Those assaults were only repelled by the cohesion of reporters and sub-editors through their trade unions and their professional associations.

In December 2004, the NUJ Ethics Council and the charity MediaWise set up a debate on current press issues to address the perceived crisis in public trust. The conference was attended by Professor Robert Pinker of the PCC, who resisted calls for stronger regulation as a threat to press freedom and stated the PCC's opposition

45 <http://www.mori.com/polls/2004/bma.shtml>

46 *Press Gang* by Roy Greenslade Pan Books 2005 p675 & passim

to the introduction of a conscience clause, claiming that it was not the *PCC*'s job to be involved in disputes between employers and staff. Nevertheless, he accepted that there was room for improvement and that the *PCC* was committed to continuous evolution.

Other participants called for greater involvement of journalists in the *PCC*, which was considered by freelance journalist Peter McIntyre to have a low visibility within the profession. Liberal Democrat peer Lord Tom McNally commented on the decline of trust in the print media in comparison with the broadcast media and warned the industry: "If your main product is not believed by your main clients, then you are an industry in decline."⁴⁷ Among the recommendations from the conference, was a proposal for a public debate on the *PCC*, with a view to strengthening the Editors' Code of Practice and its way of working – particularly by adding working journalists to its membership.⁴⁸

In February 2005, the proposal for a statutory press council was once again revived, when Peter Bradley MP introduced to Parliament a private member's bill on the Right of Reply and Press Standards. The bill proposed to set up a Press Standards Board, whose members would be appointed by the Secretary of State and a Press Standards Adjudicator. As on previous occasions, the bill failed to secure enough support in the House of Commons to progress further and the government made clear its rejection of legislation that would impose statutory obligations in the field of press standards. The government minister present at the debate concluded his arguments in favour of maintaining the current system of self-regulation for the press by stating: "the Government [has] no intention of presiding over the end of more than 300 years of press freedom".⁴⁹

Nevertheless, the bill was supported by the National Union of Journalists, conditional on it not interfering with press freedom and on the basis that the current system was failing to deliver adequate redress for people who felt they had been misrepresented or otherwise unfairly treated by the press. The frustration of the profession with the current system of self-regulation is clear and reform of the *PCC* is needed if it is to regain the trust and confidence of working journalists. In such a situation, the fact that the present government has no appetite for statutory regulation is more than welcome. However, the warning to the industry, regarding the continued exclusion of those working on the frontline from the process of press regulation – cannot be ignored. Press freedom needs the protection of everybody, especially those who do that every day as part of their job.

47 The Journalist [NUJ Union Journal] Jan/ Feb 2005.

48 "Crisis in public confidence" <http://www.nuj.org.uk/inner.php?docid=872>

49 <http://www.publications.Parliament.uk/pa/cm200405/cmhansrd/cm050225/debtext/50225-19.htm>

4. Case Studies of Media Self-Regulation in Five Countries of South East Europe

1. ALBANIA

The Media Landscape

The legal framework

Since the fall of communism, Albania has struggled to strike the balance between unlimited freedom and over-regulation of the print media. In 1993 the first democratic parliament adopted a press law modelled on that of the German state of Westphalia and little adapted to the Albanian context.⁵⁰ The media community was not consulted in the drafting of this legislation, which was widely considered to be overly repressive due to the inclusion of – for example – an article that provided for the seizure of printed materials without sufficient elaboration of the justifiable circumstances; and high fines for the violation of even purely administrative duties in the law.⁵¹ In 1997, the newly elected parliament repealed the old Act and in its place adopted a law – in force to this day – which includes only two articles, stating that the press is free and that freedom of the press is guaranteed by law.

Since 1997, there have been various discussions involving government, parliamentarians, NGOs and lawyers aimed at introducing more detailed legislation for the print media. Some such initiatives have undoubtedly been motivated by the desire to control journalists, while others have sought to address the problems the profession faces – a rising number of court cases for defamation, political manipulation arising from conflicts of interests within ownership structures and ultimately, the media's lack of credibility as the watchdog of democracy.

One such attempt – initiated in 2001 by the Parliamentary Media Commission and a think-tank, the Institute for Public and Legal Studies – aimed to hold journalists to account for violations of professional ethics and at

⁵⁰ Law no. 7756, date 11.10.1993 "On Press".

⁵¹ According to Article 21 of the now repealed law 7756, a fine of 800 – 6000€ could be levied against newspapers for merely failing to submit copies of the publication to the National Library.

the same time enable them to report more safely on matters of public interest by guaranteeing their right to access and disseminate information and their right to protection of sources.⁵² To realise the objective of raising professional standards, the draft law proposed the establishment of a “Journalists’ Order” based on the Italian model of the “Ordine Nazionale dei Giornalisti”. The law provided for mandatory registration of all journalists as members of the professional order and prohibited publishers from employing non-registered journalists. Entry requirements included proof of more than 12 months’ professional experience and nomination by a member of the Order with no less than 5 years’ working experience. The Journalists’ Order would establish a disciplinary committee to oversee and adjudicate on members’ compliance with ethical norms and the law. These aspects and others, concerning dissemination of false information and regulation of the right of reply soon attracted criticism from the international community.⁵³ At the same time, there was strong reaction from the Albanian media community, particularly to the perceived imposition of the regulatory framework, ensuring that the draft did not proceed to full parliamentary debate.

In 2004, a proposal for more detailed legislation for the print media was revived in the form of a draft Act on Freedom of the Press. The current draft no longer envisages the establishment of a Journalists’ Order, but does include a registration scheme, content restrictions (albeit in the form of editorial duties), provisions for the right of reply and price controls as a means to prevent monopolisation of the sector by powerful political and economic interests. As of March 2005, the draft Act was pending discussion in the plenary of the Albanian Parliament.⁵⁴

Also due for reform and the subject of a legislative initiative by a joint NGO-parliamentary working group, are Albania’s defamation provisions.⁵⁵ Albania’s current defamation provisions are regularly used by politicians and other high-profile figures to deter criticism and investigation into allegations of corruption. The Criminal Code includes five provisions that can be characterised as criminal defamation laws: simple insult, simple libel, insult of public officials related to their public function, libel of public officials related to their public function, and libel of the president of the republic. Since the Criminal Code does not define ‘insult’, the courts have been free to make their own interpretation. The law provides for harsh sanctions including high fines and prison sentences. Sanctions available for insult against public officials are double those available for ‘simple’ insult. Moreover, public officials enjoy the assistance of public prosecutors in bringing cases to court. Albania’s civil defamation law is also in need of reform to – among other things – narrowly circumscribe the tort of defamation; introduce appropriate defences; and to provide guidance on remedies. In practice, the courts are vulnerable to political pressure and regularly impose the maximum fine on journalists accused of defamation.⁵⁶

In 1999, Albania was one of the first countries in the region to adopt freedom of information legislation. The Law on Access to Official Documents guarantees the right of everyone to access documents held by a public authority, but is limited in scope, suffers from ill-defined exemptions and an inadequate oversight mechanism. Implementation of the law has not been prioritised by successive governments and consequently the law is little used by the public and little understood by public officials. In a survey conducted by the Centre for Development and Democratisation of Institutions in 2004, 87% of public officials surveyed claimed not to

52 Article 14 and 16 respectively of the Albanian draft law on Freedom of the Press, 2001

53 See, for example, ARTICLE 19’s *Statement on the draft Law on Freedom of the Press*, March 2001

54 See ARTICLE 19’s *Memorandum on the draft Albanian Act on Freedom of the Press*, October 2004

55 The Albanian Media Institute in cooperation with the Open Society Justice Initiative drafted proposals for the amendment of Albania’s Civil and Criminal Codes, which would in effect decriminalise defamation. The proposals were submitted to the parliamentary procedure in March 2005.

56 See for example, the defamation case won by Prime Minister Nano against Koha Jone editor, Nikolle Lesi, protested by ARTICLE 19 in May 2004 <http://www.ifex.org/en/content/view/full/59240>

have heard of the law. No doubt in part due to poor implementation, journalists have demonstrated little interest in making use of the legislation to secure greater access to government-held information and rely instead on personal contacts and un-attributable sources.

The professional and market environment

Solidarity among the journalistic community is weak. There are two functioning Journalists Associations in Albania – the League of Albanian Journalists and the Association of Professional Journalists of Albania. Both are members of the International Federation of Journalists, but there are no reliable statistics as to the number of members represented by each and neither is regarded as active in defending journalists' rights. There is no collective agreement between journalists and employers and the majority of journalists work without contracts. According to a 2003 survey by the Albanian Media Institute, of 18 daily newspapers asked about how many of their employees had contracts, four refused to respond, while at the others, 135 out of 289 – 46% – responded positively.⁵⁷ Consequently, journalists are largely unprotected and vulnerable to editorial interference in their work, which – given the structure of the market and pattern of media ownership – is significant. Twenty-one dailies compete for a total readership believed to be less than 60,000 – less than the circulation of the first opposition newspaper published in 1991.

The print media market is dominated by three publishing groups – *Spekter*, which is 100%-owned by Albanian businessman Koco Kokedhima and publishes the highest circulation daily *Shekulli*; *Klan*, whose principal investors include the Media 6 JSC. (French-/Albanian-owned) and a subsidiary Media 5 Ltd which – unusually for Albania – is part-owned by employees of the group's chief publications, the daily *Korrieri* and weekly *Klan*; and *Koha*, 100%-owned by Nikolle Lesi, editor-in-chief of *Koha Jone* newspaper and member of parliament. All three groups also own shares in TV and radio and – with the exception of the *Koha* group – have other business interests such as construction, advertising and communications. In the absence of an entrenched culture of editorial independence, the multiple business interests of Albania's media owners give rise to issues of conflict of interest and deter investigative journalism.

The journalists' code of ethics

Albania has a Journalists' Code of Ethics dating back to 1996, but no implementing body or framework for promoting its application among journalists, editors and media-owners. The Code was drafted by the Albanian Media Institute – an NGO whose mission is to provide expertise and assistance to further professionalise the media – the League of Albanian Journalists and the Association of Professional Journalists of Albania. The Code covers the usual areas of accuracy, protection of privacy, protection of minors, protection of victims of crime and confidentiality of sources. It also includes provisions guarding against conflict of interests between the journalist's personal and professional life and between the newspaper's commercial and editorial policy, stipulating that the editor and publisher should prohibit attempts by third parties to influence editorial content and make a clear separation between articles and advertising. The Code also elaborates a definition of the 'public interest', to assist with interpretation of the Code, defined as "finding out and exposing a crime or a scandal, protecting public health, protecting the public from distortion by individual declarations or actions of somebody, an institution or an organisation". The Code does not include any mention of how it might be implemented or enforced, but concludes with a statement that "Acting within the country's legal framework, a journalist may allow for the intervention of colleagues or of the competent persons, rather than of the government in question of professional matters."

57 I Londo, Chapter on Albania, in B Petković (ed.), *Media Ownership and its Impact on Media Independence and Pluralism* (Ljubljana: Peace Institute, 2004).

Media ethics and self-regulation in practice

The interviews in Albania gathered the views and experiences of 15 individuals, either directly working in the media or associated to the profession via academic interest or involvement in developing media legislation. The interviewees included two media owners: Koco Kokedhima, the owner of the largest media group in Albania and the highest circulation daily newspaper *Shekulli*; and Afroviti Gusho, owner of *Nositi*, a weekly regional newspaper published in Pogradec. Also interviewed, were the heads of the two journalist associations, Ylli Rakipi and Armand Shkullaku who also have publishing interests – Rakipi is the sole owner of the daily *Albania* and Shkullaku owns shares in the company that publishes the daily *Korrieri* and weekly magazine *Klan*. Other interviewees were the editor-in-chief of *Korrieri* and the editor-in-chief/ owner of the regional weekly *Dita Jug*; three journalists, including one who was directly involved in drafting the Code of Ethics, a media expert who has reviewed current and past media legislation, two journalism professors, one of whom also works as director of the board of ethics at *Shekulli* newspaper, two members of parliament and an official from the Ministry of Justice.

Is self-regulation part of the debate?

All those interviewed with the exception of the official from the Ministry of Justice were familiar with the 1996 Code of Ethics and to a greater or lesser degree were able to explain its basic purpose and its main principles. Some described it as concerned exclusively with regulating the standards of reporting, while others thought it also extended to regulating relations between journalists and their employers. Of the former, one interviewee cited the fact that the Code did not deal with the contemporary problems faced by journalists – namely psychological and financial pressure – as its chief failing. Most interviewees were also aware that there was no body established to implement the Code and that this left the responsibility to individual media outlets. All, except the owner of *Shekulli* who spoke only of the employees within his publishing group, judged awareness of the Code among journalists in general to be ‘low’ and respect for the Code to be ‘very low’. There were differing views as to the extent to which different stakeholders had been consulted in the process of drafting the Code. As a rule, those that had been directly involved reported a more favourable level of consultation, while others mentioned the involvement of the two journalists associations, but were uncertain as to how individual journalists or media owners had been consulted beyond these formal structures. Only NGO representatives referred to the need for greater consultation with other stakeholders such as consumer groups and the general public if the code was to be revived and updated.

All interviewees with the exception of the government official from the Ministry of Justice (who does not specifically deal with media legislation), had a clear understanding that self-regulation concerned the way in which the media community itself regulated or governed its own professional conduct, with the primary aim of raising standards and preventing ethical violations. On the other hand, few mentioned the role that the public or the consumer might play in contributing to a process of self-regulation, or elaborated on the benefits that greater media accountability to the public would bring.

The majority distinguished clearly between self-regulation and statutory regulation of the press, but some appeared to favour ‘self-regulation by legal mandate’ – i.e. the foundation of a press council or journalists order by law, as attempted by the initiators of the 2001 press law. The director of the ethics board at *Shekulli*

– the only interviewee to have direct experience of implementing a Code of Ethics – favoured the replication of offices such as his in different media outlets and with that, the addition to such offices of the power to revoke the right to practice journalism as a profession. The idea of developing a mechanism that would allow the exercise of some form of control over who entered the profession was also favoured by other journalists on the grounds that this was the only way of preventing the profession from being discredited.

Interestingly, many interviewees did observe that professional standards had improved in the past 4 or 5 years, even though they did not link this development directly to greater respect for the Code of Ethics. An editor and an owner (of two different publications) attributed the raising of standards to market pressure and a couple of interviewees commented on the role of the Albanian Media Institute in conducting training workshops and encouraging debate.

Why has self-regulation not become established in the Albanian media?

Without exception, interviewees were fully in favour of some form of self-regulation and recognised its role as a counter-balance to excessive government control or domination of the media sphere by business interests. One interviewee – a journalism professor and editor of a monthly magazine said: *“Self-regulation has a huge role to play because it sanctions journalism as a profession in society and differentiates it from the media business and protects freedom of expression.”* The Head of the Parliamentary Media Commission expressed his support for self-regulation with reference to the relationship between the media and the public: *“Yes, I believe self-regulation has a great role to play in guaranteeing freedom of expression, because efficient self-regulation means that journalists are more responsible towards the public.”* The owner of *Shekulli*, described self-regulation as *“one of the preconditions for the success of the media.”*

Although no one explicitly says it will not work ‘here and now’ there are nevertheless no shortage of obstacles cited to greater observance of ethical norms by the profession. Among these, are political and economic factors, as well as a universally perceived structural weakness within the profession itself.

The insecure employment conditions of the majority of journalists working without contracts and insurance is cited as a significant inhibiting factor in the development of greater professional conscience and confidence in defending ethics in the newsroom. One interviewee describes a “chaotic situation”, fuelled by the resistance of publishers to structural guarantees of employment rights and the lack of organisation on the part of the profession. The two journalist associations are described as “inactive” and there is no trade union able to defend journalists’ employment rights and institute collective bargaining on their behalf with their employers. As the owner of a regional newspaper remarked: *“Considering the problems the media faces presently, I think the code is among the last positions in the agenda of the media.”*

There is an interesting split in opinion about the role that politicians and the government have played or should play in the development of self-regulation. One media owner claims that *“Politics is the greatest barrier ... especially in recent times when it has been in open conflict with the media”*. A civil society representative urges greater support from politicians for self-regulation and sees their indifference as designed to keep the media in a servile and discredited position in society. On the other hand, a media lawyer engaged in drafting and reviewing successive media laws in Albania sees the relative indifference of politicians to media issues as an opportunity for the media to push ahead and regulate themselves. This view is echoed by the editor-in-chief of the daily *Korrieri*, who sees no real obstacle in the lack of political support for self-regulation, but rather the weakness and immaturity of the profession itself as the problem. Nevertheless, from a more general perspective

of working towards an improvement in standards across the profession, many interviewees comment on the lack of government transparency in their dealings with the media as undermining better practice. Journalists who are consistently denied access to government-held information are forced to depend heavily on un-attributable sources, which in turn encourages an irresponsible attitude towards verifying information.

What could work in practice?

The application of codes of ethics at the level of individual media outlets, such as *Shekulli*, *Nositi* and *Gazeta Shqiptare*, are mentioned by all the interviewees as examples of self-regulation in the absence of a body to implement the 1996 Code of Ethics. One interviewee does not support this approach on the basis that the application of unified codes in other countries has been proved to have greater impact. However, the majority seem to regard this approach as the most viable in the current circumstances. The most well known of the media's "own codes" is *Shekulli's* with which nearly all interviewees are familiar. Few know exactly how it works and of those that are better acquainted with its functioning, opinion is divided on the benefits it brings. A couple of interviewees see the owner's hand too present in the regulation of the professional conduct of his employees, noting critically that *Shekulli's* internal ethics board may well penalise inaccuracies committed by individual journalists, but it has no power over the ethical violations resulting from the interference of *Shekulli's* owner. Others have a more favourable view, claiming attention to ethics is the result of the owner's recognition of the need to maintain trust of the newspaper's readers and has resulted in *Shekulli* becoming "the most professionally correct newspaper in the country".

However, from the description of the functioning of this internal self-regulation system by the director of *Shekulli's* ethics board, it does seem that editorial and proprietary interests are not sufficiently separated to ensure that adjudications on the ethical conduct of individual journalists are only about ethics and never about differences of opinion, business or politics. Journalists working for *Shekulli* sign up to the newspaper's code of ethics as part of their employment contracts and those judged to have violated the code can be fined or fired. Such sanctions are described by *Shekulli's* owner as the main reason for the absolute respect for the code by the journalists and editors: "One of the main reasons is that the abidance by the Code serves as a qualifying standard. In cases where the employees fail to respect and abide by the Code principles, they are immediately fired." But how does the newspaper adjudicate on alleged ethical violations; how does it decide the severity of sanctions to impose in individual cases; and does the journalist have any right of appeal? In describing one of the cases he has reviewed, the director of the ethics board attributes a direct role to the owner in the decision to fire a journalist who was accused of violating the principle of checking a story with two sources in a report on a Socialist party meeting in Vlora: "We discussed with the owner and he fired the journalist."

The influence of owners and publishers and their business interests on the editorial policy of their newspapers is noted by many of the interviewees as a negative factor in the development of the Albanian media. Clearly, the danger of only holding individual journalists to account for ethical violations via the application of internal codes of conduct, is that the editorial policy of the newspaper is not open to scrutiny and there is no one holding the editorial board or the owner to account.

A warning from the past

Interviewees are unanimous in their explanations of why the 2000/ 2001 initiative to set up a statutory "press council" or as it is literally translated a "Journalists Order" based on the Italian model of the *Ordine Nazionale dei Giornalisti* failed. The lack of support from journalists, the journalist associations and the media owners killed the joint parliamentary/NGO initiative. "Just because this initiative was initiated by the government it was designated to fail."

However, there are differences of opinion on the extent to which the government itself supported the initiative with a view to regaining control of the media at a time when the number of court cases brought by politicians was escalating. One interviewee who was more closely involved in the process sees a fundamental misunderstanding in the view that the government was behind the initiative. Furthermore, he blames this misreading of the situation and scepticism among the media community as well as the dogmatism of international NGOs *“which failed to recognise the goodwill of the sponsors and the substantive merit of the proposed regulation.”* He goes on to emphasise that the draft law provided only for the establishment of the council and that its composition and decision-making was to be in the complete control of the media community.

While the overwhelming majority of interviewees dismiss the Journalists' Order initiative as tried and failed, there is by no means universal rejection of the notion of a press council established by law, whose powers would include the granting and revoking of licences to practice journalism. The editor-in-chief of a regional weekly claims it is the legal vacuum that is damaging the development of the media and calls for *“a body that would come close to [being] self-regulatory, but has a legal mandate.”* But the fundamental dilemma remains of how the media community will develop any sense of ownership and thus support for a regulatory body established by law when so many journalists are in open conflict with the political establishment?

2. BOSNIA AND HERZEGOVINA

The Media Landscape

The legal framework

Self-regulation of the print media in Bosnia and Herzegovina (BiH) has been introduced in one of the most liberal legislative environments in Europe. BiH is the only country in South East Europe to have completely decriminalised defamation, with the adoption of civil laws on protection against defamation in Republika Srpska in 2001 and the Federation in 2002. BiH was also among the first of the transition democracies in the region to adopt a Freedom of Information Act in 2000, generally considered to reflect the highest international standards. The electronic media is similarly regulated by a modern law that provides for transparent licensing procedures, regulation of programme content and advertising, protection of copyright and strict rules on concentration of ownership. In its third annual world press freedom index for the year September 2003 – September 2004, Reporters without Borders placed BiH 21st in its media freedom ranking, two places ahead of the US and ahead of all its close regional neighbours, with the exception of Slovenia, which was ranked 15th.⁵⁸ Judged against formal criteria, BiH does indeed lead the way in media freedom in South East Europe – state censorship is inconceivable in the current legal framework and journalists can feel confident that under the watchful eye of the international community, overt political pressure will be roundly condemned.

The professional and market Environment

However, the media is operating in an economically weak and saturated market, with seven dailies and 46 monthly and weekly publications competing for sales and advertising revenue among a regular readership estimated at 40% in the Federation and 22% in Republika Srpska⁵⁹. Economic pressures are passed on to journalists who frequently work without secure contracts and report violations of their employment rights.⁶⁰ With no collective agreement in place and the labour syndicates regarded as a dead letter, journalists are vulnerable to exploitation and therefore also to undue pressure and influence on what they write. Reporters are drawn into the “media wars” of their owners, exchanging personal insults and abuse with fellow journalists in the pages of their respective newspapers. Last year, BiH’s Deputy Ombudsman for the Media reported an increase in defamation cases compared to the previous two years, but noted that while the number of suits brought by politicians against the media had decreased, the number of disputes (ending up in the courts) between journalists had increased.⁶¹

As yet, journalists have been unable to counter the market-driven and divisive interests of their employers with a show of unity in defence of their professional standards. The ethnic hatred and conflict of the 1990s continues to cast a shadow over the institutions of Bosnian society and this includes the media. Until very recently, there were six journalists’ associations in Bosnia and Herzegovina, largely organised along ethnic lines – a division that has undoubtedly hindered the development of the ethical conscience and solidarity of the profession. This said, an important development took place on the 11th of December 2004, when

58 RSF Third Annual Worldwide Press Freedom Index http://www.rsf.org/article.php3?id_article=11715

59 T Jusić, Chapter on Bosnia and Herzegovina, in B Petković (ed.), *Media Ownership and its Impact on Media Independence and Pluralism* (Ljubljana: Peace Institute, 2004).

60 57.8% of journalists have no contract according to a 2003 report of the Stability Pact Media Task Force; while 20% of complaints received by the Journalists Help Line from March to October 2004 concerned employment disputes.

61 M Halilovic, “How the new defamation law is applied in B&H: Journalists are sued by politicians and also by Journalists.” (August 2004) <http://www.mediaonline.ba/en/?ID=323>

three of the associations – the Independent Association of Professional Journalists (Sarajevo), the Journalists Association “Appeal” (Mostar) and the Independent Association of Journalists (Banja Luka) merged to form one association, the “BH journalist”.

The press code

The Press Code of Bosnia and Herzegovina was adopted in 1999 and the BiH Press Council established in 2000. As stated in the Preamble: “The Code, drawn from existing European standards of journalistic practice, is intended as the foundation of a system of self-regulation that shall be considered morally binding on reporters, editors and the owners and publishers of newspapers and periodicals.”

The Press Council consists of 12 members – six representatives of the profession, nominated by the journalist associations and six representatives of the public. The Press Council is currently chaired by Sir Robert Pinker, former chair of the British Press Complaints Commission, but this is regarded as a temporary arrangement and it is hoped that a Bosnian chair will be elected in the first half of 2005. The Council is financed by foreign donors. The Council’s main activity is to adjudicate on complaints received from the public, according to the principles laid down in the Press Code. The Council’s decisions are published via press releases and posted on its website. By agreement with the Press Council, editors-in-chief are required to print adjudications, whether critical or not. However, this does not always happen. The Press Council also commissions and publishes media monitoring research to provide an overview of the articles of the Code most regularly violated and the worst offenders.

The initiative of drafting a code for self-regulation of the print media and establishing a Press Council for its implementation came primarily from representatives of the international community in Bosnia and Herzegovina, not from the local media community. Nevertheless, all six journalist associations⁶² signed the Code and thousands of copies were distributed to every media outlet in the Federation and Republika Srpska. In April 2000, the Independent Union of Professional Journalists of Bosnia and Herzegovina (NUPN BiH) published a brochure that included the Press Code, the Editorial Code for Television and Radio and the Code on Media Rules in Elections, in order to promote the importance of respecting the highest ethical norms among journalists, journalism students and the public. As stated in the foreword to this brochure:

“The brochure is here, the rest is up to those who will read it.”

Unfortunately, compliance with the Code and respect for the authority of the Press Council has not automatically followed.

Media Ethics and Self-Regulation in Practice

The interviews in Bosnia and Herzegovina gathered the views and experiences of 17 individuals with a direct interest in media self-regulation. The interviewees included three news editors, two media owners, two leading reporters, three representatives of journalists’ associations, three journalism professors, one government minister, one member of parliament, and the head of the Press Council. This group included the owner and editor-in-chief of the most influential domestic daily newspaper in Republika Srpska – *Nezavisne novine*, and the

62 The Independent Union of Professional Journalists of Bosnia and Herzegovina; The Association of Journalists of Bosnia and Herzegovina; The Independent Association of Journalists of Republika Srpska; The Association of Journalists of Republika Srpska; The Union of Professional Journalists of the Federation of Bosnia and Herzegovina; The Association of Croat Journalists in Bosnia and Herzegovina.

editor of the most powerful and controversial daily newspaper in the Federation – *Dnevni Avaz*. The owner of the latter – Fahrudin Radoncic - declined to be interviewed.

Is self-regulation part of the debate?

In general, the interviewees showed a limited understanding of the concept of self-regulation. Aside from the two interviewees who had been directly involved in drafting and publishing the Press Code and the head of the Press Council, the majority tended to confuse self-regulation with statutory regulation, or see one as part of the other. The following quote was fairly typical: *“I think there have to be some rules of journalists’ conduct... some of these rules should be self-regulation, but as part of state regulation.”*

While all had heard of the Press Code and the Press Council and knew that their purpose was to provide the “rules” for the profession, some assumed that the Press Council was an international body, while the President of the Parliament thought it was a government body. Very few of the interviewees were able to cite any additional examples of self-regulation or accountability tools operating within the media. A couple gave the example of the Courts of Honour of the Journalists Associations and the Head of the Press Council mentioned the readers’ columns published in some newspapers, but for most, self-regulation did not have a meaning outside their fairly limited knowledge of the Code and the Council. Interestingly, the journalism professors were able to elaborate more fully on the theory of self-regulation, but were not all acquainted with the contents of the existing Press Code or the mandate and structure of the Press Council. One said that he understood the Code was *“an attempt to pull the media out of this insanity and mud”*, but he admitted that he had not read it.

Scepticism about the benefits of self-regulation was frequently voiced. Among the interviewees, the two journalists seemed most sceptical, referring only to the restrictions which self-regulation brought and highlighting the failings in the way the system functions. One claimed he would rather turn to the judiciary than to professional standards or the conscience of his colleagues. *“As far as I am concerned in my everyday professional job, Press Council or self-regulation does not play any role. The only thing that I am thinking about when I am writing is a chance to end up in court. That is the only standard I recognise.”* Editors and owners seemed more conscious of what benefits self-regulation *could* bring – citing avoidance of court cases and fines. However their own acknowledged lack of respect for the Press Council appears to undermine any notion of commitment to the principle in practice. Academics and those involved in drafting the Code of Ethics or active in the Press Council elaborated on the theoretical benefits to the various stakeholders, but all admitted that these are yet to be realised in practice.

All interviewees were certain that the majority of journalists in BiH were aware of the existence of the Code and of its basic purpose, but estimated the level of knowledge of the actual *content* of the Code to be very low and respect for its principles, as one interviewee put it, “catastrophically low”. The work of the Press Council in disseminating 10,000 copies of the Code and publishing two reports naming and shaming those responsible for violations does not seem to have resulted in the development of a sense of ownership over its contents. The overwhelming impression provided by the interviewees of the attitude of the media towards the Code is probably best described as ‘indifference’. However, one interviewee judged violations to be more intentional than accidental, driven by the policy of the media outlet – and in particular the competition – for landing an exclusive.

Why has self-regulation not become established among the media in BiH?

The history of the development of the Code and the Press Council has not favoured acceptance of the authority of this form of self-regulation. The perception that the system was imposed from outside comes

across in many of the interviews and is clearly a fundamental barrier to the Press Council achieving wider recognition and legitimacy. In addition, complaints were made by some interviewees that the Press Council's structure, the way it elects its members and the way it functions have not been explained to working journalists – “no one from the Press Council has come to the newsrooms to explain their role”. At the same time, there was a very mixed response from interviewees to the question of the extent to which key stakeholders had been consulted in the development of the Code. Some insisted they had not been consulted at all and did not know of any colleagues who had, while others reported full consultation via the six journalists' associations. Such differing responses could well reflect varying levels of active membership in the associations by the particular individuals who were interviewed or it could point to failings in the manner in which the associations represent the interests of their members – in any case it reflects a lack of common ownership of the Code and the Council. Interestingly, other stakeholders such as readers and civil society organisations were rarely if at all mentioned by the interviewees as either being or not being consulted – an indication perhaps of the limited understanding of media self-regulation as a matter concerning only the media and not the whole of society.

“Without economic independenc[e] there will be no good newspapers.”

The economic environment in which journalists work – a fragmented media market, a dramatic decline in circulation since the war and the dependence on political and business elites – were frequently cited as obstacles to the improvement of professional standards in the print media. Such pressures were reported not only by the representatives of the journalists' associations and reporters, but were also discussed openly by owners and editors who took part in the research. The owner of *Nezavisne novine* which is noted by media commentators as making a serious effort to separate news stories from comment in its pages,⁶³ described the media situation in BiH as catastrophically bad owing to the corruption pervading the media as much as the rest of society. The editor in-chief of *Dnevni Avaz* – the largest circulation daily in the country – was also candid about the impact of economic pressures on journalists. Using his own newspaper as an example and as the only “truly economically independent” newspaper, he compared the less favourable situation of other media outlets, whose owners were subject to political pressure because of their economic dependence. By contrast, he claimed that the journalists on his newspaper were free “to follow the rules of the Code completely, no matter what some centre of power thinks..”

However, if such a claim describes the newspaper's independence as a result of its strong position on the market, it does not ring true in relation to improved professional standards and adherence to the code of ethics. Six out of the 26 complaints received by the Press Council in 2004, were made against *Dnevni Avaz*.⁶⁴ Furthermore, by the editor's own admission, *Dnevni Avaz* does not respect or recognise the authority of the Press Council.⁶⁵ Chief among the daily's criticisms is the Council's composition and what it claims to be the lack of representation of Bosniak interests among the members.

Dnevni's view of the Press Council through a political lens illustrates the difficulty of establishing an ‘a-political’ body to regulate a profession still deeply politicised and divided along ethnic lines. Almost without exception, those interviewed in the research blamed the divisions within the journalistic community for preventing a more unified approach to supporting the Press Council when it was first set up. One interviewee explained how the associations were unable to agree on candidates to sit on the Council, while another described how

63 See Jusić, note 10 above.

64 See Press Council end of year statistics 2004 www.vzs.ba

65 In December 2004, the newspaper publicly stated its rejection of the authority of the Press Council when it was reprimanded for publishing details of the kidnapping of a politician's son, in spite of pleas by the Press Council to the media not to jeopardise the rescue operation by irresponsible reporting.

the efforts to promote the Code, since its adoption in 1999 have been hopelessly dispersed because of the structure of representation within the profession. While the goal of greater solidarity and unity has recently received a boost with the merger of three of the associations into “BH Journalist”, prospects for uniting all associations in one body were not considered realistic by any of the interviewees in the current climate. One journalism professor describes the media as split down the middle in its attitude to the Press Code – one faction supports it and the other violates it as a matter of course. Obligated to participate in the “small wars” conducted by their employers he complains that journalists have not been able to develop a “post-Bolshevik professional conscience”: in other words, the media exists to serve the party machine or – in the present context – to serve the interests of the financial masters of the newspaper, not to serve the public interest.

“The public does not exist”

The decline in newspaper readership in BiH since the war reflects a broader problem in society than simply that of a lack of purchasing power. Many interviewees lamented the absence of public opinion, leaving the space for public debate to be dominated by competition and conflict – “not dialogues but small wars”. Civil society organisations were regularly cited as working to support media ethics and the Press Council, but were also blamed for conformity and avoiding confrontation. Leading intellectuals were noted as being significantly absent from the public debate conducted through the media. A change in the social environment is required for self-regulation to work said one owner, and another expressed hope that in the future readers would act as a conscience for the media. Furthermore, the interviewees judged the profile of the Press Council with the public to be very low and one asked how it could fulfil its function as a “public watchdog” if the public doesn’t know it exists. The Head of the Press Council said that more time was needed to generate public awareness. While the 93 complaints received in the Council’s three years of operations to date is an encouraging sign that the Council is gradually gaining recognition, he acknowledged that to become a more effective grievance mechanism, people had first to learn that the Council cannot award financial compensation, only secure them a right of reply.

Can self-regulation work in practice?

The most significant factor in the failure of the Press Council to comprehensively establish its authority with its chief constituency was unanimously concluded by the interviewees to be its lack of power to enforce its decisions. As one journalist explained:

“we are not a society that can respect rules without sanction.”

The Press Council’s lack of sanctions was most commonly cited as its main limitation, even by the two or three interviewees who clearly understood well self-regulation’s fundamental principle of voluntary compliance. Some suggested that the only solution was for the Press Council to have stronger sanctions available, such as fines and the expulsion of journalists from professional associations. Many interviewees referred to the “successful” statutory regulatory mechanism for the electronic media and concluded that the improvement in the professional standards of radio and television journalists were only the result of the fines or threat of fines imposed by the Communications Regulatory Agency (CRA).

It was in this part of the debate that most interviewees appeared confused about the parameters of self-regulation and looked to better laws and better decisions by the courts to rescue them from the irresponsible exercise of their freedom. A journalist on the weekly *Dani* magazine voiced his support for stronger libel legislation: “When you publish, for example, [a] call for [the] hunt [of] one politician, you should pay half of

million marks of fine. That is my opinion.” Few of the interviewees drew the connection between a functioning system of self-regulation and the potential reduction in prosecutions and convictions for libel in the courts. Article 7 of BiH’s new libel legislation allows for a defence of reasonableness and in making such a determination takes into account “good faith and adherence to generally-accepted professional standards by the person who allegedly caused the harm...”⁶⁶

At the same time, when asked to propose alternatives to the Press Council, the majority of interviewees appeared to go back on their dismissive criticism and insisted there was no alternative. Views were clearly divided between recognising the value of the ideal and a realistic assessment of what could be achieved in BiH today. While one parliamentarian insisted that the media should address these problems through the existing Press Code, another recommended a new law to prevent the manipulation of the media. A media lawyer judged that journalists would only develop a more positive attitude to self-regulation when faced with statutory regulation. However, in the main, suggestions for improving the situation emphasised the responsibility of the journalistic community to address its own structural and professional problems through better education on ethics in the journalism faculties. As a matter of crucial importance, the media community should find ways to fund its own Press Council, rather than relying on international support.

⁶⁶ Law on Protection Against Defamation (RS: 2001, Federation: 2002).

3. BULGARIA

The Media Landscape

The legal framework

The debate around self-regulation in the Bulgarian media – which stretches back several years – has taken place against a background of legislative reform, which has created a relatively liberal environment for the development of the print media. There is no press law in Bulgaria and although defamation is still a criminal offence, significant reforms have been made over the last few years. In 2000, the Criminal Code was amended to remove the right of the State Prosecutor to initiate defamation charges on behalf of public officials and to abolish prison sentences – sanctions for defamation are now purely financial and the maximum fine is approximately 7500 euro. Nevertheless, defamation laws are still used to stifle criticism particularly by local politicians and there was a rise in the number of defamation cases between 2001 and 2002.⁶⁷ Journalists working in local and regional newspapers, lacking adequate legal defence are particularly vulnerable. Bulgaria's Act on Access to Public Information – adopted in 2000 – guarantees the right of access to government-held information and – with the support of the litigation efforts of the NGO 'Access to Information Programme' (AIP) – has been used occasionally by investigative journalists to force the release of information the government would rather keep secret.⁶⁸

The path of reform for the electronic media has been less than smooth and the transformation of the state broadcaster into a public service has been fraught with accusations of political pressure and commercial influence. The current Radio and Television Act was passed in November 1998, after several years of political stand-offs. This Act followed a number of unsuccessful attempts to pass legislation on the electronic media, the best-known tried in 1996 and abandoned, as the greater number of its texts were ruled unconstitutional by the Constitutional Court. The Act of 1998 – though trying to set up a modern regulatory framework – also allowed a great deal of intervention by the main broadcasting authority, by then the National Council on Radio and Television (NCRT), which in the winter of 2001 resulted in a crisis at the Bulgarian National Radio. Amendments to that Act introduced by the new parliament elected in 2001 included the termination of the mandate of the existing regulatory body - the Bulgarian Radio and Television Council and its replacement with the Council for Electronic Media. Controversial decisions by the CEM, such as the replacement of the Director-General of Bulgarian National TV in 2004 with a 75-year-old professor accused of being under the strong influence of various corporate interests has done little to enhance the credibility of the CEM as an independent regulator. This less than positive experience with broadcast regulation seems to have been an influencing factor in the debate on how to regulate the print media.

The professional and market environment

Distinct from other countries in the region, Bulgaria's print media market is dominated by foreign ownership – the German WAZ group, which first entered the market in 1996, is reported to hold approximately 70% of the market share, including the most popular *TRUD* and *24 Hours* dailies as well as several other weekly

67 In a survey conducted by the Bulgarian Helsinki Committee of judicial proceedings brought against journalists during 2002, 131 defamation cases were identified, of which 70 were criminal and 61 civil. This compared to 115 defamation cases surveyed during 2001. http://www.bghelsinki.org/fe/indexresearch_en.html

68 For example, in 2004, AIP won a case against the Ministry of Interior, who was ordered by the Court to disclose a file relating to the infiltration by Bulgaria's secret service into the BBC and Radio Free Europe during the Communist era. AIP was acting on behalf of a Bulgarian journalist investigating the death of dissident Georgy Markov. http://www.aip-bg.org/news_eng.htm

and daily publications and the largest distribution companies in Sofia and Varna. WAZ publications have the highest circulation (although accurate figures are not available) and collect the greatest proportion of advertising revenue. As Bulgaria's advertising market is small, this leaves other publishers economically dependent on other interests and as Bulgaria – like its neighbours – suffers from lack of transparency in media ownership, these interests are not always apparent to the public. WAZ has always maintained that it is not interested in editorial policy but in circulation and advertising revenues, although Bulgarian commentators argue that its official announcement of independence has given licence to its editors-in-chief to pursue their own biases and interests.⁶⁹ Nevertheless, in 2003, WAZ was the first media company to adopt the Principles for Guaranteeing Editorial Independence, elaborated by the OSCE.⁷⁰ Journalists in Bulgaria also benefit from stronger labour rights than their colleagues in neighbouring countries. The biggest and most influential media outlets in the country have signed a collective agreement on the employment rights of their journalists. This practice is valid for the Bulgarian National Radio, the Bulgarian National TV, the Bulgarian News Agency (BTA) and for the WAZ-owned Bulgaria Newspaper Group.

The ethical code of the Bulgarian media

The Ethical Code of the Bulgarian Media was formally adopted at a public ceremony on 25 November 2004. The Code was signed by the main representative organisations of the Bulgarian media: the Association of Bulgarian Broadcasters,⁷¹ the Bulgarian Media Coalition,⁷² the Union of Bulgarian Journalists,⁷³ the Union of Publishers⁷⁴ and the Association for Regional Media.⁷⁵ Besides these, 45 media outlets, including the main national newspapers, the biggest commercial radio and television stations, the public broadcasters (BNR and BNT) and the national news agency (BTA) also signed. Only one publishing group – *Monitor*, which owns two national dailies and one weekly, did not sign the Code, allegedly because of personal conflicts with the Union of Publishers, rather than opposition to self-regulation. The ceremony was a high-profile occasion attended by the President, the Prime Minister and the Speaker of Parliament and was widely reported in the media. The Code of Ethics was developed by a team of Bulgarian and international media experts within the framework of a project funded by EU PHARE.⁷⁶

The Code applies to both print and broadcast journalists and commits members to supply the public with accurate information; distinguish clearly between facts and comment and observe a range of ethical principles dealing with protection of children, non-discrimination, and coverage of crimes and of cases of brutality. The Code also addresses editorial independence, stating – among other things – that journalists shall not be susceptible to political or commercial pressure or influence, shall maintain a clear distinction between editorial decision-

69 V Popova, Chapter on Bulgaria in B Petković (ed.), *Media Ownership and its Impact on Media Independence and Pluralism* (Ljubljana: Peace Institute, 2004).

70 Adopted in July 2003: www.osce.org/documents/rfm/2003/07/514_en.pdf

71 The Association of Bulgarian Broadcasters is a voluntary, not-for-profit organisation, representing over 160 independent radio and TV stations in Bulgaria: <http://www.abbro-bg.org/en/index.php>

72 The Bulgarian Media Coalition is a coalition of NGOs with the common mission of developing independent media and a pluralistic and free media environment in Bulgaria: <http://bmc.bulmedia.com/EN/frames.htm>

73 The UBJ – surviving from the Communist era – is the largest journalists' union in Bulgaria, claiming to represent 4000 members. A second Union – "Podkrepa" – was founded in the early 90s, but its membership is thought to number little over 50: <http://www.bmc.bulmedia.com/en/profiles/UBJ.htm>

74 The Union of Publishers represents 15 of Bulgaria's largest publishers.

75 Founded in 2003 with the aim of bringing together regional print and broadcast media owners – plans to merge with the Union of Publishers.

76 The project is implemented by a consortium led by the BBC World Service Trust and includes: the Media Development Centre (Sofia), Dublin Institute of Technology; University of Leipzig, International Federation of Journalists (Brussels) and Human Dynamics (Vienna).

making and commercial policy of the media house and shall respect the right of individual journalists to refuse assignments or to not be identified as the author of a specific item. Furthermore, a section on relations within and between media outlets enshrines the principle of mutual respect and fair competition and the public's right to know who owns and controls the media. Finally, the Code provides a definition of 'the public interest' as "the protection of health, safety and security, the prevention and disclosure of serious crimes and the abuse of power and prevention of the public from the danger of being seriously misled".

Since the signing ceremony, negotiations have begun between the main stakeholders – the publishers, the journalists and the Council for Electronic Media (CEM) as to the next steps towards the establishment of an ethics council or commission, which will adjudicate complaints received from members of the public in relation to the Code.

The adoption of the Bulgarian Code of Ethics is not the first attempt by the Bulgarian media to self-regulate. There have been other initiatives in the past – for example the Union of Bulgarian Journalists adopted a Code of Conduct for journalists at its 10th annual Convention in 1994 and more recently – in 2001 – the Bulgarian Media Coalition adopted a Code entitled "Ten Principles of the Professional Journalist". However, until now, none of the initiatives has achieved wide support across the media community, in particular that of the media owners and publishers. In this latest initiative, the decision of the Union of Publishers to adopt the new Code in September 2004 is therefore considered as crucial to its future success.

Media Ethics and Self-Regulation in Practice

The interviews in Bulgaria gathered the views and experiences of 15 individuals, all of whom were very familiar, and some directly involved, with the current self-regulation initiative. The interviewees included both print and broadcast journalists as the recently adopted Code of Ethics applies to journalists working in both media. Journalists working on both national and regional newspapers, radio and TV were included in the research as were editors-in-chief of the highest circulation daily and weekly newspapers. Other interviewees included a journalism professor, a representative of the Union of Publishers, a member of the Council of Electronic Media, a member of the parliamentary committee on the media and three media lawyers.

Is media self-regulation part of the debate?

According to the interviewees, there is not a journalist, editor or publisher in the country who does not know about the recently adopted Bulgarian Code of Ethics. The high-profile signing ceremony, at which the President, Prime Minister and Speaker were uniquely present and over 50 media outlets were represented, is mentioned by every interviewee as a significant factor in the successful publicity of the new Code. Even more important has been the process leading to the adoption of the Code. Even those interviewees who have not been directly involved in the discussions speak of broad consultation with all stakeholders – journalists, editors, media owners, NGOs, members of parliament. However, one interviewee noted the conspicuous lack of direct involvement of consumer groups, which he feared could affect citizens' awareness of the Code in the future. Most interviewees speak of various methods of consultation – workshops, online discussions, and debates on self-regulation in the pages of most daily and weekly newspapers – which have clearly led to a profound sense of ownership of the Code throughout the media community. Two interviewees report that the Code is now being referred to as the "Constitution" of the Bulgarian media. Another, reflecting on the disappointing experience of previous attempts by – among others – the Union of Bulgarian Journalists to develop a form of media self-regulation, stresses the importance of the collaborative nature of this most

recent initiative: *“We can proudly say that the Code was a joint production, something done by the media in the country with the assistance of foreign expertise.”*

While awareness of the adoption of the code is thought to be very high, many interviewees strike a more cautious note about the prospects for the Code being respected. A few point out the difference in the media environment between the main cities and the countryside and suggest that the local media will need more support and training to implement the Code, as journalists are under greater financial and editorial pressure. As one journalist describes, “the laws of the jungle” still prevail for journalists working outside Sofia. A radio journalist from Sofia and the manager of a regional radio station question the extent to which media owners really understand the content and implications of the Code – particularly those publishers at the tabloid end of the market, whose current practice goes against the principles of the Code. However, others have a more optimistic outlook, which seems to reflect a broad view that the Code has arrived at the right time in the development of the media in Bulgaria. A couple of interviewees suggest that those newspapers that do not abide by the Code will not have a future in the Bulgarian media market, as their status as members of the “fourth estate” will be undermined, resulting in a drop in readership.

Why is this self-regulation initiative different from previous attempts?

Faith in the power of the market to support respect for media ethics is echoed by several interviewees. The chair of the Bulgarian Media Coalition cites the support of the Union of Publishers as the critical factor in widespread acceptance of the Code of Ethics by all major media players. He attributes the support of the publishers to economic reasons. They see the Code a way of reversing dropping circulation figures (the yellow press aside) by raising standards and thereby changing the buying habits of their readers – in effect, creating a market for quality newspapers. Other interviewees also remark on the crucial factor of market stability, which has freed the profession from economic dependence on political interests and which will be crucial to the longer-term success of self-regulation: “A stable media market with stable players who do not fear ‘next minute bankruptcy...’

The interviewees also give some credit to the politicians who have recognised the right of the media to regulate itself and at the same time realise the benefits that a self-regulated media can bring to them – releasing them of the responsibility to regulate the complex area of ethics and – in the longer-term – enhancing their own credibility by virtue of the absence of interference in editorial policy.

However, more than anything else, the interviewees emphasise the almost-unanimous support for the Code from journalists themselves and how much they want the Code as a means of ensuring greater transparency and clear rules for their profession. Until now, some newspapers had introduced their own codes of conduct, but as one editor-in-chief points out, this ended up becoming a futile process: *“if only you accept the rules, then they start to work against you as while you double check your sources, others sell, sell, sell...”* It is important to emphasise that such belief in self-regulation has certainly not dawned overnight. It was the result of fifteen years of trial and error and – very important – disappointment with the experience of the statutory regulatory body for the electronic media, the Council for Electronic Media (CEM). The decisions of the council – formerly the NCRT – merited negative comments from many interviewees.

Prospects for the future implementation of the code of ethics

As much as they are keen to express their overwhelming enthusiasm for the new Code, the interviewees had no illusions about the challenges that lie ahead in establishing an implementing mechanism. Maintaining the consensus that has resulted in the adoption of the Code of Ethics was identified as a crucial factor for the

future success of the Ethics Commission. As the interviews were conducted just a couple of weeks after the signing ceremony, few were aware of the 'next steps' – how the support for the adoption of the Code would be translated into structural guarantees of its implementation.

Some journalists warned against domination by the Union of Publishers and the Association of Broadcasters who – as representatives of the employers – represented the economic interests of the industry. Some also questioned the role the Council for Electronic Media in the future structure. As the Code is intended to regulate the conduct of print and broadcast journalists, the CEM has until now been part of the process. However, some interviewees were clearly uneasy at the prospect of a statutory regulator being party to adjudications of a self-regulatory body. Whereas one interviewee felt that the credibility of the future Commission would flow naturally from public recognition of the consensus that had led to the adoption of the Code, another warned that establishing the authority of the Commission could well be a problem. This, he ascribed to the low level of respect for the National Council for Radio and Television and its successor, the CEM. Establishing a clear mandate for the Commission and ensuring absolute transparency and fairness in the selection of members and in enforcing fixed terms of office will be essential to ensure the future Commission becomes a respected institution.

The continued involvement of the international community was considered important by the majority of interviewees. Many spoke of the importance of the EU-PHARE funded project and the role of the BBC World Service Trust in acting as a catalyst for the successful process of adopting the Code. Some interviewees placed more emphasis on the contribution of expertise and experience which external support could contribute, while others felt that funding would be a crucial issue for the Commission, particularly in its first year. Rather than turning to the Bulgarian state for financial support, it would be preferable to receive financial assistance from abroad. All felt that the Bulgarian media itself was as yet too weak to assume full responsibility for financing the future Commission.

4. ROMANIA

The Media Landscape

The legal framework

The discussion on media ethics and self-regulation in Romania responds to legislative initiatives and incidents in recent years, in which the continued tendency of political elites wishing to control the media has been apparent. Lack of respect for a truly free and independent media has been demonstrated in a number of incidents in which pressure was exerted on the management of private and public/state-owned media. For example, in their 2003 review of press freedom in the region, the South East Europe Media Organisation (SEEMO) reported incidents of editorial censorship, such as the case of Europa FM Radio, whose managers, Rodica Culcer, Cosmin Prelipceanu and Nadina Forga, resigned on 5 April 2003 in protest against the pressure exerted on them. They said that the administrative management of the radio station had asked them not to broadcast any news that might “bother the government party.” More recently, in December 2004, employees of state-owned radio and television sparked a controversy when they openly admitted there was direct pressure from the ruling Social Democrat Party (PSD) during the coverage of the November-December 2004 presidential and general elections. For example, Alexandru Costache of TVR1’s news department, revealed incidents of political pressure, censorship and misinformation prevailing within the organisation. In an open letter, he said, “it is as if we were attached by an umbilical cord to the PSD and to Adrian Nastase in particular”. Similar charges were made against Radio-Romania.⁷⁷

Journalists are also subject to a high incidence of defamation suits⁷⁸ which before the change in the law in 2004 could result in prison sentences. In spite of important improvements to the libel provisions in the new Criminal Code adopted in June 2004 (in force from July 2005) – most notably the removal of insult as a criminal offence and the exclusion of prison sanctions for libel – the government has resisted calls for the complete decriminalisation of defamation. Fines of up to 130,000,000 ROL (approximately 3500€) can still be imposed.

The journalistic community has been called on several times to resist proposals for changes to the law, where such changes would have threatened freedom of expression. Interestingly, two such initiatives addressed areas which touched directly on journalistic conduct. During 2002, a draft law on the Right of Reply was approved by both the Chamber and the Senate in the Romanian Parliament and was only withdrawn following protests from domestic NGOs and media and international organisations, such as ARTICLE 19. The motivation for the draft law came from the Ministry of Defence, citing frustration with a newspaper’s refusal to publish a reply. The draft law was problematic in that it provided for high fines, ranging from the equivalent of 600€ to 2500€ for refusal to publish a reply following a court order. This did not exclude the possibility of the harmed person pursuing a legal case to claim moral damages. Furthermore, the draft law provided for the right of reply to be exercised by public bodies.⁷⁹

In January 2003, the adoption of the law on the national news agency, ROMPRES, was welcomed by freedom of expression advocates for enshrining the right of journalists to protect their sources. The recognition of such an

77 Media Monitoring Agency, “Concern about threats to press independence on eve of presidential run-off”, (Bucharest: 8 December 2004). <http://www.mma.ro/Communicate%20de%20presa/lp2004en.html>

78 400 ongoing defamation cases were reported in 2002 by the Romanian Helsinki Committee and the Media Monitoring Agency.

79 Five articles relating to the right of reply for the print media from Law no. 3/1974 on the press (art.72-75 and art.93) remain in force and are considered by civil society organisations to be largely in line with Resolution (74)26 of the Committee of Ministers within the Council of Europe. The right of reply for the broadcast media is regulated by the Broadcast Law, 504/2002.

important journalistic right was considered particularly significant at the time, because it marked the success of a campaign against a proposal by President Ion Iliescu to amend the law so that prosecutors could order journalists to reveal their sources without a court order.

The professional and market environment

As demonstrated above in the case of Europa FM Radio, political interference in the media extends to the private sector. Media commentators talk about journalists losing control of the profession as it becomes dominated by the interests of the media owners.⁸⁰ Ownership trends identified in “Media ownership and its impact on Media Independence and Pluralism” (SEENPM) include the growing tendency of politicians to buy newspapers in their bid to gain power and the increasing difficulty in unravelling who actually owns the major media. For example, the main news agency, *Mediafax*, – which is said to account for 90% of information appearing in the media – was until 2002 known to be part of the *Media Pro* group. The latter is one of the three main media companies in Romania and its shareholders include an American company, Central Europe and Media Enterprises (CME), and two Romanian businessmen. In 2002, *Mediafax*’s ownership structure was changed and the former main shareholder replaced by *Media Pro BV*, behind which is a Caribbean company managed by a Dutch Trust. All trace of the real owners has been kept secret.

There exist about 1500 print media in Romania – the majority are weeklies and a couple of hundred are dailies, 14 of which are based in the capital. The largest circulation daily is the tabloid *Libertatea* (approx. 250,000 copies), owned by the leading media group – the Swiss group Ringier, which also owns the popular sports newspaper *Pro Sport* and another daily, *Evenimentul Zilei*. Ringier also publish the largest circulation business weekly, *Capital*, which has a good reputation for objectivity. The most widely read non-tabloid is *Jurnalul national* which is owned by the same media group that owns *Antena 1 TV*, one of the three main TV stations in Romania. The group’s owner is Dan Voiculescu, president of the Humanistic Party, member of the present (and previous) government. Also popular is *Adevarul*, which succeeded *Scanteia*, the most widely read daily during communist times. Its present influences are obscured by the increasingly widespread practice of hiding the real owner behind “harmless” fronts that assume formal, but not actual control of the business. Another notable daily is the *Romania Libera*, whose major shareholder is the German group WAZ.

The economic conditions of the journalism profession do not favour robust and principled practice, particularly among the local media, where journalists earn less than the average monthly wage. In recent years, journalism has been regarded as little more than a shortcut into the more profitable fields of advertising or public relations. While journalists remain vulnerable to dismissal for refusing to write as directed by owners – who claim to have a queue of replacements lining up outside the door – some progress has been made recently in securing better employment conditions. In 2004, the Federation of Journalists and the Typographers’ Unions negotiated a Collective Work Contract Concerning the Media. The collective agreement applies to all media outlets and contains minimum conditions that must be included in a journalist’s contract. The Centre for Independent Journalism (CIJ) and the Media Monitoring Agency (MMA) – which are conducting an awareness-raising programme for the local media – have noted a lack of implementation and widespread ignorance of their new employment rights among local journalists.

Arguably the most serious threat to media ethics is the conflict of interest between commercial and journalistic priorities for newspapers competing for clients in a weak advertising market. Until recently when

80 Prof. Mihai Coman, Faculty of Journalism and Mass Communication, University of Bucharest, Regional Conference hosted by the Centre for Independent Journalism, Bucharest, 8 December 2003, as reported in M Preoteasa, Chapter on Romania in B Petković (ed.), *Media Ownership and its Impact on Media Independence and Pluralism* (Ljubljana: Peace Institute, 2004).

the practice was exposed by the CIJ, *Adevarul* offered two types of advert on its website: those clearly marked as adverts and those without a clear indication of their commercial influence – the so called “advertorials”. The latter cost the client two and a half to three times as much as a normal advertisement and would take the form of interviews or feature articles without any signalling that they had been commissioned by the company concerned. Furthermore, the state has become the major player on the advertising market and as such has developed significant muscle to influence media content. According to CIJ – which conducted a survey of advertising spending by 60 public institutions – information on how government advertising budgets are spent is almost impossible to obtain due to current provisions in the Law on Public Procurement. In terms of the law, a public body does not need to launch a completely open bid process if the amount involved is below 40,000.00 Euro.⁸¹ Furthermore, a document recently declassified by the Romanian Government after a CIJ victory in a freedom of information case shows that the former Prime Minister, Adrian Nastase, personally approved advertising spending by 35 government institutions targeted at media close to the ruling party.⁸²

The Romanian Convention of Media Organisations and the Code of Ethics

The Romanian Convention of Media Organisations (COM) was formed in 2001 as a loose coalition of some 35 professional associations. Two NGOs, the Centre for Independent Journalism (CIJ) and the Media Monitoring Agency (MMA) provide the secretariat and to some extent leadership of the COM, although they are not themselves members of the Convention. The formation of the COM has enabled the adoption of common advocacy strategies on behalf of the journalistic community on a range of issues, such as defamation, the protection of sources and the right of reply. Over the past 18 months, COM has provided a forum for discussions on the development of a Journalist’s Statute and a Code of Ethics (“Deontological Code”), which were formally adopted at a meeting in Sinaia in July 2004.

The Statute is intended to define the relationship of the journalist to society: it proclaims the profession as free and independent and provides a liberal definition of a journalist as someone who exercises the right to free speech and whose primary income comes from journalistic products either as an employee or freelancer – no matter the medium (online, press, broadcasting etc.) According to the drafters of the Statute, it is not the intention to impose or regulate such a definition, but simply to make clear how the Convention views the profession of journalism.

The Deontological Code is described as a constituent part of the Journalist’s Statute and stipulates the role, the professional conduct, the rights and obligations of a journalist. The Code includes a definition of public interest, defined as – among other things – any matter affecting the existence of the community, the way in which the government, authorities and public institutions act and function, the proper administration of power and information regarding the violation of human rights. The section on professional conduct covers reporting of crimes (presumption of innocence), respect for private life, respect for the interests of minors, victims of accidents as well as the journalist’s obligation to avoid discrimination of any kind, to separate fact from opinion, to make efforts to present the points of view of all involved, and to maintain confidentiality of his/her sources. The Code also deals with corruption and conflict of interest and places the responsibility for the right of reply on the journalist, recommending prompt correction of any error and publication of apologies when necessary. The journalist’s rights include the right to invoke the conscience clause i.e. to refuse any journalistic action that he/she considers to be against the principles of journalist ethics or against his/her own principles and to refuse to solicit any advertising or sponsorship contracts for the press institution for which he/she works.⁸³ A very similar

81 Report scheduled for publication in May 2005.

82 <http://www.pressreview.ro/articol.php?a=2357&s=2&ss=-1>

83 This relates to a practice whereby journalists are requested by their editors-in-chief to bring in a certain amount of advertising money per month in order to guarantee their salary.

conscience clause has also been included in the Collective Labour Agreement signed by the unions with the government and Employers' Associations in 2004. As a result, the provision has the force of law.

The process for developing the Statute and the Code has involved various working groups, public debates and internet discussions between the members of the COM. Notably absent from the discussions have been the publishers and editors-in-chief, whose professional association, the Romanian Press Club, refused to participate in the initiative, although some individual members did take part. The Press Club has its own Code of Ethics, but this is widely considered among working journalists to be outdated and poorly implemented. Although some publishers require their employees to sign the Press Club Code as part of their contract, there are no functioning implementation mechanisms and no adjudications on the basis of the Code have been published. Other associations in Romania also have their Codes of Ethics. One of the most developed and functioning is the Code of Ethics of the Association of Hungarian Journalists. However, the COM initiative represents the first attempt to elaborate a self-regulation mechanism that will transcend the fragmented organisation of the profession.

Media Ethics and Self-Regulation in Practice

The 12 interviewees in Romania included an editor-in-chief of a local daily newspaper and four reporters – one of whom works for the national news agency *Mediafax*; the Director of the Romanian Association for the Promotion and Protection of Freedom of Expression; the Director of the Centre for Independent Journalism. The latter two were involved in developing the COM Code of Ethics. Other members of the COM who took part in the research were the Vice-president of the Romanian Centre for Investigative Journalism and a member of the Association of On-line Editors. Other interviewees were the Director of the National Institute of Magistrates, a Professor of Journalism at Bucharest University and the Vice-president of the National Broadcasting Council. Notably absent from the sample, were media owners and senior representatives of the Romanian Press Club (the association of publishers and editors-in-chief). The researcher was unable to secure interviews with any of the media owners she approached, while the Romanian Press Club refused to put her in touch with prominent members.

Is self-regulation part of the debate?

The concept of self-regulation is well understood among the journalists, NGO activists and academics interviewed as part of the research. Between them, the interviewees present the basic principles of self-regulation and its relevance to the situation of the Romanian media. Self-regulation is described as a way for journalists to settle their own rules so they are protected from state regulation, as a means of guarding against political manipulation and thereby preventing erosion of public trust and as performing an educational function within the profession – teaching journalists that “*to be a journalist is different from being a plumber*”.

The current and ongoing initiative by the Convention of Media Organisations to develop self-regulation has no doubt significantly contributed to the level of awareness about the important role which ethics plays in promoting credibility and a more confident relationship with the public. Approximately half of the interviewees reported being directly involved in the COM discussions and present a strong sense of solidarity around the initiative and optimism about the prospects for promoting the recently adopted Code of Ethics. Even the two or three interviewees who do not mention the COM Code of Ethics and are only familiar with the Code of the Romanian Press Club (RPC) demonstrate a clear understanding of how self-regulation should work in their criticism of the failings of the RPC Code. An editor working for a local newspaper in Bacau says that self-

regulation should contribute to the creation of a strong and respected community that fights for its rights. She says that she only recently discovered the Ethics Code of the Romanian Press Club and that when she talked about it with colleagues they had dismissed it because they had had no involvement in its development: *“they told me that they did not find themselves in that Code, that it represented a bunch of gentlemen in suits who pretended to be leaders of the journalistic community”*. She also recognises the principle that demonstrating ethical conduct as a journalist should help in defence against libel charges, but complains that the judiciary are not aware of any code of ethics and would be surprised if she made reference to such a code in court.

The current state of play

Beyond the core group of professionals who have driven and participated in the COM process, awareness of the recently adopted Code of Ethics – and indeed the RPC Code – is judged to be low. Different reasons are given for the poor knowledge among journalists of the two different Codes. Initiators of the COM Code cite its recent adoption and the relatively weak dissemination thus far as the reason why so few journalists outside the coalition are familiar with its objectives and content. They express the need for a concerted effort to promote the Code in the newsrooms, to incorporate it into journalism courses at universities and to aggressively promote its values by publicising violations. In brief, *“journalists should be confronted with it everywhere”*. On the other hand, the COM initiators also identify the lack of interest among the majority of journalists and their failure to take up the opportunity to participate in COM meetings and online discussions via the FreeEx forum⁸⁴ as an inhibiting factor. Such disinterest is judged to be representative of a general weakness in the professional conscience of the journalistic community. An investigative reporter with a national daily newspaper speaks of low awareness – especially in the local media, where ethics are not respected – journalism as being seen as a nine-to-five job; and the majority of journalists not being prepared to learn anything new.

Among the few interviewees who mention the RPC Code of Ethics, there is a common perception of the reasons behind its lack of impact on the practice of journalism. The RPC Code is regarded as belonging to the owners and economic management of the media, not to journalists who were not at all involved in its development and do not recognise their own values in the Code. While journalists ignore the Code because it has no relevance to their work, owners and editors-in-chief are accused of doing little to promote it and violating their own principles when it suits them. The local editor from Bacau describes the RPC Code as a flag, which enables some media owners to take bribes and manipulate the media for their own benefit, while appearing committed to media ethics. Although the RPC has a court of ethics, the interviewees have not heard of any decisions and doubt that it functions at all.

Exceptionally, the Code of Ethics of the Association of Hungarian Journalists is reported to be a better known document that is largely respected by the journalists working in the Hungarian language media. The fact that decisions have been issued by the Association’s Court of Ethics is considered a vital factor in the greater respect for this Code.

Obstacles to overcome

The interviewees are unanimous in identifying the attitude of publishers and editors-in-chief as the main obstacle to the promotion of the COM Code of Ethics. The Romanian Press Club declined to participate in the consultations that led to the adoption of the COM Code. Although some individual members did take part, the lack of organisational representation has thus far denied the COM formal recognition of their Code by such an

⁸⁴ An electronic discussion forum dedicated to freedom of expression issues, facilitated by the Media Monitoring Agency www.freeex.ro

essential stakeholder. The lack of cooperation by the RPC is variously attributed to a fundamental opposition to media self-regulation, which would destroy their monopoly over the public discourse, as well as to an instinctive rejection by power-players of an initiative coming from below. As long as individual journalists are not supported in their pursuit of more ethical conduct by their employers, the COM initiators predict an inconsistent application of the Code: one journalist speaking from personal experience describes the difficulty of respecting professional standards while working for an “*aberrant media owner*”. However good their intentions, some journalists will simply find it impossible to respect the standards demanded in their working situation.

The economic structures of the media are cited as an important factor in influencing the behaviour and attitudes of media owners. The reliance on state advertising subsidies by many media outlets in addition to overt political manipulation by the former ruling party, the SDP, is blamed for the creation of a slavish mentality among owners. On a more conceptual level, willingness to accept self-regulation depends on the demonstration of maturity by the political class to reassure owners, editors and journalists that self-regulation will not turn into state regulation. The establishment of genuinely fair competition on the media market is considered crucial to restoring the independence of the media and faith is placed in the public's readiness to buy what it takes seriously.

Finally, different levels of professional development across the country are also considered a challenge to implementation. For this reason, Ioana Avadani – whose organisation, the Centre for Independent Journalism, acts as a secretariat for the COM – insists that the Code will have to be implemented from the bottom up, through its promotion with individual media outlets. The Code will need to combat the lack of institutional culture of ethics and the constant movement on the labour market if it is to become an established feature of every newsroom.

The way forward

At the COM meeting in December 2004, members decided to establish a crisis committee – “the quick reaction force” – made up of seven journalists to react to severe breaches of the Code and to respond to breaches of legislation pertaining to freedom of the press, such as attacks on media outlets or individual journalists. Such a committee will serve to promote public debate around the Code, but will not have any power to apply sanctions. The COM's activity plan includes promotion of the Code on a local level – via meetings around the country and the publication of case studies showing how the Code can work – and inviting media owners to Bucharest to debate the Code. The COM will also conduct research into experiences of Ombudsmen or Readers' Editors in newsrooms abroad to assess whether such models present a viable solution for Romania. Throughout, it will continue to promote a more ethical business environment for the media. Already, CIJ has succeeded in putting the issue of state advertising on the political agenda: following the formation of the new government at the beginning of 2005, the Prime Minister declared his intention to amend legislation in order to increase transparency in the allocation of state advertising budgets.

There have also been tentative discussions between the COM and the Romanian Press Club about establishing a “group of experts” to produce an expert opinion paper on ethical violations by the public radio and television, which would be presented to the National Broadcast Council. As yet, there are no concrete proposals to establish a centralised ethics commission, given that before the Code is more widely known and accepted among the media community, such a commission would struggle to appoint representative members and establish its legitimacy.

Similarly, a step-by-step approach is favoured by many of the interviewees who took part in the research. While there seem to be some differences of opinion about the speed at which the COM should move to establish a formal body to implement the Code and – as one journalist puts it – “attack wrong behaviour”, the central message is for vigorous promotion of the Code among journalists, media owners and consumers, who are noted as being absent from the debate up to now. A journalist currently working for an online publication with its own Code of Ethics sees the way forward in promoting the Code as a mark of belonging to a group of powerful journalists who can stand above pressures of the ruling party or unethical owners. A developing sense of journalism as a ‘guild’ – a profession that is distinguished by certain skills and values – is mentioned by several of the interviewees as a positive factor in the current media environment. Among those driving the debate on self-regulation forward, the view is that the media in Romania has passed the pioneering phase of pushing the boundaries of freedom and must now look to establishing its credentials as a profession that will meet its obligations and defend its rights.

5. SLOVENIA

The Media Landscape

The legal framework

The Law on Mass Media, adopted in 2001 and replacing the 1994 law of the same name, regulates both print and broadcast media in Slovenia. The Law guarantees freedom of expression but also stipulates in some detail the responsibilities and obligations of those engaged in the sector: publishers, programme makers, editors and journalists. These responsibilities include the constitutionally guaranteed right to correction and reply⁸⁵ which is elaborated in some detail in Articles 26-44 of the Mass Media Law. The difference between the right to correction and the right to reply is that the former rectifies infringement of personal interests, while the latter is intended to protect public rather than private interests and is understood as a remnant of the former constitutional right – existing in the Communist era – to publish opinions of public importance. Thus, the right to correction provides that “any person may demand that the responsible editor publish free of charge a correction ... to any report that infringed upon the person’s rights or interests.”⁸⁶ The term ‘correction’ is broad in that it entails not only the correction of erroneous or untrue statements, but also any citation of facts and statements by which the infringed person disproves the statements in the published report. The right to reply “is intended to secure the interest of the public in terms of objective, multilateral and up-to-date information, as one of the essential conditions for democratic decision-making in public affairs” and allows any person to demand the publication of a reply which “significantly corrects or significantly elaborates upon the statement of facts and figures in the information published.”⁸⁷

During the preparation of the Media Law, there was some debate between media experts and the legislator about the inclusion of the right to reply. A powerful argument for its inclusion was that any other solution would have required a change to the Constitution. However, those who felt that the right was a heritage of the socialist past and should not be re-instituted, argued that a self-regulating mechanism for the media would allow greater access to the right by the public, while avoiding the risk of imposing undue restrictions on editorial independence.⁸⁸

Other relevant legislation includes criminal and civil defamation provisions. The Slovenian Penal Code provides prison sentences for parties convicted of libel, which can in theory be doubled if the libellous speech is communicated via the media. The Civil Code also includes a specific provision (Article 169) which prohibits insulting of public officials, but it should be noted that this provision has not been used to prosecute a journalist since 1996. In general, the Slovene Courts have shown restraint in dealing with defamation cases against journalists and have viewed good faith and acting in line with professional standards as mitigating circumstances.⁸⁹

85 The Constitution of the Republic of Slovenia at Article 40 (Right to Correction and Reply).

86 Mass Media Law (2001) at Article 26

87 Ibid, Article 42

88 Matevz Krivic and Simona Zatler, *Freedom of the Press and Personal Rights; right of correction and reply in Slovene legislation* (Ljubljana: Open Society Institute Slovenia, 2000) <http://mediawatch.mirovni-institut.si/eng/mw06.htm>

89 Gojko Bervar, “Libel legislation vs. Media Freedom” (MediaWatch Journal English Supplement, issue 17/18, October 2003).

The professional and market environment

There are three serious daily newspapers in Slovenia: *Delo*, *Dnevnik* and *Večer*. Of the three, *Delo* enjoys the highest circulation, while the overall highest circulation daily is the tabloid *Slovenske novice* which is published by the same company as *Delo*.⁹⁰ Other influential publications include *Primorske novice*, which recently became the only regional daily paper in Slovenia, a business newspaper, *Finance*, part-owned by a Swedish media group, and three weeklies, *Mladina*, *Mag* and *Zurnal*. The latter is distributed free and is the first weekly to be fully financed by a foreign owner, the Austrian publisher *Styria Verlag*, which also has significant interests in Croatia and is expected to similarly expand its business in Slovenia.

Aside from the relatively recent phenomenon of foreign investment in the market, media ownership structures in Slovenia are complex and fast changing. In "Media Ownership and its impact on media independence and pluralism"⁹¹, the authors describe a complex web of banks, investment and insurance companies controlling the most significant media, with the state as a significant investor either directly or indirectly via state funds. For example, owners of *Delo*, include a brewery, two state funds and an investment company. This pattern of ownership, and in particular the role of the state, is regarded as a threat to media independence and plurality. Tighter regulation of media ownership poses a challenge to the state not only because of the problems of enforcing existing ownership provisions, but because the state itself will have to resolve the conflict of interest in its own direct and indirect investments in the range of companies that has entered the media market in the past four years. Existing provisions in the Media Law on restriction of concentration require the applicant for an ownership or management stake of 20% or more in the assets of a publisher, of a radio or television station or of a daily informative printed medium to obtain prior approval from the relevant ministry.⁹² Reasons for denying approval are based on the applicant thereby acquiring a dominant position on the market: in the case of the printed media, defined as the number of copies sold of the publishers' dailies exceeding 40% of all sales of daily newspapers. Amendments proposed by the Ministry of Culture in 2004, under the previous government, aimed to set more detailed criteria for determining whether there is or could be concentration and to thereby make the application of this provision more effective. However, since a new government was elected towards the end of 2004, there is no guarantee that such amendments will be carried forward.

The central issue in the Slovenian media sphere during 2004 was the crisis over the renewal of the first national collective agreement. This was signed in 1991 on the one side by three employers' associations: the Print Association of the Chamber of Commerce, the Association of Local Radio Stations (now merged to form the PPMA), Slovenian national television and radio (RTV), and on the other by the Union of Journalists. Given the radical changes to the labour market in recent years – the increasing number of freelancers, working with low or no social insurance, changes to the labour law, pensions system and copyright issues arising from the proliferation of new technology media, the agreement is no longer considered to be adequate. The Union is pushing for a renewal of the agreement while the PPMA – having reluctantly agreed to act as a negotiating partner – is insisting on negotiating an entirely new agreement, which the Union fears will result in the loss of minimal standards.⁹³

90 Circulation figures as published in the National Survey of Readership 2003: *Delo* 90,000, *Dnevnik* 66,000, *Večer* 62,000, *Slovenske novice* 107,000

91 S B Hrvatina and L J Kučič, Chapter on Slovenia in B Petković (ed.), *Media Ownership and its Impact on Media Independence and Pluralism* (Ljubljana: Peace Institute, 2004).

92 Mass Media Law (2001) at Article 58

93 Employment relations in the media sphere have a complex history in Slovenia. Having been party to the first national collective agreement in 1991, the Publishing, Printing and Media Association (PPMA) unilaterally withdrew from the agreement in 1998 and initially refused to participate as a partner in the new negotiations. Following the general strike organised by the Union in October 2004, the PPMA reluctantly conceded to act as the representative of the employers but is insisting on an entirely new agreement to avoid being held liable for law suits which could stem from the violation of journalists' employment rights during the past seven years.

The Code of Ethics

The current Code of Ethics of Slovene Journalists was adopted by the Association of Journalists and the Union of Journalists in October 2002. The current Code replaced an earlier version from 1991, which had been based on the German model. Prior to Slovenian independence, the conduct of Slovenian journalists was regulated by the Yugoslavian Code of Ethics and overseen by the “court of honour” or “ethics council” of the Association. The “ethics council” had a reputable history of defending journalists against unethical manipulations by those in power before the transition to democracy. It also played a central role in safeguarding freedom of expression. From the mid-80s, it is generally agreed that the decisions of the Ethics Council were primarily based on professional standards rather than ideological convictions and as such the Council emerged into the democratic era as a credible institution. The two professional associations also survived the transition to democracy and Slovenia thus avoided the reactionary formation of numerous and fragmented associations which has tended to significantly weaken the solidarity of the profession in other countries in the region.

The new Code of Ethics adopted in 2002 was designed to be less complex than the 1991 model and to address new issues resulting from the privatisation of the media, commercialisation and other developments in the media landscape. The Code includes a section on *Conflicts of Interest*, which seeks to put a clear distance between advertising and editorial content and guard against journalists being influenced by payments from individuals or companies. Clause 13 states: “Interweaving or combining journalistic and advertising texts and actions is impermissible” and clause 19 states: “the journalist should disclose possible unavoidable conflicts of interest or exclude himself/herself from reporting and commenting on them”. The Section on *Rights of Journalists and Accountability to the Public* appears to place journalists in a strong position in relation to their employers in the event that they are requested to undertake unethical assignments. Clause 24 states: “The journalist has the right to turn down any job in opposition to this code or his/her convictions,” and clause 25 provides that “No one is allowed to alter or revise the content of the journalist’s report or other piece of work without his/her consent.” However, while the Code has been signed by all journalists as represented in the Association and the Union, there is no formal commitment to the Code on the side of the publishers.

The Code was prepared by a working group established within the Association and including external experts from the university and journalists and editors of a number of media outlets. The draft Code was sent for comment to members of the Association and Union before adoption, but there was no broader consultation with civil society. The Ethics Council, a nine-member joint body of the Association and Union (but located within the Association), adjudicates on complaints brought in relation to the Code of Ethics. The Council can also activate its own proceedings. Decisions are based solely on the provisions of the Code of Ethics, which therefore excludes – for example – decisions on the right of reply, which is regulated by the Media Law. The Code of Ethics covers the conduct of all journalists (print and broadcast), regardless of whether they are members of the Association or Union. The Council examines the conduct either of an individual journalist or of an editorial board if the complaint concerns an issue such as a headline for which the journalist alone could not be held responsible. A negative adjudication against a journalist is published on the Council’s website and in the worst case can result in expulsion from the Association and/or the Union. There is no obligation for the media outlet concerned to publish the Council’s decision and newspapers frequently avoid publishing negative adjudications on their own practice, while readily publishing decisions concerning rivals.

Media Ethics and Self-Regulation in Practice

The research interviews in Slovenia gathered the experiences and views of key media actors including the editors-in-chief of two main dailies: *Delo* and *Večer*, the presidents of the Association and Union of Journalists, the president of the Ethics Council, two members of the working group that drafted the 2002 Code of Ethics, the initiator of discussions on establishing a press council, a legal advisor to the main political weekly *Mladina*, to *Delo* and some other media, and two members of the competent Parliamentary Committee (Committee on Culture, Education and Sport). It was particularly difficult for the in-country researcher to secure the participation of any media owners, judged to be primarily due to the lack of professional interest in the media field, of the entrepreneurs who have entered the market in recent years. The majority owners of *Dnevnik*, *Delo* and the representative for Slovenian investments of the Austrian Styria group all declined to be interviewed. However the board president of the investment group KBM Infond, Stanko Brglez, did participate in the research. KBM Infond's member, Infond Holding, is the largest shareholder in the daily *Večer* (holding 36.29%), while another member company Infond ID is the third largest shareholder in *Večer* with a 15% in the daily. In addition, Infond ID also holds a 6.8% share in *Delo*.

Is self-regulation part of the debate?

Media self-regulation and professional ethics are certainly concepts with which all interviewees were familiar. However, the extent and depth of understanding and the day to day experience of putting the concept into practice varied considerably.

Those involved in the expert working group that drafted the new Code of Ethics in 2002 were the most knowledgeable about the purpose and content of the Code, the role and mandate of the Ethics Council and broader issues which touched on the debate. Those who had no involvement with the development of the Code were aware of its existence and judged their colleagues to be similarly conscious of the basic principles which it aimed to introduce to the profession, but they were less sure of its specific provisions. This said, many interviewees did mention the distinguishing feature of the Code – from its predecessor – being that it addressed the issue of conflict of interests in a comprehensive manner. There was some confusion as to whether the Code was binding on journalists who were not members of the Association, no doubt arising from the tendency of many journalists who are the subject of a negative adjudication to withdraw from the Association in protest.

During the course of the interviews, it became clear that the distinction between self-regulation and statutory regulation was unclear to many interviewees. The fact that the right of reply is the subject of statutory guarantee in the Media Law, prompted some interviewees to talk about statutory regulation as a possible alternative to the Ethics Council. One parliamentarian suggested that the criminal law was a form of self-regulation in that it prompted journalists to exercise some limits over what they wrote, or write in such a way as to avoid a court case. The majority of interviewees did manage to think of other media accountability mechanisms such as readers' letters and corrections pages, which are carried by most major newspapers. However, the researcher reported that most required some prompting to come up with these examples and think beyond the Code of Ethics and the Ethics Council when discussing self-regulation more generally.

Is the Code of Ethics a central part of daily practice?

The general consensus seems to be that the existence of the Code of Ethics is well known among working journalists and editors, but its provisions are little studied or practised. As the president of the Union of Journalists explained: "*The Code did not begin to live ... it's not a part of professional life.*" There are different views about the extent of violations of the Code – some comment that even though the Code itself does not command universal respect, this does not mean that journalists automatically violate professional standards – they have

their inner code, as one editor explained. Others noted the fact that the decisions of the Ethics Council are not automatically published in the media concerned and are on many occasions ignored. The director of the Media Policy Centre at the Peace Institute – who has been engaged for several years in the media monitoring project Media Watch – observes that there are daily breaches of the Code that are never brought before the Ethics Council: *“I believe there is quite a gap between the high rules and the daily conduct of journalists, and mistakes occur on a daily basis.”*

All interviewees hold similar views about the indifference of media owners towards ethics in general and their ignorance of the Code and the Council. Many place particular emphasis on the decline in standards witnessed in the yellow press and among the smaller media outlets. In particular, smaller radio stations that have proliferated in recent years, were identified as evidence of the lack of interest in journalism as a profession, by entrepreneurs who have entered the market with the sole aim of making a profit. There is also general agreement among the interviewees that the public are little aware of their rights in relation to the media and the complaints mechanism offered by the Ethics Council. This in turn means that there is little pressure from outside the profession to respect the decisions of the Council in response to consumer expectation.

The president of the Council and others involved in drafting the 2002 Code maintain that the Council is raising its profile and that the rise in the number of complaints reflects this. Nevertheless, the president also comments that many complaints received are not within the Council’s mandate and reflect a misunderstanding of its function by members of the public. For example, some request the Council to arbitrate between different versions of historical truth while others request that the Council impose publication of a contrary opinion on newspapers that have published articles with which they disagree. A couple of interviewees link the lack of broader awareness of the purpose of the Code of Ethics to the limited consultation process in drafting and adopting the Code, which was extensively discussed by members of the profession and media experts, but not presented for public debate.

Limitations of the current self-regulatory system

While there are quite different assessments among the interviewees of the degree of effectiveness and adequacy of the current system of self-regulation, all do acknowledge that there are certain limitations. Those journalists directly involved in drafting the Code and/or holding positions of authority within the Association, Union or in the Council itself, identify the limited financial means of the Council as its main disadvantage. The nine members perform their duties on a purely voluntary basis, with little or no administrative support and predict a scenario in the not too distant future, when the number of complaints will overwhelm their capacity. As one interviewee notes, there is no filtering system, as found in other countries, which would immediately remove from consideration any complaints that were not within the Council’s mandate.

Those not directly involved in the operations of the Council or the Association, are more critical of the limitations of the current system. Most commonly cited as obstacles to better adherence to the standards the system is intended to uphold, are the moral character of the sanctions and the ‘journalist only’ composition of the Council. This is a view put forward not only by civil society representatives or advocates of the press council initiative. For example, an editor-in-chief of a regional newspaper admits that his newspaper felt free to ignore a decision of the Council concerning failure to acknowledge authorship of a photograph *“perhaps precisely because there is no regulation in the direction of sanctions.”*

It is important to note in relation to the first criticism that the majority of interviewees do not necessarily advocate stronger punitive sanctions; rather, they suggest that greater respect could be achieved simply by securing commitment of owners and editors to publishing decisions and promoting greater awareness of

the Council among the public. The editor-in-chief of the highest circulation daily, *Delo* notes the limited reach of the Ethics Council and concludes: *If that all was set on firm foundations, for that not to be a matter only for the professional community, but of the society, of the country, then this matter would have a significantly greater effect and we would be at a much higher level than we are today*. Nevertheless, how such objectives could be achieved in practice is the subject of conflicting opinions. Some interviewees suggest that the establishment of the Council by law would serve to strengthen its status in this respect, but at least an equal number consider the establishment of a self-regulation system by regulatory means to be illogical.

The Press council initiative

The question of whether the composition of the Council should be extended beyond the profession to include media owners and members of the public is a divisive one. This issue was extensively debated by the media community following an initiative led by the Peace Institute in 2001 to establish a tripartite-based press council that would include journalists, publishers and representatives of the public. Of the individuals interviewed for this research, vigorous opposition was expressed to the idea by a journalist involved in drafting the 2002 Code of Ethics and the president of the Association. Their fundamental objection to broadening the composition of a body which adjudicates on ethical conduct of journalists is that this would expose the profession to risk of political interference and inappropriate influence from the publishers, especially if the latter would be required to fund the body. Such resistance among the profession is described by a member of the working group for drafting the Code who was also among the initiators of the press council idea, as fear of opening Pandora's Box or allowing the entry of a Trojan horse: *“that through the institutions of civil society or through other interested parties, politics could get involved directly.”*

In addition to this principled objection, those engaged in the work of the Ethics Council express pride in the current system and reject the need to replace something which has a long tradition and does not need fixing. Even though the President of the Council describes the yellow press as a “lost cause” when it comes to respect for the Council’s decisions and the practice of journalistic ethics, he still maintains that there are not sufficient breaches of the Code to conclude other than that the current system is functioning well.

On the other hand, those involved in the press council initiative are convinced of the need to reform the current system in order for individual decisions on breaches of the Code of Ethics to be enforced and for it to have a longer term and more substantive impact on journalistic ethics. The initiative was premised on evidence gathered by the Media Watch project at the Peace Institute, which charted a decline in standards of reporting, particularly in relation to reporting of crime and the propagation of hate speech. The Director of the Media Policy Centre at the Institute claims that initially they noticed a considerable degree of support for the idea among journalists. In the limited consultations with publishers, they secured agreement in principle to their participation in such a Council, although most reserved commitment until they would know the financial cost of their contribution.

A change in the leadership of the Association and the development of a confrontational climate around labour issues in the past couple of years between the Association and the publishers has directed support and energy away from the debate about improving ethics. The outcome of the current negotiations on renewal of the National Collective Agreement seems likely to determine the direction the ethics debate will take in the future. Proposals by the Union include securing commitment of the publishers to recognise the Code of Ethics in the Agreement. Currently, some employers include such recognition in individual employment contracts of journalists – placing the responsibility on the individual journalist to uphold professional standards, but on their side there is no commitment to respecting the Code themselves and no acknowledgement of ultimate responsibility for the standards of their newspaper.

5. Conclusion

This report is published at a time when the debate around media self-regulation is gathering pace and resulting in concrete developments in some countries of the region. Factors such as falling newspaper circulation, concern about the impact on media independence and pluralism of ownership structures, as well as direct or indirect political manipulation of key media outlets have led to renewed efforts – particularly in Romania and Bulgaria – to develop universally applicable systems of self-regulation. In both these countries, the initiatives under way are by no means complete and significant challenges clearly lie ahead before the establishment of a functioning system of self-regulation to which journalists, editors and owners are committed. The way in which the issue is being addressed and the models put forward in each country are very much conditioned by the history of the development of independent media (and the transformation of the state broadcaster) in that country over the past 10–15 years. The way the profession itself has responded to rapidly changing circumstances has also played a role.

In Albania and Bosnia and Herzegovina, self-regulation is less of a priority issue of concern to the media community and journalists doubt the ability of their own profession to abide by voluntary codes of ethics. It is worth noting that it was in Bosnia and Herzegovina – the only country included in the study to have a fully functioning Press Council – that the greatest level of scepticism about self-regulation was expressed. In such a situation, so many factors other than investment in setting up formal structures have played and continue to play a role – that it is only possible to talk about self-regulation as an idea which is gradually gaining ground, rather than as a firmly established principle. Factors such as the legacy of conflict, the lack of demand for good quality journalism and the weakness of the market – which results in manipulation of the media by both political and business interests – frustrate attempts to engender a sense of personal responsibility for ethical conduct among individual journalists.

In Slovenia, self-regulation has stalled over differences of opinion over the extent to which a voluntary system of media accountability should involve only journalists and their professional associations, as is currently the case, or should be extended to include representatives of publishers and the public. The economic development of the private media over the past 15 years and the current difficulties in relations between employers and journalists is not conducive to cooperation on initiatives to improve standards and accountability. That said, there has been a significant level of debate due to the NGO initiative for a press council in recent years and it seems likely that the issue will be revisited once more pressing labour-related questions have been resolved.

The experiences of self-regulation in the countries studied are very much conditioned by the specific media environment in each. Nevertheless, there are certain common lessons that can be drawn from both success and failure.

Owning the process and the outcome

The way in which the interested parties go about developing self-regulation for the media is clearly crucial to the eventual outcome. In Bulgaria, the emphasis on a consultative and participatory process has resulted in consensus support for both the principle and the product. A number of organisations took part in the drafting of a Code of Ethics and then circulated it for comment to media throughout the country. Although foreign assistance was acknowledged as an important factor in seeing the process through and maintaining momentum, the Bulgarian media community has been at the heart of the initiative throughout. Consequently, participants in the research were able to talk about the Code in a familiar way, even if they had not had a chance to read the final text. Some felt confident enough to refer to it as a “Constitution” for the media, thereby articulating their expectation that from now on the Code of Ethics should be a fundamental and universally applicable set of principles.

On the other hand, in Bosnia and Herzegovina, the circumstances in which the Press Code was adopted and the Press Council established have not favoured the development of a sense of ownership among journalists, let alone publishers. Because the initiative for self-regulation came from the international community and was introduced into a particularly divided profession, the resulting principles and institution have failed to capture the hearts and minds of those affected, who have effectively been subjected to someone else’s model of self-regulation. Consequently, the Press Council faces an uphill struggle in convincing individual journalists that abiding by the Code will bring them any benefits and an even greater battle in persuading those who wield the real power within the media community – the editors-in-chief and owners of the main media outlets – to respect its decisions.

Overcoming divisions within the media community and generating some kind of shared vision among a critical number of representative associations is an important starting point for developing self-regulation, given the fractured nature of the media in this region. In Romania, the debate which has led to the adoption of a Statute of Journalists and a Code of Ethics has taken place within an informal coalition of professional associations. This has enabled the development of consensus without necessitating any kind of structural reform of the way in which the profession is organised. As a result, potentially divisive issues, which would have arisen from attempts to develop some kind of unified representative structure, have been avoided. The role of NGOs in this process – as in Bulgaria – has been important in facilitating cooperation and debate between so many different associations, in driving the agenda forward, in lending energy and support to professionals who work in time-pressured environments and in extending the debate beyond the boundaries of the profession.

The step-by-step approach of the Romanian Convention of Media Organisations (COM) – which acknowledges limitations as well as opportunities in the process – has ensured that so far, consensus has been maintained among more than 35 different associations. Before attempting to introduce any kind of central body to implement the Code of Ethics, the COM actors recognise the need to promote the Code throughout the country and achieve compliance from the bottom up. In Albania, there is even less discussion of any kind of centralised mechanism for implementing the existing Code of Ethics, as it is clear that awareness of the Code is as yet too low and the profession too fragmented for such a body to have a realistic chance of success.

The way in which the press councils/ commissions in more established democracies, such as Sweden and Germany have developed over a long period, overcoming setbacks and changing structures and procedures in response to experience, confirms the fundamentally organic way in which effective self-regulation mechanisms develop. While there is inevitably some catalyst that prompts individuals or groups to initiate, revive or speed up the process, introducing self-regulation institutions and practices to a profession – which is not receptive for whatever reason – is a non-starter.

Primarily a Matter for Journalists, but not only Journalists

A particularly important feature of successful self-regulation is undoubtedly the extent to which journalists are at the heart of any developmental process as well as present in final structures that are established. In Bulgaria, the interviewees gave the overwhelming impression that although other stakeholders had been involved in development of the new Code of Ethics – not least international experts – Bulgarian journalists really wanted the Code to assist them in their daily practice as well as for the greater good of the profession and were therefore playing an active role.

By contrast, in Albania, journalists had either not been sufficiently part of the process to develop the Code in 1996, or it was simply too long ago and not sufficiently present in professional debate and practice since, that they did not recognise its benefits or express much desire for its better implementation. Furthermore, the apparent unanimous rejection by journalists, of the initiative to set up a “Journalists Order” in 2001, was attributed by the majority of interviewees to the lack of involvement of the media community in developing the legislative proposal, rather than opposition to the concept itself.

Experience from the Western European examples surveyed, also proves instructive on this point. One of the most significant criticisms of the Press Complaints Commission is the fact that the National Union of Journalists was excluded from the setting up and functioning of the Commission. In the view of its many critics, this affects not only the credibility of the Commission, but also the quality of its decisions, which do not sufficiently reflect the interests and professional experience of journalists, in favour of undue emphasis on the interests of proprietors via their editors-in-chief.

However, it is also clear that without involvement, commitment and active participation of media owners, the reach and effectiveness of any media self-regulation mechanism will remain limited. The current reality of the working environment of most journalists in the countries of South East Europe could be summed up in one word – “insecure”. Whether this insecurity is the result of lack of structural guarantees of labour rights, competition for well paid jobs in an over-supplied profession or, vulnerability to political and financial pressure, it is clear that many external factors stand between a journalist and his/her conscience. The extent to which a journalist’s employer respects and encourages a culture of sound ethics at the level of the individual newsroom as well as their willingness to publicly engage and invest in a universally applied system of media accountability is crucial. Without such commitment, even a confident professional association cannot guarantee adherence to its adjudications on ethical violations in the face of external pressure and manipulation. This was demonstrated in Slovenia, with a broad membership and reputable history of supporting and guaranteeing the independence of the profession.

The role of the public as both beneficiary of and participant in greater media accountability was somewhat absent in the discussion generated by the interviews. While the majority of interviewees recognised the public as the main beneficiaries of self-regulation, there were few practical suggestions on how the public could be more active in promoting and policing media ethics, or of the benefits and disadvantages of self-regulation bodies in which the public were represented.

In Albania and Bosnia and Herzegovina, the under-developed notion of the media serving the public interest and the lack of participation in public debate by leading academics and other non-political actors was noted as an inhibiting factor in the development of a media culture that would support self-regulation. In Bulgaria and Romania, those more closely involved with current initiatives, acknowledged the need for greater consultation with media consumers in the on-going process. This was partly in recognition of the role of the consumer in directing market demand to better quality publications. Only in Slovenia, was there outright opposition to the idea of public representation on a press council, although it was apparent from some of the

Bosnian testimonies that suspicion about the process and justification for such non-media representatives undermined the Council's credibility.

If – and how – the public are involved in media self-regulation is a question that is still open for debate in the region and not one to which the experience of Western European models can provide a definitive answer. On the one hand, we have the strong reputation of the media-only German Press Council and, on the other hand, the more contested reputation of the mixed Press Complaints Commission in the UK. This said, one striking impression to emerge from all the case studies in South East Europe is that lack of public trust in the media is a widespread phenomenon. Consequently, it is hard to see how the creation of 'media-only' self-regulation bodies will attract the necessary interest, support and recognition of the public to make them work.

How the International Community can Support Development of Self-Regulation

There is no single model that can be recommended for the successful development of a system of media self-regulation, because the way in which the media community in a given country approaches matters of ethics is so contingent on the surrounding environment – the legal framework, the development of the profession, the pattern of media ownership and the culture of the society from which those ethics are drawn. Fundamental and relatively consensus-based international standards on issues that make up the core content of most codes of ethics do exist. These would be principles such as the journalist's duty to accuracy, non-discrimination, protection of vulnerable groups and so on. However, different countries found different solutions to the problematic question of how to achieve voluntary compliance with such values.

Tapping into the range of existing experience and not reinventing the wheel is recommended by most of those who took part in this research. Partnership with self-regulation bodies elsewhere, exchange of experience with foreign journalists and sharing of materials on the subject are all fairly obvious, but nonetheless valuable suggestions for external assistance. On the other hand, the wholesale transfer of models from other countries is rejected as being unworkable, excessively interventionist and not welcome. Support for educational and developmental activities to further debate within the journalistic profession, with a particular focus on media owners is considered essential, but imposition of Codes of Ethics or implementing institutions is, not surprisingly, warned against. Funding from international donors is considered an important component of such support, and this could extend to start-up funding for nascent self-regulation bodies. However, there is an understanding that over-dependence on foreign aid in the running of a press council or commission can defeat its primary purpose of becoming rooted in the domestic media community.

The degree to which investment in the market by foreign media owners can benefit media ethics and contribute to raising professional standards, is an issue worthy of further exploration. Experience and opinion among the participants in this research was inconclusive: while some thought it would bring more change than could be achieved by the domestic media community or NGOs, others were of the view that foreign investors had not brought good practice in this area.

Finally, in focusing on self-regulation, it is important not to forget that statutory regulation of the media in many countries of the region continues to pose problems for freedom of expression. This is either as a result of the over-intrusiveness of regulation or the failure by governments and public bodies to respect legislation guaranteeing fundamental rights and freedoms. Most obvious, is the continued existence of overly-restrictive defamation laws, but equally problematic in the context of self-regulation, is the failure to enforce labour laws and anti-monopoly legislation. The excesses of an unprofessional media are often the cause of attempts by governments to introduce further regulation. The role of the international community in monitoring these

threats to media freedom must go hand in hand with support for efforts from within the media community to give governments less reason to introduce new measures.

Key Findings

The following provides a summary of the main findings from the interview-based research on media ethics and self-regulation in Albania, Bulgaria, Bosnia and Herzegovina, Romania and Slovenia.

ALBANIA

1. The 1996 Code of Ethics needs updating via a process of extensive and public consultation with key stakeholders, followed by a vigorous promotional campaign among journalists, journalism faculties at the universities and media owners, if it is to have any influence over journalistic conduct.
2. In spite of the lack of practical experience in implementing the Code of Ethics, there is general support for the idea of establishing a self-regulation mechanism, but to stand any chance of success, strong leadership is required from a respected group or groups and broad consultation with all relevant stakeholders.
3. A press council or “journalists’ order” imposed by law without consultation with the media community would fail and would also carry the danger of being politically manipulated. However, there is some support for the concept of a body which would exclude irresponsible and/or untrained journalists from the profession, who are thought to be damaging the reputation of the profession.
4. The lack of clear division between ownership and editorial responsibility within media outlets is a serious obstacle to the development of a culture of respect for a code of ethics and consistently undermines the development of a more professional approach to reporting.
5. Given the absence of strong leadership and solidarity within the profession, promoting the Code of Ethics at the level of individual media outlets, via internal boards of ethics, is considered the most realistic prospect for development of media self-regulation. However, in the absence of stronger labour rights for journalists and given the powerful influence of many media owners over the editorial direction of their newspapers, this approach also carries dangers for journalists.

BOSNIA AND HERZEGOVINA

1. Low awareness of the Press Code and how the Press Council functions is the prevailing experience among journalists, while, editors-in-chief and media owners, though aware of their obligations tend to distrust or openly dismiss the Council’s authority and decisions.
2. The Press Council has so far failed to overcome the perception that it is has been imposed from outside by the international community and as such lacks legitimacy, credibility and relevance in the Bosnian media community.
3. Disappointment in the practical experience of self-regulation has led to significant levels of scepticism about whether it can function at all in Bosnia and Herzegovina and journalists tend to place more trust in the judiciary or at least show more respect for the legal procedure of regulating the media than they do for self-regulation.

4. Powerful media owners, such as the owner of *Dnevni Avaz* play a particularly damaging role in the debate about media ethics and self-regulation, by publicly denouncing the Press Council when they are cautioned or receive a negative adjudication.
5. A broader debate on media ethics, the role of the media in democratic society, the role of civil society and the concept of the reader/consumer as an interested party is urgently needed if self-regulation is to stand a chance of working.

BULGARIA

1. Broad consultation on the development of the 2004 Code of Ethics has led to a common sense of ownership of the Code among the media community and the support of all key stakeholders, in particular the Union of Publishers is considered an important component of success. However, as important will be achieving the right balance in representation between publishers and journalists on the future ethics commission in order to ensure that the interests of the employers do not dominate and that the support of journalists does not fade away.
2. Political support for the self-regulation initiative, demonstrated at the signing ceremony and more generally in the readiness of the government to leave the (print) media to regulate itself is considered an important factor in creating the right environment in which self-regulation can develop.
3. The current project on the Code of Ethics has come at the right time in the historical development of the media over the past 15 years. Previous tried and failed initiatives have provided helpful lessons and a wish to avoid the unsatisfactory situation of the regulation of the electronic media has motivated the journalist associations and NGOs to get this attempt right.
4. Journalists have had some experience of codes of ethics being implemented at the level of individual media outlets and have learned that this can be a self-defeating practice in a competitive market. At the same time there is faith in the power of the market to provide support for a universally applied Code of Ethics as publishers view raising standards as a way of stemming the decline in readership and have confidence that newspapers who do not abide by the Code will not have a future.
5. The assistance of the EU PHARE funded project in developing the Code of Ethics is universally considered to have been a positive factor in terms of providing expertise, acting as a catalyst to the process and contributing to its credibility. The Bulgarian media community would welcome further assistance in particular in funding the ethics commission in its inception phase.

ROMANIA

1. As in Bulgaria, research has been conducted at a time of debate about the issue of self-regulation within the media community. Those who are familiar with the Code of Ethics (Deontological Code) adopted by the Convention of Media Organisations (COM) regard it as the first step towards establishing a system of self-regulation. At the same time the Romanian Press Club's Code of Ethics appears to be universally rejected by journalists as representing only the interests and values of the owners and of no relevance to their daily work.

2. The fact that the COM has gathered many professional associations under one umbrella and publicly defended the rights of journalists by organising campaigns against threatening legislative initiatives lends credibility to the coalition's actions in the sphere of self-regulation. The strong presence of free expression NGOs and their ability to mobilise the community is an important factor in the development of a forum in which self-regulation can be discussed.
3. The development of a collective professional conscience among journalists is hindered by the lack of strong unified associations. While there is a growing perception among journalists of their profession as a 'guild', which unites individuals with common skills and values, the pressurised working environment outside the capital poses significant obstacles to raising standards across the profession.
4. The most significant challenge in further development of self-regulation is considered to be winning the support of the Romanian Press Club. COM actors are fully aware that without commitment from the publishers, the Code of Ethics will not be widely respected. Promoting the Code among journalists and among the public is also considered essential before a formal structure or body to implement the Code can be set up.
5. There is interest in support from abroad and particularly exchange of expertise with other self-regulation bodies and organisations such as the BBC, as has happened in Bulgaria. In order to promote respect for the Code from the bottom up – at the level of individual media outlets - the COM is also interested in learning more about newsroom ombudsmen or readers' editors.

SLOVENIA

1. Updating of the Code of Ethics in 2002 has made it more relevant to the current issues affecting the profession and the existence of the Code is well known among journalists. However, knowledge of specific provisions in the Code is considered to be low, particularly by media owners, who are little interested in journalism as a profession and concerned only by the business opportunities presented by the media.
2. The lack of consultation in the development of the 2002 Code beyond members of the Association and media experts is blamed by some for low public awareness of the Code as well as the failure of the Ethics Council to promote its purpose and functions with media consumers.
3. The lack of sanctions, other than expulsion from the Journalists Association is considered a major obstacle to greater respect for the rulings of the Ethics Council as is the lack of formal commitment to the Code of Ethics on the part of editors-in-chief and media owners. Some favour establishment of the Council by law as a way of enhancing its status.
4. The fact that the right of correction and reply is regulated by law limits the space for self-regulation and perhaps creates a false sense of security among journalists that the law and the courts take care of the public interest so there is no need for further development of media accountability by the media themselves.
5. Whether a Press Council should be set up along side the existing Ethics Council to enable tripartite representation of journalists, publishers and the public is a controversial issue. Opponents fear that it would pave the way for undue influence of commercial interests and other interest groups within society. Those in favour believe that it would improve accountability of the profession and achieve greater respect for the Code of Ethics.

Appendix One:

‘An experience of establishing a self-regulation body in the Voronezh media community in Central Russia’

by the Mass Media Defence Center, Voronezh

The efforts to establish a self-regulation body in Voronezh are ongoing, but we believe that the experience is instructive and hopefully of interest to those working on the development of media self-regulation in other countries.

The need to establish a self-regulation body was first expressed by local journalists themselves who felt that having such a body would raise professional standards and public trust, and could help protect journalists against damaging defamation suits in the court of law by offering an alternative dispute resolution mechanism. But lack of strong corporate links among journalists in different media caused inertia and prevented the media community from taking active steps towards self-regulation.

In June 2004, the Mass Media Defence Centre (MMDC)¹ in cooperation with the Voronezh regional branch of the Russian Union of Journalists initiated a round table discussion on self-regulation issues, inviting journalists to discuss the local need for self-regulation and ways of establishing a Press Council in Voronezh. The meeting was chaired by Alexey Simonov, president of the national media defense NGO ‘Glasnost Defence Foundation’.² Participants at the roundtable agreed to conduct a survey of journalists in the Voronezh region in order to assess their needs and attitude towards self-regulation.

A small working group consisting of a few newspaper editors and journalists, the MMDC, and the RUJ was constituted and took the lead in the process. They commissioned an independent pollster to carry out the survey to ensure the interviewers would be considered as truly independent and without any personal interest in the matter.

The survey included a number of questions, starting from “*Do you know anything about self-regulation?*”, and covering professional ethics, the possibilities and ways of establishing and forming a self-regulation body and one question concerning potential candidates for representation on a self-regulation body: “*Who out of the journalists in Voronezh would you entrust to evaluate your work in a situation of conflict from the point of view of professional ethics?*”. Everyone was asked to name a few colleagues, who were well respected in the professional community.

Of a total of approximately 500 journalists in Voronezh region, almost 300 were questioned. As a result of this survey, the working group gained an overview of the professional community: their problems and a list of names of members of the profession, whom local journalists trust and would respect as ethical “judges”.

Out of 150 nominated journalists, the top 17 (those who were mentioned 6 or more times) were invited to the MMDC office to discuss the possibility of establishing a self-regulation body in Voronezh media community. It was assumed, on the basis of their nomination by their colleagues, that these journalists would be potential members of a future self-regulation body.

1 MMDC is a partner organisation for ARTICLE 19. Jointly the two organisations implement projects aimed at reducing the number of defamation cases in the region, educating judges, media lawyers and journalists on the application of international standards of freedom of expression, providing legal advice and representation to journalists accused of defamation and advocating for legal reform www.mmdc.narod.ru

2 www.gdf.ru

The key feature of this initial process was the fact that any journalist could be indicated as a potential member of the self-regulation body, regardless of his/her membership in any professional organization (such as the Russian Union of Journalists³ or Media Union). This inclusive approach was considered essential in order to overcome the contradictory attitude of younger journalists to the RUJ and the opposition to the Media Union from those members of the RUJ.

The working group met once every two weeks.

In October 2004, journalists, with the participation of MMDC and the Voronezh regional branch of RUJ representatives, held a larger media assembly during which they agreed on the establishment of the **Voronezh Regional Jury on informational disputes.**

A further decision regarding the composition of the Jury was also reached: all editors-in-chiefs would be excluded in order to prevent conflict of interests arising, and a few representatives of the public would be included. As a result of this decision, the 5 editors in chief amongst the initially nominated 17 journalists were now excluded from membership in the Regional Jury and 3 additional journalists from provincial papers were elected in a new round of consultation, to ensure representation of small provincial media outlets on the Jury. The final number of media representatives on the Jury is now 15.

In order to elect civil society members, the journalists who were elected to the Jury nominated 9 candidates from among the scientific community, linguists and writers as well as leaders of local NGOs. This list of candidates was then sent out to local media outlets with a request for each to elect 5 out of the 9 nominees to the self-regulation body.

After voting, the full composition of the Regional Jury was announced - all together 20 members, 15 journalists and 5 representatives of civil society.

The Regional Jury is currently working on developing a Code of Ethics with the assistance of an expert on media ethics Yuri Kazakov, who himself is a member of the national self-regulation body, the Grand Jury of the Russian Union of Journalists. Two different drafts of the Code of Ethics have been presented to the community for discussion. The Regional Jury could have relied on the existing RUJ Code of Ethics of Russian Journalists, adopted in 1994, but as only members of RUJ are bound by this Code, and because it has been criticized by many experts on professional ethics, it was decided to draft a new regional Code. This approach has additional advantages: while drafting and discussing the regional Code of ethics local journalists begin to think about professional ethics in general, the importance of following these ethical rules in their everyday practice of the profession, and they start to consider this Code as their own. This is particularly important for those journalists who are not members of RUJ, as the Code of the Regional Jury will apply to all journalists in the region. The RUJ Code of Ethics will be used by the Regional Jury only when a case involves an RUJ member.

The process is ongoing and it is expected to take time and consistent effort to achieve a functioning self-regulation mechanism for the media community in Voronezh.

Galina Arapova
Director of Mass Media Defence Centre

³ The RUJ has survived from the Communist era and established the only existing national self-regulation body, the Grand Jury limited to consideration of ethics by the RUJ's own members.

Appendix Two

IFJ Declaration of Principles on the Conduct of Journalists

“This international Declaration is proclaimed as a standard of professional conduct for journalists engaged in gathering, transmitting, disseminating and commenting on news and information in describing events.

1. Respect for truth and for the right of the public to truth is the first duty of the journalist.
2. In pursuance of this duty, the journalist shall at all times defend the principles of freedom in the honest collection and publication of news, and of the right of fair comment and criticism.
3. The journalist shall report only in accordance with facts of which he/she knows the origin. The journalist shall not suppress essential information or falsify documents.
4. The journalist shall use only fair methods to obtain news, photographs and documents.
5. The journalist shall do the utmost to rectify any published information which is found to be harmfully inaccurate.
6. The journalist shall observe professional secrecy regarding the source of information obtained in confidence.
7. The journalist shall be aware of the danger of discrimination being furthered by the media, and shall do the utmost to avoid facilitating such discrimination based on, among other things, race, sex, sexual orientation, language, religion, political or other opinions, and national or social origins.
8. The journalist shall regard as grave professional offences the following:
 - * plagiarism; * malicious misrepresentation;
 - * calumny, slander, libel, unfounded accusations;
 - * acceptance of a bribe in any form in consideration of either publication or suppression.
9. Journalists worthy of the name shall deem it their duty to observe faithfully the principles stated above. Within the general law of each country the journalist shall recognise in professional matters the jurisdiction of colleagues only, to the exclusion of every kind of interference by governments or others.”

(Adopted by 1954 World Congress of the IFJ. Amended by the 1986 World Congress.)

Appendix Three

Media Ethics and Self-Regulation Tirana, September 25-27, 1999

CONFERENCE CONCLUSIONS

Journalists, editors and journalism trainers from 19 countries meeting at the IFJ conference organised within the Royaumont process in Tirana on September 25-27, 1999 having discussed issues of journalists' ethics and self-regulation in media have adopted the following conclusions and programme of action:

- Media ethics are a matter for the media professionals. Governments and parliaments must refrain from regulating media content.
- Governments, parliaments and intergovernmental organisations have a responsibility to create a legal framework that guarantees freedom of expression and allows journalists to exercise their profession freely.
- There has to be a clear distinction between issues to be dealt with in legislation, such as access to information or defamation and concepts of journalistic ethics, such as accuracy or fairness, which are not a matter of legislation.
- Ethical journalism is primarily a matter of individual conscience, but this must be guided by codes of principles for the conduct of journalism developed by the media professionals themselves.
- Editorial independence, the right of journalists to take editorial decisions according to conscience and professional standards is a prerequisite of ethical journalism. Journalists must be allowed to work independently and free from undue influence from political or economic interests.
- Sound and professional journalism is the cornerstone of journalistic ethics. Standards of professionalism and journalistic ethics should be an integral part of journalism training.
- There is no single model for self-regulation, which can be copied throughout the world. Journalists in each country have to work together to establish and to review common standards of ethics and professionalism.
- Whatever the structure, systems of self-regulation should be established by the media professionals.
- Systems of self-regulation must be linked to principles of media freedom. Where media freedom does not exist or is under threat the promotion of professional standards must be linked to the defence of press freedom.
- Journalists and their organisations should promote public confidence in the media by establishing systems of self-regulation.

We propose the following actions to promote independent and professional journalism and to put journalistic ethics into practice.

1. Journalists' Ethics and Training:

- Course formats should be developed in co-operation between the journalism training institutions and the journalists' organisations that make questions of ethics an issue in all areas of journalism training. Discussion of ethical dilemmas based on case studies and examples should be an integral part of such course formats.
- The course formats should focus both on professional and ethical standards as well as on the conditions under which journalists try to live up to their own ethical standards.
- Journalism training institutions and journalists' organisations should work together to prepare media analysis and case studies on different issues covered by the code of conduct of the journalists' organisations. This code or the IFJ Code of Principles should be used in training courses.

2. Editorial Independence

Journalists unions and associations in the region and the IFJ should campaign for the introduction of a clause of conscience into collective agreements or regulation that will give journalists the right to take editorial decisions according to conscience. Such a clause of conscience could include the following provision:

The journalists have the right to refuse an assignment if the assignment breaches the journalists professional ethics as laid down in the union's / association's code of conduct and / or the IFJ declaration of principles on the conduct of journalism.

3. Codes of Conduct and Systems of Self-regulation

- Where a common code of conduct supported by all representative journalists' organisations does not exist, the journalists' organisations should organise meetings or committees to try to agree on a joint code.
- As a second step the journalists' organisations should establish a more permanent body of co-operation to review the application of the code in the media and to defend professional standards and press freedom.
- Journalists' organisations should develop mechanisms to promote awareness of the need for journalists' independence and ethical standards in the profession and in the public at large. This could be done, for instance, through the organisation of public meetings or through articles in the press and in publications of the journalists' organisations or their partners.
- The IFJ and its member organisations should work to ensure that journalists' unions and associations play a key role in the establishment of structures for self-regulation.

- The IFJ should develop projects in co-operation with its member organisations that will aim to establish bodies that monitor media performance and defend press freedom.
- The IFJ should include questions of ethics in all its meetings and seminars, where relevant.

Finally, we call on the governing bodies of our unions or associations and on the IFJ Executive Committee to support these conclusions and to make the proposals for action a part of their future programme of work.

Tirana, September 26, 1999

Appendix Four

Romania: The Journalist's Statute

1. The journalist profession is free and independent, in conformity with the right of free speech and free information, stipulated by the Universal Declaration of Human Rights, by the European Convention of Human Rights, the Romanian Constitution and also by the Journalist's Deontological code, which is part of this present statute.
2. A journalist is that person which exercises the right to free speech and whose primarily source of income is obtained by developing journalistic products – either as an employee or as a freelancer – no matter the area (written press, broadcasting, online, etc.).
3. The journalist's profession is recognized by professional, patronage and trade union organizations, signatory of this statute.
4. The role, the professional conduct, the rights and obligations of a journalist are stipulated by the Deontological Code, constituent part of this statute.
5. The provisions of the Deontological Code are freely consented upon by the journalists and members of the professional, patronage and trade union organizations signatory of this statute.
6. Implementing the provisions of the present statute, and also those of the Deontological Code falls in the hands of the specialized body of each signatory organization.
7. The implementing body can mediate any litigation between journalist and employer.
8. The journalist has the right to address the implementation body about any litigation regarding professional problems between him and his employer.
9. None of the provisions of the present statute, of the Deontological Code or of the Collective Work Contract can be interpreted contrary to the provisions of the international principles regarding the freedom of speech.
10. Journalists that are not part of any of the signatory organizations of the present statute can give an acceptance declaration to the secretariat of the Media Organizations Convention.
11. Also the present statute is open for endorsement by all professional, patronage and trade union organizations journalists are part of, organizations that didn't take part in drafting the statute but which find themselves among its provisions.

THE PRESENT STATUTE WAS ADOPTED BY THE MEDIA ORGANIZATIONS CONVENTION IN SINAIA, JULY 9- 11TH 2004.

The Journalists Deontological Code

* elaborated by the Media Organizations Convention

Preamble

The present Deontological Code was established by the member organizations of the Media Organizations Convention.

The provisions of the Deontological Code are freely consented upon by journalists, members of the professional, patronage and trade union organizations signatory of the “The Journalist’s Statute” adopted by the media Organizations Convention held in Sinaia between July 9- 11th.

The enforcement of the provisions set forth by the Deontological Code will be made thanks to the care for specialized bodies of each signatory organization of the “Journalist’s Statute.”

Through the present Code, the notion “public interest” will be regarded as following these premises:

- any matter affecting the existence of the community is of public interest. This doesn’t limit only to the political aspects but also includes any other circumstance which could be of any interest to the community.
- The public interest doesn’t refer only to the matter considered as such by the existent authorities.
- The way in which the government, the authorities and the public institutions act and function but also any other entity that uses public funds or which affects the community is of major public interest.
- All words spoken, actions, omissions or gestures made by the dignitaries, politicians and other public officials with relation to the fulfilling of their duties are of major public interest. Their private lives are of major public interest only when it has relevance to the fulfilling of their duties.
- Having in view the contribution of authorities to the proper administration of power and of public services, any critique brought to the particular administration is of major public interest.
- When there is no clear public interest at stake, the freedom of speech can only be limited by the interest of protecting another fundamental right.
- Any information regarding the encroaching of human rights – as they are defined in the international documents also ratified by Romania – is of major public interest.

1. The Role of the Journalist

1.1. The journalist has the responsibility to exercise the unfringeable right to free speech so as to maintain the public informed. The journalist enjoys enhanced protection while exercising his unfringeable right, due to the vital role of protector of the democratic values, which the press holds within society.

1.2. The journalist has the responsibility to look for, to respect and communicate the facts – as they

become known through reasonable research – by virtue of the public's right to be informed.

1.3. The journalist has the responsibility to express opinions only based on actual facts. When stating facts and opinions, the journalist will act in good faith.

1.4. The journalist has the responsibility to signal negligence, injustice and abuse of any kind.

1.5. In his approach to inform the public, the journalist has to depict the society in its whole diversity, allowing for individual and minority opinions to make their way inside the press. The public has the right to know not only the favorable information and ideas, or those considered harmless but also those that offend, shock and bother. These are the requirements of pluralism, tolerance and openness, without which there is no democratic society.

1.6. The journalist profession implies certain rights and obligations, certain freedoms and responsibilities.

2. Professional Conduct

2.1. Respecting Human Rights

While exercising its role as endorser of democracy, the press has the primordial duty to respect human rights. Thus:

2.1.1. The journalist has the responsibility to respect the presumption of innocence.

2.1.2. The journalist has the responsibility to respect the private life of the individual (including those aspects that regard family, residence and correspondence). Interfering into one's private life is permitted only when the public interest of finding the information prevails. In this context it is irrelevant whether a public person actually wanted or not to obtain this information. An activity is not considered private just because it is not publicly developed.

2.1.3. The journalist has the responsibility to bear in mind the legitimate interest of the minor. He will protect the identity of minors involved in felonies, whether as victims or as felons, with the exception of the situation in which the public interest demands that they are properly identified, or if their parents or legal representatives so demanded, so as to protect the superior interest of the minor.

2.1.4. The identification of the victims of accidents, calamities or felonies, mainly those sexually abused, should not be revealed with the exception of the situation in which there is a consent form those victims or when there is a major public interest that prevails. From the same treatment benefit those enabled (sick persons, enabled ones, refugees, etc).

2.1.5. The journalist has the responsibility to maintain himself far from discrimination against any person based on race, ethnicity, religion, sex, age, sexual orientation or any kind of disabilities and also he should refrain from any instigations to hatred and violence while stating the facts or expressing his opinions.

2.2. The Rules of editing

2.2.1. The information has to be clearly separate from the opinions. The journalist will make clear steps towards that.

2.2.2. The journalist will verify the information in a reasonable manner before printing them and will express opinions based mainly on facts. Any clearly false information or those about which the journalist has reasonable doubts as to their truthfulness shall not be published.

2.2.3. With regards to what he accounts, the journalist has to make efforts in order to present the points of view of all those involved.

2.2.4. The journalist will respect while editing the rules of quoting. If he partially quotes someone, the journalist has the obligation not to alter the message of that particular person.

2.3. The Protection of Sources

2.3.1. The journalist has the responsibility to maintain the confidentiality of those sources that demand it as such, or of those sources whose life, physical or mental integrity or work place could be in jeopardy if their identity were revealed.

2.4. Gathering Information

2.4.1. The journalist will obtain information in an open and transparent manner. The use of special investigation techniques is justified when the public interest exists and when the information can't be obtained through other means. It is recommended that the use of special investigation techniques be explicitly mentioned when publishing the information.

2.5. Statute Abuse

2.5.1. Using the journalist's statute in order to obtain personal benefits or in order to favor a third party, constitutes a big encroachment of ethical norms and is thus unacceptable.

2.5.2. Considering the journalist's professional statue, he will not accept gifts consisting in money or having any other nature; or any other advantages that he is offered.

2.5.3. The journalist will avoid putting himself in a situation of conflict of interests. It is recommended that a separation be made between the editorial activities of the journalist and the political and economical ones.

2.6. Independence

2.6.1. The journalist will exercise his profession according to his own conscience and in complete harmony with the provisions set forth by the "Journalist's Statute" and the present Deontological Code.

2.7. Correcting Errors. The right to retort.

2.7.1. The journalist will promptly correct any error that appeared in his materials. If he thinks it to be necessary, the journalist can publish apologies.

2.7.2. The right to retort is granted when this demand is considered to be justified and reasonable.

3. The journalist's Rights

3.1. The journalist is protected by international treaties and conventions to which Romania took part and which guarantee the freedom of speech and the free access to information, and information sources.

3.2. The journalist has the right to oppose censorship in any way.

3.3. The protection of the professional secret and of the confidential sources is equally a right and an obligation of the journalist.

3.4. The journalist has the right to invoke the conscience clause. He has the right to refuse any journalistic action that he considers to be against the principles of journalist ethics or against his own principles. This freedom derives from the obligation a journalist has to inform the public in good- faith.

3.5. By virtue of the separation between economic activities and editorial ones, the journalist has the right to refuse any advertising or sponsorship contracts given to the press institution he works for.

3.6. The journalist enjoys, according to the law, the protection of his copyright privileges.

3.7. The journalist affirms his right to be protected by the press institution he works for and also by the professional or trade union association that represents his interests in opposition with any pressure exercised against him, pressure that can lead to a breach of professional conduct as set forth by the "Journalist's Statute" and the present Deontological Code.

THE PRESENT DEONTOLOGICAL CODE IS AN INTEGRANT PART OF THE "JOURNALIST'S STATUTE" ADOPTED BY THE MEDIA ORGANIZATIONS CONVENTION HELD IN SINAIA, JULY 9- 11TH 2004.

Appendix Five

ARTICLE 19 and International Federation of Journalists

Research on Development of Media Self-Regulation in South East Europe

Questionnaire for Interviews with Key Stakeholders

Introduction

This questionnaire is addressed to journalists, editors, newspaper owners and publishers, leading members of professional journalist associations and trade unions, representatives of civil society organisations with a focus on freedom of expression and the media.

The aim of this questionnaire is to gather data, opinions and ideas about past, current or planned initiatives to develop formal or informal mechanisms for media self-regulation. By self-regulation we mean *voluntarily adopted* – as opposed to statutory - codes and procedures aimed at establishing and upholding ethical norms which are recognised and accepted by the journalistic profession. In addition to promoting standards of ethical conduct among journalists, self-regulation mechanisms typically provide a forum for media consumers – i.e. the general public – to respond to inaccurate or misleading media coverage and facilitate non-legal remedies, such as the publication of an apology or the right of reply.

The interview should not take more than 1.5 hours to complete.

Personal information

Name

Profession

Current job

If you are a journalist please provide the name and a brief description of the media outlet for which you work (e.g. national paper, local TV).

Are you a member of a journalists association or trade union? Y N

Name of Union or Professional Association _____

1. Are you aware of any **existing** mechanisms, agreements, tools which contribute to self-regulation of the print and/or electronic media? Y N

2. Is there a Code(s) of Ethics or Code(s) of conduct for journalists? Y N

If YES,

1.1) Does the Code regulate the conduct of all journalists or only print or only electronic (TV/radio)?

2.2) Were you involved directly in its preparation or were you consulted in the process for adopting the Code?

3.3) To what extent and how were key stakeholders (journalists and journalist unions/associations, media owners, civil society organisations, consumers groups etc.) consulted in the process for drafting the Code?

3.4) What is the purpose of the Code? What is the content of the code?

2.5) In your opinion, to what extent are journalists, editors and media owners throughout the country aware of the Code? Why is awareness of the Code high or low?

2.6) In your opinion to what extent is the Code respected by journalists, editors and media owners in their professional practice?

Please give reasons for your answer.

4. Is there an established body which is responsible for enforcing the Code of Ethics? (e.g. an ethics council of the journalists association, a press council..). Y N

If YES,

5. Which body?

Please describe its structure, mandate and functions.

1.1) Are you aware of any decisions issued by this body on complaints about articles in the press from members of the public? What were they about?

4.2) In your opinion, to what extent do the following groups support the body which enforces the Code of Ethics?

journalists?

media owners?

the general public?

civil society organisations?

government?

judiciary?

media lawyers?

advertisers?

any other stakeholders?

If you have identified a lack of support among any of these groups, please explain why you think they are not supportive (for example: are they against the particular mechanism in place or do they oppose self-regulation as an idea?)

4.3) In your opinion, what benefits has this form of self-regulation brought to:

individual journalists?

media owners?

the media community in general?

the general public?

any other stakeholders?

4.4) What are the limitations of this self-regulation mechanism?

4.5) In your opinion, what are the main obstacles to the more effective functioning of this self-regulation mechanism? And how do you think these could be overcome?

5. Are you aware of any **OTHER existing** structure, body or mechanism which contributes to media self-regulation and accountability? Y N

(For example, do individual newspapers have their own policies, practice or mechanisms to uphold standards and respond to readers' complaints, such as a Readers' Editor or corrections column?)

If YES,

Please describe its purpose, functions and mandate.

6. Are you aware of any **past or current initiatives** to develop self-regulation for the print and/or electronic media? Y N

Is this initiative: (please tick)

Ongoing?

Or was it tried and failed?

6.1) Who was/ is involved in such an initiative? (Journalists, media owners, civil society organisations, government actors, international organisations, consumer groups etc.)

6.2) Why was the initiative launched in the first place? What factors drove/are driving the process to develop self-regulation? (For example: the threat of statutory regulation, public pressure for better standards, commercial pressures etc.)

6.3) What was/is the aim of the initiative?

6.4) If the aim is to establish a self-regulation body, please describe what kind of body is aimed at – what mandate functions, composition the body will have and why a particular model has been chosen in preference to others?

6.5) To what extent do the following groups support the self-regulation initiative?

journalists?

media owners?

the general public?

civil society organisations?

government?

judiciary?

media lawyers?

advertisers?

any other stakeholders?

6.6) What obstacles have been encountered? If the initiative failed, please explain why you think it failed.

6.7) What solutions have been found to overcome the obstacles? (For example: overcoming resistance from particular interest groups, resolving practical difficulties such as funding etc.)

7. Please describe **your attitude** to media self-regulation.

7.1) Do you think media self-regulation has a role to play in guaranteeing freedom of expression in your country? If yes, what role? If no, why not?

7.2) What preconditions (e.g. political, legal, economic, professional etc.) do you think need to exist in order for a viable self-regulation mechanism to be established?

7.3) What factors in your society/country do you think affect (positively or negatively) the development of media self-regulation?

4.4) What alternatives to existing or already tried and failed initiatives would you suggest to promote greater accountability among the media?

4.5) What external support do you think would help the process to develop media-self-regulation (e.g. from the international donor community, from international NGOs, from self-regulation bodies in other countries, from foreign media owners moving into the domestic media market)?

Appendix Six

List of Resources on Media Self-Regulation

The International Federation of Journalists

<http://www.ifj.org>

The MediaWise Trust: Codes of Conduct from around the world

http://www.presswise.org.uk/display_page.php?id=40

Programme in Comparative Media Law and Policy (PCMLP) Oxford University (see media self-regulation project)

<http://pcmlp.socleg.ox.ac.uk/projects.html>

Proceedings of the Information Seminar on Self-regulation by the Media, the Council of Europe, 1998.

[http://www.coe.int/t/e/human_rights/media/5_Documentary_Resources/2_Thematic_documentation/Freedom_of_expression/DH-MM\(1999\)007%20E%20Seminar%20self%20regulation%20media.asp#TopOfPage](http://www.coe.int/t/e/human_rights/media/5_Documentary_Resources/2_Thematic_documentation/Freedom_of_expression/DH-MM(1999)007%20E%20Seminar%20self%20regulation%20media.asp#TopOfPage)

National Union of Journalists (NUJ): Code of Conduct and definition of public interest

<http://www.nuj.org.uk/inner.php?docid=59&PHPSESSID=a016cd16bf3e1ef7c7b06cfc0b6f1322>

Organisation of News Ombudsmen

<http://www.newsombudsmen.org/index.htm>

Independent Press Councils (includes links to press councils around the world)

http://www.presscouncils.org/aipce_index.php

The Swedish Press Council

<http://www.po-pon.org/english.jsp?avd=english>

The German Press Council

<http://www.presserat.de/>

The Press Complaints Commission (UK)

<http://www.pcc.org.uk/>

The Guardian Readers' Editor

<http://www.guardian.co.uk/Columnists/Column/0,5673,1447539,00.html>

The transformation in the media in the former communist countries of Eastern Europe in the past 15 years has been dramatic, posing entirely new challenges to individual journalists and their profession. On the one hand, the crude forms of state censorship and monopoly of the printed and broadcast word have been overturned, while on the other, more subtle forms of pressure and influence from political and commercial elites have undermined the development of truly independent media.

ARTICLE 19 and the International Federation of Journalists (IFJ) have been active in support of legislative, institutional and professional reform of the media in Eastern Europe for several years.

The principal aim of this report is to provoke discussion, exchange of information and experience about the benefits, viability and practical implementation of media self-regulation in South East Europe.

